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Identifying Pathways to Support British Victims of Modern Slavery towards Safety and Recovery: A Scoping Study

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Bakhita Centre for Research on
Slavery, Exploitation and Abuse
Applied Research, Education and Training

Identifying Pathways to Support British Victims of Modern Slavery towards Safety and Recovery: A Scoping Study

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The views expressed in this report are those of the authors and not necessarily of the Modern Slavery and Human Rights Policy and Evidence Centre.



Craig Barlow | Consultancy & Training

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Glossary

Conclusive grounds decision (CG)

Is a decision taken by a competent authority as to whether, on the balance of probabilities, there are sufficient grounds to decide that the individual being considered is a victim of modern slavery (human trafficking or slavery, servitude, or forced or compulsory labour).

County lines

Term used to describe gangs and organised criminal networks involved in exporting illegal drugs into one or more importing areas within the UK, using dedicated mobile phone lines or other form of “deal line”. They are likely to exploit children and vulnerable adults to move and store the drugs and money and they will often use coercion, intimidation, violence (including sexual violence) and weapons.

First Responder (FR)

A trained staff member at a First Responder Organisations who has a responsibility for discharging one or more of the duties of the First Responder Organisation.

First Responder Organisation

An organisation that is authorised to refer a potential victim of modern slavery into the National Referral Mechanism.

Reasonable grounds decision (RG)

Is a decision taken by a competent authority as to whether the decision maker suspects but cannot prove that the individual being considered is a victim of modern slavery (human trafficking or slavery, servitude, or forced or compulsory labour).

Acronyms

CAMHS	Child and adolescent mental health services
CCE	Child criminal exploitation
CEOP	Child Exploitation and Online Protection
CJ	Survey responses from criminal justice practitioners with number
CJS	Criminal Justice System
CoA	Court of Appeal
CPS	Crown Prosecution Service
CSE	Child sexual exploitation
DLUHC	Department for Levelling Up, Housing and Communities, formerly the Ministry for Housing, Communities and Local Government
ECAT	Council of Europe Convention on Action against Trafficking in Human Beings
GDPR	General Data Protection Regulation
ICTGs	Independent Child Trafficking Guardians
MSA	Modern Slavery Act 2015
MSVCC/VCC	Modern Slavery Victim Care Contract
NGO	Non-Governmental Organisation
NRM	National Referral Mechanism
PRU	Pupil Referral Unit
SE	Sexual exploitation
SIPPS	Systematic Investigation, Protection, and Prosecution Strategy
SP	Survey responses from practitioners
SPOC	Single Point of Contact

Executive Summary

Since 2013, the number of British nationals referred into the National Referral Mechanism (NRM)¹ as potential victims² of modern slavery has increased year on year, rising from 90 in 2013 to 3,952 in 2021³. These figures include potential adult and child victims, referred for labour, criminal and sexual exploitation as well as domestic servitude. The largest proportion of these referrals in 2021 was for criminal exploitation involving children, representing 55% of all referrals of British nationals. Recent studies⁴ have begun to uncover the experiences of British nationals who are exploited in modern slavery, including findings that British survivors are failed by the current support system (see Centre for Social Justice and Justice and Care report)⁵.

Through analysis of data collected via surveys, interviews with survivors, support practitioners and criminal justice professionals, and a review of case law and legislation, this scoping study investigated the pathways to support for British nationals who are potential victims of modern slavery.

Project aims:

- Understand the recovery needs and experiences of British nationals who are victims/survivors of modern slavery
- Identify gaps in support provided to British nationals
- Understand barriers including why British nationals may not be identified as victims and may not engage with support
- Understand the experiences of British nationals of the Criminal Justice System (CJS) and the impact of potential erroneous prosecutions
- Improve knowledge about what support for British nationals should look like to enable their recovery and prevent re-trafficking

Research methodology:

- A literature review, the aim of which was to examine existing, if limited, literature on British nationals as potential victims of modern slavery. The literature supported the development of the surveys and interview questions.
- A review of legislation and case law to understand how legislation and legal processes help or hinder the identification and care of British nationals.
- Primary data collection through surveys completed by practitioners and criminal justice practitioners (56) and 39 semi-structured interviews with practitioners (32) and British survivors (7) to identify key vulnerabilities of this population, their support needs, and barriers to accessing support.
- Data collection took place between January and July 2022. Analysis was conducted using the Systemic Investigation, Protection and Prosecution Strategy (SIPPS) protocol⁶ which was used as a framework to analyse and organise data in five different contexts: home/environment, behaviour, education/training/employment, psychological health, and physical health, and also provided a framework for the recommendations. (See Methodology for more detail).

¹ In the UK, the NRM was established in 2009 after ratifying the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT) in 2008. The NRM is an identification and support framework for identifying potential victims of modern slavery. As per the ECAT, potential victims in the NRM are entitled to specified areas of support, such as safe and secure accommodation, mental health support, financial support, and access to legal support. In the UK, ECAT entitlements are currently offered to adults through The Salvation Army under the Modern Slavery Victim Care Contract (MSVCC). For the full list of entitlements see Article 12 in the ECAT https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236093/8414.pdf.

² We recognise that the term victim can be disempowering, suggesting a lack of agency. However, it is used in this report to reflect the terminology used in relevant policy and legislation. In this report, the term survivor is also used. We recognise that this term can also be problematic in that it can put pressure on a person who does not feel like they have 'survived', and it also overlooks those who are still caught within a situation of modern slavery.

³ 2013 NRM stats end of year summary - UK nationals = 90 (increase of 173% from 2012-2013); 2021 NRM stats end of year summary - UK nationals 3,952 (31% of the total 12,727); 2,981 of those were UK national children which is 75% of the total UK nationals referred.

⁴ Hestia, (2019) *Underground Lives: Criminal Exploitation of Adult Victims*. Available online: <https://www.hestia.org/Handlers/Download.ashx?IDMF=8ab229cc-75c6-4574-a47d-a8fafd7c19ee>; Human Trafficking Foundation (2021) *The Voice of British Survivors of Modern Slavery*. Available online: <https://static1.squarespace.com/static/599abfb4e6f2e19ff048494f/t/617fb052b75f8164d23fb6f3/1635758164404/HTF+British+Survivors+of+Modern+Slavery+Report+Latest.pdf>.

⁵ Centre for Social Justice and Justice and Care (2020) *It Still Happens Here: Fighting UK Slavery in the 2020s*. Available online: <https://justiceandcare.org/wp-content/uploads/2020/07/Justice-and-Care-Centre-for-Social-Justice-It-Still-Happens-Here.pdf> [Accessed].

⁶ SIPPS was developed in 2014 by Barlow, a member of the research team, along with Caroline Haughey OBE QC, a member of the project's advisory board, as a method to organise and test evidence in cases of modern slavery. See Barlow, C., 2017. The Adapted SIPPS for CSE: Evaluation of a Pilot Project in a South London Borough. *European Review of Organised Crime*, 4(2), pp. 101-127.

Key Findings

- Missed opportunities by professionals in statutory and non-statutory services resulted in a failure to identify and protect British nationals, including children, prior to exploitation.
- Professionals who interact with British nationals during exploitation are failing to recognise them as potential victims of modern slavery due to misunderstandings about who can be a victim of modern slavery.
- If correctly identified as potential victims, British nationals are often not referred into the NRM due to misunderstandings about who the NRM is for.
- There is a lack of knowledge of the statutory entitlements of British nationals resulting in missed opportunities to offer access to relevant support both in and out of the NRM.
- Post-exploitation, British survivors fall through significant gaps in support offered both through the Modern Slavery Victim Care Contract⁷ (MSVCC) and under other statutory services.
- British nationals often present with complex needs (mental health and substance misuse, historical exploitation, criminal exploitation). Current systems, including mental health and criminal justice, both in and out of the NRM, are not set up to support this complexity.
- Recovery pathways aimed at building resilience to reduce the risk of re-exploitation, based on understanding of their experiences, needs and statutory entitlements, have not been established for British nationals.
- Survivors are experts by experience. Their experiences of the gaps in identification, support and justice are currently not being employed to inform the creation of improved pathways to recovery.

Introduction

We recognise that in some instances, guidance for supporting survivors is already included in the Modern Slavery Act, 2015, processes are in place in the MSVCC, and local authorities have responsibilities under the MSVCC. However, these processes are not being implemented to the benefit of British victims of modern slavery. As an intervention, the MSVCC is recognisably short term, but statutory duties to British nationals precede and endure beyond the NRM. Justice, care, and support systems need to be better integrated to ensure adequate support in pathways to recovery. Recommendations are based on findings from the review of legislation, survey, and interview data.

Summary of Recommendations⁸

1. Home/Environment

- 1.1 **When a British national adult potential victim has consented to be entered into the NRM, the First Responder⁹ should be required to make a referral to the local authority in which the person has been found and/or is living.** If they do not consent to the NRM, their consent should nonetheless be sought for a referral to the local authority.¹⁰
- 1.2 **Local Authority Safeguarding Adult Boards (and Local Child Safeguarding Partnerships) should coordinate the creation of integrated multi-agency safeguarding policies and procedures with clear guidance about modern slavery and exploitation which include young people in transition between child and adult services.**
- 1.3 **The Home Office and Department for Levelling Up, Housing and Communities (DHLUC) should collaborate to develop, for British nationals, a national structured professional judgement and decision-making framework for modern slavery recovery needs assessment and support planning for use by NRM/MSVCC providers and local authorities¹¹.** This should include an integrated recovery support plan drawn up between local authorities and MSVCC service providers and MARAC (Multi Agency Risk Assessment Conference) systems for potential victims in every local authority area.
- 1.4 **Every local authority should have a Single Point of Contact (SPOC) designated lead on modern slavery. Local authority SPOCs should work in regular contact with MSVCC subcontractors running safehouses or outreach support in their area¹².**

⁷ The Modern Slavery Victim Care Contract operates as a bridge, to lift adult victims out of a situation of exploitation and to set them on a pathway to rebuilding their lives. (Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland Version 2.10 para 8.6).

⁸ Detailed recommendations are in Appendix 8.

⁹ A trained staff member at a First Responder Organisations who has a responsibility for discharging one or more of the duties of the First Responder Organisation.

¹⁰ For a needs assessment (s12) or safeguarding assessment (s42) under the Care Act 2014.

¹¹ This would ensure that the housing responses received by British nationals through local authorities come to match that offered through the MSVCC

¹² While there is already guidance (see below) it needs translating into practice.

Para. 12.17 of the Modern Slavery Statutory Guidance (Version 2.10) advocates for local authorities to have a first point of contact within the council for referral pathways.

Home Office (2022) Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland. Version 2.10 Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1087550/Modern_Slavery_Statutory_Guidance__EW__Non-Statutory_Guidance__SNI__v2.10_FINAL_.pdf.

Clause 4.11 of the MSVCC advocates local authorities and MSVCC providers establish a working relationship to deliver services which are in the best interest of the Service User.

Home Office (2021) 2020 Modern Slavery Victim Care Contract. Available online: <https://www.contractsfinder.service.gov.uk/notice/247ccd4d-b43a-497d-8573-d869f2ae4680?origin=SearchResults&p=1>.

- 1.5 **British potential victims with positive Reasonable Grounds (RG)¹³ decisions should be exempt from the “local connection” requirement for social housing.** Proposed regulations to exempt domestic abuse victims from the local connection requirement should be expanded to include victims of modern slavery who are otherwise eligible for local authority housing. Until then, guidance should be provided to encourage local authorities to exempt victims of modern slavery who have escaped exploitation in another local authority area from their residency requirements.
- 1.6 **British victims must be accommodated in a safe environment appropriate to their specific experiences, contexts, and recovery needs.** If the local authority is unable to provide this, it must cooperate with MSVCC service providers to find suitable temporary accommodation.
- 1.7 **A clear system of payments and victim compensation is required¹⁴.** At present, routes to legitimate claims for compensation or reparation for victimisation through modern slavery are confusing and difficult to access. The government should heed the advice of the Independent Review of the Modern Slavery Act (MSA)¹⁵ and reconsider the introduction of a civil penalty.
- 1.8 **The MSVCC should have funding to assist survivors in meeting the costs of re-engaging with family, social support networks and faith communities¹⁶ and to attend appointments for treatment or support services and training and education programmes begun prior to entering the NRM.**

2. Work/Education/Training

- 2.1 **Recovery and support planning within the MSVCC must include providing pathways to education, training¹⁷ and stable employment.** These are important in developing resilience to re-victimisation and improving long-term recovery.
- 2.2 **First Responders and other frontline professionals likely to encounter potential victims of modern slavery should receive training specifically addressing the experience of modern slavery for British nationals and how to effectively support them.** A national tiered training programme for frontline professionals (across statutory agencies, the CJS and MSVCC support providers) should be developed and implemented, similar to those that exist for child safeguarding and based on [existing tiered training frameworks¹⁸](#).

3. Behaviour

- 3.1 **Develop professional modern slavery risk assessment tools for British nationals¹⁹.** Professionals in all sectors find that the diverse nature of victims and emergent patterns of modern slavery means that risk assessment procedures utilising indicators and scaling (e.g., high, medium and low risk bandings) are unreliable²⁰.
- 3.2 **When a suspect in a criminal investigation claims to have been a victim of modern slavery (s45 MSA), a safeguarding referral should be made to the local authority alongside an NRM referral.** Information sharing between the CPS (Crown Prosecution Service) and local authority safeguarding departments as well as between the police and CPS must be developed and improved.
- 3.3 **Improve integration between the CJS, civil and family justice systems and safeguarding of children and vulnerable adults.** Further research should be undertaken to investigate the feasibility of combining cases involving potential victims of trafficking within one court where victims are within the jurisdiction of more than one system.

4. Physical Health

- 4.1 **A public health approach to modern slavery is needed which will prioritise prevention and early identification of British nationals as well as supporting victims.** At a national level this requires a review of legislative protections for survivors and reframing the national policy approach away from a primary focus on ‘border protection’ towards prevention, recovery and protection needs of victims including from criminalisation. At a regional/local level these components include community awareness and resilience, multi-agency modern slavery partnerships (with funding and/or staff from Police and Crime Commissioners, police or local authority) and shared operating protocols.

5. Psychological and Mental Health

- 5.1 **Psychological and mental health care for survivors requires an integrated approach to care.** Funding should be made available automatically to all victims within the MSVCC who are in need of accessing specialist therapeutic services including recovery from substance misuse.²¹

¹³ Reasonable Grounds decision is a decision taken by the competent authorities as to whether the decision maker suspects but cannot prove that the individual being considered is a victim of modern slavery (human trafficking or slavery, servitude, or forced or compulsory labour).

¹⁴ This recommendation derives from findings of the critical review of legislation, discussed in more detail in the appendix 6.

¹⁵ Field, F., Miller, M., Butler-Sloss, E. (2019) Independent Review of the Modern Slavery Act 2015: Final Report. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf

As enshrined in the Convention of Human Rights and the Human Rights Act Articles 8 and 9 and protocol.

¹⁷ As enshrined in the Human Rights Act Article 2 of Protocol 1, Right to Education.

¹⁸ Van Dyke and sector experts (2022) ‘Training Framework for the Prevention, Identification, Support and Care of Child Victims and Survivors of Modern Slavery and Human Trafficking and Information and Resources to Support the Training’. Skills for Care and Development. <https://www.stmarys.ac.uk/research/centres/bakhita/training/support-and-care-of-child-victims.aspx>(Accessed: 15 August 2022).

Bundock, L. and Hodges, K. (2020) ‘Training Framework: Identification, Care and Support of Victims and Survivors of Modern Slavery and Human Trafficking’. Skills for Care <https://www.stmarys.ac.uk/research/centres/bakhita/training/identification-care-and-support.aspx>(Accessed: 15 August 2022).

¹⁹ Respondents repeatedly highlighted a failure of services to prevent and intervene with pre-existing vulnerabilities. Effective risk assessment encourages effective prevention.

²⁰ Jay, A., 2014. Independent Inquiry into Child Sexual Exploitation in Rotherham 1997-2013; Barlow, C., 2017. The Adapted SIPPS for CSE: Evaluation of a Pilot Project in a South London Borough. European Review of Organised Crime, 4(2), pp. 101-127.

²¹ Steps towards this have been made with the amendments to the MSVCC as of April 2022 and the increasing use of direct payments.

Methodology

The project included desk research and empirical data collection conducted between September 2021 and August 2022. This consisted of a review of literature on British victims of modern slavery to understand the contexts in which they are exploited, and a critical analysis of legislation and the relationship between case law, policy development and outcomes for British national victims of modern slavery.

For primary data collection, the study adopted a mixed methods approach, using surveys and semi-structured interviews. To gather first-hand insights from practitioners, two online surveys were developed on the JISC platform²². The surveys were shared with professionals working in statutory and non-statutory agencies which support survivors in their recovery (survey one) and professionals working in the CJS (survey two). Both surveys focused primarily on the support needs of British national adult survivors, while survey two also explored professionals' knowledge of experiences of British national adult survivors within the CJS (for example those who were criminally exploited). The survey was shared via partners in the sector targeting those working in the modern slavery field and was open from January 31st until April 1st, 2022. A total of 56 responses were received, 36 from survey one, and 20 from survey two; findings were analysed using the analytical tools available on the JISC platform.

Interviews were undertaken with practitioners who have supported British adult national survivors. However, some respondents also discussed their interactions with young British survivors, therefore offering insights into the experiences of a range of ages. The survey, mentioned above, included a question asking respondents if they would be willing to take part in an interview, nine of whom provided their contact details (four CJS and five frontline support workers). Calls for interview respondents were shared via relevant mailing lists and with support from networks associated with the project's advisory board. A total of 32 interviews were undertaken with practitioners, and seven²³ with British national adult survivors, who were accessed via snowball sampling. In recognition of the regional variances in responses to modern slavery, the research team ensured geographical representation among all interview respondents. Areas covered by the interviews include South Yorkshire, North Wales, Northumbria, Essex, Hull, Southend, West Midlands, Leeds, Manchester, Sheffield, Swansea, Berkshire and London.

The interviews were based on, and analysed using the domains developed in the Systemic Investigation, Protection and Prosecution Strategy (SIPPS) protocol²⁴. SIPPS provides a framework for gathering and organising evidence and analysing emergent patterns of relationships and behaviour over time and in five different contexts: home/environment, behaviour, education/training/employment, psychological health, and physical health. SIPPS was used in this study as a framework to understand the contexts of survivors' lives before, during and after exploitation.

The project began in the wake of the Covid-19 pandemic, which resulted in many interviewees opting to be interviewed online in order to limit social contact and travel. One interview with a survivor was conducted face-to-face with the remainder undertaken using Microsoft Teams. All interviews were recorded and transcribed, then analysed using NVivo software to identify emergent themes. Ethical approval was granted by the Ethics Committee at St Mary's University in December 2021.

Limitations

Due to the scoping nature of this study, the findings can only offer a preliminary insight into British nationals' experiences of accessing support as victims of modern slavery. Likewise, because we used 'snowball' sampling²⁵ to gain access to some survivors, and purposive sampling for others²⁶ we cannot claim findings are generalisable to the wider population of British adults who have been exploited in modern forms of slavery. Further, there was no comparative aspect designed into this study as the focus was specific to the experiences of British nationals. Nor can we make claims about the representativeness of practitioner experiences more generally, although even with such a small population, the key findings are indicative of a number of key concerns. As a scoping study the aim was to provide initial insights into an under-researched population: British national survivors of modern slavery. The results identify significant areas for further research, which are addressed in the conclusion.

²² A GDPR compliant service for survey development for academic and other uses.

²³ Gaining access to survivors for research can be challenging and raises a number of ethical concerns. Although the survivor sample of seven is small, the depth of information shared in the interviews is very insightful as a starting point for further exploration following on from this scoping study.

²⁴ SIPPS was developed in 2014 by Barlow, a member of the research team, along with Caroline Haughey OBE QC, a member of the project's advisory board, as a method to organise and test evidence in cases of modern slavery. See Barlow, C., 2017. The Adapted SIPPS for CSE: Evaluation of a Pilot Project in a South London Borough. *European Review of Organised Crime*, 4(2), pp. 101-127.

²⁵ Snowball sampling involves participants recruiting other participants via their networks.

²⁶ Purposive sampling is where participants are recruited because of their knowledge and experience of a topic.

Literature Overview²⁷

Research on modern slavery has increased substantially in the past 10 years. However, few studies have focused specifically on the experiences of British victims and survivors²⁸. This is surprising given that British nationals have been the most referred nationality into the NRM every year since 2018, though perhaps less surprising when considering that the UK's modern slavery response was developed at a time where trafficking was framed as an issue related to international migration.

The UK government created the NRM in 2009²⁹, but 13 years on, it remains flawed³⁰. In an analysis of over 200 closed cases involving adult potential victims of modern slavery logged by police forces in the UK, researchers found that potential victims were almost 19% more likely to be referred to the NRM in cases of non-domestic trafficking, indicating a reduced likelihood of British nationals being effectively referred into the NRM³¹.

Young adult victims in the UK have often been victimised during childhood and adolescence³². The experience of victimisation in childhood increases the likelihood of re-victimisation through adolescence and into adulthood by 60%³³. The Independent Anti-Slavery Commissioner's (IASC) call for evidence of what works in responding to child trafficking and exploitation found that systemic and ecological principles that inform multi-disciplinary public health approaches are gaining traction in developing responses to the trafficking and exploitation of children³⁴. Contextual safeguarding³⁵ has enabled both policy and practice to recognise the vulnerabilities and threats to health, welfare and development that are faced and experienced by older children and adolescents to include extra-familial relationships and social networks within different contexts. This has been a major contribution to improving safeguarding strategies and interventions³⁶.

Safeguarding of vulnerable adults has not kept pace across the UK. Adults may choose not to engage with services if they received negative responses or treatment from those services at previous points in their lives. Consequently, these missed opportunities could impact adults reaching out for support if they become revictimised.

The MSVCC, currently held by the Salvation Army, exists to provide support to adult survivors of modern slavery in England and Wales³⁷. While the MSVCC is available to all adult survivors of modern slavery, regardless of nationality, there is a caveat. The MSVCC provides safe accommodation to those where their support needs are such that they can only safely be met in a safehouse setting. If an individual has entitlement to suitable accommodation from other sources, this will always be actively pursued³⁸.

In these cases, the difference between the treatment of British nationals and non-British nationals becomes evident. British nationals may have more entitlements to housing by virtue of their nationality, resulting in a referral to local authority support instead of the MSVCC. Many local multi-agency protocols for safeguarding children and vulnerable adults at risk of trafficking and exploitation (regardless of nationality) have been developed within Local Safeguarding Children Partnerships and Safeguarding Vulnerable Adults Boards, but a rapid review of all local authorities in England and Wales revealed that these policies and procedures appear inconsistent and patchy. This lack of additional resources or national safeguarding policy means a lack of coordinated response or understanding of the issues³⁹ faced by British nationals.

²⁷ See appendix 1 for detailed literature review.

²⁸ However, see Hestia, (2019) *Underground Lives: Criminal Exploitation of Adult Victims*. Available online: <https://www.hestia.org/Handlers/Download.ashx?IDMF=8ab229cc-75c6-4574-a47d-a8fafd7c19ee> and CEOP and The British Embassy, Hanoi (2011) *The Trafficking of Women and Children from Vietnam*. CEOP.

²⁹ The NRM was set up to fulfil the UK's responsibilities under the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT)

³⁰ Van Dyke, R. (2019) *The UK's response to Modern Slavery: Law, Politics and Policy* in Craig, G., Balch, A., Lewis, H., and Waite, L. (eds.) *The Modern Slavery Agenda: Policy, Politics and Practice in the UK*; Home Office. (2014). *Review of the National Referral Mechanism for victims of human trafficking; Anti Trafficking Monitoring Group, 2014. The National Referral Mechanism: A Five Year Review, s.l.: ATMG.*

³¹ O'Brien, F., Palmer, S. & Blinkhorn, V. (2022) Factors that predict the referral of adult Modern Day Slavery cases to the UK's National Referral Mechanism. *International Journal of Police Science & Management*, pp. 1-12.

³² Southwell, P., Brewer, M. & Douglas-Jones, B. (2020) *Human Trafficking and Modern Slavery Law and Practice*. 2nd ed. London: Bloomsbury Professional.

³³ Finkelhor, D. (2008) *Childhood Victimization: Violence, Crime and Abuse in the Lives of Young People*. New York: Oxford University Press.

³⁴ Saker, A. (2022) *Practitioner Responses to Child Trafficking: Emerging Good Practice*. Available online: https://www.cumberlandlodge.ac.uk/sites/default/files/practitioner_responses_to_child_trafficking_-_emerging_good_practice_screen.pdf.

³⁵ Firmin, C. (2017) *Contextual Safeguarding*. Bedford: University of Bedfordshire /Contextual Safeguarding Network.

³⁶ Barlow, C. (2017) *The Adapted SIPPS for CSE: Evaluation of a Pilot Project in a South London Borough*. *European Review of Organised Crime*, 4(2), 101-127; Longfield, A. (2019) *Keeping Kids Safe: Improving safeguarding responses to gang violence* and London: Office of the Children's Commissioner for England; Barlow, C. H. (2019) *Child Criminal Exploitation: A New Systematic Model to Improve Professional Assessment, Investigation and Intervention*. Thesis for the University of Hull.

³⁷ The Salvation Army (2021) *New 2021 Victim Care Contract*. Available online: <https://www.salvationarmy.org.uk/modern-slavery/new-victim-care-contract>

³⁸ Douglas, A.M. (no date) *Adult Victims of Modern Slavery*. Available online: <https://www.local.gov.uk/sites/default/files/documents/Modern%20Slavery%20Victim%20Care%20Contract%20-Anne%20Marie%20Douglas%20-%20The%20Salvation%20Army.pdf> [Accessed 16/08/22].

³⁹ Such E. Laurent C. Jaipaul R. and Salway S. (2020) *Modern slavery and public health: a rapid evidence assessment and an emergent public health approach*, *Public Health* 180: 168-179, <https://doi.org/10.1016/j.puhe.2019.10.018>;

Haughey, C. (2016) *The Modern Slavery Act Review*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/542047/2016_07_31_Haughey_Review_of_Modern_Slavery_Act_-_final_1.0.pdf;

Barlow, C. (2017) *The Adapted SIPPS for CSE: Evaluation of a Pilot Project in a South London Borough*. *European Review of Organised Crime*, 4(2), 101-127;

Anti Trafficking Monitoring Group, (2014). *The National Referral Mechanism: A Five-Year Review, s.l.: ATMG; Cunningham, F., 2015. A Modern Response to Modern Slavery*, London: The Centre for Social Justice.

Critical Review of Legislation

The Modern Slavery Act (MSA) 2015 is criminal legislation therefore the statutory framework for its implementation is the CJS. It is a system that focuses on culpability rather than cause⁴⁰ and is arguably ill equipped for addressing the complex, multi-faceted and repetitive patterns of abuse that constitute modern slavery⁴¹. This is different to the objectives of the public health and statutory safeguarding approach which is orientated more towards a model of causation and prevention⁴². As such, the application of the MSA alone is often insufficient to address the problem. Investigators have found that collaborative working with partner agencies and creatively using other legislation leads to more effective strategic and tactical responses⁴³. This is not a new idea in relation to complex cases. The family court system, judicially driven, has in recent years developed successful problem-solving approaches such as the Family Drug and Alcohol Court and the PAUSE⁴⁴ model addressing issues of mental health, addictions and other adversities that undermine parenting capacity, family resilience to adversity, neglect and poor outcomes for children⁴⁵.

Definitions, interpretations and standards of evidence have emerged from international cases that have provided the legal authorities⁴⁶ upon which the UK Courts have relied.

Implementation of the Modern Slavery Act 2015

As Haughey (2016)⁴⁷ points out,

...work to translate the Act into real world results is inevitably a work in progress. Despite stand-out examples of good practice, there is a lack of consistency in how law enforcement and criminal justice agencies deal with modern slavery.⁴⁸

This review of legislation sought to evaluate if, and how, the Act has translated into real world results based upon current case law and experiences of British nationals who have been subjected to modern slavery and professionals working within the field.

Summary

At present, developments in law have mostly been concerned with what amounts to modern slavery, where the qualitative difference lies between duress, coercive control, forced labour and even who might be a victim or perpetrator. Consequently, there is little jurisprudence to assist in the prevention of modern slavery or protection of the rights of victims and their support towards safety and recovery. The number of modern slavery prosecutions remains very low.

The Court of Appeal (CoA) has clarified only parameters for admissible evidence and technicalities of the statutory defence and require the defendant to articulate, in open court, their allegations against those they claim exploited them. The fact remains that the courts continue to apply an "objective" standard when considering elements of compulsion and fortitude requiring victims of trafficking to behave reasonably and seek out opportunities to resist and escape.

Whilst most recent modern slavery-specific case law is in relation to the statutory defence and sentencing, it provides factual accounts that describe the nature and processes of specific offences under the MSA but does not advance knowledge in the field of modern slavery, only the interpretation and application of law. This in turn influences policy and practice in the field. Case law is no indication that judicial knowledge constitutes an understanding of the complex dynamics of trafficking and modern slavery over time.

There is a tension between the objectives of the criminal courts, the civil courts and the family courts leading to a denial of victimhood in a prosecution-led culture of policy and practice versus an integrated system of justice, care and support that looks to social and health care, law enforcement and the courts as problem solving agents rather than simply conduits of case disposal. Nowhere is this more pronounced than in the context of forced criminality, an issue prevalent among British national survivors and evident in the findings from this study.

The debates raised in the reviews of literature and legislation highlight some of the specific challenges faced by British nationals who are victims of modern slavery and draw attention to the availability of existing legislation that could potentially be used to support these victims more effectively.

⁴⁰ Jordash QC, W., 2020. Forced criminality and non-criminalisation of trafficked persons in the international Criminal Court. In: P. Southwell, M. Brewer & B. Douglas-Jones QC, eds. *Human Trafficking and Modern Slavery Law and Practice*. s.l.:Bloomsbury Professional, pp. 589-618.

⁴¹ Barlow, C., 2019. *Child Criminal Exploitation: A New Systemic Model to Improve Professional Assessment, Investigation and Intervention*. Hull: University of Hull; Barlow, C., Green, S., Kidd, A. & Darby, B., 2021. *Circles of Analysis: A Systemic Model of Child Criminal Exploitation*. *Journal of Children's Services*.; Barlow 2019 and Barlow, C., 2022. *Victims Perpetrating a Crime: A Critique of Responses to Forced Criminality and Modern Slavery in the UK Courts*. In: C. Murphy & R. Lazzarino, eds. *The Victim Journey From recruitment to recovery: human trafficking and modern slavery in the UK and beyond*. Bristol: Policy Press.

⁴² Moore, M. H., 1995. *Public Health and Criminal Justice Approaches to Health*. In: *Building a Safer Society: Strategic Approaches to Crime Prevention*. Chicago and London: The University of Chicago Press, pp. 237-262.

⁴³ Van Dyke, R. (2019) *The UK's response to Modern Slavery: Law, Politics and Policy* in Craig, G., Balch, A., Lewis, H., and Waite, L. (eds.) *The Modern Slavery Agenda: Policy, Politics and Practice in the UK*. Policy Press Barlow, C. (2017) *The Adapted SIPPS for CSE: Evaluation of a Pilot Project in a South London Borough*. *European Review of Organised Crime*, 4(2), 101-127.

⁴⁴ <https://www.pause.org.uk>

⁴⁵ Mumby, S. J., 2017. *Children Across the Justice Systems*. London, Parmoor Lecture to the Howard League for Penal Reform

⁴⁶ A judicial decision, statute, or rule of law that establishes a principle. Another relevant term is "precedent"

⁴⁷ Haughey, C., 2016. *The Modern Slavery Act Review: One year on*, London: The Home Office.

⁴⁸ See appendix 1 for the key issues identified by Haughey

Findings: Review of legislation, surveys and interviews

This section outlines the central findings of the study from analysis of legislation, surveys and interviews. This study aimed to:

- Understand the recovery needs and experiences of British nationals who are victims/survivors of modern slavery
- Identify gaps in support provided to British nationals
- Understand barriers including why British nationals may not be identified as victims and may not engage with support
- Understand the experiences of British nationals of the Criminal Justice System (CJS) and the impact of potential erroneous prosecutions
- Improve knowledge about what support for British nationals should look like to enable their recovery and prevent re-trafficking

Findings: Legislation Review

- Legal parameters and statutory entitlements are subject to change which in turn shapes policy and practice concerning protection and access to services. Current case law concerning victim support, statutory safeguarding and CJS demonstrates a significant gap⁴⁹ between the civil, family and criminal justice systems in relation to modern slavery and British victims.
- A criminal justice approach focuses on modern slavery as a crime and prosecuting perpetrators therefore does not take account of the full complexity of the factors which make people vulnerable to exploitation. Within this, there are issues with how victims of criminal exploitation are dealt with through the CJS⁵⁰.
- A British national who has been identified as a victim may be subject to provisions of the Care Act 2014, Children Acts 1989 and 2004, Mental Health Act 1983 as well as the CJS. There are considerable challenges regarding these different systems. Local authorities tend to have responsibility for assessing needs and providing support services for British nationals. The different legislative and policy frameworks⁵¹ mean that practitioners in one jurisdiction frequently misunderstand the work of colleagues in another, leading to inconsistencies in approach and identification of victims, assessments of needs and provision of services⁵².

Survey and Interview Findings: “A cycle of closed doors”

Survey respondents had provided support to 34 British nationals in the course of their work over the previous year. The types of exploitation experienced by survivors being supported by professionals differed slightly between CJS respondents and other practitioners. Overall, in both groups of respondents, criminal exploitation was the most common type of exploitation reported:

- Criminal exploitation: 15 CJS and 30 Support workers
- Forced labour: 10 CJS and 27 Support workers
- Sexual exploitation: 9 CJS and 27 Support workers
- Domestic servitude: 4 CJS and 12 Support workers

Survey respondents were asked to choose the **three most common areas of support needs** for British survivors of modern slavery:

- Mental health support: 30 respondents
- Housing/accommodation: 22 respondents
- Substance misuse support: 19 respondents

Themes identified as particularly pertinent to British nationals were consistent across all data analysed. The consensus about the top three support needs is also reflected in the interviews with practitioners and survivors. The analysis reveals the diverse challenges encountered by British nationals on their pathway towards seeking support as victims and survivors of modern slavery, described by one participant as ‘a cycle of closed doors’. Beginning with their experiences before exploitation, the findings identify significant vulnerabilities and missed opportunities to protect British nationals from future exploitation. During exploitation, despite indicators of potential exploitation, findings expose multiple missed opportunities to identify and protect British nationals from further exploitation. The experiences of British nationals who consent to the NRM additionally reveal missed opportunities to protect them. The key themes identified in the data and linked to the SIPPS framework are:

- Insecure Environments: Missed opportunities to prevent
- Being exploited: Missed opportunities to identify and protect
- Being British in the NRM: Missed opportunities to support

Key to quotes:

- Survivor responses: S followed by a number (e.g., S4).
- Practitioners are denoted by their role + number
- Survey responses practitioners: SP + number
- Survey responses criminal justice respondents: CJ + number

⁴⁹ See appendix 4 and 5

⁵⁰ See appendix 3 and 4.

⁵¹ See appendix 3.

⁵² Mumby, S. J., 2017. Children Across the Justice Systems. London, Parmoor Lecture to the Howard League for Penal Reform; Haughey, C., 2016. The Modern Slavery Act Review: One year on, London: The Home Office.

Insecure Environments: Missed Opportunities to Prevent

Findings from the interviews demonstrated many missed opportunities for professionals to identify British nationals as potential victims, and to prevent and protect them from being initially exploited, re-exploited or criminalised. Practitioners discussed multiple missed opportunities to prevent exploitation among professionals from a range of services and organisations that interact with potential British victims. Despite numerous indicators, professionals had not identified British nationals as potential victims of modern slavery. This first theme focuses on vulnerable children and adolescents prior to exploitation.

Insecure Environments and Missing Episodes

Twenty-eight practitioners and three survivors indicated that British survivors had frequently experienced insecure home environments prior to exploitation. Examples include care settings or foster homes, and/or multiple moves within the care system and in some cases homelessness. Thirteen practitioners discussed the regularity of care settings in survivors' history. They also noted social services were involved in or had knowledge of British survivors prior to their exploitation, either through care settings or home-visits. Two survivors reported in the interviews that they had been under the care of social services prior to their exploitation. One had grown up in a care setting. One survivor in this study, who had lived at home, discussed the insecurity of her environment, including a parent with mental illness, and her interactions with social services and educators. She said: "[the school] kicked me out most of the time and sometimes I just wouldn't go". Sometimes "education was involved and sometimes social services". She tried to avoid contact with social services, so lied about her mother's mental health issues.

"We did have social services on and off, but I never engaged, I literally would be so violent and vile. I remember one social worker ... walk out of my house saying, "she's an animal, she's disgusting", and I was putting on an act. I had quite a lot of psychological assessments, so I was under hospital [care] for a long period of time. I don't really know why... I was quite violent and so I had this long period, they were very much involved for a long time and that's probably the only consistent people that were there. Social Services were awful." (S2)

Another example reported by a police respondent highlights a missed opportunity to prevent criminal exploitation. Two members of the same family who had lost a parent, leaving a one-parent family struggling to make ends meet, were subject to child criminal exploitation, criminalised for their exploitation, and spent time in prison. s45 was only raised after being charged and while waiting on remand.

"Social services are heavily involved, as you'd expect with the problems that were going on. I am trying to think if it was one or both got excluded from school, so there has been heavy social services involvement, but it's been difficult to kind of make any meaningful change...just the level of support that they need is beyond what people can offer from just a social services point of view." (Met Police 5)

Insecure environments link closely to missing episodes from school, home or both. Missing episodes prior to and during exploitation were discussed by twenty-three respondents in this study. Three of the seven survivors interviewed had been absent from school. Only one survivor respondent received external support because of their absence. One was referred into a Pupil Referral Unit (PRU) but never attended; this was not followed up by authorities. Another survivor recalled that "nobody came, look why ain't she at school?" (S4). In addition to the missing episodes from schools, respondents indicated that educational institutions, including alternative education organisations such as PRUs, had failed to identify potential exploitation whilst also putting the child at risk of exploitation through exclusions. One practitioner (NGO10) recounts a narrative from one of the survivors she was supporting:

"She [British survivor] turned up at her social worker's office. Her social worker said, "what you doing here? I thought you were at University [...] it turned out nobody had known she had been gone [being exploited] for a year." (NGO 10)

Recognising missing episodes as indicators of potential exploitation was also discussed by criminal justice professionals.

"Kids that are regularly mispers, they're regularly missing from home...I suppose if you've got a kid that's regularly going missing, dropping out of school, there are all kind of indicators for us that make us be mindful of modern slavery." (Police 29)

Another respondent also discussed the recent shift in recognising missing events as potential indicators of exploitation:

"My involvement started with trying to find missing children who were suspected at risk of Child Criminal Exploitation but also Child Sexual Exploitation...a team was set up...so it was around the child exploitation angle of modern slavery...kids would go missing for months at a time." (Police 3)

One respondent noted that, historically, a missing child would have been viewed as 'causing us (CJS) problems' (Police 13). More recently, a complex safeguarding team had been established in their area. Members include representatives from charities and social services who support children who regularly go missing, demonstrating a positive change towards child protection from exploitation. Based on these findings, and other initiatives⁵³, the potential link between missing episodes and a risk of exploitation is being recognised more often, but this is not widespread, resulting in regional disparities in responses to missing children.

⁵³ See recent campaign by It's a Penalty and Missing People <https://www.missingpeople.org.uk/missing-people-partners-with-its-a-penalty-during-the-commonwealth-games>.

Being Exploited: Missed Opportunities to Identify and Protect

Despite contact with education/criminal justice professionals, social services, mental health and health services, all survivors in this study reported their exploitation was missed in all encounters in a range of settings and/or including lack of response to complex needs including substance use. One survivor recounted that the police had visited his exploitation site “2 or 3 times” (S5) but his living arrangements (caravan), or access to food, water, or sanitary facilities were never questioned. Another survivor under the care of social services during his exploitation had alerted them to his exploitation in county lines. He was told that he “tends to fantasise” and that someone of that age “cannot live that type of lifestyle” (S6). This resulted in an escalation of the exploitation. He recalls that the experience also “broke a lot of trust in a lot of services” (S6), and withdrawal from services. Understandably, many respondents identified the missed opportunities to protect and prevent exploitation as a reason to distrust statutory services when accessing support post-exploitation.

Health and Mental Health

Poor mental health has been identified as a vulnerability to exploitation⁵⁴. Twenty practitioners noted British nationals had diagnosed and, in some cases, undiagnosed at the time, mental health issues prior to their exploitation. They suggested that these mental health issues could result in vulnerability to exploitation. “...pre-trafficking precarities are... abuse, neglect...significant mental health needs” (NGO 16).

In this study, four of the survivors discussed their mental health. The findings demonstrate that there were missed opportunities by mental health professionals to recognise mental health issues as a potential indicator of increasing vulnerability to exploitation. Even where survivors had accessed mental health support, practitioners had failed to identify the potential risk of exploitation, and in some cases indicators of exploitation occurring whilst in their care. For example, one of the survivors had been under the care of CAMHS⁵⁵ prior to and during their exploitation and reported:

“I had an eating disorder, I was self-harming... depression, low mood...obviously at the time, well looking back now that’s probably...a trauma response to the situation that was going on to me being exploited but obviously I didn’t disclose that to anyone.” (S1)

Another survivor under mental health care during her exploitation chose not to disclose about her exploitation. She recalls having a negative experience after disclosing at her school and “so, I learnt, like most kids do very quickly, not to talk” (S2). For another survivor, although willing to talk about trauma from physical and emotional abuse by a family member, these issues were “never addressed” (S6) by their social worker. In another case, a survivor had been diagnosed with a form of schizophrenia prior to their exploitation, and, through a lack of protection post this diagnosis, was exploited in labour and domestic servitude.

Indicators in health settings more broadly had also been missed. One survivor had, before she turned 18, two pregnancies and two abortions as a result of her exploitation. She recalls each abortion was conducted by the same doctor and yet no inquiries were made or safeguarding put in place. Other survivors were left with permanent and long-term physical impairments due to their exploitation, requiring multiple interventions by medical professionals, who often were not aware of their exploitation.

Thirteen practitioners suggested that British nationals were more likely than non-British nationals to have misused substances prior to their exploitation, contributing to increased vulnerability to exploitation. This was especially the case in scenarios where the person’s home had been subjected to cuckooing. “Victims I tend to come across have usually got a Class A drug dependency so if you’re thinking about county lines, they usually tend to be victims of cuckooing” (Expert Witness 14). Another practitioner described the types of unsafe environments in which exploitation can occur:

“community-based exploitation which can happen between neighbours, between streets ...takes all different forms...I would say that the vast majority will be exploited in the community that they already exist in, so you’re talking about you know like the vulnerabilities or the difficulties will be highlighted...and then people move in because they take advantage of them and...you warn them about cuckooing, how that can start the process of criminal exploitation.” (NGO 17)

Criminalisation

Child criminal exploitation, and in particular county lines, is especially challenging for CJS personnel in terms of identification and support. In this study, all criminal justice practitioners interviewed (8) discussed the difficulty in correctly identifying the difference between a victim or a perpetrator of child criminal exploitation, a confusion mirrored in survey responses about what training is needed for CJS professionals.

More training on how to better support them and how the criminal justice system works for them as victims but also potential criminals. Better training for other agencies and services, including the police, about the types of exploitation that can occur and how to identify and support people as victims and not criminals. (SP7)

Twenty-seven of the survey respondents had supported British survivors who were involved in criminal proceedings relating to crimes committed as part of their exploitation and nine CJS survey respondents had interacted with British survivors who had been charged or prosecuted for crimes committed as part of their exploitation⁵⁶. In this study, three of the survivors had been criminalised for their exploitation. Two of the survivors entered the NRM after their criminalisation and received a positive conclusive grounds (CG) decision.

⁵⁴ Altun, S., Abas, M., Zimmerman, C., Howard, L. M. and Oram, S. (2017) Mental health and human trafficking: responding to survivors’ needs, BJPSYCH INTERNATIONAL, 14(1). Available online: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5618827/pdf/BJPI-14-21.pdf> (Accessed: 19 August 2022).

⁵⁵ Child and Adult Mental Health Service.

⁵⁶ See appendix 7 for types of charges.

Use of s45⁵⁷ in criminal cases, and the small numbers reported in the survey is also revealing, considering findings from the review of legislation. Responses from the CJ survey show that in three cases, s45 was not raised at all; in two cases s45 was raised before trial; in one case s45 was raised during trial. Other responses showed that s45 was also raised after conviction. The outcome of legal cases reported in this study for British victims of criminal exploitation is illuminating, with the majority found guilty (4) (as perpetrators), one found not guilty, and two 'still in progress' or 'unknown'. Challenges faced in supporting British victims' involvement in criminal cases included:

- Bad character evidence and evidencing that they have been exploited as opposed to being willing participants (CJ6)
- Willingness and knowledge of victims' own exploitation to aid prosecution (CJ2, CJ4, CJ10, CJ5)
- Continued being exploited (CJ11)

The findings reflect the gaps in support for British survivors of modern slavery within the criminal justice system and indicate the missed opportunities from criminal justice professionals to recognise and identify a victim of modern slavery, resulting in the criminalisation of the individual. These findings concur with key recommendations from the critical review of legislation outlined above.

Being British in the NRM: Missed Opportunities to Support

Many British adults regularly decide not to enter the NRM (reported by six practitioners), resulting in no access to specialist support to aid their recovery or reduce their vulnerabilities to exploitation. Reflected in survey findings, non-referral into the NRM is a key challenge to supporting British survivors. One practitioner notes a potential reason for non-referral:

I have only supported one British survivor. It is not a demographic that much emphasis is placed on. Aside from a few modules of the e-learning. This may be because the numbers of actual referrals of British survivors are so small. But given what I learnt working with my British client, I believe that many do not refer out of fear or shame or stigma, so the numbers are not a true reflection of the scale. (SP20)

Even if referred into the NRM, findings from this study highlight the lack of knowledge among frontline workers about what British nationals are entitled to. All survey respondents were asked if they felt equipped to support British nationals as a specific subset of survivors of modern slavery and overall, most responded in the positive:

- Yes (37, 69%) (12 CJS and 25 Support workers)
- No (13, 24%) (2 CJS and 11 Support workers)
- Unsure (4, 7% – all CJS)

However, whilst a small sample, it is notable that 17 of 54 respondents did not feel properly equipped, almost one third of all cases. These responses are reflected in confusion reported about the needs and entitlements of British nationals within the NRM, and the numerous mentions of the need for improved legislation, training, awareness raising, and guidance mentioned throughout this report.

Survey respondents were also asked to identify the top three most significant barriers faced by British victims of modern slavery:

- poor physical or mental health (19, 53%)
- inadequate support for substance use including alcohol dependence (19, 53%)
- exploitation not identified by relevant agencies as modern slavery (19, 53%)

Although these numbers are small overall, they concur with findings from the interviews with practitioners and survivors in this study and other literature on this topic. Worth mentioning also, considering interview findings, are the next three highest barriers identified:

- agencies' lack of awareness of all services on offer (to British victims) (17 respondents)
- long waiting times to access services (15 respondents)
- options and pathways for support are not clear to survivors (10 respondents)

All barriers identified in the survey are reflected in the interviews.

NRM: To refer or not?

Despite British nationals' right to access support offered under the MSVCC, based on their experiences of the system, 16 professional respondents did not see the benefit of referring British nationals into the NRM and 18 were unsure of what the system offered to this cohort. This is observed in one comment suggesting that the NRM is a tick-box, "bean-counting" exercise (Police 19), more suited to those needing immigration and housing support (outside of local authority housing). This sentiment is echoed in a response from a safehouse worker:

"they (UK nationals) generally came with support needs of substance misuse, children in care...had issues around benefits and I feel like all the other clients we worked with [were] more about...immigration and stability so and things like that around the Home Office...but...I think support workers who were working in that area, they weren't familiar with these issues of substance misuse, they weren't familiar with issues of children in care so...the experience of the support workers didn't really match their (UK nationals) needs." (Safehouse 15)

⁵⁷ s45 of the Modern Slavery Act provides a defence for individuals charged with a criminal offence that they committed as a direct result of a modern slavery experience.

Consequently, rather than an NRM referral, British nationals had been referred to various services in the local authority. A lack of knowledge and understanding within local authorities of their responsibilities under the MSA was identified by 22 respondents in the interviews and numerous references in the survey, thus illustrating the ongoing barriers faced by British nationals in accessing support in the NRM, including access to legal aid and entitlement to benefits.

Accessing Legal Aid and other benefits

Four survey and five interview respondents discussed barriers to accessing legal aid for British nationals, despite this being a MSVCC entitlement. British nationals were often deemed ineligible for such support due to having recourse to public funds.

Some British survivors receive benefits and/or work and this often makes them ineligible for legal aid. The legal aid capital and income thresholds are extremely low. (SP3)

Two of the seven survivors discussed accessing legal aid. Neither of these survivors received support with this process from their NRM worker. One survivor recounts the support he received from a professional:

“My solicitor, she fought, she fought up, left, right, she fought everyone, everyone and then (...) don’t give up, don’t give up, don’t give up, don’t give up. No one knew it but I already gave up, she didn’t give up, she kept us moving but she gave me that ignition, she gave me that battery, she charged me up, all of the work that she put in for me (S6).”

Even if a British national were able to access legal aid, barriers persist:

“It’s much harder to get a solicitor for (British nationals) because...legal aid pays little to nothing for an NRM case that doesn’t have an immigration matter attached to it.” (NGO22)

Two survivors also outlined the barriers to being recognised as entitled to financial and legal support:

“The week I got my RG, the police contacted me saying “right we’re closing your files” and I said to them “is that because I’m in the NRM?” And their response was, “what is the NRM?” I was told “no financial support, no legal support” ...because I’m not an asylum seeker, because I’m British.” (S4)

“They [MSVCC safe house provider] ...said “do you have a British Passport “and I said “yeah”... they asked me if I had access to benefits, and whether or not I had a National Insurance number. They said, “are you entitled to benefits?” and “you can be in and out [of the safe house] very quick.”” (S3)

The quotes imply that because of access to benefits, British nationals can be moved on more quickly than other survivors, potentially resulting in less support. The gaps in knowledge and understanding by some MSVCC support workers is of concern. The survivor in this case (S3) was advised to approach the local authority after exiting the safehouse. The local authority refused them accommodation, citing no connection to the local area for this refusal, resulting in homelessness. Barriers to accessing safe and secure accommodation was identified consistently in this study.

Accommodation: A place of safety?

Five practitioners interviewed noted British survivors had a more positive and successful recovery when receiving support whilst in a safehouse as opposed to when it is offered in outreach. However, problems with accessing safe and secure accommodation, including safehouse accommodation, were commonly reported. As per the MSVCC, British nationals are either accommodated through a safehouse, if the survivor has needs that warrant this, or through local authority housing. Respondents noted the lack of availability of suitable housing:

A positive CG doesn’t practically help them that much at all; just moving up the waiting list for appropriate move on housing options does not mean it will be quicker because there aren’t enough appropriate housing options to be waiting for. (SP11)

Barriers identified are around the difficulty in transferring families into similar accommodation in other areas, and the time it takes to put in place new support packages if people do move. (SP9)

Additionally, problems were identified regarding the MSVCC safehouse procedure which accommodates the person in a safe geographical location, often miles away from their exploitation site. Whilst recognising safeguarding constraints, this is problematic for British nationals and fails to take account of the potential to use other statutory interventions:

“I think there needs to be better links in with local authorities to house, support that victim without them having to move 300 miles out the way and then they end up migrating back and then you lose them as part of the investigation and part of the NRM... It may be that we’d put a care plan into place which would then link into adult social services. I’d be amazed if adult social services got involved if they’re a British national...unfortunately try[ing] to get them involved with anything is hard work.” (Police 13)

Eleven practitioners interviewed reported that because British nationals have access to local authority support, the support offered by services can be reduced. These practitioners noted ‘a back and forth’ process between the Salvation Army and the local authority about who is responsible for accommodating a British survivor. Examples from the data show the impact of this ‘back and forth’ process on British nationals attempting to access ‘a safe place’:

“With UK nationals who are eligible...for more things there can be a resistance...I’m not going to get involved because that organisation should be getting involved or that organisation should be paying that person so therefore I am not giving them any support.” (NGO 1)

“Particularly with British nationals, where the person was in an area that they considered to be a place that wasn’t safe for them but the safehouse wouldn’t take them because they believed it was a local authorities duty to house them but the local authority wouldn’t take responsibility for them because they didn’t have a local connection and so they wanted to send them back to the area that they came from because that’s where they had the local connection but that is the area where there wasn’t any safety. So,

then it got bounced around...between two local authorities who wouldn't touch it and the Salvation Army and...and in the middle of it being a human being." (NGO 20)

"What we've found is when we're trying to refer [UK national case] through the NRM to access accommodation through Salvation Army, Salvation Army will not always accommodate them. They will say go back to your local authority housing because he's got recourse to public funds. We go to our local authority housing, and they will say that the person doesn't meet the criteria or something like that and ...we're in a situation and we don't know what to do. How do we get this person into a safe place?" (NGO 25)

Unsafe places: Cuckooing

The issue of finding a safe place becomes more problematic in cases of cuckooing/insecure environments. Even when British nationals had been accommodated by the local authority, their accommodation was often inappropriate and posed re-trafficking risks. Practitioners reported that some British nationals under their care have had to remain in their cuckooed accommodation after their exploitation:

"...if their issue has been resolved and people have moved on and they are still in the same property, they are still targeted then by the local community and also do get revisited sometimes by the group that were potentially previously exploiting the individual there.... and then can go back there and then return to being used for cuckooing or whatever that they were to be used and get exploited again." (NGO 31)

Seven respondents expressed concern about British survivors being placed in accommodation with previously incarcerated people or drug users. Findings from this study indicate that local authority accommodation offered to British nationals often fails to offer an environment conducive to 'recovery'. Comments on British survivor's experiences in this type of accommodation are illuminating:

"Her housing situation was so difficult with so many other active users and drug dealers in the building because I mean when someone is in recovery it's hard enough." (NGO 6)

Council housing being appropriate, safe, and secure. My client is in recovery from a drug addiction and has been placed in a house with known drug dealing and usage. However, she has to remain there where she says her resolve is tested, to later access permanent council accommodation. If she does not stay, she will be homeless as she cannot work due to mental and physical ill health. In her accommodation prior to this one of the other residents was stabbed. I feel victims of trafficking need to be recognised as having additional vulnerabilities and given greater consideration to finding safe accommodation (SP21).

Support: Geographical disparities

Safe accommodation is only one aspect of the barriers faced by British nationals. Geographical disparities in support offered is also problematic. British nationals rely on local authority support and third sector support which differs dependent on geographical location. Geographical disparities are highlighted by two local authority practitioners, located only 23 miles from each other. They discussed the support they offer to British nationals in which the disparities are evident.

"we've got a lot of other teams [in the area] ...we would link up with other services...We just identify services in the local community, refer them, support them [the British survivor] to attend, research what's around, what's helpful so rather than us necessarily doing much of it. I mean we do life story work and direct work, but we're not therapeutically trained so that would be more linking in with other local organisations." (Practitioner 9)

In contrast:

"The main issue is the multi-agency approach cos everyone talks about that, the safeguarding and the multi-agency approach. We're not doing it, the issues arise from the fact that we don't follow the Government guidelines, examples of good practice in other local authorities... although we do have like a CAHMS service, adolescent mental health and stuff like that...We identify them and we send [the British national to] the CAHMS worker, they have one or two sessions, and it stops there. They don't have any further specialist support to help them...we don't do much other than identifying those problems." (Practitioner 21)

Lack of referral to most recent guidance/examples of good practice is concerning, as is access to 'one or two sessions' of CAHMS support for a survivor of modern slavery. This response is inadequate and one of many gaps in support identified, particularly considering the complex mental health and other needs of British survivors.

Despite these disparities and the challenges identified, the majority of practitioners interviewed (30) and six survey respondents mentioned the benefit of, and advocate for, multi-agency partnerships for responding to the complex needs of British survivors.

"We've seen...mistrust of authorities...different accounts being shared with different professionals which then makes it more challenging to...identify a specific...way of working...if one professional was told one thing and then someone else told another it's quite hard to coordinate support...multi-agency working is particularly really needed for UK nationals...because there might be so many different, complex variety of needs that the just really kind of strong support network of professionals that are working together is really important to kind of avoid those challenges." (NGO 1)

There was evidence of good practice when agencies were able to come together within the same space such as education, police, local authority, health (including mental health), victim navigators, youth workers, specialist support organisations. However, these were not always attended by all the agencies required: "CAHMS are invited but they don't come" (Local Authority 32). This is particularly pertinent when it comes to children.

Children: Geographical disparities and safeguarding

Although specialist support has been introduced in some areas for children, the inconsistency in application of statutory guidelines was raised multiple times in the survey and interviews. Children who have experienced exploitation are automatically referred to local authority care. In some regions children can access Independent Child Trafficking Guardians (ICTGs) (previously known as Independent Child Trafficking Advocates) who offer specialist support to the child after their exploitation. Respondents discussed the positive impact that the ICTGs had on the child. However, gaps remain as noted by a survey respondent:

Our service has made significant progress in supporting British child survivors of modern slavery by adopting a wrap-around approach and delivering targeted interventions based on individual needs. However, we don't provide an adequate multi-agency response and we are not proactive in improving partnerships with other key agencies. The service is relatively isolated and follows old child safeguarding procedures that are not in line with the most recent legislation and guidance on modern slavery. A more contextual safeguarding approach and awareness of options for support outside our service for this specific subset are needed. (SP24)

Additionally, despite ICTGs being introduced in 2017⁵⁸, they are still only available in limited areas of the country⁵⁹, thus reinforcing the geographical disparities in response noted above. Further, a local authority practitioner spoke of only being able to offer minimal support to children who are either at risk of being, or have been, exploited, due to limited funding and capacity: "the barrier is not from them, the barrier is from us because we cannot offer that support" (Local Authority 21).

The challenge when transitioning from children's social care to adult social care was also elucidated by one practitioner:

"They [British survivor] don't neatly fit into a box for adult social care, because they don't necessarily have care and support needs." (Anti-Slavery Partnership)

This is echoed by a survivor, where support for her exploitation changed when turning 18, having been exploited since she was 13:

"By the time social services picked it up [her case] ...I was 18 so it transitions from when you're under 18 you're exploited but when you're over 18 it's a lifestyle choice." (S3)

The reduction in support can lead to further exploitation during this transition period. There is no specific point of contact in local authorities to support adults (in this case when turning 18) who have been exploited, despite existing guidance⁶⁰. A survey respondent notes:

More support [is needed] for [British] young people to enable them to come to terms with what has happened to them and enable them to access a seamless support system. (SP4)

Coming to terms with their experiences and accessing support is also problematic for adults within the NRM support system, especially regarding complex needs including substance use.

Substance Use, Mental Health and Complex Needs

Practitioners reported that British nationals present more often with problems associated with substance use and are thus more vulnerable to triggers. They reported on their lack of knowledge and training in supporting British nationals with mental health and substance misuse issues. Support workers noted they were ill-equipped and identified the need for specialist support services to facilitate this assistance and reduce the British survivors' vulnerability to re-exploitation:

"...engagement was definitely a lot more challenging with British nationals. I didn't really have a lot of expertise in the issues [substance misuse]." (NRM worker 15)

"many of them (UK nationals) take drugs and that is probably one of the first challenges that we need to address is their drug intake. Substance misuse can be drugs and alcohol but also the impact of the abuse they suffered. Not necessarily just exploitation but also domestic abuse they suffered, the fact of being abandoned by parents or all of this led to them being homeless that led to them...being exploited." (NGO 2)

Practitioners noted these specialist services are often not available but if they are, are more likely to be in urban than rural areas, another geographical disparity. Other barriers identified include engaging with services and accessing therapy:

"British Nationals have really struggled to engage and get therapy, partly because they're British and they've lacked assistance and whether this is a fault with the system or whether this is more a fault in relation to the knowledge of other professionals...?" (NGO 20)

⁵⁸ The first iteration of ICTGs was trialed in 2014 but not introduced until 2017. In three sites initially. See <https://www.gov.uk/government/publications/an-analysis-of-independent-child-trafficking-guardians/an-assessment-of-independent-child-trafficking-guardians-accessible-version>.

⁵⁹ Wales, East Mids, West Mids, Bedfordshire, Gloucestershire, Warwickshire, London, Hampshire & IOW, Kent, Surrey, Essex, Greater Manchester, Lancashire and Merseyside.

⁶⁰ Para. 12.17 of the Modern Slavery Statutory Guidance (Version 2.10) advocates for local authorities to have a first point of contact within the council for referral pathways.
Home Office (2022) Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland. Version 2.10 Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1087550/Modern_Slavery_Statutory_Guidance__EW__Non-Statutory_Guidance__SNI__v2.10_FINAL_.pdf.
Clause 4.11 of the MSVCC advocates local authorities and MSVCC providers establish a working relationship to deliver services which are in the best interest of the Service User.
Home Office (2021) 2020 Modern Slavery Victim Care Contract. Available online: <https://www.contractsfinder.service.gov.uk/notice/247ccd4d-b43a-497d-8573-d869f2ae4680?origin=SearchResults&p=1>.

Furthermore, referral to specialist services was not always successful:

Mental Health Teams (MHT) are all different, but the mental health teams I have been in contact do not follow the recommendations provided on a MLR⁶¹ report. MHT usually feel they know what is best for the client without fully understanding their feelings/what they are thinking. (SP14)

Feeling Out of Place and Unique Needs

Alongside the complexity of needs of this cohort, a perception of support not taking account of the specific experiences of British nationals has resulted in feeling 'out of place' in MSVCC safehouse accommodation. Fourteen respondents noted that they perceived support services as having been set up to support non-British nationals:

"I think they found themselves a bit bemused. I think they felt a bit out of place in this safehouse with people who didn't speak their language. It was like they're in the UK but they're in this house with people from all over the world...I think they felt a bit out of place whereas the other women there might be someone from their nationality or they might speak a similar language or be going to English class together and there was that kind of bonding whereas with the British survivors ... I think they felt quite left out." (Safehouse 15)

A variation of treatment of British nationals in the MSVCC safehouse, based on lack of understanding of their entitlements on the part of the support worker, was noted by twenty respondents.

One survivor recalls how she and other British nationals believed their MSVCC support worker considered them "challenging...and...problematic" because they knew their entitlements in the UK system and requested access to them.

"Because you know the [UK] system and you know that there should be stuff, sometimes if you're not the kind of quiet, submissive survivor...I think I've seen myself and for other British...girls that I know have been labelled in the safehouses as problematic...a bit more of a nuisance if that makes sense...you're just seen as more challenging because you've got maybe the language to challenge." (S3)

A practitioner (NGO20) notes that British nationals are vocal and want to share their thoughts on the system and how it can change. Considering the shift to ensure the voice of survivors/experts by experience are listened to in the sector, the experiences reported in this study are particularly disheartening.

Additionally, and uniquely, because of negative interactions earlier in their lives, British nationals have different responses than non-British victims in their interactions with statutory services which 'colours' their experience of the NRM:

"[The non-British victims] haven't been let down by UK processes and systems or haven't been through them for better or for worse in terms of a result. So from that point of view in context you can't ignore that for UK nationals, it's really different...[from] that UK national woman's point of view, you know once bitten, twice shy. Those processes that should now be in position, she may be less inclined to want to be involved in because of her experience with those processes in the past...there's a whole raft of experiences that are going to colour the UK national experience of the NRM in a way that wouldn't happen to a transnational trafficked person." (NGO 24)

Finally, if tailored support is not offered, there is a greater risk of re-exploitation.

[British nationals need] specific tailoring of support. Our service users are predominantly asylum seekers and the type of support needed and services available for British service users isn't focused on (SP26).

We have found the needs of British survivors to be unique to the other women we work with. And in a few cases (3 cases so far) they are much more high risk in terms of trafficking network involved (SP1).

Survey responses encapsulate the specific challenges faced by British nationals and those that support them in the NRM:

British clients have different and often more complex support needs that we are not adequately trained on – also many British clients referred to us are already incredibly frustrated with the systems and we are 'just another professional' deemed nosy and useless at first [...] There are a lot of issues outside of the NRM that make the work inside the NRM challenging and not always seen as worth it because people are in the same situation or worse in some cases - for example, accessing counselling to address traumatic histories that are linked to current substance use is not possible while they are in active addiction. Dependency services only address the biological/physical aspects, not the root cause of why someone is substance dependent. How are we equipped to help British clients get out of this cycle of closed doors when NRM providers are largely a signposting service to encourage independence? (SP11)

Awareness with all agencies – especially government departments such as mental health, and after the service user has been recognised as a victim of modern slavery by the Home Office, housing and job centres are not sensitive to the specific needs and potential retriggering of risks of each individual [British national] (SP18).

Professionals: Need for Training and Developing 'Professional Curiosity'

The final significant finding from this study across interviews and surveys intersects within all aspects of the pathway into recovery for British nationals. This was a lack of knowledge and understanding of the complexity of modern slavery and a lack of 'professional curiosity' concerning the experiences of British nationals that they encountered, and in identifying indicators to exploitation. The need for access to better and more effective training was identified by most practitioner interviews (26) with a specific focus on the needs of British nationals. This was reflected in survey responses.

⁶¹ Medico-Legal Report See <https://www.helenbamber.org/medico-legal-reports>.

It's about education. My team are trained but colleagues through the force are not, and this causes a great deal of work and stress for all parties. (CJ8)

To improve pathways to support for British nationals, practitioners identified key areas for training and development:

Training

- Improve understanding of the needs of British nationals, their entitlements and how best to support them
- Improve understanding of CCE, county lines, cuckooing and victim identification
- Improve knowledge of safeguarding measures available to support victims
- Improve knowledge and skills in supporting British nationals with complex support needs including substance use.
- Ongoing training to reflect rapid changes in modern slavery cases to aid consistent knowledge throughout police forces and support services

Development

- Build professional networks and multi-agency partnerships to improve support for British nationals
- Build information sharing opportunities between police and other services

Conclusion

Bridges to Recovery

A number of significant findings were identified from the data analysis in this study. First, missed opportunities to identify vulnerable British children by professionals from local authorities, social workers, police, NHS, mental health, and education settings prior to exploitation was evident. Of particular concern was the link identified between missing events in the lives of young people and the risk of future exploitation. Although respondents reported improved awareness of the connection between going missing and exploitation, there is a need for co-ordinated action to recognise this indicator, not just among police and social services, but in all settings accessed by children, including education, health, and mental health. Multi-agency safeguarding policies and procedures informed by up-to-date information on modern slavery and exploitation amongst British children, including a specific focus on preventing the criminal exploitation of children in County Lines, should be introduced within a public health approach that prioritises prevention and early intervention.

Second, one of the most common themes impacting British national adult survivors in their pathway to recovery was around safe and secure accommodation, especially when access to support tails off, whether inside or outside the NRM. After their exploitation, regardless of accommodation provider, British survivors continue to face barriers in accessing secure and stable housing. A targeted response should be developed, informed by the specific needs of British nationals to provide access to safe accommodation, in a suitable location, and exempt from the 'local connection' requirement for social housing.

Third, access to mental health support, including substance misuse services, was identified as a significant gap in the ability to support British nationals with complex needs, including dual diagnosis⁶². Support workers lacked understanding of this complexity and called for specialist support to be made available. For substance misuse specifically, there are few places available in specialist facilities, and there are regional variations. Lengthy waiting lists⁶³ and limited numbers of sessions with mental health professionals was identified as increasing risk and vulnerability. Physical health conditions as a consequence of exploitation also impact on survivors' mental health. Funding needs to be provided for victims to access support for multiple and complex needs. Specialist training should be developed and introduced into support settings, with clear guidance and tools for evaluation of effectiveness.

Fourth, a comprehensive package of training needs to be urgently introduced in education, health and mental health, criminal justice and social services and other settings accessed by children, to improve knowledge of the potential for British children and adults to be exploited in modern slavery. Even if identified, both children and adults are falling through gaps in the system as a result of a lack of knowledge of modern slavery, who it affects, who offers support and what British victims are entitled to. The training should be supplemented with guidance on indicators, referral pathways, entitlements, and available support. MARACs should be introduced in all local authority areas.

Fifth, survivors as experts should be consulted about what works in the sector to inform improvements across the board. Pathways to effective communication need to be established to ensure experts by experience are heard. As evidenced in the research, if the risks and vulnerabilities for British nationals are not addressed prior to, during, and after exploitation, the 'cycle of closed doors' resulting in a cycle of exploitation will continue, placing additional pressure on statutory and non-statutory services⁶⁴.

Finally, the objectives of this study are not to suggest a hierarchy of needs of victims and survivors of modern slavery from different nationalities. The focus on British victims was identified as a gap in knowledge and understanding, and this study has begun to fill that gap. A comparative analysis of experiences of different nationalities may be a useful area of investigation to establish similarities and differences in needs and experiences and may highlight responses that would be of benefit to all victims and survivors. The study may also be useful as a starting point for other countries grappling with identifying and supporting domestic victims of modern slavery.

⁶² Mental health and substance misuse.

⁶³ One respondent was waiting for mental health support for five months to no avail.

⁶⁴ A full detailed list of recommendations will be published as a separate appendix.

Appendix 1

Literature Review

Introduction

Research on modern slavery has increased substantially in the past 10 years. There has been considerable focus on challenges for victims who are also seeking asylum in the UK and the lengthy wait for an NRM decision as well as an asylum decision⁶⁵. However, very few studies have focused specifically on the experiences of British victims of modern slavery and human trafficking (although see Hestia⁶⁶; and Child Exploitation and Online Protection (CEOP)⁶⁷). This is surprising given that end of year statistics at the time of the Government's 2014 Modern Slavery Strategy show that UK nationals were the fifth highest number of referrals into the NRM – a 173% increase on the previous year⁶⁸. In fact, British nationals have been the most referred nationality into the UK's National Referral Mechanism every year since 2018.

The UK Response to Modern Slavery

Prior to the Modern Slavery Act (MSA, 2015), relevant law addressing trafficking of human beings for the purposes of exploitation through slavery, servitude and forced or compulsory labour was contained within disparate legislation. The aim of the MSA (2015) was to unify and simplify previous legislation and give law enforcement new powers to effectively tackle modern slavery and human trafficking. It included increased sentencing powers and promised to strengthen protections for survivors⁶⁹. Despite these stated aims, the MSA has been criticised for its shortcomings in relation to protection and support of victims, particularly children⁷⁰.

The approach to the problem by the Criminal Justice System (CJS) has been criticised as reductive, linear, and failing to intersect with statutory safeguarding systems⁷¹. The complexities of cases of modern slavery and human trafficking are not accounted for within this legal and policy framework and do not fit neatly into the linear approach of the CJS. The process of modern slavery is multifaceted, driven and shaped by relationships between victim, exploiter, and their shared physical, social, economic, and political environments⁷². Recognition of this complexity is vital because a lack of understanding leads to the creation of inadequate tools used to identify and refer victims to support.

The NRM

The UK government created a National Referral Mechanism (NRM) in 2009⁷³. The introduction of the NRM meant court proceedings could establish whether those who had claimed to be trafficked had so been. Nevertheless, the final arbiter of that decision was then, and remains the judiciary⁷⁴. The NRM remains flawed⁷⁵. The Independent Anti-Slavery Commissioner's Annual Report⁷⁶ (2022) showed that the average wait for this decision is 568 days; a significant time of waiting which can negatively impact physical and mental health and exacerbate trauma⁷⁷.

⁶⁵ Murphy, C. (2021) *Surviving Trafficking, Seeking Asylum: Waiting, Status and the State*. International Journal of Sociology and Social Policy. Vol. 41 No. 5/6, pp. 627-642.

⁶⁶ Hestia, (2019) *Underground Lives: Criminal Exploitation of Adult Victims*. Available online: <https://www.hestia.org/Handlers/Download.ashx?IDMF=8ab229cc-75c6-4574-a47d-a8fafd7c19ee>.

⁶⁷ CEOP and The British Embassy, Hanoi (2011) *The Trafficking of Women and Children from Vietnam*. CEOP.

⁶⁸ National Crime Agency (2014), National referral mechanism statistics: end of year summary 2013, www.antislaverycommissioner.co.uk/media/1130/2013-nrm-end-of-year-summary.pdf; National Crime Agency (2015) National Referral Mechanism Statistics – End of Year Summary 2014. Available online: <https://www.antislaverycommissioner.co.uk/media/1131/2014-nrm-end-of-year-summary.pdf>.

⁶⁹ Haughey, C. (2016) *The Modern Slavery Act Review*. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/542047/2016_07_31_Haughey_Review_of_Modern_Slavery_Act_-_final_1.0.pdf.

⁷⁰ Gadd, D. & Broad, R. (2018) *Troubling Recognitions in British Responses to Modern Slavery*. The British Journal of Criminology, 58(6): 1440-1461; Van Dyke, R. (2019) *The UK's response to Modern Slavery: Law, Politics and Policy in Craig, G., Balch, A., Lewis, H., and Waite, L. (eds.) The Modern Slavery Agenda: Policy, Politics and Practice in the UK*. Policy Press; Barlow, C. (in press) *Victims Perpetrating a Crime: A Critique of Responses to Forced Criminality and Modern Slavery in the UK Courts*. In: C. Murphy, R. Lazzarino & K. Hodges (eds) *Modern Slavery and Human Trafficking: The Victim Journey*. London: Policy Press.

⁷¹ Gadd, D. & Broad, R. (2018) *Troubling Recognitions in British Responses to Modern Slavery*. The British Journal of Criminology, 58(6): 1440-1461; Van Dyke, R. (2019) *The UK's response to Modern Slavery: Law, Politics and Policy in Craig, G., Balch, A., Lewis, H., and Waite, L. (eds.) The Modern Slavery Agenda: Policy, Politics and Practice in the UK*. Policy Press; Barlow, C. (in press) *Victims Perpetrating a Crime: A Critique of Responses to Forced Criminality and Modern Slavery in the UK Courts*. In: C. Murphy, R. Lazzarino & K. Hodges (eds) *Modern Slavery and Human Trafficking: The Victim Journey*. London: Policy Press.

⁷² Di Nicola, A. (2011) *Researching into Human Trafficking: Issues and Problems*. In M. Lee (Ed.), *Human Trafficking*. Taylor & Francis; Haughey, C. (2016) *The Modern Slavery Act Review*. Available online https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/542047/2016_07_31_Haughey_Review_of_Modern_Slavery_Act_-_final_1.0.pdf; Barlow, C. (2017) *The Adapted SIPPS for CSE: Evaluation of a Pilot Project in a South London Borough*. European Review of Organised Crime, 4(2), 101 -127. Van Dyke, R. (2019) *The UK's response to Modern Slavery: Law, Politics and Policy in Craig, G., Balch, A., Lewis, H., and Waite, L. (eds.) The Modern Slavery Agenda: Policy, Politics and Practice in the UK*. Policy Press; Barlow, C., Kidd, A., Green, S. T. & Darby, B. (2021) *Circles of Analysis: A Systemic Model of Child Criminal Exploitation*. Journal of Children's Services. Available online: https://www.craigbarlow.co.uk/_webedit/uploadedfiles/All%20Files/Shanna%27s%20Folder/Barlow%20et%20al%20Circles%20of%20Analysis%202021.pdf; Barlow, C. (in press) *Victims Perpetrating a Crime: A Critique of Responses to Forced Criminality and Modern Slavery in the UK Courts*. In: C. Murphy, R. Lazzarino & K. Hodges (eds) *Modern Slavery and Human Trafficking: The Victim Journey*. London: Policy Press.

⁷³ The NRM was set up to fulfil the UK's responsibilities under the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT).

⁷⁴ Southwell, P., Brewer, M. & Douglas-Jones, B. (2020) *Human Trafficking and Modern Slavery Law and Practice*. 2nd ed. London: Bloomsbury Professional.

⁷⁵ Van Dyke, R. (2019) *The UK's response to Modern Slavery: Law, Politics and Policy in Craig, G., Balch, A., Lewis, H., and Waite, L. (eds.) The Modern Slavery Agenda: Policy, Politics and Practice in the UK*; Home Office. (2014). *Review of the National Referral Mechanism for victims of human trafficking*; Anti Trafficking Monitoring Group, 2014. *The National Referral Mechanism: A Five Year Review*, s.l.: ATMG.

⁷⁶ IASC, (2022) <https://www.antislaverycommissioner.co.uk/media/1796/iasc-annual-report-2021-2022.pdf>.

⁷⁷ Murphy, C. (2021) *Surviving Trafficking, Seeking Asylum: Waiting, Status and the State*. International Journal of Sociology and Social Policy. Vol. 41 No. 5/6, pp. 627-642.

Further problems have been identified within the current NRM system. In an analysis of over 200 closed cases involving adult potential victims of modern slavery logged by police forces in the UK, researchers found multiple factors impacting upon potential victims' likelihood of receiving a referral into the NRM⁷⁸. Notably, potential victims were 24% more likely to receive a referral if it was known that their recruitment took place outside the UK than where this data was not known. Similarly, they were almost 19% more likely to be referred in cases of non-domestic trafficking where some or all of the victim's exploitation took place outside the UK. Recent studies undertaken/led by Non-Governmental Organisations (NGO)⁷⁹ have begun to uncover the realities of recovery for British survivors, including findings that British Survivors are failed by the current support system⁸⁰.

The Complexity of Modern Slavery: Exploitation and Gaps in Safeguarding

As noted above, modern slavery is a complex crime. To identify, investigate, and evaluate modern slavery requires the ability to understand it, which requires theory by which patterns of exploitation can be thought about and analysed⁸¹. Theory must inform policy and practice⁸² which can be developed and nurtured through training and education. Ecological theories of crime and public safety such as Routine Activities Theory⁸³, Social Learning theory⁸⁴, and General Systems Theory⁸⁵ have made important contributions to new and innovative approaches to understanding modern slavery. The newest innovation in the field, the Circles of Analysis has used complexity theory to knit together a range of criminological, sociological, economic and ecological theories to describe and explain patterns of modern slavery in different contexts⁸⁶.

Modern slavery often progresses along a pathway of ensnaring, creating dependency, taking control through isolation and coercion, and total dominance⁸⁷. In this last stage, the victim may be both terrified of the perpetrator but simultaneously dependent upon them which leads to a paradoxical attachment⁸⁸.

The Independent Anti-Slavery Commissioner's call for evidence of what works in responding to child trafficking and exploitation (July 2021) found that systemic and ecological principles that inform multi-disciplinary public health approaches are gaining traction in developing approaches to the trafficking and exploitation of children⁸⁹. Contextual safeguarding⁹⁰ has enabled both policy and practice to recognise the vulnerabilities and threats to health, welfare and development that are faced and experienced by older children and adolescents to include extra familial relationships and social networks within different domains. This has been a major contribution to improving safeguarding strategies and interventions⁹¹ Safeguarding of vulnerable adults has not kept pace.

Young adult victims of trafficking and exploitation in the UK have often been victimized from a younger age⁹². The experience of criminal victimisation in childhood increases the likelihood of revictimisation through adolescence and into adulthood by 60%⁹³. Adults may choose not to engage with services if they received negative reactions or treatment from those services at previous points in their lives, meaning that these missed opportunities could impact adults reaching out for support if they become revictimised.

⁷⁸ O'Brien, F., Palmer, S. & Blinkhorn, V. (2022) Factors that predict the referral of adult Modern Day Slavery cases to the UK's National Referral Mechanism. *International Journal of Police Science & Management*, pp. 1-12.

⁷⁹ Hestia, (2019) *Underground Lives: Criminal Exploitation of Adult Victims*. Available online: <https://www.hestia.org/Handlers/Download.ashx?IDMF=8ab229cc-75c6-4574-a47d-a8fafd7c19ee>; Human Trafficking Foundation (2021) *The Voice of British Survivors of Modern Slavery*. Available online: <https://static1.squarespace.com/static/599abfb4e6f2e19ff048494f/t/617fb052b75f8164d23fb6f3/1635758164404/HTF+British+Survivors+of+Modern+Slavery+Report+Latest.pdf>.

⁸⁰ Centre for Social Justice and Justice and Care (2020) *It Still Happens Here: Fighting UK Slavery in the 2020s*. Available online: <https://justiceandcare.org/wp-content/uploads/2020/07/Justice-and-Care-Centre-for-Social-Justice-It-Still-Happens-Here.pdf> [Accessed].

⁸¹ Barlow, C. H. (2019) *Child Criminal Exploitation: A New Systematic Model to Improve Professional Assessment, Investigation and Intervention*. Thesis for the University of Hull.

⁸² Fairfax (2017) *Psychometrics In Clinical Settings*. In B Cripps (ed) *Psychometric Testing: Critical perspectives*. Chichester: Wiley; Pearce, J. (2019). *Bringing Theory Home: Thinking About Child Sexual Exploitation*. In J. Pearce (Ed.), *Child Sexual Exploitation: Why Theory Matters*. Policy Press.

⁸³ Felson, M., & Cohen, L. E. (1980) *Human Ecology and Crime: A Routine Activity Approach*. *Human Ecology*, 8(4), 389-406.

⁸⁴ Bourdieu, P. (1986) *The Forms of Capital*. In J. Richardson (Ed.), *Handbook of Theory and Research for the Sociology of Education* (pp. 241-258). New York: Greenwood.

⁸⁵ Bertalanffy, L. (1969) *General System Theory Foundations, Development, Applications*. New York: G Braziller.

⁸⁶ Barlow, C. (2017) *The Adapted SIPPS for CSE: Evaluation of a Pilot Project in a South London Borough*. *European Review of Organised Crime*, 4(2), 101-127; Barlow, C. H. (2019) *Child Criminal Exploitation: A New Systematic Model to Improve Professional Assessment, Investigation and Intervention*. Thesis for the University of Hull; Barlow, C., Kidd, A., Green, S. T. & Darby, B. (2021) *Circles of Analysis: A Systemic Model of Child Criminal Exploitation*. *Journal of Children's Services*. Available online: https://www.craigbarlow.co.uk/_webedit/uploaded-files/All%20Files/Shanna%27s%20Folder/Barlow%20et%20al%20Circles%20of%20Analysis%202021.pdf.

⁸⁷ Barlow, C. (2017) *The Adapted SIPPS for CSE: Evaluation of a Pilot Project in a South London Borough*. *European Review of Organised Crime*, 4(2), 101-127; Barlow, C. H. (2019) *Child Criminal Exploitation: A New Systematic Model to Improve Professional Assessment, Investigation and Intervention*. Thesis for the University of Hull; Zahir, H., Southwell, P., Brewer, P. & Harvey, S. (2020) *Trafficking operations and Modus Operandi*. In Southwell, P., Brewer, M. & Douglas-Jones, B. (eds.) *Human Trafficking and Modern Slavery Law and Practice*. 2nd ed. London: Bloomsbury Professional.

⁸⁸ Cantor, C., & Price, J. (2007) *Traumatic entrapment, appeasement and complex post-traumatic stress disorder: evolutionary perspectives of hostage reactions, domestic abuse and the Stockholm Syndrome*. *Australian & New Zealand Journal of Psychiatry*, 377-384. van der Watt, M., & van der Westhuizen, A. (2017). (Re)configuring the Criminal Justice Response to Human Trafficking: A Complex Systems Perspective. *Police Practice and Research*.

⁸⁹ Saker, A. (2022) *Practitioner Responses to Child Trafficking: Emerging Good Practice*. Available online: https://www.cumberlandlodge.ac.uk/sites/default/files/practitioner_responses_to_child_trafficking_-_emerging_good_practice_screen.pdf.

⁹⁰ Firmin, C. (2017) *Contextual Safeguarding*. Bedford: University of Bedfordshire /Contextual Safeguarding Network.

⁹¹ Barlow, C. (2017) *The Adapted SIPPS for CSE: Evaluation of a Pilot Project in a South London Borough*. *European Review of Organised Crime*, 4(2), 101-127; Longfield, A. (2019) *Keeping Kids Safe: Improving safeguarding responses to gang violence and London*: Office of the Children's Commissioner for England; Barlow, C. H. (2019) *Child Criminal Exploitation: A New Systematic Model to Improve Professional Assessment, Investigation and Intervention*. Thesis for the University of Hull.

⁹² Southwell, P., Brewer, M. & Douglas-Jones, B. (2020) *Human Trafficking and Modern Slavery Law and Practice*. 2nd ed. London: Bloomsbury Professional.

⁹³ Finkelhor, D. (2008) *Childhood Victimization: Violence, Crime and Abuse in the Lives of Young People*. New York: Oxford University Press.

Reasons for victims' reluctance to engage with the NRM or other support services is well documented⁹⁴. According to a police survey conducted by the Centre for Social Justice and Justice and Care⁹⁵, the top three reasons why victims of trafficking and modern slavery do not engage with the police were: not seeing themselves as victims (69% of respondents), fear of their exploiters (62%), and fear of the authorities (50%)⁹⁶. Stigma and shame can be compounded by the use of negative language used in narratives surrounding their exploitation⁹⁷ for example: references by professionals to "opportunities to escape"; "failure to engage" and "putting her/himself at risk", inaccurately and unfairly suggest that a victim has a personal responsibility to remove themselves from the exploitation⁹⁸. For some, not recognising themselves as a victim may be less to do with grooming or negative connotations of language, than with the environment that is conducive to their exploitation⁹⁹. This is especially true for those who consider their modern slavery experience to be the only option¹⁰⁰, or better than any alternative¹⁰¹.

Support Towards Recovery¹⁰²

The NRM includes a Modern Slavery Victim Care Contract (MSVCC), currently held by the Salvation Army, which exists to provide support to adult survivors of modern slavery in England and Wales¹⁰³. While the MSVCC is available to all adult survivors of modern slavery, regardless of nationality, there is a caveat. If an individual has entitlement to suitable accommodation from other sources, this will always be actively pursued¹⁰⁴. This is where the difference between the treatment of British nationals and non-British nationals begins to emerge, as British nationals may have entitlements by virtue of their nationality that mean they are referred to local authority support instead of the MSVCC. However, there has been very little assistance available within existing legislation such as The Children Act 1989, The Sexual Offences Act 2003, The Children Act 2004, the Care Act 2014, the Serious Organised Crime Act 2015, and any related statutory guidance. Many local multi-agency protocols for safeguarding children and vulnerable adults at risk of trafficking and exploitation have been developed within Local Safeguarding Children Partnerships (LSCP) and Safeguarding Vulnerable Adults Boards, but a rapid review of all local authorities in England and Wales revealed that these policies and procedures appear to be inconsistent and patchy. This lack of additional resources or national safeguarding policy regarding the support that local authorities should provide means that there is still a lack of coordinated response or understanding¹⁰⁵. Thus, the treatment of British national survivors of modern slavery varies significantly depending on the geographical region in which they are being supported, which differs from the coordinated approach offered under the MSVCC.

Summary

British Survivors are currently the most common nationality referred into the National Referral Mechanism, yet little research has been undertaken into their specific experiences and support needs. Without an adequate understanding of the problem, any prevention or support efforts will always be reactive rather than proactive, and therefore risk being generated in haste rather than emerging from meaningful and comprehensive research.

- ⁹⁴ Heys, A., Barlow, C., Murphy, C. & McKee, A., (forthcoming) A Review of Modern Slavery in Britain: Understanding the Unique Experience of British Victims and Why it Matters. *Journal of Victimology and Victim Justice*.
- ⁹⁵ Centre for Social Justice and Justice and Care (2022) A Path to Freedom and Justice: A New Vision for Supporting Victims of Modern Slavery. Available online: <https://www.centreforsocialjustice.org.uk/wp-content/uploads/2022/01/CSJ-JC-A-Path-to-Freedom-and-Justice-a-new-vision-for-supporting-victims-of-modern-slavery-single-pages.pdf>.
- ⁹⁶ Consistent with earlier work by Shipton, Setter & Holmes (2016).
- ⁹⁷ Appiah, A., Baguley, S., SPACE & Farooq, R. (2021) Making Words Matter. Available online: <https://www.cntw.nhs.uk/content/uploads/2021/07/Making-Words-Matter-A-Practice-Knowledge-Briefing.pdf>.
- ⁹⁸ Beckett, H and Walker, J (2018) 'Words matter: reconceptualising the conceptualisation of child sexual exploitation' in Beckett, H and Pearce, J (eds) *Understanding child sexual exploitation*
- ⁹⁹ Barlow, C. H. (2019) *Child Criminal Exploitation: A New Systematic Model to Improve Professional Assessment, Investigation and Intervention*. Thesis for the University of Hull.
- ¹⁰⁰ Haughey, C., Brewer, P., Brewer, M., & Douglas-Jones, B. (2020) Investigating trafficking and exploitation offences. In P. Southwell, M. Brewer, & Douglas-Jones, B. QC (ed.s) *Human trafficking and modern slavery law and practice* (Second ed., pp. 569-585). London: Bloomsbury Professional. ISBN: 978-1-52651-478-3; Papadaki, H. (2020) *Underground Lives: Criminal Exploitation of Adult Victims*. Available online: https://www.antislaverycommissioner.co.uk/media/1446/1196_criminal_exploitation_report_2020_v0_13w.pdf; Centre for Social Justice and Justice and Care (2022) A Path to Freedom and Justice: A New Vision for Supporting Victims of Modern Slavery. Available online: <https://www.centreforsocialjustice.org.uk/wp-content/uploads/2022/01/CSJ-JC-A-Path-to-Freedom-and-Justice-a-new-vision-for-supporting-victims-of-modern-slavery-single-pages.pdf>.
- ¹⁰¹ Kidd, A. (2019) *The Dynamics of Contemporary Slavery and Conflict: Agency, Asylum and Accountability*. Thesis of the University of Hull.
- ¹⁰² The Local Authority Pathways Pilot study did look at approaches for transitioning people out of NRM support and into local support <https://www.gov.uk/government/publications/evaluation-of-the-modern-slavery-local-authority-pathway-pilots>.
- ¹⁰³ The Salvation Army (2021) *New 2021 Victim Care Contract*. Available online: <https://www.salvationarmy.org.uk/modern-slavery/new-victim-care-contract>
- ¹⁰⁴ *Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland Version 2.10*.
- ¹⁰⁵ Such E. Laurent C. Jaipaul R. and Salway S. (2020) Modern slavery and public health: a rapid evidence assessment and an emergent public health approach, *Public Health* 180: 168-179, <https://doi.org/10.1016/j.puhe.2019.10.018>; Haughey, C. (2016) *The Modern Slavery Act Review*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/542047/2016_07_31_Haughey_Review_of_Modern_Slavery_Act_-_final_1.0.pdf; Barlow, C. (2017) *The Adapted SIPPS for CSE: Evaluation of a Pilot Project in a South London Borough*. European Review of Organised Crime, 4(2), 101-127; Anti Trafficking Monitoring Group, 2014. *The National Referral Mechanism: A Five Year Review*, s.l.: ATMG; Cunningham, F., 2015. *A Modern Response to Modern Slavery*, London: The Centre for Social Justice.

Appendix 2

In her review of the Modern Slavery Act, one year after its implementation, Haughey identified the following as the stand-out issues:

- Training for police officers, investigators and prosecutors is patchy and sometimes absent
- Insufficient quality and quantity of intelligence about the nature and scale of modern slavery at national, regional and international level, which hampers the operational response
- Lack of a structured approach in operational agencies to identifying, investigating, prosecuting and preventing slavery, including learning from what works and what does not
- Some complainants not being afforded the vulnerable witness protections available to them during and after the Court process

Appendix 3

It is case law that influences and shapes how law should be applied which in turn informs policy, practice and procedures. What constitutes relevant evidence for modern slavery informs how victims and perpetrators are identified, how perpetrators are to be disrupted, pursued and prosecuted and how victims are protected and supported towards safety and recovery. It is case law that informs the statutory frameworks within which police, social workers, health professionals, NGOs and the business community must operate.

Prior to the Modern Slavery Act 2015, there were three influential judgements of the European Court of Human Rights (ECtHR) that have established the definitions and parameters of forced and compulsory labour, trafficking, slavery and servitude, which have informed the current definitions within the MSA and underpinned subsequent British case law (see table 1).

These and more recent British cases have highlighted how modern slavery is not a single event crime and often incorporates several other crimes that enable and maintain a pattern of modern slavery over time¹⁰⁶

Prior to the MSA, specific case law has focused primarily on sentencing¹⁰⁷, defining who is or is not a victim of trafficking and modern slavery¹⁰⁸, and issues of consent. These issues continue to be the primary concern within case law.

Issue	Case Citation	Judgement
Forced/Compulsory Labour	Van der Musselle v Belgium (8919/80) [1983] 11 WLUK 238; (1984) 6 E.H.R.R. 163; ECHR; 23 November 1983	The European Court of Human Rights held that a requirement for pupil lawyers to undertake pro bono work was not in breach of their right under Article 4(2) of the European Convention on Human Rights not to be required to perform forced or compulsory labour. At the material time, pupil lawyers in Belgium were required to accept a percentage of pro bono cases allocated to them during their three-year pupillage.
Servitude (Primary ECHR Authority)	Siliadin v France (2005) 43 EHRR 287	Servitude is an obligation to provide one's services that is imposed by the use of coercion.
Trafficking	Rantsev v Cyprus App No 25965/04 (ECtHR 7 January 2010)	European Court of Human Rights unanimously ruled that human trafficking fell within the scope of art 4 (prohibiting slavery, servitude and forced labour) of the European Convention. The Court clarified the positive obligations upon States to investigate allegations of trafficking and to implement measures to prevent and protect people from human trafficking.

Table 1: Key International Authorities Pre-2015 That Inform UK Law

In April 2016 Safraz Ahmed, a British man, pleaded guilty at trial for holding his wife in domestic servitude. This resulted in what is believed to be the first conviction in England and Wales for domestic servitude in a marriage context. In this case, Siliadin (see table 1) was important in establishing how Ahmed's behaviour amounted to the servitude of his wife. Although he was a British citizen, news reports of the case tended to emphasise his Pakistani heritage, rather than the wider concerns in relation to the treatment of women¹⁰⁹, which reflects and maintains popular assumptions and preconceptions about modern slavery which can impair identification of victims and perpetrators that do not conform to stereotypes¹¹⁰.

¹⁰⁶ Haughey QC, C., Brewer, P., Brewer, M. & Douglas-Jones QC, B., 2020. Investigating Trafficking and Exploitation Offences. In: P. Southwell, M. Brewer & B. Douglas Jones QC, eds. Human Trafficking and Modern Slavery Law and Practice. London: Bloomsbury Professional, pp. 569-587.
Haughey, C., 2016. The Modern Slavery Act Review: One year on, London: The Home Office.

¹⁰⁷ Attorney General's Reference (Nos 37, 38 and 65 of 2010) Court of Appeal (Criminal Division), 09 December 2010; Attorney-General's Reference Nos 2, 3, 4 and 5 of 2013 (R v William Connors and Ors) [2013] 2 Cr App R (S) 71; R v Josie Connors & Ors [2013] EWCA 1165.

¹⁰⁸ R v K(S) [2011] 2 Cr App R 34 – the first UK authority.

¹⁰⁹ Gerry, F., 2016. Marital Servitude. Criminal Law and Justice Weekly, Volume 180, pp. 244-245.

¹¹⁰ Gadd, D. & Broad, R., 2018. Troubling Recognitions in British Responses to Modern Slavery. British Journal of Criminology, Volume 54, p. 1440-1461.
Gerry, F., 2016. Marital Servitude. Criminal Law and Justice Weekly, Volume 180, pp. 244-245.

Case Citation	Issue
R-V- Jonas – [2015] EWCA Crim 562; [2015] Crim. L.R. 742 (CA (Crim Div.))	Vulnerable witness provisions
Attorney-General’s Reference (R v Zielinski) [2017] EWCA Crim 758	Sentencing guidelines on forced and compulsory labour
R-v- K,W,A [2018] EWCA Crim 1432	Consent in the context of involvement in county lines drugs distribution
R. v Iyamu (Josephine) Court of Appeal (Criminal Division), 20 September 2018 [2019] 1 Cr. App. R. (S.) 19	Sentencing authority on sex trafficking
R -v- Nguyen, Tran and Nguyen [2019] EWCA Crim 670	Consent in forced or compulsory labour.
R -v- Rooney and others [2019] EWCA Crim 681	Consent in forced or compulsory labour.
R. v Motroc (Ionut Viorel), 2019 WL 03083561 (2019)	False imprisonment need not be physical and sentence sex trafficking
R-v- ZAKARIA MOHAMMED [2019] EWCA Crim 1881	Sentencing re: county lines
Regina v Aurangzeb Mohammed Naseem (jnr), Mohammed Naseem, Frantisek cisar [2019] EWCA Crim 2279, 2019 WL 07340178	Sentencing authority forced and compulsory labour predating MSA
R -v- Lupu [2020] EWCA Crim 1490 R -v- Lupu [2020] EWCA Crim 1490	Forced/Compulsory Labour

Table 2: Current Modern Slavery Authorities Since 2015

Appendix 4

Most case law concerning slavery and human trafficking has been in relation to people who have been forced to commit criminal offences or have committed an offence as a direct consequence of being trafficked¹¹¹. Pre-MSA, these cases highlighted the need to protect victims from prosecution and so the statutory defence of s45 was introduced. There has since been a rapid series of referrals to the Court of Appeal (CoA) and the European Court of Human Rights regarding admissible evidence, burdens of proof and who qualifies as a victim who may have the benefit of the s45 defence¹¹². None of these arguments have advanced efforts to protect victims of criminal exploitation. This has led to a paradox at the heart of the CJS and embodied in the Crown Prosecution Service (CPS) guidance: Defendants who raise the statutory defence under s45 of the Modern Slavery Act 2015 must give evidence in open court of their alleged trafficking experience, not in order to convict traffickers, but to defend themselves against prosecution. Despite the development of safeguarding measures and protocols for children and vulnerable adults, and the special measures available to vulnerable and intimidated witnesses, the statutory framework for witnesses expressly excludes defendants from the assistance of special measures¹¹³. This means that victims of criminal exploitation who are charged for criminal offences but raise the statutory defence, are denied the protections afforded to other victims of modern slavery. As a consequence, the crimes against them are not being investigated¹¹⁴ and victims of criminal exploitation are not receiving the safeguarding and support towards recovery afforded them under the NRM¹¹⁵. Those held on remand who have received positive reasonable and conclusive grounds NRM decisions fall outside of the scope of local safeguarding adults boards: Local authority duties for safeguarding enquiries¹¹⁶ safeguarding adults reviews¹¹⁷ do not apply to adults living in prisons or approved premises, inmates of which are the responsibility of that specific institution.

The gulf between the CJS and the safeguarding system was highlighted by *V.C.L. AND A.N. v. the United Kingdom* (applications nos. 77587/12 and 74603/12). This a case from 2009, therefore preceding the current statutory defence under the MSA. The case relates to two applicants – both Vietnamese children – who were found by police to be working in cannabis factories and charged with drug-related offences. One of the defendants had received an NRM conclusive grounds decision that he was a victim of trafficking. The European Court of Human Rights (ECtHR) deemed that there was credible suspicion to indicate that the other defendant had also been trafficked. The CPS disagreed and pursued the prosecutions. Both defendants pled guilty, were convicted, and both later unsuccessfully appealed. In the judgement of the ECtHR this case constituted a violation of both Article 4 (right not to be held in slavery or servitude) and Article 6 (right to a fair trial) of the European Convention on Human Rights. It stated that by prosecuting despite credible suspicion the defendants were victims of trafficking, the domestic authorities failed to take operational measures in line with international standards to protect minors and the UK government was ordered to pay €25,000 euros to each applicant in damages¹¹⁸.

¹¹¹ R v M(L) and others [2010] EWCA Crim 2327 ; R v N(A) and others [2012] EWCA Crim 189; R. v L(C) [2013] EWCA Crim 991, [2013] 2 Cr. App. R. 23.

¹¹² R v EK [2018] EWCA Crim 2961; R-v- JXP [2019] EWCA Crim 1280, 2019 WL 03290240; R-v-A [2020] EWCA Crim 1408; R -v- DS [2020] EWCA Crim 285; DPP v M, 2020 WL 07356619 (2020); R-v-Brecani [2021] EWCA Crim 731; R-v-AAD and Ors. [2022] EWCA Crim 106.

¹¹³ Brewer, M. et al., 2020. Special measures for Victims of Trafficking. In: P. Southwell, M. Brewer & b. Dougla-Jones QC, eds. *Human Trafficking and Modern Slavery Law and Practice*. London: Bloomsbury, pp. 289-333.

¹¹⁴ Barlow, C., 2022. Victims Perpetrating a Crime: A Critique of Responses to Forced Criminality and Modern Slavery in the UK Courts. In: C. Murphy & R. Lazzarino, eds. *The Victim Journey From recruitment to recovery: human trafficking and modern slavery in the UK and beyond*. Bristol: Policy Press.

¹¹⁵ Bristow, J. & Lomas, H., 2020. *The Modern slavery act 2015: A Call For Evidence*, London: Office of the Independent Anti-Slavery Commissioner.

¹¹⁶ Care Act 2014 s42.

¹¹⁷ Care Act 2014 s44.

¹¹⁸ Heys, A., Barlow, C., Murphy, C. & McKee, A., (forthcoming) *A Review of Modern Slavery in Britain: Understanding the Unique Experience of British Victims and Why it Matters*. *Journal of Victimology and Victim Justice*.

Thus, case law, by focusing so much upon the criminal justice approach to pursuing and prosecuting traffickers at the expense of a human rights and public health approach to victims, is achieving little in relation to either¹¹⁹. For those that are victims of criminal exploitation, recent case law has only served to set the parameters for the s45 defence focusing on who may, or may not be, a victim of trafficking, and the scope of admissible evidence. Arguably it has done little if anything to assist victims, pursue and prosecute traffickers or prevent forced criminality.

Appendix 5

The Children Acts 1989 & 2004 have provided a robust statutory framework for safeguarding of children and families. The statutory guidance and regulations have evolved to incorporate child trafficking and exploitation but as yet do not provide much assistance specifically with regard to families as a whole affected by modern slavery or human trafficking. Nevertheless, when decision makers are attuned to the aetiology of trafficking victimisation, provisions under The Children Act 1989 (s17 & 47) plus care orders, give the courts considerable scope to intervene to protect and support children and their families.

The Care Act 2014 provides similar scope and structure for safeguarding vulnerable adults and young people post 18. This potentially provides an interface with the NRM through application of s42 (Duty to make enquiries when a vulnerable adult has been identified as at risk of harm) and s12 (Assessment of need) to modern slavery cases but is presently hard to assess.

Appendix 6

Reparation and Compensation

Victims emerge from modern slavery with very few material resources to meet their immediate and longer-term recovery needs. The MSVCC provides a short-term solution but access to resources and services, and freedom of choice in selecting services according to the person's wishes and needs is an essential part of recovery. British nationals are often aware of local service provision and resources and have their own recovery objectives. The ability to select and engage these services and resources is often constrained by access to funding. There is provision in the MSA for Reparation orders. Unfortunately, modern slavery prosecutions of traffickers of British nationals remain extremely low especially in relation to cases of criminal exploitation.¹²⁰

Reparation Orders

Sections 8-10 of the MSA makes provision for courts to make a Slavery and Trafficking Reparation Order against a person who is convicted of an offence. There also needs to be a Confiscation Order in respect of that offence for the Reparation Order to be made. The convicted person is thus required to pay compensation to their victim. The Independent Review of the MSA 2019 noted that between 2015 and December 2017, no reparation orders were made.¹²¹

Other Routes to Compensation

This 2019 Review also considered proposals for a specific civil remedy for victims of modern slavery and although did not propose such a remedy urged the Government to keep it under review and consider such a penalty again in future. Similar proposals were put forward during the passage of the Bill but were rejected by the government who argued it was unnecessary¹²² with civil remedies being available through ordinary civil law and the Human Rights Act. Victims of modern slavery may also be able to access compensation through:

- Recovery of unpaid or underpaid wages at employment tribunals via HMRC'S National Minimum Wage enforcement team
- Civil Proceedings, including claims for intimidation, harassment, assault, unlawful imprisonment, negligence, and breach of duty
- The government-funded criminal compensation scheme

Direct Payments

The Mental Capacity Act 2007 applies to England and Wales. Its primary purpose is to promote and safeguard decision-making within a legal framework. It does this in two ways:

- By empowering people to make decisions for themselves wherever possible, and by protecting people who lack capacity by providing a flexible framework that places individuals at the heart of the decision-making process.
- By allowing people to plan ahead for a time in the future when they might lack the capacity, for any number of reasons, to make decisions for themselves.

¹¹⁹ Burland, P., 2017. Villains not Victims? An Examination of the Punishment of Vietnamese Nationals Trafficked for Cannabis Cultivation in the United Kingdom.. s.l., UN-ACT.

Gadd, D. & Broad, R., 2018. Troubling Recognitions in British Responses to Modern Slavery. *British Journal of Criminology*, Volume 54, p. 1440–1461.

¹²⁰ Watson, L., 2021. 'I thought they were taking care of me' - How gangs recruit children to transport drugs across UK, s.l.: ITN News.

Barlow, C., 2022. Victims Perpetrating a Crime: A Critique of Responses to Forced Criminality and Modern Slavery in the UK Courts. In: C. Murphy & R. Lazzarino, eds. *The Victim Journey From recruitment to recovery: human trafficking and modern slavery in the UK and beyond*. Bristol: Policy Press.

¹²¹ Field, F., Miller, M., Butler-Sloss, E. (2019) Independent Review of the Modern Slavery Act 2015: Final Report. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf.

¹²² Field, F., Miller, M., Butler-Sloss, E. (2019) Independent Review of the Modern Slavery Act 2015: Final Report. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf; Van Dyke, R. (2019) *The UK's response to Modern Slavery: Law, Politics and Policy* in Craig, G., Balch, A., Lewis, H., and Waite, L. (eds.) *The Modern Slavery Agenda: Policy, Politics and Practice in the UK*. Policy Press.

British victims are entitled to support and therapeutic services through local authorities and the NHS via their GP. However, there is significant benefit to individuals in allowing them to manage their own budget to access resources and services that they require in order to meet their recovery needs and sustain well-being. This can be achieved through the system for direct payments to service users.

Appendix 7

Types of charges

Survey respondents cited the following charges:

- Possession With Intent to Supply (PWITS); Modern Slavery (MS)/Human Trafficking (HT) (SCJ1)
- Conspiracy to supply drugs (SCJ2)
- Drugs offences (SCJ3)
- Cannabis farming (CSJ4)
- Drug supply-exploitation (SCJ5)
- Drug trafficking offences or acquisitive crime (SCJ6)
- County lines then unable overturn this conviction (SCJ7)
- Cannabis cultivation (SCJ8)
- Possession of firearm and PWIT's (SCJ9)

Appendix 8

Recommendations: Introduction

The recommendations outlined below are based on findings from the review of legislation, and analysis of survey and interview data. We recognise that in some instances, guidance for supporting survivors is already included in the Modern Slavery Act, (2015), that processes are in place in the MSVCC, and local authorities have responsibilities under the MSVCC. However, these processes are not being implemented to the benefit of British victims of modern slavery. As an intervention, the MSVCC is recognisably short term, but statutory duties to British nationals precede and endure beyond the NRM. Justice, care, and support systems need to be better integrated to ensure adequate support in pathways to recovery. The recommendations are presented under the key themes from the report summary available at: <https://modernslaverypec.org/resources/support-british-nationals>.

Theme 1: Missed opportunities to identify and protect vulnerable British nationals, before and during exploitation, especially common for those exploited in criminal activities.

Recommendations

1.1 Improve modern slavery and human trafficking assessment tools.

- I. The diverse nature of victims and emergent patterns of modern slavery requires assessments that explore the full history, nature and context of a person's exploitation, patterns of exploitation over time, as well as current circumstances and future pathways. Lists of modern slavery indicators are inadequate. Promising approaches include structured professional judgment protocols. The Child and Family (CAF) framework for assessment is a well-established protocol for an integrated risk and needs assessment.
- II. Local authorities should collaborate with their local police service to develop local modern slavery problem profiles detailing patterns, fluctuations, suspected and confirmed perpetrators, potential and confirmed victims, nature and pattern of exploitation and network analyses to enhance local safeguarding activity.

1.2 Local Authorities' Safeguarding Adult Boards and Child Safeguarding Partnerships should coordinate creation of harmonised and integrated multi-agency safeguarding policies and procedures with clear guidance about modern slavery and exploitation which also include young people in transition between child and adult services.

- I. When the police and local authority receive a Reasonable Grounds (RG) decision from the Single Competent Authority (SCA), a strategy meeting should be held to plan and conduct joint or single agency modern slavery investigations. Data concerning decision making and outcomes should be recorded and shared to support the development of problem profiles, and anti-slavery strategic and tactical planning.
- II. British nationals who are modern slavery victims must be provided with the period of recovery and reflection set out within the NRM, allowing them safe conditions in which to consider their options, including whether to participate in an investigation of potential modern slavery crimes against them. During this time, they should have access to shelter, legal advice, counselling, and medical care.

- 1.3 First Responders and other frontline professionals likely to encounter potential victims of modern slavery should receive training which specifically addresses the experience of modern slavery for British nationals.**
- I. Development and implementation of a national tiered training programme is required for frontline professionals covering patterns of abuse and exploitation of British nationals, perpetrator behaviours and modus operandi and environmental factors, recording and reporting, NRM duties and safeguarding processes. This should be integrated into a wider training programme for frontline professionals based on the existing tiered training frameworks for supporting adults and children¹²³.
- 1.4 Improve and regularly review the NRM referral forms to reflect the differences between patterns of exploitation of British nationals, and identify necessary supporting evidence, sources, and processes for subject matter access between agencies.**
- I. It is well established that various forms of slavery and the challenges faced by those who are working to assist and support victims are highly specific to the regions, populations, cultural and socio-economic contexts in which they occur.
- 1.5 Critically review and improve training of SCA decision makers concerning characteristics of victims and perpetrators of domestic slavery and trafficking and the application of the relevant statutory definitions.**
- I. Specific training is required for professionals with statutory duties to intervene or investigate suspected trafficking focusing on the characteristics of domestic modern slavery, patterns and contexts of trafficking and exploitation. This includes how British victims may present, including as potential criminal suspects¹²⁴.
- 1.6 Joint Agency Investigation skills training for professionals with statutory safeguarding duties e.g., social workers and police officers and their managers/supervisors.**
- I. Capacity building complex case simulations are effective for senior managers, leaders and lawyers (including magistrates and the judiciary). These should address activities of organised crime groups and networks, patterns of domestic modern slavery, forced and compulsory labour, slavery and servitude and should include online exploitation, forced criminality of children and vulnerable adults (e.g., forced begging, “deets and squares”¹²⁵ and identity fraud, “cuckooing,” prostitution and online sexual exploitation/cyber enabled exploitation). Examples of such training are common in complex investigations, disaster response and terror attacks using the HYDRA system.
- 1.7 Development and validation of specialist training for professionals who are likely to have significant roles in the pursuit and prosecution of perpetrators, including medical and forensic examination, providers of expert evidence, lawyers and legal advisers in the civil, family justice and criminal justice systems**¹²⁶.
- I. Joint Agency Investigation skills training for professionals with statutory safeguarding duties e.g., social workers and police officers and their managers/supervisors.

Theme 2: British national survivors of modern slavery often have complex vulnerabilities and needs. Support needs¹²⁷ to be provided to build resilience and prevent re-exploitation.

Recommendations

- 2.1 A public health approach to modern slavery is needed which will prioritise prevention and early identification as well as supporting victims.**
- I. At a national level this requires a review of legislative protections for survivors and a reframing of the national policy approach away from a view dominated by ‘border protection’ towards a focus on prevention and the recovery and protection needs of victims including from criminalisation. At a regional/local level these components include community awareness and resilience, multi-agency modern slavery partnerships (with funding and/or staff from Police and Crime Commissioners, police or local authority) and shared operating protocols.
- II. Survivors as experts by experience should be consulted at all stages of the policy process, in a timely manner, and subject to adequate remuneration¹²⁸.

¹²³ Van Dyke and sector experts (2022) ‘Training Framework for the Prevention, Identification, Support and Care of Child Victims and Survivors of Modern Slavery and Human Trafficking and Information and Resources to Support the Training’. Skills for Care and Development <https://www.stmarys.ac.uk/research/centres/bakhita/training/support-and-care-of-child-victims.aspx>; Bundock, L and Hodges, K. (2020) ‘Training Framework: Identification, Care and Support of Victims and Survivors of Modern Slavery and Human Trafficking’. Skills for Care <https://www.stmarys.ac.uk/research/centres/bakhita/training/identification-care-and-support.aspx>.

¹²⁴ See appendix 3 and 4.

¹²⁵ “Deets and Squares” refers to a scam involving children and young people. “Deets” is slang for bank details and a “Square” is a credit or debit card. Young people are enticed into becoming ‘money mules’ by handing over their bank details to fraudsters in exchange for money, making them accessories to the fraudsters’ crime.

¹²⁶ See appendix 3 and 4 in full report.

¹²⁷ Respondents in this study identified substance use as particularly problematic for British nationals, although survivors from other nationalities may also present with substance use issues. See A Few Doors Down: The link between substance use and modern slavery (2018) Salvation Army and Black Country Women’s Aid (https://issuu.com/salvationarmyuk/docs/a_few_doors_down_-_the_links_betwee?e=5764755/63417485)

¹²⁸ Survivor Alliance, Nothing about us, without us. Survivor involvement in Anti-Slavery Policy Making: Guidance for policy makers. Available at: https://www.antislaverycommissioner.co.uk/media/1395/rights_lab_survivor_involvement_guide_final_2020.pdf

2.2 Recovery and support planning within the MSVCC must include access to education, training and stable employment.

- I. Education, vocational training and employment are important in developing resilience to re-victimisation and improving long term recovery.
- II. Many British national survivors have experienced disruption to their primary and secondary education which increased their vulnerability to exploitation or occurred because of their exploitation. Problems with literacy and numeracy negatively impact upon self-esteem and ability to apply for, access, or navigate services. Attainment of skills and qualifications builds self-esteem and resilience and improves opportunities for survivors to access community services and to establish positive roles, relationships, and support networks. Support plans must include access to education, training and employment that reflects the individual's recovery needs.

2.3 Survivors must be actively involved in planning their recovery with case workers.

- I. Some of the survivor participants in this study had, prior to their exploitation, attained higher education and qualifications and several understood their entitlements, systems and services but had particular problems where there is a perception that support is tied to cooperation with the authorities. The length or level of support is likely to be inadequate when not tailored to the needs of victims, particularly taking into account gender difference.

2.4 Psychological and mental health care for survivors requires an integrated approach to care.

- I. Funding should be made available automatically to all victims within the MSVCC who would like it to assist them in accessing specialist therapeutic services.

Theme 3: Barriers to survivors accessing specialist support through the NRM due to confusion amongst professionals about entitlements

Recommendations

3.1 When an adult potential victim has consented to be entered into the NRM, the First Responder should be required to make a referral to the local authority in which the person has been found and/or is living, under The Care Act 2014 (s12)¹²⁹.

- II. If the person has declined to enter the NRM they should be asked for consent to for a referral to the local authority. Similarly, the local authority Safeguarding Vulnerable Adults Board should be notified to consider the need for statutory adult safeguarding enquiries (Care Act 2014 s42).

3.2 The Home Office and DLUHC should collaborate to develop a national structured professional judgement and decision-making framework for modern slavery recovery needs assessment and support planning for use by NRM/MSVCC providers and local authorities.

- I. Potential victims within the MSVCC should have one integrated recovery support plan on which local authorities and MSVCC service providers work together. The recovery support plan should be based upon integrated multi-disciplinary needs assessment that differentiates between levels of complexity of need and case co-ordination. Existing and effective models have been developed and have proven successful in the context of mental health (Care Programme Approach – CPA), Family Justice (Family Drug and Alcohol Courts). These systemic, problem-solving approaches to complex issues have a proven track record and are transferable to the context of modern slavery recovery pathways.
- II. Local policies and procedures, informed by local and national problem profiles and other data must be developed and used to inform safeguarding protocols, risk assessment and assessment of need. Existing models for assessment and intervention that are relevant include the Framework for Assessment of Children in Need and Their Families, The SIPPS framework used in this research, and The NRM Handbook (OSCE).

3.3 MARAC (Multi Agency Risk Assessment Conference) systems should be in place for potential victims of trafficking in every local authority area.

- I. The Independent Anti-Slavery Commissioner¹³⁰ has previously recommended (March 2017) that a MARAC be held for everyone who is entered into the NRM and should be instigated once there is an indication that someone may be exploited in modern slavery. This report supports that recommendation.

3.4 Improve collaboration with civil and criminal justice practitioners including the Magistrates courts, communities, local businesses, and faith groups.

- I. Local modern slavery partnerships should be set up with funding or staff provided by the police, Police and Crime Commissioner or local authority in every force or authority area to facilitate cooperation and collaboration between NGOs, MSVCC and statutory bodies.
- II. A range of resources and guidance to inform strategic and policy development is available within the Anti-Slavery Partnership Toolkit¹³¹.

¹²⁹ See appendix 5.

¹³⁰ Supporting Adult Survivors of Modern Slavery to Facilitate Recovery and Reintegration and Prevent Re-exploitation (2017) <https://www.antislaverycommissioner.co.uk/media/1261/long-term-support-recommendations.pdf>.

¹³¹ Anti-Slavery Partnership Toolkit, <https://iasctoolkit.nottingham.ac.uk>.

- 3.5 Every local authority should have a Single Point of Contact (SPOC) designated lead on modern slavery. Local authority SPOCs should work in regular contact with MSVCC subcontractors running safe houses or outreach support in their area.**
- I. Where a victim who has originated in one local authority area but is found and identified as a victim in another area, the local authority in which the person is found should take responsibility for their safety and care. Where more than one local authority, police area or health service has had previous involvement with the person, agencies should collaborate to agree roles. They should also agree which agencies will be responsible for which aspects of the safety and support plan and who will take the lead in co-ordinating the plan.
- 3.6 Potential victims with positive Reasonable Grounds decisions should be exempt from the “Local Connection” requirement for social housing.**
- I. Proposed regulations to exempt domestic abuse victims from this requirement should be expanded to include victims of modern slavery who are otherwise eligible for local authority housing. Until that time, guidance should be provided, similar to that relating to victims of domestic violence, which strongly encourages local authorities to exempt victims of modern slavery from their residency requirements who have escaped exploitation in another local authority area.
 - II. Potential victims, victims with positive RG and positive CG decisions who are homeless currently or need to move to another area in order to reduce the risk of re-exploitation must be accommodated in safety in an environment that is appropriate to their needs according to their modern slavery experiences, contexts, and recovery needs.
 - III. If the local authority is unable to provide suitable accommodation, it must work co-operatively with the MSVCC service providers to find suitable temporary safe-house accommodation.
- 3.7 A clear system of reparation payments and victim compensation is required¹³².**
- I. At present routes to legitimate claims for compensation or reparation for victimisation through trafficking and modern slavery are confusing and difficult to access. The government should heed the advice of the independent review of the MSA and reconsider the introduction of a civil penalty.
 - II. Better access to compensation and reparation payments¹³³ will enable and empower survivors to make decisions about their own treatment and recovery needs and enable them to meet their independent living and recovery needs themselves including accessing therapeutic services, education, and training.
- 3.8 The MSVCC should have funding to assist survivors in meeting the costs of re-engaging with family, social support networks and faith communities and to attend appointments for courses of treatment or support services and training and education programmes begun prior to entering the NRM.**
- I. British national survivors may have children or have been separated from their children or wider family. Parents of children who are experiencing hardship and at risk of, or recovering from exploitation may be entitled to support, including financial assistance, under the Children Act 1989 s17¹³⁴.

¹³² See appendix 6.

¹³³ Direct Payments: If a person or someone they care for receives help from social services, they can apply for direct payments. These enable the person to choose and buy the services they need themselves, instead of getting them from the local council.

¹³⁴ See appendix 5 in full report.



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