

# **Independent Review of the Modern Slavery Act 2015: Final Report**

Presented to Parliament

by the Secretary of State for the Home Department

by Command of Her Majesty

May 2019



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# Foreword by Rt Hon Frank Field MP

## Foreword to the Review by Rt Hon Frank Field MP, Chair

Modern slavery is one of humanity's greatest evils: involving human trafficking, forced labour, domestic servitude and sexual exploitation. We know that:

- The perpetrators of these crimes exploit the most vulnerable people in our society.
- Modern slavery pervades every country in the world and every community of the United Kingdom.
- The most conservative estimate of the number of victims of modern slavery in the UK is put at ten to thirteen thousand. Other bodies suggest the number could be in the hundreds of thousands and rising.

The world-leading Modern Slavery Act was introduced in 2015 to tackle modern slavery in this country and set an example for other countries seeking to do the same. Four years on, many effects of the Act are apparent. It gives law enforcement agencies the tools to tackle modern slavery offences, including a maximum life sentence for perpetrators and enhanced protection for victims. But there are still sadly too few convictions being handed down for the new offences prosecuted under the Act, and too few Slavery and Trafficking Prevention and Risk Orders are in place to restrict offender activity.

The Independent Review of the Modern Slavery Act, conducted by the Baroness Elizabeth Butler-Sloss, Maria Miller MP and myself, was established to look into the operations and effectiveness of the Act and to suggest potential improvements. In particular, we focused on four topics: transparency in supply chains, the role of the Independent Anti-Slavery Commissioner, the Act's legal application, and the safeguarding of child victims of Modern Slavery.

The Modern Slavery Act was merely the beginning of a fightback, and implementation is as important as legislation. We have identified, for example, severe deficiencies in how data is collected in this area. Similarly, there needs to be greater awareness of modern slavery and consistent, high quality training among those most likely to encounter its victims. Without these changes, the impact of the Act will be limited. Through the Act, the UK became the first country in the world to introduce pioneering transparency in supply chains requirements, leading to thousands of large businesses taking action to identify and eradicate modern slavery from their supply chains. The Report recommends putting teeth into this part of the Act so that all businesses take seriously their responsibilities to check their supply chains.

The provisions of the Modern Slavery Act must keep pace with the ever-evolving threats modern slavery presents, as well as the needs of the victims it is designed to protect. Since the Act was passed, we have seen the following changes and trends in modern slavery and human trafficking:

- The number of potential victims identified in the UK each year has more than doubled from 3266 in 2015 to 6993 in 2018<sup>1</sup>.
- The proportion of children identified has increased during the same period from 30% to nearly 45%, in large part due to the rise in cases of county lines<sup>2</sup> and other forms of criminal exploitation.
- UK nationals now represent by far the highest proportion of potential victims identified at almost a quarter of all those recorded, while in 2015 they were only the fifth most represented nationality behind Albania, Vietnam, Nigeria and Romania. This is again due to the rising number of children identified as being involved in county lines, most of whom are UK nationals.

It is particularly important that the UK remains a leader of international efforts to combat modern slavery and continues to develop its domestic infrastructure to protect victims as we leave the European Union.

The activity currently going on across the country and beyond against modern slavery makes the results of this Review the basis for urgent Government action. The Home Office is undertaking extensive reforms to the National Referral Mechanism into which potential victims of modern slavery are referred and supported; the Home Affairs Select Committee is conducting a wide-ranging inquiry that includes an assessment of victim support; and overseas, countries are developing fresh legislation and initiatives to tackle modern slavery from which we can learn and develop our own action.

The questions we asked as a Review, and the recommendations we make, concern some of the most ambitious provisions contained within the Modern Slavery Act: how we ensure the Independent Anti-Slavery Commissioner is strengthened in carrying out her functions; how we hold the Government and other public authorities to account on their approach to tackling modern slavery; how businesses begin on a wide scale to eradicate slavery from their supply chains; how we ensure victims of modern slavery, children in particular, are afforded the support and guidance they need to help them rebuild their lives; and how we much more effectively support victims and punish perpetrators.

The Review team urges the Government to consider and act quickly and effectively upon the recommendations we set out in this report in a manner commensurate to the significance of the issues they address. Some of these recommendations require legislation, which should be brought in as soon as practicable, while those that do not should be implemented without delay.

The Reviewers will be setting up an implementation group so we can continue to hold the Government to account on its commitment to eradicating modern slavery and human trafficking. We will also be undertaking a scoping review into laws surrounding prostitution in England and Wales and the extent to which they help or hinder police action against trafficking for sexual exploitation. We also invite the new Independent Anti-Slavery Commissioner, Sara Thornton CBE, QPM, whom we met in March, to monitor the Government's actions. She has a vitally

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<sup>1</sup> Potential victims of modern slavery are identified and supported through the National Referral Mechanism. The National Crime Agency produces [annual reports](#) on the numbers and profiles of individuals referred to it.

<sup>2</sup> [The Children's Society](#) defines county lines as when gangs and organised crime networks exploit children to sell drugs. Often these children are made to travel across counties, and they use dedicated mobile phone 'lines' to supply drugs.

important and formidable task in her new role and we wish her well.

My fellow Reviewers and I are grateful to all those who have helped us to conduct this Review: in particular our Expert Advisers and secretariat team. The energy with which a large number of people have contributed their evidence is testament to their commitment to eradicating this heinous crime.

# Acknowledgements

1. We appointed an excellent team of Expert Advisers, who in turn consulted a wide range of stakeholder groups and sector interests on all the parts of the Act under review. The Expert Advisers we appointed are:

- Vernon Coaker MP (Parliamentarians)
- Rt Revd Dr Alastair Redfern (Faith Groups)
- Baroness Young of Hornsey OBE and John Studzinski CBE (Business)
- Anthony Steen CBE (Civil Society)
- Christian Guy (Commonwealth and International)
- Professor Ravi Kohli (Child Trafficking)
- Peter Carter QC and Caroline Haughey QC (Criminal Justice System)

They all provided their expertise to the Review on a voluntary basis, and we are very grateful to them, as well as all the individuals and organisations that provided evidence to them and supported them in drafting their reports, which can be found on our independent website at [www.independentmsareview.co.uk](http://www.independentmsareview.co.uk). A full list of contributors to this Review can be found at the end of this Report.

2. We were provided with a secretariat seconded from the Home Office to support us, and we are very grateful to them for their hard work, efficient research, and for providing us with the relevant information we needed to formulate and substantiate our conclusions and recommendations.

3. We also secured the services of a former House of Commons Clerk, Nick Walker, who has provided invaluable independent support and advice on the drafting of our interim reports and final report.

# Introduction to the Review

4. In July 2018, the Home Secretary, at the request of the Prime Minister, announced an independent review of the Modern Slavery Act 2015 (the Act) to be conducted by Frank Field MP (chair), Maria Miller MP and the Baroness Butler-Sloss. The Review's terms of reference are set out at **Annex A**.
5. We were commissioned to provide evidence and recommendations principally on four areas of the Act:
  - The Independent Anti-Slavery Commissioner (sections 40 – 44)
  - Transparency in supply chains (section 54)
  - Independent Child Trafficking Advocates (section 48)
  - The legal application of the Act, comprising:
    - The definition of exploitation (section 3)
    - Reparation orders (sections 8-10)
    - The statutory defence (section 45)
6. In order to obtain the maximum information on the areas under review in a limited time, we invited our team of nine Expert Advisers to gather and collate evidence for us from a range of sectors and interest groups. They consulted with remarkable breadth and depth on all four themes of the Act under review, producing a number of helpful reports that can be found on our independent website.<sup>3</sup> We have drawn on their findings for our interim reports and final recommendations.
7. Of the four areas under review, we were invited by Ministers to give our views on the Independent Anti-Slavery Commissioner and transparency in supply chains before the end of 2018. We therefore prioritised publication of interim reports on these two issues<sup>4</sup> which can be found at volumes I and II of this report. We then turned to Independent Child Trafficking Advocates and the legal application sections, providing our interim evidence and recommendations to Ministers on these areas in March 2019<sup>5</sup>, available at volumes III and IV of this report. In this final report we briefly summarise each of these four interim reports, before commenting on some other issues identified in the course of

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<sup>3</sup> [www.independentmsareview.co.uk](http://www.independentmsareview.co.uk).

<sup>4</sup> First Interim Report: The Independent Anti-Slavery Commissioner, published 17 December 2018; Second Interim Report: Transparency in Supply Chains, published 22 January 2019

<sup>5</sup> Third Interim Report: Independent Child Trafficking Advocates, published 19 March 2019; Fourth Interim Report: The Legal Application of the Modern Slavery Act, published 21 March 2019

our Review. Our definitive list of recommendations, drawn from our interim reports, is also provided.

8. Although we have been set up by the Home Office, we have made it very plain to Government that we are carrying out an entirely independent review of the working of the Act. As such, the conclusions and recommendations set out in this report and all other reports are entirely our own.
9. The Home Affairs Select Committee (HASC), chaired by Yvette Cooper MP, is currently undertaking a wide-ranging inquiry into policy and implementation issues relating to modern slavery. It has issued an open call for written evidence, as well as holding a series of oral evidence sessions. We have analysed this evidence in full, and taken it into account where it is particularly relevant to the Review's terms of reference as part of our own evidence base. The work of the inquiry will complement the deep dive that our Review conducted into specific provisions of our modern slavery legislation. The HASC inquiry is also dealing with evidence on a range of non-legislative issues that this Review did not specifically cover.

## Summary of Findings and Recommendations

### The Independent Anti-Slavery Commissioner

10. The Act established the role of the Independent Anti-Slavery Commissioner, who is appointed by the Home Secretary in consultation with the Scottish Government and Northern Ireland Executive. The Commissioner's statutory function is to encourage good practice in tackling slavery and human trafficking offences, as well as in the identification of victims.<sup>6</sup> In practice, the Commissioner plays a significant role in shining a spotlight on the scale and nature of modern slavery as well as driving the UK's response to the crime. However, some observers – as well as the first Commissioner, Kevin Hyland OBE – have raised concerns that the role's independence is currently constrained by Government influence, potentially compromising the credibility and transparency of the post.<sup>7</sup>
11. The Review sought to determine how the Commissioner's autonomy and freedom to scrutinise Government policy and promote efforts to tackle modern slavery could be strengthened, both in statute and in practice. We asked stakeholders to consider questions such as accountability, oversight, the appointment process, budget-setting and reporting. We also invited them to comment on how the Commissioner's mandate should be divided between domestic and internationally-focussed work. We undertook comparative analysis of the statutory and non-statutory powers and obligations of other UK Commissioners, as well as comparable Human Trafficking Commissioners in other European countries.<sup>8</sup>
12. It was clear to us from the evidence that **the Commissioner's primary roles in carrying out his/her statutory duties should be: to advise the Government on measures to tackle modern slavery; to scrutinise and hold the Government and its agencies to account on their performance; and to raise awareness and promote cooperation between sectors and interest groups.** Many stakeholders upheld the view that the Commissioner is too heavily influenced and constricted by Government, particularly the Home Office. We agree, finding it inappropriate for example that the Commissioner's performance appraisals are currently undertaken by Home Office officials. We make a number of recommendations to increase the independence of the Commissioner, including a more transparent recruitment process that involves **a pre-appointment hearing with a Parliamentary Select Committee.**
13. We heard evidence of inconsistent or poor practice in relation to setting the Commissioner's budget, for which we recommend a **memorandum of understanding to be agreed with the sponsoring department on the budget-setting process, and multi-year budget allocations for the duration of each Spending Review period.** We propose the introduction of a **requirement for Government to respond formally to the Commissioner's reports and recommendations,** and the creation of a **statutory oversight board** to advise and support the role. We also recommend that the Commissioner should primarily be **focussed on domestic issues** relating to modern

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<sup>6</sup> Section 41 of the Modern Slavery Act 2015

<sup>7</sup> Kevin Hyland OBE, Home Affairs Committee Oral evidence: Modern Slavery, HC 1460, Q38 – 42 & Q44, Tuesday 23 October 2018

<sup>8</sup> A full list of these Commissioners is available at Annex D

slavery, and that **international duties should be taken on through the creation of a post of envoy or ambassador.**

14. At the time we were considering this issue, a recruitment process for a new Independent Anti-Slavery Commissioner was under way. We were disappointed that the Home Secretary did not act on our recommendation that **the recruitment process for a new Commissioner should be scrapped and a new job description drafted once the recommendations of the Review's report had been considered**<sup>9</sup>, or our suggestion that **the Commissioner should be appointed by a sponsoring Secretary of State other than the Home Secretary.** We urge the Government to bear these recommendations in mind for the future. We are hopeful that the Government will respond positively to the majority of the other recommendations we made in relation to ensuring the independence of the Independent Anti-Slavery Commissioner.

## Transparency in supply chains

15. The Act introduced a requirement on commercial organisations with an annual turnover of more than £36 million to report annually on the steps, if any, they have taken to ensure modern slavery is not taking place in their organisation and supply chains. The legislation is light on detail and does not mandate what should be reported in the statement, though Government guidance suggests six areas that businesses are expected to report on. As the first such national legislation of its kind in the world, it was ground-breaking when it was introduced. While it has contributed to greater awareness of modern slavery in companies' supply chains, a number of companies are approaching their obligations as a mere tick-box exercise, and it is estimated around 40 per cent of eligible companies are not complying with the legislation at all.<sup>10</sup> Although the Act makes provision for the Secretary of State to seek an injunction against non-compliant companies, this has not been used and there have been no penalties to date for non-compliant organisations. This has led to criticisms from civil society and leading companies that the Act has not levelled the playing field as Government intended.
16. The Review considered how to ensure compliance and improve the quality of modern slavery statements produced by eligible companies. We consulted broadly with private sector organisations, business associations, trade unions and civil society organisations. We invited stakeholders to comment on extending section 54 to the public sector and to reflect on similar provisions overseas.
17. Stakeholders were clear that the lack of clarity, guidance, monitoring and enforcement in modern slavery statements needed to be addressed to increase compliance and quality. We agree and recommend that **companies should not be able to state they have taken no steps to address modern slavery in their supply chains**, as the legislation currently permits, and that **the six areas of reporting currently recommended in guidance should be made mandatory.** We also recommend that **Government should set up a central repository for statements; that the Independent Anti-Slavery**

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<sup>9</sup> Kevin Hyland OBE, who was appointed the UK's first Independent Anti-Slavery Commissioner in 2014, resigned and left the post in July 2018. The recruitment process for a new Commissioner was undertaken by the Home Office according to the rules set out in the [Governance Code for Public Appointments](#), and was concluded in February 2019 with the announcement of Sara Thornton CBE, QPM as the successful candidate for the post.

<sup>10</sup> <https://www.gov.uk/government/news/home-office-tells-business-open-up-on-modern-slavery-or-face-further-action>

**Commissioner should monitor transparency; sanctions for non-compliance should be strengthened;** and that Government should bring forward proposals for **an enforcement body to enforce sanctions against non-compliant companies.** A requirement for greater transparency from business is becoming usual practice, with businesses required to report on a number of issues, including for example their gender pay gap. It is only right that reporting on modern slavery should be taken equally seriously.

18. The Review also heard from stakeholders that the Act should go further. It was argued that Government should lead by example, especially as public bodies award contracts worth billions of pounds to private companies each year. We agree that there is no reason to expect that the risks in public organisations' supply chains would be any different than in the private sector. We recommend that **Government should extend section 54 requirements to the public sector and strengthen its public procurement processes.** In order to embed modern slavery reporting into business culture, we recommend that **the Companies Act 2006 should be amended to include a requirement for companies to refer to their modern slavery statement in their annual reports.** We also recommend that failure to fulfil modern slavery statement reporting requirements or to act when instances of slavery are found should be an **offence under the Company Directors Disqualification Act 1986.** The Review heard some concerns that aligning modern slavery with other core business compliance activity and reporting could reduce transparency as company lawyers are focussed on limiting risk to the business. However, we did not find evidence to support this claim. Indeed, businesses and company lawyers we consulted reported that the shift towards corporate compliance has already happened, driven not just by the Act, but also by similar international obligations such as the French Duty of Vigilance. They told us companies have clear concerns about disclosing information that could open firms up to litigation risk, but that this is to be expected and is unavoidable, regardless of where in an organisation responsibility for transparency lies.

## Independent Child Trafficking Advocates (ICTAs)

19. Section 48 of the Modern Slavery Act introduces a requirement on the Home Secretary to establish Independent Child Trafficking Advocates (ICTAs) in England and Wales to represent child victims of modern slavery and ensure their best interests are taken into account for all decisions made about them. While section 48 has not yet been commenced, ICTAs have now been introduced in a third of local authorities, and the Government has committed to a full rollout of the service.
20. The Review heard compelling evidence from the current ICTA service provider (Barnardo's), local authorities and observers, of the direct benefit ICTAs provide to trafficked children: as a companion to help them navigate through processes safely, as a service that is independent of all other public authorities, and as an expert resource on child trafficking for public authorities to draw upon. We recommend **the Government should commence section 48 as quickly as possible and roll out its revised model of support, which provides a one-to-one ICTA service to trafficked children without effective parental responsibility in the UK (mainly foreign children), while introducing ICTA regional coordinators to work with statutory bodies looking after**

**trafficked children that do have effective parental responsibility in the UK** to foster more effective multi-agency working. However, we propose that flexibility should be shown in this approach, with the **child's needs being considered on a case-by-case basis where there is evidence a greater level of support is required** for them.

21. In this spirit, we make a number of recommendations to support the development of a more flexible ICTA service that is centred on the needs and best interests of the child, looking at times to the good practice demonstrated in comparable guardianship services in Scotland and Northern Ireland. We propose that **the Government should extend the ICTA service to young people who need the service over the age of 18 and up to 21 or 25, subject to their circumstances**, and that **the 18-month time limit for ICTA provision should be removed for those children that require a longer duration of support**. We heard that the number of trafficked children going missing from care is much higher than other vulnerable children, so we recommend that **cases of children that go missing should be kept open and continue to be discussed until the child is found** rather than being closed after six months. We consider that the ICTAs' added value relies on their **caseloads being capped at a modest number to ensure regular contact and quality provision**.
22. We also make recommendations to ensure consistent quality and frequent appraisal of the ICTA service as it becomes embedded in all local authorities. We recommend that **the Government establishes a National Protocol for the ICTA service detailing how public authorities should collaborate with ICTAs** to ensure best practice across provisions such as authorities' duties to have due regard for, and to share information with, ICTAs, as well as to carry out age assessment (section 51 of the Act). **This collaboration should be monitored by the Independent Anti-Slavery Commissioner in conjunction with the Children's Commissioners for England and Wales**, and monitoring should be supported by **much more comprehensive data gathering**. We recognise that **ICTAs do not need to have formal social work qualifications on appointment** but we consider that they **should have access to a high quality standardised training offer** that ties in the range of skills and expertise an ICTA should develop. We recommend that **ICTAs should be renamed "Independent Guardians"** to align with other UK and European jurisdictions.

## Legal application

### Definitions of the offences

23. The Act consolidated existing slavery and trafficking offences into two offences: slavery, servitude and forced or compulsory labour (section 1), and human trafficking for the purposes of exploitation (section 2). The Act defines exploitation at section 3, with reference to broad categories, such as sexual exploitation. However, since the Act received Royal Assent, there has been increasing recognition of forms of exploitation that fall under the 'umbrella' of modern slavery, such as orphanage trafficking and 'county lines'.
24. The Review sought to understand whether the Act's definition of exploitation is sufficiently flexible to allow for new and emerging forms of slavery and human trafficking to be captured and prosecuted. The Review considered evidence from prosecutors and law

enforcement and looked at how human trafficking has been defined internationally and in other jurisdictions.

25. The Review concluded that the definition of exploitation in the Act is sufficient. There was no evidence of any challenges to date with bringing prosecutions for new and emerging forms of modern slavery. We therefore recommend that, rather than amending the Act to refer to new forms of exploitation, **Government should issue policy guidance to assist in interpretation of the Act.** The Review heard concerns that the legislation did not clearly reflect international definitions of child trafficking and we recommend **the Act should be amended to reflect more clearly that a child is not able to consent to any element of their trafficking or slavery.**
26. The Review also heard concerns regarding the definition of human trafficking (section 2), specifically that the Act defines human trafficking as arranging or facilitating the 'travel' of another person, whereas there is no mention of 'travel' *per se* in the international definitions<sup>11</sup> of trafficking. While we too are concerned that the Act does not mirror the Palermo Protocol and the EU Directive in its structure, the definition of human trafficking has not yet proved an issue and it is too early to determine if this is causing issues in securing prosecutions. We therefore recommend **the Independent Anti-Slavery Commissioner should monitor and review the outcomes of prosecutions and appeals to ensure the Courts are not taking an overly narrow interpretation of what constitutes trafficking under section 2 and that Government should be prepared to bring forward amendments to legislation if the Commissioner identifies a problem.**

#### Slavery and Trafficking Reparation Orders

27. The Act introduced Slavery and Trafficking Reparation Orders to require offenders convicted under the Act to pay reparations to their victims. However, the latest available data shows there had been no Reparation Orders issued up to the end of 2017<sup>12</sup>. Therefore, the Review considered the barriers to use of these Orders, other powers available to seize suspects' assets, and other routes to compensation for victims.
28. Although there are narrow circumstances in which a Reparation Order can be issued, we recommend they should be at the forefront of the Court's mind and the forthcoming **Sentencing Council Modern Slavery Act sentencing guidelines should include reminders for judges to consider making Reparation Orders where appropriate.** Stakeholders reported inconsistent practice in the use of financial investigations and we recommend **the Government should prioritise financial investigation in every modern slavery case, and law enforcement should make use of the full range of powers available under other legislation to seize suspects' assets prior to charge,** to remove the perceived financial gain of modern slavery. The Review heard evidence that victims face challenges in accessing legal aid to pursue civil compensation claims and we recommend **the Independent Anti-Slavery Commissioner should monitor the experiences of victims accessing legal aid.**

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<sup>11</sup> The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (the Palermo Protocol) and the EU Directive on Human Trafficking (Directive 2011/36/EU)

<sup>12</sup> We are aware from anecdotal information that some Reparation Orders have been made and expect this to be evident in the next data release.

## Statutory Defence

29. The Act provides a statutory defence for victims of modern slavery for certain criminal offences that they were compelled to carry out as a result of their exploitation. The Review looked at how to ensure an appropriate balance between the need to protect victims from criminal prosecution and preventing criminals from abusing this protection to avoid justice. This is pertinent in the context of a March 2018 Court of Appeal judgment<sup>13</sup> which ruled the burden of proof should lie with the Crown (i.e. it should fall upon the prosecution to disprove the applicability of the statutory defence beyond reasonable doubt).
30. While some stakeholders reported concerns that the statutory defence could be used as a 'loophole' for defendants and that disproving a claim of slavery and trafficking beyond reasonable doubt could be challenging, the Review concluded that the current legislation, case-law and the system of trial by jury achieves the right balance. We recommend that **law enforcement and prosecutors should conduct thorough investigations to gather sufficient evidence to demonstrate whether an individual using the statutory defence is a victim.** The Review also found misunderstanding about the interaction between the criminal justice process and National Referral Mechanism (NRM) process in respect of identifying victims of modern slavery. The NRM process will provide a decision, on the balance of probabilities, advising whether an individual has been a victim of trafficking or modern slavery. The NRM decision has no official status in a criminal court, which makes decisions based on the criminal standard of proof 'beyond reasonable doubt'. We recommend **clarifying the relationship between the NRM and criminal justice processes via guidance.**
31. For all potential victims of modern slavery, it is essential that defence lawyers are aware of the statutory defence and advise their clients to disclose at the earliest possible stage if they are a victim of trafficking or modern slavery. **This is even more important in the cases of children. Where it has not already been raised by the defence and there are indicators that modern slavery might be a factor, training and guidance from the Judicial College ought to prompt Judges and Magistrates to question at the pre-trial hearing whether the statutory defence is applicable. The statutory defence should be considered by Judges and Magistrates at the pre-trial hearing in all cases relating to children.**
32. All of our Expert Advisers reported limited understanding of modern slavery among law enforcement and criminal justice practitioners, especially on the statutory defence. We recommend that **Government should work closely with relevant organisations to ensure there is mandatory training on modern slavery for all participants in the criminal justice system and also ensure consistent and clear guidance on the statutory defence.** There is very limited robust quantitative data on the legal application of the Act which makes it challenging to monitor implementation. We recommend the Government should **collect data on the use of the statutory defence, compensation awards to victims and the types of modern slavery prosecuted.**

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<sup>13</sup> MK v R [2018] EWCA Crim 667

## Other issues identified

33. Victim support provision and the National Referral Mechanism (NRM) were not in scope of the terms of reference set by the Government for this Review. This is because of the ongoing reforms that the Home Office is making to the NRM. We have respected the Review's terms of reference on this. However, a number of prominent stakeholders have brought to our attention three key issues relating to victim care and protection. The first is a plea for the Government, as part of its reforms, to consider changing the name of the National Referral Mechanism to something more reflective of what the NRM actually does,<sup>14</sup> which will benefit both victims and first responders. The second is the lack of Government-led post-NRM support for victims obtaining a positive Conclusive Grounds decision. The third is the current law relating to prostitution in this country and how it may be seen as a weak link by traffickers involved in sexual exploitation. We will dwell a little on these last two matters as they are of great concern to us.

### Post-NRM support for victims

34. While the Government provides support to victims during their time in the NRM, we are concerned about the inconsistent support available for victims once they leave the NRM. Presently, the post-NRM options for victims of modern slavery with a positive Conclusive Grounds decision differ according to their nationality and circumstances.<sup>15</sup> UK citizen victims will often stay in the UK and be referred to local authority services where relevant, if for example they are homeless or suffering from addiction. There is not much data available on their destinations or outcomes. Some European Economic Area (EEA) citizens will have recourse to public funds in the same way as UK citizens.<sup>16</sup> Both EEA<sup>17</sup> and other foreign nationals can be granted discretionary leave to remain if they are supporting the police with their enquiries, are seeking compensation through a civil claim against their abuser, or their personal circumstances warrant a grant of leave to remain, and will be considered on a case-by-case basis. Both EEA and non-EEA nationals are also eligible for the Home Office-funded Voluntary Returns Service, which provides them with financial and material support to return to their home country.
35. Confirmed victims who are non-EEA nationals will automatically be considered for a grant of discretionary leave and they receive this decision at the same time as they receive their conclusive grounds decision, unless they have an outstanding asylum claim. If a non-EEA individual referred to the NRM fears returning to their country of origin, they can apply for asylum.
36. We have heard from the charity sector and the criminal justice system that the Government-led support infrastructure for confirmed victims after they leave the NRM is patchy and in many cases non-existent. There is no rigorous collection of move-on data to understand what happens long-term to individuals who leave the NRM. Until we have this data, we cannot say whether the support Government does provide has been

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<sup>14</sup> The National Referral Mechanism (NRM) is a framework for identifying victims of human trafficking and ensuring they receive the appropriate protection and support.

<sup>15</sup> The Home Office has produced a [leaflet](#) for adult victims of modern slavery that provides advice on their post-NRM immigration options.

<sup>16</sup> This depends on whether they are exercising treaty rights or gain settled status under the EU settlement scheme.

<sup>17</sup> EEA nationals that are not eligible or applying for settled status under the EU settlement scheme.

successful. There is no clear or consistent pathway for victims to access the healthcare, housing and financial support that they require to re-build their lives. Currently, signposting and support services for confirmed victims who have left the NRM are often provided where possible by the voluntary sector, and we pay tribute to their efforts. It cannot be right that the Government provides no standardised post-NRM support offer for victims, who are often still incredibly vulnerable, and this can increase their vulnerability to being re-trafficked and re-exploited.

37. It is important to note that this is not just a humanitarian imperative, but also one that will be beneficial to our criminal justice system. As Caroline Haughey QC notes, one of the greatest challenges for modern slavery criminal cases is retaining complainant willingness to engage with the criminal justice system through fear, distrust or trauma. Early intervention and support is therefore vital in ensuring engagement and subsequent recovery. NRM and post-NRM support, when properly deployed, restores confidence and autonomy in the complainant and enables them to give their best and most robust account of what has happened. Cases are invariably stronger when the complainant account is provided such that sustaining and maintaining the relationships between the investigators and the complainants is vital.
38. We believe there is a great deal to be explored and improved in this space, and should the Government wish it, we offer to revisit the issue in more detail once the current reforms have been implemented.

#### The law relating to prostitution

39. We received a number of representations concerning the law relating to prostitution and how it may be affecting this country's ability to tackle trafficking for sexual exploitation. A common concern raised was that reforms to the law relating to prostitution in neighbouring European countries, namely the introduction of a sex-buyer law, might result in this country being seen as an outlier and 'easier target' for traffickers. We have not addressed this issue in the Review as it is not within our terms of reference, but independent of this Review, we do intend to work with colleagues in the All-Party Parliamentary Group on Prostitution and the Global Sex Trade to consider the issue in more detail over the coming months and to report in the summer. The Government has commissioned research into the nature and prevalence of prostitution, the first time in a very long time Government has researched the issue, and this is welcome. Our work will consider different issues to those covered in the Government's research and we hope will be complementary.

## Next steps

40. Our Review has made 80 recommendations. We believe that these recommendations as a whole, if implemented, will enable the Modern Slavery Act to retain, consolidate and develop its status as a world-leading piece of legislation. We have worked hard to conduct this Review in the ambitious timescales we were set, and we look forward to the Government's formal response. We expect this report and the response to be laid in Parliament within two months of this report being approved by the Home Secretary,<sup>18</sup> and certainly well in advance of the next Queen's Speech to ensure that any legislative changes required can be considered for inclusion in the Government's legislative programme for the next Session of Parliament. Some of our recommendations are for specific measures that, we hope, can be implemented without delay and we expect to see a swift response from Government on such recommendations. Some of our recommendations are longer-term and may require legislative change and further consultation with affected groups.
41. We would like to see an early declaration of intent from Government that it plans to accept these longer-term recommendations. Some of our recommendations are directed at the Independent Anti-Slavery Commissioner and should be considered as she develops her strategic plan.
42. We will ourselves be paying close attention to how Government responds to our recommendations. As well as working on the Parliamentary front, we have been approached by members of the business community offering to work with us on an implementation group, to hold the Government to account on putting our recommendations on supply chains into practice. We are aware there are other groups of businesses already working on this important issue, including the Business Against Slavery Forum, and will coordinate our efforts with existing groups to achieve maximum success in holding Government to account on its commitment to eradicate modern slavery and human trafficking.

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<sup>18</sup> This report was submitted to Home Office Ministers on Friday 29 March, in accordance with our Terms of Reference that required submission of our final report before the end of March 2019.

# Full List of Recommendations

Our first recommendation, in our first interim report on the Independent Anti-Slavery Commissioner (vol. I of this report) was for the recruitment process for a new Commissioner to be paused and a new job description drafted once the recommendations of this report had been considered in full. At the time of publication of the interim report in December 2018, the recruitment process for a new commissioner was ongoing. The Home Secretary went ahead with the recruitment process, advising us that he had a statutory obligation to fill to the position without further delay. A new Commissioner has since been appointed, so while our first recommendation was not acted on this time, we urge the Home Secretary to take note of this and all other recommendations when conducting future appointments.

<b>Independent Anti-Slavery Commissioner</b>	
2	The Government must respect the Commissioner's statutory independence.
3	The Commissioner's primary roles in carrying out the role set out in section 41(1) of the Act should be to advise the Government on measures to tackle modern slavery; to scrutinise and hold the Government and its agencies to account on their performance; and to raise awareness and promote cooperation between sectors and interest groups.
4	The Commissioner should have sufficient access to Government data to be able to carry out the duty of scrutiny.
5	The Commissioner's focus should be primarily on tackling modern slavery domestically, but there will need to be some continued international angle. The Commissioner's international role should be focussed on countries of direct strategic importance to the UK on modern slavery. This work should be analytical and advisory, as opposed to project delivery or representation of the UK Government's interests.
6	The Commissioner should be appointed by a sponsoring Secretary of State other than the Home Secretary. Our preference would be for a Sponsoring Minister in the Cabinet Office, acting on behalf of the Prime Minister.
7	The Commissioner should be recruited and appointed in accordance with the Cabinet Office's Governance Code for Public Appointments. The appointment should be subject to a pre-appointment Hearing with a Parliamentary Select Committee. If the Committee approves the selection, the final appointment should be by order of the Prime Minister. Any extension to the length of appointment of the Commissioner should be in consultation with the Parliamentary Committee.
8	The process for agreeing the Commissioner's budget should be set out in a memorandum of understanding with the sponsoring department and it must be adhered

	to.
9	The Commissioner's budget should be agreed on a multi-year basis for the duration of each Spending Review period, providing certainty for the Commissioner to determine a strategic multi-year work plan. The budget should be sufficient to ensure the Commissioner has adequate funds to fulfil his/her functions effectively.
10	There should be an agreed mechanism to assist the Commissioner to meet unexpected or additional financial requirements which may arise in the course of the year.
11	All [the Commissioner's] reports should be made public and the Government should be required to give a public response. If the Government fails to accept or to implement [the Commissioner's] recommendations, the Commissioner should be able to seek the opportunity from relevant select committees to attend and give evidence.
12	A statutory board should be introduced [to advise the Commissioner], chaired by a person of stature, to be drawn from outside the Government or Civil Service. The Board and its chair should be independently appointed in consultation with the Commissioner and drawn from many sections of society.
13	There should be a formal complaints procedure in place [to ensure the Commissioner's accountability and protect him/her from unjustified allegations]. The procedure should be clearly set out on the Commissioner's website and should be a tiered procedure with the final stage of escalation independent of the sponsoring Department.
14	An international role should be created in the form of an Envoy or Ambassador, who would represent the UK Government[is modern slavery agenda] overseas and ensure close co-operation and dialogue with other nations, for instance against organised crime.
<b>Transparency in supply chains</b>	
15	Government should establish an internal list of companies in scope of section 54 [which requires them to publish a slavery and human trafficking statement] and check with companies whether they are covered by the legislation.
16	Individual companies should remain responsible for determining if they need to produce a slavery and human trafficking statement. Non-inclusion in the list should not be an excuse for non-compliance.
17	Section 54(4)(b), which allows companies to report they have taken no steps to address modern slavery in their supply chains, should be removed.
18	In section 54(5) 'may' should be changed to 'must' or 'shall', with the effect that the six areas set out as areas that an organisation's statement may cover will become mandatory. If a company determines that one of the headings is not applicable to their business, it should be required to explain why.
19	The statutory guidance [on transparency in supply chains] should be strengthened to include a template of the information organisations are expected to provide on each of the six areas [that a statement may cover].

20	Guidance should make clear that reporting should include not only how businesses have carried out due diligence [to prevent modern slavery in their supply chains] but also the steps that they intend to take in the future.
21	The Independent Anti-Slavery Commissioner should oversee the guidance [on transparency in supply chains] available to companies.
22	The legislation should be amended to require companies to consider the entirety of their supply chains [in respect of modern slavery]. If a company has not done so, it should be required to explain why it has not and what steps it is going to take in the future.
23	The Companies Act 2006 should be amended to include a requirement for companies to refer in their annual reports to their modern slavery statement. Section 54 should be amended to impose a similar duty on non-listed companies that meet the £36 million threshold but would not be captured by the Companies Act 2006 reporting requirements.
24	Businesses should be required to have a named, designated board member who is personally accountable for the production of the [modern slavery] statement.
25	Failure to fulfil modern slavery statement reporting requirements or to act when instances of slavery are found should be an offence under the Company Directors Disqualification Act 1986.
26	There should be a central government-run repository to which companies are required to upload their [modern slavery] statements and which should be easily accessible to the public, free of charge.
27	[Modern slavery] Statements should be dated and clearly state over which 12-month period they apply.
28	The website hosting the [modern slavery statements] repository should also clearly outline the minimum statutory reporting requirements.
29	The Independent Anti-Slavery Commissioner should monitor compliance [of businesses under section 54 of the Act].
30	Government should make the necessary legislative provisions to strengthen its approach to tackling non-compliance [with section 54 of the Act], adopting a gradual approach: initial warnings, fines (as a percentage of turnover), court summons and directors' disqualification. Sanctions should be introduced gradually over the next few years so as to give companies time to adapt to changes in the legislative requirements.
31	Government should bring forward proposals to set up or assign an enforcement body to impose sanctions on non-compliant companies [that have not published a modern slavery statement]. Fines levied for non-compliance could be used to fund the enforcement body.
32	Section 54 should be extended to the public sector. Government departments should publish a [modern slavery] statement at the end of the financial year, approved by the Department's board and signed by the Permanent Secretary as Accounting Officer. Local government, agencies and other public authorities should publish a statement if their annual budget exceeds £36 million.

33	Government should strengthen its public procurement processes to make sure that non-compliant companies in scope of section 54 are not eligible for public contracts.
34	The Crown Commercial Service should keep a database of public contractors and details of compliance checks and due diligence carried out by public authorities. The database should be easily accessible to public authorities for use during the procurement purposes.
35	The Independent Anti-Slavery Commissioner should commission research into how consumer attitudes to modern slavery can be influenced. The aim of this should be for business, in partnership with civil society, to leverage purchasing power to eradicate modern slavery in supply chains. The research should feed into the Commissioner's annual report, with recommendations for Government action as appropriate.
<b>Independent Child Trafficking Advocates (ICTAs)</b>	
36	The Government should continue to roll out the revised model of support that provides a one-to-one ICTA service to [trafficked] children without effective parental responsibility [in the UK] and a consultative service through a regional coordinator for those with effective parental responsibility.
37	The allocation of a one-to-one ICTA should be tailored to assess the risk, vulnerability and need for each individual child in consultation with other public authorities. There should not be a presumption that a child with effective parental responsibility does not require a one-to-one service. A child's needs should be considered on a case-by-case basis where there is evidence a greater level of support is required.
38	The Government should extend the ICTA service to young people who need the service over the age of 18 and up to 21 or 25, subject to their circumstances.
39	The Government should remove the 18-month time limit for ICTA provision for those children that require a longer duration of support.
40	The Government should provide more effective support and guidance for trafficked young people transitioning from children's to adult services.
41	Cases of children that go missing [during their time in the ICTA service] should be kept open and continue to be discussed until the child is found.
42	Comprehensive "return home" interviews should be offered and conducted with the child's consent when they are found so that their case with an ICTA can be reopened with stronger evidence behind their disappearance and an understanding of their needs.
43	Caseloads for each ICTA should be capped at a modest number to ensure regular contact and quality provision.
44	The Government should conduct further research into the optimum contact time between ICTA and child, and the optimum caseload per ICTA, to deliver a service that meets every child's best interests. Caseload levels should be monitored by the Independent Anti-Slavery Commissioner and the Children's Commissioners for England and Wales.

45	The Government needs to establish a National Protocol for the ICTA service detailing how public authorities should collaborate with ICTAs to ensure a consistent quality of service based on best practice examples. The protocol should specify the ways in which public authorities will be required to pay due regard to ICTAs and share information with them, when sections 48 (6)(e)(i) and (ii) of the Act are brought into effect. This collaboration should be monitored by the Independent Anti-Slavery Commissioner in conjunction with the Children's Commissioners for England and Wales and the findings reported in the Independent Anti-Slavery Commissioner's annual report.
46	The National Protocol should stipulate that each region undertakes a preliminary audit of existing child trafficking services available and construct a bespoke ICTA service that complements the work of other public authorities.
47	The ICTA service should work with regional providers to train public authorities in a consistent application of best practices in relation to age assessment. This framework should be included in the National Protocol.
48	The phrase "reasonable grounds" should be removed from section 51 of the Act [regarding the presumption of age]. The Government should issue further guidance on the way public authorities should interpret grounds for "belief" that a child is under 18 and "presumption of age" consistently for the protection of all trafficked children.
49	Close monitoring of the ICTA service needs to continue in order to ensure ICTA practitioners are acting in the child's best interests and resource is being allocated appropriately.
50	Monitoring needs to be supported by much more comprehensive data gathering on what happens to children during and after the ICTA service to assess value for money and set direction for the service.
51	The [ICTA service] monitoring and evaluation role should be undertaken by the Independent Anti-Slavery Commissioner in conjunction with the Children's Commissioners for England and Wales.
52	ICTAs should not be required to have formal social work qualifications on appointment but should have other relevant experience or qualifications relevant to child trafficking and criminal justice, social care, asylum and immigration.
53	As the service establishes itself nationwide, ICTAs should have access to a high quality standardised training offer devised and delivered by one or a number of independent providers. A key part of the training must be the ability to develop the ability to gain access to legal support quickly for children facing immigration issues.
54	The Government should rename ICTAs to be commonly known as "Independent Guardians". It is not necessary to change the statutory title in section 48 in the immediate future.
55	The wording of section 48 [of the Act] should be amended to ensure all children and young people who are believed to have been victims of human trafficking and all other forms of modern slavery are eligible for the ICTA service. The Act should be amended in the same way at section 51 where references to "victims of human trafficking" are made.

56	All references to “reasonable grounds” should be removed from section 48 of the Act.
57	Section 48 [of the Act] should be commenced and the full roll out of the ICTA service across England and Wales should take place as soon as possible, with the service operating in accordance with the methods and principles we have recommended in this report.
<b>Legal application of the Act</b>	
58	Section 3 [of the Act] on the meaning of exploitation should not be amended as it is sufficiently flexible to meet a range of circumstances, including new and emerging forms of modern slavery.
59	While we are in no doubt about the seriousness of new types of exploitation that have come to light since the passing of the Act, such as county lines and orphanage trafficking, it is not practical to amend legislation every time a new form of exploitation is identified. Government instead should produce policy guidance to assist in the interpretation of the Act, building on the Home Office Typology of Modern Slavery research. This should be regularly updated to respond to new and emerging trends and should give examples of the types of exploitation that can potentially be prosecuted under the Act, including orphanage trafficking and county lines.
60	The Independent Anti-Slavery Commissioner should monitor and review the outcomes of prosecutions and appeals to ensure the Courts are not taking an overly narrow interpretation of what constitutes trafficking under section 2. The Commissioner should report her findings in her annual report, and Government should be prepared to bring forward amendments to the legislation if the Commissioner identifies an issue with the interpretation of section 2.
61	Section 1(5) and section 2(2) [of the Act] should be amended to reflect more clearly that a child is not able to consent to any element of their trafficking.
62	Compensation for victims [of modern slavery] ought to be at the forefront of the Court’s mind. The Sentencing Council should include in their forthcoming Modern Slavery Act sentencing guidelines a reminder for judges of their responsibility to consider Reparation Orders in every case where it is appropriate to do so.
63	Compensation for victims [of modern slavery] ought to be made more easily available to all known victims of a convicted perpetrator, regardless of whether they give evidence in Court. The police need sensitively to maintain contact with victims [of modern slavery] throughout the course of an investigation and trial, ensuring victims understand there is a possibility they could receive compensation in future and therefore the importance of providing the police with up-to-date means of contact.
64	It is essential there is a swift and thorough financial investigation in every modern slavery investigation. Government needs to ensure the appropriate priority is placed on resourcing financial investigations.
65	Law enforcement needs to make better use of the powers provided to it, in freezing

	<p>suspects' assets early on in modern slavery investigations, including before arrest where that is appropriate. This will help to prevent perpetrators dissipating assets and ensure that there could be funds available post-conviction to make Reparation and Compensation Orders to victims. Freezing assets will also disrupt modern slavery and human trafficking networks, ensuring they are unable to operate while investigations and criminal proceedings are underway.</p>
66	<p>We recommend extending the provision of Section 23 [of the Act] to allow Crown Court Judges to make Slavery and Trafficking Risk Orders.</p>
67	<p>The Government should keep under review the effect of the new Legal Aid contracts and how they are operating in practice [in respect of modern slavery]. The Independent Anti-Slavery Commissioner should monitor the experience of victims of modern slavery in accessing legal aid and raise concerns or challenges with Government, as well as reporting them in her annual report.</p>
68	<p>The burden of proof [to disprove the applicability of the statutory defence for victims of modern slavery] should remain with the Crown.</p>
69	<p>There is a natural tension which exists in any defence, between the potential for misuse and the need to protect victims. We believe a balance needs to be maintained, and the current legislation, case-law and the system of trial by jury achieves the right balance [in respect of the statutory defence for victims of modern slavery]. Protecting vulnerable individuals is the purpose of the Act, and the recent Court of Appeal judgement ensures this protection.</p>
70	<p>Law enforcement bodies and prosecutors should make provision to conduct thorough investigations and gather sufficient evidence to demonstrate whether an individual is a victim [of modern slavery] or not [in cases where the statutory defence has been raised].</p>
71	<p>We do not recommend any changes to Schedule 4 [of the Act]. A balance needs to be achieved between preventing the perpetrators of serious criminal acts from evading justice and protecting genuine victims [of modern slavery] from prosecution. An absolute defence for all offences is not appropriate. The current safeguards of CPS discretion and consideration of the public interest test before bringing charges act as an appropriate safety net even if an offence falls within Schedule 4.</p>
72	<p>For all potential victims of modern slavery, it is essential that defence lawyers are aware of the statutory defence and advise their clients to disclose at the earliest possible stage if they are a victim of trafficking or modern slavery. This is even more important in the cases of children. Where it has not already been raised by the defence and there are indicators that modern slavery might be a factor, training and guidance from the Judicial College ought to prompt Judges and Magistrates to question at the pre-trial hearing whether the statutory defence is applicable. The statutory defence should be considered by Judges and Magistrates at the pre-trial hearing in all cases relating to children.</p>
73	<p>The relationship between the NRM process and criminal justice process needs to be clarified. A common set of guidance ought to be developed to ensure that all participants in the criminal justice system – the CPS, law enforcement, judiciary, defence and prosecution lawyers – understand the NRM decision-making process and the weight it</p>

	should be given in criminal proceedings.
74	The recommendations made in Caroline Haughey's 2016 Review of the Modern Slavery Act relating to training and the need for specialist advocates in modern slavery cases should now be implemented.
75	Government should work closely with relevant organisations (including the CPS, College of Policing, Criminal Bar Association, professional bodies representing solicitors and the Judicial College) to ensure there is mandatory training on recognising modern slavery for all participants in the criminal justice system. This is a priority for frontline officers and defence lawyers who may be among the first participants in the criminal justice system a victim encounters.
76	Government should work closely with relevant organisations (including the CPS, College of Policing, Criminal Bar Association, professional bodies representing solicitors and the Judicial College) to review the available training and guidance to ensure it includes clear and consistent information on the statutory defence [for victims of modern slavery]. This should highlight the Court of Appeal ruling and where the burden of proof lies. Progress should be regularly monitored by a cross-government forum, such as the Prime Minister's [modern slavery] Task Force.
77	Finally, professional bodies need to reflect in their guidance to members that where there is evidence that someone might be a victim of trafficking, it is likely to be in their client's best interests to disclose this immediately, and the Crown must be given adequate time to conduct their enquiry.
78	The accurate collection of data on the use of the statutory defence [for victims of modern slavery] is vital. As a priority, we recommend that the police, the CPS and HM Courts and Tribunals Service record data on how the statutory defence is being used by adults and children. The overall use of the defence needs to be captured; as well as cases where the defence has been appropriately deployed, where it has been claimed and subsequently disproved, and instances where it, arguably, ought to have been deployed earlier on.
79	The Crown Prosecution Service and HM Courts and Tribunals Service should collect data on compensation awards made to victims of modern slavery – whether through Reparation Orders or Compensation Orders. This data should be reviewed regularly in conjunction with the Home Office, to monitor progress in making compensation awards to victims. The findings should be reported annually in the UK annual report on modern slavery.
80	The Ministry of Justice, Crown Prosecution Service and HM Courts and Tribunals Service should collect data on the type of exploitation involved in modern slavery prosecutions, and the age of the alleged victim(s).

# Volume I: The Independent Anti-Slavery Commissioner (Part 4 of the Act)

## 1. Introduction

1.1 It is clear that the Act is an innovative piece of legislation that has influenced parliaments across the world in efforts to combat the global evil of modern slavery. Other countries are following our lead, so it is of the utmost importance that we get this legislation right and properly implemented. The role of the Independent Anti-Slavery Commissioner (the Commissioner) is a vital part of the efforts to make progress in this enormously important battle.

1.2 The Commissioner's appointment, role, duties and responsibilities are set out in sections 40 - 44 of the Act (see **Annex B**). Section 40 of the Act requires the Secretary of State - in practice the Home Secretary - in consultation with Scottish Ministers and the Northern Irish Executive, to appoint a Commissioner. By extension, the Commissioner is answerable to the Home Secretary, who also set the Commissioner's budget. The first Commissioner appointed under the Act served for just over three and a half years. His relationship with the Home Office was managed by the department's Modern Slavery Unit, and he was line-managed by the Director for Tackling Slavery and Exploitation.

1.3 Section 41(1) of the Act states that:

*“The Commissioner must encourage good practice in-*

*(a) The prevention, detection, investigation and prosecution of slavery and human trafficking offences;*

*(b) The identification of victims of these offences.”*

1.4 Section 41(3) sets out the action the Commissioner can take in order to fulfil this role, which includes making reports and recommendations, undertaking research, and cooperating with public authorities. The Act also places limits on the Commissioner's powers. For example, he/she must only report on permitted matters (those matters agreed to in his/her strategic plan, or requested by Ministers); the Secretary of State must approve his/her strategic plans; and Ministers can redact or omit any material from the Commissioner's reports that would be against the interests of national security, or prejudice an ongoing investigation or a person's safety.

1.5 The first Commissioner, Kevin Hyland, had much success within the constraints which he felt were imposed upon him. He has played a significant role in shining a spotlight on the scale and nature of modern slavery and in driving progress in the UK response to this abhorrent crime. He identified many issues which required attention, some urgent.

According to his own testimony, working relations with Ministers were often productive,<sup>19</sup> and he produced a number of confidential reports and recommendations directly commissioned by the then Home Secretary, upon which action was taken quickly. He told us that the relationship was less constructive with Home Office officials.<sup>20</sup> We are concerned by the statements of several stakeholders that the Commissioner was not free to scrutinise and criticise Government policy and performance in addressing modern slavery.

1.6 The first Commissioner was also very successful overseas in raising awareness and encouraging other countries to follow our example. For instance, at the time of writing, the Australian parliament had just approved a Modern Slavery Act inspired by ours upon which the Commissioner gave advice.

1.7 In addition to the first Commissioner's own evidence, we received helpful reports from our Expert Advisers on the role of the Commissioner and how it should be improved. They consulted widely from their respective interest groups. We also received input from a number of Government departments and agencies, and the Devolved Administrations. Finally, we undertook some comparative research that looked at the roles and responsibilities of human trafficking rapporteurs in other countries, as well as the powers and obligations of other UK Commissioners. This evidence can be found at **Annex D**.

## 2. Findings

### 2.1 Current Recruitment

2.1.1 A number of voices, particularly in the voluntary sector, expressed concerns during consultation that the recruitment process for a new Commissioner was being undertaken before this Review could provide its recommendations to the Home Secretary. It was noted that the job description for the role showed many similarities to the one advertised in 2014 and little sign of considering measures to augment the Commissioner's independence from the Home Office. One new addition to the latest job description that is of particular concern to us was the requirement for the successful candidate to undertake "active participation in annual performance appraisals with the Home Office Director of Tackling Modern Slavery and Exploitation",<sup>21</sup> which fundamentally contradicts our conclusion in this report that Home Office officials should play no part in the direction-setting or appraisal of the role.

2.1.2 ***The present recruitment process for a new Commissioner should be scrapped and a new job description drafted once the recommendations of this report have been considered in full by the Home Secretary.***

### 2.2 Independence and Role

2.2.1 The Commissioner's independence is a key issue for the credibility and transparency of the post. It is, therefore, essential that the next Commissioner is independent from the

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<sup>19</sup> Kevin Hyland OBE, Home Affairs Committee Oral evidence: Modern Slavery, HC 1460, Q46, Tuesday 23 October 2018.

<sup>20</sup> Kevin Hyland OBE, Home Affairs Committee Oral evidence: Modern Slavery, HC 1460, Q38 – 42 & Q44, Tuesday 23 October 2018.

<sup>21</sup> <https://publicappointments.cabinetoffice.gov.uk/wp-content/uploads/2018/08/180813-IASC-Candidate-Pack-Final.pdf>, p5

influence of Government, a point that most of our Expert Advisers agreed with. For us, independence means that the Commissioner has maximum freedom from Government influence and direction in undertaking his/her existing statutory functions. He/she must have the freedom to scrutinise and advise on the efforts of Government departments and agencies, the police, the Crown Prosecution Service and others in the areas of prevention, prosecution and protection. ***The Government must respect the requirement for the Commissioner to carry out his/her statutory functions independent of Government.***

- 2.2.2 We have recognised above that the Act places some statutory limits on the Commissioner's powers. However, we believe that these limits can be managed pragmatically by both the Commissioner and the Government in order to avoid them becoming restrictions on the role's independence.
- 2.2.3 ***In our view, the Commissioner's primary roles in carrying out these duties should be to advise the Government on measures to tackle modern slavery; to scrutinise and hold the Government and its agencies to account on their performance; and to raise awareness and promote cooperation between sectors and interest groups.*** These duties will inevitably require the Commissioner to monitor Government plans, initiatives and strategies.<sup>22</sup> These duties will also, from time to time, require the Commissioner to express criticisms, to tread on toes and to make recommendations. This aspect of his/her duties has to be understood and accepted by the Government and all its agencies.
- 2.2.4 According to section 43 of the Act, statutory agencies have a duty to co-operate with the Commissioner. The Commissioner should be able to work collaboratively with all sectors, while retaining sufficient distance to objectively evaluate their performance. ***He/she should have sufficient access to Government data to be able to carry out the duty of scrutiny.***
- 2.2.5 ***We consider that the Commissioner's focus should be primarily on tackling modern slavery domestically, but there will need to be some continued international focus. When the Commissioner engages internationally, the majority of his/her work should be focussed on countries of direct strategic importance to the UK on modern slavery. This work should be analytical and advisory in nature to create a momentum for change and improvement, as opposed to project delivery or representation of the UK Government's interests.*** We recommend later in this report the creation of a new post of envoy or ambassador to advance the Government's policy objectives on modern slavery and human trafficking overseas, and to represent the UK Government at international fora.
- 2.2.6 The importance of the role of the Commissioner makes it necessary to appoint a senior figure of stature with a strong reputation and wide-ranging experience, able to perform the duties set out in the Act. He/she will need to be able to engage at every level and to

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<sup>22</sup> In particular, the Government should consider reviewing its Modern Slavery Strategy that was published in 2014 and predates the passing of the Act.

maintain a strong position at the Prime Minister's Task Force, as well as influencing key strategic partners across the business sector, the criminal justice system and civil society.

## 2.3 Appointment and Accountability

2.3.1 The Expert Advisers were in agreement that the current process not only for appointment, but also for providing the budget and monitoring the work of the Commissioner, is not ideal and may be compromising the Commissioner's independence.

2.3.2 The current process is in the hands of the Home Office. We believe this is a clear conflict of interest, in particular with the requirement of the Home Office to manage immigration. The Home Office appears not to have recognised sufficiently the statutorily independent role of the Commissioner and have imposed a Home Office line manager which is inconsistent with independence from a Government department. It is also important to recognise and to be sensitive to the public perception of the role, particularly among non-governmental organisations with whom the Commissioner needs to work. The current public perception, at least within the UK, appears to be that the first Commissioner was not seen as being sufficiently independent of Home Office control, and was seen by some as an employee of the department. There are therefore strong arguments for change.

2.3.3 A sponsoring Secretary of State other than the Home Secretary would not just be preferable but essential to underline the statutory independence of the Commissioner. ***Our preference would be for a Sponsoring Minister in the Cabinet Office, acting on behalf of the Prime Minister.***

2.3.4 ***The Commissioner should be recruited and appointed in accordance with the Cabinet Office's Governance Code for Public Appointments. The appointment should be subject to a Pre-Appointment Hearing with a Parliamentary Select Committee. To reflect the cross-government response required to tackle modern slavery, we suggest the lead Committee invites members of other Committees with an interest in the work of the Commissioner to join the Pre-Appointment Hearing. The Committee should be given the preferred candidate to consider. If the Committee approves the selection, the final appointment should be by order of the Prime Minister. Any extension to the length of appointment of the Commissioner should be in consultation with the lead Committee.***

2.3.5 The Commissioner should be accountable to the sponsoring Minister in the Cabinet Office and should not have a line manager within a Government department. The lead Committee referred to should be encouraged to play a significant role in scrutinising the work of the Commissioner, as well as the Government's response to the Commissioner's work.

## 2.4 Funding

2.4.1 All our Expert Advisers reported on points raised by their sectors regarding resourcing. This ranged from the budget setting process to the level and source of funding. It is essential that the Commissioner should have access to sufficient resources to appoint specialist staff of high quality and commission academic research. The first Commissioner told the Home Affairs Select Committee that his budget was never set

before the start of the financial year.<sup>23</sup> This is in breach of the Secretary of State's duty under section 40(4)(a) of the Act. **We consider that in support of that statutory duty the process for establishing the Commissioner's budget should be set out in a memorandum of understanding with the sponsoring department and it must be adhered to.**

- 2.4.2 **Preferably the Commissioner's budget should be set on a multi-year basis for the duration of each Spending Review period, providing certainty for the Commissioner to determine a strategic multi-year work plan. The budget should be sufficient to ensure the Commissioner has adequate funds to fulfil his/her functions effectively.** We understand this is the basis on which the Equality and Human Rights Commission's (EHRC) budget was set at the last Spending Review. The EHRC has been accredited as an A-rated National Human Rights Institution, part of which requires the institution to have "adequate funding [...] in order to be independent of the government and not be subject to financial control which might affect this independence".<sup>24</sup> **We also consider that there should be an agreed mechanism to assist the Commissioner to meet unexpected or additional financial requirements which may arise in the course of the year.**

## 2.5 Reports

- 2.5.1 Section 42(1) of the Act requires the Commissioner to prepare and submit a strategic plan to the Secretary of State. He/she by section 42(8) is required to submit an annual report to the Secretary of State, as well as to Scottish Ministers and the Northern Ireland Executive. In our view, that annual report should set out the work of the previous year but should also outline the proposed strategy for the next two years in so far as it may differ from the earlier strategic plan. The Commissioner should be able to have the courage to set out in the annual report unpopular and critical comments relating to the Government's or others' actions.
- 2.5.2 In addition to strategic plans and annual reports, we consider that the Commissioner should be able to make reports on any matters that he/she considers necessary. The Act restricts the Commissioner to reporting on "permitted matters". Permitted matters are either matters a Minister has asked the Commissioner to report on, or matters identified in the strategic plan, which must be approved by the Secretary of State. This should not be read restrictively; if the sponsoring Minister were to refuse to allow the Commissioner to include in his/her strategic plan a matter that he/she feels should be reported on, the Commissioner can refer to the refusal in the annual report and/or bring the matter to the attention of the relevant Select Committee. From what has already been stated in this interim report, the strategic plan, the annual report and any other reports should be submitted to the sponsoring Minister and made available to Parliament in accordance with strict timeframes, which we think should be set out in a memorandum of understanding.

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<sup>23</sup> Kevin Hyland OBE, Home Affairs Committee, Oral evidence: Modern Slavery, [HC 1460](#), Q33, Q34, Tuesday 23 October 2018.

<sup>24</sup> United Nations, Principles relating to the Status of National Institutions ([The Paris Principles](#)), Adopted by General Assembly resolution 48/134 of 20 December 1993.

2.5.3 **All reports should be made public and the Government should be required to give a public response. If the Government fails to accept or to implement recommendations, the Commissioner should be able to seek the opportunity from relevant Select Committees to attend and give evidence.** Sections 41(7) and 42(14) giving the Secretary of State the power to redact parts of a report (and similar powers in Scotland and Northern Ireland<sup>25</sup>) should be read restrictively so that there should be no fear of redaction of reports for political reasons.

## 2.6 Governance

2.6.1 The first Commissioner set up an advisory panel, chaired by Bishop Alastair Redfern with a wide variety of members, including the Baroness Butler-Sloss. It was an informal panel whose advice the Commissioner found helpful. A number of our Expert Advisers have recommended **the introduction of a statutory board chaired by a person of stature, to be drawn from outside the Government or Civil Service. We agree. The Board and its chair should be independently appointed in consultation with the Commissioner, and drawn from many sections of society.** The members of the Board should be unpaid but receive, where appropriate, reasonable expenses. The Board should be entirely advisory, imaginative and knowledgeable but without the powers to tell the Commissioner what to do.

## 2.7 Complaints Procedure

2.7.1 As with all public bodies, **there should be a formal complaints procedure in place.** This is important to ensure proper accountability but also to protect the Commissioner from unjustified allegations. **The procedure should be clearly set out on the Commissioner's website, be in line with the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling<sup>26</sup> and should be a tiered procedure with the final stage of escalation independent of the sponsoring Department.**

## 2.8 International Role

2.8.1 Section 41(3)(f) of the Act states that the Commissioner may co-operate with or work jointly with international partners should he/she wish to, and the first Commissioner had considerable success pursuing an overseas agenda. Our evidence revealed that in effect he had to act in some ways as a quasi-rapporteur, with EU counterparts sometimes looking to him and not the UK Government to advise on certain matters. We believe this would be a role better carried out by a representative of the Government and not the Commissioner.

2.8.2 **We agree with the recommendation of some of our Expert Advisers that an international role should be created in the form of an Envoy or Ambassador, who would represent the UK Government overseas and ensure close co-operation and dialogue with other nations, for instance against organised crime.** He/she would work closely with the Commissioner, and might advise him/her and the Government on

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<sup>25</sup> Sections 41(8), (9) and (10); sections 42(15), (16) and (17).

<sup>26</sup> The Parliamentary and Health Service Ombudsman, [Principles of Good Complaints Handling](#), 10 February 2009.

overseas initiatives, legislation and good practice. It would not be necessary to be a full-time appointment and might be filled by a senior (possibly retired) person of standing or existing civil servant, receiving modest remuneration and reasonable expenses. Further consideration should be given to the extent of this role.

### 3. Summary of Recommendations on Independent Anti-Slavery Commissioner

1. **Current recruitment:** The present recruitment process for a new Commissioner should be scrapped and a new job description drafted once the recommendations of this report have been considered in full by the Home Secretary.
2. **Statutory independence:** The Government must respect the Commissioner's statutory independence
3. **Role:**
  - a. The Commissioner's primary roles in carrying out the role set out in section 41(1) of the Act should be to advise the Government on measures to tackle modern slavery; to scrutinise and hold the Government and its agencies to account on their performance; and to raise awareness and promote cooperation between sectors and interest groups.
  - b. The Commissioner should have sufficient access to Government data to be able to carry out the duty of scrutiny.
  - c. The Commissioner's focus should be primarily on tackling modern slavery domestically, but there will need to be some continued international angle. The Commissioner's international role should be focussed on countries of direct strategic importance to the UK on modern slavery. This work should be analytical and advisory, as opposed to project delivery or representation of the UK Government's interests.
4. **Appointment and Accountability:**
  - a. The Commissioner should be appointed by a sponsoring Secretary of State other than the Home Secretary. Our preference would be for a Sponsoring Minister in the Cabinet Office, acting on behalf of the Prime Minister.
  - b. The Commissioner should be recruited and appointed in accordance with the Cabinet Office's Governance Code for Public Appointments. The appointment should be subject to a Pre-Appointment Hearing with a Parliamentary Select Committee. If the Committee approves the selection, the final appointment should be by order of the Prime Minister. Any extension to the length of appointment of the Commissioner should be in consultation with the Parliamentary Committee.
5. **Funding:**
  - a. The process for agreeing the Commissioner's budget should be set out in a memorandum of understanding with the sponsoring department and it must be adhered to.
  - b. The Commissioner's budget should be agreed on a multi-year basis for the duration of each Spending Review period, providing certainty for the Commissioner to determine a strategic multi-year work plan. The budget should be sufficient to ensure the Commissioner has adequate funds to fulfil his/her functions effectively.

- c. There should be an agreed mechanism to assist the Commissioner to meet unexpected or additional financial requirements which may arise in the course of the year.
6. **Reports:** All reports should be made public and the Government should be required to give a public response. If the Government fails to accept or to implement recommendations, the Commissioner should be able to seek the opportunity from relevant select committees to attend and give evidence.
7. **Statutory board:** A statutory board should be introduced, chaired by a person of stature, to be drawn from outside the Government or Civil Service. The Board and its chair should be independently appointed in consultation with the Commissioner and drawn from many sections of society.
8. **Complaints procedure:** There should be a formal complaints procedure in place. The procedure should be clearly set out on the Commissioner's website and should be a tiered procedure with the final stage of escalation independent of the sponsoring Department.
9. **Envoy or Ambassador:** An international role should be created in the form of an Envoy or Ambassador, who would represent the UK Government overseas and ensure close co-operation and dialogue with other nations, for instance against organised crime.

# Volume II: Transparency in supply chains (Section 54 of the Act)

## 1. Introduction

- 1.1 It is clear that the Act is an innovative piece of legislation that has influenced parliaments across the world in efforts to combat the global evil of modern slavery. Other countries are following our lead, so it is of the utmost importance that we get this legislation right and properly implemented. Increasing transparency in supply chains is an essential step towards addressing human trafficking and modern slavery in organisations' supply chains in the UK and overseas.
- 1.2 The transparency in supply chains provisions are set out in section 54 of the Act (see **Annex B**), which requires large commercial organisations supplying good or services, and carrying on a business in the UK, to prepare a slavery and human trafficking statement for each financial year. The company must state the steps it has taken to ensure that slavery and human trafficking is not taking place in its business or its supply chains, or it must state it has taken no such steps.
- 1.3 Section 54 was intended to encourage the private sector to increase transparency. Government wanted to create a level playing field between companies that were already acting responsibly and companies that still needed to change their policies and practices. Although section 54(11) introduced the possibility for the Secretary of State to seek an injunction against non-compliant companies, Government was clear that it would be for consumers, investors and Non-Governmental Organisations (NGOs) to monitor compliance and apply pressure on businesses.<sup>27</sup>
- 1.4 As the first national legislation on this matter, Section 54 of the Modern Slavery Act was ground-breaking legislation. It has contributed to raising awareness of slavery and human trafficking in supply chains and has encouraged many companies to start considering and addressing the issue. However, the impact of the section has been limited to date. Evidence gathered by our Expert Advisers shows that there is a general agreement between businesses and civil society that a lack of enforcement and penalties, as well as confusion surrounding reporting obligations, are core reasons for poor-quality statements and the estimated lack of compliance from over a third of eligible firms.<sup>28</sup>
- 1.5 It is clear the current approach, while a step forward, is not sufficient and it is time for the Government to take tougher action to ensure companies are taking seriously their responsibilities to eradicate modern slavery from their supply chains. The Australian Federal Parliament, which has just passed its own Modern Slavery Act, has gone much

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<sup>27</sup> Home Office, *Transparency in supply chains: a practical guide* (p.6), 2015.

<sup>28</sup> <https://www.gov.uk/government/news/home-office-tells-business-open-up-on-modern-slavery-or-face-further-action>

further in respect of transparency of supply chains than the provisions established in section 54.

- 1.6 The reports from our Expert Advisers on transparency in supply chains will be made available on our website. We also received input from a number of Government departments and agencies. Finally, we undertook some comparative research that looked at similar provisions overseas, namely the Australian Modern Slavery Act and the US Federal Acquisition Regulation. This legislation can be found at **Annex C**.

## 2. Findings

### 2.1 Clarifying which companies are in scope

2.1.1 Most stakeholders have reported that there is a lack of clarity over which companies are in scope of section 54. Under the Act, and related secondary legislation, an organisation is in scope if it meets all of the following requirements:

- It is a commercial organisation (corporate body or partnership).
- It supplies goods or services.
- It carries on all or part of its business in the UK.
- It has an annual turnover of at least £36 million.<sup>29</sup>

The broad nature of the requirements and the lack of a specific definition for “carrying on a business” have resulted in ambiguity over which companies are in scope. This makes it difficult for external observers (NGOs or consumers) to identify which companies are expected to comply. We are aware of the difficulty of producing a comprehensive list of companies in scope of section 54, including the fact that the extraterritorial capacity of the Act makes it difficult to capture foreign companies.

2.1.2 Government could usefully look at the work done to identify employers required to comply with gender pay gap reporting. The Government Equalities Office identified a list of employers in scope of gender pay gap legislation by crosschecking UK business population estimates published by the Department for Business, Energy & Industrial Strategy with data from a commercial provider to determine legal entities. They then wrote to all the companies identified asking them to confirm whether they were in scope of the legislation.

2.1.3 We believe that **Government should establish an internal list of companies in scope of section 54 and check with companies whether they are covered by the legislation.** To avoid companies’ non-compliance, **individual companies should remain responsible for determining if they need to produce a slavery and human trafficking statement.**<sup>30</sup> **Non-inclusion in the list should not be an excuse for non-compliance.**

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<sup>29</sup> The Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015

<sup>30</sup> Henceforward in this report “modern slavery statement”

## 2.2 Improving the quality of statements

2.2.1 As well as setting a scope that is not entirely clear, the current legislation also leaves ample room for businesses to determine the contents, and therefore the quality, of statements. A company can state that it has taken no steps and still be compliant with the legislation. **Section 54(4)(b), which allows companies to report they have taken no steps to address modern slavery in their supply chains, should be removed.**

2.2.2 Section 54 currently indicates six areas that a company statement *may* cover:

- the organisation's structure, its business and its supply chains;
- its policies in relation to slavery and human trafficking;
- its due diligence processes in relation to slavery and human trafficking in its business and supply chains;
- the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;
- its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate;
- the training about slavery and human trafficking available to its staff.

The statutory guidance was revised in March 2018 to clarify that government would *expect* companies to cover these six areas.

2.2.3 We have heard strong calls to make it mandatory to report under each of these areas. While we have also heard that they might not be applicable to all sectors or businesses, we are of the view that the six headings are high-level enough to be applicable to all. ***In section 54(5) 'may' should be changed to 'must' or 'shall', with the effect that the six areas set out as areas that an organisation's statement may cover will become mandatory. If a company determines that one of the headings is not applicable to their business, it should be required to explain why.***

2.2.4 We have heard evidence both from the business sector and from civil society that better guidance is needed on the content of the statements. We recommend that ***the statutory guidance should be strengthened to include a template of the information organisations are expected to provide on each of the six areas.*** This would increase uniformity and consistency between companies' statements, making it easier for Government, civil society and consumers to analyse and compare statements. ***We also believe that guidance should make clear that reporting should include not only how businesses have carried out due diligence but also the steps that they intend to take in the future. The Independent Anti-Slavery Commissioner should oversee the guidance available to companies.***

2.2.5 There is currently no requirement for companies to disclose how far down their supply chains they have considered. We are of the view that ***the legislation should be***

**amended to clarify that companies are required to consider the entirety of their supply chains. If a company has not done so, it should be required to explain why it has not and what steps it is going to take in the future.** This would address the issue of companies offloading their responsibilities at the first tier in their supply chain or by using agency staff.

## 2.3 Embedding modern slavery reporting into business culture

2.3.1 A number of Expert Advisers have reported that in order for not just the quality of reporting to improve, but more importantly the resulting action to prevent modern slavery to be taken seriously, modern slavery reporting needs to move from being perceived as a Corporate Social Responsibility “tick-box” exercise to being regarded alongside other serious regulatory and governance obligations. Companies need to feel an equal pressure to report slavery as they do on equality and human rights. There is not yet equal pressure on companies to report their efforts to beat slavery in their supply chains. Failure to comply with modern slavery obligations should be viewed as on the same level as failure to file accurate accounts or prevent bribery and corruption. Conversely, companies that are transparent and report taking actions when instances of modern slavery are uncovered in their supply chains should be commended by the Independent Anti-Slavery Commissioner.

2.3.2 Including modern slavery reporting in companies’ annual reports would contribute to the issue being considered by businesses alongside other regulatory and human rights reporting obligations. We recommend that **the Companies Act 2006 should be amended to include a requirement for companies to refer in their annual reports to their modern slavery statement. Section 54 should be amended to impose a similar duty on non-listed companies that meet the £36 million threshold but would not be captured by the Companies Act 2006 reporting requirements.**

2.3.3 To embed modern slavery reporting further into company culture, we strongly believe that **businesses should be required to have a named, designated board member who is personally accountable for the production of the statement. Failure to fulfil modern slavery statement reporting requirements or to act when instances of slavery are found should be an offence under the Company Directors Disqualification Act 1986.**

2.3.4 We do not recommend mandating a single deadline for businesses to publish their modern slavery statements. Instead, reporting should be in line with the end of a company’s financial year, again aligning it with other core regulatory obligations.

## 2.4 Increasing transparency

2.4.1 Section 54 requires companies to publish a link to their modern slavery statements on a prominent place of their main page if they have a website. There is no obligation to upload the statements anywhere else. Two NGOs have set up repositories: TISCreport.org and Modern Slavery Registry. The majority of stakeholders reported that the existence of two different repositories was confusing and that the creation of a central government-run repository would bring clarity and consistency.

2.4.2 The Australian Modern Slavery Act 2018 requires the creation of a government-run repository known as the Modern Slavery Statements Register. Statements on the register may be accessed by the public, free of charge, on the internet. All the Expert Advisers recommend that there should be a similar repository in the UK. We agree. ***There should be a central government-run repository to which companies are required to upload their statements and which should be easily accessible to the public, free of charge.***

2.4.3 We recommend that ***statements should be dated and clearly state over which 12-month period they apply*** so as to monitor progress. ***The website hosting the repository should also clearly outline the minimum statutory reporting requirements.***

## 2.5 Monitoring and enforcing compliance

2.5.1 There is no public body in charge of monitoring compliance with section 54, as government intended the public, investors and NGOs to take that role. We have heard that monitoring would carry more weight if it was conducted by a public organisation. This should include both compliance in terms of reporting standards and quality of the statement based on the six mandated areas. ***We recommend that the Independent Anti-Slavery Commissioner should monitor compliance and report annually.*** This recommendation is supported by a number of stakeholders, providing that the office of the Independent Anti-Slavery Commissioner is resourced accordingly.

2.5.2 Almost all the Expert Advisers agree that a more robust and systematic approach to tackling non-compliance is necessary. Section 54 enables the Secretary of State to issue injunctions to non-compliant companies, but this provision has never been used. ***Government should make the necessary legislative provisions to strengthen its approach to tackling non-compliance, adopting a gradual approach: initial warnings, fines (as a percentage of turnover), court summons and directors' disqualification. Sanctions should be introduced gradually over the next few years so as to give companies time to adapt to changes in the legislative requirements.***

2.5.3 ***Government should bring forward proposals to set up or assign an enforcement body to impose sanctions on non-compliant companies. Fines levied for non-compliance could be used to fund the enforcement body.***

## 2.6 Government and the public sector

2.6.1 There was a general agreement among Expert Advisers and stakeholders consulted that government should lead by example and be covered by section 54. Some Local Authorities, NHS trusts and police forces are already publishing modern slavery statements. They are doing so on a voluntary basis as there is currently no requirement in the legislation for the public sector to report.

2.6.2 The Australian Modern Slavery Act 2018 includes reporting obligations for the public sector. This will cover the federal government and public companies that have a consolidated revenue of at least \$100 million. (see **Annex C**). The UK Prime Minister's announcement on 3 December 2018 to publish Government's first modern slavery statement next year is a welcome first step in the right direction. We support Baroness

Young's Private Member's Modern Slavery (Transparency in Supply Chains) Bill, which seeks to extend the reporting requirements in section 54 to include all public authorities.

- 2.6.3 We agree that **section 54 should be extended to the public sector. Government departments should publish a statement at the end of the financial year, approved by the Department's board and signed by the Permanent Secretary as Accounting Officer. Local government, agencies and other public authorities should publish a statement if their annual budget exceeds £36 million.**
- 2.6.4 In 2017, the UK government awarded contracts and frameworks to private companies worth £220 billion in lifetime value.<sup>31</sup> Public procurement is therefore a powerful tool to influence business practices. There have been some positive initiatives. The Welsh Government has established a Code of Practice, which encourages public authorities to ensure that employment practices are considered as part of the procurement process. We also welcome the procurement tool that the Home Office has developed and piloted for Government suppliers to help them identify potential risks in their supply chains. **Government should further strengthen its public procurement processes to make sure that non-compliant companies in scope of section 54 are not eligible for public contracts.** The US Federal Acquisition Regulation has often been mentioned as an example of best practice (see **Annex C**). Companies with federal contracts for goods and services to be acquired outside the US with an estimated value of more than \$500,000 are required to produce a compliance plan. They must also submit annual certifications regarding the implementation of the plan and associated due diligence activities. This plan should include a human trafficking policy, an employee awareness programme, an employee reporting or grievance process, a recruitment and wage plan, a housing plan (if applicable) and a violation monitoring and remediation mechanism.
- 2.6.5 The Federal Acquisition Regulation also requires that contractor performance information be collected in the Contractor Performance Assessment Reporting System (CPARS). The information collected also includes compliance with important terms and conditions (including preventing trafficking in persons). The CPARS database is used by agency source selection officials and contracting officers from across the US Government in making award decision. Public bodies in the UK voluntarily including modern slavery checks as part of their procurement process have told us it is time consuming to check manually whether bidders are in scope of section 54 and if they are, whether they have published a statement that is compliant with the legislation. **The Crown Commercial Service should keep a database of public contractors and details of compliance checks and due diligence on all relevant aspects of corporate governance carried out by public authorities. The database should be easily accessible to public authorities for use during the procurement purposes.**

## 2.7 Other issues

- 2.7.1 The power of consumers is a critical tool in influencing business behaviour in relation to modern slavery. Consumers are viewed as playing an essential role in eradicating

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<sup>31</sup> Sancroft, The Sancroft-Tussel Report: Eliminating Modern Slavery in Public Procurement, 2018.

modern slavery in the UK, yet research reviewed on consumer attitudes to modern slavery revealed that consumers are often unaware of the critical role they play.<sup>32</sup> The attitudes of consumers regarding modern slavery, and how they can be changed, remains severely under-researched. ***The Independent Anti-Slavery Commissioner should commission research into how consumer attitudes to modern slavery can be influenced. The aim of this should be for business, in partnership with civil society, to leverage purchasing power to eradicate modern slavery in supply chains. The research should feed into the Commissioner’s annual report, with recommendations for Government action as appropriate.***

- 2.7.2 On the issue of the turnover threshold for determining which companies are in scope of section 54, we did not hear many calls for it to be changed at present. Government should primarily focus on improving compliance, quality and enforcement of obligations at the current threshold. However, Government should keep the threshold of £36 million turnover under review, with the possibility of reducing the threshold over time. Specific guidance could also be addressed to companies with an annual turnover under £36 million, following the example of the Scottish Government.
- 2.7.3 We heard examples of best practice from business on how they are working proactively to identify and address modern slavery. This included training staff on identifying and reporting modern slavery and making it part of the new joiner training so that all front-line staff know the signs of modern slavery. This is a very sensible approach and we encourage business to take it up.

### **3. Summary of recommendations on transparency in supply chains**

#### **1. Clarifying the companies in scope:**

- a. Government should establish an internal list of companies in scope of section 54 and check with companies whether they are covered by the legislation.
- b. Individual companies should remain responsible for determining if they need to produce a slavery and human trafficking statement. Non-inclusion in the list should not be an excuse for non-compliance.

#### **2. Improving the quality of statements:**

- a. Section 54(4)(b), which allows companies to report they have taken no steps to address modern slavery in their supply chains, should be removed.
- b. In section 54(5) ‘may’ should be changed to ‘must’ or ‘shall’, with the effect that the six areas set out as areas that an organisation’s statement may cover will become mandatory. If a company determines that one of the headings is not applicable to their business, it should be required to explain why.

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<sup>32</sup> [Consuming Modern Slavery report](#) (2018) by Dr Michal Carrington, Prof Andreas Chatzidakis and Prof Deirdre Shaw.

- c. The statutory guidance should be strengthened to include a template of the information organisations are expected to provide on each of the six areas.
- d. Guidance should make clear that reporting should include not only how businesses have carried out due diligence but also the steps that they intend to take in the future.
- e. The Independent Anti-Slavery Commissioner should oversee the guidance available to companies.
- f. The legislation should be amended to require companies to consider the entirety of their supply chains. If a company has not done so, it should be required to explain why it has not and what steps it is going to take in the future.

### **3. Embedding modern slavery reporting into business culture:**

- a. The Companies Act 2006 should be amended to include a requirement for companies to refer in their annual reports to their modern slavery statement. Section 54 should be amended to impose a similar duty on non-listed companies that meet the £36 million threshold but would not be captured by the Companies Act 2006 reporting requirements.
- b. Businesses should be required to have a named, designated board member who is personally accountable for the production of the statement.
- c. Failure to fulfil modern slavery statement reporting requirements or to act when instances of slavery are found should be an offence under the Company Directors Disqualification Act 1986.

### **4. Increasing transparency:**

- a. There should be a central government-run repository to which companies are required to upload their statements and which should be easily accessible to the public, free of charge.
- b. Statements should be dated and clearly state over which 12-month period they apply.
- c. The website hosting the repository should also clearly outline the minimum statutory reporting requirements.

### **5. Monitoring and enforcing compliance:**

- a. The Independent Anti-Slavery Commissioner should monitor compliance.
- b. Government should make the necessary legislative provisions to strengthen its approach to tackling non-compliance, adopting a gradual approach: initial warnings, fines (as a percentage of turnover), court summons and directors' disqualification. Sanctions should be introduced gradually over the next few years so as to give companies time to adapt to changes in the legislative requirements.
- c. Government should bring forward proposals to set up or assign an enforcement body to impose sanctions on non-compliant companies. Fines levied for non-compliance could be used to fund the enforcement body.

### **6. Government and the public sector:**

- a. Section 54 should be extended to the public sector. Government departments should publish a statement at the end of the financial year, approved by the Department's board and signed by the Permanent Secretary as Accounting Officer. Local government, agencies and other public authorities should publish a statement if their annual budget exceeds £36 million.
- b. Government should strengthen its public procurement processes to make sure that non-compliant companies in scope of section 54 are not eligible for public contracts.
- c. The Crown Commercial Service should keep a database of public contractors and details of compliance checks and due diligence carried out by public authorities. The database should be easily accessible to public authorities for use during the procurement purposes.

**Consumer attitudes:** The Independent Anti-Slavery Commissioner should commission research into how consumer attitudes to modern slavery can be influenced. The aim of this should be for business, in partnership with civil society, to leverage purchasing power to eradicate modern slavery in supply chains. The research should feed into the Commissioner's annual report, with recommendations for Government action as appropriate.

# Volume III: Independent Child Trafficking Advocates (Section 48 of the Act)

## 1. Introduction

- 1.1.1 Child victims of modern slavery and human trafficking (henceforth: trafficked children) are among the most vulnerable people in our society. Local authorities are responsible for their welfare and safeguarding under the 1989 and 2004 Children Acts. However, too many children who are actual or potential victims of modern slavery and human trafficking go missing when in the care of children's services or are not identified by statutory services as victims at all, thus denying them the care they need and are entitled to.
- 1.1.2 Statutory provision for Independent Child Trafficking Advocates (ICTAs) was made in section 48 of the Modern Slavery Act 2015 (**Annex B**). They are to advocate on behalf of child victims and ensure their voices are taken into account for all decisions made about them. While most of the provisions of section 48 have not yet been commenced, an ICTA trial was conducted in several English local authorities from 2014 to 2015. In June 2016, the Government announced that it would commence section 48 and commit to a full national rollout of the ICTA service across England and Wales, but neither has yet happened. Three early-adopter sites (Greater Manchester, Hampshire and the Isle of Wight, and the whole of Wales) have been running the service, delivered by the charity Barnardo's, since January 2017. Drawing on evaluations and interim assessments of ICTA provision to date, it is clear that the added value of ICTAs is threefold:
- As a service that is independent of all other public authorities.
  - As a service that is a companion for a trafficked child, helping them to navigate towards a safer future.
  - As an expert resource for public authorities when knowledge of child trafficking may be low and the need to ensure protection and care of a trafficked child is high.
- 1.1.3 In the period since the introduction of the ICTA service in some regions, the scale and nature of child trafficking in the UK has been changing. In 2017, numbers of potential child victims referred into the National Referral Mechanism<sup>33</sup> (NRM) in the UK rose 66% to 2,118, of which 677 (32%) were UK nationals.<sup>34</sup> This is a rise of 115% since 2015 where there were 982 referrals made, of which just 127 (13%) were UK nationals.<sup>35</sup> In recent years, the highest numbers of child victims have been UK nationals due to several

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<sup>33</sup> The National Referral Mechanism (NRM) is a framework for identifying victims of human trafficking and ensuring they receive the appropriate protection and support.

<sup>34</sup> [National Referral Mechanism Statistics](#) – End of Year Summary 2017, National Crime Agency, p11

<sup>35</sup> [National Referral Mechanism Statistics](#) – End of Year Summary 2015, National Crime Agency, p9

factors, including the increasing phenomenon of county lines and a greater recognition of child sexual exploitation (CSE) as a form of child trafficking. Rising numbers of foreign national unaccompanied children are also being referred.

- 1.1.4 Interim findings of an assessment of the three early adopter sites published by the Home Office in July 2018 found that there was a difference of needs for UK trafficked children and unaccompanied (usually foreign national) trafficked children.<sup>36</sup> While the ICTAs did a lot of one-to-one work with unaccompanied children, their work with UK children tended to focus more on liaising with other children's services professionals around the child. Sensitive to these findings, a revised model of service is now being trialled in the West and East Midlands and the London Borough of Croydon. This continues to provide a one-to-one ICTA service to trafficked children without effective parental responsibility in the UK (mainly foreign children), while introducing ICTA regional coordinators to work with statutory bodies looking after trafficked children that do have effective parental responsibility in the UK to foster more effective multi-agency working. The three other early adopter sites are transitioning to this model of provision, which undoubtedly ensures a more financially sustainable ICTA service in response to increasing numbers of UK children being referred for cases of county lines and CSE.
- 1.1.5 Scotland and Northern Ireland have established Independent Guardians nationally under their own legislation (**Annex C**). The law on guardians was enacted in Northern Ireland in January 2018 and the service became operational in April 2018, delivered by Barnardo's Independent Guardianship Service. It initially focussed only on foreign national children and has gradually turned attention to include UK citizen trafficked children. In December 2018, a total of 47 foreign national children and 7 UK citizen children had been referred to the service. The Scottish Guardianship Service supports children from outside the European Union who have been separated from their parents or care-givers. It has been operational since September 2010 and has an average of 160 open cases per year. These guardianship models have acted as very useful comparators to inform our discussion and recommendations on how the service in England and Wales should develop.
- 1.1.6 The Review gathered evidence on how well the trial and early adopter ICTA services have been working to date, how the service should be developed further, and how to ensure the right support for victims given their changing profile and evolving forms of child exploitation. We received input from Barnardo's as the organisation responsible for ICTA service delivery in England and Wales; the public authorities that work with the ICTA service to safeguard children (local authority children's services, law enforcement and criminal justice representatives); the Office of the Children's Commissioner and the former Independent Anti-Slavery Commissioner<sup>37</sup>; and a number of NGOs with expertise in child trafficking. We also engaged with the guardianship services and public authorities in Northern Ireland and Scotland, as well as other European countries, to understand the architecture and history of guardianship services for trafficked and separated children in

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<sup>36</sup> An Assessment of Independent Child Trafficking Advocates, [Interim findings](#), July 2018, p9

<sup>37</sup> Kevin Hyland, the first Independent Anti-Slavery Commissioner, left the position in July 2018. The recruitment process for the next Commissioner was ongoing throughout the evidence-gathering stage of this Review.

those jurisdictions. A full list of participants to the Review is at **Annex E**. The reports from our Expert Advisers will be made available on our website.

- 1.1.7 We have heard representations from leading NGOs that the ICTA service should extend to all unaccompanied asylum-seeking children in England and Wales (as is the case in Scotland and a number of countries in the European Union). We are aware that some unaccompanied asylum-seeking children have been trafficked but do not identify as such, and some unaccompanied asylum-seeking children are vulnerable to being trafficked in future. We are sympathetic to the case for enhanced support for such children, but we consider this question to fall outside the scope of the Modern Slavery Act and hence the terms of reference of this Review.

## 2. Findings

### 2.1 The ICTA Service – the new model of provision

- 2.1.1 A revised ICTA model is currently being rolled out in the West Midlands, East Midlands and imminently in Croydon, and the three existing early adopter sites are transitioning to it. This model provides a continued one-to-one ICTA service for children without effective parental responsibility in the UK, while introducing a regional coordinator to support public authorities already working with children that do have effective parental responsibility in the UK. In practice, this means that foreign national children, who are much less likely to have any effective parental responsibility in the UK, are more likely to receive a one-to-one ICTA service than UK citizen children.
- 2.1.2 Most of the stakeholders who gave evidence to the Review were supportive of this new model, including ICTA service providers and public authorities. They highlighted that UK citizen trafficked children tend to have different needs to foreign national children, as identified in the 2018 interim findings on the ICTA service in the early adopter sites.<sup>38</sup> We also heard that UK citizen children tend to have existing local authority support networks in their lives upon referral compared to foreign national children, making an ICTA's direct involvement and expertise so much more beneficial for the latter group. Indeed, some ICTA practitioners told us that they sometimes saw themselves as an unnecessary addition to UK citizen children's support networks, and these children themselves at times found the ICTA's involvement to be confusing. As such we recommend that ***the Government should continue to roll out the revised model of support that provides a one-to-one ICTA service to children without effective parental responsibility and a consultative service through a regional coordinator for those with effective parental responsibility.***
- 2.1.3 Nonetheless, some stakeholders called for flexibility in the approach to allocation of a one-to-one ICTA service where there would be clear benefit for that child even if they are considered to have "effective" parental responsibility. ***The allocation of a one-to-one ICTA should be tailored to assess the risk, vulnerability and need for each individual child in consultation with other public authorities. There should not be a presumption that a child with effective parental responsibility does not require a***

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<sup>38</sup> An Assessment of Independent Child Trafficking Advocates, [Interim findings](#), July 2018, p13

***one-to-one service. A child's needs should be considered on a case-by-case basis where there is evidence a greater level of support is required.***

## 2.2 Duration of an ICTA service

- 2.2.1 Currently, the Home Office's Interim Guidance for the three ICTA early adopter sites states that ICTAs are expected to provide support to a child for 18 months or until the child reaches the age of 18 (whichever is sooner).<sup>39</sup> In cases where the child is involved in immigration or criminal justice processes, the ICTA is to provide continued support to the child until the child's involvement in those processes has concluded, or until the child reaches 18 years of age, at which point they transition to adult provision.
- 2.2.2 We heard that the transition from children's to adult services can be a very distressing experience for trafficked young people, with gaps, delays and omissions in the transfer of support and information. ICTA service providers and NGOs told us that traffickers take advantage of the child's vulnerability and the local authority's weakness at this point to induce them back into slavery. ICTA practitioners and managers also told us that there is currently limited knowledge in adult services of the needs of trafficked young people transitioning into them. It cannot be right that vulnerable young people, many of whom are 16 or 17 when they are referred to the ICTA service, are then denied the continued support and benefit of their ICTA a few months later solely because they have reached their 18<sup>th</sup> birthday.
- 2.2.3 There was consensus across stakeholder groups that young people should continue to have access to an ICTA beyond the age of 18 if their needs or circumstances require it. It appears logical to us that the continuation of access to service provision should be on the same terms as leaving care provision, which is up to the age of 21, or up to 25 if in full time education. We recommend that ***the Government should extend the ICTA service to young people who need the service over the age of 18 and up to 21 or 25, subject to their circumstances.***
- 2.2.4 Similarly, it seems only right that where a child has a complex case or needs requiring longer than 18 months to resolve, a judgement should be made on an individualised basis for a longer duration of ICTA provision. ***The Government should remove the 18-month time limit for ICTA provision for those children that require a longer duration of support.*** And whatever the age a young person transitions between services, ***the Government should provide more effective support and guidance for trafficked young people transitioning from children's to adult services.***
- 2.2.5 We recognise that the recommendations to extend the service beyond 18 years of age and 18 months for those children that require it will place some additional financial burden on the service. However, in this instance we consider the social benefit it will provide to that minority of young people concerned, as well as the imperative for ICTAs and public authorities to find durable solutions for them, to outweigh the marginal financial cost incurred.

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<sup>39</sup> [Interim Guidance](#) for the three Independent Child Trafficking Advocates Early Adopter Sites – Greater Manchester, Wales and Hampshire, January 2017, p10

## 2.3 Children going missing from the ICTA service

- 2.3.1 According to ECPAT UK, for trafficked children reported missing in 2017, there were an average of 7.2 missing incidents per child.<sup>40</sup> We also heard that some Local Authorities do not have a marker on their systems to identify if a child has been trafficked; consequently they do not pass on the information that the child has been trafficked to others working with the child or to another Local Authority if the child is moved to another area. This is very concerning.
- 2.3.2 With regard to children going missing from the ICTA service, the current practice is to close cases after six months if all options for locating the child have been exhausted. We heard that 11% of cases in the three early adopter sites were closed as a result of this. If the case has been closed and that child is found again, they can continue their time in the ICTA service even if they are found in a different ICTA area. However, we do not think a missing child's case should be closed until they reach the age of 18 while missing, and we look to the good practice in Northern Ireland where the guardians and Health and Social Care Trusts work with the police to regularly review cases of a child who goes missing, ensuring that all efforts are pursued to recover the child and to share new information about their possible whereabouts. **Cases of children that go missing should be kept open and continue to be discussed until the child is found.**
- 2.3.3 Our attention was also drawn to the importance of understanding what happens to children while they are missing, both in order to build evidence on potential perpetrators involved in their disappearance, and to assess any additional needs and vulnerabilities they may have developed during that time. **Comprehensive "return home" interviews should be offered and conducted with the child's consent when they are found so that their case with an ICTA can be reopened with stronger evidence behind their disappearance and an understanding of their needs.**

## 2.4 Caseloads

- 2.4.1 We heard from ICTA practitioners and managers that excessive caseloads of up to 25 children per ICTA and long travel times across large geographical areas can present challenges in responding to demand, particularly for those children with more complex needs. They told us that while face-to-face contact with a child is relatively frequent just after referral, this contact typically falls to once per month for most children. In Northern Ireland, guardians' caseloads are capped at 12 children at any one time, and contact with each child is set at a minimum of once per week to ensure frequent contact and depth of knowledge about each case. Similar caseloads are the norm in the Netherlands where the service is recognised as one of the best in Europe. We recommend that **caseloads for each ICTA should be capped at a modest number to ensure regular contact and quality provision. The Government should conduct further research into the optimum contact time between ICTA and child, and the optimum caseload per ICTA, to deliver a service that meets every child's best interests. Caseload levels should be monitored by the Independent Anti-Slavery Commissioner and the**

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<sup>40</sup> Every Child Protected Against Trafficking (ECPAT UK) and Missing People, [Still in harm's way](#). An update report on trafficked and unaccompanied children going missing from care in the UK, December 2018. Page 23.

**Children’s Commissioners for England and Wales.** Again, we recognise that capping caseloads is likely to require the recruitment of more ICTAs and incur greater costs on the service, but the evidence we have seen points to the fact that the ICTA’s value lies in their ability to build frequent and trusting relationships with young people, and this can only be done by prioritising depth of contact rather than breadth.

## 2.5 Cooperation with other public authorities

- 2.5.1 A recurring theme across the evidence we received was that a large part of the ICTAs’ influence and success in their regions depends on fostering strong collaborative relationships with the public authorities they are working alongside. We heard that in some Local Authorities, social workers are not aware of what the NRM is or that they are a first responder.<sup>41</sup> Participants from the ICTA service, local authorities and law enforcement told us that ICTAs have helped to raise awareness of child trafficking in local children’s services where social workers do not necessarily have capacity to develop the specialist knowledge of legislation, policy, research and practice skills required. This in turn has helped children’s services professionals to feel more confident in their role with trafficked children. Because the ICTAs’ expertise is cumulative, they are better placed to respond to evolving forms and trends of exploitation such as child criminal exploitation.
- 2.5.2 There are clear examples of excellent models of cooperation in our evidence that work to reach solutions in the child’s best interests. We learned from our consultations with Greater Manchester and Wales that a large part of ICTAs’ effectiveness was due to them being strongly visible within wider local safeguarding services and collaborating closely with other public authorities. In Wales, we heard that increased identification of children and referrals into the NRM were due to the ICTAs’ presence, as well as positive multi-agency collaboration.
- 2.5.3 These good practice examples should be standardised across regions as the national rollout continues. ***The Government needs to establish a National Protocol for the ICTA service detailing how public authorities should collaborate with ICTAs to ensure a consistent quality of service based on best practice examples. The protocol should specify the ways in which public authorities will be required to pay due regard to ICTAs and share information with them, when sections 48 (6)(e)(i) and (ii) of the Act are brought into effect. This collaboration should be monitored by the Independent Anti-Slavery Commissioner in conjunction with the Children’s Commissioners for England and Wales and the findings reported in the Independent Anti-Slavery Commissioner’s annual report.***
- 2.5.4 ***The National Protocol should stipulate that each region undertakes a preliminary audit of existing child trafficking services available and construct a bespoke ICTA service that complements the work of other public authorities.***

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<sup>41</sup> First Responders are specified statutory authorities and non-governmental organisations who have a responsibility to identify potential victims and refer cases to the UK Human Trafficking Centre (UKHTC) Competent Authority of the NRM.

## 2.6 Presumption of age (section 51)

- 2.6.1 Section 51(2) of the Act provides that until an assessment of the person's age is carried out by a local authority or the person's age is otherwise determined, the public authority must assume for the purposes of its functions that the person is under 18 (**Annex B**). While ICTA managers and practitioners told the Review that the presumption of age is being upheld and age assessments conducted appropriately in most cases, we also heard evidence of inconsistencies and concerns in the way these measures have been applied by local authorities. We heard that in Hampshire, for example, many age assessment challenges have occurred, owing to the mixed level of understanding of social workers about the process and lack of age assessment training being made available to them. This has led to legal challenges with some local authorities having limited knowledge or skill to manage such challenges. We also heard that some young people are not provided with an ICTA until their age assessment has been undertaken, which contravenes the provision under section 51. ***The ICTA service should work with regional providers to train public authorities in a consistent application of best practices in relation to age assessment. This framework should be included in the National Protocol.***
- 2.6.2 Section 51(1) of the Act provides that the presumption of age applies where public authorities have "reasonable grounds to believe" a person is a victim of human trafficking and has "reasonable grounds to believe" that they may be under 18. We heard from NGO stakeholders that these references to "reasonable grounds" are undefined and confusing for public authorities, not least because it is the same term used for Reasonable Grounds decisions under the NRM, but completely unrelated to it. We accept the advice of the NGOs and recommend that ***the phrase "reasonable grounds" should be removed from section 51 of the Act, as we recommend it is removed from section 48 at paragraph 2.9.3 of this report. The Government should issue further guidance on the way public authorities should interpret grounds for "belief" that a child is under 18 and "presumption of age" consistently for the protection of all trafficked children.***

## 2.7 Monitoring and Evaluation

- 2.7.1 As the ICTA service continues to be rolled out and embeds itself among wider children's social services, it is crucial to ensure it maintains its utility, relevance and sustainability to work with trafficked children. This includes ensuring caseloads are appropriate and contact with the child is frequent (recommendation at 2.4.1), and that the service is structured to respond effectively to the evolving nature of child trafficking, including domestically-focussed exploitation such as county lines and CSE. There should also be frequent assessment of how the service and public authorities are promoting children's well-being and acting in their "best interests", as required by section 48(4) of the Act. ***Close monitoring of the ICTA service needs to continue in order to ensure ICTA practitioners are acting in the child's best interests and resource is being allocated appropriately.***
- 2.7.2 It was recommended to us by some NGOs and public authorities that clearer and more joined-up data-collection processes need to be established about the children entering

and going through the service. On a practical level this would help to reduce the number that go missing between identification and referral by the authorities. On a more strategic level, data on the profile and needs of children, number and productivity of ICTA practitioners and managers, and impact of the activities and interventions undertaken would help to understand the costs and benefits of the service on different cohorts of trafficked children in order to allocate funding and set objectives more effectively.

**Monitoring needs to be supported by much more comprehensive data gathering on what happens to children during and after the ICTA service to assess value for money and set direction for the service.**

2.7.3 **The monitoring and evaluation role should be undertaken by the Independent Anti-Slavery Commissioner in conjunction with the Children's Commissioners for England and Wales.**

## 2.8 Qualifications and Training

2.8.1 There was a mix of views from our contributors on the type and level of qualifications required of ICTAs to perform their duties under section 48 effectively. The Dutch guardianship service, often described as one of the leading models in Europe, employs qualified social workers. We heard that the Northern Irish guardianship service has very high qualification requirements for their practitioners, including five years post-qualification social work experience, while the Scottish Guardianship Service has lower formal qualification requirements. Both services are working well. For the service in England and Wales, the majority of respondents thought that ICTAs should not be required to have formal social work qualifications at the point of recruitment, but rather that appointments should be based on characteristics, potential and experience of working with children to encourage a range of applicants with a wide pool of expertise. We agree with this view and **recommend that ICTAs should not be required to have formal social work qualifications on appointment but should have other relevant experience or qualifications relevant to child trafficking and criminal justice, social care, asylum and immigration.**

2.8.2 We heard from many contributors across sectors that **as the service establishes itself nationwide, ICTAs should have access to a high quality standardised training offer devised and delivered by one - or a number of - independent providers.** The curriculum should be agreed and developed at an early stage between the Home Office, the ICTA managers and practitioners, and the provider(s) chosen to deliver the training. It should enlist the expertise of all public authorities working with trafficked children and be updated frequently with their input to ensure it keeps pace with evolving forms of exploitation and developing procedural or legal issues. On this latter point, a **key part of the training must be to develop the ability to gain access to legal support quickly for children facing immigration issues** so that ICTAs can confidently fulfil their requirement under the Act to assist children in obtaining legal advice and representation, including by appointing and instructing legal representatives to act on the child's behalf.<sup>42</sup> It could be helpful to look at the Dutch guardianship service that provides rigorous

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<sup>42</sup> Section 48(5) of the Modern Slavery Act 2015

standardised initial training (including legal training) to its guardians and then requires them to validate further specialist training every year.

## 2.9 Terminology

- 2.9.1 We have heard evidence from frontline practitioners that the title “Independent Child Trafficking Advocates” causes some degree of confusion and misunderstanding of the role’s purpose. Indeed, ICTAs provide a service to trafficked children that goes beyond just “advocacy”, developing a holistic understanding of their needs and making decisions on their behalf in their best interests. This is a role more akin to a “guardian”. At a practical level, the title of “guardian” aligns with neighbouring services in Northern Ireland and Scotland, is commonly applied in other European jurisdictions, and is better understood and applied by children. **We recommend that the Government should rename ICTAs to be commonly known as “Independent Guardians”. It is not necessary to change the statutory title in section 48 in the immediate future.**
- 2.9.2 Currently, section 48 of the Act makes provisions for ICTAs to work with children that are believed to be “victims of human trafficking”. Section 51 on the presumption of age also refers only to “victims of human trafficking”. We find this terminology confusing, as human trafficking is only one type of exploitation contained within the umbrella term of “modern slavery” in the Act. In almost all other parts of the Act, the offence is described as “slavery and human trafficking”. **The wording of section 48 should be amended to ensure all children and young people who are believed to have been victims of human trafficking and all other forms of modern slavery are eligible for the ICTA service. The Act should be amended in the same way at section 51 where references to “victims of human trafficking” are made.**
- 2.9.3 We are also concerned about the term “reasonable grounds” being used in section 48 to determine the eligibility of a trafficked child to receive an ICTA. We agree with a number of NGOs who consider this term to be confusing, given that it is also used in the NRM determination process and an NRM Reasonable Grounds decision is not a requirement for gaining access to an ICTA. **All references to “reasonable grounds” should also be removed from section 48 of the Act.**

## 2.10 The ICTA Service National Rollout

- 2.10.1 The evidence provided to this Review strongly supports the findings from the ICTA trial and early-adopter evaluations that have preceded and run alongside it: the independence and multidisciplinary expertise of ICTAs have provided real benefit to trafficked children and the children’s services professionals that work with them. As such, all the evidence points to recommending that **section 48 should be commenced and the full roll out of the ICTA service across England and Wales should take place as soon as possible, with the service operating in accordance with the methods and principles we have recommended in this report.**

### **3. Summary of Recommendations on Independent Child Trafficking Advocates**

#### **1. The ICTA Service – the new model of provision:**

- a. The Government should continue to roll out the revised model of support that provides a one-to-one ICTA service to children without effective parental responsibility and a consultative service through a regional coordinator for those with effective parental responsibility.
- b. The allocation of a one-to-one ICTA should be tailored to assess the risk, vulnerability and need for each individual child in consultation with other public authorities. There should not be a presumption that a child with effective parental responsibility does not require a one-to-one service. A child's needs should be considered on a case-by-case basis where there is evidence a greater level of support is required.

#### **2. Duration of an ICTA service:**

- a. The Government should extend the ICTA service to young people who need the service over the age of 18 and up to 21 or 25, subject to their circumstances.
- b. The Government should remove the 18-month time limit for ICTA provision for those children that require a longer duration of support.
- c. The Government should provide more effective support and guidance for trafficked young people transitioning from children's to adult services.

#### **3. Children going missing from the ICTA service**

- a. Cases of children that go missing should be kept open and continue to be discussed until the child is found.
- b. Comprehensive "return home" interviews should be offered and conducted with the child's consent when they are found so that their case with an ICTA can be reopened with stronger evidence behind their disappearance and an understanding of their needs.

#### **4. Caseloads:**

- a. Caseloads for each ICTA should be capped at a modest number to ensure regular contact and quality provision.
- b. The Government should conduct further research into the optimum contact time between ICTA and child, and the optimum caseload per ICTA, to deliver a service that meets every child's best interests. Caseload levels should be monitored by the Independent Anti-Slavery Commissioner and the Children's Commissioners for England and Wales.

#### **5. Cooperation with other public authorities:**

- a. The Government needs to establish a National Protocol for the ICTA service detailing how public authorities should collaborate with ICTAs to ensure a consistent quality of service based on best practice examples. The Protocol should specify the ways in which public authorities will be required to pay due regard to ICTAs and share information with them, when sections 48 (6)(e)(i) and (ii) of the Act are brought into effect. This collaboration should be monitored by the Independent Anti-Slavery Commissioner in conjunction with the Children's Commissioners for England and Wales and the findings reported in the Independent Anti-Slavery Commissioner's annual report.
- b. The National Protocol should stipulate that each region undertakes a preliminary audit of existing child trafficking services available and construct a bespoke ICTA service that complements the work of other public authorities.

## **6. Presumption of age (section 51):**

- a. The ICTA service should work with regional providers to train public authorities in a consistent application of best practices in relation to age assessment. This framework should be included in the National Protocol.
- b. The phrase "reasonable grounds" should be removed from section 51 of the Act. The Government should issue further guidance on the way public authorities should interpret grounds for "belief" that a child is under 18 and "presumption of age" consistently for the protection of all trafficked children.

## **7. Monitoring and Evaluation:**

- a. Close monitoring of the ICTA service needs to continue in order to ensure ICTA practitioners are acting in the child's best interests and resource is being allocated appropriately.
- b. Monitoring needs to be supported by much more comprehensive data gathering on what happens to children during and after the ICTA service to assess value for money and set direction for the service.
- c. The monitoring and evaluation role should be undertaken by the Independent Anti-Slavery Commissioner in conjunction with the Children's Commissioners for England and Wales.

## **8. Qualification and Training:**

- a. ICTAs should not be required to have formal social work qualifications on appointment but should have other relevant experience or qualifications relevant to child trafficking and criminal justice, social care, asylum and immigration.
- b. As the service establishes itself nationwide, ICTAs should have access to a high quality standardised training offer devised and delivered by one or a number of independent providers. A key part of the training must be the ability to develop the ability to gain access to legal support quickly for children facing immigration issues.

## **9. Terminology:**

- a. The Government should rename ICTAs to be commonly known as “Independent Guardians”. It is not necessary to change the statutory title in section 48 in the immediate future.
- b. The wording of section 48 should be amended to ensure all children and young people who are believed to have been victims of human trafficking and all other forms of modern slavery are eligible for the ICTA service. The Act should be amended in the same way at section 51 where references to “victims of human trafficking” are made.
- c. All references to “reasonable grounds” should be removed from section 48 of the Act.

**The ICTA Service National Rollout:** Section 48 should be commenced and the full roll out of the ICTA service across England and Wales should take place as soon as possible, with the service operating in accordance with the methods and principles we have recommended in this report.

# Volume IV: Legal Application of the Modern Slavery Act (Sections 1-3, 8-10 and 45 of the Act)

## 1. Introduction

- 1.1 The Modern Slavery Act 2015 (“the Act”) is a ground-breaking piece of legislation. Four years after it received Royal Assent, and as other countries are following our lead and developing similar legislation, it is critical to consider the legal application of the Act. In particular, this Review has looked at the definition of exploitation under the Act and considered whether it is sufficiently flexible to allow for new and emerging forms of slavery and human trafficking to be captured. We have also looked in more detail at two provisions created by the Act: Slavery and Trafficking Reparation Orders and the statutory defence.
- 1.2 Section 3 of the Act (see **Annex B**) sets out the definition of exploitation. However, the construction of the legislation means it cannot be read in isolation and must be considered alongside section 1 on slavery, servitude and forced or compulsory labour and section 2 on human trafficking. Under the Act, a person is exploited if one or more of the following offences applies:
- Slavery, servitude and forced or compulsory labour (section 1 of the Act)
  - Sexual exploitation (defined in the Protection for Children Act 1978 and the Sexual Offences Act 2003)
  - Removal of organ(s) (defined in the Human Tissue Act 2004)
  - Securing services etc. by force, threats or deception
  - Securing services etc. from children and vulnerable persons.
- 1.3 Sections 8-10 of the Act (see **Annex B**) make provision for courts to make a Slavery and Trafficking Reparation Order (henceforth Reparation Order) against a person who is convicted of an offence under sections 1, 2 or 4 of the Act.<sup>43</sup> There also needs to be a Confiscation Order in respect of that offence for the Reparation Order to be made. A Reparation Order requires the convicted individual to pay compensation to his or her victim(s).

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<sup>43</sup> A person commits an offence under section 4 of the Act if the person commits any offence with the intent to commit an offence under section 2, including aiding, abetting, counselling or procuring an offence.

- 1.4 Section 45 of the Act (see **Annex B**) provides a statutory defence for victims of modern slavery, for certain criminal offences which they were compelled to carry out as a result of their exploitation, such as being forced to produce or sell illegal drugs. It does not apply to the most serious crimes, such as sexual offences or offences involving serious violence. The statutory defence was designed to provide further encouragement to victims of slavery to come forward and give evidence without fear of being convicted for offences connected to their slavery or trafficking situation.
- 1.5 The Review gathered evidence on these three topics. We took evidence from law enforcement and the criminal justice system, as well as from a number of NGOs with legal expertise in human trafficking. We also received input from the Director of Public Prosecutions at the Crown Prosecution Service and the former Independent Anti-Slavery Commissioner. A full list of participants is at **Annex E**. The reports from our Expert Advisers on the legal application of the Act will be made available on our website.

## 2. Sections 1-3: Definition of the offences

### 2.1 Meaning of exploitation (section 3) – new forms of modern slavery and trafficking

- 2.1.1 There was no consensus among stakeholders regarding the current scope of the Act’s definition of exploitation, and specifically whether it was broad enough to capture new and emerging forms of modern slavery and trafficking.
- 2.1.2 Some stakeholders expressed strong views that the current definition should be amended to explicitly reflect new and emerging forms of exploitation, such as county lines and orphanage trafficking. There were concerns that individuals committing orphanage trafficking and county lines offences could escape prosecution as these offences are not explicitly referenced on the face of the Act.
- 2.1.3 However, the Crown Prosecution Service (CPS) has found the definition to be broad enough to prosecute a range of offences, including recently county lines offending, and does not suggest a new definition of exploitation. The Modern Slavery Act has been used to prosecute 285 defendants and convict 38 offenders between 2015 and 2017 (latest data available), with the number of prosecutions under the Act increasing year on year. Arrests and prosecutions commenced in a specific year may not result in convictions until subsequent years, due to the time it takes to investigate, gather evidence and prosecute at court.

<b>Prosecutions</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>Total</b>
Previous slavery and trafficking legislation	160	65	58	<b>283</b>
Modern Slavery Act 2015	26	80	179	<b>285</b>

Convictions	2015	2016	2017	Total
Previous slavery and trafficking legislation	45	74	31	<b>150</b>
Modern Slavery Act 2015	-	1	37	<b>38</b>

Source: 2018 UK Annual Report on Modern Slavery

2.1.4 The CPS has reported that the definition of exploitation is flexible enough to enable them to bring prosecutions in a broad range of cases. It has warned against expanding the scope of the meaning of exploitation or defining exploitation so precisely that it would lack flexibility when applying the legislation to a changing profile of criminal conduct.

2.1.5 We agree. **Section 3 on the meaning of exploitation should not be amended as it is sufficiently flexible to meet a range of circumstances, including new and emerging forms of modern slavery. While we are in no doubt about the seriousness of new types of exploitation that have come to light since the passing of the Act, such as county lines and orphanage trafficking, it is not practical to amend legislation every time a new form of exploitation is identified. Government instead should produce policy guidance to assist in the interpretation of the Act, building on the Home Office Typology of Modern Slavery research. This should be regularly updated to respond to new and emerging trends and should give examples of the types of exploitation that can potentially be prosecuted under the Act, including orphanage trafficking and county lines.**

## 2.2 Standalone offence of exploitation

2.2.1 Some stakeholders have suggested that there should be an additional category of offence in the Act for exploitation offences, where the exploitation does not meet the threshold for slavery, servitude and forced or compulsory labour. For example, law enforcement agencies reported they have sometimes found the definition of exploitation a challenge to use, particularly where the boundary between poor employment conditions and forced or compulsory labour is not clear.

2.2.2 This issue was considered by the Joint Select Committee on the Draft Modern Slavery Bill, in 2014. Government's view, expressed in its response to that Committee's report, was that adding a standalone offence for exploitation risked diluting the offences of slavery and human trafficking.<sup>44</sup> Allowing a much lower level of exploitation to be captured rather than relying on other existing offences would weaken the Act and divert attention from serious abuse.

2.2.3 We agree. Section 3 on the meaning of exploitation should not be amended to include a standalone offence of exploitation as it is sufficiently flexible to meet a range of circumstances. Exploitation that does not meet the threshold for slavery, servitude and

<sup>44</sup> Government Response to the Joint Committee on the Draft Modern Slavery Bill Report, Session 2013-14 HL Paper 166 / HC 1019, Cm 8889, June 2014.

forced or compulsory labour can be addressed through the Gangmasters and Labour Abuse Authority and civil enforcement routes, including by employment tribunals.

## 2.3 Definition of human trafficking (section 2)

2.3.1 Stakeholders and Expert Advisers have noted that the definition of human trafficking in section 2(1) focuses heavily on the facilitation of travel of the victim:

*“A person commits an offence if the person arranges or facilitates the travel of another person (“V”) with a view to V being exploited.”*

2.3.2 This was raised as a concern by a number of stakeholders as there is no mention of ‘travel’ *per se* in the international definition of trafficking. Both the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (the Palermo Protocol) and the EU Directive on Human Trafficking (Directive 2011/36/EU) define trafficking as a process that involves three stages<sup>45</sup>:

- The Act: *“recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons”*;
- The Means: *“by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”*;
- The Purpose: *“exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”*.

2.3.3 Some stakeholders reported their concern that the emphasis on ‘travel’ in the Act could mean that offenders not directly involved in the transportation or transfer of the victim could escape prosecution. The notion of travel can also prove problematic when the victim arranges their own travel into and around the United Kingdom, and to the site of exploitation. This often occurs for victims from European Union countries who are currently free to enter the UK and travel around the country, and for victims who are deceived as to the conditions of work, or when those conditions deteriorate over time.

2.3.4 During the passage of the Bill, the Government’s position was that the Palermo Protocol implicitly recognises movement in its definition of human trafficking and that it is explicitly referenced in section 2(3) of the Act<sup>46</sup>:

*“A person may in particular arrange or facilitate V’s travel by recruiting V, transporting or transferring V, harbouring or receiving V, or transferring or exchanging control over V.”*

2.3.5 The CPS reported that it takes a broad interpretation of what is meant by ‘travel’, including movement over a very small space. This approach has not been challenged yet

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<sup>45</sup> International law is clear that the ‘means’ element of the definition does not apply for children as children cannot consent to being exploited

<sup>46</sup> The Parliamentary Under-Secretary of State for the Home Department (Karen Bradley); Hansard, Modern Slavery Bill, Public Bill Committee, Thursday 4 September 2014 (Afternoon), Column 151

and the CPS does not feel that a change is needed as long as their interpretation continues to be accepted.

2.3.6 While the definition of human trafficking has not yet proved an issue, the magnitude of the debate surrounding it suggests it is not as clear as it could be, carrying the risk that a future challenge results in an overly narrow interpretation. Some of our Expert Advisers have recommended that section 2 should be amended now to clarify the position. We are concerned that the Act does not mirror the Palermo Protocol and the EU Directive in its structure, however, it is too early to determine if this is causing issues in securing prosecutions. ***We therefore recommend the Independent Anti-Slavery Commissioner should monitor and review the outcomes of prosecutions and appeals to ensure the Courts are not taking an overly narrow interpretation of what constitutes trafficking under section 2. The Commissioner should report her findings in her annual report, and Government should be prepared to bring forward amendments to the legislation if the Commissioner identifies an issue with the interpretation of section 2.***

## 2.4 How the offences relate to children

2.4.1 Both the Palermo Protocol and the EU Directive make it clear that the ‘means’ element of human trafficking does not apply for children as a child cannot consent to being exploited, even if he or she agrees to the ‘act’ element. Several Expert Advisers reported concerns from stakeholders that this is not clearly reflected in the Act. We have heard concerns about two subsections of the Act in particular.

2.4.2 Section 2(2) was highlighted as particularly problematic:

*“It is irrelevant whether V consents to the travel (whether V is an adult or a child).”*

This was reported as confusing as it is limited to consent to travel only, although international law makes it clear that a child is not able to consent at all.

Similar concerns were voiced for section 1(5):

*“The consent of a person (whether an adult or a child) to any of the acts alleged to constitute holding the person in slavery or servitude, or requiring the person to perform forced or compulsory labour, does not preclude a determination that the person is being held in slavery or servitude, or required to perform forced or compulsory labour.”*

This does not make it clear that a child is not able to consent to being held in slavery, servitude or forced or compulsory labour.

We agree with these concerns. ***Section 1(5) and section 2(2) should be amended to reflect more clearly that a child is not able to consent to any element of their trafficking.***

### 3. Sections 8-10: Reparation Orders

#### 3.1 Use and awareness of Reparation Orders

- 3.1.1 Sections 8-10 of the Act make provision for courts to make Reparation Orders against a person who is convicted of an offence under sections 1, 2 or 4 of the Act. There also needs to be a Confiscation Order in respect of that offence for the Reparation Order to be made. The intention of this provision is to require convicted offenders to pay reparation to their victim(s) in respect of the exploitation and degradation they have suffered.
- 3.1.2 We were disappointed to note that between the coming into force of the Modern Slavery Act to December 2017 (latest available data) no Reparation Orders were made. Although we have been informed anecdotally of at least two cases in which a Reparation Order has been made, which we expect to be evidenced in future data releases, it is clear that this intention is not being realised. The lack of Reparation Orders also means it has not been possible for us to assess their effectiveness.
- 3.1.3 As set out in paragraph 1.3, there is a relatively narrow set of circumstances which allow a Reparation Order to be made. In cases where a conviction has been secured under other legislation, for example controlling prostitution, the Court can make use of Compensation Orders, which provide very similar powers to Reparation Orders, though unlike Reparation Orders, they are not contingent on a successful Confiscation Order. We heard from stakeholders that there is low awareness of Reparation Orders among participants in the criminal justice system, and confusion about the differences between Reparation Orders and Compensation Orders. **Compensation for victims ought to be at the forefront of the Court's mind. The Sentencing Council should include in their forthcoming Modern Slavery Act sentencing guidelines a reminder for judges of their responsibility to consider Reparation Orders in every case where it is appropriate to do so.**
- 3.1.4 Police and the CPS are increasingly seeking to pursue "victimless" prosecutions, where victims are not called as witnesses (either because there is sufficient evidence without their testimony, or the victims are not identified). While this allows victims to move on with their lives without undergoing the trauma of recalling their experiences in court, it may make it more difficult to get compensation to victims, if there is no reason for the police to maintain contact with them. **Compensation for victims ought to be made more easily available to all known victims of a convicted perpetrator, regardless of whether they give evidence in Court. The police need sensitively to maintain contact with victims throughout the course of an investigation and trial, ensuring victims understand there is a possibility they could receive compensation in future and therefore the importance of providing the police with up-to-date means of contact.**

#### 4.1 Identifying and securing assets and proceeds of crime

- 3.1.5 There was consensus among the Expert Advisers that it is critical the criminal justice system removes from the perpetrators of serious and organised crime, the financial assets and monies gained through their criminal activities, alongside imposing prison sentences. By removing the financial gain, as well as the liberty of perpetrators, this type of crime becomes much less attractive.

- 3.1.6 In order for funds to be available to make Reparation Orders or Compensation Orders, the suspected perpetrators' assets and the proceeds of modern slavery offences need to be first identified and then seized at the earliest possible opportunity, before perpetrators have an opportunity to dissipate them. This requires robust financial investigation for every modern slavery case. However, we heard some reports that financial investigations are not happening consistently across the country. ***It is essential there is a swift and thorough financial investigation in every modern slavery investigation. Government needs to ensure the appropriate priority is placed on resourcing financial investigations.***
- 3.1.7 There should also be increased focus on making best use of the range of powers available to law enforcement agencies and courts to seize assets of alleged modern slavery perpetrators, such as Freezing Orders and Unexplained Wealth Orders. ***Law enforcement needs to make better use of the powers provided to it, in freezing suspects' assets early on in modern slavery investigations, including before arrest where that is appropriate. This will help to prevent perpetrators dissipating assets and ensure that there could be funds available post-conviction to make Reparation and Compensation Orders to victims. Freezing assets will also disrupt modern slavery and human trafficking networks, ensuring they are unable to operate while investigations and criminal proceedings are underway.***

## 3.2 Risk Orders

- 3.2.1 The Act made provisions for Slavery and Trafficking Risk Orders (sections 23 - 29, henceforth: "Risk Orders"), to enable courts to place restrictions on individuals suspected of involvement in modern slavery offending. Between July 2015 and June 2018, 35 Risk Orders were issued.<sup>47</sup> Although we were not asked to consider Risk Orders as part of this review, we believe there are potential improvements that could be made to enhance the uptake and effectiveness of Risk Orders.
- 3.2.2 Police officers told us that Risk Orders could be a useful tool to disrupt offending networks and prevent further exploitation or trafficking. Currently, the Act sets out that Risk Orders need to be applied for in a magistrates' court by police, NCA, Immigration Enforcement or GLAA, meaning the CPS cannot apply during or at the end of a criminal trial.
- 3.2.3 Many stakeholders reported it would be useful if the legislation was amended to enable Crown Court Judges to make Risk Orders following an application from the CPS, to restrict the activity of suspects while a criminal case is ongoing. In cases where a Crown Court Judge is already familiar with a case, having to go to a Magistrates' Court and bring the Magistrates up to speed with the case is cumbersome and adds time to already long investigations. ***We recommend extending the provision of section 23 to allow Crown Court Judges to make Slavery and Trafficking Risk Orders.***

## 3.3 Other routes to compensation

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<sup>47</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/749346/2018\\_UK\\_Annual\\_Report\\_on\\_Modern\\_Slavery.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/749346/2018_UK_Annual_Report_on_Modern_Slavery.pdf)

3.3.1 In addition to Reparation, Confiscation and Compensation Orders, victims of modern slavery may also be able to access compensation via the following other routes:

- Recovery of unpaid or under-paid wages at Employment Tribunals or 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 Injuries Compensation Scheme. Compensation is available for victims of violent crime, although mental harm is taken into account. Some stakeholders suggested this scheme could be a good route for victims of modern slavery to secure compensation, but there needs to be greater flexibility for the scheme to take account of the particular circumstances of modern slavery victims. The Government recently announced a review of the Scheme, with the intention to consult during summer 2019 and put a new scheme in place in 2020.

### 3.4 Proposal for a specific civil remedy

3.4.1 There were mixed views from Expert Advisers and stakeholders about whether there should be a specific civil penalty for modern slavery. Some stakeholders argued it would improve access to compensation for victims by allowing victims to themselves bring civil claims in the County Court, to seek compensation directly from the alleged trafficker in cases where a criminal prosecution has not been possible.

3.4.2 A civil remedy was proposed at several points during the passage of the Modern Slavery Bill and rejected by the Government, who argued it was not necessary. The Government argued that civil remedies in tort already exist for victims of trafficking and slavery to claim damages from perpetrators through ordinary civil law and the Human Rights Act. Damages can, for example, be recovered for loss or damage caused to victims under the torts of intimidation, harassment, assault, unlawful imprisonment, negligence and breach of duty.<sup>48</sup>

3.4.3 We do not recommend that Government pursues the introduction of a modern slavery civil penalty at this juncture. However, Government should keep this under review, pending implementation of our other recommendations. Government should consider the introduction of a civil penalty again in future, should access to compensation for victims of modern slavery not improve.

### 3.5 Access to Legal Aid to pursue compensation claims

3.5.1 Many respondents told us that victims faced challenges in accessing the legal aid they are entitled to in order to make civil compensation claims. Under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), potential victims of modern slavery are able to access legal aid for compensation claims (although not for claims to the Criminal Injuries Compensation Scheme).

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<sup>48</sup> The Parliamentary Under Secretary of State, Home Office (Lord Bates), Modern Slavery Bill - Lords Report (1st Day) (Continued), 23 February 2015, Volume 759, Column 1464.

3.5.2 We welcome the steps that the Legal Aid Agency has taken action to improve access to legal aid for potential victims of modern slavery and human trafficking. We heard evidence that under the new civil legal aid contracts, there are almost 300 solicitors that could potentially provide legal help to victims of modern slavery and a significant increase in the volume of potential matter starts available compared to previous years, although current forecasts show only a fraction of these starts are predicted to be taken up. ***The Government should keep under review the effect of the new Legal Aid contracts and how they are operating in practice in modern slavery cases. The Independent Anti-Slavery Commissioner should monitor the experience of victims of modern slavery in accessing legal aid and raise concerns or challenges with Government, as well as reporting them in her annual report.***

## 4. Section 45: The Statutory Defence

### 4.1 Use of the statutory defence

4.1.1 Section 45 of the Modern Slavery Act provides a statutory defence for victims of modern slavery who were compelled to carry out criminal offences as a result of their exploitation, for example, being forced to produce or sell illegal drugs. The defence does not apply to the most serious crimes, such as sexual offences or offences involving serious violence.

4.1.2 The statutory defence should help to ensure that victims of modern slavery who come forward to give evidence against their abusers can do so without fear of being convicted for offences connected to their slavery or trafficking.

4.1.3 There is no quantitative data available with which to assess the scale and impact of the statutory defence. It is therefore difficult to understand how the statutory defence has been used or potentially misused, other than considering qualitative case studies. In addition to the cases that are charged, it is of course possible that in some cases charges were never brought because of the existence of the defence; by their nature these cases will not be recorded. Anecdotally, we heard that the use of the statutory defence has increased. However, it is not clear if the anecdotal increase in its use is as a result of a recent Court of Appeal judgment on the burden of proof which some might argue makes it easier to deploy (see paragraph 4.2.3 below), or whether it is simply due to the awareness of the defence increasing as the Modern Slavery Act becomes more widely understood.

4.1.4 Law enforcement participants reported concerns that the defence is being used as a 'loophole' for offenders identifying as victims. However, other stakeholders presented evidence that victims continue to be prosecuted for offences they were forced to commit.

## 4.2 Burden of proof

- 4.2.1 The burden of proof is the duty of one party in a trial to produce evidence that will prove or disprove a disputed fact to a level meeting the requisite standard of proof. In a criminal court, the standard of proof is ‘beyond reasonable doubt’.<sup>49</sup>
- 4.2.2 The Act is silent on where the burden of proof should fall in respect of the statutory defence. The interpretation initially adopted by the CPS was that the defendant was required to provide sufficient evidence to demonstrate that he or she was a victim of slavery or trafficking.<sup>50</sup> If successful, the prosecution was required to disprove the claim, beyond reasonable doubt. If the prosecution was not able to do this, the legal burden of proof would then fall on the defendant to prove, on the balance of probabilities, that they were a victim *and* were compelled to commit the criminal offence as a result of their slavery or exploitation.<sup>51</sup>
- 4.2.3 In March 2018, this interpretation of the burden and standard of proof was challenged. In the conjoined appeals of *MK v R and Gega v R*<sup>52</sup>, the Court of Appeal ruled that section 45 places an evidential burden upon defendants (i.e. the defendant is required to adduce sufficient evidence to ‘pass the judge’ and allow the defence to be considered by a jury) and that if a defendant is successful in discharging the evidential burden, the legal burden of proof falls upon the prosecution to disprove the defence beyond reasonable doubt.
- 4.2.4 ***We agree that the burden of proof should remain with the Crown.*** We are aware that some members of law enforcement and prosecutors are concerned about the challenge of disproving the defence beyond reasonable doubt, particularly if the individual claiming the defence reveals little or no information about the circumstances of their exploitation. While we recognise the challenges faced by law enforcement and acknowledge that some individuals may try to misuse the statutory defence, this needs to be balanced against ensuring the defence is always accessible to genuine victims. The jury process is in place to test any concerns about a defendant’s status, and a competent investigation will enable a court to determine where justice lies.
- 4.2.5 ***There is a natural tension which exists in any defence, between the potential for misuse and the need to protect victims. We believe a balance needs to be maintained, and the current legislation, case-law and the system of trial by jury achieves the right balance. Protecting vulnerable individuals is the purpose of the Act, and the recent Court of Appeal judgement helps ensure this protection.***
- 4.2.6 ***Law enforcement bodies and prosecutors should make provision to conduct thorough investigations and gather sufficient evidence to demonstrate whether an individual is a victim or not.***

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<sup>49</sup> The judge will direct the jury they must be ‘satisfied so that they are sure’ of the defendant’s guilt, which is the same standard as the traditional expression ‘beyond reasonable doubt’.

<sup>50</sup> Also known as an evidential burden

<sup>51</sup> For victims under 18 there is no requirement to demonstrate the element of compulsion

<sup>52</sup> *MK v R and Gega v R* [2018] EWCA Crim 667 a

- 4.3 Offences to which the statutory defence does not apply (Schedule 4)
- 4.3.1 Schedule 4 of the Act sets out a list of offences excluded from the statutory defence. The defence does not apply to certain serious offences, mainly serious sexual or violent offences, to avoid creating a legal loophole for serious criminals to escape justice. Schedule 4, detailing the complete list of offences excluded from the statutory defence is at **Annex E**.
- 4.3.2 Some stakeholders expressed concerns that Schedule 4 is too restrictive, containing many offences that could be committed by victims of slavery or trafficking. Others suggested it does not meet international law obligations. We disagree with this point, international law requires provisions to be made for defences to protect victims of trafficking, but it does not require an absolute defence in all cases. In addition to section 45, prosecutors can exercise a discretion not to prosecute a case that is not in the public interest, which acts as a safety net for all offences.
- 4.3.3 ***We do not recommend any changes to Schedule 4. We agree that a balance needs to be achieved between preventing the perpetrators of serious criminal acts from evading justice and protecting genuine victims from prosecution. An absolute defence for all offences is not appropriate. The current safeguards of CPS discretion and consideration of the public interest test before bringing charges act as an appropriate safety net even if an offence falls within Schedule 4.***
- 4.4 **The statutory defence in relation to children who may be victims of modern slavery**
- 4.4.1 To make use of the statutory defence, adult victims need to show that they were compelled to commit the offence; that compulsion is attributed to slavery or to relevant exploitation; and that a reasonable person in the same situation and having the accused person's characteristics would have no realistic alternative to doing the criminal act. In the case of children, it needs to be established that their action was a direct consequence of their exploitation and that a reasonable person in the same circumstances and with the same characteristics would do the criminal act. There is no requirement for compulsion to be demonstrated in the case of children.
- 4.4.2 We heard specific concerns about the 'reasonable person test' in section 45(1)(d). Some stakeholders argued that the reasonable person test introduces, in an indirect way, the need to prove an element of compulsion for a child victim of trafficking in order for a child to be protected by the statutory defence, which does not meet international obligations.
- 4.4.3 Our Expert Advisers did not agree that an element of compulsion is introduced in the reasonable person test. Characteristics of children vary vastly depending on their age, so it is difficult to have a one-size-fits-all test. It is also not advisable to have an automatic immunity for all victims under a defined age. We agree that the current provisions allow a jury to consider if the defence should apply, on a case-by-case basis, taking into account all of the circumstances.
- 4.4.4 We are nonetheless concerned to ensure the statutory defence is being appropriately applied in all cases where a child is a potential victim of modern slavery. ***For all individuals who may be victims of modern slavery, it is essential that defence***

**lawyers are aware of the statutory defence and advise their clients to disclose at the earliest possible stage if they are a victim of trafficking or modern slavery. This is even more important in the cases of children. Where it has not already been raised by the defence and there are indicators that modern slavery might be a factor, training and guidance from the Judicial College ought to prompt Judges and Magistrates to question at the pre-trial hearing whether the statutory defence is applicable. The statutory defence should be considered by Judges and Magistrates at the pre-trial hearing in all cases relating to children.**

#### 4.5 Clarifying the relationship between the NRM and criminal justice process

- 4.5.1 Several stakeholders raised concerns about the interaction between the criminal justice process and the National Referral Mechanism (NRM) in respect of decisions on whether people are victims of modern slavery.<sup>53</sup> We heard evidence suggesting that the interaction is commonly misunderstood, and this misunderstanding is creating complexities and challenges for police and prosecutors to work alongside.
- 4.5.2 The NRM process will provide a decision, on the balance of probabilities, advising whether an individual has been a victim of trafficking or modern slavery. The NRM decision has no official status in a criminal court, which makes decisions based on the criminal standard of proof 'beyond reasonable doubt'. Despite this, we heard examples of court cases being adjourned for an NRM referral and decision to be made, to determine if a defendant had victim status.
- 4.5.3 Our expert advisors considered that if the defence is first raised at trial it should be for the court to determine whether the prosecution and/or the defence be allowed time to investigate and provide further evidence. We agree. ***The relationship between the NRM process and criminal justice process needs to be clarified. A common set of guidance ought to be developed to ensure that all participants in the criminal justice system – the CPS, law enforcement, judiciary, defence and prosecution lawyers – understand the NRM decision-making process and the weight it should be given in criminal proceedings.***

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<sup>53</sup> The National Referral Mechanism (NRM) is a framework for identifying victims of human trafficking or modern slavery and ensuring they receive appropriate protection and support.

## 5. Other issues

### 5.1 Training and awareness

- 5.1.1 All of our Expert Advisers have raised the issue of limited training and awareness of the Modern Slavery Act provisions among law enforcement agencies and other participants in the criminal justice system. They also noted that greater awareness of the Modern Slavery Act could result in the legislation being used successfully in conjunction with other legislation to secure significant sentences in more cases, for example making use of trafficking offences in addition to drugs offences in county lines cases. ***The recommendations made in Caroline Haughey's 2016 Review of the Modern Slavery Act relating to training and the need for specialist advocates in modern slavery cases should now be implemented. Government should work closely with relevant organisations (including the CPS, College of Policing, Criminal Bar Association, professional bodies representing solicitors and the Judicial College) to ensure there is mandatory training on recognising modern slavery for all participants in the criminal justice system. This is a priority for frontline officers and defence lawyers who may be among the first participants in the criminal justice system a victim encounters.***
- 5.1.2 The inclusion of the statutory defence in the Act has raised awareness and understanding of the fact that those involved in forced criminality may be victims. However, a lack of awareness of the statutory defence itself persists amongst participants in the criminal justice system. ***Government should work closely with relevant organisations (including the CPS, College of Policing, Criminal Bar Association, professional bodies representing solicitors and the Judicial College) to review the available training and guidance to ensure it includes clear and consistent information on the statutory defence. This should highlight the Court of Appeal ruling and where the burden of proof lies. Progress should be regularly monitored by a cross-government forum, such as the Prime Minister's Task Force.***
- 5.1.3 ***Finally, professional bodies need to reflect in their guidance to members that where there is evidence that someone might be a victim of trafficking, it is likely to be in their client's best interests to disclose this immediately, and the Crown must be given adequate time to conduct their enquiry.***

### 5.2 Data and monitoring

- 5.2.1 The use of the statutory defence in criminal cases is not currently recorded. We have heard anecdotally that the statutory defence is being raised by defendants more frequently, but in the absence of quantitative data, there is no clear evidence base to assess. It is therefore impossible to understand the extent to which the statutory defence is being used or misused. For this reason, ***the accurate collection of data on the use of the statutory defence is vital. As a priority, we recommend that the police, the CPS and HM Courts and Tribunals Service record data on how the statutory defence is being used by adults and children. The overall use of the defence needs to be captured, as well as cases where the defence has been appropriately deployed, where it has been claimed and subsequently disproved, and instances where it, arguably, ought to have been deployed earlier on.***

- 5.2.2 There is also no data available on the amount of compensation awarded to victims. ***The Crown Prosecution Service and HM Courts and Tribunals Service should collect data on compensation awards made to victims of modern slavery – whether through Reparation Orders or Compensation Orders. This data should be reviewed regularly in conjunction with the Home Office, to monitor progress in making compensation awards to victims. The findings should be reported annually in the UK annual report on modern slavery.***
- 5.2.3 It is not possible to disaggregate the data collected on prosecutions and convictions under the Act to look at the type of exploitation, or the age of the alleged victim(s). This makes it challenging to monitor the nature of modern slavery cases being prosecuted and whether there have been prosecutions for new and emerging types of exploitation. ***The Ministry of Justice, Crown Prosecution Service and HM Courts and Tribunals Service should collect data on the type of exploitation involved in modern slavery prosecutions, and the age of the alleged victim(s).***

## **6. Summary of recommendations on legal application of the Modern Slavery Act**

### **1. Definition of exploitation**

#### **a. Meaning of exploitation (section 3) – new forms of trafficking**

- Section 3 on the meaning of exploitation should not be amended as it is sufficiently flexible to meet a range of circumstances, including new and emerging forms of modern slavery.
- While we are in no doubt about the seriousness of new types of exploitation that have come to light since the passing of the Act, such as county lines and orphanage trafficking, it is not practical to amend legislation every time a new form of exploitation is identified. Government instead should produce policy guidance to assist in the interpretation of the Act, building on the Home Office Typology of Modern Slavery research. This should be regularly updated to respond to new and emerging trends and should give examples of the types of exploitation that can potentially be prosecuted under the Act, including orphanage trafficking and county lines.

#### **b. Definition of human trafficking (section 2)**

- The Independent Anti-Slavery Commissioner should monitor and review the outcomes of prosecutions and appeals to ensure the Courts are not taking an overly narrow interpretation of what constitutes trafficking under section 2. The Commissioner should report her findings in her annual report, and Government should be prepared to bring forward amendments to the legislation if the Commissioner identifies an issue with the interpretation of section 2.

#### **c. How the offences relate to children**

- Section 1(5) and section 2(2) should be amended to reflect more clearly that a child is not able to consent to any element of their trafficking.

### **2. Reparation orders**

#### **a. Use and awareness of Reparation Orders**

- Compensation for victims ought to be at the forefront of the Court's mind. The Sentencing Council should include in their forthcoming Modern Slavery Act sentencing guidelines a reminder for judges of their responsibility to consider Reparation Orders in every case where it is appropriate to do so.
- Compensation for victims ought to be made more easily available to all known victims of a convicted perpetrator, regardless of whether they give evidence in Court. The police need sensitively to maintain contact with victims throughout the course of an investigation and trial, ensuring victims understand there is a possibility they could receive compensation in future and therefore the importance of providing the police with up-to-date means of contact.

#### **b. Identifying and securing assets and proceeds of crime**

- It is essential there is a swift and thorough financial investigation in every modern slavery investigation. Government needs to ensure the appropriate priority is placed on resourcing financial investigations.
- Law enforcement needs to make better use of the powers provided to it, in freezing suspects' assets early on in modern slavery investigations, including before arrest where that is appropriate. This will help to prevent perpetrators dissipating assets and ensure that there could be funds available post-conviction to make Reparation and Compensation Orders to victims. Freezing assets will also disrupt modern slavery and human trafficking networks, ensuring they are unable to operate while investigations and criminal proceedings are underway.

**c. Risk Orders**

- We recommend extending the provision of Section 23 to allow Crown Court Judges to make Slavery and Trafficking Risk Orders.

**d. Access to Legal Aid to pursue compensation claims**

- The Government should keep under review the effect of the new Legal Aid contracts and how they are operating in practice. The Independent Anti-Slavery Commissioner should monitor the experience of victims of modern slavery in accessing legal aid and raise concerns or challenges with Government, as well as reporting them in her annual report.

**3. The statutory defence**

**a. Burden of proof**

- The burden of proof should remain with the Crown.
- There is a natural tension which exists in any defence, between the potential for misuse and the need to protect victims. We believe a balance needs to be maintained, and the current legislation, case-law and the system of trial by jury achieves the right balance. Protecting vulnerable individuals is the purpose of the Act, and the recent Court of Appeal judgement ensures this protection.
- Law enforcement bodies and prosecutors should make provision to conduct thorough investigations and gather sufficient evidence to demonstrate whether an individual is a victim or not.

**b. Offences to which the statutory defence does not apply (Schedule 4)**

- We do not recommend any changes to Schedule 4. A balance needs to be achieved between preventing the perpetrators of serious criminal acts from evading justice and protecting genuine victims from prosecution. An absolute defence for all offences is not appropriate. The current safeguards of CPS discretion and consideration of the public interest test before bringing charges act as an appropriate safety net even if an offence falls within Schedule 4.

**c. The statutory defence in relation to children who are potential victims of modern slavery**

- For all potential victims of modern slavery, it is essential that defence lawyers are aware of the statutory defence and advise their clients to disclose at the earliest possible stage if they are a victim of trafficking or modern slavery. This is even more important in the cases of children. Where it has not already been raised by the defence and there are indicators that modern slavery might be a factor, training and guidance from the Judicial College ought to prompt Judges and Magistrates to question at the pre-trial hearing whether the statutory defence is applicable. The statutory defence should be considered by Judges and Magistrates at the pre-trial hearing in all cases relating to children.

**d. Clarifying the relationship between the NRM and criminal justice process**

- The relationship between the NRM process and criminal justice process needs to be clarified. A common set of guidance ought to be developed to ensure that all participants in the criminal justice system – the CPS, law enforcement, judiciary, defence and prosecution lawyers – understand the NRM decision-making process and the weight it should be given in criminal proceedings.

**4. Other cross-cutting issues**

**a. Training and awareness**

- The recommendations made in Caroline Haughey’s 2016 Review of the Modern Slavery Act relating to training and the need for specialist advocates in modern slavery cases should now be implemented.
- Government should work closely with relevant organisations (including the CPS, College of Policing, Criminal Bar Association, professional bodies representing solicitors and the Judicial College) to ensure there is mandatory training on recognising modern slavery for all participants in the criminal justice system. This is a priority for frontline officers and defence lawyers who may be among the first participants in the criminal justice system a victim encounters.
- Government should work closely with relevant organisations (including the CPS, College of Policing, Criminal Bar Association, professional bodies representing solicitors and the Judicial College) to review the available training and guidance to ensure it includes clear and consistent information on the statutory defence. This should highlight the Court of Appeal ruling and where the burden of proof lies. Progress should be regularly monitored by a cross-government forum, such as the Prime Minister’s Task Force.
- Finally, professional bodies need to reflect in their guidance to members that where there is evidence that someone might be a victim of trafficking, it is likely to be in their client’s best interests to disclose this immediately, and the Crown must be given adequate time to conduct their enquiry.

**b. Data and monitoring**

- The accurate collection of data on the use of the statutory defence is vital. As a priority, we recommend that the police, the CPS and HM Courts and Tribunals Service record data on how the statutory defence is being used by adults and children. The overall use of the defence needs to be captured; as well as cases where the defence has been

appropriately deployed, where it has been claimed and subsequently disproved, and instances where it, arguably, ought to have been deployed earlier on.

- The Crown Prosecution Service and HM Courts and Tribunals Service should collect data on compensation awards made to victims of modern slavery – whether through Reparation Orders or Compensation Orders. This data should be reviewed regularly in conjunction with the Home Office, to monitor progress in making compensation awards to victims. The findings should be reported annually in the UK annual report on modern slavery.

The Ministry of Justice, Crown Prosecution Service and HM Courts and Tribunals Service should collect data on the type of exploitation involved in modern slavery prosecutions, and the age of the alleged victim(s).

# Annex A: Terms of Reference for the Independent Review of the Modern Slavery Act

## 1. Background

The introduction of the Modern Slavery Act 2015, the first legislation of its kind in the world, has helped to transform the UK's response to modern slavery. More victims are being identified and supported; more offenders are being prosecuted; and thousands of companies have published statements setting out the steps they have taken to tackle modern slavery in their supply chains.

The UK is determined to lead global efforts to tackle this barbaric crime and as the methods used by criminals to exploit vulnerable people evolve, and our understanding of this crime evolves, it is important to consider our legislative approach.

## 2. Aim of the review

The aim of the review is to report on the operation and effectiveness of, and potential improvements to, provisions in the Modern Slavery Act 2015, which provides the legal framework for tackling modern slavery.

## 3. Structure of the review

The review will gather evidence and seek views from relevant stakeholders. This process could include a call for written submissions, evidence sessions on particular aspects of the legislation, and interviews with representatives from civil society, business, law enforcement and other interested bodies.

The review will be independent; the findings and recommendations of the review will represent the views of the reviewers. The reviewers will be supported by a secretariat which will be seconded from the Home Office, and sponsored by the Director for Tackling Slavery and Exploitation.

The review will aim to report to the Home Secretary before the end of March 2019. On completion, the review is to be compiled into a report, including recommendations, to be presented to the Home Secretary for approval.

Following approval, the Home Secretary will lay the report in Parliament.

## 4. Scope of the review

This review aims to understand how the 2015 act is operating in practice, how effective it is, and whether the legal framework for tackling modern slavery is fit for purpose now and in the future. In doing so, the review will need to take into account any significant political, economic, social

and technological changes since the 2015 act was passed.

The following provisions of the act must be considered in the review:

- section 3 on the meaning of exploitation
- sections 8-10 on reparation orders
- sections 40 to 44 on the Independent Anti-Slavery Commissioner
- section 45 on the statutory defence
- section 48 on independent child trafficking advocates
- section 54 on transparency in supply chains

In particular, the review should consider the following questions which have been brought to the attention of the government by the sector and others as issues requiring consideration:

- in relation to section 3, how to ensure the act is 'future-proof' given our evolving understanding of the nature of modern slavery offences, for example the recent and emerging issues of county lines and orphanage trafficking
- in relation to sections 8 to 10, how to ensure access to legal remedies and compensation for victims and would a specific civil wrong improve access to compensation for victims
- in relation to sections 40 to 44, how to ensure the independence of the Anti-Slavery Commissioner
- in relation to section 45, how to ensure an appropriate balance between the need to protect victims from criminal prosecution and preventing criminals from abusing this protection to avoid justice
- in relation to section 48, how to ensure the right support for child victims given the changing profile of child victims
- in relation to section 54, how to ensure compliance and drive up the quality of statements produced by eligible companies

The review should take into account the following principles:

- recommendations should only relate to the legal framework provided by the act and its implementation
- recommendations must be sustainable and take into account the financial and practical impact of implementation
- the review may consider other matters in relation to modern slavery subject to the agreement of the Home Secretary
- purdah guidelines should be adhered to where appropriate

# Annex B: Sections of the Modern Slavery Act within scope of the Review

## Sections 1 – 3 (relevant to volume IV. Legal Application of the Act)

### 1 Slavery, servitude and forced or compulsory labour

(1) A person commits an offence if—

(a) the person holds another person in slavery or servitude and the circumstances are such that the person knows or ought to know that the other person is held in slavery or servitude, or

(b) the person requires another person to perform forced or compulsory labour and the circumstances are such that the person knows or ought to know that the other person is being required to perform forced or compulsory labour.

(2) In subsection (1) the references to holding a person in slavery or servitude or requiring a person to perform forced or compulsory labour are to be construed in accordance with Article 4 of the Human Rights Convention.

(3) In determining whether a person is being held in slavery or servitude or required to perform forced or compulsory labour, regard may be had to all the circumstances.

(4) For example, regard may be had—

(a) to any of the person's personal circumstances (such as the person being a child, the person's family relationships, and any mental or physical illness) which may make the person more vulnerable than other persons;

(b) to any work or services provided by the person, including work or services provided in circumstances which constitute exploitation within section 3(3) to (6).

(5) The consent of a person (whether an adult or a child) to any of the acts alleged to constitute holding the person in slavery or servitude, or requiring the person to perform forced or compulsory labour, does not preclude a determination that the person is being held in slavery or servitude, or required to perform forced or compulsory labour.

### 2 Human trafficking

(1) A person commits an offence if the person arranges or facilitates the travel of another person ("V") with a view to V being exploited.

(2) It is irrelevant whether V consents to the travel (whether V is an adult or a child).

(3) A person may in particular arrange or facilitate V's travel by recruiting V, transporting or

transferring V, harbouring or receiving V, or transferring or exchanging control over V.

(4) A person arranges or facilitates V's travel with a view to V being exploited only if—

(a) the person intends to exploit V (in any part of the world) during or after the travel, or

(b) the person knows or ought to know that another person is likely to exploit V (in any part of the world) during or after the travel.

(5) "Travel" means—

(a) arriving in, or entering, any country,

(b) departing from any country,

(c) travelling within any country.

(6) A person who is a UK national commits an offence under this section regardless of—

(a) where the arranging or facilitating takes place, or

(b) where the travel takes place.

(7) A person who is not a UK national commits an offence under this section if—

(a) any part of the arranging or facilitating takes place in the United Kingdom, or

(b) the travel consists of arrival in or entry into, departure from, or travel within, the United Kingdom.

### **3 Meaning of exploitation**

(1) For the purposes of section 2 a person is exploited only if one or more of the following subsections apply in relation to the person.

#### *Slavery, servitude and forced or compulsory labour*

(2) The person is the victim of behaviour—

(a) which involves the commission of an offence under section 1, or

(b) which would involve the commission of an offence under that section if it took place in England and Wales.

#### *Sexual exploitation*

(3) Something is done to or in respect of the person—

(a) which involves the commission of an offence under—

(i) section 1(1)(a) of the Protection of Children Act 1978 (indecent photographs of children), or

(ii) Part 1 of the Sexual Offences Act 2003 (sexual offences), as it has effect in England and Wales, or

(b) which would involve the commission of such an offence if it were done in England and

Wales.

*Removal of organs etc*

(4) The person is encouraged, required or expected to do anything—

(a) which involves the commission, by him or her or another person, of an offence under section 32 or 33 of the Human Tissue Act 2004 (prohibition of commercial dealings in organs and restrictions on use of live donors) as it has effect in England and Wales, or

(b) which would involve the commission of such an offence, by him or her or another person, if it were done in England and Wales.

*Securing services etc by force, threats or deception*

(5) The person is subjected to force, threats or deception designed to induce him or her—

(a) to provide services of any kind,

(b) to provide another person with benefits of any kind, or

(c) to enable another person to acquire benefits of any kind.

*Securing services etc from children and vulnerable persons*

(6) Another person uses or attempts to use the person for a purpose within paragraph (a), (b) or (c) of subsection (5), having chosen him or her for that purpose on the grounds that—

(a) he or she is a child, is mentally or physically ill or disabled, or has a family relationship with a particular person, and

(b) an adult, or a person without the illness, disability, or family relationship, would be likely to refuse to be used for that purpose.

## **Sections 8 – 10 (relevant to volume IV. Legal Application of the Act)**

### **8 Power to make slavery and trafficking reparation orders**

- (1) The court may make a slavery and trafficking reparation order against a person if—
- (a) the person has been convicted of an offence under section 1, 2 or 4, and
  - (b) a confiscation order is made against the person in respect of the offence.
- (2) The court may also make a slavery and trafficking reparation order against a person if—
- (a) by virtue of section 28 of the Proceeds of Crime Act 2002 (defendants who abscond during proceedings) a confiscation order has been made against a person in respect of an offence under section 1, 2 or 4, and
  - (b) the person is later convicted of the offence.
- (3) The court may make a slavery and trafficking reparation order against the person in addition to dealing with the person in any other way (subject to section 10(1)).
- (4) In a case within subsection (1) the court may make a slavery and trafficking reparation order against the person even if the person has been sentenced for the offence before the confiscation order is made.
- (5) In determining whether to make a slavery and trafficking reparation order against the person the court must have regard to the person's means.
- (6) If the court considers that—
- (a) it would be appropriate both to impose a fine and to make a slavery and trafficking reparation order, but
  - (b) the person has insufficient means to pay both an appropriate fine and appropriate compensation under such an order,
- the court must give preference to compensation (although it may impose a fine as well).
- (7) In any case in which the court has power to make a slavery and trafficking reparation order it must—
- (a) consider whether to make such an order (whether or not an application for such an order is made), and
  - (b) if it does not make an order, give reasons.
- (8) In this section—
- (a) “the court” means—
    - (i) the Crown Court, or
    - (ii) any magistrates' court that has power to make a confiscation order by virtue of an order under section 97 of the Serious Organised Crime and Police Act 2005 (confiscation orders by magistrates' courts);

(b) “confiscation order” means a confiscation order under section 6 of the Proceeds of Crime Act 2002;

(c) a confiscation order is made in respect of an offence if the offence is the offence (or one of the offences) concerned for the purposes of Part 2 of that Act.

## **9 Effect of slavery and trafficking reparation orders**

(1) A slavery and trafficking reparation order is an order requiring the person against whom it is made to pay compensation to the victim of a relevant offence for any harm resulting from that offence.

(2) “Relevant offence” means—

(a) the offence under section 1, 2 or 4 of which the person is convicted;

(b) any other offence under section 1, 2 or 4 which is taken into consideration in determining the person’s sentence.

(3) The amount of the compensation is to be such amount as the court considers appropriate having regard to any evidence and to any representations made by or on behalf of the person or the prosecutor, but subject to subsection (4).

(4) The amount of the compensation payable under the slavery and trafficking reparation order (or if more than one order is made in the same proceedings, the total amount of the compensation payable under those orders) must not exceed the amount the person is required to pay under the confiscation order.

(5) In determining the amount to be paid by the person under a slavery and trafficking reparation order the court must have regard to the person’s means.

(6) In subsection (4) “the confiscation order” means the confiscation order within section 8(1)(b) or (2)(a) (as the case may be).

## **10 Slavery and trafficking reparation orders: supplementary provision**

(1) A slavery and trafficking reparation order and a compensation order under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 may not both be made in respect of the same offence.

(2) Where the court makes a slavery and trafficking reparation order as mentioned in section 8(4), for the purposes of the following provisions the person’s sentence is to be regarded as imposed or made on the day on which the order is made—

(a) section 18(2) of the Criminal Appeal Act 1968 (time limit for notice of appeal or application for leave to appeal);

(b) paragraph 1 of Schedule 3 to the Criminal Justice Act 1988 (time limit for notice of application for leave to refer a case under section 36 of that Act).

(3) Sections 132 to 134 of the Powers of Criminal Courts (Sentencing) Act 2000 (appeals, review etc of compensation orders) apply to slavery and trafficking reparation orders as if—

(a) references to a compensation order were references to a slavery and trafficking

reparation order;

(b) references to the court of trial were references to the court (within the meaning of section 8 above);

(c) references to injury, loss or damage were references to harm;

(d) the reference in section 133(3)(c)(iii) to a slavery and trafficking reparation order under section 8 above were to a compensation order under section 130 of that Act;

(e) in section 134 the references to service compensation orders were omitted.

(4) If under section 21 or 22 of the Proceeds of Crime Act 2002 the court varies a confiscation order so as to increase the amount required to be paid under that order, it may also vary any slavery and trafficking reparation order made by virtue of the confiscation order so as to increase the amount required to be paid under the slavery and trafficking reparation order.

(5) If under section 23 or 29 of that Act the court varies a confiscation order so as to reduce the amount required to be paid under that order, it may also—

(a) vary any relevant slavery and trafficking reparation order so as to reduce the amount which remains to be paid under that order;

(b) discharge any relevant slavery and trafficking reparation order.

(6) If under section 24 of that Act the court discharges a confiscation order, it may also discharge any relevant slavery and trafficking reparation order.

(7) For the purposes of subsections (5) and (6) a slavery and trafficking reparation order is relevant if it is made by virtue of the confiscation order and some or all of the amount required to be paid under it has not been paid.

(8) If on an appeal under section 31 of the Proceeds of Crime Act 2002 the Court of Appeal—

(a) quashes a confiscation order, it must also quash any slavery and trafficking reparation order made by virtue of the confiscation order;

(b) varies a confiscation order, it may also vary any slavery and trafficking reparation order made by virtue of the confiscation order;

(c) makes a confiscation order, it may make any slavery and trafficking reparation order that could have been made under section 8 above by virtue of the confiscation order.

(9) If on an appeal under section 33 of that Act the Supreme Court—

(a) quashes a confiscation order, it must also quash any slavery and trafficking reparation order made by virtue of the confiscation order;

(b) varies a confiscation order, it may also vary any slavery and trafficking reparation order made by virtue of the confiscation order.

(10) For the purposes of this section—

(a) a slavery and trafficking reparation order made under section 8(1) is made by virtue of

the confiscation order within section 8(1)(b);

(b) a slavery and trafficking reparation order made under section 8(2) is made by virtue of the confiscation order within section 8(2)(a).

## **Sections 40 – 44 of the Act (relevant to volume I. The Independent Anti-Slavery Commissioner)**

### **40 The Independent Anti-slavery Commissioner**

(1) The Secretary of State must, after consulting the Scottish Ministers and the Department of Justice in Northern Ireland, appoint a person as the Independent Anti-slavery Commissioner (in this Part “the Commissioner”).

(2) The Commissioner is to hold office in accordance with the terms of the Commissioner’s appointment.

(3) The Secretary of State may pay in respect of the Commissioner any expenses, remuneration or allowances that the Secretary of State may determine.

(4) The Secretary of State—

(a) must before the beginning of each financial year specify a maximum sum which the Commissioner may spend that year,

(b) may permit that to be exceeded for a specified purpose, and

(c) subject to paragraphs (a) and (b), must defray the Commissioner’s expenditure for each financial year.

(5) In this Part, “financial year” means—

(a) the period beginning with the day on which the first Commissioner takes office and ending with the following 31 March, and

(b) each successive period of 12 months.

(6) The Commissioner may appoint staff.

(7) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership: other disqualifying offices) at the appropriate place insert—

- “Independent Anti-slavery Commissioner”.

(8) In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (offices disqualifying for membership: other disqualifying offices) at the appropriate place insert—

- “Independent Anti-slavery Commissioner”.

(9) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general) at the appropriate place insert—

- “The Independent Anti-slavery Commissioner”.

### **41 General functions of Commissioner**

(1) The Commissioner must encourage good practice in—

(a) the prevention, detection, investigation and prosecution of slavery and human trafficking offences;

(b) the identification of victims of those offences.

(2) For the purposes of this section a slavery and human trafficking offence is an offence under—

(a) section 1, 2 or 4 of this Act,

(b) section 1, 2 or 4 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)) (equivalent offences in Northern Ireland),

(c) section 22 of the Criminal Justice (Scotland) Act 2003 (asp 7) (traffic in prostitution etc),

(d) section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation),

(e) section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (slavery, servitude and forced or compulsory labour).

(3) The things that the Commissioner may do in pursuance of subsection (1) include—

(a) making reports on any permitted matter to the Secretary of State, the Scottish Ministers and the Department of Justice in Northern Ireland;

(b) making recommendations to any public authority about the exercise of its functions;

(c) undertaking or supporting (financially or otherwise) the carrying out of research;

(d) providing information, education or training;

(e) consulting public authorities (including the Commissioner for Victims and Witnesses), voluntary organisations and other persons;

(f) co-operating with or working jointly with public authorities (including the Commissioner for Victims and Witnesses), voluntary organisations and other persons, in the United Kingdom or internationally.

(4) The matters to which the Commissioner may have regard in pursuance of subsection (1) include the provision of assistance and support to victims of slavery and human trafficking offences.

(5) In subsection (3)(a) “permitted matter” means a matter which—

(a) the Secretary of State, the Scottish Ministers or the Department of Justice in Northern Ireland have asked the Commissioner to report on, or

(b) the current strategic plan, approved by the Secretary of State under section 42(6), states is a matter the Commissioner proposes to report on.

(6) The Commissioner must (after ascertaining whether the Secretary of State, the Scottish Ministers, the Lord Advocate or the Department of Justice in Northern Ireland wish to exercise the powers conferred by subsections (7) to (10)) publish each report made under subsection (3)(a).

(7) The Secretary of State may direct the Commissioner to omit from any report before publication any material whose publication the Secretary of State thinks—

- (a) would be against the interests of national security,
- (b) might jeopardise the safety of any person in England and Wales, or
- (c) might prejudice the investigation or prosecution of an offence under the law of England and Wales.

(8) The Scottish Ministers may direct the Commissioner to omit from any report before publication any material whose publication the Scottish Ministers think—

- (a) might jeopardise the safety of any person in Scotland, or
- (b) might prejudice the investigation of an offence under the law of Scotland.

(9) The Lord Advocate may direct the Commissioner to omit from any report before publication any material whose publication the Lord Advocate thinks might prejudice the prosecution of an offence under the law of Scotland.

(10) The Department of Justice in Northern Ireland may direct the Commissioner to omit from any report before publication any material whose publication the department thinks—

- (a) might jeopardise the safety of any person in Northern Ireland, or
- (b) might prejudice the investigation or prosecution of an offence under the law of Northern Ireland.

(11) If the Secretary of State, the Scottish Ministers or the Department of Justice in Northern Ireland lay before Parliament, the Scottish Parliament or the Northern Ireland Assembly a report made by the Commissioner under subsection (3)(a), they must lay the report as it is published by the Commissioner under subsection (6).

## **42 Strategic plans and annual reports**

(1) The Commissioner must, as soon as reasonably practicable after the Commissioner's appointment, prepare a strategic plan and submit it to the Secretary of State for approval.

(2) The Commissioner must, before the end of the period to which a strategic plan relates ("the current period"), prepare a strategic plan for a period immediately following the current period and submit it to the Secretary of State for approval.

(3) The Commissioner may at any time prepare a revised strategic plan and submit it to the Secretary of State for approval.

(4) A strategic plan is a plan setting out how the Commissioner proposes to exercise the Commissioner's functions in the period to which the plan relates, which must be not less than one year and not more than three years.

(5) A strategic plan must in particular—

- (a) state the Commissioner's objectives and priorities for the period to which the plan relates;

(b) state any matters on which the Commissioner proposes to report under section 41(3)(a) during that period;

(c) state any other activities the Commissioner proposes to undertake during that period in the exercise of the Commissioner's functions.

(6) The Secretary of State may approve a strategic plan either without modifications or with modifications agreed with the Commissioner.

(7) The Secretary of State must—

(a) before approving a strategic plan, consult the Scottish Ministers and the Department of Justice in Northern Ireland, and

(b) after approving a strategic plan, send a copy of the plan to the Scottish Ministers and the Department of Justice in Northern Ireland.

(8) As soon as reasonably practicable after the end of each financial year the Commissioner must submit to the Secretary of State, the Scottish Ministers and the Department of Justice in Northern Ireland an annual report on the exercise of the Commissioner's functions during the year.

(9) An annual report must include—

(a) an assessment of the extent to which the Commissioner's objectives and priorities have been met in that year;

(b) a statement of the matters on which the Commissioner has reported under section 41(3)(a) during the year;

(c) a statement of the other activities the Commissioner has undertaken during the year in the exercise of the Commissioner's functions.

(10) The Secretary of State must lay before Parliament—

(a) any strategic plan the Secretary of State approves, and

(b) any annual report the Secretary of State receives,

and must do so as soon as reasonably practicable after approving the plan or receiving the report.

(11) The Scottish Ministers must lay before the Scottish Parliament—

(a) any strategic plan the Secretary of State approves, and

(b) any annual report they receive,

and must do so as soon as reasonably practicable after receiving the plan or the report.

(12) The Department of Justice in Northern Ireland must lay before the Northern Ireland Assembly—

(a) any strategic plan the Secretary of State approves, and

(b) any annual report it receives,

and must do so as soon as reasonably practicable after receiving the plan or the report.

(13) An annual report laid under any of subsections (10) to (12) must not contain material removed from the report under any of subsections (14) to (17).

(14) The Secretary of State may remove from an annual report any material whose publication the Secretary of State thinks—

- (a) would be against the interests of national security,
- (b) might jeopardise the safety of any person in England and Wales, or
- (c) might prejudice the investigation or prosecution of an offence under the law of England and Wales.

(15) The Scottish Ministers may remove from an annual report any material whose publication the Scottish Ministers think—

- (a) might jeopardise the safety of any person in Scotland, or
- (b) might prejudice the investigation of an offence under the law of Scotland.

(16) The Lord Advocate may remove from an annual report any material whose publication the Lord Advocate thinks might prejudice the prosecution of an offence under the law of Scotland.

(17) The Department of Justice in Northern Ireland may remove from an annual report any material whose publication the department thinks—

- (a) might jeopardise the safety of any person in Northern Ireland, or
- (b) might prejudice the investigation or prosecution of an offence under the law of Northern Ireland.

### **43 Duty to co-operate with Commissioner**

(1) The Commissioner may request a specified public authority to co-operate with the Commissioner in any way that the Commissioner considers necessary for the purposes of the Commissioner's functions.

(2) A specified public authority must so far as reasonably practicable comply with a request made to it under this section.

(3) A public authority which discloses information to the Commissioner in pursuance of subsection (2) does not breach any obligation of confidence owed by the public authority in relation to that information; but this does not apply in relation to patient information.

(4) "Patient information" means information (however recorded) which—

- (a) relates to the physical or mental health or condition of an individual, to the diagnosis of an individual's condition or to an individual's care or treatment, or is to any extent derived directly or indirectly from such information, and
- (b) identifies the individual or enables the individual to be identified (either by itself or in combination with other information).

(5) Except as provided by subsection (3), subsection (2) does not require or authorise any disclosure of information which contravenes a restriction on the disclosure of information (however imposed).

(6) In this section “specified public authority” means a public authority listed in Schedule 3.

(7) The Scottish Ministers may by regulations amend that Schedule so as to—

(a) add or remove a public authority having only functions which are exercisable in or as regards Scotland (a “Scottish public authority”);

(b) amend an entry relating to a Scottish public authority.

(8) The Department of Justice in Northern Ireland may by regulations amend that Schedule so as to—

(a) add or remove a public authority having only functions which are exercisable in or as regards Northern Ireland (a “Northern Irish public authority”);

(b) amend an entry relating to a Northern Irish public authority.

(9) The Secretary of State may by regulations amend that Schedule so as to—

(a) add or remove a public authority which is not a Scottish public authority or a Northern Irish public authority;

(b) amend an entry relating to a public authority which is not a Scottish public authority or a Northern Irish public authority.

(10) Regulations under subsection (7), (8) or (9) which add a public authority to Schedule 3 may contain provision modifying the application of this section in relation to that authority.

#### **44 Restriction on exercise of functions**

(1) The Commissioner must not exercise any function in relation to an individual case.

(2) Subsection (1) does not prevent the Commissioner considering individual cases and drawing conclusions about them for the purpose of, or in the context of, considering a general issue.

## **Section 45 (relevant to volume IV. Legal Application of the Act)**

### **45 Defence for slavery or trafficking victims who commit an offence**

(1) A person is not guilty of an offence if—

- (a) the person is aged 18 or over when the person does the act which constitutes the offence,
- (b) the person does that act because the person is compelled to do it,
- (c) the compulsion is attributable to slavery or to relevant exploitation, and
- (d) a reasonable person in the same situation as the person and having the person's relevant characteristics would have no realistic alternative to doing that act.

(2) A person may be compelled to do something by another person or by the person's circumstances.

(3) Compulsion is attributable to slavery or to relevant exploitation only if—

- (a) it is, or is part of, conduct which constitutes an offence under section 1 or conduct which constitutes relevant exploitation, or
- (b) it is a direct consequence of a person being, or having been, a victim of slavery or a victim of relevant exploitation.

(4) A person is not guilty of an offence if—

- (a) the person is under the age of 18 when the person does the act which constitutes the offence,
- (b) the person does that act as a direct consequence of the person being, or having been, a victim of slavery or a victim of relevant exploitation, and
- (c) a reasonable person in the same situation as the person and having the person's relevant characteristics would do that act.

(5) For the purposes of this section—

“relevant characteristics” means age, sex and any physical or mental illness or disability;

“relevant exploitation” is exploitation (within the meaning of section 3) that is attributable to the exploited person being, or having been, a victim of human trafficking.

(6) In this section references to an act include an omission.

(7) Subsections (1) and (4) do not apply to an offence listed in Schedule 4.

(8) The Secretary of State may by regulations amend Schedule 4.

## **Schedule 4: Section 45 Offences to which defence does not apply**

### Common law offences

- 1 False imprisonment.
- 2 Kidnapping.
- 3 Manslaughter.
- 4 Murder.
- 5 Perverting the course of justice.
- 6 Piracy.

### *Offences against the Person Act 1861 (c.100)*

- 7 An offence under any of the following provisions of the Offences Against the Person Act 1861—

section 4 (soliciting murder)

section 16 (threats to kill)

section 18 (wounding with intent to cause grievous bodily harm) section 20 (malicious wounding)

section 21 (attempting to choke, suffocate or strangle in order to commit or assist in committing an indictable offence)

section 22 (using drugs etc to commit or assist in the committing of an indictable offence)

section 23 (maliciously administering poison etc so as to endanger life or inflict grievous bodily harm)

section 27 (abandoning children)

section 28 (causing bodily injury by explosives)

section 29 (using explosives with intent to do grievous bodily harm)

section 30 (placing explosives with intent to do bodily injury)

section 31 (setting spring guns etc with intent to do grievous bodily harm) section 32 (endangering safety of railway passengers)

section 35 (injuring persons by furious driving)

section 37 (assaulting officer preserving wreck) section 38 (assault with intent to resist arrest).

### *Explosive Substances Act 1883 (c.3)*

- 8 An offence under any of the following provisions of the Explosive Substances Act 1883—

section 2 (causing explosion likely to endanger life or property)

section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property)

section 4 (making or possession of explosives under suspicious circumstances).

*Infant Life (Preservation) Act 1929 (c.34)*

9 An offence under section 1 of the Infant Life (Preservation) Act 1929 (child destruction).

*Children and Young Persons Act 1933 (c.12)*

10 An offence under section 1 of the Children and Young Persons Act 1933 (cruelty to children).

*Public Order Act 1936 (1Edw.8& 1Geo.6c.6)*

11 An offence under section 2 of the Public Order Act 1936 (control etc of quasimilitary organisation).

*Infanticide Act 1938 (c.36)*

12 An offence under section 1 of the Infanticide Act 1938 (infanticide).

*Firearms Act 1968 (c.27)*

13 An offence under any of the following provisions of the Firearms Act 1968—

section 5 (possession of prohibited firearms)

section 16 (possession of firearm with intent to endanger life)

section 16A (possession of firearm with intent to cause fear of violence)

section 17(1) (use of firearm to resist arrest) section 17(2) (possession of firearm at time of committing or being arrested for specified offence)

section 18 (carrying firearm with criminal intent).

*Theft Act 1968 (c.60)*

14 An offence under any of the following provisions of the Theft Act 1968—

section 8 (robbery or assault with intent to rob)

section 9 (burglary), where the offence is committed with intent to inflict grievous bodily harm on a person, or to do unlawful damage to a building or anything in it

section 10 (aggravated burglary)

section 12A (aggravated vehicle-taking), where the offence involves an accident which causes the death of any person

section 21 (blackmail).

*Criminal Damage Act 1971 (c.48)*

15 The following offences under the Criminal Damage Act 1971—

an offence of arson under section 1

an offence under section 1(2) (destroying or damaging property) other than an offence of arson.

*Immigration Act 1971 (c.77)*

16 An offence under section 25 of the Immigration Act 1971 (assisting unlawful immigration to member state).

*Customs and Excise Management Act 1979 (c.2)*

17 An offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (indecent or obscene articles).

*Taking of Hostages Act 1982 (c.28)*

18 An offence under section 1 of the Taking of Hostages Act 1982 (hostage taking).

*Aviation Security Act 1982 (c.36)*

19 An offence under any of the following provisions of the Aviation Security Act 1982—

section 1 (hijacking)

section 2 (destroying, damaging or endangering safety of aircraft)

section 3 (other acts endangering or likely to endanger safety of aircraft)

section 4 (offences in relation to certain dangerous articles).

*Mental Health Act 1983 (c.20)*

20 An offence under section 127 of the Mental Health Act 1983 (ill-treatment of patients).

*Child Abduction Act 1984 (c.37)*

21 An offence under any of the following provisions of the Child Abduction Act 1984—

section 1 (abduction of child by parent etc)

section 2 (abduction of child by other persons).

*Public Order Act 1986 (c.64)*

22 An offence under any of the following provisions of the Public Order Act 1986—

section 1 (riot)

section 2 (violent disorder).

*Criminal Justice Act 1988 (c.33)*

23 An offence under section 134 of the Criminal Justice Act 1988 (torture).

*Road Traffic Act 1988 (c.52)*

24 An offence under any of the following provisions of the Road Traffic Act 1988—

section 1 (causing death by dangerous driving)

section 3A (causing death by careless driving when under the influence of drink or drugs).

*Aviation and Maritime Security Act 1990 (c.31)*

25 An offence under any of the following provisions of the Aviation and Maritime Security Act 1990—

section 1 (endangering safety at aerodromes)

section 9 (hijacking of ships)

section 10 (seizing or exercising control of fixed platforms)

section 11 (destroying fixed platforms or endangering their safety)

section 12 (other acts endangering or likely to endanger safe navigation)

section 13 (offences involving threats).

*Channel Tunnel (Security) Order 1994 (S.I. 1994/570)*

26 An offence under Part 2 of the Channel Tunnel (Security) Order 1994 (SI 1994/570) (offences relating to Channel Tunnel trains and the tunnel system).

*Protection from Harassment Act 1997 (c.40)*

27 An offence under any of the following provisions of the Protection from Harassment Act 1997—

section 4 (putting people in fear of violence)

section 4A (stalking involving fear of violence or serious alarm or distress).

*Crime and Disorder Act 1998 (c.37)*

28 An offence under any of the following provisions of the Crime and Disorder Act 1998—

section 29 (racially or religiously aggravated assaults) section 31(1)(a) or (b) (racially or religiously aggravated offences under section 4 or 4A of the Public Order Act 1986).

*Terrorism Act 2000 (c.11)*

29 An offence under any of the following provisions of the Terrorism Act 2000—

section 54 (weapons training)

- section 56 (directing terrorist organisation)
- section 57 (possession of article for terrorist purposes)
- section 59 (inciting terrorism overseas).

*International Criminal Court Act 2001 (c.17)*

- 30 An offence under any of the following provisions of the International Criminal Court Act 2001—
- section 51 (genocide, crimes against humanity and war crimes)
  - section 52 (ancillary conduct).

*Anti-terrorism, Crime and Security Act 2001 (c.24)*

- 31 An offence under any of the following provisions of the Anti-terrorism, Crime and Security Act 2001—
- section 47 (use of nuclear weapons)
  - section 50 (assisting or inducing certain weapons-related acts overseas)
  - section 113 (use of noxious substance or thing to cause harm or intimidate).

*Female Genital Mutilation Act 2003 (c.31)*

- 32 An offence under any of the following provisions of the Female Genital Mutilation Act 2003—
- section 1 (female genital mutilation)
  - section 2 (assisting a girl to mutilate her own genitalia)
  - section 3 (assisting a non-UK person to mutilate overseas a girl's genitalia).

*Sexual Offences Act 2003 (c.42)*

- 33 An offence under any of the following provisions of the Sexual Offences Act 2003—
- section 1 (rape)
  - section 2 (assault by penetration)
  - section 3 (sexual assault)
  - section 4 (causing person to engage in sexual activity without consent)
  - section 5 (rape of child under 13)
  - section 6 (assault of child under 13 by penetration)
  - section 7 (sexual assault of child under 13)
  - section 8 (causing or inciting child under 13 to engage in sexual activity)

section 9 (sexual activity with a child)

section 10 (causing or inciting a child to engage in sexual activity) section 13 (child sex offences committed by children or young persons)

section 14 (arranging or facilitating commission of child sex offence) section 15 (meeting a child following sexual grooming)

section 16 (abuse of position of trust: sexual activity with a child) section 17 (abuse of position of trust: causing or inciting a child to engage in sexual activity)

section 18 (abuse of position of trust: sexual activity in presence of child)

section 19 (abuse of position of trust: causing a child to watch a sexual act)

section 25 (sexual activity with a child family member)

section 26 (inciting a child family member to engage in sexual activity)

section 30 (sexual activity with a person with a mental disorder impeding choice)

section 31 (causing or inciting a person with a mental disorder impeding choice to engage in sexual activity)

section 32 (engaging in sexual activity in the presence of a person with a mental disorder impeding choice)

section 33 (causing a person with a mental disorder impeding choice to watch a sexual act)

section 34 (inducement, threat or deception to procure sexual activity with a person with a mental disorder)

section 35 (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception)

section 36 (engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder) section 37 (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception)

section 38 (care workers: sexual activity with a person with a mental disorder)

section 39 (care workers: causing or inciting sexual activity)

section 40 (care workers: sexual activity in the presence of a person with a mental disorder)

section 41 (care workers: causing a person with a mental disorder to watch a sexual act)

section 47 (paying for sexual services of a child)

section 48 (causing or inciting child prostitution or pornography) section 49 (controlling a child prostitute or a child involved in pornography)

section 50 (arranging or facilitating child prostitution or pornography)

section 61 (administering a substance with intent)

section 62 (committing offence with intent to commit sexual offence) section 63 (trespass with intent to commit sexual offence)

section 64 (sex with an adult relative: penetration)

section 65 (sex with an adult relative: consenting to penetration) section 66 (exposure)

section 67 (voyeurism)

section 70 (sexual penetration of a corpse).

#### *Domestic Violence, Crime and Victims Act 2004 (c.28)*

34 An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing a child or vulnerable adult to die or suffer serious physical harm).

#### *Terrorism Act 2006 (c.11)*

35 An offence under any of the following provisions of the Terrorism Act 2006—

section 5 (preparation of terrorist acts) section 6 (training for terrorism)

section 9 (making or possession of radioactive device or material) section 10 (use of radioactive device or material for terrorist purposes)

section 11 (terrorist threats relating to radioactive devices etc).

#### *Modern Slavery Act 2015 (c. 30)*

36 An offence under any of the following provisions of the Modern Slavery Act 2015—

section 1 (slavery, servitude and forced or compulsory labour)

section 2 (human trafficking).

#### *Ancillary offences*

37 (1) An offence of attempting or conspiring to commit an offence listed in this Schedule.  
(

2) An offence committed by aiding, abetting, counselling or procuring an offence listed in this Schedule.

(3) An offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) where the offence (or one of the offences) which the person in question intends or believes would be committed is an offence listed in this Schedule.

## **Section 48 (relevant to volume III. Independent Child Trafficking Advocates)**

### **48 Independent Child Trafficking Advocates**

- (1). The Secretary of State must make such arrangements as the Secretary of State considers reasonable to enable persons (“independent child trafficking advocates”) to be available to represent and support children where there are reasonable grounds to believe may be victims of human trafficking.
- (2). In making arrangements under subsection (1) the Secretary of State must have regard to the principle that, so far as practicable, a child should be represented and supported by someone who is independent of any person who will be responsible for making decisions about the child.
- (3). The arrangements may include provision for payments to be made to, or in relation to, persons carrying out functions in accordance with the arrangements.
- (4). A person appointed as an independent child trafficking advocate for a child must promote the child's well-being and act in the child's best interests.
- (5). The advocate may (where appropriate) assist the child to obtain legal or other advice, assistance and representation, including (where necessary) by appointing and instructing legal representatives to act on the child's behalf.
- (6). The Secretary of State must make regulations about independent child trafficking advocates, and the regulations must in particular make provision—
  - (a) about the circumstances in which, and any conditions subject to which, a person may act as an independent child trafficking advocate;
  - (b) for the appointment of a person as an independent child trafficking advocate to be subject to approval in accordance with the regulations;
  - (c) requiring an independent child trafficking advocate to be appointed for a child as soon as reasonably practicable, where there are reasonable grounds to believe a child may be a victim of human trafficking;
  - (d) about the functions of independent child trafficking advocates;
  - (e) requiring public authorities which provide services or take decisions in relation to a child for whom an independent child trafficking advocate has been appointed to—
    - (i) recognise, and pay due regard to, the advocate's functions, and
    - (ii) provide the advocate with access to such information relating to the child as will enable the advocate to carry out those functions effectively (so far as the authority may do so without contravening a restriction on disclosure of the information).
- (7). The Secretary of State must, no later than 9 months after the day on which this Act is passed, lay before Parliament a report on the steps the Secretary of State proposes to take in relation to the powers conferred by this section.#

## **Section 51 (relevant to volume III. Independent Child Trafficking Advocates)**

### **51 Presumption about age**

(1) This section applies where—

(a) a public authority with functions under relevant arrangements has reasonable grounds to believe that a person may be a victim of human trafficking, and

(b) the authority is not certain of the person's age but has reasonable grounds to believe that the person may be under 18.

(2) Until an assessment of the person's age is carried out by a local authority or the person's age is otherwise determined, the public authority must assume for the purposes of its functions under relevant arrangements that the person is under 18.

(3) "Relevant arrangements" means arrangements for providing assistance and support to persons who are, or who there are reasonable grounds to believe may be, victims of human trafficking, as set out in—

(a) guidance issued under section 49(1)(b);

(b) any regulations made under section 50(1).

(4) "Local authority" has the same meaning as in the Children Act 1989 (see section 105 of that Act).

## **Section 54 (relevant to volume II. Transparency in Supply Chains)**

### **54 Transparency in supply chains etc**

(1) A commercial organisation within subsection (2) must prepare a slavery and human trafficking statement for each financial year of the organisation.

(2) A commercial organisation is within this subsection if it—

(a) supplies goods or services, and

(b) has a total turnover of not less than an amount prescribed by regulations made by the Secretary of State.

(3) For the purposes of subsection (2)(b), an organisation's total turnover is to be determined in accordance with regulations made by the Secretary of State.

(4) A slavery and human trafficking statement for a financial year is—

(a) a statement of the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place—

(i) in any of its supply chains, and

(ii) in any part of its own business, or

(b) a statement that the organisation has taken no such steps.

(5) An organisation's slavery and human trafficking statement may include information about—

(a) the organisation's structure, its business and its supply chains;

(b) its policies in relation to slavery and human trafficking;

(c) its due diligence processes in relation to slavery and human trafficking in its business and supply chains;

(d) the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;

(e) its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate;

(f) the training about slavery and human trafficking available to its staff.

(6) A slavery and human trafficking statement—

(a) if the organisation is a body corporate other than a limited liability partnership, must be approved by the board of directors (or equivalent management body) and signed by a director (or equivalent);

(b) if the organisation is a limited liability partnership, must be approved by the members and signed by a designated member;

(c) if the organisation is a limited partnership registered under the Limited Partnerships Act 1907, must be signed by a general partner;

(d) if the organisation is any other kind of partnership, must be signed by a partner.

(7) If the organisation has a website, it must—

(a) publish the slavery and human trafficking statement on that website, and

(b) include a link to the slavery and human trafficking statement in a prominent place on that website's homepage.

(8) If the organisation does not have a website, it must provide a copy of the slavery and human trafficking statement to anyone who makes a written request for one, and must do so before the end of the period of 30 days beginning with the day on which the request is received.

(9) The Secretary of State—

(a) may issue guidance about the duties imposed on commercial organisations by this section;

(b) must publish any such guidance in a way the Secretary of State considers appropriate.

(10) The guidance may in particular include further provision about the kind of information which may be included in a slavery and human trafficking statement.

(11) The duties imposed on commercial organisations by this section are enforceable by the Secretary of State bringing civil proceedings in the High Court for an injunction or, in Scotland, for specific performance of a statutory duty under section 45 of the Court of Session Act 1988.

(12) For the purposes of this section—

“commercial organisation” means—

(a) a body corporate (wherever incorporated) which carries on a business, or part of a business, in any part of the United Kingdom, or

(b) a partnership (wherever formed) which carries on a business, or part of a business, in any part of the United Kingdom,

and for this purpose “business” includes a trade or profession;

“partnership” means—

(a) a partnership within the Partnership Act 1890,

(b) a limited partnership registered under the Limited Partnerships Act 1907, or

(c) a firm, or an entity of a similar character, formed under the law of a country outside the United Kingdom;

“slavery and human trafficking” means—

(a) conduct which constitutes an offence under any of the following—

- (i) section 1, 2 or 4 of this Act,
  - (ii) section 1, 2 or 4 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)) (equivalent offences in Northern Ireland),
  - (iii) section 22 of the Criminal Justice (Scotland) Act 2003 (asp 7) (traffic in prostitution etc),
  - (iv) section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation),
  - (v) section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (slavery, servitude and forced or compulsory labour), or
- (b) conduct which would constitute an offence in a part of the United Kingdom under any of those provisions if the conduct took place in that part of the United Kingdom.

# Annex C: Other Relevant Legislation

## **Human Trafficking and Exploitation (Scotland) Act 2015 (relevant to volume III. Independent Child Trafficking Advocates)**

### **Section 11: Independent child trafficking guardians**

(1). The Scottish Ministers must make such arrangements as they consider reasonable to enable a person (an “independent child trafficking guardian”) to be appointed to assist, support and represent a child to whom subsection (2) applies.

(2). This subsection applies to a child if a relevant authority determines that—

(a) there are reasonable grounds to believe that the child—

(i) is, or may be, a victim of the offence of human trafficking, or

(ii) is vulnerable to becoming a victim of that offence, and

(b) no person in the United Kingdom is a person with parental rights or responsibilities in relation to the child.

(3). A relevant authority making a determination that subsection (2) applies in relation to a child must, as soon as reasonably practicable after doing so, take steps to bring that child to the attention of the person mentioned in subsection (4)(a).

(4). The arrangements made under subsection (1) must—

(a) provide for a person to appoint an independent child trafficking guardian for a child to whom subsection (2) applies,

(b) provide for an independent child trafficking guardian to be appointed as soon as reasonably practicable after a relevant authority brings the child to the attention of the person mentioned in paragraph (a), and

(c) ensure that the independent child trafficking guardian appointed is independent of any person who will be responsible for exercising functions under any enactment in relation to the child.

(5). An independent child trafficking guardian appointed in relation to a child must at all times act in the best interests of the child.

(6). A person responsible for exercising functions under any enactment in relation to a child for whom an independent child trafficking guardian has been appointed under this section must—

(a) recognise, and pay due regard to the guardian's functions, and

(b) provide the independent child trafficking guardian with access to such information relating to the child as will enable the guardian to carry out the guardian's functions effectively.

(7). The Scottish Ministers may by regulations make further provision about independent child trafficking guardians appointed under this section, including, in particular, provision about—

(a) the appointment of an independent child trafficking guardian,

(b) the termination of that appointment,

(c) the conditions (including conditions as to training, qualifications and experience) to be satisfied for a person to be eligible for appointment as an independent child trafficking guardian,

(d) payments to be made to, or in respect of, an independent child trafficking guardian,

(e) the functions of an independent child trafficking guardian,

(f) the records that should be maintained by any person in relation to the appointment of an independent child trafficking guardian (including arrangements to maintain a register of independent child trafficking guardians),

(g) the circumstances in which—

(i) an independent child trafficking guardian appointed in relation to a person may continue to act after that person is no longer a child, and

(ii) the person who is no longer a child is to be treated as a child for the purposes of this section.

(8) In this section—

• “person with parental rights or responsibilities”, in relation to a child, means—

(a) a parent or guardian having parental responsibilities or parental rights in relation to the child under Part 1 of the Children (Scotland) Act 1995,

(b) a person in whom parental responsibilities or parental rights are vested by virtue of section 11(2)(b) of the Children (Scotland) Act 1995,

(c) a person having parental responsibilities or parental rights by virtue of section 11(12) of the Children (Scotland) Act 1995,

(d) a parent having parental responsibility for the child under Part 1 of the Children Act 1989,

(e) a person having parental responsibility for the child by virtue of—

(i) section 12(2) of the Children Act 1989,

(ii) section 14C of that Act, or

(iii) section 25(3) of the Adoption and Children Act 2002,

(f) a parent having parental responsibility for the child under Part 2 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755),

(g) a person having parental responsibility for the child by virtue of Article 12(2) of the Children (Northern Ireland) Order 1995 (S.I. 1995/755),

(h) a person in whom parental responsibilities or parental rights are vested by virtue of a permanence order (as defined in section 80(2) of the Adoption and Children (Scotland) Act 2007),

(i) any other person with rights or responsibilities anywhere in the world which are, in relation to a child, analogous to those described in paragraphs (a) to (h), and

(j) any other person specified by regulations made by the Scottish Ministers,

• “relevant authority” means—

(a) a local authority, and

(b) any other person specified by regulations made by the Scottish Ministers.

## **Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (relevant to volume III. Independent Child Trafficking Advocates)**

### **Section 21 Independent guardian**

(1) The Regional Health and Social Care Board must, in accordance with this section, make arrangements to enable a person (an “independent guardian”) to be appointed to assist, represent and support a child to whom this section applies.

(2) This section applies to a child if—

(a) a reference relating to that child has been, or is about to be, made to a competent authority for a determination for the purposes of Article 10 of the Trafficking Convention as to whether there are reasonable grounds to believe that the child is a victim of trafficking in human beings; and

(b) there has not been a conclusive determination that the child is not such a victim;

and for the purposes of this subsection a determination which has been challenged by way of proceedings for judicial review shall not be treated as conclusive until those proceedings are finally determined.

(3) This section also applies to a child who appears to the Regional Health and Social Care Board to be a separated child.

(4) Arrangements under this section must—

(a) be made with a registered charity (within the meaning of the Charities Act (Northern Ireland) 2008);

(b) provide for the appointment of a person as the independent guardian for a child to whom this section applies to be made by that charity;

(c) ensure that a person is not so appointed by that charity unless that person—

(i) is an employee of the charity; and

(ii) is eligible to be so appointed in accordance with regulations under subsection (5);

(d) provide for the appointment of an independent guardian only where the person with parental responsibility for the child—

(i) is not in regular contact with the child or is outside the United Kingdom;

(ii) is suspected of having committed an offence under section 2 in relation to the child; or

(iii) for other reasons has interests which conflict with those of the child;

(e) include provision for the termination of the appointment of an independent guardian, including in particular provision for such termination—

(i) if the child ceases to be a child to whom this section applies;

(ii) on the child attaining the age of 18 (unless subsection (10) applies);

(iii) on paragraph (d) ceasing to apply in relation to the child;

(iv) where, after consulting the independent guardian, the Regional Health and Social Care Board is of the opinion that it is no longer necessary to continue the appointment because long-term arrangements have been made in relation to the child.

(5) The Department of Health, Social Services and Public Safety shall by regulations make provision for—

(a) the training and qualifications required for a person to be eligible for appointment as an independent guardian;

(b) the support to be provided for, and the supervision of, an independent guardian.

(6) An independent guardian appointed in relation to a child must at all times act in the best interests of the child.

(7) The functions of an independent guardian include (where appropriate)—

(a) ascertaining and communicating the views of the child in relation to matters affecting the child;

(b) making representations to, and liaising with, bodies or persons responsible for—

(i) providing care, accommodation, health services, education or translation and interpretation services to or in respect of the child; or

(ii) otherwise taking decisions in relation to the child;

(c) assisting the child to obtain legal or other advice, assistance and representation, including (where necessary) the appointment and instructing of legal representatives to act on behalf of the child;

(d) consulting regularly with the child and keeping the child informed of legal and other proceedings affecting the child and any other matters affecting the child;

(e) contributing to a plan to safeguard and promote the future welfare of the child based on an individual assessment of that child's best interests;

(f) providing a link between the child and any body or person who may provide services to the child;

(g) assisting in establishing contact with members of the child's family, where the child so wishes and it is in the child's best interests;

(h) accompanying the child to meetings or on other occasions.

(8) Any person or body providing services or taking administrative decisions in relation to a child for whom an independent guardian has been appointed under this section must recognise, and pay due regard to, the functions of the guardian and must (to the extent otherwise permitted by law) provide the guardian with access to such information relating to the child as will enable the

guardian to carry out his or her functions effectively.

(9) The Department of Health, Social Services and Public Safety may by regulations confer additional functions on independent guardians.

(10) The arrangements under this section may provide for an independent guardian appointed in relation to a person under the age of 18 to continue (with the consent of that person) to act in relation to that person after that person attains the age of 18 but is under the age of 21.

(11) In this section—

“administrative decision” does not include a decision taken by a court or tribunal;

“parental responsibility” has the meaning given by Article 6 of the Children (Northern Ireland) Order 1995, except that it does not include parental responsibility conferred by a care order (within the meaning of Article 49(1) of that Order);

“separated child” means a child who—

(a) is not ordinarily resident in Northern Ireland;

(b) is separated from all persons who—

(i) have parental responsibility for the child; or

(ii) before the child’s arrival in Northern Ireland, were responsible for the child whether by law or custom; and

(c) because of that separation, may be at risk of harm.

(12) A reference in any other statutory provision to the guardian of a child does not include a reference to an independent guardian appointed under this section.

# Australian Modern Slavery Act 2018 (relevant to volume II. Transparency in Supply Chains)

## Modern Slavery Act 2018

No. 153, 2018

An Act to require some entities to report on the risks of modern slavery in their operations and supply chains and actions to address those risks, and for related purposes

[Assented to 10 December 2018]

### The Parliament of Australia enacts:

#### Part 1—Preliminary

##### 1 Short title

This Act is the *Modern Slavery Act 2018*.

##### 2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	10 December 2018
2. Sections 3 to 10 and Parts 2 to 4	A single day to be fixed by Proclamation.  However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 January 2019  (F2018N00189)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### 3 Simplified outline of this Act

This Act requires entities based, or operating, in Australia, which have an annual consolidated revenue of more than \$100 million, to report annually on the risks of modern slavery in their operations and supply chains, and actions to address those risks. Other entities based, or operating, in Australia may report voluntarily.

The Commonwealth is required to report on behalf of non-corporate Commonwealth entities, and the reporting requirements also apply to Commonwealth corporate entities and companies with an annual consolidated revenue of more than \$100 million.

Reports are kept by the Minister in a public repository known as the Modern Slavery Statements Register. Statements on the register may be accessed by the public, free of charge, on the internet.

### 4 Definitions

In this Act:

**accounting standards** has the same meaning as in the *Corporations Act 2001*.

**Australia**, when used in a geographical sense, includes the external Territories.

**Australian entity** means:

(a) a company which is a resident within the meaning of subsection 6(1) of the *Income Tax Assessment Act 1936*; or

(b) a trust, if the trust estate is a resident trust estate within the meaning of Division 6 of Part III of the *Income Tax Assessment Act 1936*; or

(c) a corporate limited partnership which is a resident within the meaning of section 94T of the *Income Tax Assessment Act 1936*; or

(d) any other partnership, or other entity, whether incorporated or unincorporated, if:

(i) the entity is formed or incorporated within Australia; or

(ii) the central management or control of the entity is in Australia.

**carries on business in Australia**: see section 5 (meaning of **reporting entity**).

**consolidated revenue**, of an entity, means:

(a) the total revenue of the entity, for a reporting period; or

(b) if the entity controls another entity or entities—the total revenue of the entity and all of the controlled entities, considered as a group, for a reporting period of the controlling entity;

worked out in accordance with the accounting standards, even if those standards do not otherwise apply to such an entity (including a controlling entity) or group.

**control**, of an entity by another entity, means control of the entity within the meaning of the accounting standards.

**entity** has the same meaning as in the *Income Tax Assessment Act 1997*.

Note: See section 960-100 of that Act.

**modern slavery** means conduct which would constitute:

(a) an offence under Division 270 or 271 of the *Criminal Code*; or

(b) an offence under either of those Divisions if the conduct took place in Australia; or

(c) trafficking in persons, as defined in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, done at New York on 15 November 2000 ([2005] ATS 27); or

(d) the worst forms of child labour, as defined in Article 3 of the ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, done at Geneva on 17 June 1999 ([2007] ATS 38).

Note: In 2018, the text of international agreements in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

**modern slavery statement**: see section 12.

**principal governing body**, of an entity, means:

(a) the body, or group of members of the entity, with primary responsibility for the governance of the entity; or

(b) if the entity is of a kind prescribed by rules made for the purposes of this paragraph—a prescribed body within the entity, or a prescribed member or members of the entity.

Example: Examples of principal governing bodies are as follows:

(a) for a company—the company's board of directors;

(b) for a superannuation fund—the fund's board of trustees.

**register** means the Modern Slavery Statements Register established under section 18.

**reporting entity**: see section 5.

**reporting period**, of an entity, means a financial year, or another annual accounting period applicable to the entity, which starts after the commencement of this section.

Example: For a company's reporting period, see section 319 of the *Income Tax Assessment Act 1936*.

**responsible member**, of an entity, means:

(a) an individual member of the entity's principal governing body who is authorised to sign

modern slavery statements for the purposes of this Act; or

(b) if the entity is a trust administered by a sole trustee—that trustee; or

(c) if the entity is a corporation sole—the individual constituting the corporation; or

(d) if the entity is under administration within the meaning of the *Corporations Act 2001*—the administrator; or

(e) if the entity is of a kind prescribed by rules made for the purposes of this paragraph—a prescribed member of the entity.

**rules** means rules made by the Minister under section 25.

## 5 Meaning of *reporting entity*

(1) Each of the following is a **reporting entity** in relation to a reporting period:

(a) an entity which has a consolidated revenue of at least \$100 million for the reporting period, if the entity:

(i) is an Australian entity at any time in that reporting period; or

(ii) carries on business in Australia at any time in that reporting period;

(b) the Commonwealth;

(c) a corporate Commonwealth entity, or a Commonwealth company, within the meaning of the *Public Governance, Performance and Accountability Act 2013*, which has a consolidated revenue of at least \$100 million for the reporting period;

(d) an entity which has volunteered to comply with the requirements of this Act under section 6 for that period.

Note: The Commonwealth is required to report on behalf of non-corporate Commonwealth entities within the meaning of the *Public Governance, Performance and Accountability Act 2013*: see section 15 of this Act.

(2) An entity **carries on business in Australia** if the entity:

(a) in the case of a body corporate—carries on business in Australia, a State or a Territory within the meaning of the *Corporations Act 2001* (see section 21 of that Act); or

(b) in any other case—would be taken to do so within the meaning of that Act if the entity were a body corporate.

## 6 Voluntary modern slavery statements

How an entity may volunteer

(1) An entity covered by subsection (2) may volunteer to comply with the requirements of this Act for a reporting period, or reporting periods, by giving written notice to the Minister accordingly before the end of the reporting period (or the earliest of the reporting periods), in a manner and form approved by the Minister.

Note: An entity can volunteer under this section in relation to a reporting period and all later reporting periods.

(2) An entity is covered by this subsection for a reporting period if the entity, at any time in the reporting period:

- (a) is an Australian entity; or
- (b) carries on business in Australia.

Revoking a notice

(3) An entity may revoke a notice given under subsection (1), to the extent that it applies in relation to a reporting period or periods, by giving written notice accordingly to the Minister before the start of the reporting period, or the earliest of the reporting periods.

## **7 Constitutional basis**

(1) Without limitation, this Act relies on:

(a) the Commonwealth's legislative powers under the following provisions of the Constitution:

- (i) paragraph 51(i) (trade and commerce);
- (ii) paragraph 51(xi) (census and statistics);
- (iii) paragraph 51(xix) (aliens);
- (iv) paragraph 51(xx) (corporations);
- (v) paragraph 51(xxi) (marriage);
- (vi) paragraph 51(xxvii) (immigration);
- (vii) paragraph 51(xxix) (external affairs);
- (viii) paragraph 51(xxxix) (incidental matters);
- (ix) section 61 (the executive power); and

(b) any implied legislative powers of the Commonwealth.

(2) Without limiting subparagraph (1)(a)(vii), this Act's reliance on the Commonwealth's legislative powers under paragraph 51(xxix) of the Constitution is based on purposes including giving effect to the following international agreements, as amended and in force for Australia from time to time:

(a) the International Convention to Suppress the Slave Trade and Slavery, done at Geneva on 25 September 1926 ([1927] ATS 11);

(b) the ILO Convention (No. 29) concerning Forced or Compulsory Labour, done at Geneva on 28 June 1930 ([1933] ATS 21);

(c) the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and

Institutions and Practices similar to Slavery, done at Geneva on 7 September 1956 ([1958] ATS 3);

(d) the International Covenant on Civil and Political Rights, done at New York on 16 December 1966 ([1980] ATS 23);

(e) the Convention on the Elimination of All Forms of Discrimination Against Women, done at New York on 18 December 1979 ([1983] ATS 9);

(f) the Convention on the Rights of the Child, done at New York on 20 November 1989 ([1991] ATS 4);

(g) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, done at New York on 15 November 2000 ([2005] ATS 27);

(h) the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, done at New York on 25 May 2000 ([2007] ATS 6);

(i) the ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, done at Geneva on 17 June 1999 ([2007] ATS 38).

Note: In 2018, the text of international agreements in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

## **8 Act binds the Crown**

This Act binds the Crown in right of the Commonwealth. However, it does not bind the Crown in right of a State, the Australian Capital Territory or the Northern Territory.

## **9 Extension to external Territories**

This Act extends to every external Territory.

## **10 Extra-territorial application**

This Act extends to acts, omissions, matters and things outside Australia.

## **Part 2—Modern slavery statements**

### **11 Simplified outline of this Part**

This Part requires modern slavery statements to be given annually to the Minister, describing the risks of modern slavery in the operations and supply chains of reporting entities and entities owned or controlled by those entities.

The statements must also include information about actions taken to address those risks.

Joint modern slavery statements may be given on behalf of one or more reporting entities.

The Minister must prepare an annual modern slavery statement on behalf of all non-corporate

Commonwealth entities.

The Minister may request an explanation from an entity about the entity's failure to comply with a requirement in relation to modern slavery statements, and may also request that the entity undertake remedial action in relation to that requirement. If the entity fails to comply with the request, the Minister may publish information about the failure to comply on the register or elsewhere, including the identity of the entity.

## **12 Meaning of *modern slavery statement***

A ***modern slavery statement*** is a statement prepared for the purposes of any of the following:

- (a) section 13 (modern slavery statements for single reporting entities);
- (b) section 14 (joint modern slavery statements);
- (c) section 15 (Commonwealth modern slavery statements).

## **13 Modern slavery statements for single reporting entities**

(1) A reporting entity must give the Minister a modern slavery statement for the entity, for a reporting period, unless a modern slavery statement has been given covering the entity for that period under section 14 (joint modern slavery statements) or 15 (Commonwealth modern slavery statements).

(2) The reporting entity must ensure that the statement:

- (a) complies with section 16; and
- (b) is prepared in a form approved by the Minister; and
- (c) is approved by the principal governing body of the entity; and
- (d) is signed by a responsible member of the entity; and

(e) is given to the Minister within 6 months after the end of the reporting period for the entity, in a manner approved by the Minister.

Note: The statement may be signed electronically: see section 10 of the *Electronic Transactions Act 1999*.

## **14 Joint modern slavery statements**

(1) An entity, other than the Commonwealth, may give the Minister a modern slavery statement covering one or more reporting entities (which may include the entity giving the statement), for a reporting period for those reporting entities.

(2) The entity giving the statement must ensure that it:

- (a) complies with section 16; and
- (b) is prepared in a form approved by the Minister; and
- (c) is prepared in consultation with each reporting entity covered by the statement; and

(d) is approved by the principal governing body of:

(i) each reporting entity covered by the statement; or

(ii) an entity (the **higher entity**) which is in a position, directly or indirectly, to influence or control each reporting entity covered by the statement, whether or not the higher entity is itself covered by the statement; or

(iii) if it is not practicable to comply with subparagraph (i) or (ii)—at least one reporting entity covered by the statement; and

(e) is signed by a responsible member of:

(i) if subparagraph (d)(i) applies—each reporting entity covered by the statement;

or

(ii) if subparagraph (d)(ii) applies—the higher entity; or

(iii) if subparagraph (d)(iii) applies—each reporting entity to which the subparagraph applies; and

(f) is given to the Minister:

(i) within 6 months after the end of the reporting period for the entities covered by the statement, in a manner approved by the Minister; or

(ii) within a period prescribed by rules made for the purposes of this subparagraph.

Note 1: The statement may be signed electronically: see section 10 of the *Electronic Transactions Act 1999*.

Note 2: If subparagraph (d)(iii) applies, the statement must include an explanation: see subsection 16(2).

## **15 Commonwealth modern slavery statements**

(1) The Minister must prepare a modern slavery statement for the Commonwealth, for a reporting period, covering all non-corporate Commonwealth entities within the meaning of the *Public Governance, Performance and Accountability Act 2013*.

(2) The Minister must ensure that the statement:

(a) complies with section 16; and

(b) is prepared within 6 months after the end of the reporting period.

## **16 Mandatory criteria for modern slavery statements**

(1) A modern slavery statement must, in relation to each reporting entity covered by the statement:

(a) identify the reporting entity; and

(b) describe the structure, operations and supply chains of the reporting entity; and

(c) describe the risks of modern slavery practices in the operations and supply chains of the reporting entity, and any entities that the reporting entity owns or controls; and

(d) describe the actions taken by the reporting entity and any entity that the reporting entity owns or controls, to assess and address those risks, including due diligence and remediation processes; and

(e) describe how the reporting entity assesses the effectiveness of such actions; and

(f) describe the process of consultation with:

(i) any entities that the reporting entity owns or controls; and

(ii) in the case of a reporting entity covered by a statement under section 14—the entity giving the statement; and

(g) include any other information that the reporting entity, or the entity giving the statement, considers relevant.

Example: For paragraph (d), actions taken by an entity may include the development of policies and processes to address modern slavery risks, and providing training for staff about modern slavery.

(2) A modern slavery statement, other than a statement to be given under section 15 (Commonwealth modern slavery statements), must include:

(a) for a statement to be given under section 13 (modern slavery statements for single reporting entities)—details of approval by the principal governing body of the reporting entity; or

(b) for a statement to be given under section 14 (joint modern slavery statements):

(i) details of approval by the relevant principal governing body or bodies; and

(ii) if subparagraph 14(2)(d)(iii) applies—an explanation of why it is not practicable to comply with subparagraph 14(2)(d)(i) or (ii).

## **16A Explanations for failure to comply etc.**

### Request for explanation or remedial action

(1) If the Minister is reasonably satisfied that an entity has failed to comply with a requirement under section 13 or 14 (which deal with requirements to give modern slavery statements), the Minister may give a written request to the entity to do either or both of the following:

(a) provide an explanation for the failure to comply within a specified period of 28 days or longer after the request is given;

(b) undertake specified remedial action in relation to that requirement in accordance with the request within a specified period of 28 days or longer after the request is given.

Example: For a request relating to a failure to give a modern slavery statement to the Minister within the period required by section 13, remedial action specified under paragraph (b) of this subsection may be to give a modern slavery statement to the Minister within a further period

specified in the request.

(2) The Minister may extend, or further extend, a period specified in a request under subsection (1) by written notice given to the entity. The extension may be given before or after the end of the specified period (or that period as previously extended).

(3) A request under subsection (1) must include a statement of the effect of subsections (2) and (4) to (6).

#### Publication of information about failure to comply with request

(4) If the Minister is reasonably satisfied that an entity has failed to comply with a request under subsection (1), the Minister may publish the following information on the register, or in any other way the Minister considers appropriate:

(a) the identity of the entity;

(b) if the request relates to the entity's failure to comply with subsection 14(2) (joint modern slavery statements) in relation to a modern slavery statement—the identities of the reporting entities covered by the statement;

(c) the date the request was given, and details of any extension given under subsection (2);

(d) details of the explanation or remedial action requested, and the period or periods specified in the request;

(e) the reasons why the Minister is satisfied that the entity has failed to comply with the request.

(5) An entity ***fails to comply*** with a request if, and only if:

(a) no explanation is given in response to the request within the period specified in the request under paragraph (1)(a) (as extended, if at all, under subsection (2)); or

(b) no remedial action is undertaken in response to the request within the period specified in the request under paragraph (1)(b) (as extended, if at all, under subsection (2)).

#### Review of decisions

(6) Applications may be made to the Administrative Appeals Tribunal for review of the Minister's decision under subsection (4) to publish information about an entity's failure to comply with a request under subsection (1).

## Part 3—Access to modern slavery statements

### 17 Simplified outline of this Part

This Part establishes the Modern Slavery Statements Register.

The register is made available to the public on the internet.

Modern slavery statements are registered by the Minister.

Revised versions of registered modern slavery statements can be registered in some circumstances.

## **18 Modern Slavery Statements Register**

(1) The Minister must maintain a register of modern slavery statements, to be known as the Modern Slavery Statements Register.

(2) The register must be made available for public inspection, without charge, on the internet.

## **19 Registration of modern slavery statements**

(1) The Minister must register a modern slavery statement:

(a) given in accordance with section 13 (modern slavery statements for single reporting entities) or 14 (joint modern slavery statements); or

(b) prepared in accordance with section 15 (Commonwealth modern slavery statements).

(2) The Minister may register a statement given for the purposes of compliance with section 13 or 14 (including a statement given in response to a request under section 16A) even if the entity giving the statement does not comply with the requirements of subsection 13(2) or 14(2).

Note: However, the Minister may elect not to register a modern slavery statement if the entity does not comply with those requirements.

## **20 Registration of revised modern slavery statements**

(1) An entity (other than the Commonwealth) may, by written notice to the Minister, accompanied by a revised version of a registered modern slavery statement given by the entity, request the Minister to register the revised version.

(2) The revised version of the modern slavery statement must indicate the date of the revision and include a description of the changes made to the registered statement (or to the most recently registered revised version of the statement).

(3) The Minister must register the revised version of the modern slavery statement, if the revised version complies with the requirements mentioned in the following provisions:

(a) if the original statement was given under section 13—paragraphs 13(2)(a) to (d);

(b) if the original statement was given under section 14—paragraphs 14(2)(a) to (e).

(4) The Minister may register a revised version of a modern slavery statement even if it does not comply with the requirements mentioned in paragraph (3)(a) or (b).

Note: However, the Minister may elect not to register a revised version of a modern slavery statement which does not comply with those requirements.

(5) For a modern slavery statement registered under section 15 (Commonwealth modern slavery statements), the Minister may register a revised version of the statement that complies

with section 16 and subsection (2) of this section.

## **Part 4—Miscellaneous**

### **21 Simplified outline of this Part**

This Part deals with the following miscellaneous matters:

- (a) things done by an unincorporated entity;
- (b) the Minister's capacity to delegate powers and functions under this Act;
- (ba) annual reports about the implementation of this Act;
- (c) the 3-year review of this Act;
- (d) the power to make rules.

### **22 Unincorporated entities**

(1) This section applies if this Act requires or allows a thing to be done by an entity that is an unincorporated body.

(2) The thing must, or may, be done by a responsible member of the entity on the entity's behalf.

### **23 Delegation**

(1) The Minister may, by writing, delegate all or any of the Minister's powers and functions under this Act to an SES employee, or acting SES employee, in the Department.

Note: The expressions **SES employee** and **acting SES employee** are defined in the *Acts Interpretation Act 1901*.

(2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

(3) Subsection (1) does not apply to a power to make, vary or revoke the rules.

### **23A Annual reports about implementation**

(1) The Minister must cause a report to be prepared for each calendar year (including the year in which this section commences) about the implementation of this Act during the year, including the following (without limitation):

- (a) an overview of compliance by entities with this Act during the year;
- (b) the identification of best practice modern slavery reporting under this Act during the year.

(2) The report must be:

(a) started as soon as practicable after the end of the calendar year for which it is prepared; and

(b) completed before the end of the calendar year in which it is started.

(3) The Minister must cause copies of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the completion of the report.

## **24 Three-year review**

(1) The Minister must cause a report to be prepared reviewing:

(a) the operation of this Act and any rules over the period of 3 years after this section commences; and

(aa) compliance with this Act and any rules over that period; and

(ab) whether additional measures to improve compliance with this Act and any rules are necessary or desirable, such as civil penalties for failure to comply with the requirements of this Act; and

(ac) whether a further review of this Act and any rules should be undertaken, and if so, when; and

(ad) whether it is necessary or desirable to do anything else to improve the operation of this Act and any rules; and

(b) whether this Act or any rules should be amended to implement review recommendations.

(2) The review must be:

(a) started as soon as practicable after the end of the period of 3 years after this section commences; and

(b) completed within 12 months after it starts.

(3) The Minister must cause copies of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the completion of the report.

## **25 Rules**

(1) The Minister may, by legislative instrument, make rules prescribing matters:

(a) required or permitted by this Act to be prescribed by the rules; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) To avoid doubt, the rules may not do the following:

(a) create an offence or civil penalty;

(b) provide powers of:

(i) arrest or detention; or

(ii) entry, search or seizure;

(c) impose a tax;

(d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;

(e) directly amend the text of this Act.

*[Minister's second reading speech made in—*

*House of Representatives on 28 June 2018*

*Senate on 18 September 2018]*

(134/18)

## **US Federal Acquisition Regulation, Subpart 22.17 – Combating Trafficking in Persons (relevant to volume II. Transparency in Supply Chains)**

### **22.1700 Scope of subpart.**

This subpart prescribes policy for implementing 22 U.S.C. chapter 78 and Executive Order 13627, Strengthening Protections Against Trafficking in Persons in Federal Contracts, dated September 25, 2012.

### **22.1701 Applicability.**

(a) This subpart applies to all acquisitions.

(b) The requirement at 22.1703(c) for a certification and compliance plan applies only to any portion of a contract or subcontract that—

(1) Is for supplies, other than commercially available off-the-shelf (COTS) items, to be acquired outside the United States, or services to be performed outside the United States; and

(2) Has an estimated value that exceeds \$500,000.

### **22.1702 Definitions.**

As used in this subpart—

“Agent” means any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.

“Coercion” means—

(1) Threats of serious harm to or physical restraint against any person;

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(3) The abuse or threatened abuse of the legal process.

“Commercial sex act” means any sex act on account of which anything of value is given to or received by any person.

“Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

“Employee” means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

“Forced labor” means knowingly providing or obtaining the labor or services of a person—

(1) By threats of serious harm to, or physical restraint against, that person or another person;

(2) By means of any scheme, plan, or pattern intended to cause the person to believe that,

if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

(3) By means of the abuse or threatened abuse of law or the legal process.

“Involuntary servitude” includes a condition of servitude induced by means of—

(1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or

(2) The abuse or threatened abuse of the legal process.

“Severe forms of trafficking in persons” means—

(1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

“Subcontract” means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

“United States” means the 50 States, the District of Columbia, and outlying areas.

### **22.1703 Policy.**

The United States Government has adopted a policy prohibiting trafficking in persons, including the trafficking-related activities below. Additional information about trafficking in persons may be found at the website for the Department of State’s Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/g/tip>. Government solicitations and contracts shall—

(a) Prohibit contractors, contractor employees, subcontractors, subcontractor employees, and their agents from—

(1) Engaging in severe forms of trafficking in persons during the period of performance of the contract;

(2) Procuring commercial sex acts during the period of performance of the contract;

(3) Using forced labor in the performance of the contract;

(4) Destroying, concealing, confiscating, or otherwise denying access by an employee to the employee’s identity or immigration documents, such as passports or drivers’ licenses, regardless of issuing authority;

(5)(i) Using misleading or fraudulent practices during the recruitment of employees or offering of employment, such as failing to disclose, in a format and language accessible to the worker, basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or agent provided or arranged), any significant costs to be charged to the employee, and, if applicable, the hazardous nature of the work;

(ii) Using recruiters that do not comply with local labor laws of the country in which the recruiting takes place;

(6) Charging employees recruitment fees;

(7)

(i)(A) Failing to provide return transportation or pay for the cost of return transportation upon the end of employment, for an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract, for portions of contracts and subcontracts performed outside the United States; or

(B) Failing to provide return transportation or pay for the cost of return transportation upon the end of employment, for an employee who is not a United States national and who was brought into the United States for the purpose of working on a U.S. Government contract or subcontract, if the payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the employee for portions of contracts and subcontracts performed inside the United States; except that—

(ii) The requirements of paragraph (a)(7)(i) of this section do not apply to an employee who is—

(A) Legally permitted to remain in the country of employment and who chooses to do so; or

(B) Exempted by an authorized official of the contracting agency, designated by the agency head in accordance with agency procedures, from the requirement to provide return transportation or pay for the cost of return transportation;

(iii) The requirements of paragraph (a)(7)(i) of this section are modified for a victim of trafficking in persons who is seeking victim services or legal redress in the country of employment, or for a witness in an enforcement action related to trafficking in persons. The contractor shall provide the return transportation or pay the cost of return transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor shall also offer return transportation to a witness at a time that supports the witness' need to testify. This paragraph does not apply when the exemptions at paragraph (a)(7)(ii) of this section apply.

(8) Providing or arranging housing that fails to meet the host country housing and safety standards; or

(9) If required by law or contract, failing to provide an employment contract, recruitment

agreement, or other required work document in writing. Such written document shall be in a language the employee understands. If the employee must relocate to perform the work, the work document shall be provided to the employee at least five days prior to the employee relocating. The employee's work document shall include, but is not limited to, details about work description, wages, prohibition on charging recruitment fees, work location(s), living accommodations and associated costs, time off, roundtrip transportation arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons. The contracting officer shall consider the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons, and the number of non-U.S. citizens expected to be employed, when deciding whether to require work documents in the contract;

(b) Require contractors and subcontractors to notify employees of the prohibited activities described in paragraph (a) of this section and the actions that may be taken against them for violations;

(c) With regard to certification and a compliance plan—

(1)(i) Require the apparent successful offeror to provide, before contract award, a certification (see 52.222-56) that the offeror has a compliance plan if any portion of the contract or subcontract—

(A) Is for supplies, other than COTS items (see 2.101), to be acquired outside the United States, or services to be performed outside the United States; and

(B) The estimated value exceeds \$500,000.

(ii) The certification must state that—

(A) The offeror has implemented the plan and has implemented procedures to prevent any prohibited activities and to monitor, detect, and terminate the contract with a subcontractor or agent engaging in prohibited activities; and

(B) After having conducted due diligence, either—

(1) To the best of the offeror's knowledge and belief, neither it nor any of its agents, proposed subcontractors, or their agents, has engaged in any such activities; or

(2) If abuses relating to any of the prohibited activities identified in 52.222-50(b) have been found, the offeror or proposed subcontractor has taken the appropriate remedial and referral actions;

(2) Require annual certifications (see 52.222-50(h)(5)) during performance of the contract, when a compliance plan was required at award;

(3)(i) Require the contractor to obtain a certification from each subcontractor, prior to award of a subcontract, if any portion of the subcontract—

(A) Is for supplies, other than COTS items (see 2.101), to be acquired outside the United States, or services to be performed outside the United States; and

(B) The estimated value exceeds \$500,000.

(ii) The certification must state that—

(A) The subcontractor has implemented a compliance plan; and

(B) After having conducted due diligence, either—

(1) To the best of the subcontractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents, has engaged in any such activities; or

(2) If abuses relating to any of the prohibited activities identified in 52.222-50(b) have been found, the subcontractor has taken the appropriate remedial and referral actions;

(4) Require the contractor to obtain annual certifications from subcontractors during performance of the contract, when a compliance plan was required at the time of subcontract award; and

(5) Require that any compliance plan or procedures shall be appropriate to the size and complexity of the contract and the nature and scope of its activities, including the number of non-U.S. citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons. The minimum elements of the plan are specified at 52.222-50(h);

(d) Require the contractor and subcontractors to—

(1) Disclose to the contracting officer and the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct;

(2) Provide timely and complete responses to Government auditors' and investigators' requests for documents;

(3) Cooperate fully in providing reasonable access to their facilities and staff (both inside and outside the U.S.) to allow contracting agencies and other responsible Federal agencies to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act (22 U.S.C. chapter 78), Executive Order 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and

(4) Protect all employees suspected of being victims of or witnesses to prohibited activities, prior to returning to the country from which the employee was recruited, and shall not prevent or hinder the ability of these employees from cooperating fully with Government authorities; and

(e) Provide suitable remedies, including termination, to be imposed on contractors that fail to comply with the requirements of paragraphs (a) through (d) of this section.

## **22.1704 Violations and remedies.**

(a) Violations. It is a violation of the Trafficking Victims Protection Act of 2000, as amended, (22 U.S.C. chapter 78), E.O. 13627, or the policies of this subpart if—

(1) The contractor, contractor employee, subcontractor, subcontractor employee, or agent

engages in severe forms of trafficking in persons during the period of performance of the contract;

(2) The contractor, contractor employee, subcontractor, subcontractor employee, or agent procures a commercial sex act during the period of performance of the contract;

(3) The contractor, contractor employee, subcontractor, subcontractor employee, or agent uses forced labor in the performance of the contract; or

(4) The contractor fails to comply with the requirements of the clause at 52.222-50, Combating Trafficking in Persons.

(b) Credible information. Upon receipt of credible information regarding a violation listed in paragraph (a) of this section, the contracting officer—

(1) Shall promptly notify, in accordance with agency procedures, the agency Inspector General, the agency debarring and suspending official, and if appropriate, law enforcement officials with jurisdiction over the alleged offense; and

(2) May direct the contractor to take specific steps to abate the alleged violation or enforce the requirements of its compliance plan.

(c) Receipt of agency Inspector General report.

(1) The head of an executive agency shall ensure that the contracting officer is provided a copy of the agency Inspector General report of an investigation of a violation of the trafficking in persons prohibitions in 22.1703(a) and 52.222-50(b).

(2)(i) Upon receipt of a report from the agency Inspector General that provides support for the allegations, the head of the executive agency, in accordance with agency procedures, shall delegate to an authorized agency official, such as the agency suspending or debarring official, the responsibility to—

(A) Expeditiously conduct an administrative proceeding, allowing the contractor the opportunity to respond to the report;

(B) Make a final determination as to whether the allegations are substantiated; and

(C) Notify the contracting officer of the determination.

(ii) Whether or not the official authorized to conduct the administrative proceeding is the suspending and debarring official, the suspending and debarring official has the authority, at any time before or after the final determination as to whether the allegations are substantiated, to use the suspension and debarment procedures in subpart 9.4 to suspend, propose for debarment, or debar the contractor, if appropriate, also considering the factors at 22.1704(d)(2).

(d) Remedies. After a final determination in accordance with paragraph (c)(2)(ii) of this section that the allegations of a trafficking in persons violation are substantiated, the contracting officer shall—

(1) Enter the violation in FAPIIS (see 42.1503(h)); and

(2) Consider taking any of the remedies specified in paragraph (e) of the clause at 52.222-

50, Combating Trafficking in Persons. These remedies are in addition to any other remedies available to the United States Government. When determining the appropriate remedies, the contracting officer may consider the following factors:

(i) Mitigating factors. The contractor had a Trafficking in Persons compliance plan or awareness program at the time of the violation, was in compliance with the plan at the time of the violation, and has taken appropriate remedial actions for the violations, that may include reparation to victims for such violations.

(ii) Aggravating factors. The contractor failed to abate an alleged violation or enforce the requirements of a compliance plan, when directed by a contracting officer to do so.

## **22.1705 Solicitation provision and contract clause.**

(a)(1) Insert the clause at 52.222-50, Combating Trafficking in Persons, in all solicitations and contracts.

(2) Use the clause with its Alternate I when the contract will be performed outside the United States (as defined at 22.1702) and the contracting officer has been notified of specific U.S. directives or notices regarding combating trafficking in persons (such as general orders or military listings of “off-limits” local establishments) that apply to contractor employees at the contract place of performance.

(b) Insert the provision at 52.222-56, Certification Regarding Trafficking in Persons Compliance Plan, in solicitations if

(1) It is possible that at least \$500,000 of the value of the contract may be performed outside the United States; and

- (2) The acquisition is not entirely for commercially available off-the-shelf items.

# Annex D: Models of UK and International Commissioners

## Independent Review of the Modern Slavery Act 2015

### Models of Commissioner

Comparative Study of UK and International Commissioners

## Introduction

- We studied a sample of five UK Commissions/Commissioners and five international human trafficking commissioners.
- There are a range of factors that may affect the degree of a Commissioner's independence. We asked the following questions:
  - Who is responsible for the appointment, accountability and budget of the Commissioner?
  - Who does the Commissioner submit reports and recommendations to, and how are these reports dealt with?
  - What governance and oversight structures are in place to set the Commissioner's strategic direction?
- We also asked questions about the Commissioners' roles internationally

INDEPENDENT REVIEW OF THE MODERN SLAVERY ACT 2015

# Independent Anti-Slavery Commissioner

Theme	Section of the Act (if applicable)	Description
<b>Statutory footing and Summary of role</b>	s41 & s43	Modern Slavery Act 2015. The Commissioner has a UK-wide remit to encourage good practice in the prevention, detection, investigation and prosecution of modern slavery offences. In order to achieve his aims the Commissioner works directly with statutory agencies, who have a duty to co-operate with the Commissioner as set out in the Modern Slavery Act.
<b>Appointment</b>	s40(1)	The Home Secretary, in consultation with Northern Irish Executive and Scottish Government. Not subject to pre-appointment parliamentary scrutiny.
<b>Accountability</b>	N/A	In accordance with the Code of Practice on Public Appointments, the appointing Minister is also accountable for the position.
<b>Budget</b>	s40(3) and s40(4)(a)	Home Secretary determines and pays the Commissioner's expenses, remuneration and allowances. The Home Secretary must set the Commissioner's maximum budget before the beginning of each financial year.
<b>Submission of reports and recommendations</b>	s41(3) s42(1), (2)	The Act empowers the Commissioner to make reports on any matters stated in his strategic plan, or that the Home Secretary or Devolved Administrations have asked him to report on. It is inferred in s41 that the Commissioner must send all reports to the Home Secretary and Devolved Administrations for approval before they can be published. The Secretary of State, Scottish Ministers, Lord Advocate, and Department of Justice in Northern Ireland may direct the Commissioner to omit from any report before publication any material whose publication the Secretary of State thinks –
<b>Redaction of reports by Ministers</b>	s41(7), (8), (9), (10) s42(14), (15), (16), (17)	(a) Would be against the interests of national security (b) Might jeopardise the safety of any person, or (c) Might prejudice the investigation or prosecution of an offence under the law
<b>Obligation for Ministers to act on reports and recommendations</b>	s42(10), (11), (12)	The Home Secretary and Devolved Administrations must lay strategic plans and annual reports in parliaments and assemblies as soon as reasonably practicable after receiving them.
<b>Governance and Oversight</b>	N/A	There is no governance or oversight mechanism provided for in the Act. In practice, the Commissioner was overseen by the Home Office Modern Slavery Unit on behalf of the Home Secretary, and supported by an ad hoc advisory board that he set up.
<b>International</b>	s41(3)(f)	The Act makes provisions for the Commissioner to co-operate with or work jointly with public authorities, voluntary organisations and other persons, in the United Kingdom or internationally.

INDEPENDENT REVIEW OF THE MODERN SLAVERY ACT 2015

## Sample

Country	Commissioner	Statutory footing and Summary of role
UK	<b>Independent Chief Inspector of Borders and Immigration (ICIBI)</b>	UK Borders Act 2007, Section 48. Monitors and reports on the efficiency and effectiveness of the immigration, asylum, nationality and customs functions carried out by the Home Secretary and by officials and others on his behalf. The Chief Inspector is a public appointee and independent from government. His reports are laid before Parliament.
England and Wales	<b>Lead Commissioner for Countering Extremism</b>	Non-statutory. Supports society to fight all forms of extremism. Advises the government on new policies to deal with extremism, including the need for any new powers.
England and Wales	<b>Victims Commissioner</b>	Domestic Violence, Crime and Victims Act 2004, section 49. Promote the interests of victims and witnesses, encourage good practice in their treatment, and regularly review the Code of Practice for Victims which sets out the services victims can expect to receive.
GB for equality and diversity; Eng & Wales for Human Rights	<b>Equality and Human Rights Commission</b>	Established in 2007 under the Equality Act 2006; Works to safeguard and enforce the laws that protect people against discrimination due to certain protected characteristics and their human rights.
England	<b>Children's Commissioner for England</b>	Children and Families Act 2014. Speaks up for children and young people so that policymakers and the people who have an impact on their lives take their views and interests into account when making decisions about them.
Greece	<b>National Rapporteur on Trafficking in Human Beings</b>	Transposition of the EU Directive. Responsibilities include the integration of the NRM for the identification of victims, the creation of a national database, the training of agencies, and the strengthening of cooperation with all those active in raising public awareness of human trafficking issues.
Finland	<b>Non-Discrimination Ombudsman</b>	Non Discrimination Act. The Rapporteur monitors action against human trafficking in Finland, human trafficking at large, compliance with international obligations and the effectiveness of national legislation.
Sweden	<b>Ambassador At Large for Combating Trafficking in Human Beings</b>	Role intended to strengthen Sweden's international profile as a defender of human rights - contribute to the dialogue between national authorities, international organisations and governments about issues concerning the prevention of human trafficking and prosecution of perpetrators
Netherlands	<b>National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children</b>	Act Establishing a National Rapporteur. Conducts research on trafficking in human beings and sexual violence against children, as well as the effects of policy measures taken to tackle trafficking in human beings and sexual violence against children.

# Appointment, Accountability and Budget

## Appointment

- All five UK commissioner models are appointed by the Secretary of State of their sponsoring department (in line with the Governance Code on Public Appointments).
- The Finnish Ombudsman is appointed by the Government as a whole on advice of the Ministry of Justice.
- The Dutch Rapporteur is appointed by Royal decree on advice of Minister of Security and Justice, after consultation with Minister of Health, Welfare and Sport.
- Both the Greek Rapporteur and Swedish Ambassador at Large are appointed by the Minister for Foreign Affairs.

## Accountability

- Most of the Commissioner models, both UK and international, are accountable to Government Ministers.
- The Children's Commissioner is accountable to Parliament via accountability hearings to the Education Select Committee.

## Budget

- In all five UK cases, the Secretary of State sets and grants the commissioners' budgets.
- In Finland, the Ombudsman agrees the her budget with the Ministry of Justice, Treasury and Parliament.
- In the Netherlands, the budget is set and granted by four different government departments.

INDEPENDENT REVIEW OF THE MODERN SLAVERY ACT 2015

# Reports and Recommendations

## Methods vary significantly between commissioner models on how they submit reports and recommendations:

- The ICIBI and the Lead Commissioner for Countering Extremism send all their reports to the Home Secretary.
- The EHRC publishes its reports directly on its own website.
- The Victims Commissioner has no formal process for sharing reports and recommendations. She publishes her reports online at the same time as sending them to the Justice Secretary, Home Secretary and Attorney General.
- The Children's Commissioner sends her annual reports to the Education Secretary to be laid in Parliament once signed off by the National Audit Office. All other reports are published directly online.
- The Greek, Swedish and Dutch rapporteurs send reports to their sponsoring Ministers. The Finnish Ombudsman sends reports to the Justice Minister annually, and to Parliament every four years.

## Redaction and Omissions by Ministers before publication

- The Home Secretary is permitted to redact parts of the ICIBI's reports on the grounds of national security or personal safety.
- The Education Secretary is only permitted to redact and omit from the Children's Commissioner's annual report, although this has never occurred in practice.
- None of the other UK Commissioners' reports can be redacted or undergo omissions before publication.
- The Dutch and Finnish rapporteurs' reports are published unredacted.

## Government obligation to act on reports

- The Home Secretary must lay the ICIBI's reports in Parliament
- The Education Secretary must lay the Children's Commissioner's annual report in Parliament.
- The Secretary of State for the Department for International Development must lay the EHRC's 3 yearly Strategic Plan and the Annual Report and Accounts in Parliament.
- The Dutch Ministry of Justice sends the Rapporteur's reports to the Dutch Parliament for information.

## **Section 107 of the Children and Families Act 2014**

### **Primary function: reports**

*Where the report contains recommendations about the exercise by a person of functions of a public nature, the Commissioner may require that person to state in writing, within such period as the Commissioner may reasonably require, what action the person has taken or proposes to take in response to the recommendations.*

INDEPENDENT REVIEW OF THE MODERN SLAVERY ACT 2015

# Governance and Oversight

## Governance structures and oversight vary significantly between commissioner models:

- The EHRC has the most complex governance structure. A board of 10-15 commissioners have strategic oversight. It delegates operational management to a CEO. The Commissioners hold the executive to account by monitoring performance against the Commission's strategic priorities. The EHRC has two statutory committees, one for Scotland and one for Wales that provide information and advice to the Devolved Administrations. It also has three non-statutory committees for audit, HR, and disability.
- The ICIBI reports to the Home Secretary, with the Second Permanent Secretary acting as the Senior Sponsor.
- The Lead Commissioner for Countering Extremism is line managed by the Director General for Crime, Policing and Fire in the Home Office.
- The Victims Commissioner has no formal oversight. She has created an ad-hoc advisory group to advise on positions she might adopt or issues she might raise.
- The Children's Commissioner is advised by a statutory Advisory Board and a non-statutory audit and risk committee.
- In the Netherlands there is no formal oversight. Review and evaluation of the role is undertaken every four years. The rapporteur can be dismissed by royal decree on advice of the Justice Minister.

### **Section 111 of the Children and Families Act 2014**

#### **Advisory board**

*(1)The Children's Commissioner must appoint an advisory board to provide the Commissioner with advice and assistance relating to the discharge of his or her functions.*

*(2)The advisory board must consist of persons who (taken together) represent a broad range of interests which are relevant to the Children's Commissioner's functions.*

*(3)The Children's Commissioner must from time to time publish a report on the procedure followed and the criteria used when making appointments to the advisory board."*

INDEPENDENT REVIEW OF THE MODERN SLAVERY ACT 2015

# International

- None of the UK Commissioners have a formalised or statutory obligation to undertake work with international partners. Some undertake limited international engagement to share best practice.
- The Dutch, Finnish, and Greek rapporteurs undertake some limited international work but their primary focus is domestic.
- The Swedish Ambassador at Large's role is primarily international, but also plays a role in formulating government strategy. Works closely with the National Rapporteur and attend some international EU meetings together.

INDEPENDENT REVIEW OF THE MODERN SLAVERY ACT 2015

# Annex E: Full List of Contributors

Independent Anti-Slavery Commissioner	
Contributor	Interest Group
BT	Business
Verisio Ltd	Business
Amnesty International UK	Civil Society
Anti-Trafficking Monitoring Group	Civil Society
Arise Foundation	Civil Society
Barts Health Trust, London	Civil Society
Business and Human Rights Resource Centre	Civil Society
Care	Civil Society
Caritas Project Bakhita	Civil Society
Clewer Initiative	Civil Society
DeMontford University	Civil Society
Equality Now	Civil Society
Flex	Civil Society
Hope for Justice	Civil Society
Institute of Environmental Management & Assessment (IEMA)	Civil Society
Jesuit Refugee Service UK	Civil Society
Medaille Trust	Civil Society
NHS England	Civil Society
Northern College for Residential Adult Education	Civil Society

Office of the Police and Crime Commissioner for West Yorkshire	Civil Society
Safer London	Civil Society
Santa Marta Group	Civil Society
Seyfarth Shaw LLP (UK)	Civil Society
Snowdrop Project	Civil Society
Soroptimist International of Great Britain and Ireland	Civil Society
St Mary's University Twickenham	Civil Society
STN Trust	Civil Society
Student	Civil Society
The Children's Society	Civil Society
The Passage	Civil Society
The Salvation Army	Civil Society
The Salvation Army	Civil Society
UNICEF UK	Civil Society
University of Derby	Civil Society
University of Newcastle upon Tyne	Civil Society
University of Sheffield	Civil Society
University of Warwick	Civil Society
Ambassador at Large for Combating Trafficking in Persons, Sweden	Commonwealth and International
Commonwealth Parliamentary Association	Commonwealth and International
Department for International Development	Commonwealth and International
Department for Work and Pensions	Commonwealth and International
Foreign and Commonwealth Office	Commonwealth and International
Freedom Fund	Commonwealth and International
International Labour Organisation	Commonwealth and International

National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, The Netherlands	Commonwealth and International
National Rapporteur on Trafficking in Human Beings, Greece	Commonwealth and International
Non-Discrimination Ombudsman, Finland	Commonwealth and International
People Smuggling and Human Trafficking Team at the Department of Home Affairs, Australia	Commonwealth and International
Swedish Ambassador at Large for Combatting Trafficking in Persons	Commonwealth and International
Trafficking in Persons Office, United States of America	Commonwealth and International
Crown Prosecution Service	Criminal Justice System
National Crime Agency	Criminal Justice System
Office of the Police and Crime Commissioner for Bedfordshire	Criminal Justice System
Office of the Police and Crime Commissioner for Gwent, and Gwent Police	Criminal Justice System
Office of the Police and Crime Commissioner for Lancashire	Criminal Justice System
Police and Crime Commissioner for Northumbria	Criminal Justice System
Police and Crime Commissioner for West Yorkshire and Chair of the National Anti-Trafficking and Modern Slavery Network for Police and Crime Commissioners	Criminal Justice System
Gangmasters and Labour Abuse Authority	Government/public authority
Northern Ireland Executive	Government/public authority
Scottish Government	Government/public authority
Welsh Government	Government/public authority
Anne Marie Morris MP	Parliamentarians
Baroness Hamwee	Parliamentarians

Gareth Snell MP	Parliamentarians
Lord McColl of Dulwich	Parliamentarians
Mary Creagh MP	Parliamentarians

<b>Transparency in Supply Chains</b>	
<b>Contributor</b>	<b>Interest Group</b>
Accenture	Business
Advanced Procurement for Universities and Colleges Scotland	Business
Anglo American	Business
Argos	Business
Asos	Business
Associated British Foods	Business
Aviva	Business
Barclays	Business
Bonmarche	Business
BP International	Business
BT	Business
Clifford Chance	Business
Construction News	Business
Coty	Business
ERM	Business
Freshfields Bruckhaus Deringer	Business
G4S	Business
GoodCorporation	Business
GSK	Business
Hitachi Europe	Business
HSBC	Business

Intercontinental Hotel Group	Business
International Tourism Partnership	Business
Li & Fung	Business
London Universities Purchasing Consortium	Business
Manor Fresh	Business
Marks and Spencer	Business
Marshalls	Business
Meltemi	Business
Missguided	Business
N Brown Group	Business
National Grid	Business
NEC Europe	Business
Nestle	Business
New Look	Business
Next	Business
Old Mutual	Business
Penningtons Manches LLP	Business
Pentland Group	Business
RELX Group	Business
River Island	Business
Shiva Foundation	Business
Shoosmiths	Business
Shop Direct	Business
Sky	Business
TFG Brands	Business
TFL	Business
The Coop	Business
The White Company	Business

Traidcraft Exchange	Business
UK Hospitality	Business
Verisio Ltd	Business
Vodafone	Business
Amnesty International UK	Civil Society
Anti-Slavery International	Civil Society
Ardea International	Civil Society
Arise Foundation	Civil Society
Beulah London	Civil Society
BRE Group	Civil Society
British Medical Association	Civil Society
British Retail Consortium	Civil Society
Business and Human Rights Resource Centre	Civil Society
Chartered Institute of Business	Civil Society
Chartered Institute of Procurement & Supply	Civil Society
Church Investors Group Secretariat	Civil Society
Clewer Initiative	Civil Society
CORE Coalition	Civil Society
DeMontford University	Civil Society
Ethical Trading Initiative	Civil Society
Fairtrade Foundation	Civil Society
Fashion Revolution	Civil Society
Flex	Civil Society
Freedom United	Civil Society
Goodweave	Civil Society
Institute of Environmental Management & Assessment (IEMA)	Civil Society
Jesuit Refugee Service UK	Civil Society

Medaille Trust	Civil Society
Oxfam	Civil Society
Peter Talibart, Seyfarth Shaw (UK) LLP	Civil Society
Royal College of Midwives	Civil Society
Royal Holloway, University of London	Civil Society
Safer Jobs	Civil Society
Santa Marta Group	Civil Society
ShareAction	Civil Society
Sophie Hayes Foundation	Civil Society
STN Trust	Civil Society
The Passage	Civil Society
TISCreport.org	Civil Society
Trade Union Congress	Civil Society
Unicef	Civil Society
Unison	Civil Society
Unite	Civil Society
University of Derby	Civil Society
University of Glasgow	Civil Society
University of Liverpool	Civil Society
University of Manchester	Civil Society
University of Melbourne	Civil Society
University of Newcastle-upon-Tyne	Civil Society
University of Sheffield	Civil Society
Unseen	Civil Society
Commonwealth Parliamentary Association	Commonwealth and International
Freedom Fund	Commonwealth and International
International Labour Organisation	Commonwealth and International

People Smuggling and Human Trafficking Team at the Department of Home Affairs, Australia	Commonwealth and International
Trafficking in Persons Office, United States of America	Commonwealth and International
Co-editors and authors of <i>Human Trafficking and Modern Slavery: Law and Practice</i> (Ben Douglas-Jones qc, Michelle Brewer and Philippa Southwell)	Criminal Justice System
Mark Burns-Williamson, Police and Crime Commissioner for West Yorkshire	Criminal Justice System
National Crime Agency	Criminal Justice System
Office of the Police and Crime Commissioner for Bedfordshire	Criminal Justice System
Office of the Police and Crime Commissioner for Lancashire	Criminal Justice System
The Law Society	Criminal Justice System
City of London	Government/public authority
Department for International Development	Government/public authority
Department for Work and Pensions	Government/public authority
Foreign and Commonwealth Office	Government/public authority
Gangmasters and Labour Abuse Authority	Government/public authority
HM Revenue & Customs	Government/public authority
Local Government Association	Government/public authority
Northern Ireland Executive	Government/public authority
Scottish Government	Government/public authority
Welsh Government	Government/public authority
Westminster Local Authority	Government/public authority
Anne Marie Morris MP	Parliamentarians
Baroness Kennedy	Parliamentarians

Darren Jones MP	Parliamentarians
John McNally MP	Parliamentarians
Lord Alton	Parliamentarians
Mary Creagh MP	Parliamentarians

<b>Independent Child Trafficking Advocates</b>	
<b>Contributor</b>	<b>Interest Group</b>
Amnesty International UK	Civil Society
Anti-Trafficking Monitoring Group	Civil Society
Arise Foundation	Civil Society
Barnardo's ICTA Service (Operational and Strategic)	Civil Society
Barnardo's Independent Guardianship Service, Northern Ireland	Civil Society
Care	Civil Society
Child Trafficking Advice Centre	Civil Society
Christian Action Research and Education (CARE)	Civil Society
Clewer Initiative	Civil Society
Coram	Civil Society
ECPAT UK	Civil Society
Hestia Housing	Civil Society
Hope and Homes for Children	Civil Society
International Organisation for Migration	Civil Society
Jesuit Refugee Service UK	Civil Society
Justright, Scotland	Civil Society
Love 146	Civil Society
Medaille Trust	Civil Society

Refugee and Migrant Children's Consortium	Civil Society
Refugee Council	Civil Society
Santa Marta Group	Civil Society
St Giles Trust	Civil Society
STN Trust	Civil Society
The Children's Society	Civil Society
The Passage	Civil Society
The Salvation Army	Civil Society
UK Feminista	Civil Society
UNICEF	Civil Society
University of Derby	Civil Society
Unseen	Civil Society
Barnarattsbyran, Sweden	Commonwealth and International
Belgian Guardian Service	Commonwealth and International
Head of the Children at Risk Unit, Council at the Baltic Sea States	Commonwealth and International
Mike Dottridge	Commonwealth and International
Nidos, Netherlands	Commonwealth and International
Metropolitan Police Service	Criminal Justice System
Modern Slavery Police Transformation Unit, Devon and Cornwall Police	Criminal Justice System
Crown Prosecution Service	Criminal Justice System
National Crime Agency	Criminal Justice System
Health and Social Care Board, Northern Ireland	Government/ Public Authority
Office of the Children's Commissioner for England	Government/ Public Authority
Scottish Guardianship Service	Government/ Public Authority
Anti-Slavery Coordinator, Welsh Government	Government/Public Authority

Programme Challenge, Greater Manchester Local Authority	Government/Public Authority
Willow Team, Hampshire Local Authority	Government/Public Authority
Upper Tribunal Judge Nadine Finch	Judiciary
Andrew Selous MP	Parliamentarians
Baroness Hamwee	Parliamentarians
Catherine McKinnell MP	Parliamentarians
Chloe Smith MP	Parliamentarians
Lord Hylton	Parliamentarians
Lord McColl of Dulwich	Parliamentarians
Rosie Winterton MP	Parliamentarians
Tony Lloyd MP	Parliamentarians

<b>Legal Application of the Modern Slavery Act</b>	
<b>Contributors</b>	<b>Interest Group</b>
Amnesty International UK	Civil Society
Anti-Trafficking and Labour Exploitation Unit (ATLEU)	Civil Society
Anti-Trafficking Monitoring Group (ATMG)	Civil Society
Arise Foundation	Civil Society
Barnardo's	Civil Society
Better Care Network	Civil Society
Chartered Institute of Building	Civil Society
Christian Action Research and Education (CARE)	Civil Society
Clewer Initiative	Civil Society
Dr Patricia Hynes, University of Bedfordshire	Civil Society
Dr Patrick Burland	Civil Society
Equality Now	Civil Society

Every Child Protected Against Trafficking (ECPAT) UK	Civil Society
Focus on Labour Exploitation (FLEX)	Civil Society
Hestia Housing	Civil Society
Home For Good	Civil Society
Hope and Homes for Children	Civil Society
Human Trafficking Foundation	Civil Society
Jesuit Refugee Service UK	Civil Society
Justice and Care	Civil Society
Love146	Civil Society
Lumos Foundation	Civil Society
Medaille Trust	Civil Society
Migrant Help UK	Civil Society
NHS (Camden)	Civil Society
Nogah Ofer, University College London	Civil Society
Nordic Model Now	Civil Society
Rahab Adoratrices	Civil Society
Santa Marta Group	Civil Society
Save the Children	Civil Society
South Yorkshire Police	Civil Society
St Giles Trust	Civil Society
St Mary's University	Civil Society
STN Trust	Civil Society
The Children's Society	Civil Society
The Passage	Civil Society
The Salvation Army	Civil Society
UK Feminista	Civil Society
Unicef UK	Civil Society

University of Derby	Civil Society
Unseen	Civil Society
Women@thewell	Civil Society
Griffith Law School (Australia)	Commonwealth and International
Senator Linda Reynolds (Australia)	Commonwealth and International
Ben Douglas-Jones QC, Michelle Brewer and Philippa Southwell (Co-Editors and Authors of Human Trafficking and Modern Slavery: Law and Practice)	Criminal Justice System
Crown Prosecution Service, including the Director of Public Prosecutions and individual Prosecutors	Criminal Justice System
Eran Cutliffe - Prosecutor, Crown Prosecution Service	Criminal Justice System
HHJ Martin Edmunds	Criminal Justice System
HHJ Sarah Mallett	Criminal Justice System
HHJ Timothy Spencer QC	Criminal Justice System
Hope for Justice	Criminal Justice System
Lady Justice of Appeal Dame Anne Judith Rafferty	Criminal Justice System
National Crime Agency	Criminal Justice System
National Policing Lead for Modern Slavery – Chief Constable Shaun Sawyer	Criminal Justice System
Office of the Police Crime Commissioner for Gwent & Gwent Police	Criminal Justice System
Office of the Police Crime Commissioner for Lancashire	Criminal Justice System
Police officers from regional forces, including Gwent, Yorkshire and Humber, West Yorkshire, Lincolnshire, East Midlands, West Midlands, Staffordshire and Lancashire	Criminal Justice System

Police Service of Northern Ireland (PSNI) via Department of Justice, Northern Ireland	Criminal Justice System
Retired Judge - HHJ Michael Topolski	Criminal Justice System
The Magistrates Association	Criminal Justice System
The Metropolitan Police Modern Slavery & Kidnap Unit	Criminal Justice System
The Modern Slavery Police Transformation Unit	Criminal Justice System
Ogheneruona Iguyovwe - Prosecutor, Crown Prosecution Service	Criminal Justice System
Croydon Council	Government/public authority
Gangmasters and Labour Abuse Authority	Government/public authority
Legal Aid Agency	Government/public authority
Northern Ireland Executive	Government/public authority
Scottish Government	Government/public authority
Welsh Government	Government/public authority
Upper Tribunal Judge Nadine Finch	Judiciary
Ann Coffey MP	Parliamentarians
Baroness Hamwee	Parliamentarians
Lord McColl of Dulwich	Parliamentarians

### Cross-cutting contributions

Contributors	Interest Group
Caritas Project Bakhita	Civil Society
Kevin Hyland, Independent Anti-Slavery Commissioner (2014 - 2018)	Cross-cutting
Northern College	Civil Society
Tomorrow's Women	Civil Society

