

# Proposals for Long-Term Support for Victims of Modern Slavery

Phillipa Roberts, Director of Legal Policy (Solicitor)  
[phillipa.roberts@hopeforjustice.org](mailto:phillipa.roberts@hopeforjustice.org)

# About Hope for Justice

We exist to bring an end to modern slavery by:

- Rescuing victims
- Restoring lives
- Reforming society



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Change lives. End slavery.

# Outline

- Context of international obligations and application in the UK
- Issues/solutions identified in research, briefings and DWP inquiry
- Lord McColl's Modern Slavery (Victim Support Bill)

# International Obligations to Support and Protect Victims

## European Convention (ECAT)

- Duty to identify victims (Article 10)
- UK must provide holistic assistance to victims; includes safe accommodation, subsistence, counsel and information as to legal rights and services in a language they understand, access to vocational training and education (Article 12)
- Recovery and reflection period (Article 13) "at least 30 days" extended to 45 days in UK (Article 13)
- Residence Permit on basis of personal circumstances and/or stay is required for ongoing criminal investigations/proceedings (Article 14)
- Entitlement to compensation (Article 15)
- Non prosecution of victims (Article 26)

## European Directive 2011/36/EU

- Non prosecution of victims (Article 8)
- Victims provided with assistance including appropriate safe accommodation and material assistance, interpretation regardless of cooperation with criminal proceedings . No time limit is provided for assistance (Article 11 and Recital 18)
- Legal assistance without delay including for the purpose of claiming compensation (Article 12)
- Specific assistance to children (Article 14, 15 and 16)
- Access to compensation (Article 17)



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# International Obligations to Support and Protect Victims

## European Convention on Human Rights (ECHR) (Human Rights Act 1998)

- ❖ *Article 3: Prohibition of Torture (no one shall be subjected to torture or to inhumane or degrading treatment or punishment)*
- ❖ *Article 4: Prohibition of Slavery and Forced Labour*
  
- *Ranstev v Cyprus and Russia* (2010) 51 EHRR 1: the state has a positive duty to identify, investigate cases and protect victims or potential victims of trafficking.
- *J and Ors v Austria* [2017] ECHR 37: the state is required to put in place a legislative and administrative framework to prohibit and punish traffickers but also protect victims and potential victims.
- *Chowdury v Greece* [2017] ECHR 300: the state must adopt “concrete measures” in a legal and regulatory framework to assist physical, psychological and social recovery of victims.

# Domestic Law on Modern Slavery

## Modern Slavery Act 2015 (England and Wales)

- Consolidates and amends criminal offences.
- Creates some protections for victims, e.g. statutory defence (section 45) and special measures (section 46).
- Does not stipulate basic support provisions within the Act, including long term support; just requires the Secretary of State to produce guidance on victim support (section 49) and a power to create regulations (section 50).

NB: Scotland and Northern Ireland have put some basic support provisions for victims in a statutory framework.

# Recent Research, Reports and Cases

- Human Trafficking Foundation Report “Day 46”
- DWP Select Committee Inquiry into victims of modern slavery

Both reports highlight lack of clear policy/legislation on access to long-term specialist support, advocacy, subsistence and housing for victims post-45 days.

Both reports highlight conclusive grounds does not provide any clear entitlements and no automatic provision of leave to remain, resulting in “cliff drops” in support post-45 days; leading to homelessness, destitution, risks of re-trafficking/re-exploitation, removals and also impeding prosecution cases.

# Application of International Obligations in UK Cases

## *Galdikas and Ors R (on the application of) v Secretary of State for the Home Department and Ors (Rev 1) [2016] EWHC 942 (Admin) (26<sup>th</sup> April 2016)*

- Article 11(2) Trafficking Directive read with other parts of Article 11 - the recitals to the Directive, Article 12 ECAT and Article 4 ECHR - is a free standing duty to provide support irrespective of criminal proceedings (see para. 35 - 44).
- Obligation to provide support as defined in Article 11(5) of the Trafficking Directive (including accommodation, material assistance etc.) in the post-45 day recovery and reflection period pending any determination of discretionary leave to remain or appropriate move on, including for historic cases (see para. 116).

## *R (AK) v Bristol City Council (CO/1574/2015)*

- Consented judgment. Bristol City Council conceded they were not prevented by section 2 Localism Act 2011 nor by Schedule 3 Nationality, Immigration and Asylum Act 2002 from providing support to EEA Nationals to the extent that such support is necessary to avoid a breach of Article 3 and 4 European Convention on Human Rights and Article 11 of the Trafficking Directive. The Local Authority agreed to provide ongoing accommodation and subsistence until alternative accommodation etc. could be found.

# Recommendations

Human Trafficking Foundation Co-authored Report on Supporting Adult Survivors of Slavery to Facilitate Recovery and Reintegration (March 2017) recommends:

- Multi agency involvement in decision-making informing of ongoing support.
- Conclusive Grounds (CG) decision should carry status, a rehabilitation period and an automatic leave provision for at least 12 months.
- Legal advice and representation should be available to all victims.
- Victims should have an individual caseworker providing ongoing advocacy post-45 days.
- Move on from the current safe house system should be flexible.

# Recommendations

DWP Select Committee Inquiry into victims of modern slavery (April 2017) recommends:

- Confirmed victims should have at least one year leave to remain with recourse to public funds.
- Victims should have a clear ongoing support plan (survivor pathway).
- DWP staff should be trained on the rights and needs of modern slavery victims.
- Dismissed Ministers concerns about one year leave creating a push/pull factor.
- Recognises victim support is key to achieving successful prosecutions.

# Private Members' Bill Modern Slavery (Victim Support Bill)

- Introduced into the House of Lords by Lord McColl in June 2017 as a Private Members' Bill; currently at Committee Stage (last debate 20 speakers).
- Bill would put protection and care provisions for adult victims into law in England and Wales:
  - > 45 day recovery and reflection period. The type of support to be provided in this period includes safe accommodation, financial assistance, medical advice and treatment, support worker, legal advice and risk assessments.
  - > Support provision following a conclusive ground decision for at least 12 months, including an automatic grant of leave for all victims which may be extended in certain circumstances (wider than the current discretionary leave provisions, including a person's individual circumstances, need for protection and safety, on recommendations from a support worker and participation in criminal/civil proceedings).

## Going Forward...

- Continue to make recommendations to the government (see HTF report on Long Term Recommendations and DWP Select Committee Report) and apply pressure to create statutory guidance and regulations provided for in the Modern Slavery Act.
- Continue to work collaboratively (statutory and non-statutory agencies) to create solutions to the long-term care needs of victims.
- Although the Bill is in the House of Lords so MPs cannot debate it, encourage people to contact their local MP flagging to the Minister for Preventing Abuse, Exploitation and Crime (Sarah Newton MP) the issues victims are facing, the importance of the Modern Slavery (Victim Support Bill), including the importance of government support and that it gets sufficient time in the House of Lords.
- Joint campaigns