

Home Affairs Committee

Oral evidence: [Modern slavery](#), HC 1460

Tuesday 15 January 2019

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Members present: Yvette Cooper (Chair); Chris Green; Stuart C. McDonald; Douglas Ross; John Woodcock.

Questions 144 - 200

Witnesses

I: Mark Burns-Williamson OBE, Police and Crime Commissioner, West Yorkshire and Chair, Anti-Trafficking and Modern Slavery Network; Rob Jones, Lead on Modern Slavery and Human Trafficking, National Crime Agency; Chief Constable Shaun Sawyer, Devon and Cornwall Police and Lead for Modern Slavery, National Police Chiefs' Council; and Baljit Ubhey, Director of Prosecution Policy and Inclusion, Crown Prosecution Service.

II: Victoria Marks, Director, Anti-Trafficking and Labour Exploitation Unit; James Robottom, Barrister, 7 Bedford Row; Philippa Southwell, Consultant Solicitor-Advocate, Birds Solicitors; and Nusrat Uddin, Solicitor, Wilson Solicitors LLP.

Written evidence from witnesses:

- ATLEU ([MSA0100](#))
- Ben Douglas-Jones QC, Michelle Brewer and Phillipa Southwell ([MSA0129](#))
- Crown Prosecution Service ([MSA0017](#))
- Chief Constable Shaun Sawyer ([MSA0109](#))
- Mr James Robottom ([MSA0096](#))
- National Anti-Trafficking and Modern Slavery Network ([MSA0072](#))
- National Crime Agency ([MSA0070](#))
- Office of the Police and Crime Commissioner for West Yorkshire ([MSA0073](#))
- Wilson Solicitors LLP ([MSA0127](#))



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Examination of witnesses

Mark Burns-Williamson OBE, Rob Jones, Chief Constable Shaun Sawyer, and Baljit Ubhey.

Q144 **Chair:** I welcome our panel to this evidence session for the Home Affairs Select Committee and our inquiry into modern slavery. Thank you all for your time this morning. Could I ask each of you to very briefly introduce yourselves and the work that you do on modern slavery?

Baljit Ubhey: My name is Baljit Ubhey. I am Director of Prosecution Policy and Inclusion at the Crown Prosecution Service. My team has policy responsibility for modern slavery and human trafficking, among other things.

Chief Constable Sawyer: My name is Shaun Sawyer. I am the Chief Constable of Devon and Cornwall Police. I also lead nationally for the National Police Chiefs' Council, manage the Modern Slavery Police Transformation Programme and chair the Threat Group on Modern Slavery, working to the Director-General of the National Crime Agency.

Rob Jones: My name is Robert Jones. I am the Director of Threat Leadership and the National Crime Agency Lead on Modern Slavery and Human Trafficking.

Mark Burns-Williamson: Good morning. I am Mark Burns-Williamson, Police and Crime Commissioner for West Yorkshire and Chair of the national Anti-Trafficking and Modern Slavery Network. I am also Chair of the Association of Police and Crime Commissioners.

Q145 **Chair:** Thank you very much. We want to start by pursuing the issue about the policing and prosecution response to modern slavery in the light of the Modern Slavery Act. Why is it that the prosecutions and convictions are not keeping up in any way with the scale of the increase in the offences recorded?

Baljit Ubhey: I am happy to start from a prosecution perspective. Barring a couple of issues in relation to the section 45 defence, which I am sure we will talk about later, and also risk orders, we think the legislation is sufficiently broad. Some of the challenges for prosecutions are really around the evidence gathering.

There was a Cabinet Office deep dive looking into this issue of why there is a low volume of prosecutions, given all the activity in this area. That came out with four key findings. It looked at concluded cases and at CPS decision-making and it confirmed that that was not a reason for the low volume. It found that CPS decision-making was good. It highlighted that lack of sustained support for victims, which I am sure will not come as a surprise to this Committee, is a big factor in bringing successful prosecutions. We would certainly welcome some of the proposals about providing additional support through the National Referral Mechanism



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process. It also highlighted the resourcing challenges for police investigations and how that is a significant factor, because these are very complex cases. We have seen an increase when we have looked at some of our cases—a growth in the number of victims, and the digital evidence. We are in the land of increasing complexity in what is a very difficult area.

The fourth finding of that deep dive was that where you had intelligence-led operations and proactive working at a very early stage with the CPS, that is where you got the best outcomes. There have been some examples where we have successfully prosecuted cases without requiring the victims to give evidence. That review encouraged more of that activity. There has been an increase in the number of cases being referred to the CPS by the police and there has been a significant increase in the number of cases in which the CPS is giving early investigative advice.

I would say that the key ingredients for a successful prosecution are well-resourced investigations, early engagement with the CPS and careful consideration of victim status and support so that we are on the front foot with those issues.

Q146 **Chair:** When it concluded that the CPS decision-making was good, was that because it concluded that the CPS was making justified decisions not to prosecute lots of cases that were being put to the CPS because the evidence was not good enough? Or was it simply that the cases were not being referred to the CPS in the first place, and the CPS was making perfectly good decisions to prosecute the ones it was being given?

Baljit Ubhey: Based on the most recent published data that I can share, 7% of all the recorded cases are referred to the CPS. It is a tiny proportion of all cases and there are reasons for that that are more complex, and I am sure police colleagues will come on and talk about that. A tiny proportion of the cases that are recorded are referred to the CPS. Of that 7% that are referred to the CPS, we charged 77% of cases. When the review looked at the actual decisions it found that this was not a case of the CPS being risk averse. We are being proactive, we are encouraging early investigative advice and we are taking a broadly positive approach to charging. Our conviction rate for the last year, 2017-18, was 65%, which was an increase on the previous year.

Q147 **Chair:** How does that charging rate of 77% compare with other crimes?

Baljit Ubhey: Broadly, for all offences it is about 69%, so it is higher.

Q148 **Chair:** How does the conviction rate compare with other crimes?

Baljit Ubhey: It depends what you compare it to. If you look at overall Crown Court cases—some of these will be in the Magistrates' Court, most of them will be in the Crown Court—there is broadly approximately an 80% conviction rate. If you compared it to sexual offences, for example for rape, that is lower. It is hard to compare in some respects.



Q149 **Chair:** The increase in actual convictions and prosecutions does not look that much post the Modern Slavery Act. There is an increase, obviously, but given how much focus there was on the Modern Slavery Act—a substantial improvement in the law and a huge focus for the first time on crimes that we all knew were happening for a long time—I feel slightly surprised. I would have expected the number of prosecutions to have gone up by a lot more than this.

Baljit Ubhey: Modern Slavery Act offences form part of the offences, but some of these are ongoing things. The Act came into force in 2015. Some of the cases we deal with are dealing with legislation before this Act came into force. Since the Act came in in 2015 we have prosecuted 526 offences in total under this legislation. When we look at the data for the last three years for Modern Slavery Act offences, the numbers have gone up significantly.

Q150 **Chair:** If we have 136,000 potential victims across the UK and 185 people were convicted last year, that doesn't sound very much, does it?

Chief Constable Sawyer: Chair, to answer your opening question, I would agree with the Crown Prosecution Service that the key issues will not be sitting at their end of the telescope. I think it is sitting very much with victim support and victim confidence, and the longevity of an investigation. These investigations can take one or two years. They then enter the criminal justice system and that can take a further one or two years. I absolutely get the thrust of your question, which is about if you could go from flash to bang, but in 2015 policing was not arresting lots of people under the Modern Slavery Act with the level of knowledge that we have now or understanding of the Act, so it is not at this end of the telescope. I feel that support to victims is a policing issue in the first response, but it sits with other agencies and their resourcing, which we may or may not come on to.

The second piece is that for a lot of our victims the crimes are not in the United Kingdom. They are not going to be appearing in our courts. A lot of victims do not want to support prosecutions and there is a danger in using the NRM as a proxy for what happens in convictions. Remember that policing will always record the crime, so there should be a comparator, but a lot of those crimes are not UK-based.

We can't see modern slavery in splendid isolation from wider police resourcing. Modern slavery is hit by the complexities of disclosure in a digital age. It is hit by the fact that I, as a police service, will be resourcing counterterrorism, serious organised crime, domestic violence, female genital mutilation and all the other stuff. You don't just undo a box of investigators in 2016 and put them into this area. That is why the work of the Modern Slavery Police Transformation Unit, working with the NCA, has been about building capability and experience. But a proxy you could use is that in 2016 there were 188 operations, and in 2018 with the NCA there were 1,138 but that will take time to come through.



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I am not going to say to this Committee that policing is perfect in its investigations—it is not. It is still inconsistent. The gap between the best and the back of the pack is still too big, but the back of the pack in policing—in 43 forces—is way ahead of where we were two years ago. Some forces—and I will say with Mark in the room that they include West Yorkshire, the Metropolitan police and, I would like to think, my own force—have pushed forward but we are still a little bit inconsistent. Victims, consistency and capacity are the three main drivers. Let's not pretend that for every victim who comes forward it is a UK-based crime with a UK criminal justice outcome, because it won't be.

Rob Jones: In terms of the scale of the threat and the nature of the threat, while it is important to look at the number of victims and the referrals into the NRM, what both Shaun and my colleague from the CPS have described to you is the fact that many of these offences are linked to other criminality. The charging decisions will be made based on the prosecution's assessment of the best charge to lay. Many of those people who are involved in targeting for modern slavery may be charged for other offences. Absolutely we want to do more and absolutely we want to use that legislation to its full extent.

We have been successful with the first extraterritorial prosecution with Operation Red Route, which was a highly complex case that extended our reach to deal with somebody who was offending overseas, which is a unique element of the legislation. Cases like that are a good news story, but hidden in the volume is a range of other offences that are being charged.

Mark Burns-Williamson: I agree with the comments that have been made. For example, in West Yorkshire there has been an operation called Operation Angelstoke that first started in 2013, and it is only last year that the majority of those cases have been successfully brought to court and prosecuted.

What I have seen over the past three or four years that I have been involved, particularly with this issue of modern slavery, is the complexity of some of the cases. Often, a lot of the victims will not even identify themselves as victims, and things like county lines increasingly are targeting UK nationals to a greater extent. How do we use the legislation in some of those cases? Shaun is right to point out that clearly there is pressure on policing for the investigative resources that are made available at the local level. That is why I have been pushing police and crime commissioners, through the national network, to ensure that the police and crime plans that we are responsible for setting absolutely identify modern slavery and serious organised crime so that the resources we have can be properly targeted into this crime.

Q151 **Chair:** If you wanted to raise that 7% referrals rate significantly, what would be the top thing each of you would want forces across the country to do more of?



Chief Constable Sawyer: Give me the resources and I will give you an increase, but in terms of forces' relationships, while we could do more on prevention—I would go to the prevention end—I think local anti-slavery partnerships have some beacons of excellence on prevention. On the preventative agenda, perhaps forces could stop the bodies falling in the river, because what we are doing is pulling them out and that is a societal thing. If you want it policing, as Mark said, some police and crime commissioners put a lot of what they have into prevention and some don't.

Rob Jones: As we move forward towards the spending review, what we really need is a stable model that pulls intelligence about victims from the local through the regional to the national, and allows us to take a national and international context for that. Absolutely it is about victims and absolutely it is about first responders, but that intelligence is what feeds the national picture, and pulling that through over the next couple of years will make a significant difference to our response.

Mark Burns-Williamson: On the referrals around the prosecutions and CPS, from a policing side it is about having more dedicated resources into specialist investigative skills. Clearly we are under pressure around how we use those resources at a local level. On top of that is the wider partnership. NGOs, local authorities and other organisations are absolutely key to supporting victims throughout the process.

Q152 **Stuart C. McDonald:** Thank you for coming along. Just to drill down into a couple of the challenges that have been touched upon already, we understand that additional funding for police activity on modern slavery is due to end this year. Can you say what that funding was being used for and what impact will ending it this year have on tackling modern slavery? How long would you want to see that funding continued for?

Chief Constable Sawyer: As the head of that, I am grateful for the police transformation funding and welcome the support from the Home Office. It is due to run out this year. We understand that there is a ministerial decision—there is an agreement in principle that it will go for another year, which is welcome but that still awaits ministerial signoff.

What has it enabled us to do? Back in 2016 we did not understand the problem, so one of the key things was to better understand the challenge and scope of modern slavery, and I think it has achieved that.

In terms of working with the Joint Slavery and Trafficking Analysis Centre and the NCA, we better understand the problem. We still don't harvest enough from the NGO sector, but from a law enforcement point of view we better understand the problem. Our operations are better and more effective, not just in volume but in understanding skill sets and with an uplift in training and expertise. Over 350 senior investigating officers have been trained as a result of the programme, and over 500 investigators have been on a four-day specific course on modern slavery. It is about not just the legal awareness but that victimology is greatly



improved. Over 1,000 frontline staff had awareness training and some forces—again, sorry for mentioning Mark—have done their own awareness training. Over 500 analysts have been trained.

This is a new area of business that to me sits above many other forms of exploitation. It has elements of child sexual exploitation, child criminal exploitation and labour exploitation, and we understand it more than we ever have done. If you understand it and it is an intelligence base, you can then put in good operations. It has funded those. That uplift from 188 to 1,300 is as a result of that funding.

- Q153 **Stuart C. McDonald:** Kevin Hyland was asked about the proposed funding and he suggested that the money would be better spent with the NRM or on improving internal organisational training and expertise. I take it you dispute what he said about that. As a further question: when do you think the transformation will be complete? In other words, how long do you think this funding should continue for?

Chief Constable Sawyer: It is one of the few areas where I am going to respectfully disagree with Kevin. I think if you put two officers in 43 forces, you will improve that force; we have improved national policing and understanding and capability. I would say it is not good enough in the UK, but where I work and if I look internationally, the UK is certainly towards the front of the pack in its understanding of the reasons for modern slavery and how to interdict it.

The second question has gone out of my head now because I was having a vehement disagreement with the Anti-Slavery Commissioner, which is rare. What was the second question?

- Q154 **Stuart C. McDonald:** When do you think this transformation will be complete? How long will this funding continue for?

Chief Constable Sawyer: This slightly niggles me. How do we expect 200 years of slavery that is not resolved to be subject to a 20-month transformation? I think that is at the heart of your question. This is a generational transformation. It is not just about law enforcement and the Crown; it is a societal approach to buy it high, sell it cheap. The demand on modern slavery is driven by an economic contract of the United Kingdom. I am not a socialist, I am not a capitalist, but the drivers for modern slavery are economic drivers, societal drivers.

We will keep dragging the bodies out of the river, but if you want to transform the UK's approach to modern slavery, look at transparency in supply chains, look at business, look at consumer choices, and then you will get a transformation. All we are doing is upskilling a capability to drag people off the beach, like the RNLI do. I live in Cornwall and we teach young people to swim and understand the seas. The UK will not transform its approach to modern slavery other than in law enforcement, and to me that is not a transformation; that is a sticking plaster.



Rob Jones: On the point about preventing offenders, because this is victim-based, the goal has to be preventing victims and balancing the investigative response to prevention. The point about pulling people out of the river and teaching them to swim is well made, but key to that is understanding the threat. That transformation funding has bought a better understanding of the threat. That understanding of the threat allows us to deploy covert tactics, which Kevin was very vocal about in his report, and I absolutely agree with him. If you are going to have victimless prosecutions, if you are going to have proactivity, you need to understand the threat and you need to use covert tactics. Those types of operations are now being mounted in the 1,000 operations that Shaun talked about nationally, and that makes a difference because if you have a victim who can't go the distance with you, you are still going to get justice for that victim by pursuing that perpetrator.

It is not the whole story. You are not going to finish this in two years. It is a longer period of time to mature the model. What we see from the national perspective with the emergence of the criminal exploitation of the young, with county lines and other threats, is the need to grow our understanding of the criminal exploitation bundle. That is where we need to take this over five years to make sure that the conditions of technology, the economy, all of the environment that allows vulnerability to flourish, are attacked and are not tolerated by civil society. At the heart of that is understanding the threat and an intelligence-led response.

Mark Burns-Williamson: Where I would agree perhaps with what Kevin Hyland said is about the frustrations with the National Referral Mechanism implementation. I think Devon and Cornwall Police were part of a pilot to look at the NRM, and unfortunately the changes to the NRM still have not been fully implemented. I would agree with that aspect of what Kevin Hyland said.

Generally on the transformation fund programme, I think it has been well received and well utilised not only by forces but by police and crime commissioners. We are developing a toolkit in conjunction with a number of partners who attend the national network, to try to ensure we roll out and convene those local partnerships that ultimately will be one of the keys to real success in supporting victims and enabling more prosecutions through the system.

Q155 **Stuart C. McDonald:** Picking up on two of the other challenges that you have touched upon—and they may well be linked—the first is how we look after victims. It would be interesting to have your views on who should be responsible for doing that, whether they are doing it well enough and what can be done to do it better. As we know, many victims just disappear before there is a charge. Also, there is the length of time it takes for a prosecution to proceed. You could have a couple of years of investigation and two or three years for the prosecution to occur. How can we better look after victims and—perhaps the other side of the same



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coin—how can we speed up this whole process?

Mark Burns-Williamson: You are right: supporting victims is absolutely key because, as I said earlier, a lot of the victims do not actually identify themselves as victims. Having co-located NGOs and advocates as part of that frontline interaction with victims is crucial, because in a lot of cases interpretation skills are needed because of the languages of the different nationalities involved. Hope for Justice is an organisation we have involved right from the off, but there are many others. Unseen, the Modern Slavery Helpline, is another really good example where we have to have sustained partnership working and safe places. That is why there is a real frustration with the NRM delays—because some of that potentially mitigates against keeping victims safe and protected over what inevitably are long periods of time for very traumatised individuals.

Chief Constable Sawyer: I would add to that that we should borrow with pride what we see in domestic violence, which took too long to get those independent domestic violence advisers. We have ICTAs in the Modern Slavery Act. I completely agree that it is not the—the job of the police is to work with the victim. In homicide you have a family liaison officer who is linked into the victim's family, but the victim support is done by people who will be there in the long term and after the court case has finished. I think that enduring support is not a role for police. It is a role for services that can be commissioned by a police and crime commissioner or by the NGO sector and that endures over time, because investigators move on.

There is a danger of confusing the NRM, which is a conclusive grounds mechanism as much as anything else. I think the work of the Home Office has been to really change it and transform it. We will all take a view on whether it is enough—that is not to knock the Home Office for what they are doing—but I think the enduring support for victims is going to be, "Let's borrow the domestic violence model of sustained, commissioned support for victims of domestic violence". Also, sadly, what we see with victims is that they can get re-trafficked. Again, it is really important that that contact endures over time.

Baljit Ubhey: Can I echo that last point? I think we can look at other areas within the criminal justice system where historically we found it very difficult 20 years ago to successfully prosecute domestic abuse cases, and there has been a sea change in the approach. When we very carefully analysed what has brought about that sea change, a domestic abuse deep dive was done and they identified four key factors, and one of those was the IDVA support. That is seen as a game changer in terms of keeping victims on board.

Let me draw out how difficult it is in this particular space, because I think the issue is magnified here. It can be because of immigration status and other vulnerabilities. Rob mentioned one of the prosecutions, and I think there are some really good examples of proactive and innovative prosecutions. We have had the first prosecution for extraterritorial



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provisions: it was a British citizen who was trafficking women from Nigeria into Germany for prostitution. Where the victim support in this case was particularly pertinent was that in Nigeria they performed a juju ceremony that then added an extra dimension of compliance for the victims in being trafficked. When it came to bringing that case to court and prosecuting and keeping those victims on board, we addressed that issue by organising for someone to reverse the ceremony so that the victims had confidence that they were not somehow going to be cursed by giving evidence against the defendant. We also called in a cultural expert to explain all of this to the jury so that they could understand why these women went along with this. I think that is a really good example of highlighting some of the complexities around victim care and support.

Q156 Douglas Ross: Following on from Stuart McDonald's point about challenges, we have spoken about victims and I want to speak a little bit more in a minute about challenges within forces and divisions. We will look at the victims and we will look at policing. Is there a challenge with awareness in the general public? You need the public onside to report their concerns and to assist the policing. I have not heard anything so far about how we inform the public better about what they should be looking out for and to assist the police in dealing with this.

Mark Burns-Williamson: You are right: awareness-raising within police forces and other law enforcement and other agencies is important, but from a public perspective we need to keep reinforcing what are the signs of human trafficking and modern slavery, potentially within a workplace or neighbourhood or community. Car washes and nail bars are the ones that have been identified, but it is also increasingly about potential workplace supply chains, where businesses need to be aware and doing whatever they can. There are some really good examples of businesses providing statements about that, but in my view there is not nearly enough in terms of what the legislation or the guidance could be to go further in that regard.

A number of police and crime commissioners have accessed the transformation fund to run awareness campaigns locally and are working with Unseen, the Modern Slavery Helpline, as well to try to get those constant messages out. We need to keep raising this as an issue that our communities need to be aware of, and say how to report that if they have any suspicions at all.

Rob Jones: To build on that, with colleagues, we were involved in the national awareness campaign and the Invisible People exhibition that was taken around the country. That took some criticism about how we were spending transformation funds. I think it is really important in landing this in the public consciousness that we do things like that, because the reason that this crime prevails is because people tolerate it. It is a hidden crime. We need to shine a light on it and we need to find those victims and empower those victims. You do that by people challenging inappropriate employment in nail bars and car washes, and the economic



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drivers that Shaun pointed out. If there is no money in this for people, some of the exploitation stops. Not all of it, but some of it does.

Q157 Douglas Ross: I was a little bit critical when the Committee visited the NCA and we saw the exhibition that was going to go around the country. There were some lovely pictures of farming. Now, I was in farming before I was elected, and it was basically saying, or the interpretation could be made, that everyone who works on a farm nowadays could potentially be there because of human trafficking, and that is not the case. How do you balance raising awareness of the industries that are more likely to have human traffickers with not causing problems for industries in recruiting people who want to work within them?

Rob Jones: That is a fair challenge. It is about transparency and supply chain assurance and being comfortable to have conversations about it, because no one industry should be shamed because of this. It is out there everywhere. As Kevin said in his evidence here, this is almost the infiltration of organised crime into the supply chain. It would be wrong to call out one particular industry, but we know forced labour is an issue and it does manifest itself in farming, as it does in fisheries and many other industries. It is right to call it out but it needs to be a balanced narrative.

Chief Constable Sawyer: I would add that there is a need for greater awareness still. The last Home Office statistics that I saw show that there is an improved public awareness, and you have the Modern Slavery Helpline and Unseen and others, but in terms of consistent campaigns, I would say that we are still due a lot more. Also, let's start with the young. A lot of the campaigns we do are aimed at adults, but with better use of social media we could do some campaigning with the young on understanding modern slavery. There is still that excellence and good work. Wales as a whole has done some brilliant campaigns. I think north of border Scotland has done the same. The UK, because of 43 forces, does not have quite that same pace, unless it is Home Office-led.

I do recognise the pitfalls. I have a large flower-growing community in Cornwall. I had a high profile operation and suddenly everyone feels tainted and nervous, and suddenly suppliers are getting calls from the multinationals saying, "We are not buying your flowers anymore." That is catastrophic for industry if that happens. We do need to tread carefully, but on general awareness some of the key messages are, "If it doesn't feel right, it's not right. Report it," whether that is anonymously through Crimestoppers, through the Modern Slavery Helpline, to your local force or to an NGO. We want that intelligence, but the danger with greater awareness is heightened fear. We know we are scratching the surface. I don't want the fear. I want the intelligence so that I can give it to Rob to map and then we can take action.

Mark Burns-Williamson: I think that is why the local partnerships are really important. They will probably have a better understanding of some of the local businesses and organisations operating in those areas. If some of those representatives are on the local partnership, local



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awareness-raising campaigns can be more bespoke and have messages that hopefully everybody can sign up to.

Q158 Douglas Ross: You mentioned Wales and Scotland. I represent a Scottish seat. In 2017, the number of referrals for human trafficking to Police Scotland increased by 42%. At what stage do we say, "That is really good—a big increase shows that there is more awareness and you are dealing with the problem," or at what stage do you say, "We don't want any more increases because it means we are not dealing with the problem"?

Chief Constable Sawyer: You see that spike in domestic violence and sexual offences. Chief constables can't keep saying, "This is a sign of the public's and victims' more confident reporting." You reach a spike on that where you have to say, "No, there is more sexual offending around here, there is more domestic violence around here," so we are not doing the prevention end, which is my point about you have to do both. I don't know what the plateau is but I do know intuitively, instinctively, that we are not there by a long shot.

Rob Jones: At the end of last year we were up to about 6,900, pushing 7,000 referrals into the NRM. That is a very significant rise. If you look at whether it is plateauing, which is when it becomes a good news story, we are not quite there yet. There was an estimate of between 10,000 and 13,000 victims nationally very early on in this journey. That is an underestimate. I am aware of estimates saying it is over 100,000. There are other areas of vulnerability where we struggle to know the scale of the threat, and 10,000 to 13,000 is definitely an underestimate, so I don't think we are there yet in terms of it to be a good news story. We are still learning and I think that demand curve is still going up.

Q159 Douglas Ross: I have two final questions. First, you spoke earlier about needing better intelligence and for that to work its way up. Why isn't that working? Why are officers at a local level not aware of the process to feed this up to the NCA?

Rob Jones: I didn't say it was not working.

Douglas Ross: You said intelligence sharing could be improved.

Rob Jones: It can be, of course it can. When you are dealing with a victim and you are the first responder, you have a whole range of things that you are thinking about. One of the first thoughts needs to be the intelligence on the interaction with the victim. That has been built into the NRM reforms. We are making sure that every one of those is crimed, every one of those gets into the system. But this is not a crime type where you are going to be able to map the intelligence picture from the top down. You need community intelligence. It is push and pull. We are pulling it through from an NCA perspective with things like the national data exploitation capability we are building, but we also need that material to come through locally and regionally at ground level. It is about making it as good as it can be. It is not that is not working. It is



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working because our understanding is much better and that is driven from the work that Shaun's people do.

Chief Constable Sawyer: I think intelligence is a lot better. In fact, I would say it is bordering on good, which is the apotheosis of average. It needs to be better in terms of policing, but let's look at the other agencies who do not have a duty to notify. The NHS is not required to refer into the NRM. There is massive intelligence in there. I am not having a go at the NHS but I am fairly confident that if there was a victim or perpetrator with shotgun injuries coming into one of my local hospitals, I would get to know about it. That is not quite working. The NHS is under huge pressure but I do think that there should be a duty to notify from the health side and from education—education is part of it. I feel that is a gap because a lot of our victims will come through NHS services. They are under the control of the interpreter—all the things we see when people's bank accounts are defrauded, it is exactly the same, particularly with our female victims who become pregnant or have issues related to sexual abuse. They are coming in and out of the NHS and that should be appearing somehow under the duty to notify. If you just look at the volumes, there is something missing. As I said, that is no criticism of the NHS at all, but I think that is something we should be looking at a little more actively to improve our intelligence picture.

Q160 **Douglas Ross:** You mentioned at the very beginning the need for improvements—or I think you said your final area that you could improve on is victim status and support. What are the main feelings, particularly with victim status and support, and how do you improve that? What are the three things you could do to improve that going forward? I know you mentioned something to Stuart McDonald, but can you specify on the record where you think we are failing at the moment and how can we improve that?

Baljit Ubhey: Some of this has already been covered by my colleagues. We have victims who may be reluctant to come forward, who may have credibility issues as a result of the circumstances of the offending that has taken place, so being able to have early discussions about what those issues are and how we are going to address them is really important. That is why the issue of early engagement by the police with the CPS is really important. When we come on to look at the section 45 defence and particularly in the context of county lines cases, we should first of all think: are we dealing with victims or are we dealing with suspects, and are we clear about where we are and what steps we need to take to clarify that? That is really.

Q161 **Douglas Ross:** With the deep dives you spoke about, is it seen as a significant problem that at the very initial stages victims potentially are treated as suspects and it is only further down the road that they are identified as victims?

Baljit Ubhey: I don't think the deep dive necessarily found that. What the deep dive found was that there is not the sustained support. Where



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you have victims properly identified as victims, there is not the ongoing support and there are so many reasons why a person would not continue to support. It could be pressure, it could be all forms of exploitation, and I don't think we can underestimate the impact of a power dynamic here. Using the analogy of domestic abuse, we have seen our mindset change so that when we talk about domestic abuse now we don't just talk about violence or verbal threats. We now have offences for coercive and controlling behaviour. I think that is a real issue in this space.

In terms of what we need to do, the early work with the police is to be clear who the victims are. Once we know who the victims are it is about making sure that we do everything possible to keep them on board. That might be dealing with immigration status issues or getting interim risk orders in place to minimise issues of coercion and control. What can we do to speed things up? That is not always possible. We have to be realistic. These are very complex cases.

There are all sorts of things that we can and do use as special measures when it comes to giving evidence, and those are well documented in terms of how victims can give evidence in a way that is less traumatic, whether that is through a live link or screens. That is done well. The other area is being really creative, and it comes back to that first point about early engagement. Again, it is a bit like domestic abuse prosecutions: could we prosecute this case without relying on the victim giving evidence? We have had some cases where we have done that. We have successfully used social media, other information, financial information, to build a case that does not necessarily require the victim to give evidence, or in another case we have used one victim but not all the victims.

I suppose it is coming back to sustained support that is individual and tailored, and it can't be a one size fits all. That case I described earlier highlights how you have cultural issues sometimes and you have all sorts of issues. It has to be an individual response to the needs of those particular victims in that particular situation and it needs to be sustained. That is where I think the multiagency approach, which is not just about the CPS and the police, is really significant.

Q162 Chris Green: Highlighting the point about culture is immensely important to understand the cultural perspective of the victims in this and how they perceive law enforcement. It is also about the culture within law enforcement and the approach they take and the wider understanding of what modern slavery is about. We have heard that many victims are criminalised and treated as suspects first and foremost, even when there are trafficking indications present. Why is this?

Chief Constable Sawyer: It does happen on occasion. I am not going to pretend it has never happened; it does happen. We have worked extremely hard throughout the whole area of vulnerability over several years now, going right back to domestic violence, abusive relationships. You are dealing with a social interaction when dealing with people. I



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would say culturally policing in general is more attuned and better understanding of the idea of vulnerability and exploitation than it has ever been, but it is not consistent. We have also invested heavily in specialists, and the problem with investing in specialists is that the upside is you get great results but the downside is that everyone pretends it is now their problem and you need a generalist approach.

A lot of the work we have done on the front line has been about awareness raising and not making judgments, and about specific guidance. There is the issue of the link between so-called organised immigration crime and modern slaves. You can engage into trafficking but get caught in debt bondage, and what do you do? Our training is absolutely clear. You see the victim first and then you pursue the evidence. That is why we record the crimes first. There will be inconsistencies and there will be a view that sometimes questions that are legitimately asked are making a judgment that you are not believed, but investigators have to investigate. That is why having victim support is key. The victim support is your constant and investigation is a lighthouse. It is just looking from time to time but the constant light is victim support.

But someone can be both a perpetrator and a victim. We spoke about the complexity. You can be in the UK and a maid who got out from being repeatedly raped becomes the matron that is running prostitutes. You are a victim and you are a perpetrator, and that is why it is really complex when it comes to charging. Culturally I would say policing is in the best place it has ever been, but it is not perfect.

Q163 Chris Green: There is still more work to do. The Human Trafficking Foundation heard that some young people were being charged and criminalised because the Misuse of Drugs Act is seen as outweighing the statutory defence and it is quicker and easier to secure a conviction. How do you respond to that?

Chief Constable Sawyer: County lines activity is a term I don't like, Chair, and members of the Committee. It is child criminal exploitation; let's call it what it is. We don't call child sexual exploitation Operation Hydrant. It does not define what it is. County lines is an operational term about the transport of drug networks from major cities to forces like my own. It is child criminal exploitation of which drugs is a part.

Within that, the concern I have about the section 45 defence is that the top-end drug dealers are saying to young people, "It's okay, you're not going to get charged." It is extremely challenging. I would flip it the other way and say there is a danger of the section 45 defence. I don't want to criminalise young people, any more than I want to criminalise young girls being in child sexual exploitation—at the age of 14 they are going to have boyfriends and multiple boyfriends. Young boys in the main, but girls as well, in so-called county lines don't make choices; they are coerced. If they are making choices, the burden of proof needs to be looked at.



I am very concerned on section 45 that a brilliant piece of parliamentary legislation is having an unintended consequence. It is enabling the top end of serious organised crime people to coerce people and build in your defence, which is drawing young people in. When you have people who are making not totally informed choices, it is now used as a defence and they roll on to offend again and again and again.

Q164 Chris Green: In that sense a protection that has been given is exploited by the criminals and criminal gangs to tempt people by saying, "You are going to be protected no matter what."

Chief Constable Sawyer: I think it is. I don't have the evidence for whether it is systemic, whether it is immense, but I have plenty of anecdotes and the county lines initiative from the Home Office is working in that very area. Rob can add to that if you want to bring Rob into it, but I am concerned. If I can come back to my earlier point, let's not call things county lines. Call it what it is. Secondly, I would say I am seeing less charging, because of the statutory defence, of organised crime gangs dealing in drugs—because of the unintended consequence of that.

Rob Jones: It is another layer of complexity that is added to the problem. It is an all-time low exploiting children to deal drugs. It is out there and it is really real. We see both sides of this because our tactical advisers, with other tactical advisers in policing, support first responders to make that assessment. We have seen a case where we have supported a section 45 defence with our insight and knowledge of exploitation. We have also disproved an abuse of that defence, which is equally important for that section to be credible. As we learn more about county lines—we have arrested 505 perpetrators nationally and safeguarded large numbers—we are learning more about that business model and how we undermine it, and that will slow some of the NRM decisions. Getting to a conclusive-grounds decision when you are working through that extra layer of complexity with more children there—more criminal exploitation of children—will make it perhaps slower, but it is really important that we come to the right decision and don't undermine that section.

Mark Burns-Williamson: There was a rollout of independent child trafficking advocates in a few areas that proved to be really effective, but there have been some delays to that going further. I sit on the Home Office Serious Violence Taskforce and we are hearing there about the number of exclusions, off-rolling, and the effectiveness or otherwise of alternative provision within education. I don't think we should underestimate the potential exploitation and links to a growing number of young people who are outside mainstream education.

Q165 Chris Green: Fair point. You said before that the job of the police is to work with the victim, and we can sympathise with that. We need to understand the culture of where the victims have come from and how they may naturally see the police perhaps not in the way we do in the United Kingdom—in many countries where people come from the police are far more adversarial figures. Is it right that the police should have a



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relationship supporting the victim, or should it be changed from how it is at the moment?

Chief Constable Sawyer: I think the management of the victim is a matter for organisations and not the police service, but I think you have to have a relationship, whether that relationship is through the person managing the victim or a family liaison officer who is dealing with the victim's family. Your point is well made about the cultural norms. Let's not pretend all British people trust policing—I have been around long enough—but equally breaking down the barriers is part of the investigation. The investigator has to have a relationship in interview and with others, and I don't want to repeat victimise victims through interview.

The other point is—it is in the stats—that the majority of victims that we have seen in our two years, or 20 months, of the so-called transformation are British, and the majority of offenders are British, so this is a British problem with massive international connections, clearly.

The straight answer to your question is that I think victims are best managed by people who manage victims. Responders respond, investigators investigate, and victim management is best done by professionals who manage victims, from the NGO sector or commissioned services.

Q166 **Chris Green:** Ms Ubhey, do you think the section 45 defence is working effectively? We have had a good discussion on it. Do you think it is working effectively? How should it be changed?

Baljit Ubhey: I would echo some of the concerns that police colleagues have highlighted about this potentially being abused by more organised criminals. We can't quantify the problem, we don't have data on this, so we are in the land of anecdote, I am afraid. I can't give you hard figures, but from talking to some of our specialist prosecutors, we are building up a bit of a picture that there are some problems with how this defence is being utilised in certain cases. It does offer protection and it offers protection to both adults and children. The slight difference is where it is an adult—someone over 18—you have to show compulsion, so there is a slightly higher test. In relation to people under 18, you just need to show a nexus between the exploitation or slavery and the relevant Act.

The Act was silent on the burden and standard of proof. In a Court of Appeal judgment last year that has been clarified, and it says there is an evidential burden, which is a lower burden than a legal burden, on the defence. We have seen some cases, where there are no indicators before, that at trial someone can say, "I was compelled to do this," so the issue is raised for the first time in that way. Once that issue has been raised by the defence on that lower standard, it is then for the prosecution to take on the legal burden and prove beyond reasonable doubt that that defence is not right. Often, those are things that are just within the knowledge of the defendant, so it is almost impossible for the prosecution to disprove



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that. What that has meant is that we are kind of snookered if someone raises it and we can't disprove it, so it is very difficult if it is abused in that way.

Our suggestion would be that there should be a legal burden, on the balance of probabilities, on the defendant to show that the defence is made out. That would also dovetail very nicely with the standards under the NRM referral, because it is reasonable grounds and then the conclusive grounds is on the balance of probabilities. It would fit in with that—it would align itself to that—and I think that that would make the process more manageable, because it does create a real issue or the potential for a real issue. As I said, we do not have a sense of the scale of the issue, partly because sometimes we can't be 100% sure in some cases. You are never going to get an absolute figure on this, but it can be raised in any type of case. That is one of the things that we would say could be strengthened from a prosecution perspective.

I recognise there is a tension, because protecting children in terms of the county lines—I take Shaun's point; it is not the clearest title—but this is about exploiting young people in the context of drug dealing—

Chris Green: We are going on to county lines.

Baljit Ubhey: Fine, I will pause then. But certainly as far as the defence is concerned, we think shifting the burden in that way would be in accordance with the broader approach of the NRM process and would provide some additional safeguards for prosecution.

Q167 **Chris Green:** It has recently been announced that the police are to stop passing on information about people suspected of being in the country illegally if they come forward as victims of crime. Do you believe a fear of immigration enforcement has prevented individuals from exposing abuse and exploitation?

Chief Constable Sawyer: I was part of driving through that guidance—my other job is as the national police lead on organised immigration crime. Our colleagues in immigration enforcement have an unenviable job in the current climate, for all the reasons that are well known, but they are combatting organised immigration crime. Victim first is the guidance. There is no need to refer to immigration enforcement unless you feel that becomes part of your investigation, or there is a vulnerability in the victim or your victim is actually a perpetrator. First and foremost, deal with the victim and deal with the crime, and that is well rehearsed and nationally guided. We will still pass intelligence to immigration enforcement, particularly if it protects the victim in front of us.

It is the devil's own job for frontline staff. We have tried to give really simple guidance, but that is a really powerful point about culture. If you see the victim first, you are going to make the right decision at some point in your investigation. We have also set the standard that these investigations are what is called PIP 2. They are a higher level



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investigative standard. The reason we trained 350 senior investigators is that you can get that greater training and advice of when to refer or not. We can and will still share.

On your point of whether we think the use of the police approach historically in our working with immigration enforcement has possibly caused people to be referred and potentially extradited by the United Kingdom, I don't know, but I have been around for 33 years in policing and I would be staggered if it had not happened.

- Q168 **John Woodcock:** What you say on section 45 is surely very important to the approach that will be taken to—I take your points on county lines—let's call it children and long-distance grooming. It suggests that the greater the level of protection under the modern slavery approach, the greater powers that can be handed over to the drug traffickers. That is right, isn't it? I understand what you are saying as that it is right to put it as starkly as that.

Chief Constable Sawyer: At its worst level it creates a door that astute people walk through. It is about coercion and control and enticement. If you ask for a policy approach from me as the national policing lead, it is that we just need to look at section 45. It is a great thing, but I think its abuse and its test on the balance of probabilities means there is a concern that it is being used in drug networks and elements of serious organised crime. Child criminal exploitation is not all about drugs exploitation. It can be about shoplifting gangs and other gangs as well. It is that, "You will be okay. As long as you say this you will be okay." It is often played at the last minute. It has to be careful how it is done. It has to be sophisticated, but I think it could do with just a bit of tightening.

- Q169 **John Woodcock:** I understand and the point on tightening is powerful, but even if you changed the parameters, if you make it no longer binary in terms of an all-powerful get out of jail card, the tension is still there, isn't it? It is always going to be there.

Chief Constable Sawyer: There will be domestic violence cases where the victim has been subject to years of domestic abuse and they turn in an instant and now create a major assault on their perpetrator. You are always going to have a tension on a statutory defence.

- Q170 **John Woodcock:** I understand that, but it is not quite the same parallel, is it? This is an industry that is sustained by young people taking drugs to other areas, and a key proponent of that—you are saying, and it logically makes sense—is that those young people are, first, easy to coerce, but secondly, liable to less prosecution than older people. That will always be a tension. In your view, is the drive within public policy to push what is referred to as county lines further into the realm of modern slavery misconceived?

Baljit Ubhey: Looking at some of the county lines drug dealing through the lens of modern slavery enables the prosecution to paint a broader and more realistic picture of the criminality. It highlights that



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exploitation, so when it comes to child victims it is not just about the drug dealing; it is about the abuse of young people. We have had a successful prosecution for a drug dealing case where we have used the modern slavery legislation in addition to Misuse of Drugs Act offences to paint that picture of the overall criminality. I think that is a positive thing because it does highlight that abuse.

One of the things the CPS has done is created a typology for prosecutors when looking at this type of offending. It sets out the scene in alerting prosecutors very much to the fact that you may have young people involved, but are they genuinely suspects or are they victims? If there are some indicators—it highlights what some of those indicators might be to work proactively with the police to refer through the NRM process—that helps prosecutors to think about this type of offending in a different way.

We had a really positive outcome, which the Court of Appeal upheld. We had a case where we prosecuted organised criminals for Modern Slavery Act offences and none of the child drug runners were called, but we used an expert. The judge at the Crown Court upheld a terminatory ruling and we appealed that. We had a very helpful judgment from the Court of Appeal that said that to prosecute modern slavery in such cases when we are dealing with county lines drug dealing, it is not dependent upon the ability of the Crown to call the individual who is said to have been exploited or the target of the exploitation. You also do not have to show that there was a lack of consent. It is a really helpful judgment that has supported what I think the Modern Slavery Act is trying to do.

What the CPS typology also does is say, "Is this a case where the section 45 defence applies?" If it is, then clearly we should not be prosecuting that, but even if it applies, certain offences are excluded from section 45. Drugs offences are not, which is why we are seeing it as a bit of an issue here. But the CPS does go on and say, "Is it still in the public interest to prosecute?" People who are concerned about whether adequate consideration is being taken of the victim status of children who are involved in this activity should look at our typology. The very comprehensive guidance that the CPS has reminds prosecutors to think about international obligations to children, and our commitments in relation to human trafficking should provide some reassurance that this is all thought through really carefully.

The fact that we have pursued this terminatory ruling and have had this very helpful judgment does highlight that there is an understanding of the broader picture. I think it is challenging to prosecute Modern Slavery Act offences in the context of county lines drug dealing, but it is not impossible, and sometimes it absolutely the right thing to do.

Q171 John Woodcock: Would it potentially be helpful to tie in the defence with victims giving a greater level of evidence against the drug traffickers who have used them?



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Baljit Ubhey: I think that is always challenging and hard to achieve. If you have the right and sustained support, if you have an interim risk order in place, it may be possible. In those cases, as in this case where that was not possible, you look at an alternative way of bringing that case.

Q172 **John Woodcock:** All of this is challenging but, widening it out, do we think that is an avenue that is worth pursuing, or is it going to be a dead end?

Chief Constable Sawyer: I think it is an avenue worth pursuing. It is a great question, so it is one I am going to think a bit more on.

Very quickly, I know we are pushed for time, Chair, but I think exploitation is a mountain range with a number of different exploitations—including domestic violence and sham marriages. The bit I heard—I may have misheard—is that a lot of child criminal exploitation is not modern slavery but a significant amount is. An awful lot of child sexual exploitation is not modern slavery but an awful lot of it is. I think Parliament—the mother of Parliaments—has struck on something that is really astute, which is that there is not a lot of exploitation of young children that does not involve coercion and trafficking. Therefore, I think the policy approach of using the Modern Slavery Act more for law enforcement and NGOs is bigger. The Crown will always look at what best gets the case over the line, and it should do so.

Q173 **John Woodcock:** I want to talk about the national co-ordination centre. Can I have a quick view from you, Mr Jones, and then others on whether the balance is right? Are the resources right? Is it making a difference? Will it make a difference?

Rob Jones: I think it is making a positive difference. That level of co-ordination has allowed us to get a national overview of the problem and the level of coercive control of children who are involved in drug trafficking as well as adults. We need to break the business model that exploits vulnerability. That national perspective is really useful with 505 arrests. It is a good start, with lots more to do.

Q174 **John Woodcock:** That is a view from the centre; what about the view from the sticks?

Chief Constable Sawyer: The view from the sticks? How delightful.

John Woodcock: Coming from Barrow and Furness, I feel entirely valid to use that term.

Chief Constable Sawyer: The view of the Isles of Scilly is that it has a place—it is really good. The Director-General has made a bespoke investment going forward. My view is that it is my bit of the house and I won't be here forever, so it is not about me, and it is not about Devon and Cornwall. You need something in place that pulls the 43 forces together for the next five years. We have the regional organised crime



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units, which is great operationally, but we also have a centre of knowledge and expertise that is integral to winning this battle. I am currently living on a year-by-year funding allocation, so I am hoping the CSR for 2030 commitment, there is a 2025 CRS too—

Q175 **John Woodcock:** You need more?

Chief Constable Sawyer: You need this hub.

Q176 **John Woodcock:** And in Yorkshire?

Mark Burns-Williamson: It is right that there is a national co-ordination centre that has been set up to do this, but inevitably I think some of this debate comes back to the structures we have in policing. We have regional organised crime units in certain force areas and it is about how effective those are as well as the regional-level working with the National Crime Agency. Perhaps the model we currently have is suboptimal to what it potentially could be.

Q177 **Chair:** We are going to move on to our next panel, but I have a final question, which I ask tentatively, hoping you can give as short an answer as possible. We have managed to go for an hour of questioning without mentioning Brexit, so I would like to ask you, given that you talked about the international work that you do, whether in the work that you are doing on modern slavery you use co-operation through Europol, the European arrest warrant or any of the European databases? If so, if there was no deal and you lost them at the end of March, what impact would that have on your work?

Rob Jones: We use most of the EU tools in relation to modern slavery and human trafficking. We work very effectively with Europol and a range of European partners. We would be concerned about losing those tools and I think that is very well rehearsed in our position. We are working very closely with national policing to mitigate any potential impact from the loss of any of those tools. We are looking at older treaties to ensure that we get the same exchange of information to mitigate the risk, and we are also putting more resources in to do that. I can't say it would not affect us. We don't want to lose any of those tools or any of that collaboration with our European partners, but we are working to mitigate the impact for whatever happens over the coming days.

Chief Constable Sawyer: There is a lot of work. We will deal with whatever Parliament decides. That is what policing is about. A crash-out no deal where we lost all those powers is great news for the traffickers and bad news for victims, irrevocably. I would say if it is not disastrous, it will put us back a number of years. Whatever we are dealt we will work with and deliver for whatever Parliament decides, but it will be a good day for the perpetrator and a bad day for the victim.

Mark Burns-Williamson: We have expressed our concerns, as the Association of Police and Crime Commissioners, and we have a number of colleagues who have been liaising with the Home Office on this. I know in



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your other sessions you have taken evidence on the general impact. Having talked to officers on the ground who set up joint investigation teams working in Europe and elsewhere, I know there would be a real concern if we were to lose access to things like the European arrest warrant, ECRIS, SIS II and Eurojust, because we are net contributors in terms of intelligence and security issues within Europe. It is not clear to us what the outcome of whatever happens in the next few days and at the end of March this year is going to be. We are making those representations to the Home Office.

Baljit Ubhey: Yes, we use all those tools. Can I answer a completely different question, because I think it is a really important point? As a lawyer, for me it is about the legislation risk orders that can be made where there is not a conviction. It is really important for protection. It can only be granted by application in a Magistrates' Court. If we gave Crown Court judges the powers to make those, it would help enormously with providing more protection. I have a couple of case examples. I will not mention them now, but if we can submit those in writing, they highlight the gap.

Chair: Send them to us. That would be great. Thank you very much to our panel. We appreciate your evidence.

Examination of witnesses

Victoria Marks, James Robottom, Philippa Southwell and Nusrat Uddin.

Q178 **Chair:** Thank you for joining us and apologies for the delay in starting this panel session. Could I ask you each to introduce yourself and say what your work is on modern slavery?

Nusrat Uddin: My name is Nusrat Uddin. I am from Wilsons Solicitors. I work in the public law department. We also have a very strong immigration department. We all collectively work on cases of victims of trafficking, looking at finding them in detention, challenging their detention and also challenging police investigations and support from both local authority and the Home Office, in order to obtain adequate support for victims.

Philippa Southwell: I am a criminal solicitor advocate. I specialise in cases involving forced criminality. I am head of the human trafficking and modern slavery department at Birds Solicitors. We predominantly deal with the criminal element of a case and offshoots of small aspects of areas of law running off of those criminal cases. I am also the founder and Managing Director of the Human Trafficking & Modern Slavery Expert Directory and co-author of the *Human Trafficking and Modern Slavery* legal handbook.

James Robottom: I am Jim Robottom. I am a barrister in independent practice. I specialise in representing victims of modern slavery on the civil side. I am also a criminal practitioner and a Crown prosecution



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advocate, and I study at King's College London, so I have an academic interest in the law on the international obligation side.

Victoria Marks: I am Victoria Marks. I am founding member and Director of the Anti-Trafficking and Labour Exploitation Unit. We are a team of lawyers that tries to provide a dedicated and holistic service to victims of trafficking and modern slavery. We provide advice and representation on immigration asylum matters, compensation matters that take a variety of routes, and housing and support. We primarily work under the legal aid scheme but we also try to ensure that we are able to help victims where they may struggle to obtain legal aid. Ensuring access to justice is one of our primary aims.

Q179 **Chair:** As an opening question, if you think of the way in which the legal system is operating around modern slavery at the moment, what would you say is the best thing about the way it is working and what would you say is the worst thing about the way it is working and the thing you would be most worried about?

Victoria Marks: It is difficult to say what the best thing is because there are so many obstacles, but I was struck when talking to European lawyers recently that within the UK victims are able to pursue various legal issues. The fact that there is legal aid available for some people is definitely a positive.

On what is working badly within the legal system, I think what is problematic across the framework for modern slavery today is that there is lots of good intention but in implementation and policy and practice there is huge inconsistency and real problems in how different victims are treated and how they experience the system. For many victims, their view would be that the legal aid system in the UK is broken. It should not take four years for them to get a legal aid certificate to pursue a claim for compensation. It shouldn't be that there is such limited legal provision available in parts of the UK that it takes a year to get an appointment to see an immigration adviser. The practical hurdles that victims of modern slavery are experiencing do suggest that the system is not working.

The other really obvious one is the Criminal Injuries Compensation Authority. Victims of modern slavery may not be able to pursue a claim against their trafficker—they may not have assets; they may not be traceable. The Criminal Injuries Compensation Authority scheme is there for people to be able to get some sort of compensation, but they cannot access it. It is not fit for purpose. They may not be able to access it because there is no one to help them make an application and legal aid is not available, but also, on the face of it, so many victims of modern slavery simply are not eligible under the scheme.

Q180 **Chair:** What we will do is we will probably ask follow-up questions on the broad points that you raise or give you the chance to send further written responses as well, but give me a sense of the overview as to what you think is working best and what you think is working worst.



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James Robottom: I have two best and two worst, both of which pair together. The best is that the awareness in the judiciary and, for instance, the way in which the international obligations and the international law is applied in domestic law is a real positive. I am sure Nusrat will speak about her case before Christmas about subsistence payments. The cases can go both ways, but I think that there is an increasing awareness of the role and the rights of victims through the judiciary. You can also see that through the prior panel, through the people who work for the police, the CPS and the NCA.

The counter to that is black letter law-wise the Act is weak as regards victims. It is not and it never was an Act—despite what it says in the long title—to really protect and support victims. It was an Act to criminalise. It is a criminal Act. It has the section 45 defence in it. It has compensation orders, but compensation orders were not ever the bespoke orders that the Government said they were. They are exactly the same as compensation orders, which were available in criminal courts anyway, so there is no real possibility under the Acts or provision for direct compensation that is actionable by victims.

Those are the two sides of the coin. I think that you have a lot of good intentions and you have a greater awareness of the issue, on a judicial level, practitioner level, and policing and prosecutorial level, as against the weakness of the legislation.

On a more focused level, there is a real positive that legal aid in civil claims—private law claims brought by a victim against a trafficker or a slaver, or whoever has subjected them to the treatment, which is probably the main area I specialise in—is available for those claims to be brought under LASPO 2012, which is unusual because LASPO restricted legal aid generally. LASPO makes the granting of legal aid conditional on the person being a victim within essentially sections 1 and 2 of the Act, and the way in which that is being administered by the Legal Aid Agency, partly I think because the way in which civil law works is very complicated in these claims, is poor. It is difficult to get legal aid granted. I know that Nusrat and Victoria spend a lot of time working to try to get legal aid granted for these claims to be brought directly against the traffickers.

Those are the two levels. There is the intention on both sides, but on the ground it is not working so well.

Philippa Southwell: The positives are—I agree with my colleague here—that there is greater awareness in all sectors, and we can see that from the high number of NRM referrals.

There is an issue with prosecution of victims of human trafficking who have been forced to commit offences. We are still prosecuting individuals on a daily basis when there are key trafficking indicators. You can use, for example, the Vietnamese child in a cannabis grow. There are sufficient trafficking indicators for law enforcement to think, “Hold on,



let's deal with this as a potential modern slavery investigation rather than a drug investigation." I appreciate that there is a whole array of criminal offences that victims may be involved in and victims may not make disclosures at that initial stage, but the police station stage is such an important stage, because it gives us the opportunity to divert a victim away from the criminal justice system, which can be very unkind and very traumatic. If we continue to prosecute victims of forced criminality, we will continue to have low prosecution rates for modern slavery-related cases.

Almost all of my clients that have been prosecuted do not want to co-operate with a subsequent or parallel investigation into their exploitation because they feel they are not believed. One of the basic recommendations of the College of Policing guidance in relation to interviewing victims who make disclosures during a PACE interview is silent on what should happen if they have made disclosures to their legal rep prior to the interview starting. I do not think it is an appropriate place to question a victim about their exploitation for a number of reasons. These need to be PACE interviews. These need to be ABE interviews. I do not think it is appropriate to question during an interview under caution. The College of Policing says at the end of that interview they should be offered an ABE interview. There are issues with ABE suites not being available—it could be 11 o'clock at night and they have been arrested.

There is greater awareness within the criminal justice system. There are issues again with schedule 4 excluded offences. With robbery, for example, you cannot raise a section 45 defence. I am seeing a huge number of individuals being involved in forced criminality and groomed and exploited in that way. There are issues with reconsideration requests of negative trafficking determinations and prohibiting legal reps from asking for a reconsideration request. I think that it is hugely detrimental to a victim, because you are asking a first responder to ask for a reconsideration, but they are not legally qualified. You have to identify whether the right test has been applied.

Q181 Chair: I am going to interrupt you because we will come back to some of that anyway. Just a quick overview, the main thing that you think is best or worst. Ms Uddin?

Nusrat Uddin: I would agree with my colleague in terms of the positive. We have much more awareness. The Modern Slavery Act is there, but it fails to recognise the victim and what the victim's needs are. What we are seeing is lack of adequate support for victims and what that is also leading to is that we often meet clients in detention centres. They have been through the system. They have been identified and have come into contact with the police, but instead of being treated as a victim, like Philippa says, they are prosecuted. They are then put into jail and subsequently served with deportation orders. We then find them in detention centres, where we have to unpick all of that—unpick the criminal prosecution, unpick how that affects their immigration status as



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well—and then get them referred into the NRM system and get them the adequate support and recognition in order to protect them and stop that cycle.

Q182 John Woodcock: You will have listened to the evidence on the problems with section 45 on domestic long-distance drug running. I am getting that you take a different view, from what you have just said. Give us your perspective.

Philippa Southwell: I do have a concern with the number of NRM referrals for British national-type child criminal exploitation cases. There is a huge problem with child criminal exploitation. It tends to be British national children, males and females, involved in drug running, begging rings, pickpocketing, and graduating on to more serious types of offending. How we deal with this is problematic. Is there a misapplication of the section 45 defence? I appreciate that my colleagues at the CPS may think that. It is problematic. The CPS guidance I think is slightly misleading where it talks about voluntary association with criminal organised networks under their county lines guidance header. Most of the trafficking victims, internal and foreign national cases, have at some point associated with a criminal organised network to get them to the UK, for example, so it is slightly misleading.

It is a challenge how we deal with these cases. It is not just county lines-type offences. I represent defendants and victims involved in a whole array of offences—for example, eastern European males trafficked for forced labour exploitation. The traffickers are taking out insurance policies and registering vehicles in their names, and they have run up all sorts of road traffic violations during the course of their exploitation. They are convicted in their absence and these convictions do not go away. There are unpaid court fines. We have to unpick all of these what-would-seem-to-be very, very minor offences that are prohibiting the rehabilitation and reintegration of that individual into the community.

Q183 John Woodcock: Just so I am clear, where you are very definite is that there is not enough focus on the victim for people being brought in from overseas. You agree to an extent with the evidence from the police that it is a more complex picture domestically?

Philippa Southwell: Yes.

John Woodcock: Okay, thank you. That is helpful.

James Robottom: I would say that in respect of the burden of proof issue—I am just, in fact, looking it up as a proper barrister should—that stems from the international obligations. In criminal law traditionally, there are issues under the European convention as regards imposing an evidential burden on an accused. For case law that predates the section 45 defence, the international obligations are clear that in the case of children you do not have the compulsion requirement as regards the defence that you do of adults. While it undoubtedly will be a practical problem for the police and for the CPS, I am not sure that if Parliament



was to go back and look at it, it would be in line with the international obligations to put an evidential burden, in the light of both the European convention generally and the trafficking obligations, on the child.

John Woodcock: That is interesting. Thank you.

Q184 **Chris Green:** From the outside looking at trafficking and modern slavery, it seems extraordinary that people would be criminalised in the system. It is really bad for them as individuals. It damages the opportunities for rehabilitation, and no doubt it is an enormous cost to the state, so why are victims of slavery and trafficking being criminalised?

Philippa Southwell: For a number of reasons. There are cases where an individual will not make disclosures for a number of reasons, including cultural issues, juju, debt bondage, fear of reprisal and a whole number of complex cultural backgrounds and control mechanisms that are used by different criminal networks. Those cases are difficult for law enforcement and the Crown Prosecution Service because the disclosures are not there or the disclosures are not there during a charging decision.

There is the other type of case where there are a number of trafficking indicators present but we continue to prosecute. It is about training for defence lawyers, CPS lawyers and judiciary, because if you are not asking the right questions of your client, they are not going to give you that disclosure. You see that victims will give you one-word answers when you are taking instructions.

Q185 **Chris Green:** In terms of lawyers, would you focus on that side to prevent their criminalisation?

Philippa Southwell: I would. There has been a greater increase in training. The problem particularly with training for lawyers is that once you are qualified you only attend a certain amount of CPD lectures a year, and those are on topics that are of interest to you, so you will not necessarily be up to date with the complexities surrounding modern slavery law and dealing with victims of human trafficking.

Nusrat Uddin: I think that training and awareness is a key issue within the whole criminal system, from the very beginning straight through to the end. Our firm used to have a contract providing telephone advice at police stations. Across the country, if there were migrants who were arrested by the police, they would be able to get some very basic advice over the phone from our organisation. I spoke to solicitors who were giving advice over years, attending these advice sessions once a month, and one said, "I have only ever had one police officer know what the NRM is." Others said, "I never had police officers know what the NRM is."

It is that lack of awareness straight from the beginning all the way through to the judges who are presiding over these cases. We have had cases where the judge has stopped a prosecution and referred the case to us because they recognised trafficking indicators. That is only because he has sat as an immigration judge previously and has seen trafficking



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cases. That is unheard of. I have not heard of that happening again, but that is what should be happening. At every stage, there should be an awareness to recognise what trafficking indicators are: "This is not a perpetrator of a crime; this is a victim of a crime."

Q186 **Chris Green:** Whether it is CPS or other people, there should be more evidence and there should be more guidance perhaps given to judges.

Nusrat Uddin: Yes, and I think that that has certainly been started, as it has been for many years with the police, but it is trickling it down so it is at the forefront of their minds. The problem is that we have all heard of the hostile environment and how that has affected the Windrush clients, but it is affecting trafficking victims as well. The police and the Home Office see these people as migrants who are illegal immigrants as opposed to victims of crime. It is about that culture shift of taking a step back and recognising what is going on here. This is a victim, not a perpetrator of a crime.

Q187 **Chris Green:** Ms Southwell, in written evidence you claim that there are often inadequate or improper police responses, as we had confirmed here, at the initial stage where victims and police converge. What are these failings and how can they be remedied?

Philippa Southwell: There is a duty to notify under the Modern Slavery Act and the police are first responders, but I am not seeing the police making NRM referrals at that initial stage. That initial stage is so important. It is a domino effect. If you charge, prosecute, convict a victim and they get an automatic deportation notice, that then causes them immigration issues and the cycle continues.

Q188 **Chris Green:** There is a sense that the initial response from the police is perhaps too aggressive, too much focused on getting—

Philippa Southwell: In dealing with the index offence, yes.

Q189 **Chris Green:** There is the evidence from the Human Trafficking Foundation that says young people are being charged and criminalised because the Misuse of Drugs Act is seen as outweighing the statutory defence. Would you agree with that?

Philippa Southwell: Forced criminality can involve all sorts of criminality. It is not just drugs offences. It is a challenge for law enforcement where the disclosures are not there, so it is a "no comment" interview. I think that that is where the obligation to inform yourself as a professional is not just on law enforcement, but on defence and prosecution lawyers. There is a Court of Appeal judgment, L & Ors, where it says that the obligation is on defence and prosecution to make those enquiries. We are still getting it wrong. Even though there are numerous professionals involved in an individual's case, they are not being referred in when they should be.



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Nusrat Uddin: I would say outside of the criminal justice system as well we have had cases where social workers and local authorities are failing these young people who are involved in county lines. We had a case where our client had been through the NRM system, was positively recognised as a victim of trafficking, was in the local authority's care and had an assigned social worker, was then re trafficked into county lines and is now in prison. That social worker failed to recognise these indicators of re trafficking despite this person already being recognised as a victim of trafficking and, therefore, being vulnerable. They still have not been referred back into the NRM for the adequate protections. They were failed by their social worker as well as the individuals in the criminal justice system who should have recognised the signs of re trafficking.

Q190 **Chris Green:** The previous panel gave some evidence that suggested that the use of the interpretation of section 45 defence can be and is being exploited by gangs saying that people under the age of 18 have some protection. Do you agree with this? Do you think that section 45 is working as it should, or should there be changes?

Philippa Southwell: It is a step in the right direction. There are teething problems. The modern slavery legislation is world leading, but there are teething problems about how it is being implemented. We did have non-prosecution protections for victims prior to 2015 when the Modern Slavery Act came into force, but the purpose of the non-punishment provisions, if you look at the preamble to the directive, was to encourage victims to give evidence against their traffickers. I think we may need to be looking at these cases in a different light, through a victim lens, rather than seeing these very aggressive—I appreciate from a law enforcement perspective when they make an arrest they are there to deal with that index offence, but I think that we need to take a step back. As soon as you start to treat an individual as a suspect and then a defendant, you will not get them to co-operate.

Q191 **Chris Green:** Is a change to section 45 needed, or is it about a change of the culture around it?

Philippa Southwell: I think that section 45 does need to be developed, if only to repeal the schedule 4 excluded offences. It is a list of about 100 offences that seem to be picked out of a hat. We have robbery, we have trafficking and modern slavery-related cases. Within the paradigm of forced criminality, as colleagues in the last panel said, you look at, for example, sexual exploitation in a brothel setting where girls are trafficked. They may be exploited for a number of years and will graduate on to a more controlling position within that brothel setting, controlling other girls, engaging in sexual activity. There is a long list of excluded offences where the individual cannot raise a section 45 defence. These cases are complicated where the nexus becomes extremely difficult.

James Robottom: As I said previously, I think that there would be a legal issue with putting an evidential burden into section 45, although that might be something I can come back to the panel on.



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In terms of the simple question, which I think was why victims are accused of committing criminal offences, it is virtually impossible to find a modern slavery-type situation where, because it is related to the exploitation of others, the victim is not technically committing a criminal offence in some way. The international obligations, which is how the Act and the jurisprudence initially started, are based around protecting victims, particularly from prosecution. That is why Philippa was talking about the original cases in the jurisprudence, particularly in the Court of Appeal, about protecting victims from prosecution. The CPS has obligations before you even get to a section 45 defence at court.

It comes down to discretionary decision-making on the part of police officers, CPS lawyers, advocates prosecuting, and that comes down to resources and awareness, ultimately. You cannot get around the problem that technically victims are likely to have committed criminal offences in the course of being exploited.

Q192 Chris Green: My final question: to what extent does the fear of immigration enforcement prevent victims from coming forward and exposing exploitative practices, especially in the context that individuals may be prosecuted or seen as being a perpetrator of crime?

Nusrat Uddin: I carried out some research that was finalised last month. It was across the US, Europe and the UK, comparing what is stopping victims coming forward. Across the board it was a fear of the authorities and it was because when we drill down to it, it is a fear of deportation and reprisals from their traffickers. Most of the countries where victims come from are outside of the UK. I think that in 2017 some 80% were from outside of the UK. The majority are from less socioeconomically developed countries where law enforcement is corrupt and does have links to traffickers.

Understandably, victims are afraid of the authorities and traffickers will reinforce this by saying, "We have links with law enforcement. If you run away from us, they will bring you straight back to us or they will lock you up and they will deport you." Unfortunately, what happens when vulnerable victims come into contact with these authorities is that that is what is happening. They are being criminalised. They are being seen as illegal immigrants. They are being seen as perpetrators of crimes instead of victims. It is this constant reinforcement by the failures of our authorities that exacerbates these issues and means that victims are not coming forward.

In the US, I saw that they have a much stronger system in that victims who come forward and are engaging with the police can be granted a long-term trafficking visa for four years, which can lead to long-term status and it can also allow victims to bring their family members, who are quite often in danger, over to join them. That ties back into this issue with immigration status leading to victims being able to access the right long-term support in order not only to assist their recovery, but also to get them to a place where they are stable enough to give evidence and



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engage in a police investigation, and lead to the prosecutions that the Government have put their focus on.

It is a real short-term viewpoint that unfortunately the authorities have, whether that is meeting targets on prosecuting or deporting and keeping migration numbers down. Unfortunately, what it is doing is having that knock-on effect on victims and leading to that fear of authorities, and people who do come forward to the authorities being at risk of re-trafficking because they are then susceptible again. Because the authorities are saying, "We are going to deport you," the traffickers can say, "I am going to help you. I can take you away from the situation. I can offer you XYZ," and then they fall prey to re-trafficking again and continue the cycle.

James Robottom: A very brief, on-the-ground, straight example of that is a case I did in 2011. I was instructed by ATLEU, *Onu v. Akwivu*. It was eventually a case where the Supreme Court said discrimination on the grounds of migrant status is not race discrimination. The original findings of discrimination related to a victim of domestic servitude, and the factual findings of the tribunal were that she was made to watch television footage of people being taken to places by the police and told that that is what would happen to her if she tried to leave her traffickers because she would be taken away due to her immigration status.

Q193 **Stuart C. McDonald:** Finally, let me turn to suggested problems, perhaps with the terms of the Act itself. Mr Robottom, in your written evidence to us, you have flagged up a couple of what you see as problems with the wording of the Act, including how in section 1 cross reference to the convention on human rights is used to define the offence of slavery, and then in section 2 trafficking is defined in a way that confines it to travel. Nobody on the last panel suggested that these were particular problems in bringing investigations and prosecutions, but you think this has an effect?

James Robottom: Yes, and I had a long conversation with a fellow prosecutor, a senior junior prosecutor, last night who just recently, in fact, did achieve a conviction in Nottingham Crown Court for slavery or servitude. The fact that it is slavery or servitude is one of the quirks of the way that the Act is drafted.

There are real problems in my view with the way it was drafted. I went back this morning to the Select Committee on the draft Modern Slavery Bill. They took a lot of evidence, including from Riel Karmy-Jones who is at Red Lion Chambers and is a big expert in this area, and from Jean Allain who is the biggest international academic on the meaning of slavery, and essentially it was ignored by the Government.

The really unusual part is the part where it stipulates slavery, servitude and forced or compulsory labour mean what the European Court of Human Rights says they mean. That goes beyond what the Human Rights Act requires and the European Court of Human Rights is not a criminal



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court. It has no criminal expertise. This all goes back to a case called *Siliadin*, where the European Court of Human Rights—let's be clear we are not talking in any sense about the ECJ—found that France was in breach of its obligations to protect victims because it did not have a slavery offence. What Parliament here did was think, "We are going to be found in breach," so they legislated for section 71 of the 2009 Coroners and Justice Act, which literally just put in Article 4 of the European Convention on Human Rights as a crime.

Human rights obligations are general and they are designed for states to take them on and push above them. No one would suggest that Article 2, the right to life, should somehow take over English homicide law. The three different parts of it come from different places internationally. What's more, in the 2006 judgment—in *Siliadin*—the ECHR, the human rights court, got slavery wrong. It said it requires you to own someone. When the Australian High Court in 2009 had its big judgment on slavery, *Tang*, it disparaged that judgment. It said they presumed that France did in 2005, or whatever it was, have slavery. A judgment like that England or Wales is going to come up.

Q194 Stuart C. McDonald: Have these points been made to the Home Office now? Has the Crown Prosecution Service said, for example, one issue that we have is how these offences have been drafted?

James Robottom: Certainly, Mr Langdale, when I spoke to him yesterday, agreed with that. It is inevitable that for whatever the reasons to do with drafting there are going to be big appeals on these cases and they are going to have to be sorted out one way or another.

There is also a different point, which is that we should be building our own jurisprudence in this. We should not have just sat down and written out what Article 4 of the European Convention on Human Rights says. This is the point about the view that exploitation for the purposes of human trafficking under section 2 is defined too restrictively. Again, the evidence given to the Select Committee on the Bill was that it was not going to cover certain situations. *Mens rea*, the mental requirement on an offender, has been attached in a way that was not necessary to the definition of human trafficking under the international law, and that makes it difficult, certainly in the views of advocates that I am aware of and as was recorded by the Select Committee on the draft Bill, to prosecute.

Q195 Stuart C. McDonald: That is helpful, thank you. Ms Southwell, you have spoken a couple of times—and it is in your written evidence—about what you describe as a scattergun approach in schedule 4 and how that means that the section 45 defence does not apply. Are you being a little bit unkind to the people who drafted it? There must have been some thought as to what happens there. Is there a point—just to play devil's advocate—where an offence is so serious that you should not have a complete defence but instead, for example, the fact of exploitation or coercion should go to mitigation rather than being a complete defence?



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Philippa Southwell: I am not suggesting that schedule 4 should be removed. It should be culled and it should include murder, attempted murder, treason, for example, where the criminality is so serious that you could never distinguish that criminality. I am not suggesting that it be removed in its entirety.

Q196 **Stuart C. McDonald:** Finally, if I could turn to Ms Marks, can you tell us a little bit about the recent High Court judgment where the Home Office's attempts to reduce the level of financial support to victims was quashed? Where are we at now with that? What impact were those reductions going to be having on your clients and what happens now?

Victoria Marks: I think that I should hand over to Nusrat, who was the instructing solicitor on that case.

Nusrat Uddin: That was a 40% reduction in the rate of support given weekly to the victims of trafficking who were asylum seekers. That was quashed. That was found to be completely unlawful. Our clients were not able to access the basic things they needed in order for their recovery because of those cuts. At present, we have heard that the Home Office is intending to bring in cuts as planned for spring this year for the whole cohort of victims of trafficking, which is extremely concerning.

Q197 **Stuart C. McDonald:** Is that to avoid an assertion or a case that they are discriminating between victims of trafficking depending on whether or not they are—

Nusrat Uddin: I think that what they are saying is that they still stand by their assertion that victims of trafficking only require the same amount of money weekly to live on as asylum seekers, where the judge clearly within the discussions of the case clarified that there are key differences between victims of trafficking and asylum seekers, one being that in the majority of cases asylum seekers have come here to seek asylum and once they are here they are in a place of safety, although obviously there are extreme needs that they have that probably are not being met by that £37 a week.

Victims of trafficking are different in that way because they are still vulnerable. The majority have been brought here to be exploited and their traffickers are still here at large. As we have heard, they are vulnerable to re-exploitation, so to ensure that the system that is there to protect them and to help their recovery, and to help them escape the influence of the traffickers, is working effectively, we must ensure that that level of support is appropriate. The rate that they are living on per week is so key to that. To drop from £65 a week to £37 a week with really no analysis of what the needs of victims of trafficking are is absurd and, as the judge found, was unlawful for the asylum-seeking clients that we were representing.

Q198 **Stuart C. McDonald:** None of which is to say that the rate that asylum seekers get is remotely adequate?



Nusrat Uddin: Exactly, yes.

Q199 **Stuart C. McDonald:** My final question, then, is: in that case, the judge also called for the Home Secretary to get his finger out and issue the guidance called for by sections 49 and 50 of the Modern Slavery Act. Coming up to something like three years on, we do not have that. What should be in that guidance then?

Nusrat Uddin: Sorry, just to continue, what I would say is that the judge did say within the proceedings that it was quite shocking that it had not been developed in the three years and, if it had been developed properly, we would not have had to have that case and waste public funds and the time of the court in pursuing that case.

It has been three years. That guidance has not been issued and, as a result of the judgment, the Home Office is now rushing draft guidance through. I have had sight of that draft guidance, which is eight pages long, and the substance of it really is less than four pages, which is very basic. It is a paragraph to describe what the NRM system is. It is a paragraph to describe the follow-on support, which is an improvement on the current system because it improves it to 45 days' follow-on support, but it in no way goes as far as Lord McColl's Bill, which suggests that victims should get 12 months' support. I would say it should be longer than that. Then it has a paragraph to talk about support outside of the NRM, which is only focusing on safeguarding children, which we have talked briefly about—the issues that are at play—but it does not do anything to talk about adult safeguarding, which there is a huge duty to do.

In my work with local authorities, the Care Act 2014 codified guidance in relation to safeguarding adults. It created within that a subsection of victims of modern slavery and trafficking that should be safeguarded. There is no guidance within the Care Act guidance on what local authorities can do to safeguard these vulnerable adults who are victims of trafficking. We very much expected that the guidance from the Modern Slavery Act about how authorities should be identifying and supporting victims of trafficking would be talking about how we safeguard adults and give that guidance to local authorities, as well as to the so many other professionals that come into contact with victims of trafficking and are key, as we have said, in identifying at very early stages. The current guidance is completely absent on that and that is extremely shocking and also quite embarrassing. We have talked to other NGOs who have said, "We have been liaising with counterparts in other countries abroad and they are quite confused when we send them this document. They think that it must be the wrong document because it is so short and is silent on so many different areas."

Q200 **Stuart C. McDonald:** Ms Marks, what should be in the guidance?

Victoria Marks: In order for the guidance to be of real, practical use for front-line professionals, whether they are in the NHS or a local authority



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or the police, you need a lot of information about what the state's obligations are and in practice how those obligations should be met.

For example, we offer a telephone advice line and I had a telephone call a little while ago from someone who worked in a leaving care team in a local authority. She was trying to help someone get benefits. She eventually called me up, having worked on this case trying to get an individual benefits for a long time, and had never heard of the NRM. She worked with vulnerable young people who had been sexually exploited and had never heard of the NRM. I told her what the NRM was and she started thinking, "I should go back to the police and see whether they have heard of it and how that might work." She also had no idea what the state's obligations might be and what she should be doing to help this young person.

Similarly, we have an example at the moment where a very helpful police officer trying to work with a victim of trafficking did not know that they could assist in applying for discretionary leave for that individual. I do not think I can give you a comprehensive list, but the point is it needs to be extraordinarily detailed and practical to be of use.

Nusrat Uddin: There was also a working group that was set up years ago to think about what should be contained within that guidance. The feedback we had was that there was just complete inertia from the Home Office in following up and putting that into force, and continued promises that it would be and that there would be a public consultation as part of that process, all of which is now absent. We understand that the guidance is coming into force without public consultation, despite all key stakeholders saying that there should be public consultation as part of that process.

Victoria Marks: Can I just follow up on the subsistence point as well? Again, I have had conversations with professionals working with victims of trafficking who do not know what they are entitled to financially. They do not know what subsistence that individual is entitled to. They do not understand how the NRM can assist that individual, and neither does the victim. It is not published clearly for individuals in the same way that an asylum support rate would be. Again, that is what you would expect to see in the guidance.

I just want to go back to the point on subsistence. Where you have NRM decisions taking three years to make, you have people held in a state of poverty for three years when some of the levers that led to them being trafficked in the first place were around that poverty. It is a really problematic situation. Of course, if you were to speed up decision-making and ensure that people were able to access advice, regularise their status and so on, it might not be as problematic if your subsistence levels were low, but if you are looking at keeping someone on that for several years, it is extremely problematic.



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Philippa Southwell: To follow on with one small point, in relation to delays in making a trafficking determination, some of these delays go way beyond the 45-day guidance. Within a criminal justice context, that is hugely detrimental. We have to deal with listing matters for those custody time limits. There are timetables that need to be set. Pleas should not be entered until an NRM referral has been done in cases of forced criminality. You have an individual that is in limbo. These delays are unacceptable. Sometimes I do not know why they have not made their conclusive grounds decision.

Another issue is getting access to that decision-making. A lot of the time victims and their legal reps will only be served with what is a three-line decision: yes, there are conclusive grounds to believe that you are victim of trafficking. That means nothing within a legal context. If you are running a section 45 defence at trial or if you want to make representations to the prosecution to review the prosecution in line with their guidance and the non-punishment provisions, they need more than that. They need the minutes—how did they make that decision? The Court of Appeal has been quite vocal about needing to know how they came to that decision. What did they rely on?

With all the GDPR data protection issues, it is becoming extremely difficult to obtain these documents and to obtain these documents urgently. I feel like I am playing a game of table tennis with the NCA and the Home Office competent authority. They are asking for certified ID. My client does not have ID; they are in custody. They are saying to me, "I cannot prove that this is your client's signature," where we have explicit signed consent. Meanwhile, my client is in custody. I cannot make a bail application because I need to update the court. I need tangible evidence to show the judge. Each day that my client is in custody I consider detrimental.

We need access, as lawyers, as somebody's legal rep, to updates. We need access to full disclosure. It is all very well them telling me, "The CPS can request this." They are not going to request it. They are stretched and I feel the onus is on the defence lawyers as well to get these documents as part of preparing a defence.

Nusrat Uddin: In an immigration context, getting reasons for decisions is extremely key. We are challenging these decisions continuously for our clients when they are getting negative decisions. We need to know the reasons for those decisions to be able to challenge them in a court of law. Just to bolster that as well, in an immigration context it is very important.

Philippa Southwell: Just one further point: even if we are to make a formal subject access request to obtain this documentation, they are not adhering to their timeframes for providing the documentation within the subject-access request, and there are months and months of delay.

Nusrat Uddin: Also so many hurdles to make requests as well.



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Philippa Southwell: Yes.

Stuart C. McDonald: It sounds like a mess. Thank you.

Chair: If you have any further written evidence on that point, that would be quite helpful as well, because we can pursue that directly with the Home Office, too.

Thank you all for giving evidence. Given obviously we are constrained by time and other issues as well today, if you have any further points that we were not able to come to that you would like to put to us in written evidence, then please do so. We are very grateful for your time today. Thank you very much.