

Written evidence from Anti- Slavery International, Anti-Trafficking Monitoring Group¹ and Human Trafficking Foundation (COV0237)

Summary:

This evidence sets out concerns about the on-going lack of clarity, guidance, and protection provisions for those vulnerable to exploitation and modern slavery during the COVID-19 pandemic. Those at risk of labour law violations or extreme exploitation in the form of forced labour and other types of modern slavery continue to be disproportionately affected by measures taken by Government in the current crisis. In addition, potential and recognised survivors of modern slavery are particularly affected by this pandemic and the resulting social and economic constraints. Measures during and after Covid-19 must protect people in, and vulnerable to, slavery while ensuring they are human rights compliant.

What will the impact of specific measures taken by the Government to address the COVID-19 pandemic be on human rights in the UK?

Covid-19 and the increased risk of labour exploitation

During Covid-19, in industries and services such as domestic work, 'the gig economy', agriculture and the garment industry there are reports of workers facing heightened risk of labour exploitation, including forced labour. The pandemic has exacerbated the factors that can lead to labour exploitation, including changes to personal circumstances, or being from a minority group.

Following interviews with workers, unions and frontline services, ATMG member Focus on Labour Exploitation (FLEX) found that during lockdown low-paid workers were being laid off, unlawfully denied entitlements and threatened with dismissal, which puts them at higher risk of destitution. Unable to afford food and other basic necessities, low-paid workers become extremely vulnerable to labour exploitation, as they find themselves with no viable alternatives and are unable to say 'no' to unsafe and/or abusive working conditions.² Evidence of exploitation during (and predating) Covid-19 has been found in the Leicester garment industry, and the risk of exploitation in agriculture has been noted.³ Currently, there is a need for increased resources across labour inspectorate bodies who monitor and inspect businesses. Similarly, many of the organisations who provide advice to workers are operating with increased demand on their services, this includes unions and the Advisory, Conciliation and Arbitration Service, (ACAS). Kalayaan and Voice of Domestic Workers, have shared reports of live in migrant domestic workers being dismissed by their employers, leaving them without accommodation or work and with no recourse to public funds. Others are being kept in the house they live and work with no time off and an increased workload. Undocumented migrants are likely the most vulnerable of all. Many are reticent about access to healthcare for fear of being

¹ The twelve organisations belonging to the ATMG are: Anti-Slavery International, Ashiana, Bawso, ECPAT UK, Focus on Labour Exploitation (FLEX), JustRight Scotland, Helen Bamber Foundation, Kalayaan, Law Centre (NI), Snowdrop Project, TARA (Trafficking Awareness Raising Alliance, a service run by Community Safety Glasgow), UNICEF UK.

² Focus on Labour Exploitation (FLEX), *No Worker Left Behind: Protecting Vulnerable Workers from Exploitation During and After the COVID-19 Pandemic*, April 2020, available at: <https://www.labourexploitation.org/publications/no-worker-left-behind-protecting-vulnerable-workers-exploitation-during-and-after-covid>

³ Labour behind the Label, *Boohoo & COVID-19: The people behind the profit*, June 2020, available at: <https://labourbehindthelabel.org/report-boohoo-covid-19-the-people-behind-the-profit/>

reported to the authorities. In a public health crisis this reticence could have a dire impact on everybody.

UK business and procurement practices during Covid-19 have caused heightened risk of labour exploitation globally. Numerous UK fashion brands responded to the crisis by cancelling orders and delaying supplier payments, putting the livelihoods of millions of workers in countries like Bangladesh at risk, where there is no adequate social security safety net. Mass unemployment, even if temporary, puts people at higher risk of debt bondage and other forms of modern slavery. Further, UK procurement contracts worth over £1bn have been awarded to private companies dealing with the coronavirus pandemic without competitive tendering,⁴ and PPE has been procured from factories with known extremely high risks of forced labour.⁵

Support for victims of modern slavery:

On 6th April 2020, the government announced a temporary change to the move-on policy from NRM support.. This was set out in the Modern Slavery Act 2015: statutory guidance for England and Wales (section 49). While individuals in accommodation provided through the government funded victim care contract (VCC) would continue to be issued with conclusive grounds decisions (both positive and negative) and undergo a Recovery Needs Assessment where relevant, the change to the statutory guidance, which was reviewed most recently on 8th July states:

‘This policy will remain in place for a further period of one month from 6 July to the 6 August 2020. This is a transitional period and from 6 August, the move on processes and periods set out in the Modern Slavery Act 2015: statutory guidance for England and Wales on page 54, section 8.17 will resume as normal. For individuals who have received a negative conclusive grounds decision it is expected that they will cease to receive financial support and access to a support worker following their 9 day move on period, unless they are able to demonstrate a need to continue this support via the extension request process.’

We are encouraged by the government’s commitment to temporarily suspend the move on policy for people currently in government funded accommodation, however we are extremely concerned that this policy will place those individuals who receive a negative conclusive grounds decision at risk of destitution, making them vulnerable to further exploitation during the current pandemic. It is important to highlight that a negative conclusive grounds decision does not mean that someone has not been exploited. In many cases, the single competent authority is unable to collate enough evidence to issue a positive decision. In addition, the policy to temporarily suspend move on, has not been extended to people in receipt of outreach support.

Approximately 80% of people supported through the Victim Care Contract (VCC) only receive outreach support. It is our understanding that no assessment has been carried out as to the quality of their housing , particularly in the context of the pandemic.. We understand that many are in shared or cramped accommodation such as asylum support or ‘sofa surfing’, making self-isolation

⁴ The Guardian, ‘Firms given £1bn of state contracts without tender in Covid-19 crisis’, 15 May 2020, available at:<https://www.theguardian.com/world/2020/may/15/firms-given-1bn-of-state-contracts-without-tender-in-covid-19-crisis>

⁵ Leigh Day, ‘Forced labour in Malaysian factories producing medical gloves for the UK’, July 17 2020, available at:<https://www.leighday.co.uk/Blog/July-2020/Forced-labour-in-Malaysian-factories-producing-med>

impossible. Victims who do not have leave to remain in the UK and are therefore on immigration bail will have a condition requiring them to reside at a specified address. This requirement may become inappropriate and put them at risk if the accommodation at that address is shared with someone who is ill. In addition it will often be the case that victims lack sufficient resources, access or capacity to be able to follow government guidance to move location e.g. if they are pregnant or if they have a compromised immune system.

Human Rights compliance must also consider the impact of certain measures on certain groups as well as how any undue impact might be best mitigated. For potential victims of modern slavery some measures introduced by government do not appear to have considered these important factors:

- ATMG members JustRight Scotland, Snowdrop and BAWSO have raised on-going concerns about the lack of resources for individuals they are supporting. A lack of subsistence for people housed in emergency accommodation such as hotels, is reportedly restricting access to basic medicine, sanitary items. There's also barriers for people without access to telephones and internet access. The digital divide being faced by individuals, including being unable to access television or news is increasing isolation amongst many who are housed in asylum support accommodation.
- On 13th July, the Home Office stopped providing "ECAT"⁶ support to individuals in initial asylum accommodation (ie s.98 accommodation), in receipt of a positive reasonable grounds decision on the basis that emergency asylum accommodation is catered. In practice, this means individuals have no money at all to buy anything, and are only provided food. We understand this decision was made without consultation or publication to warn victims and those working to support them. The impact on those already considered to be destitute sufficiently to receive s.98 support are now unable to purchase essential items including additional food, sanitary items and mobile phone credit which is increasingly important.

Children

The impact on children, many of whom are vulnerable to exploitation has been severe. As highlighted by ECPAT, the relaxation of social care regulations including Statutory Instrument 445 passed 'without public consultation, parliamentary debate or scrutiny, despite making around 100 changes to 10 sets of children's social care regulations and weakening 60 vital protections for children. Rather than strengthening support for children during the public health crisis, the government has reduced obligations on social workers - removing a last line of defence for vulnerable young people.'⁷ The isolation of young people continues to be a concern with many services working remotely, including child advocates and some Independent Child Trafficking

⁶ Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe Treaty Series No.197, 2005. See also Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings, 2005, available here: <https://rm.coe.int/16800d3812>

⁷ ECPAT, *The impact of Covid-19 on victims of trafficking, now and beyond*, May 2020, available at: <https://www.ecpat.org.uk/news/covid-19-long-term-impact-trafficked-children>

Guardians. Some young survivors of trafficking do not have a laptop or camera phone, leaving them completely isolated from essential services, education and social contact.

What steps need to be taken to ensure that measures taken by the Government to address the COVID-19 pandemic are human rights compliant?

Through the gradual emergence from the crisis, we hope that the Government will commit to a coherent strategy, to ensure the ongoing protection, safety, and health of all survivors of modern slavery is human rights compliant. In addition, protection for those at risk of modern slavery offences, including workers, must be prioritised to ensure that labour offences do not increase, post Covid.

There is a need to:

- Suspend the No Recourse to Public Funds restriction to ensure all people in need have access to welfare support.
- Suspend all forms of immigration enforcement, including immigration detention.
- Suspend data sharing between statutory agencies and the Home Office for immigration enforcement purposes, ensuring that data collected during the pandemic is not used for immigration enforcement action at a later stage to enable migrants with insecure immigration status to seek support without fear.
- Extend the commitment already made to people in government funded accommodation provided through the Victim Care Contract to temporarily suspend the move on policy for all people currently in receipt of support, including outreach support in the VCC, including those who receive a negative conclusive grounds decision. To lift this suspension would mean destitution for some individuals and puts the health of those exploited at serious and on-going risk.
- Immediately reinstate financial support to those recognised as potential victims of modern slavery in emergency asylum support accommodation, s.98.
- Increase subsistence rates for all potential and recognised victims of modern slavery by £20 per week in line with the financial uplift the Government has provided to recipients of Universal Credit.
- Guarantee all victims of modern slavery who have a positive CG priority need status for local authority housing so they can access support when initial NRM provisions cease
- Roll out a system of independent guardianship in England, helping to ensure that the system is strong enough to protect children now and in future crises.
- Invest in young people's immediate and long term stability - to prevent the Covid-19 crisis becoming a child protection crisis.
- Ensure bailouts to UK companies include enforceable social, human rights and environmental conditions.
- Allocate emergency funding for labour inspectorates to carry out proactive monitoring of working conditions in sectors with high risk of exploitation and those with rapid workforce

increase. Governments should uphold workers' rights in contracts and orders related to the procurement of PPE.

- Go beyond reporting and the transparency requirements in the UK's Modern Slavery Act, which is insufficient on its own to achieve decent work and prevent forced labour. The UK government must introduce a corporate duty to prevent human rights and environmental abuses, making it a legal requirement for commercial organisations and public sector bodies to conduct human rights and environmental due diligence, with liability provisions.⁸ The introduction of a corporate duty to prevent should enable better access to justice and remedy for overseas victims of human rights abuses in UK courts. The European Union is set to introduce a legislative proposal for mandatory human rights and environmental due diligence legislation - which could apply to all businesses selling products and services to the EU in addition to those domiciled there - in 2021.

22/07/2020

⁸The Corporate Responsibility Coalition (CORE), *Proposed UK Corporate Duty to Prevent Adverse Human Rights and Environmental Impacts*, March 2020, available at: https://corporate-responsibility.org/wp-content/uploads/2020/04/Duty-to-prevent_principal-elements_FINAL.pdf