



BRIEFING PAPER

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Modern Slavery Act 2015: Recent developments

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Summary

The Government has described modern slavery as a “brutal form of organised crime in which people are treated as commodities and exploited for criminal gain”, which “takes a number of forms, including sexual exploitation, forced labour and domestic servitude”. [The Home Office says](#) that the true extent of modern slavery is difficult to ascertain, as it is a “highly complex and hidden crime”. In 2014, it estimated that in 2013 there were between 10,000 and 13,000 potential victims in the UK.

The Modern Slavery Act 2015

Legislation relating to modern slavery was enacted across all UK jurisdictions in 2015. The [Modern Slavery Act 2015](#) (‘the 2015 Act’), which applies mostly to England and Wales only, received royal assent on 26 March 2015. The [Human Trafficking and Exploitation \(Scotland\) Act 2015](#) and the [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015](#) were also passed in Scotland and Northern Ireland, respectively. These measures permit similar victim support measures and law enforcement powers throughout the UK.

The [Modern Slavery Act 2015](#):

- Consolidates and clarifies the existing offences of slavery and human trafficking and increases the maximum penalty for these offences;
- Provides for two new civil preventative orders, the Slavery and Trafficking Prevention Order and the Slavery and Trafficking Risk Order;
- Creates new maritime enforcement powers, so that the police can pursue traffickers on ships;
- Sets up the office of [Independent Anti-slavery Commissioner](#);
- Brings in measures focussed to support and protect victims, including a defence for slavery or trafficking victims and special measures for witnesses in criminal proceedings; and
- Requires certain businesses to say what they are doing to eliminate slavery and trafficking from their supply chains and their own business.

Reactions to the 2015 Act and its implementation

Reaction to the 2015 Act has been largely positive, although some stakeholders criticised the legislation for omitting certain aspects, and perceived delays for others included. These including aspects such as legal aid, domestic workers, and transparency in supply chains. Recent evaluations have been more critical of the implementation since the 2015 Act came into force.

In April 2017 the [Work and Pensions Committee published a report following its inquiry into victims of modern slavery](#). The Chair, Frank Field, announcing the report, said there was “a shocking lack of awareness and co-ordination in the front line services dealing with modern slavery” and called for an “urgent review” to ensure some minimum safeguards for victims were in place.

On 24 October 2017, Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) [published a thematic inspection of police forces response to modern slavery](#). The report expressed concern that police were closing cases prematurely and inconsistently and ineffectively identifying victims. Positive examples were found to be small or only recently established, and overall, HMICFRS said the

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police service and law enforcement agencies needed to do much more to respond successfully to modern slavery and human trafficking.

Government actions since the 2015 Act

The then Home Secretary Theresa May set up [an independent review of the 2015 Act](#) a year after it came into force. The review, by barrister Caroline Haughey, found that the 2015 Act had set “an international benchmark to which other jurisdictions aspire”. It found that slavery remained under-reported, but the operational response was improving. However, the review said there were problems, including a lack of consistency between law enforcement and criminal justice agencies and poor quality intelligence at all levels. The review recommended better training and a more structured approach to prosecuting and preventing slavery.

The Government set up a [Modern Slavery Taskforce](#) in July 2016 to help co-ordinate policy and operational responses. On 17 October 2017, the taskforce announced [three new measures](#). The National Referral Mechanism will be reformed to try and improve decision-making and support, including a new digital system. A new unit in the Home Office will handle all potential modern slavery cases, and an independent panel of experts will review all negative decisions. A broader package of reforms will also be announced in due course.

1. Modern Slavery Act 2015

1.1 Background

The previous Government stated the following in respect of the background to the legislation:

The [Coalition] Government outlined its strategic response to modern slavery in the [Modern Slavery Strategy](#), published in November 2014. The Inter-Departmental Ministerial Group on Modern Slavery also published its [annual report](#) in October 2013 which highlights activity to fight modern slavery across the UK, as well as providing information on the nature and scale of the problem. The Inter-Departmental Ministerial Group published a further [joint statement](#) in October 2014.

The intention to introduce a Modern Slavery Bill was announced by the Home Secretary [then Theresa May] on 25 August 2013. The Home Secretary subsequently announced a series of [evidence sessions](#) to gather information to support pre-legislative scrutiny of the draft Bill, led by Frank Field MP. A [report from the evidence sessions](#) was published on 16 December. A [draft bill](#) was published on 16 December and was the subject of pre-legislative scrutiny, with the Joint Committee publishing its [report](#) on 8 April [2014].¹

In June 2014, it was announced in the [Queen's Speech](#) that the Coalition Government would introduce a bill to “strengthen the powers to prevent modern slavery and human trafficking whilst improving support for victims of such crimes”.²

The *Modern Slavery Bill* was introduced in the House of Commons on 10 June 2014 and received its second reading on 8 July 2014.³ The Bill was examined by a Public Bill Committee before receiving both its report stage and third reading on 4 November 2014. The Bill was introduced in the House of Lords on 5 November and received its second reading on 17 November 2014.⁴ It completed its final stage on 4 March 2015. After ping pong, the Bill received royal assent on 26 March 2015.

The Modern Slavery Bill was introduced to strengthen powers to prevent modern slavery and human trafficking, and improve support for victims.

Box 1: Further information on the background to the Bill

- House of Commons Library, [Draft Modern Slavery Bill](#), 15 April 2014
- House of Commons Library, [Modern Slavery Bill 2014–15](#), 2 July 2014
- House of Lords Library, [Modern Slavery Bill \(HL Bill 51 of 2014–15\)](#), 13 November 2014
- House of Commons Library, [Modern Slavery Bill: Progress of the Bill](#), 13 March 2015

¹ [Government's Explanatory Notes to the Modern Slavery Act 2015](#), 26 March 2015, pp 2–3

² [HL Deb 4 Jun 2014 c3](#)

³ UK Parliament, ['Bill stages: Modern Slavery Act 2015'](#), 26 March 2015

⁴ *Ibid*

1.2 Provisions

The College of Policing published [Authorised Professional Practice \(APP\) for the Modern Slavery Act 2015](#) which provides a useful summary of the Act:

The *Modern Slavery Act 2015* applies to England and Wales, and includes two substantive offences—human trafficking, and slavery, servitude and forced or compulsory labour. The Act will be implemented in stages. It:

- Consolidates and simplifies existing offences related to the above into a single Act;
- Introduces a [statutory defence](#) for victims of trafficking or slavery forced to commit a criminal offence;
- Criminalises [preparatory conduct](#), eg, making a visa application with the aim of bringing someone to the UK on a trafficked basis;
- Replaces [section 62 of the Sexual Offences Act 2003](#)—‘committing an offence with intent to commit a sexual offence’ (grooming)—by applying this to **any** offence of exploitation, not only sexual exploitation offences;
- Increases the maximum sentence available for the most serious offenders from 14 years to life imprisonment, and those with a previous conviction for a specific sexual or violent offence will face an automatic life sentence;
- Ensures that perpetrators convicted of slavery or trafficking face the toughest asset confiscation regime;
- Introduces a new [slavery and trafficking reparation order](#) to encourage the courts to compensate victims where assets are confiscated from perpetrators;
- Introduces two civil orders in the form of [slavery and trafficking prevention orders \(STPOs\)](#) and [slavery and trafficking risk orders \(STROs\)](#) to restrict the activity of those who pose a risk of causing harm;
- Creates an [Independent Anti-Slavery Commissioner](#) role with an international remit to act in the interests of victims and potential victims by ensuring that the law enforcement response to modern slavery is coordinated;
- Makes provisions for [independent child trafficking advocates](#);
- Places a duty on the Secretary of State to make regulations relating to the identification of and support for victims;
- Establishes a legal duty for specified public authorities to notify the Home Office where they have reasonable grounds to believe that a person may be a victim of modern slavery;
- Requires businesses over a certain size threshold to disclose each year what action they have taken to ensure that there is no modern slavery in their business or [supply chains](#);

- Closes gaps in the [law](#) to enable the police and [Border Force](#) to stop boats on which slavery victims are suspected of being held or trafficked.⁵

The majority of the Act's provisions extend to England and Wales only. Certain provisions also extend to Scotland and Northern Ireland, including those relating to the role of the Independent Anti-Slavery Commissioner, protections for overseas domestic workers and transparency in supply chains.⁶

Since the Act received royal assent in March 2015, the majority of the provisions applicable to England and Wales have come into force.⁷

National Referral Mechanism

Following the implementation of the [Modern Slavery Act 2015](#), the [National Referral Mechanism \(NRM\)](#) process was extended to all victims of modern slavery in England and Wales from 31 July 2015.⁸

The NRM is a system for referring potential victims of human trafficking and modern slavery for support, and was first introduced in 2009 to meet the UK's obligations under the Council of Europe Convention on Action against Trafficking in Human Beings. The NRM is currently administered by the UK Human Trafficking Centre (UKHTC) which sits within the National Crime Agency (NCA).⁹

[Section 52](#) requires that where a specified public authority has reasonable grounds to believe that a person may be a victim of slavery or human trafficking, it must notify the Home Office. Specified public authorities currently include the police, the NCA, local authorities, and the Gangmasters and Labour Abuse Authority.¹⁰ The Secretary of State has the power to amend the list of specified public authorities.¹¹ This is called the 'duty to notify'. The duty to notify does not automatically use the NRM process, but it can do if the individual consents.¹²

The first stage of the NRM process determines whether there are reasonable grounds to believe the individual is a potential victim of modern slavery; the evidential threshold is reasonable grounds to believe. If a decision is affirmative, the individual is granted a minimum 45 day reflection and recovery period whilst the case is assessed. During this time, the person can be provided with safe

The National Referral Mechanism was extended to victims of modern slavery, and specified public authorities in England and Wales now have a duty to notify the Home Office about potential victims of slavery or trafficking.

⁵ College of Policing, [Major investigation and public protection: Modern Slavery Act 2015](#), 5 June 2016

⁶ [Government's Explanatory Notes to the Modern Slavery Act 2015](#), 26 March 2015, p3

⁷ [Section 38](#), which provides for hot pursuit of ships in United Kingdom waters, is not yet in force. The majority of the maritime enforcement provisions of the Act came into force on 8 August 2016.

⁸ National Crime Agency, [National Referral Mechanism](#) (accessed 24 October 2017)

⁹ The Government [announced](#) on 17 October 2017 that all modern slavery cases would be handled by a new single unit in the Home Office. For more information see section 2.

¹⁰ Section 52(5), *Modern Slavery Act 2015*

¹¹ Section 52(6)

¹² Home Office, [Duty to notify the Home Office of potential victims of modern slavery](#), 18 March 2016

house accommodation if required and is not liable to immigration enforcement action.¹³

A conclusive decision is made as soon as possible following day 45 of the recovery and reflection period. What happens next depends on the wishes of the victim, and can include discretionary leave to remain in the UK to co-operate or returning home.¹⁴

In 2014, the Home Office launched a review of the NRM process and acknowledged that improvements were necessary.¹⁵ The pilot concluded in March 2017, and an evaluation of the pilot will be “published in due course”.¹⁶ New measures were announced following the evaluation of the pilot – see [section 3.2](#) of this briefing for more information.

Slavery and Trafficking Prevention Orders (STPOs) and Slavery and Trafficking Risk Orders (STROs)

[Part 2 of the Modern Slavery Act 2015](#) introduced two new civil orders: Slavery and Trafficking Prevention Orders (STPOs) and Slavery and Trafficking Risk Orders (STROs). The Home Office has stated the following in respect of these orders:

The police, the National Crime Agency and immigration officers can apply to court for these orders, which allow the courts to place a range of restrictions on the behaviour and activities of a person who poses a risk of committing slavery or trafficking offences.¹⁷

[The College of Policing APP guidance on the Modern Slavery Act 2015](#) explains the differences between the orders:

A slavery and trafficking risk order restricts the activity of individuals who have not been convicted of a modern slavery offence but who pose a risk of committing any such offence. It has effect for at least two years or until further order.

A slavery and trafficking prevention order restricts the activity of those who have already been convicted of a modern slavery offence, and has effect for at least five years or until further order.¹⁸

The Home Office published [statutory guidance](#), as required by section 33 of the Act, which provides further information on both orders.

On 13 October 2016, the Government detailed the usage STPOs and STROs over the previous 12 months:

16 Slavery and Trafficking Prevention Orders (STPOs) have been made on sentencing in the Crown Court under section 14 of the Modern Slavery Act.

The 2015 Act introduces two new civil orders to place restrictions on the behaviour and activities of persons suspected of committing slavery or trafficking offences.

¹³ National Crime Agency, [National Referral Mechanism](#) (accessed 24 October 2017)

¹⁴ Ibid

¹⁵ Home Office, [Review of the National Referral Mechanism for victims of human trafficking](#), November 2014

¹⁶ [PQ 8416](#) [on Human Trafficking] 7 September 2017

¹⁷ Home Office, [Statutory guidance: Slavery and Trafficking Prevention and Risk Orders](#), 31 July 2015

¹⁸ College of Policing, [Major investigation and public protection: Modern Slavery Act 2015](#), 5 June 2016

Three Slavery and Trafficking Risk Orders (STRO) have been made on application to the Magistrates' Court, of which three have been made.

No persons under 18 years old have been given an STPO or an STRO.¹⁹

Independent Anti-Slavery Commissioner

[Section 40 of the Modern Slavery Act 2015](#) established the position of Independent Anti-Slavery Commissioner. The Commissioner's mission is to "to spearhead the United Kingdom's fight against modern slavery by promoting best practice and driving crucial improvement across the anti-slavery response, both in the UK and internationally".²⁰ The post of Independent Anti-Slavery Commissioner is held by Kevin Hyland OBE. [Section 41](#) details the general functions of the Commissioner, which include making reports, issuing recommendations, undertaking research, providing information and training, and co-operating and consulting with public authorities.

[Section 43](#) provides that specified public authorities have a duty to co-operate with the Commissioner. These authorities include the police, the NCA, immigration officers, custom officials, local authorities, and health bodies.

The House of Commons Home Affairs Committee took [oral evidence from the Commissioner](#) on his work on 8 December 2015. During this session, the Commissioner stated that, in his view, the powers he had in terms of the statutory requirements of prevention, investigation and the increase in prosecutions, were "sufficient".²¹

Independent Child Trafficking Advocates

[Section 48 of the Modern Slavery Act 2015](#) introduced Independent Child Trafficking Advocates to be available to represent and support children where there are reasonable grounds to believe they may be victims of human trafficking.²²

In December 2015, the Government laid a report before Parliament which presented findings from an evaluation of a one-year trial of the Independent Child Trafficking Advocates (ICTA) service that took place across 23 local authority areas in England.²³ In early June 2016, the Government stated:

Since December 2015, we have worked to address issues identified during the trial. We have engaged with Members of both Houses, the offices of the Independent Anti-Slavery Commissioner and Children's Commissioner for England. We have also sought views from the voluntary sector and statutory organisations in England and Wales. This engagement has

The 2015 Act created an independent Commissioner to promote best practice in the UK's campaign against modern slavery.

Children who are potential victims of human trafficking can be represented and supported by an Independent Advocate.

¹⁹ [PQ HL2057](#) 13 October 2016

²⁰ Independent Anti-Slavery Commissioner, [Annual Report 2016-2017](#), October 2017, p11

²¹ House of Commons Home Affairs Committee, [Oral evidence: The work of the Independent Anti-Slavery Commissioner](#), HC 513, 8 December 2015, p3

²² [PQ 39263](#), 9 June 2016. For further information, see House of Commons Library, [Independent advocates for trafficked children](#), 24 June 2016

²³ Home Office, [Evaluation of Independent Child Trafficking Advocates trial: Final Report](#), December 2015, p4

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been valuable in assessing how best to deliver an improved service for trafficked children in England and Wales.²⁴

On 28 June 2016, during a [Westminster Hall debate on the subject of Independent Child Trafficking Advocates](#), concerns were raised about the delay in establishing the scheme. Karen Bradley, then Parliamentary Under-Secretary at the Home Office, proposed:

[...] two interim measures to improve advocacy now and to prepare for the implementation of the new system as soon as possible.

First, I propose to introduce independent child trafficking advocates at three early adopter sites. The competition for providing those sites will be launched this summer. The sites will enable us to refine the model that was previously tested, including by increasing the speed of referral and the number of people and organisations that can make such referrals; testing the use of quasi-legal powers by advocates and the impact that that will have on their effectiveness and their relationships with statutory agencies; and training and recruiting advocates with specialist skills, such as in certain languages or in dealing with particular forms of abuse, so that they can give more targeted support.

Secondly, in collaboration with the Department for Education, the Home Office will commission a training programme for existing independent advocates, who are statutorily provided to all looked-after children. The training will improve their awareness and understanding of the specific needs of trafficked children and how to support them. But that is not enough. I am also determined to address the other concerns raised in both the trial and the feedback from right hon. and hon. Members).²⁵

Ms Bradley added that the Home Office would “establish and launch a new child trafficking protection fund, with up to £3 million of government funding initially available over the next three years”.

The Independent Child Trafficking Advocate Service (ICTA) was launched in the three early adopter sites on 30 January 2017; in response to [a PQ in March 2017](#), the Government decline to assess its effectiveness as it was too early, but noted that the Home Office is conducting an assessment with oversight from the Independent Expert Advisory Panel.²⁶

Maritime Enforcement Powers

[Part 3 of the Modern Slavery Act 2015](#) provides for constables or enforcement officers to make arrests if they have reasonable grounds to suspect that an offence under section 1 (slavery, servitude and forced or compulsory labour) or section 2 (human trafficking) of the Act has been, or is being, committed on a ship.²⁷ The Home Office has published [a code of practice](#) to be followed in such circumstances.

²⁴ [PQ 39263](#) 9 June 2016

²⁵ [HC Deb 28 June 2016 c50WH](#)

²⁶ [PQ 66056](#) 9 March 2017

²⁷ Home Office, [Modern Slavery Act 2015: Maritime enforcement powers \(England and Wales\) code of practice](#), 14 March 2016, p3

Transparency in Supply Chains

[Section 54 of the Modern Slavery Act 2015](#) requires commercial organisations above a certain turnover threshold (currently £36 million per annum)²⁸ to produce a slavery and human trafficking statement for each financial year setting out what they have done to ensure there is no modern slavery in their supply chains or own business (or that they have taken no such steps).²⁹

Following consultation, the Home Office published [guidance](#) on 29 October 2015 for organisations on how to ensure that slavery and human trafficking is not taking place in their business or supply chains.

All companies with a turnover of £36m or over have a duty to produce a statement setting out what they are doing to prevent modern slavery in their supply chains.

²⁸ [Modern Slavery Act 2015 \(Transparency in Supply Chains\) Regulations 2015/1833](#), regulation 2

²⁹ Home Office, [Modern Slavery and Supply Chains: Government Response](#), 29 July 2015, p4; and Home Office, [Transparency in Supply Chains etc: A practical guide](#), 29 October 2015, p5

2. Reaction to the 2015 Act and its implementation

2.1 Legal Assistance

[Section 47](#) of the 2015 Act amended Schedule 1 of the *Legal Aid, Sentencing and Punishment of Offenders Act 2012* (availability of civil legal aid services) to extend the same provisions available to victims of trafficking to victims of slavery, servitude or forced or compulsory labour.³⁰

Commentators expressed concern about the difficulties that victims of trafficking and slavery have had in accessing legal aid. For example, Claire Falconer, Legal Director at the Focus on Labour Exploitation (FLEX) charity, stated:

[The EU Trafficking Directive] requires legal assistance to be provided “without delay”, potential victims of trafficking and slavery still face significant difficulties in accessing legal aid. In particular they cannot access legal advice until a) they have agreed to be referred to the authorities, and b) it has been determined that there are “reasonable grounds” to believe they are a victim. In the case of third-country nationals and undocumented migrants in particular, referral to the authorities is a daunting and potentially dangerous prospect that often requires expert legal advice on options and consequences. Without early legal aid it is very difficult for someone who has been exploited to make an informed decision about their case.³¹

Juliette Nash, a founding member of anti-trafficking legal charity the Anti-Trafficking and Labour Exploitation Unit (ATLEU), provided a summary of that body’s legal challenge on the subject of the Government making legal aid available to victims of trafficking.³² Ms Nash stated that the Ministry of Justice and the Legal Aid Agency agreed to undertake a review into this matter.

[The Government’s review](#) was published in December 2016.³³ The Ministry of Justice found that demand for legal aid was not being met:

... material from the MoJ survey indicates that the demand for legal help for TMSCCs outstrips the ability of some providers to provide this service. It should be stressed that the picture is not consistent, for example, of the providers who had experience of advising TMSCCs who responded to the survey only around 35% had been referred cases for Legal Help in the last 12 months.

[...]The available evidence suggests that the likely demand for Legal Help for TMSCCs is currently not being met. This review highlighted a number of potential problems, and solutions, to

In response to concerns about legal aid for potential victims of modern slavery, the Government conducted a review of current procedures.

³⁰ [Government's Explanatory Notes to the Modern Slavery Act 2015](#), 26 March 2015, p33

³¹ C Falconer, [‘The Modern Slavery Act: What’s in it for migrant workers?’](#), Barrow Cadbury Trust, 14 April 2016

³² J Nash, [‘Will Theresa May finally deliver on her promise to tackle modern slavery?’](#), *The Justice Gap*, 14 July 2016

³³ Ministry of Justice, [Review of Legal Help for those with Trafficking and Modern Slavery Compensation Claims \(TMSCCs\)](#), December 2016

access Legal Help for TMSCCs. In addition to the inadequate number of matter starts available, it appears to be that the general lack of knowledge about the TMSCC process by both legal aid providers and trafficking and modern slavery support networks and agencies together with a possible lack of experience in these claims and a potential concern over geographic coverage are all contributing to the scarce access of Legal Help for TMSCCs for victims.³⁴

In response to this conclusion, the Legal Aid Agency proposed increasing the number of cases that legal aid providers are able to undertake beyond the current limit of 5 New Matter Starts per schedule. The Government also said it planned to improve communication and information dissemination.³⁵

2.2 Domestic Workers

In 2012, the Coalition Government introduced a tied visa for overseas domestic workers.³⁶ The tied visa was the focus of a campaign from its introduction by the Kalayaan charity and was an issue raised in debates on the Modern Slavery Bill. In February 2015, an amendment to the Bill was passed in the House of Lords to reinstate the right of overseas domestic workers to change employers. This was later overturned in the House of Commons during ping pong. Claire Falconer, Legal Director at FLEX, said:

Pressed for a solution, the Government extended the right to change employers to victims who agree to be referred to the authorities and who are determined “victims”. For the majority of overseas domestic workers therefore, the tied visa remains, and perpetuates such an imbalance of power between employer and employee as to itself create a situation ripe for exploitation.³⁷

Though describing the *Modern Slavery Act 2015* as a “tremendous achievement” in an article for *Halsbury’s Law Exchange*, equalities lawyer Schona Jolly regretted the Government’s overturning of an amendment passed by the House of Lords relating to overseas domestic workers. She wrote:

It is lamentable that the Government blocked attempts to ensure protection for domestic workers who often are reduced to hidden sub-strata of society and who are extremely vulnerable to exploitation and abuse from their employers.

In April 2012, as part of the Coalition Government’s intention to curb immigration, a controversial visa measure was introduced which tied overseas domestic workers to their employers—before that, visas for overseas domestic workers permitted people to change their employer once in the UK, enabling them to escape abuse and exploitation.

During the debate on modern slavery in Parliament, this previous provision was recognised as being of real significance in the fight against forced labour and trafficking. Although the

³⁴ Ibid

³⁵ Ibid

³⁶ ‘Government visa rules ‘license domestic slavery’’, *BBC News*, 31 March 2014

³⁷ Claire Falconer, ‘[The Modern Slavery Act: What’s in it for migrant workers?](#)’, Focus on Labour Exploitation Blog, 8 May 2015.

House of Lords voted in favour of an amendment that would have allowed vulnerable domestic workers to escape abusive employers, the government re-blocked it. Instead, it offered a half-hearted amendment, which was passed, providing migrant domestic workers with an additional six months stay in the UK if they satisfied the domestic authorities that they had been victims.³⁸

2.3 Transparency in Supply Chains

In [an article published in March 2015](#), the *Economist* described the *Modern Slavery Act 2015* as “light-touch” law in respect of the requirement for transparency in supply chains, though it argued that pressure would force the issue of reporting on efforts to eradicate modern slavery and human trafficking from supply chains on to managers’ to-do lists.³⁹ In July 2015, [the FT estimated](#) that 12,000 commercial companies would be affected by the transparency in supply chains requirement.⁴⁰

In October 2015, [the FT reported](#) that Neil Carberry, employment director at the Confederation of British Industry, said the group supported the *Modern Slavery Act 2015* but “would have liked a higher threshold” than the £36 million turnover requirement to “ensure businesses required to report have the capacity to do so”.⁴¹

In March 2016, [the FT reported](#) that the “initial company statements have been lacklustre”, adding:

Only 22 of 75 of the statements to comply with the law fulfilled the requirements to be both signed by a director and available on the company’s homepage, according to campaign groups.⁴²

A study by the Chartered Institute of Procurement and Supply (CIPS) found that 34% of organisations had not outlined the actions they were taking to combat slavery in their supply chains, with 37% of supply chain managers admitting they had not read statutory guidance.⁴³ CIPS in response called for harsher punishments for businesses not compliant with the requirements of the Act. According to Tisc report, a global supply chain transparency register, only 1,683 of the 3,939 companies who should have filed a statement did so.⁴⁴

In response to a question in the House of Lords on what assessment the Government had made of the effectiveness of slavery and human trafficking statements in reducing slavery, Baroness Vere of Norbiton, speaking for the Government, said:

A recent study found that only a third of eligible companies had complied with the statutory duty for transparency in supply chains.

³⁸ Schona Jolly, [‘Modern Slavery Act 2015: the first steps in the right direction’](#), *Halsbury’s Law Exchange*, 1 May 2015

³⁹ [‘Everywhere in \(supply\) chains’](#), *Economist*, 14 March 2015.

⁴⁰ [‘New UK law urges companies to reveal anti-slavery efforts’](#), *Financial Times*, 29 July 2015

⁴¹ [‘Duty comes into force for boards to scrutinise supply chains’](#), *Financial Times*, 28 October 2015

⁴² [‘Lacklustre compliance on anti-slavery law’](#), *Financial Times*, 7 March 2016

⁴³ [‘More than a third of UK businesses are failing to combat modern slavery, study shows’](#), *Independent*, 5 September 2017

⁴⁴ [‘Path to illegal behaviour’: UK accused of failing to press home antislavery law’](#), *Guardian*, 4 October 2017

My Lords, it will take time to see the full benefits of the Modern Slavery Act, but the requirement for businesses to publish slavery and human trafficking statements has already had a significant impact. The first year of compliance with Section 54 of this Act has only just passed. It is therefore too early to make a formal assessment of its impact. However, we know that thousands of statements have been published, with many examples of good practice emerging.⁴⁵

The Government said it is too early to act on non-compliance, but will formally assess the impact of Section 54 in due course.

Baroness Kennedy of Cradley responded by pointing out the “varying levels of quality” in companies’ statements, and asked whether the Government would seek to enforce compliance.⁴⁶ Baroness Vere said “there will be a formal assessment in due course and Section 54 will be looked at” and said there were existing remedies for non-compliance which the Government would use if necessary, but said it was “still too early”.⁴⁷

2.4 Work and Pensions Committee inquiry into victims of modern slavery

In April 2017 the [Work and Pensions Committee published a report following its inquiry into victims of modern slavery](#). While the Committee applauded the leading role the UK had taken with the 2015 Act, calling it “a pioneering piece of legislation” which established new protections for victims of slavery, the Committee concluded that the Act had failed “to secure a pathway for [victim’s] recovery”.⁴⁸ The Chair, Frank Field, announcing the report, said there was “a shocking lack of awareness and co-ordination in the front line services dealing with modern slavery” and called for an “urgent review” to ensure some minimum safeguards for victims were in place.

The Work & Pensions Committee, although praising the Act, found problems with support for victims.

The Committee key findings were:

- The lack of awareness, training and understanding, and lack of proper support for victims is having a negative impact on the number of successful prosecutions of slave masters. Thousands of victims have not come forward, while others who have chosen to give evidence against their enslavers have ended up destitute as a result of insufficient support, and unable to testify against their abusers.
- No data is collected on victims once they leave the NRM and the collection and recording of data is “generally substandard”. The Government does not monitor the re-trafficking of victims – an “unacceptable” situation. Reform to the NRM must include the recording of instances where victims have been processed through the framework more than once.
- While recognition as a refugee grants an initial period of five years’ leave to remain in the UK, recognition as a

⁴⁵ [HL Deb 16 October 2017 c398](#)

⁴⁶ Ibid

⁴⁷ Ibid

⁴⁸ Work and Pensions Committee, [Victims of modern slavery](#), 12th Report of Session 2016-17, HC 803, Summary

victim of slavery through the NRM confers no equivalent right to remain, for any period.

- All confirmed victims of modern slavery should be given at least one year's leave to remain with a personal plan for their recovery, which should act as a social passport to support for at least the 12 month period of leave to remain. Committee rejects the argument that this would create a pull factor to the UK, for slave masters or victims.
- Front-line DWP staff are often not aware of modern slavery and training on how to spot signs of slavery and deal sensitively with identified victims needs to be greatly improved.
- The Department for Work and Pensions must undertake an urgent review of the benefit support available to victims, including those who are assisting the police with investigations. Treating confirmed victims of modern slavery of different nationalities differently, has created a confusing landscape that is poorly understood by victims and professionals alike.⁴⁹

The Committee is still awaiting a formal response from the Government. In the absence of a response, the Employment Minister, Damian Hinds, and the Minister for Crime, Safeguarding and Vulnerability, Sarah Newton, sent a letter to Frank Field. The letter noted that the Government found the report “invaluable”:

As you acknowledged in your report, the National Referral Mechanism (NRM), the system that identifies and supports victims of modern slavery in the UK, is currently under review. In considering the future of the NRM, we have found your report invaluable, and, alongside consultation with NGOs, local authorities and support providers, your findings have helped to shape the future of this essential system. We are keen to ensure the outcome of the review is reflected in the Government’s formal response to the Committee.

This does not mean that Government is complacent in our efforts to improve the experiences of victims of modern slavery both during and after the NRM process. As a result of the Select Committee, DWP enhanced its training for frontline staff, and has developed links with support providers across the country to ensure victims can smoothly transition from specialist support into mainstream benefits, and thereby avoid some of the issues that you uncovered. The Home Office has also produced a leaflet which outlines the immigration options for victims of modern slavery, so that everyone is informed about their potential options.⁵⁰

The Government responded favourably to the W&P Committee report and agreed to implement several of its recommendations.

2.5 Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services

On 24 October 2017, Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) [published a thematic inspection](#)

⁴⁹ Work and Pensions Committee press release, “[“Inexcusable” lack of support for modern slavery victims](#)”, 30 April 2017

⁵⁰ Work and Pensions Committee, [Letter from the Minister of Employment to the Chair relating to the committee’s modern slavery report](#), 11 October 2017

[of police forces response to modern slavery](#). HMICFRS was commissioned by the Home Office to inspect the police response to modern slavery and trafficking in July 2016 – this is the first inspection since the 2015 Act came into effect.⁵¹

The report expressed concern that police were closing cases prematurely and inconsistently and ineffectively identifying victims. Positive examples were found to be small or only recently established, and overall, HMICFRS said the police service and law enforcement agencies needed to do much more to respond successfully to modern slavery and human trafficking. Wendy Williams, HM Inspector of Constabulary, commenting on the launch of the report, said:

Whilst modern slavery cases can be complex and require significant manpower, many of the shortcomings in investigating these cases reflect deficiencies in basic policing practice. We found inconsistent, even ineffective, identification of victims and investigations closed prematurely. As a result, victims were being left unprotected, leaving perpetrators free to continue to exploit people as commodities.⁵²

In the press release for the report, the shortcomings by police forces in addressing modern slavery were identified as:

- variable commitment amongst police leaders to tackling this area of offending;
- attitudes remained that modern slavery and human trafficking offences were rare and not an issue in their areas;
- victims were not always recognised as such and therefore remained in the hands of those exploiting them or were arrested as offenders or illegal immigrants;
- poor and inconsistent co-ordination and sharing of information and intelligence between the NCA and police forces;
- information and intelligence flows between national, regional and local levels were sometimes poor; and
- low awareness and use of provisions and powers set out in the Modern Slavery Act 2015.⁵³

On investigations, HMICFRS said that it had found they often had significant delays (sometimes up to seven or eight months) before they were initiated, that they lacked effective supervision, failed to focus on safeguarding all potential victims, and lacked coordination across police forces.⁵⁴

The Inspectorate asked to inspect the police response to modern slavery expressed concern that police were closing investigations early and failing to identify victims.

⁵¹ HMICFRS press release, [Call for concerted and concentrated response to modern slavery](#), 24 October 2017

⁵² Ibid

⁵³ Ibid

⁵⁴ Ibid

3. Government action on modern slavery since the 2015 Act

3.1 Independent review of the 2015 Act

The then Home Secretary Theresa May set up [an independent review of the 2015 Act](#) a year after it received royal assent. The review, by barrister Caroline Haughey, found that the 2015 Act had set “an international benchmark to which other jurisdictions aspire”.⁵⁵

Caroline Haughey found that slavery remained under-reported, but the operational response was improving. However, her review found that there were problems, including a lack of consistency between law enforcement and criminal justice agencies and poor quality intelligence at all levels. The review recommended better training and a more structured approach to prosecuting and preventing slavery.

An independent review of the Act said it was “an international benchmark” but also identified a lack of consistency and poor training for law enforcement agencies.

3.2 Modern Slavery Taskforce

Following the independent review of the 2015 Act, the Prime Minister set up a [taskforce on modern slavery](#) in September 2016 to help coordinate policy and operational responses. Membership includes the heads of all 3 intelligence agencies, the Metropolitan Police Commissioner, the Secretary General of Interpol, the head of Europol, the head of the Gang-masters Licensing Authority, and a number of senior police officers. The Taskforce is chaired by the Prime Minister and has 4 stated objectives:

1. bring efforts and resources targeted at modern slavery in line with resources to tackle other forms of organised crime – including by increase investigatory resource, capabilities and intelligence provision;
2. increase and improve investigations into the perpetrators of modern slavery, through further education of law enforcement officers on the nature of modern slavery offences; the provision of additional tools to support investigations such as greater data and intelligence; and more effective use of joint investigation teams;
3. improve successful prosecution levels with further education of prosecuting authorities on modern slavery, and improvements to the quality of supporting evidence.
4. improve international cooperation to tackle modern slavery.⁵⁶

Alongside the taskforce, the Government announced a £33 million International Modern Slavery Fund from the UK aid budget to tackle modern slavery in countries where victims are regularly trafficked to the UK.

⁵⁵ Caroline Haughey, [The Modern Slavery Act Review](#), 31 July 2016, p3

⁵⁶ Prime Minister’s Office press release, [Prime Minister urges international action to stamp out modern slavery](#), 20 September 2016

New measures

On 17 October 2017, the Home Office announced [three new measures](#) with the intention of improving how victims are identified and supported, following discussions with the Modern Slavery Taskforce:

- a single, expert unit to be created in the Home Office to handle all cases referred from front line staff and to make decisions about whether somebody is a victim of modern slavery, this will replace the current case management units in the National Crime Agency and UK Visas and Immigration, and will be completely separate from the immigration system
- an independent panel of experts to review all negative decisions, adding significantly to the scrutiny such cases currently receive
- a new digital system to support the NRM process, making it easier for those on the front line to refer victims for support and enabling data to be captured and analysed to better aid prevention and law enforcement.⁵⁷

The Home Office announced 3 new measures to improve identification and support of modern slavery victims, following discussions with the Modern Slavery Taskforce.

The new measures were “shaped and influenced by the findings of a pilot scheme testing a new approach to the NRM process” (see p8) and consultation with the Independent Anti-Slavery Commissioner.⁵⁸ More detailed plans of the proposed reforms will be released in due course, including a broader package of reforms which potentially include other new measures.

3.3 Queen’s Speech 2017

At the start of the 2017-19 session, the Government made a commitment in the Queen’s Speech to “lead efforts to reform the international system to improve the United Kingdom’s ability to [...] end modern slavery”.⁵⁹

⁵⁷ Home Office press release, [Modern Slavery Taskforce agrees new measures to support victims](#), 17 October 2017

⁵⁸ Ibid

⁵⁹ [HL Deb 21 June 2017 c7](#)

4. Statistics on modern slavery

The Government has stated that the “true extent of modern slavery in the United Kingdom, and indeed globally, is unknown”.⁶⁰ This is because it is a “hidden crime, which means it is challenging to assess its prevalence accurately”.⁶¹ However, estimates have been made about its prevalence.

4.1 International

International estimates generally suggest that, in 2016, there were around 40 million people in modern slavery. The 2017 Global Estimates of Modern Slavery, a collaborative effort between the International Labour Organization, the Walk Free Foundation and the International Organization for Migration, estimates 40.3 million, including 24.9 in forced labour and 15.4 million in forced marriage:

- There were 5.4 victims of modern slavery for every thousand people in the world in 2016.
- Women and girls accounted for 71 per cent of modern slavery victims.
- Debt bondage affected half of all victims of forced labour imposed by private actors.
- One in four victims of modern slavery were children.⁶²

Estimates of global modern slavery suggest that in 2016 there were around 40 million people in modern slavery worldwide.

4.2 United Kingdom

In 2014, the Home Office estimated that there were between 10,000 and 13,000 potential victims of modern slavery in the UK in 2013.⁶³ The Government regularly uses this figure as it believes it is the “most robust current estimate of the scale of modern slavery in the UK”.⁶⁴

Otherwise, there are three main sources of data, which the Government is careful to say “cannot provide a reliable assessment of the actual prevalence of modern slavery” but rather approximate how the prevalence and reporting may be changing over time.⁶⁵ These are:

- *Referrals of potential victims to the National Referral Mechanism (NRM)*: In 2016, there were 3,804 potential victims referred to the NRM, which was an increase of 16% from 2015;
- *Referrals of potential victims under the ‘duty to notify’ provision In England and Wales*: In 2016, 782 potential victims were

The most recent robust estimate in the UK suggests that around 10,000 to 13,000 people are victims of modern slavery each year.

⁶⁰ [Explanatory Notes](#), 26 March 2015, p1

⁶¹ HM Government, Northern Ireland Department of Justice, Scottish Government and Welsh Government, [2015 Report of the Inter-Departmental Ministerial Group on Modern Slavery](#), October 2015, p4

⁶² The International Labour Organization, the Walk Free Foundation and the International Organization for Migration, [Global Estimates of Modern Slavery](#), 19 September 2017

⁶³ Home Office, [‘True scale of modern slavery in UK revealed as strategy to tackle it published’](#), 1 December 2014

⁶⁴ HM Government, [2017 UK Annual Report on Modern Slavery](#), October 2017, para 1.02

⁶⁵ *Ibid*, para 1.04

referred to the duty to notify, which when added to the numbers referred to the NRM, brings the total number of potential victims identified in 2016 to 4,586;

- *The number of modern slavery crimes recorded by the police:* In the year to March 2017, police in England and Wales recorded 2,255 modern slavery offences. This was an increase of 159% on the previous year. In Scotland and Northern Ireland there were 60 and 35 offences respectively.⁶⁶

⁶⁶ Ibid, Executive Summary

5. Human Trafficking and Exploitation (Scotland) Act 2015

5.1 Background

The [Human Trafficking and Exploitation \(Scotland\) Act 2015](#) was a Scottish Government Bill which was passed by the Scottish Parliament on 1 October 2015 and received royal assent on 4 November 2015.

5.2 Provisions

The Scottish Government stated the following in respect of the aims of the legislation:

The Act's overarching objective is to consolidate and strengthen the existing criminal law against human trafficking and exploitation and enhance the status of and support for its victims. The Act will also give Ministers power, by regulations, to specify relevant authorities to work with the Scottish Government to develop and implement a Scottish trafficking and exploitation strategy.⁶⁷

The Act consolidated previously existing trafficking offences into one single offence.⁶⁸ In addition, the Act strengthened the penalties which can be passed down to perpetrators of human trafficking to a maximum penalty of life in prison.⁶⁹ Further information on the Act's purpose can be found in the Scottish Government's accompanying [Policy Memorandum](#).⁷⁰

The [report of the Inter-Departmental Ministerial Group on Modern Slavery](#), published in October 2015, provides information on the similarities and differences between the *Modern Slavery Act 2015* and the *Human Trafficking and Exploitation (Scotland) Act 2015*.⁷¹

⁶⁷ [Explanatory Notes](#), 4 November 2015, p1

⁶⁸ Ibid

⁶⁹ Scottish Government, [Scottish Government action to combat human trafficking](#), 7 March 2016

⁷⁰ Scottish Government, [Human Trafficking and Exploitation \(Scotland\) Bill: Policy Memorandum](#), 11 December 2014

⁷¹ HM Government, Northern Ireland Department of Justice, Scottish Government and Welsh Government, [2015 Report of the Inter-Departmental Ministerial Group on Modern Slavery](#), October 2015

6. Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015

6.1 Background

The [*Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015*](#) was a private members bill introduced in the Northern Ireland Assembly by Lord Morrow MLA.⁷² The Act completed its final stage on 9 December 2014 and received royal assent on 13 January 2015.

6.2 Provisions

Explanatory Notes published by the Northern Ireland Department of Justice in conjunction with Lord Morrow MLA stated that the Act:

- Simplifies the legislative framework surrounding offences of human trafficking and slavery;
- Enhances public protection by amending the sentencing framework for human trafficking and slavery-like offences and introducing slavery and trafficking prevention orders;
- Establishes a statutory minimum sentence for those convicted of human trafficking and slavery-like offences;
- Enhances provision to facilitate the confiscation of criminal assets that have been accumulated as a result of human trafficking and slavery-like offences;
- Enables courts to order individuals convicted of human trafficking and slavery-like offences to pay reparation to their victims;
- Reinforces the criminal justice system's capacity in terms of prevention and enforcement of trafficking and slavery-like offences;
- Makes it a criminal offence to pay for the sexual services of a person;
- Extends the criminal law in Northern Ireland to forced marriage;
- Makes statutory provision in respect of the assistance and support for victims and potential victims of human trafficking;
- Makes statutory provision in respect of those who wish to leave prostitution;
- Introduces independent guardians for child victims and potential victims of human trafficking as well as separated children; and

⁷² Northern Ireland Assembly, [Human Trafficking and Exploitation \(Further Provisions and Support for Victims\) Bill](#) (accessed 25 October 2017)

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- Introduces new measures aimed at protecting victims of human trafficking and slavery-like offences during investigations and criminal Proceedings, including the introduction of a statutory defence for slavery or trafficking victims who have been compelled to commit certain offences.⁷³

The Act requires the Department of Justice to publish an annual strategy on tackling the offences in the Act.⁷⁴ A comparison of the similarities and differences between the *Modern Slavery Act 2015* and the *Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland)* is available in the [2015 report of Inter-Departmental Ministerial Group on Modern Slavery](#).⁷⁵

⁷³ [Explanatory Notes](#), 13 January 2015, p2

⁷⁴ North South Inter-Parliamentary Association, [Human Trafficking](#), 5 June 2015, p24

⁷⁵ HM Government, Northern Ireland Department of Justice, Scottish Government and Welsh Government, [2015 Report of the Inter-Departmental Ministerial Group on Modern Slavery](#), October 2015

7. EU Directive on Human Trafficking

In March 2010, the European Commission issued a proposal for a new anti-trafficking directive, which would build on the Council of Europe Convention on Action against Trafficking in Human Beings adopted in 2005 and signed by the UK in 2007. The directive was agreed and adopted in 2011. The European Commission stated that the directive:

[...] takes a victim centred approach, including a gender perspective, to cover actions in different areas such as criminal law provisions, prosecution of offenders, victims' support and victims' rights in criminal proceedings, prevention and monitoring of the implementation.⁷⁶

The Explanatory Notes to the *Modern Slavery Act 2015* state the following in respect of the EU Directive:

A final text was agreed in March 2011 and was adopted on 5 April 2011: Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decisions 2002/629/JHA (the "Directive on preventing and combating trafficking"). That Directive adopts and expands upon the obligations and definitions contained in the Palermo Protocol and the Convention on Action against Trafficking. The United Kingdom has opted into this Directive. In order to ensure full compliance with the obligations contained in that Directive in England and Wales, Parliament made changes to the *Sexual Offences Act 2003* and the *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004* through sections 109 and 110 of the *Protection of Freedoms Act 2012*.⁷⁷

Further information on the UK Government's decision to opt in to this EU Directive is set out in the House of Commons Library briefing, [Human Trafficking: UK responses](#), 13 January 2014 (see pages 22–7).

⁷⁶ European Commission, [Directive 2011/36/EU](#) (accessed 25 October 2017)

⁷⁷ [Explanatory Notes](#), 26 March 2015, p2

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