



Modern Slavery (Victim Support) Bill [HL] (HL Bill 4 of 2017–19)

Key Provisions

The [Modern Slavery \(Victim Support\) Bill](#) is a private member's bill introduced by Lord McColl of Dulwich (Conservative). The Bill received its first reading in the House of Lords on 26 June 2017, and is scheduled to receive its second reading on 8 September 2017. The Bill proposes to amend the Modern Slavery Act 2015 to provide a statutory basis for support and assistance for potential victims of modern slavery during a reflection and recovery period of 45 days, and for a further period of twelve months following confirmation of their status as a victim of modern slavery.

Clause 1 of the Bill would insert four new sections into the Modern Slavery Act 2015:

- **Section 48A**
This section would create a duty to ensure that any potential victims of modern slavery, aged 18 or over, are provided with assistance and support, and granted temporary admission to the UK where required, for a period of reflection and recovery (up to 45 days). The period would start on the day a referral is made to a competent authority (there are currently two in the UK, the National Crime Agency's Modern Slavery Human Trafficking Unit and the Home Office Visas and Immigration¹), who would determine whether the individual should be treated as a victim of modern slavery.
- **Section 48B**
If an adult has been determined to be a victim of modern slavery, this section would ensure they receive assistance and support for twelve months after the reflection and recovery period has ended. In addition, where required, the victim would be granted leave to remain for the twelve months, unless they are a sexual or violent offender or otherwise pose a serious risk to the public. After the twelve month period, both the assistance and support and the right to remain could be extended at the discretion of the Secretary of State, based on the criteria set out in subsection 8.
- **Section 48C**
This section outlines what is meant by assistance and support, during both the recovery and reflection period and the twelve month support period. It could not be dependent on the victim acting as a witness and would have to take account of their individual needs. Support should include, but not be limited to; assistance in regards to safe and appropriate accommodation, material assistance (including financial), medical advice and treatment, counselling, a support worker, translation and interpretation services, help in obtaining specialist legal advice, and assistance with repatriation. In addition, minimum standards of support would be set out in a statutory instrument, which should be subject to both public consultation and approval by resolution of each House of Parliament.
- **Section 48D**
Would provide definitions of the terms 'competent authority', 'sexual or violent offender' and 'victim of modern slavery' in regards to sections 48A and 48B.

Clause 2 would repeal section 50(1) of the Modern Slavery Act 2015 and remove the power of the Secretary of State to make regulations regarding the provision of support and assistance to victims of modern slavery. Lastly, clause 3 states that the Bill would extend to England and Wales only (support for adult victims of modern slavery is a devolved matter²) and would come into force twelve months to the day after receiving royal assent.

Background to Modern Slavery

The term ‘modern slavery’ is defined by the UK Government as “an umbrella term” covering the offences of human trafficking, slavery, servitude and forced or compulsory labour.³ A report by the House of Commons Work and Pensions Committee found that victims of these offences include men, women and children, many of whom had endured traumatic experiences and may suffer from mental and physical health problems as a result.⁴ The UK’s Anti-Slavery Commissioner, Kevin Hyland, has stated that “slavery violates human rights, denying people of their right to life, freedom and security”.⁵

In 2013, the Coalition Government estimated there were between 10,000 and 13,000 potential victims of modern slavery in the UK, who originated from around 100 different countries.⁶ In April 2017, the National Crime Agency (NCA) released the 2016 statistics for the National Referral Mechanism (NRM)—the framework which potential victims of modern slavery are referred to for support and for a decision to be made as to whether they are a victim—which showed that referrals for 3,805 potential victims in the UK were submitted in the year, a 17 percent increase on 2015.⁷ The most common nationalities of these victims were identified as Albanian, UK and Vietnamese, with the majority (3,499) referred to the NRM from England, in addition to a further 123 from Wales.⁸ However, due to the hidden nature of the crime, it is difficult to accurately assess the extent of the problem.⁹ In January 2017, Sarah Newton, the Parliamentary Under Secretary of State for Crime, Safeguarding and Vulnerability, told the House of Commons Work and Pensions Committee that there was a “big gap” between the estimated prevalence of modern slavery and the number of people officially identified as victims.¹⁰

Current Support for Victims

As a member of the Council of Europe, the UK is subject to obligations in regards to modern slavery as a signatory of the *Council of Europe Convention on Action Against Trafficking in Human Beings*. In particular, article 12 of the Convention states: “each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery”.¹¹ In addition, the European Union directive on preventing and combating trafficking in human beings and protecting its victims also sets out obligations in regards to the provision of support for victims of modern slavery.¹² Victim identification and care has been identified as a priority for the UK’s Anti-Slavery Commissioner, Kevin Hyland. On the Commissioner’s website, it states:

Improving efforts to identify potential victims so that individuals can be removed from situations of exploitation, protected from further harm and referred for appropriate care is essential. Support will be most effective when it is informed and guided by survivors’ experience and expertise.¹³

Currently, the provisions regarding support for victims are outlined in the Modern Slavery Act 2015. Section 49 of the Act states that the Secretary of State must issue guidance on identifying, determining and supporting victims, while section 50 gives powers to the Secretary of State to make regulations regarding the identification and support of victims, including regulations to help public authorities determine whether an individual is a victim or not. However, research by the Anti-Trafficking Corruption Group on modern slavery legislation across the UK claims that, although the Modern Slavery Act 2015

contains provisions regarding the support of adult victims, it is “significantly weaker in this regard” compared to its counterparts in Northern Ireland (the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act 2015) and Scotland (the Human Trafficking and Exploitation Act 2015). It argues this is because the Act does not “explicitly place a duty on the state to provide support and assistance to victims, nor set out support entitlements”.¹⁴ Instead, victims are reliant on arrangements which are to be set out in guidance issued by the Secretary of State, who can also make regulations on the issue. The Home Office published interim guidance in accordance with section 49 in March 2016, however the finalised guidance are yet to be published.¹⁵ In addition, regulations under section 50 are also yet to be published.

The House of Commons Work and Pensions Committee recently conducted an inquiry regarding victims of modern slavery.¹⁶ Publishing its findings, it praised the Government for exceeding its treaty obligations in regards to potential victims of modern slavery by offering a 45 day period of reflection and recovery, but stated that, although the Modern Slavery Act 2015 had “established new protections for recognised victims”, it did not create “a pathway for their recovery”.¹⁷ The Committee also reported that the current mechanism for identifying victims and supporting them out of slavery has meant that victims have no automatic formal immigration status or rights, and can often be faced with a lack of understanding or recognition of their situation.¹⁸ In some cases, the Committee found that failures in the system have meant that victims have been reduced to destitution, or have even returned to their enslavers, whilst the perpetrators “go free”, as the victims are not adequately supported to testify against them.¹⁹ In its recommendations, the Committee argued that all confirmed victims of modern slavery should be given “at least one year’s leave to remain with the same recourse to benefits and services as asylum seekers are granted”.²⁰ However, outlining the Government’s position during a session of oral evidence for the inquiry, Sarah Newton, the Parliamentary Under Secretary of State for Crime, Safeguarding and Vulnerability, raised concerns regarding the automatic right to remain: “one of our concerns is that if we gave everybody automatic leave to remain, it would create the most enormous pull factor”.²¹

The Committee also suggested in its recommendations that “all victims of modern slavery be given a personal plan which details their road to recovery and acts as a social passport to support for at least the twelve month period of discretionary leave”.²² Commenting on the findings, the chair of the Committee, Frank Field (Labour MP for Birkenhead), stated that “the Prime Minister now needs to open up a further front in her Modern Slavery Act”.²³

The Government is yet to publish a formal response to the Committee’s report, however, writing to the chair of the Committee, Mr Field, Theresa May, the Prime Minister, commented:

Ending modern slavery is a top priority for the Government [...] I look forward to reading the Committee’s findings, but I know that Ministers are working together to look at some of the issues that have arisen as a result of the Committee hearings, and would be happy to discuss this with you following the publication of your report. As you are aware, we are currently reviewing the National Referral Mechanism model, and Ministers would be delighted to discuss the emerging findings of the pilots and options for reform in due course. The Government is committed to doing everything we can to support victims of modern slavery and to bring the perpetrators of this barbaric crime to justice and I thank you again for your work in this capacity.²⁴

Further Information

- House of Commons Work and Pensions Committee, [Victims of Modern Slavery](#), 30 April 2017, HC 803 of session 2016–17
- [Explanatory Notes to the Modern Slavery \(Victim Support\) Bill \[HL\]](#), 26 June 2017
- Independent Anti-Slavery Commissioner, [Strategic Plan 2015–17](#), 16 October 2015

¹ National Crime Agency, [National Referral Mechanism: Competent Authorities \(CA\)](#), accessed 25 July 2017.

² Anti-Trafficking Monitoring Group, [Class Acts? Examining Modern Slavery Legislation Across the UK](#), October 2016, p 42.

³ HM Government, [2016 Report of the Inter-Departmental Ministerial Group on Modern Slavery](#), October 2016, p 4.

⁴ House of Commons Work and Pensions Committee, [Victims of Modern Slavery](#), 30 April 2017, HC 803 of session 2016–17, p 5.

⁵ Independent Anti-Slavery Commissioner, [Priority One: Victim Identification and Care](#), accessed 20 July 2017.

⁶ House of Commons Work and Pensions Committee, [Victims of Modern Slavery](#), 30 April 2017, HC 803 of session 2016–17, p 5.

⁷ National Crime Agency, [National Referral Mechanism Statistics: End of Year Summary 2016](#), 7 April 2017, p 1.

⁸ *ibid.*

⁹ House of Commons Work and Pensions Committee, [Victims of Modern Slavery](#), 30 April 2017, HC 803 of session 2016–17, p 5.

¹⁰ *ibid.*

¹¹ Council of Europe, [Council of Europe Convention on Action Against Trafficking in Human Beings](#), 2005, p 6.

¹² Official Journal, [L 101/1](#) of 15 April 2011.

¹³ Independent Anti-Slavery Commissioner, [Priority One: Victim Identification and Care](#), accessed 20 July 2017.

¹⁴ Anti-Trafficking Monitoring Group, [Class Acts? Examining Modern Slavery Legislation Across the UK](#), October 2016, p 42.

¹⁵ Home Office, [Victims of Modern Slavery: Frontline Staff Guidance](#), 18 March 2016.

¹⁶ UK Parliament website, [House of Commons Work and Pensions Committee: Victims of Modern Slavery Inquiry](#), accessed 19 July 2017.

¹⁷ House of Commons Work and Pensions Committee, [Victims of Modern Slavery](#), 30 April 2017, HC 803 of session 2016–17, p 32.

¹⁸ UK Parliament website, [House of Commons Work and Pensions Committee: Inexcusable Lack of Support for Modern Slavery Victims](#), 30 April 2017.

¹⁹ House of Commons Work and Pensions Committee, [Victims of Modern Slavery](#), 30 April 2017, HC 803 of session 2016–17, pp 30–1.

²⁰ *ibid.*, p 30.

²¹ House of Commons Work and Pensions Committee, [Oral Evidence: Victims of Modern Slavery, HC 803](#), 30 January 2017, Q162.

²² House of Commons Work and Pensions Committee, [Victims of Modern Slavery](#), 30 April 2017, HC 803 of session 2016–17, p 32.

²³ UK Parliament website, [House of Commons Work and Pensions Committee: Inexcusable Lack of Support for Modern Slavery Victims](#), 30 April 2017.

²⁴ Prime Minister's Office, [Response from the Prime Minister, to Frank Field MP, Relating to Support for Victims of Modern Slavery](#), 22 March 2017.

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