

The CPS response to the Modern Slavery Act 2015

December 2017

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1 Executive summary

Context

1.1 Modern slavery is a serious crime in which individuals are exploited for little or no pay. Exploitation includes, but is not limited to, forced or bonded labour, sexual exploitation, forced criminality, domestic servitude, and the removal of organs. Modern slavery affects almost every country, either as a source country where victims of slavery come from; a transit country where victims of slavery travel through; or a destination country where victims are enslaved. Worldwide, 45,800,000¹ people live in slavery. Slave masters and human traffickers will coerce and control their victims, keeping them in slavery for weeks, months or years at a time. Individuals are often deceived into working in slave-like conditions and then threatened in order to keep them there. Victims are moved from abuser to abuser and they are usually too afraid of their captors to risk escape, making slavery a hidden, complex crime. People are moved around the world as a commodity, maximising profit through coercing and controlling people. The top tier countries where the threat to the United Kingdom (UK) is the highest for trafficking are Albania, Nigeria, Vietnam, Romania, Poland, Lithuania and Slovakia.

1.2 Although modern slavery can involve the movement of people across an international border, it is also possible to be a victim within a country; for example, in 2016 the UK itself was in the top three countries of origin for all potential victims within the UK. In August 2017 the National Crime Agency (NCA) estimated there were tens of thousands of victims of modern slavery and human trafficking and stated there were more than 300 live policing operations, with cases affecting every large town and city in the country. The Home Office's 2014 estimate of up to 13,000 victims of slavery in the UK were said to be the tip of the iceberg. Ordinary people are now unwittingly coming into contact with victims every day in nail bars, construction sites and agriculture. In 2013, 1,745 people reported as potential victims; this had more than doubled by 2016, when it increased to 3,805.

1.3 The key sectors for the growth in modern slavery now include food processing, fishing, agriculture, construction, car washes, domestic and care work, as well as brothels and cannabis farms. It is being driven by international gangs who increasingly use the internet to lure their victims. Men, women and children can all be prey to the traffickers, although the common thread is that usually victims are the most vulnerable or from socially excluded groups. Another common problem is that victims do not always recognise themselves as a victim of slavery.

1 Global Slavery Index 2016.
www.globalslaveryindex.org/index/

Key findings

1.4 Modern slavery and human trafficking covers a full spectrum of crime types, however it is not treated as a single body of work. Human trafficking involving sexual exploitation and domestic servitude falls under the well-established Violence against Women and Girls (VAWG) umbrella, due to the fact that victims are disproportionately female. The approach to VAWG work in the Crown Prosecution Service (CPS) is well-established; there is a separate strategic unit sited in CPS Headquarters overseeing the work, a national Chief Crown Prosecutor lead and an effective assurance structure. The other strands of modern slavery work are also significant, often extremely complex and involving particularly vulnerable victims, but they fall outside this structure. The most complex modern slavery casework is dealt with in the specialist casework Divisions at Headquarters, although the full breadth of work sits in the various units at CPS Area level, from the Complex Casework Units (CCUs) and Rape and Serious Sexual Offences (RASSO) units, to the Crown Court units and, potentially, the magistrates' courts units. The links are not made across the units, leading to an inconsistent approach with no clear overarching lead at local level. Modern slavery and human trafficking casework needs a framework for leadership, assurance and oversight akin to that of VAWG, either within the existing structures or a separate parallel regime.

1.5 Leadership in modern slavery is provided by the policy lead based in Headquarters, who is highly thought of and engages with national and international partners and stakeholders effectively. However, there is no resilience for the post, it has limited administrative support and there is no legal practitioner lead to complement the policy role. There is additional leadership in the Headquarters International Justice and Organised Crime Division (IJOCD), which forms part of the cross-Government governance structures. IJOCD is also available to provide a central point and support for the CPS Areas, but in practice there was limited knowledge of this at Area level.

1.6 There is currently a significant disparity between the numbers of potential victims, the numbers that go through the National Referral Mechanism and the number of actual prosecutions. The volume of human trafficking referrals from the police rose in 2016-17 to their highest ever levels, but a smaller proportion resulted in a criminal prosecution and the volume of human trafficking convictions fell. It would be helpful if the CPS communicated better the reasons why cases do not proceed, so that the disparity of the bare figures is better understood.

1.7 Legal guidance is available on the CPS intranet, although this was delayed for some months following implementation of the legislation. The guidance is currently being updated and there is additional material and templates on the casework hub on the intranet, which provide useful reminders about ancillary matters flowing from the legislation. The challenge is ensuring that prosecutors refer to these materials.

1.8 There is a Human Trafficking e-learning course available on the Prosecution College website, which was an existing course amended to include the new legislation. Taking the course was not mandated and it has been completed only by those who saw it as relevant to their caseload. A Powerpoint presentation was issued to Areas following implementation of the new Act and continues to be available on the casework hub. A training package has also been designed with a view to roll out to tutor Area trainers, who will then deliver training at local level.

1.9 We found various models operated in the Areas and no level of consistency, which creates a confused picture, causing particular challenges for those appointed as local leads on particular strands of work. It was difficult to identify Area leads. Most thought the lead was provided by the Head of the CCU, with sexual exploitation cases falling under the VAWG lead, and those in the Crown Court units perhaps falling outside both of these remits. This 'silo' approach hinders effective knowledge management and the sharing of good practice and lessons learned. Not surprisingly, Areas did not know the number of cases that sat in the different units or had any overall performance data to drive improvement. It also makes understanding resourcing of the units more challenging, particularly if the volume of these cases increases as anticipated. Although all the Areas visited reported that they had capacity at present to deal with the current volume of cases, the picture was less clear if volumes increase.

1.10 Feedback during the fieldwork confirmed that individual cases were handled well. The visits also showed that there was awareness of the nature of crime types in the Areas and certain police forces, which can vary depending on the geographical location. There was considerable knowledge and experience in the Areas, with prosecutors who have had direct experience of cases. However, this was not necessarily shared within the Area across the unit, with other units and, more generally, with other Areas nationally. One concern raised by stakeholders was that if the volume increases to reflect the numbers of potential victims reporting through the National Referral Mechanism, then cases will need to be dealt with by more Area lawyers and the level of knowledge will not be as high as for those situated in the CCUs.

1.11 Inspectors were told that there is very effective joint working between the CPS and specialist police units or operational teams in the most complex cases dealt with by the CCUs and RASSO units, and cases are well handled. But this approach is on a case by case basis and does not translate well to less complex cases handled elsewhere that are referred by front-line police officers. Also, this approach fails to join up all the strands internally for the CPS and externally with police and other partners, and the third sector. There is also no formal joint performance management regime.

1.12 Currently there is significant variation across the regions in terms of the multi-agency groups that exist, who is involved and how they are funded. It appears to be dependent on certain key individuals to drive things forward. For the most part the CPS does not appear to be represented at a local level at multi-agency forums; attendance and involvement would help with raising awareness. There are some very good examples of multi-agency working in Wales, but this forms part of the overall approach of the Welsh Government, rather than a national approach of the CPS.

1.13 The policy lead is able to provide a national point of contact for Areas and answers individual queries from them based on significant experience and knowledge across a range of casework, as well as sharing good practice, but some of this is dependent on Areas providing case studies and template examples. It is an ad hoc arrangement and relies on information being forwarded to Headquarters to be disseminated; there needs to be a more formal mechanism.

1.14 Feedback from interviews showed that early investigative advice is provided by the CCUs to the police when it is needed and there is early liaison with the police dedicated units or specialist operational teams. However, there could be more thinking at an early stage to building cases that are evidence-based,² instead of relying primarily on the evidence of the victims, as well as a better understanding and application of the statutory defence for victims of modern slavery and human trafficking who become criminalised themselves. There could also be increased use of Slavery and Trafficking Prevention Orders and Risk Orders as part of the overall case strategy, maximising of opportunities to use the toughest asset confiscation regime and ensuring Reparation Orders are requested to compensate victims.

² Evidence-based prosecution (sometimes termed “victimless prosecution”) refers to a collection of techniques utilised by prosecutors to convict perpetrators without the co-operation of an alleged victim.

1.15 Many lawyers have experience of Letters of Request,³ are comfortable with the process and are being trained in the new European Investigation Order.⁴ Joint investigation teams (JITs)⁵ are not common and are unfamiliar to many prosecutors, but can be more efficient and save significant time from repeated formal requests. At present they are under-used because knowledge is limited to pockets where lawyers have participated in a JIT before. However, this knowledge gap was identified and a workshop took place specifically to train on JITs during the fieldwork phase; this training is welcomed and should be disseminated to relevant prosecutors in the Areas.

1.16 Victims of modern slavery and human trafficking can be the most vulnerable, requiring significant support and work to engage at the outset and keep them on board throughout the process of a prosecution in court. There could be better awareness of the vulnerabilities and nuances of victims of these crime types, ensuring they are properly safeguarded and supported with special measures, the use of intermediaries and interpreters and building an evidence-based prosecution, or using alternative offences to manage risk effectively. Third sector agencies reported that there is a wide variation in response depending on where a victim reports in the UK; this is not satisfactory and needs improvement.

1.17 The CPS made some progress against the recommendations detailed by Caroline Haughey in the Modern Slavery Act Review in 2016. Not all the recommendations were accepted, so progress has been limited to those that were agreed. This is detailed at annex A.

³ Mutual Legal Assistance (MLA) is a method of co-operation between States for obtaining assistance in the investigation or prosecution of criminal offences. MLA is generally used for obtaining material that cannot be obtained on a police co-operation basis, particularly enquiries that require coercive means. Requests are made by a formal international Letter of Request (LOR). This assistance is usually requested by courts or prosecutors and is also referred to as “judicial co-operation”.

⁴ Since 22 May 2017, European Union Member States (MS) have begun to implement the European Investigation Order (EIO) which replaces Letters of Request as the standard means of making an MLA request between MS. The EIO has now been implemented by the leading MS, including the UK.

⁵ A joint investigation team (JIT) is an international co-operation tool based on an agreement between competent authorities - both judicial (judges, prosecutors, investigative judges) and law enforcement - of two or more Member States, established for a limited duration and for a specific purpose, to carry out criminal investigations in one or more of the involved States. JITs constitute an efficient and effective co-operation tool that facilitates the co-ordination of investigations and prosecutions conducted in parallel in several States or in cases with a cross-border dimension. It is only available for investigations being carried out amongst EU Member States.

Recommendations

1 The CPS should:

- consider where modern slavery and human trafficking sits strategically
 - ensure there is a framework for leadership, assurance and oversight
 - appoint a lead to deal with legal enquiries
 - ensure there is succession planning and resilience for the current policy portfolio (paragraph 3.8).
-

2 There should be success measures developed to enable evaluation against the aims of the overseas deployment of CPS criminal justice advisors and to measure whether they deliver value for money (paragraph 3.16).

3 The CPS should, maximise the usefulness of the casework hub by incorporating case studies of live and finalised cases, good practice and lessons learned and ensure there is a mechanism to share learning nationally that is coherent and consistent (paragraph 3.25).

4 The CPS should:

- introduce a quality assurance mechanism for all modern slavery and human trafficking casework
 - collate and maintain performance data locally and nationally rather than under current ad hoc arrangements
 - introduce a mechanism for effective third sector engagement and scrutiny (paragraph 3.29).
-

5 The CPS needs to:

- mandate the e-learning for all prosecutors
 - provide awareness training to all staff
 - ensure more developed training is delivered to all relevant staff handling any cases involving a modern slavery and human trafficking element
 - ensure learning in relation to joint investigation teams is disseminated and supported by practical examples on the casework hub (paragraph 3.38).
-

6 The CPS needs to:

- ensure Area leads are appointed who are sighted on all strands of modern slavery and human trafficking work, and are able to make the links across all crime types and lead on knowledge management and sharing, as well as assurance and performance
 - provide clarity about where cases are dealt with and how they are allocated in the Areas (paragraph 4.10).
-

7 The CPS needs to introduce a mechanism, with partners, to collate and analyse joint performance data across all strands of modern slavery and human trafficking crime types (paragraph 4.16).

8 The CPS Areas need to:

- work with police forces to ensure opportunities for early investigative advice are maximised
 - ensure there is an effective mechanism for feedback and sharing lessons learned between the Areas and CPS Direct (paragraph 5.5).
-

Good practice

1 In Wales, as part of the national approach, there is a Casework Review Group. This joint group of criminal justice partners and stakeholders considers individual cases, lessons learned and good practice across all the strands and, helpfully, includes cases that are investigated but do not necessarily reach prosecution. This is part of the commitment of the Welsh Government but the principles could be applied elsewhere (paragraph 4.19).

2 In the West Midlands risk orders have been used in a case that was being investigated and had yet to be charged. These are the first two orders in a case where the breaches have been prosecuted, resulting in custodial sentences for two defendants of three and half years and two years and four months, whilst the investigation continued. This protects the victims and any potential victims from further harm; the CPS advised in relation to these (paragraph 5.28).



2 Introduction

Context

2.1 The Modern Slavery Act 2015 came into force on 31 July 2015. It consolidates existing offences of human trafficking and slavery and encompasses trafficking for all forms of exploitation. The Act repeals and replaces earlier legislation for offences of human trafficking for sexual exploitation and for forced labour or organ transplants, and offences of holding another person in slavery or servitude. It simplifies the legislative framework whilst also affording better protections to victims, including a statutory defence for victims forced to commit crime under duress.

2.2 The Act was implemented in stages. In short it:

- consolidates and simplifies existing offences related to modern slavery and human trafficking into a single Act
- introduces a statutory defence for victims of trafficking or slavery forced to commit a criminal offence
- criminalises preparatory conduct, for example 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 specific sexual or violent offences will face an automatic life sentence
- makes 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 co-ordinated
- 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

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- 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.

2.3 On the first anniversary of the implementation of the Act, the Modern Slavery Act Review was published.⁶ This examined how well the measures in the Act had been implemented and made recommendations to fill any gaps identified in the provisions of the Act. During 2017 Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) conducted a review of the police response to modern slavery and human trafficking.⁷ It was in this context that Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS) conducted a review of the CPS response to the Modern Slavery Act 2015.

2.4 This review assesses the national, international and local Area response of the CPS in terms of strategic leadership and governance and joint working, as well as the effectiveness of operational practice in prosecuting or disrupting criminality and providing support to victims and witnesses. We also assessed progress against the recommendations in the Modern Slavery Act Review which are within the gift of the CPS to influence.

Background

2.5 Modern slavery includes a broad range of crimes, from slavery and forced and compulsory labour through to human trafficking, all of which involve the exploitation of individuals. Victims of modern slavery and human trafficking are often the most vulnerable who are coerced into forced labour, the sex trade, domestic servitude and a range of other crimes, and can be subjected to threats or violence and degrading treatment.

2.6 Modern slavery and human trafficking can involve both domestic and international movement of people and range in scale and complexity from an individual forced into domestic servitude to large scale organised transportation for sexual or labour exploitation across national borders. The nature of offending is diverse and can change according to geographical location, for example in urban areas trafficking into brothels and in rural areas trafficking into forced agricultural labour. Victims are treated as commodities and

⁶ *The Modern Slavery Act Review*; Home Office; July 2016.

www.gov.uk/government/publications/modern-slavery-act-2015-review-one-year-on

⁷ *Stolen freedom: the policing response to modern slavery and human trafficking*; HMICFRS; October 2017.

www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/stolen-freedom-the-policing-response-to-modern-slavery-and-human-trafficking.pdf

exploited for the personal or financial gain of others. They are rarely used for a single purpose, which can lead to the frequent movement of people as well. There can also be significant overlaps with organised immigration crime or people smuggling, facilitating the illegal movement of people across international boundaries.

2.7 Victims can suffer frequent and severe abuse, both physical and psychological, and can remain hidden from society for extensive periods of time with limited or no freedom of movement. Even where a victim escapes there are many reasons why they would be reticent to seek help from the authorities. This reluctance can be based on various fears, which may be unfounded, from threats made to the victim and/or the victim's family; language and cultural barriers; vulnerabilities such as learning difficulties, age or addiction; and concerns about their own immigration status; as well as wariness of authorities based on experience in their own country and also in the UK, from treatment experienced in Immigration Centres.

Case study

Five members of a Czech family were jailed after being convicted of trafficking vulnerable men into Britain and forcing them to do hard and humiliating work. At least eight victims were made to sleep in a garage, on mattresses on a floor and even in a cupboard, and had to supplement their meagre rations by foraging in bins for leftovers. They were forced to work in local factories, car washes or as domestic servants and one was compelled to cut a lawn using a knife. One man was beaten with a chair and a baseball bat and another was forced to shoplift, pushing trolley-loads of goods from supermarkets. As part of their humiliation they were forced to use the garden as a toilet or pay £1 to use a proper lavatory. Almost all of the money they earned was taken from them and they were beaten, punched and told they would be killed if they tried to escape. The victims had not been locked up but felt trapped because of their lack of money and because they could not speak English. The police estimate dozens of men with drug and alcohol problems were trafficked over several years, earning the gang hundreds of thousands of pounds. The gang were sentenced to a total of 20 and a half years' imprisonment and the judge recommended all of them be deported upon release.

2.8 Investigations and prosecutions can be very demanding, particularly cases involving trafficking across borders where evidence is held by organisations based overseas, which is resource intensive both in time and financial cost. Victims are often extremely vulnerable and may be targeted for those very vulnerabilities, which can make managing and supporting them through the criminal justice process very challenging. The vulnerabilities that led to their exploitation can then undermine their credibility as a witness. In addition, it can be difficult distinguishing between victims and perpetrators.

2.9 Perpetrators may also be prosecuted and convicted for offences other than slavery or human trafficking where there are links to trafficking, for example false imprisonment, rape and controlling prostitution for gain. Alternative offences may be more representative of the actual offending and carry more serious penalties.

2.10 The CPS incorporates human trafficking for sexual exploitation under the Violence against Women and Girls (VAWG) agenda because it has been identified as being committed primarily, but not exclusively, by men against women. The CPS incorporates human trafficking within the overarching cross-Government strategic framework of VAWG, recognising that victims of this group of crimes, namely sexual exploitation and domestic servitude, are disproportionately female. This is not necessarily the case for all crime types of modern slavery and human trafficking.

2.11 The National Referral Mechanism⁸ in England and Wales, which is the framework for identifying victims of human trafficking or modern slavery and ensuring they receive the appropriate support, received slightly more case referrals in 2015 than the previous year, with 1,648 female victims compared with 1,416 male. The data indicates differences in gender and trends under different types of claimed exploitation of trafficking and modern slavery. For sexual exploitation or domestic servitude - 88% potential female victims and 12% potential male⁹ and for labour exploitation - 86% potential male victims and 14% potential female.¹⁰

2.12 As well as consolidating the legislative framework, the Modern Slavery Act 2015 introduced new powers to help the police prevent or prohibit convicted defendants from activities which would enable them to commit offences of modern slavery or human trafficking. The orders introduced are Slavery and Trafficking Prevention Orders (STPOs) and Slavery and Trafficking Risk Orders (STROs). These are civil orders enabling the court to impose restrictions and positive requirements upon those convicted of, or at risk of committing, a relevant offence. A breach of the order is an offence punishable with up to five years' imprisonment. STPOs are imposed at sentence if a person has been convicted of a relevant offence, whereas STROs can be effective during the investigation phase and can be made against an unconvicted person where they pose a risk of committing a relevant offence. They can prohibit activities outside the UK and therefore have the potential to protect victims who leave the jurisdiction and return home. Section 45 of the Act also provides a statutory defence for victims forced to commit crime under compulsion. This requires agencies to distinguish between victims and suspects at the earliest possible stage, to ensure victims are provided the full protections available to them.

⁸ The National Referral Mechanism (NRM) was introduced in 2009 to meet the UK's obligations under the Council of European Convention on Action against Trafficking in Human Beings. At the core of every country's NRM is the process of locating and identifying "potential victims of trafficking". From 31 July 2015 the NRM was extended to all victims of modern slavery in England and Wales, following the implementation of the Modern Slavery Act 2015.

⁹ Of 1,430 potential female victims - ie, 1,648 excluding organ harvesting (1) and unknown exploitation (217).

¹⁰ Of 1,083 potential male victims - ie, 1,416 excluding organ harvesting (4) and unknown exploitation (329).

Outcomes

2.13 In 2016–17 the rate of referrals to the CPS rose to the highest ever recorded, with a steady volume of charged defendants and completed prosecutions. The volume and rate of convictions fell slightly.

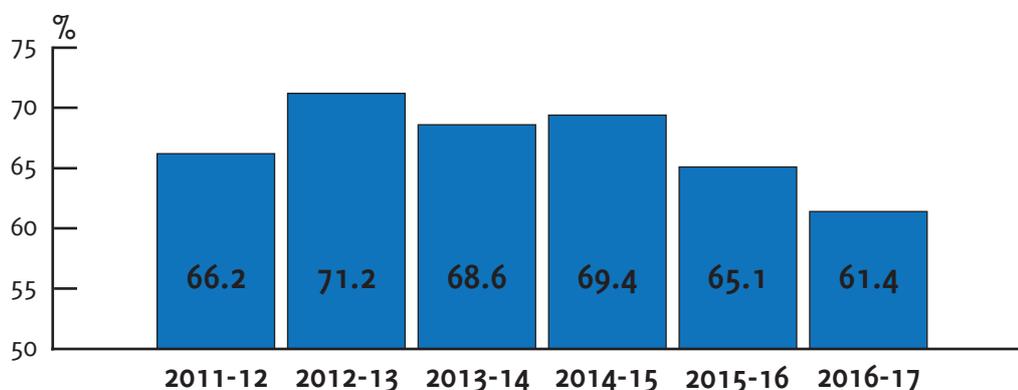
2.14 The table details human trafficking offences where prosecutions were commenced (but does not include conspiracy to commit any of the offences). The Modern Slavery Act only came into force on 31 July 2015, therefore cases have only been recorded from 2015-16 onwards. From 2010-11 to 2015-16 there was a rise in all offences, although there was a slight drop off during 2016-17. Perpetrators may also be prosecuted and convicted for serious offences other than trafficking and slavery where there are links to trafficking including, for example, conspiracy to traffic, rape, false imprisonment and controlling prostitution for gain, which makes monitoring a challenge.

	2010 -11	2011 -12	2012 -13	2013 -14	2014 -15	2015 -16	2016 -17
Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 { 4 } Trafficking for labour or other exploitation	21	37	26	32	60	68	29
Coroners and Justice Act 2009 { 71 } To hold another in slavery or servitude or require them to perform forced or compulsory labour	0	15	20	18	31	40	23
Modern Slavery Act 2015 { 1 } Slavery, servitude and forced or compulsory labour	N/A	N/A	N/A	N/A	N/A	9	23
Modern Slavery Act 2015 { 2 } Human trafficking	N/A	N/A	N/A	N/A	N/A	5	73
Modern Slavery Act 2015 { 4 } Committing an offence with intent to commit trafficking offence	N/A	N/A	N/A	N/A	N/A	0	0
Sexual Offences Act 2003 { 57 } Trafficking into the UK for sexual exploitation	41	45	24	26	41	70	17
Sexual Offences Act 2003 { 58 } Trafficking within the UK for sexual exploitation	55	61	16	94	31	72	105
Sexual Offences Act 2003 { 59 } Trafficking out of the UK for sexual exploitation	0	7	3	8	0	9	5
Sexual Offences Act 2003 { 59A }* Trafficking into, out of and within the UK for sexual exploitation	N/A	N/A	N/A	12	13	97	35
Total human trafficking offences	117	165	89	190	176	370	310

* section 59A Sexual Offences Act 2003 replaced sections 57, 58 and 59 of the Act in 2013-14.

2.15 The percentage of successful prosecutions for human trafficking offences is detailed in the table below. Although this is significantly below the national figure for successful outcomes in the Crown Court, it is better than the successful outcomes for rape cases (57.6% during 2016-17), which also face challenges in relation to victims.

Percentage of successful prosecutions for human trafficking offences



2.16 Since April 2010, the CPS has endeavoured to flag and monitor all cases of human trafficking and slavery. The volume of human trafficking referrals from the police rose from 234 in 2014-15 to 246 in 2015-16 to 271 in 2016-17, the highest volume ever recorded. In 2015-16, 189 referrals were charged (76.8%) but only 69.4% (188 charged) in 2016-17.

2.17 In 2016-17 there were 295 human trafficking defendants prosecuted, the same as the previous year. The gender of defendants was also recorded. Of the 295 prosecuted, 251 (85.1%) were male and 44 (14.9%) female, with the majority (68.8%) aged 25-59 years.

2.18 The number of human trafficking convictions fell from 192 in 2015-16 to 181 in 2016-17. The overall conviction rate fell from 65.1% to 61.4% over the same period. The proportion of convictions in contested cases fell from 62.0% in 2015-16 to 56.0%. Sixty-five cases (22.0%) were unsuccessful due to the prosecution being discontinued. There was a rise in unsuccessful outcomes due to victim issues, from 31.1% in 2015-16 to 43.9% in 2016-17. It should be noted that the numbers of these cases is very small and, because they often involve multiple defendants and numerous victims, any spikes in casework trends could be attributed to one or two substantial cases involving significant numbers of defendants and/or victims.

2.19 In respect of data extracted from the CPS Witness Management System, 232 victims were recorded in 2016-17. Of these victims, 91 were female and 47 male, but the gender of 94 was not recorded. Therefore the recording of victim gender, at 59.5%, is not robust enough to include gender proportions. National Referral Mechanism data in relation to potential victims is detailed in annex B.

Completed human trafficking prosecutions by outcome - volume and percentage							
	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Successful	73 (70.9%)	94 (66.2%)	99 (71.2%)	155 (68.6%)	130 (69.4%)	192 (65.1%)	181 (61.4%)
Unsuccessful	30 (29.1%)	48 (33.8%)	40 (28.8%)	71 (31.4%)	57 (30.5%)	103 (34.9%)	114 (38.6%)
Total	103	142	139	226	187	295	295

Methodology

2.20 The inspection team visited six CPS Areas and interviewed operational staff in the CCUs and VAWG leads, as well as thematic leads within police forces. In addition, inspectors spoke to staff at CPS Headquarters, national stakeholders and third sector agencies. A position statement was sought from all CPS Areas not visited during the fieldwork.

2.21 This inspection did not look at individual cases dealt with by the CPS. Future work with HMICFRS will involve looking at the quality of investigations and prosecutions under the relevant legislation.

2.22 CPS performance data is at annex B and a checklist for case building at annex C.



3 The strategic response

Leadership and governance

3.1 The CPS is working with a range of investigative, prosecutorial and governmental partners to improve the domestic and international response to modern slavery in support of the Prime Minister's Modern Slavery Task Force.

3.2 There is a policy lead in CPS Headquarters who leads on modern slavery and human trafficking. The post holder is highly thought of by partners and stakeholders, is engaged nationally and internationally, and a point of contact for Area queries. The lead attends the quarterly meetings of the Modern Slavery Threat Group¹¹ and the monthly sub-groups dealing with the themed issues of International, Borders, Domestic, Strategic Intelligence and Building Capability; this sole representation provides a uniformity of approach. Feedback is positive in terms of the lead's effectiveness, with the CPS providing good support at a strategic level and showing good 'grip'.

3.3 However, the CPS lead holds other policy portfolios and has no policy 'buddy' or operational legal lead for support. Therefore the role has no resilience, which is a significant weakness. This is particularly so when bearing in mind that the full remit of modern slavery and human trafficking sits in different silos at Area level and with the police. Cases can be dealt with in the CCUs, the RASSO units if they involve an element of sexual exploitation, and the Crown Court units, as well as potentially the magistrates' courts units if, for example, it is less complex or involves a single victim. We were told in two Areas that the police had referred to the policy lead for early investigative advice. This is not appropriate, but there was no other structure to refer queries to at national level.

3.4 Feedback suggested there was also a disconnect at the strategic national level. No matter how good the policy work is, the absence of a national operational lead who is a legal practitioner who has dealt with these cases and understands the practical issues, means the CPS struggles to meet the practical aspects of implementing the Modern Slavery Act.

3.5 In contrast, where the case involves an element of sexual exploitation it will be captured under the well-established VAWG umbrella. This has a separate strategic unit sited in CPS Headquarters overseeing the work, a national Chief Crown Prosecutor lead and an effective assurance structure. Modern slavery and human trafficking casework needs a similar regime of leadership, governance and assurance.

¹¹ The National Police Chief Constable Lead established a national Modern Slavery Threat Group to bring together law enforcement agencies and other stakeholders to improve the operational response to modern slavery in country, at the border and upstream.

3.6 The CPS International Justice and Organised Crime Division also has a role to play and there is an international lead for modern slavery and human trafficking in the Division. The Head of IJOCD attends the Modern Slavery Task Force, chaired by the Home Office, which feeds into the Prime Minister's Task Force, as well as the operational Modern Slavery Threat Group, which feeds into the Ministerial Strategic Group, and also participates in the Strategic Governance Group. The Head of the international team attends the Modern Slavery and Human Trafficking Group, which has both operational and strategic discussions and ties into the structure on the Government Migration Group. IJOCD provides a lead in relation to international elements but, again, this is another aspect that appears to sit in a silo structure and is underused by Areas. Feedback from the Areas suggests this aspect of the work needs demystifying to make it more accessible to Area prosecutors.

3.7 The CPS needs to consider how best to take forward the work two years on from implementation of the Act. Cases continue to be handled well in the CCUs and RASSO units, but now may be dealt with outside of these structures and there is no oversight across the full span of work. The VAWG structure provides a model with a framework for national leadership and governance, processes for assurance, knowledge management and engagement with stakeholders. Recently, the CPS issued a position statement in relation to men and boys, highlighting that all VAWG policies are applied fairly and equitably to all perpetrators and victims of crime, irrespective of gender. Therefore to some extent the VAWG policy would be applicable to offences of modern slavery and human trafficking where the victims are vulnerable, subject to coercion and control, and to violence. In addition, many female victims of forced labour are also victims of sexual exploitation and the National Referral Mechanism data detailed in chapter 6 shows a higher number of women and girls being subject to modern slavery and human trafficking offences. However, a considerable amount of work has been undertaken nationally by criminal justice agencies and the third sector to highlight that a significant amount of offending has nothing to do with sexual exploitation, 37% of perpetrators are female, there is a major cross-over with immigration crime, and that an international response is needed for this type of offending.

3.8 There is a risk that this would be undermined if all modern slavery and human trafficking is brought under the VAWG banner. To take the work forward the CPS needs to consider where the work best sits and ensure an appropriate framework is in place to provide leadership, assurance and oversight. There also needs to be a legal lead to deal with legal enquiries from Areas or external agencies. The post holder could be a current Head of a CCU or a lawyer who has considerable experience of handling modern slavery and human trafficking casework, which would provide some resilience for the current policy lead.

Recommendation

The CPS should:

- consider where modern slavery and human trafficking sits strategically
- ensure there is a framework for leadership, assurance and oversight
- appoint a lead to deal with legal enquiries
- ensure there is succession planning and resilience for the current policy portfolio.

National joint working

3.9 The CPS, which covers England and Wales, is working closely with other UK prosecuting authorities in Northern Ireland and Scotland, as well as with the Republic of Ireland, to provide a more co-ordinated UK response to trafficking and slavery. To date, work has included exchanging experiences of the new legislation and new initiatives. During 2016 the Director of Public Prosecutions (DPP) chaired a Summit on Human Trafficking and Modern Slavery. The event was attended by the Lord Advocate of Scotland and the Directors of Public Prosecutions for Northern Ireland and the Republic of Ireland, their policing chiefs and law enforcement officers, amongst others. Current trends on the subject of human trafficking were discussed, along with the challenges faced by investigators and prosecutors dealing with this crime type. The heads of prosecution services agreed a series of commitments for how the prosecuting authorities will work together to disrupt networks, prosecute traffickers and safeguard victims' rights. This is progressed through regular meetings and contact with officials across the UK jurisdictions and the Republic of Ireland. In addition, planning is underway for a more ambitious international conference during 2018.

3.10 The National Referral Mechanism (NRM) data showing the country of referral for 2016 is detailed below:

Country of NRM referral	Adult	Minor	Total	% of total
England	2,295	1,204	3,499	92.0%
Northern Ireland	27	6	33	0.9%
Scotland	103	47	150	3.9%
Wales	102	21	123	3.2%
Total	2,527	1,278	3,805	

3.11 The CPS policy lead also liaises with departments and agencies at all relevant strategic meetings and appropriate groups. This ensures for consistency of message, but can be demanding in the absence of any support.

3.12 There is a Memorandum of Understanding between the CPS and Immigration Enforcement and a Service Level Agreement between the CPS Serious Fraud Division and Gangmasters and Labour Abuse Authority which dates back to April 2016, when it was the Gangmasters Licensing Authority, but still remains fit for purpose at present.

International joint working

3.13 There is a significant amount of cross-Government work with the Foreign and Commonwealth Office (FCO), National Crime Agency (NCA) and CPS's IJOCD on international and 'upstream' work in source countries. The overseas appointments of criminal justice advisers (CJAs) fit into this, supporting tackling overarching crime as part of the UK Government's response to all crime types.

3.14 The CPS international network is trying to build capacity in many of the countries where victims of trafficking are recruited. IJOCD is working with investigators and prosecutors in those countries to improve the way in which they investigate and prosecute, disrupt traffickers at source, and strengthen their rule of law. This is part of the Government's response to organised immigration crime, with a number of specialist prosecutors to tackle this in priority countries, undertaking both capacity building and casework liaison functions, as well as being able to assist with extradition matters. They are sponsored externally from a variety of funding streams.

3.15 There are currently 27 in-country contact posts across Africa, the Americas, Asia, the Caribbean and Europe. Some are placed by the CPS, others are seconded by the FCO and the Department for International Development. These contacts are available to assist with Mutual Legal Assistance queries; assist with the execution of Letters of Request; provide general advice in relation to the likelihood of recovery of assets held in-country; and facilitate discussions with overseas authorities to realise assets held in-country. Where there is no in-country contact the CPS international team is able to provide some guidance and assistance.

3.16 However, the overseas deployments are a considerable financial investment due to the additional security measures required, as well as accommodation and subsistence expenses. It is therefore surprising that there are no success measures for the posts as part of the business case for funding the placements, and those asked were unclear how it could be measured. It is hard to see how quantitative data could demonstrate what success looks like, but consistent qualitative measures could be used. Individual post

holders are assessed against their personal objectives and there are some positive examples of upstream work undertaken to date and opportunities to disrupt organised crime abroad before it crosses UK borders. These are detailed below, but there should be measures to enable evaluation of success against the aims when the overseas posts were created.

Recommendation

There should be success measures developed to enable evaluation against the aims of the overseas deployment of CPS criminal justice advisors and to measure whether they deliver value for money.

3.17 In addition, the CPS Proceeds of Crime Division restrains, confiscates and realises the assets of those convicted of modern slavery offences. Prosecutors assist international colleagues to enforce assets on behalf of the CPS through asset sharing agreements, as well as helping them develop their own capacity for asset recovery. This is important in ensuring that assets are confiscated to support Reparation Orders for victims. The IJOCD extradition team also has a role to play. It is recognised that they need to be more agile if the volume of casework increases and using expert counsel has been identified as a way of increasing capacity if it is required.

3.18 The CPS has also seconded staff to Eurojust,¹² which is the first port of call when there needs to be a joint investigation team (JIT). In addition, a Senior Crown Prosecutor sited in IJOCD who specialises in advising Areas on Mutual Legal Assistance regularly attends Eurojust and can provide a link on issues such as JITs. During 2016-17¹³ the United Kingdom national desk was involved in 92 modern slavery and human trafficking cases (42 requested by the UK and 50 requesting the UK). Over the same period the United Kingdom national desk supported 16 newly signed modern slavery and human trafficking JITs where the CPS were involved.

3.19 The CPS is alive to potential implications flowing from the planned withdrawal of the UK from the European Union and has embedded two lawyers in the Home Office team to assist with contingency planning.

¹² Eurojust is an agency of the European Union dealing with judicial co-operation in criminal matters. The seat of Eurojust is in The Hague. Established in 2002, it was created to improve handling of serious cross-border and organised crime by stimulating investigative and prosecutorial co-ordination among agencies of the EU Member States.

¹³ Data up to 31 August 2017.

Upstream work and disruption

3.20 As stated above, it is difficult to measure the value of the CJAs abroad, it is complex and how to measure the value of work done upstream is something that challenges UK and international authorities. Despite this, the network is viewed as a valuable resource and is available to assist in-country or with investigations in the UK. There are organised immigration posts in Greece, France, Sicily, Ethiopia, Senegal and Tunisia, and the post in Nigeria was created with a specific human trafficking theme. There are also additional posts in Turkey and Italy.

3.21 In many countries prosecutors, rather than law enforcement agencies, drive investigations. The CJAs, with their prosecutorial expertise, can act as the link between international prosecutors and the UK law enforcement agencies, which is seen as a core benefit of deploying prosecutors overseas.

3.22 Examples include the CJA facilitating the sharing of intelligence between the French authorities and the National Crime Agency. The CJA in Italy has been able to assist the NCA where there is an issue of people trafficked from Africa. The Italian and Nigerian CJAs have facilitated contact between the relevant Italian judge and Nigerian prosecutors to resolve jurisdictional issues. The aim is to produce a template of working for future similar cases.

Other examples include:

Senegal and Nigeria

There is an investigation of 45 trafficked female victims in Mali in which the CJAs in Nigeria and Senegal are assisting. The victims have been repatriated, along with five suspected traffickers. Work is ongoing to ensure evidence sharing is effective and that Malian and Nigerian Government prosecutors and investigators are supported. If successful, this will be the first ever human trafficking case prosecuted in Mali and the largest prosecution in Nigeria. The CJA in Nigeria is providing a casework mentoring service to support prosecutors in Nigeria to work in partnership with Mali in a complex international investigation.

Greece

The CJA based in Greece is working closely with the Greek Human Trafficking Rapporteur based in the Greek Ministry of Foreign Affairs, preparing for a two day Modern Slavery and Human Trafficking event in November 2017 involving the UK's Independent Anti-Slavery Commissioner and his Greek counterpart, followed by an all-day training event for Greek practitioners.

Tanzania

The CJA provided assistance to the Tanzanian authorities in registering the first foreign financial order, a restraint order. The Tanzanian authorities are now ready to enforce this, which is the first time they will have done this for any international case, and also wish to enter into an asset sharing agreement with the UK for the same case. This was not a modern slavery and human trafficking case, but the capability can be transferred across other thematic case types.

Guidance and policy

3.23 Legal guidance is available on the CPS intranet, although this was delayed for some months following implementation of the legislation. In its place at the outset was a Powerpoint presentation sent out to the Areas by the policy lead. The most recent update to the guidance was awaiting approval at the time of our inspection, but the approved process is cumbersome and needs to be expedited. A further update is anticipated once the outcome is known in relation to two cases pending appeal in early 2018 that will consider the application of the section 45 statutory defence¹⁴ and where the burden of proof lies. There is also guidance to assist with child sexual exploitation cases, which is not always considered to be internal trafficking.

3.24 There is additional material and templates on the CPS casework hub which are useful reminders about ancillary matters flowing from the legislation. The challenge is ensuring that prosecutors refer to these materials, as it was apparent from feedback that the hub is not referred to regularly enough. There is also the danger of overloading it with too much information, which can deter people from using it due to the difficulties of navigating through what might appear to be irrelevant.

¹⁴ Section 45 Defence for slavery or trafficking victims who commit an offence.

(1) A person is not guilty of an offence if— (a) the person is aged 18 or over when the person does the act which constitutes the offence, (b) the person does that act because the person is compelled to do it, (c) the compulsion is attributable to slavery or to relevant exploitation, and (d) a reasonable person in the same situation as the person and having the person's relevant characteristics would have no realistic alternative to doing that act.

(2) A person may be compelled to do something by another person or by the person's circumstances.

(3) Compulsion is attributable to slavery or to relevant exploitation only if— (a) it is, or is part of, conduct which constitutes an offence under section 1 or conduct which constitutes relevant exploitation, or (b) it is a direct consequence of a person being, or having been, a victim of slavery or a victim of relevant exploitation.

(4) A person is not guilty of an offence if— (a) the person is under the age of 18 when the person does the act which constitutes the offence, (b) the person does that act as a direct consequence of the person being, or having been, a victim of slavery or a victim of relevant exploitation, and (c) a reasonable person in the same situation as the person and having the person's relevant characteristics would do that act.

(5) For the purposes of this section—"relevant characteristics" means age, sex and any physical or mental illness or disability; "relevant exploitation" is exploitation (within the meaning of section 3) that is attributable to the exploited person being, or having been, a victim of human trafficking.

3.25 The policy lead has also been provided with a ‘webinar’ from Scotland which deals with the non-prosecution of victims and is currently considering with CPS Learning and Development whether and how this could be sent out. There are other opportunities to optimise short webinars, live streaming and similar digital media to share key messages in a consistent national approach.

Recommendation

The CPS should, maximise the usefulness of the casework hub by incorporating case studies of live and finalised cases, good practice and lessons learned and ensure there is a mechanism to share learning nationally that is coherent and consistent.

Assurance

3.26 There is no national assurance mechanism for modern slavery and human trafficking, although individual cases can be included in the Individual Quality Assessment regime or form part of Local Case Management Panels. There is, however, a mechanism for the strands that fall under the VAWG umbrella, namely those that have elements of sexual exploitation. VAWG has a framework that operates both nationally and locally to provide assurance and oversight at local level, including joint performance management with the police, and external challenge and learning through scrutiny panels. There is accountability to CPS Headquarters through the VAWG assurance reports and the annual VAWG Report. There is no similar structure for modern slavery and human trafficking, which is unfortunate because it is an area of work that deals with the most vulnerable victims and only some of the casework is subject to such scrutiny. The most serious casework in the CCUs will be subject to individual scrutiny and accountability, which is underpinned by the Case Management Panel mechanism. Work that is referred to the Crown Court units falls outside all of this. The absence of a single effective assurance system hinders effective performance management, knowledge management, evaluation of the effectiveness of training, and the ability to identify knowledge gaps and training needs.

3.27 The CPS needs to consider how best to provide assurance, whether to link in to the existing VAWG process or have a similar system that links all the strands. It also needs to consider how best to engage with the third sector locally, which could be by adding modern slavery and human trafficking to existing scrutiny arrangements as a themed strand for panel examination.

3.28 Data is provided on an annual basis for human trafficking as part of the annual CPS VAWG Report, which was published on 10 October 2017 for 2016-17.¹⁵ Some additional data has been made available from Headquarters, but this has been described as ad hoc and cumbersome. The collection and sharing of data is an important tool to analyse performance and drive improvement.

3.29 There is currently a significant disparity between the numbers of potential victims, the numbers which go through the National Referral Mechanism and the number of actual prosecutions. It would be helpful if the CPS communicated better the reasons why cases do not proceed, so that the disparity of the bare figures is better understood. The figures need to be contextualised to take into account all the factors, for example where an investigation leads to a prosecution but not for modern slavery and human trafficking offences.

Recommendation

The CPS should:

- introduce a quality assurance mechanism for all modern slavery and human trafficking casework
- collate and maintain performance data locally and nationally rather than under current ad hoc arrangements
- introduce a mechanism for effective third sector engagement and scrutiny.

Recording and flagging

3.30 There is a mechanism to flag all cases of modern slavery and human trafficking if the case is referred by the police as such, and this will remain on the case regardless of with what offences the defendants are charged. This is positive as not only does it help to understand the volume of cases and case type, it also helps identify alternative options for dealing with cases and how successful these have been in terms of prosecution or disruption. There is a mechanism to check compliance with this process, which suggests a high compliance rate with the flagging requirement. However, inspectors examined cases on the CPS case management system involving offence codes for modern slavery and human trafficking to assess whether they had been flagged properly. The table overleaf shows that performance has declined since 2014-15, with the figures for 2016-17 showing that over 23% of cases had not been flagged. The CPS may want to review the compliance regime and the data flowing from it.

¹⁵ *Violence Against Women and Girls Report Tenth Edition 2016-17*; CPS; October 2017.
www.cps.gov.uk/publications/docs/cps-vawg-report-2017.pdf

2013-14			2014-15			2015-16			2016-17		
Number of cases	Number flagged	% flagged	Number of cases	Number flagged	% flagged	Number of cases	Number flagged	% flagged	Number of cases	Number flagged	% flagged
69	58	84.1%	60	52	87.7%	117	91	77.8%	99	76	76.8%

Training

3.31 There is a Human Trafficking e-learning course available on the Prosecution College website, which was an existing course amended to include the new legislation. Taking the course was not mandated and it has been completed only by those who saw it as relevant to their caseload. Latterly, CPS Direct¹⁶ has mandated the training for all prosecutors. The policy lead also issued a Powerpoint presentation to Areas following implementation of the new Act, which continues to be available on the casework hub on the CPS intranet. This provides a simple introduction to the legislative changes, offences, new orders and the section 45 statutory defence.

3.32 A knowledge gap has been identified in relation to JITs, which are a very useful tool to employ in cases with an international element, in order to share evidence with other countries. They have, and continue to be, used effectively, even if the number is currently small and they are not being maximised. At the time of the fieldwork a workshop was held specifically to train on JITs using a case study from an existing JIT. It involved representatives from each Area as well as investigators. Although the spaces available were limited, this training is welcomed and should be disseminated to relevant prosecutors in the Areas, emphasising the additional materials on the casework hub. It would be helpful if further case studies and experiences could be shared on the hub to demystify the process further.

3.33 A training package has also been designed with a view to roll out to tutor Area trainers, who will then deliver training at local level. The training will incorporate the recommendations from the Modern Slavery Act Review, which provides a better understanding of the nuances of victim vulnerabilities. There will be a presentation on credibility versus consent of victims, as well as one from Eurojust. The intention is to hold 12 sessions in total, with eight for the 14 CCUs so there can be cross-experience shared of different types of offending in the regions, for example from sham marriages in urban areas to forced labour in more rural locations.

¹⁶ CPS Direct provides charging decisions to all police forces and other investigators across England and Wales. It operates 24 hours, seven days a week, 365 days a year. The team of prosecutors are based throughout England and Wales, working from local CPS offices and their own homes.

3.34 The first training has yet to be delivered but again this is welcomed, although not all the trainers were clear who would require training in Areas following the delivery of the trainer programme. Areas need to clarify what the casework profile looks like and where the works sits, to identify those with a training need. Areas may also want to consider whether this can be tailored to deliver awareness training to all staff, or whether the trainers can use other packages available through the National Police Lead for first responder¹⁷ awareness training to ensure all staff recognise victims, particularly advocates at court and those that have any contact with victims and witnesses.

3.35 There are knowledge gaps that need addressing to ensure the response to the Act at Area level is as required. The call from prosecutors dealing with cases is for practical workshops focused on real case studies, similar to the training provided to RASSO specialists. All CCU and RASSO lawyers should be trained and there should be knowledge within the Crown Court units as well. The Human Trafficking e-learning course should be mandated for all, with additional awareness sessions provided across the Service similar to that provided to front-line staff to address the low level of understanding. One suggestion provided to inspectors was an internal awareness raising campaign.

3.36 There are some positive examples of training being carried out at Area level. In Wales they have developed a three day hydra¹⁸ training course which is used to train police senior investigating officers and CPS personnel. Other CPS Areas have sent staff on the course and, at the time of the fieldwork, 38 CPS prosecutors had been trained. Feedback about the course was very positive and attendees are provided with a handout that can be circulated to others within their Areas.

3.37 In CPS West Midlands the Principal Crown Advocate has developed a tool kit and delivered training to the majority of the lawyers in the RASSO unit and also with partners.

3.38 In addition, since the Modern Slavery Act came into force the CPS nationally has been working with a range of partners to deliver training and presentations to the police and the Law Society. The CPS has also delivered a presentation on the new provision at the International Human Rights Conference. However, there is still a need for a training package for the Bar.

¹⁷ Those working in the emergency services, the NHS and local authorities are often the individuals who first spot the signs and are responsible for making a referral.

¹⁸ Interactive training that enables the monitoring of leadership and decision-making where the incidents unfold in real time.

Recommendation

The CPS needs to:

- mandate the e-learning for all prosecutors
- provide awareness training to all staff
- ensure more developed training is delivered to all relevant staff handling any cases involving a modern slavery and human trafficking element
- ensure learning in relation to joint investigation teams is disseminated and supported by practical examples on the casework hub.

4 The operational response

Local leadership

4.1 The Areas visited during the fieldwork did not approach modern slavery and human trafficking as a single body of casework; it sat in silos across the various units. There was no overarching lead but responsibilities were split according to where the work sat, meaning the approach is piecemeal and ad hoc.

4.2 The expectation from CPS Headquarters is that all modern slavery cases should be referred to the Area CCUs unless they are sufficiently complex to be referred to the Headquarters Divisions. However, there continues to be many cases that are being referred and prosecuted under the legislation that pre-dates the Modern Slavery Act, which rely on Areas to allocate according to the operational casework model they deploy. In addition there is guidance for investigators as to where cases should be referred, namely:

- **Level 1** work should be handled by the relevant local Area CPS team. This is work without significant evidential complexity or complexity in relation to sensitive disclosure issues. For example, identity card offences when dealt with by Immigration Enforcement and facilitation of illegal entrants - often by private motor vehicle or by lorry - with no attendant complex issues such as sensitive disclosure, organised crime, gang involvement or multiple international enquiries. The number of illegal entrants may be an important factor, but it is not the determining factor.
- **Level 2** work with evidential complexity which should be handled by the CCU of the local CPS Area. It will contain one or more of the following characteristics as set out in the CCU "Blueprint" (the criteria for referral of cases to the units):
 - large scale human facilitation/trafficking bearing the hallmarks of organised crime, including the employment of illegal workers
 - modern slavery offences, contrary to section 1 of the Modern Slavery Act 2015
 - organised manufacture or sale of forged or stolen documents for use in immigration crime. Depending on scale, this may include bogus colleges and sham marriage arrangements

And where they are linked to Immigration Enforcement cases:

- serious and complex money laundering offences
- complex restraint and confiscation issues
- cases requiring multiple foreign enquiries and overseas liaison
- extensive or complex and sensitive disclosure issues.

- **Level 3** work is the most complex and should be handled by the International Justice Organised Crime Division or the Specialist Fraud Division (SFD), depending on the nature of the offences under investigation. Such investigations will usually have one of the following characteristics: national co-ordination is required and/or OCD/SFD lawyers' specialist knowledge is required. Such work will include:
 - complex level 2 cases utilising sensitive intelligence or certain covert operational support of such a nature that it requires to be dealt with by a CPS specialist prosecutor
 - complex level 2 cases involving a JIT with overseas sensitive intelligence
 - complex level 2 cases involving internal corruption.

4.3 We found various models operated in the Areas and no level of consistency, which creates a confused picture and particular challenges for local leads, national consistency, oversight and assurance. Work can sit in the CCUs, RASSO units and Crown Court units and a combination thereof. Some sexual exploitation cases are dealt with in the CCUs and some in the RASSO units, so even those are not clear cut. In one Area where all modern slavery and human trafficking cases are currently referred to the CCU, the Area is moving towards stricter adherence to the CCU Blueprint and cases that do not meet the criteria will be dealt with elsewhere in the Area. This has risks if they are managed by untrained and inexperienced prosecutors, but over time it will create more resilience as volumes increase, provided there is suitable training and systems are in place to quality assure in all units managing these cases.

4.4 It was difficult to identify Area leads. Most thought the lead was provided by the Head of the CCU, with sexual exploitation cases falling under the VAWG lead, and those in the Crown Court units perhaps falling outside both of these remits. This silo approach hinders sharing of knowledge, good practice and lessons learned and, not surprisingly, Areas did not know the number of cases that sat in the different units or had any overall performance data to drive improvement. It also makes understanding resourcing of the units more challenging, particularly if the volume increases as anticipated.

4.5 The position is not helped by the various models operated by the relevant police forces referring cases to the CPS. Some have dedicated units for modern slavery and human trafficking, others have teams set up for specific operations and some work is dealt with by front-line officers. In addition, child sexual exploitation invariably sits in separate specialist police units or teams. This further limits the ability to have an overarching picture, collect joint performance data and have joint mechanisms to examine that data. This approach lacks clarity, it risks issues falling in the gaps and needs to be addressed.

4.6 There needs to be a clear structure and a consistent approach with Area leads that have oversight of all casework, whether that be a specific lead for the subject area, the CCU Head with knowledge and experience of the most complex work, or the VAWG lead under which system some of the work already falls and has established structures.

4.7 All the Areas visited reported that they had capacity at present to deal with the current volume of cases, although the picture was less clear if volumes increase. The Headquarters Divisions feel that they have the capacity at the moment to deal with the work but they are conscious that they may have to become more agile in future and the position is being monitored.

4.8 In Wales there is a strategic delivery plan, although this is part of an overall joined-up approach to deliver the aims of the Welsh Government. There is a Wales Anti-Slavery Leadership Group which provide strategic leadership for tackling slavery in Wales and also works on raising awareness. The CPS Inclusion and Community Engagement Manager attends the meetings. In this context CPS Cymru-Wales has a strong and co-operative working relationship with partners and agencies and a member of CPS staff also chairs the Wales Anti-Slavery Operational Delivery Group. One other CPS Area visited had a strategic plan pending.

4.9 Areas need to be clear about the strategic approach, which will assist in addressing the gaps highlighted in this report.

4.10 Some Areas have also been slow to progress the work in response to the Act. CPS Direct only appointed a lead in September 2017. There is now therefore a single point of contact and the Human Trafficking e-learning training has been mandated for all CPS Direct prosecutors.

Recommendation

The CPS needs to:

- ensure Area leads are appointed who are sighted on all strands of modern slavery and human trafficking work, and are able to make the links across all crime types and lead on knowledge management and sharing, as well as assurance and performance
- provide clarity about where cases are dealt with and how they are allocated in the Areas.

Understanding the legislation and the nature of offending

4.11 It needs to be highlighted that feedback during the fieldwork confirmed that individual cases were handled well. The visits also showed that there was awareness of the nature of crime types in the Areas and certain police forces. This can vary due to the geographical location, from agricultural labour and factory labour to ‘pop up’ brothels,¹⁹ for example. There was also considerable knowledge and experience in the Areas with prosecutors who have had direct experience of cases. However, this was not necessarily shared within the Area across the unit, with other units and more generally with other Areas nationally.

4.12 The number of prosecutors allocated the most complex cases varied across the Areas. There were examples of units trying to build resilience by spreading the work across a greater number of prosecutors, whereas elsewhere it was restricted to a small number of specialists, which holds risks in terms of the ability to be flexible and having the correct resource if volume increases. Areas need to ensure that there is the capacity should volumes increase, but in doing so ensure training and an element of mentoring from prosecutors experienced in this casework is provided.

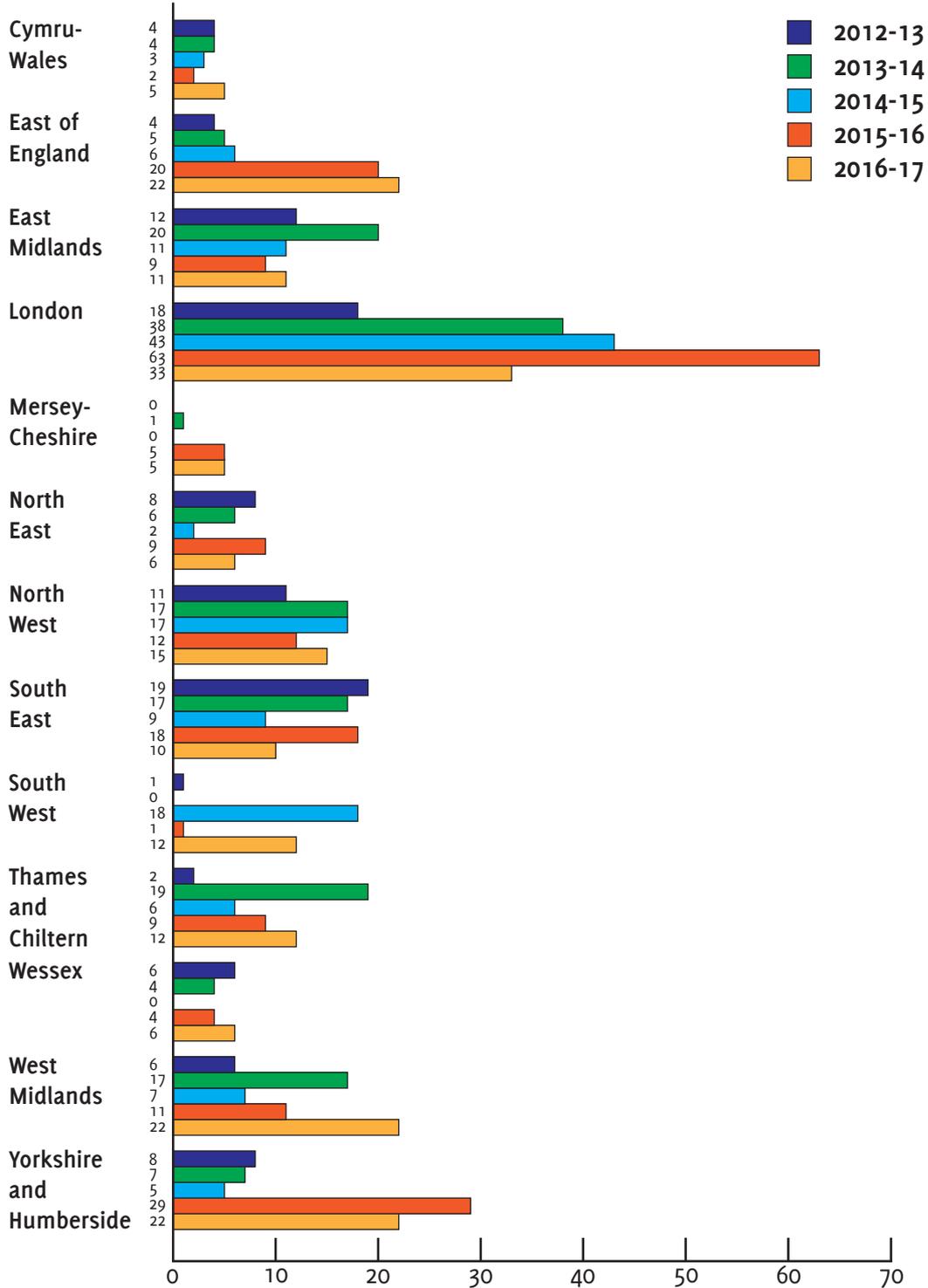
4.13 There was also understanding of the new legislation, in that it simplified the offences. It was clear that prosecutors handling these cases would like some assistance and support in relation to a number of tools, such as the JITs, how Eurojust can provide support, and the use of risk or prevention orders as part of a case strategy. This could be addressed with case studies of live and finalised cases. In addition, further help on the particular vulnerabilities of victims could be addressed through awareness training packages that are available for front-line staff and first responders.

Managing performance

4.14 The table opposite shows that the numbers of modern slavery and human trafficking cases in Areas is still low, but has increased over time. Flagging of cases should make it easier to identify all Area cases and outcomes, to facilitate managing performance internally and with partners. However, although unit heads knew the number of cases within their own teams there was less clarity in relation to the overall number of cases in Areas and the outcomes, due to the split of cases across the various units. The absence of Area leads and the split of responsibility for the different crime types meant that no-one held accountability overall. This lacuna needs to be addressed.

¹⁹ Temporary brothels set up for a short period of time, for example, to coincide with an influx of people for an event such as a sporting fixture.

Numbers of successful cases



4.15 There are no specific assurance mechanisms in Areas beyond the existing structures, namely, cases that are reported through the VAWG assurance mechanism, the Area Individual Quality Assurance regime, Case Management Panels and adverse case reports.

4.16 There are also no mechanisms locally for collating modern slavery and human trafficking data, analysing it, or sharing with partners. There is no joint performance data and analysis of cases, nor is there a mechanism to discuss this. The existing Prosecution Team Performance Management arrangements are not suited because of the silo approach and the various models operated by the police. This needs to be addressed with a coherent holistic approach.

Recommendation

The CPS needs to introduce a mechanism, with partners, to collate and analyse joint performance data across all strands of modern slavery and human trafficking crime types.

Joint working

4.17 Inspectors were told that there is very effective joint working between the CPS and specialist police units or operational teams in the most complex cases in the CCUs and RASSO units, and cases are well handled. But this approach is on a case by case basis and does not translate well to less complex cases handled elsewhere that are referred by front-line police officers. Also, this approach fails to join up all the strands internally for the CPS and externally with police and other partners, and the third sector. As highlighted above there is also no formal joint performance management regime.

4.18 Currently there is significant variation across the regions in terms of the multi-agency groups that exist, who is involved and how they are funded. It appears to be dependent on certain key individuals to drive things forward. For the most part the CPS does not appear to be represented at a local level at multi-agency forums; attendance and involvement would help with raising awareness.

4.19 In Wales, as part of the national approach, there is a Casework Review Group. This joint group of criminal justice partners and stakeholders considers individual cases, lessons learned and good practice across all the strands and, helpfully, includes cases that are investigated but do not necessarily reach prosecution. This is part of the commitment of the Welsh Government, but the principles could be applied elsewhere and is **good practice**.

4.20 In June 2017 CPS West Midlands held a Modern Slavery conference with partners from the four relevant police forces. This was over-subscribed, so a further one is planned with delegates from the third sector. This is a positive example of successful joint working.

Sharing good practice and learning lessons

4.21 The CPS policy lead is able to provide a national point of contact for Areas and answers individual queries from them, as well as sharing good practice, but this is dependent on Areas providing case studies and template examples. It is an ad hoc arrangement and relies on information being forwarded to CPS Headquarters to be disseminated; there needs to be a more formal mechanism. The limited resource at Headquarters makes these arrangements challenging as there is a single policy lead who holds other portfolios and has limited, if any, administrative support. Examples and case studies can and have been included on the casework hub, but again this is reliant on the provision of those materials and the resource at Headquarters having the capacity to handle this material.

4.22 There are other mechanisms at national level for sharing information lessons learned and capturing good practice. The CCU Heads have monthly telephone 'dial-ins' where information can be exchanged, there are VAWG co-ordinators meetings and the RASSO leads networks, all of which provide central networking opportunities. However, these are not used or maximised in terms of modern slavery and human trafficking casework and reinforce the silo approach, where links across the strands need to be made. There should be a coherent approach and a formal mechanism overlaying all modern slavery and human trafficking casework.

4.23 The Casework Review Group meets quarterly and looks at modern slavery cases. The Head of the CCU attends, as do external stakeholders. The group sometimes tables cases that have not yet come to the CPS for early investigative advice, which provides early notice of potential work in the pipeline. It also discusses targeted activity aimed at increasing prosecutions. The Casework Review Group is unique to Wales and is, in effect, a scrutiny panel, which could be a model for roll out across England and Wales. There are also scrutiny panels across the other Areas, but these are not used for modern slavery and human trafficking casework, although it could be added as a thematic strand for consideration at the panels that currently exist.



5 Prosecution of modern slavery and human trafficking cases

Overview

5.1 The Independent Anti-Slavery Commissioner has five priorities, which include the need to improve the law enforcement response,²⁰ because although victims are identified and referred to initial support, perpetrators are not always pursued. In addition, crimes are not always recorded, which means that investigations are not instigated and, ultimately, will result in fewer prosecutions and convictions. Bearing this in mind, there is a challenge for the CPS pursuing a prosecution because if cases are not investigated and advice is not sought, cases cannot be prosecuted.

5.2 Feedback from stakeholders suggests that, in relation to the most difficult cases dealt with in the CCUs, there were no concerns in relation to the quality of lawyer input from early liaison and the effectiveness of early investigative advice, awareness of proceeds of crime implications, the existence and use of the statutory defence, and the handling of unused material, through to the treatment of victims and witnesses during the court process. It was also felt that cases are appropriately allocated, although care must be taken not to create pockets of excellence and ensure sufficient expertise is built up amongst more lawyers to provide resilience. One concern raised by stakeholders was if the volume of cases increases to reflect the numbers of potential victims reporting through the National Referral Mechanism, that they will need to be dealt with by Area lawyers and the level of knowledge will not be as high as for those situated in the CCUs. Action needs to be taken in advance in terms of awareness and training to mitigate this risk, rather than reacting to this if the risk materialises.

Early investigative advice

5.3 The feedback from interviews showed that early investigative advice (EIA) is provided by the CCUs when it is needed and there is early liaison with the police dedicated units or specialist operational teams. We were told that in some instances advice could have been sought earlier by the police, but for the most part this was not an issue. The Areas need to ensure that they are proactive in motivating the police to take up EIA and look for offences, and ensure lessons learned are used to drive up best practice.

5.4 Despite the perception that most of the casework sits in the CCUs and advice is provided by the Area, CPS Direct (CPSD) provides advice to the police, particularly on the threshold test²¹ and in the less complex cases. In the most complex cases this should not happen if there is early liaison with the police and we were provided with examples where lawyers worked out of hours to provide pre-charge advice for planned operations; the CPS needs to ensure that it is not reactive to police actions.

20 www.antislaverycommissioner.co.uk/

21 The threshold test may only be applied where the suspect presents a substantial bail risk and not all the evidence is available at the time when he or she must be released from custody unless charged.

5.5 A complaint made by Areas and the police was the absence of an effective feedback mechanism to CPSD to share learning. The current arrangement is via an electronic mailbox, which is under-used and appears to be one way communication, where it does take place. The previous regime of face to face meetings with CPSD liaison managers was felt to be far more effective. This issue was also raised in the joint thematic inspection of stalking and harassment²² and has yet to be addressed. There should be a more effective mechanism for feedback between CPSD and the Areas and, through the Areas, with the police.

Recommendation

The CPS Areas need to:

- work with police forces to ensure opportunities for early investigative advice are maximised
- ensure there is an effective mechanism for feedback and sharing lessons learned between the Areas and CPS Direct.

Mutual Legal Assistance and joint investigation teams

5.6 Formal Mutual Legal Assistance can take the form of sending a Letter of Request or, in the European Union, this will become a European Investigation Order to the other country requesting the evidence required. An alternative approach is establishing a joint investigation team with investigators and prosecutors from other European Union countries, where more than one country is engaged in parallel investigations. A JIT is established for a fixed period to carry out investigations in the Member States which are party to the written agreement between them. This enables the collection of evidence from participating States without the need for formal Letters of Request and is an effective way to tackle organised criminal networks that operate internationally. It enables investigation in each other's countries and allows access to evidence that would otherwise be inadmissible, for example wire taps from another jurisdiction.

5.7 Many lawyers have experience of Letters of Request and are comfortable with the process. JITs are unfamiliar, but are more efficient and can save significant time. They can provide the opportunity to build relationships and open doors. At present they are under-used because knowledge is limited to pockets where lawyers have participated in a JIT before. However, once they have been used there appears to be 'repeat business' from those who have acquired knowledge of the process. There needs to be a balancing of the risks of developing expertise of individuals against spreading cases requiring a JIT more widely, to increase the lawyer knowledge base.

²² *Living in fear - the police and CPS response to harassment and stalking*; HMIC and HMCPSI; July 2017. www.justiceinspectors.gov.uk/hmicfrs/publications/living-in-fear-the-police-and-cps-response-to-harassment-and-stalking/

5.8 The UK is currently involved in 20 live JITs for human trafficking, of which the Metropolitan Police and CPS London have 14. There is significant expertise in London, which should be drawn on by other CPS Areas. There is also an appointed JIT lead in IJ0CD. The significant knowledge gap in relation to JITs was identified and a workshop held in conjunction with the Metropolitan Police in September 2017 highlighting the challenges and benefits, outcomes, the JIT agreement and the business case and ethics, to demystify the process and involved a case study presented by a CPS prosecutor previously posted to Eurojust. There is also additional information on JITs and Eurojust on the casework hub.

5.9 Feedback from lawyers who had used the process stated that it was not as complicated as it was expected to be and that Eurojust undertook most of the work in terms of provision of paperwork and JIT drafting, and provided all the relevant support. Eurojust expects that the allocated prosecutor will be party to any JIT to ensure they are fully engaged and participating. However, we were told that prosecutors were not always being allowed to attend co-ordination meetings, even though their flight and hotel are paid by Eurojust; this also applies to JITs used for other crime types. CPS Area managers need to be more willing to allow prosecutors to attend the co-ordination meetings in appropriate circumstances, allowing lawyers to fully engage in the process.

5.10 The number of JITs needs to be increased as an investigative tool to aid a case strategy. Prosecutors need to ensure that, when dealing with modern slavery and human trafficking cases with a foreign element, they think ‘international’ earlier and that it is not something to be fearful of.

5.11 Although JITs are restricted to Member States of the European Union there are other systems in place for working with non-European Union countries with mechanisms for international co-operation and working together.

Case study

A gang of four Hungarian men and one British woman was found guilty of trafficking women for sexual exploitation as prostitutes in the UK. Four were found guilty of conspiring to traffic women into the UK to work. They flew more than 50 young women into the UK from Hungary and set them up in airport hotels, student accommodation and suburban homes. The charges related to more than 60 incidents over a period of almost two years. The women were brought from Hungary into the UK after their “profiles” had been uploaded on to a website advertising sexual services for sale.

Customers would call mobile phones used by the gang who then arranged for them to meet young women at a hotel or in houses run by the Hungarians as brothels. The gang operated out of an internet cafe in Croydon, south London. In many instances, the victims came to the UK to try to escape financial difficulties at home. Payments for their flights were often made by one of the five individuals convicted. Once in the UK these “debts” were used as a hold over the women who were forced to work for up to 12 hours a day. When the women told the group they did not want to work as prostitutes, threats would be made against them and their families back in Hungary. Threats were also made to expose the work they had been doing in the UK in their home country. The investigation was co-ordinated with police and judicial authorities in Hungary.

5.12 IJOCD also has an extradition team, used to extradite defendants from other countries to face criminal proceedings and acts on behalf of other countries seeking the extradition of offenders from England and Wales. It can be a reference point for the CPS Areas.

Case building

5.13 HMICFRS’s October 2017 report on the police response to the Modern Slavery Act 2015 found that larger investigations were generally well managed. Forces that responded through their organised crime structures and partnership structures tended to be better equipped to deal with this type of offending, as were those with dedicated units or specialist teams. However, there were significant problems with handling investigations at lower levels and a greater need to consider evidence-based prosecutions, with better understanding of, and collaboration with, international enforcement agencies. This will impact on the ability of the CPS to prosecute cases effectively and reflects our findings in terms of cases tending to be reliant on the evidence of victims and limited knowledge of international joint working.

5.14 Cases tend to be heavily reliant on the evidence of the victim, although there is significant potential to build cases without being so dependent. There is no specific CPS legal or policy guidance on ‘victimless’ prosecution for human trafficking, slavery and forced labour offences. Consideration of whether trafficking or slavery offences can be charged will be contingent on the evidence obtained and the facts and merits of each case. Victimless prosecutions will usually be dependent on proactive investigation commenced by the law enforcement agencies. However, good practice should be to obtain as much of this type of evidence as possible in cases where the victim is willing to testify,

to corroborate their evidence and reduce the burden on the victim. In cases where the victim has provided an account but is not willing to give evidence, consideration can be given to making a hearsay²³ application.

5.15 In cases where evidence obtained does not support a prosecution for trafficking or slavery, it is possible to consider other victimless offences such as facilitation under section 25 Immigration Act 1971 or money laundering under the Proceeds of Crime Act 2002. In other cases it may be possible to consider offences of conspiracy to traffic or conspiracy to hold someone in slavery, rather than the substantive offences.

5.16 If a victimless prosecution is contemplated, joint working between the police and prosecutors is vital to consider an early investigative/prosecution strategy and how a case can be built without the complainant's active participation. In cases involving large numbers of suspects, the prosecution strategy may include who should be treated as witnesses and who should be treated as suspects.

5.17 There are tools to assist in case building. A Memorandum of Understanding is in force between the CPS, National Police Chiefs' Council, National Crime Agency and Her Majesty's Revenue and Customs (HMRC) to ensure consistent and thorough handling of cases involving covert operations. This contains a checklist of the types of evidence to support all forms of exploitation. Examples of best evidence that can be sought to build a stronger case can be found at annex C. The agreement directs that close and early liaison between relevant organisations takes place to ensure that the best evidence is gathered for criminal proceedings and that investigators and prosecutors work closely together from the outset to confirm the necessary actions to be carried out and documented.

²³ Hearsay section 116 Criminal Justice Act 2003. Under section 116 of the Act: The statement may be oral. In the case of fear, the statement need not have been made to a person in authority. In relation to unfitness, the unfitness is in relation to being a witness as opposed to attending as a witness. Where a witness does give evidence, but through fear does not cover the relevant matter that is contained in a statement, this matter may be admissible. There is automatic admissibility of a statement made by an identifiable person of evidence that would be admissible if that person were available to give oral evidence but are unable to do so because either: The person is dead (section 116(2)(a)); The person is unfit to be a witness because of their bodily or mental condition (section 116(2)(b)); The person is outside the United Kingdom and it is not reasonably practicable to secure his attendance (section 116(2)); or The person cannot be found although such steps as it is reasonably practicable to take to find him have been taken (section 116(2)(d)).

Case study

Four men were convicted for their involvement in a people trafficking ring which abused and exploited Polish workers as modern slaves. It was a large scale operation, which transported vulnerable people to the North East of England on the promise of well-paid work. The victims were housed in cramped conditions and forced into minimum wage jobs, with their salaries paid into bank accounts controlled by the criminal gang. Any resistance was met with violence and intimidation. Once this group became aware of the police investigation, they made a calculated effort to remove or destroy any evidence linking them to this case. Despite their attempts, the CPS worked closely with detectives to build a complete picture of the scale and scope of their criminal operations.

The men were found guilty of offences including conspiring to transport people for exploitation, conspiring to force people into labour and conspiring to conceal criminal property. The four were sentenced to a total of 32 years' imprisonment for their involvement.

The statutory defence – a victim or a suspect

5.18 Section 45 of the Act introduces a statutory defence for victims of trafficking or slavery forced to commit a criminal offence. The National Referral Mechanism data shows that the most common exploitation type recorded for potential exploitation reported as an adult was labour exploitation, which includes criminal exploitation. The most common exploitation recorded for potential victims first reported as a minor was labour exploitation, which includes the sub-category of criminal exploitation, such as cannabis cultivation. One charity stated that the majority of their clients had already been criminalised by the time they reached them for support. Therefore the potential for the defence for perpetrators of crime who are in reality exploited victims of trafficking is great. This is another aspect of the new Act where knowledge could be greater amongst all legal practitioners.

5.19 The defence is relevant for crime types by potential victims outside modern slavery and human trafficking offences, therefore awareness is required in Crown Court and magistrates' courts casework as well as advocates at court. There may be instances where cases do not get referred to the CPS because the decision has been made by the police not to prosecute, for example the 'farmer' caught on premises used for cannabis cultivation,²⁴ but where cases are referred there needs to be a consistent approach applied on a case by case basis as the circumstances merit.

²⁴ *National Referral Mechanism Statistics - End of Year Summary 2016*; NCA; April 2017. www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics/2016-nrm-statistics/788-national-referral-mechanism-statistics-end-of-year-summary-2016

5.20 A Powerpoint presentation dealing with the defence was issued by the policy lead to Areas at the time of implementation of the Act and is available on the casework hub. There is also reference in the Human Trafficking e-learning package on the Prosecution College website, although it could include more detail about its application. The latest update of the legal guidance dealing with this point is awaiting approval. There are two cases (appeals against conviction) awaiting a hearing in the Court of Appeal in early 2018 to decide where the burden of proof lies in relation to the statutory defence, which will provide further clarification, but at present there is limited knowledge amongst practitioners, including the defence, and limited application of the statutory defence to date.

5.21 There is no data on the number of occasions the defence has been used, or instances where it might have been used and was not considered. Third sector agencies report that they have come across serving prisoners from other countries who have received a positive conclusive grounds²⁵ to remain in the UK from the Home Office, which shows they have been trafficked, and the defence was not raised prior to conviction.

Disclosure

5.22 The Human Trafficking course on the Prosecution College emphasises the need to consider the first responder form as part of the National Referral Mechanism in the disclosure process. This is relevant and has the potential to undermine or assist in terms of the credibility of the victim(s).

5.23 Revelation and disclosure of first responder accounts by victims is highlighted as an issue to be aware of because victims can give a number of accounts from first report through to the case being prosecuted in court. This has the potential to undermine the credibility of witnesses. It was apparent during fieldwork that the police and prosecutors spoken to were alive to this issue and this aspect of disclosure was not causing any particular difficulties.

²⁵ **The NRM process. Referral to a UK competent authority (first responders)** - To be referred to the NRM, potential victims of trafficking or modern slavery must first be referred to one of the UK's competent authorities (CAs). This initial referral will generally be handled by an authorised agency such as a police force, the NCA, UK Border Force, Home Office Immigration and Visas, Social Services or certain NGOs. The referring authority is known as the 'first responder'. **Stage one - "Reasonable grounds"** - The NRM team has a target date of five working days from receipt of referral in which to decide whether there are reasonable grounds to believe the individual is a potential victim of human trafficking or modern slavery. If the decision is affirmative then the potential victim will be: allocated a place within Government funded safe house accommodation, if required; and granted a reflection and recovery period of 45 calendar days. This allows the victim to begin to recover from their ordeal and to reflect on what they want to do next, for example, co-operate with police as required, return home etc. **Stage two - "Conclusive decision"** - During the 45 day reflection and recovery period the competent authority gathers further information relating to the referral from the first responder and other agencies. This additional information is used to make a conclusive decision on whether the referred person is a victim of human trafficking or modern slavery. The trained decision makers threshold for a conclusive decision is that on the balance of probability "it is more likely than not" that the individual is a victim of human trafficking or modern slavery.

Prevention orders and risk orders

5.24 The Modern Slavery Act 2015 introduced new powers to help the police prevent or prohibit convicted defendants from activities which would enable them to commit offences of human trafficking or slavery and forced labour. These new orders are Slavery and Trafficking Prevention Orders (STPOs) and Slavery and Trafficking Risk Orders (STROs). They are civil orders enabling the court to impose both restrictions and positive requirements upon those convicted of, or at risk of committing, a relevant offence.

5.25 The STPOs and STROs aim to prevent modern slavery offenders and those who pose a risk of committing modern slavery and human trafficking offences from engaging in relevant activity, for example, working with children or acting as a gangmaster. An STRO 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. An STPO 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. Both orders require evidence in line with the criminal standard of 'beyond reasonable doubt'. Orders can be varied or renewed and the Act provides a right of appeal. The breach of any aspect of these orders is a criminal offence, carrying a maximum penalty of five years' imprisonment.

5.26 Although these are civil orders that will be sought by the police force solicitor, they can form part of a prosecution case strategy, so a co-ordinated approach would be desirable and, indeed, the Home Office guidance²⁶ envisages circumstances where advice should be sought from the CPS as part of effective joint working.

5.27 We were told that the CPS has drafted and advised on a number of granted orders since the end of July 2015, when the Act came into force, and examples of such orders are available on the casework hub. No data is maintained by the CPS on the number of orders obtained and where Areas were asked to provide advice as part of an overall case strategy.

5.28 The fieldwork revealed that there was limited knowledge in relation to the orders and how they could be used and an inconsistent approach by police forces as to whether they should be used at all, in case it alerted perpetrators to the investigation and put victims at further risk. In the West Midlands risk orders were used in a case that was being investigated and had yet to be charged. These are the first two orders in a case where the breaches have been prosecuted, resulting in custodial sentences for two defendants of three and half years and two years and four months, whilst the investigation continued. This protects the victims and any potential victims from further harm. The CPS advised in relation to these, which is **good practice**.

²⁶ *Guidance on Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders under Part 2 of the Modern Slavery Act 2015*; Home Office; April 2017.
www.gov.uk/government/publications/slavery-and-trafficking-prevention-and-risk-orders

Case studies

Two Lithuanian men were found guilty of trafficking workers from their home country to work in the UK for as little as eight pence a day in food processing factories in Norfolk. Both men received three and a half years' imprisonment. Their Slavery and Trafficking Prevention Orders forbid them from charging people to find work or retaining the passports or bank cards of any workers. If the order is breached they face up to five years in prison.

A man was sentenced to custody of three and a half years after admitting a string of trafficking offences, as well as related offences for controlling prostitution for gain, which involved bringing 16 Polish women to the UK over a period of 28 months to work as prostitutes across the UK. The Slavery and Trafficking Prevention Order forbids him from a number of activities, including not owning more than one mobile phone and SIM card, the number of which must be reported to his local police station, and not being able to hold the travel documents or organise travel for anyone other than members of his immediate family.

Four men were convicted for their roles in the trafficking of vulnerable women from Slovakia. All the women had been brought over to the UK by the organised criminal network in order to marry Indian or Pakistani men, thus providing the men with the means to remain in the UK. Some of the women believed they had been brought to the country for legitimate work. The men were sentenced to a total of 19 years and four months in prison. The Slavery and Trafficking Prevention Orders stipulate that for five years they may not travel back into the UK (following deportation) with any person that is not a member of their family. They must also provide the details of where they are staying to the nearest police station should they enter the UK. They must not contact their victims, nor must they travel to certain areas in Slovakia or carry identity documents of anyone that isn't in their immediate family.

A man was convicted of bringing four adults from Lithuania to work over a period of four months in Hereford. He had arranged employment for his victims but took control of the bank accounts set up for them and required them to pay a significant debt in order to "free" themselves from the requirement to work for him. He was sentenced to four years' imprisonment. The indefinite Slavery and Trafficking Prevention Order requires that he does not travel with, or organise travel for, anyone outside his immediate family. He is also not to contact his victims nor is he to possess more than one mobile phone or enter the town of Rokiski in Lithuania.

Proceeds of Crime

5.29 The Modern Slavery Act 2015 specifies that perpetrators convicted of slavery or trafficking face the toughest asset confiscation regime. It also introduces a new Slavery and Trafficking Reparation Order to encourage the courts to compensate victims where assets are confiscated from perpetrators.

5.30 The CPS Proceeds of Crime team is a specialist national team dedicated to securing restraint orders and enforcing the more difficult confiscation orders across the whole spectrum of crime. The 2015 Act made all modern slavery offences ‘criminal lifestyle offences’ for the purposes of Proceeds of Crime Act 2002 (POCA) in order to improve the chances of securing orders and recovering the profits made from modern slavery, where money or assets can be identified. The team also assists prosecutors abroad to restrain and enforce the recovery of assets in this country and can reach asset sharing agreements with counterparts abroad.

5.31 The motivation for modern slavery and human trafficking offending is financial gain and an important element of an investigation is to ‘follow the money’ to build a case. Therefore assets should be available for confiscation and reparation. However, we were told of examples of cash seizures by the police and the difficulties in tracing and locating funds, particularly in cash businesses, so it is not yet as widely used as anticipated.

5.32 Assets confiscated under the new legislation amount to £1.3 million, although the case study below shows that POCA has been used effectively for modern slavery and human trafficking offences that pre-date the legislation.

5.33 Comment during the fieldwork suggested that communication and feedback could be improved when cases pass on to the Proceeds of Crime team, in order that lessons can be learned across the breadth of modern slavery and human trafficking casework.

5.34 The Reparation Order does not appear to be widely used, which was also the perception of third sector agencies; there is no accurate data.

Case study

The CPS took more than £2 million from five members of a family who were convicted in December 2012 of slavery-related offences committed across Leicestershire, Gloucestershire and Nottinghamshire. The defendants beat their victims, forcing them to work for as little as £5 a day. They were found guilty of conspiracy to require a person to carry out forced or compulsory labour.

The assets recovered include a red convertible Mini, a Mercedes-Benz E350 and a Yacht Master steel Rolex watch. Around £150,000 was returned to victims as compensation.

6 Victims and witnesses

Overview

6.1 The National Referral Mechanism (NRM) assessment data²⁷ is based on potential victims referred to them. In 2016, 3,805 potential victims were referred to the National Referral Mechanism, which is an increase of 17% from 2015.²⁸ The potential victims were reported to be trafficked from 108 different nationalities, with Albanian, UK and Vietnamese nationals being the most commonly reported potential victims. This has not translated into numbers of victims in cases prosecuted through the courts, but highlights the potential number of some of the most vulnerable victims subjected to violence, coercion and control, with the added nuances of victims of trafficking highlighted in the introduction.

	Total number of referrals	Positive conclusive decisions	Negative	Pending decisions	Suspended cases	Withdrawn
2013	1,745	824	776	16	62	67
2014	2,340	900	1,013	312	53	62
2015	3,266	1,028	1,186	845	120	87
2016	3,805	635	962	2,053	64	91

6.2 The nature of the potential exploitation referred to the NRM is detailed below:

Claimed exploitation type	Female	Male	Trans gender	Total 2016
Adult – Domestic servitude	259	67	0	326
Adult – Labour exploitation	182	925	0	1,107
Adult – Organ harvesting	1	0	0	1
Adult – Sexual exploitation	888	58	5	951
Adult – Unknown exploitation	70	72	0	142
Minor – Domestic servitude	67	36	0	103
Minor – Labour exploitation	68	400	0	468
Minor – Sexual exploitation (non-UK national)	118	29	0	147
Minor – Sexual exploitation (UK national)	203	12	0	215
Minor – Unknown exploitation	80	265	0	345
Total	1,936	1,864	5	3,805

²⁷ National Referral Mechanism data refers to potential victims, not persons who have received a positive conclusive grounds decision that they are a victim of trafficking. Data is available through the National Crime Agency website (www.nationalcrimeagency.gov.uk).

²⁸ *National Referral Mechanism Statistics - End of Year Summary 2016.*

6.3 The data shows that 1,864 potential victims were male (49.0%), 1,936 female (50.9%) and five transgender (0.1%). It also shows that from 2014 to 2015, labour exploitation of men and boys rose from 554 to 931 potential victims (a rise of 68.1%) then to 1,325 potential victims in 2016 (42.3% rise). The sexual exploitation of women and girls increased from 753 to 946 potential victims (25.6% rise) to 1,209 in 2016 (up 27.8%). Domestic servitude of women and girls rose 32.5% from 237 to 314 potential victims, then by 3.8% to 326 in 2016.

Recognition of vulnerabilities

6.4 The most complex cases are referred by specialist police teams and in those instances victims are dealt with by police who are alive to the various vulnerabilities of victims of modern slavery and human trafficking. Many are then dealt with in the CCUs and RASSO units, where there has been training and experience of handling these challenging cases, although we were told of instances where the needs were not fully understood and managed properly, which increases the risk of victim disengagement.

Case study

In the North West four defendants were charged with offences relating to three female victims. The charges included: (1) Arranging or facilitating the victim's entry into the UK for the purposes of exploitation; (2) Requiring the performance of forced or compulsory labour, (3) Controlling prostitution for gain, (4) Attempted Grievous Bodily Harm and (5) Making Threats to Kill.

The three victims were supported through the National Referral Mechanism in the UK and the support continued when they returned to their home country (Hungary). The CPS worked closely with the Hungarian prosecutor and was able to obtain details around the defendants' foreign convictions. The CPS also obtained an expert report in order to address and explain the complex relationship between defendants and victims in these cases.

Only one of the victims was willing to return to the UK to give evidence against the defendants but this led to three of the defendants entering acceptable guilty pleas. The three defendants received custodial sentences, including one who was sentenced to 13 years and seven months. Slavery and Trafficking Prevention Orders were obtained against two of the defendants.

6.5 There are also cases being dealt with in the Crown Court units. Training has not been mandated for all lawyers and fieldwork suggested there is a lack of awareness about this crime type and, in particular, the challenges faced by victims. This is highlighted in chapter 3 where it is recommended that training is mandated for all lawyers and consideration given for awareness training, similar to that provided to front-line staff in other sectors, to assist in recognising the challenges. This would also help front-line staff being alive to the statutory defence for dealing with victims and witnesses, and advocates dealing with defendants at court. Third sector agencies have provided training on vulnerabilities and cultural issues, but this is patchy.

6.6 Special measures have been extended to all victims of trafficking and slavery which can be tailored to their individual needs, from screening them from defendants in the courtroom to enabling them to give evidence through a live link. Other initiatives to assist the most vulnerable witnesses in court include the pre-recorded cross-examination of victims,²⁹ which is to be rolled out in phases from September 2017; the use of intermediaries; and increasing opportunities for victims to give evidence through remote links from reception centres located away from the courts. There is also the CPS Speaking to Witnesses at Court initiative;³⁰ the CPS has delivered training, and this has helped.

Effectiveness of support

6.7 For victims who are particularly vulnerable due to learning difficulties or mental health problems, the use of intermediaries and ground rules hearings allow victims to be questioned in a way that is tailored to their specific needs. In instances where victims elect to return to their home country, arrangements can be made for them to give evidence via a live TV link, although there is the challenge of keeping them engaged in the process when they are overseas, and providing any continuing support.

6.8 Feedback from the fieldwork suggests a mixed picture in terms of the support provided in the form of interpreters and intermediaries. The availability of interpreters can be problematic as a large number may be required in a single case and they are not readily available across the country, as a consequence the quality is not always at the standard it should be. For example, a third sector agency told us about the use of Kosovan interpreters for Albanian clients; there were cultural prejudices and a very poor service was provided, which has the potential for serious adverse consequences. The use of a joint investigation team can help with understanding the cultural issues impacting on victims. The availability of intermediaries also remains a challenge.

²⁹ Youth Justice and Criminal Evidence Act 1999 Section 28.

³⁰ *Speaking to Witnesses at Court*; CPS; March 2016.

www.cps.gov.uk/Publications/Prosecution/speaking-to-witnesses-at-court-guidance-mar-2016.pdf

6.9 The quality of pre-recorded Achieving Best Evidence (ABE) interviews with victims also needs improvement. We were told of lengthy incoherent accounts, with or without interpreters, provided by way of ABE that could not be used, being too long and too unwieldy to edit. This undermines the protection available and the effective use of special measures. This in turn is a risk to the effective prosecution of cases and can undermine the prosecution of a case in court. The issues highlighted in the joint report on Achieving Best Evidence,³¹ include that the ABE interview is often the key element underpinning a prosecution and it invariably forms the evidence-in-chief of the witness. The failure to apply the guidance and adhere to the underpinning principles means that the best evidence is not always achieved. The interviews need to be undertaken by those best suited to this type of evidence gathering with better understanding of the evidential and advocacy aspects required, with greater input from the CPS or counsel who undertake the specialist area of casework. The CPS also has a responsibility in driving up quality by feeding back to the police where there are deficiencies. The recommendations from that report are equally applicable here.

6.10 There is also the challenge of victims returning home and the lack of support available to them. The police seek to gain help from other countries to support them. Eurojust are also available to help in this regard within the European Union. If victims return to their home country we were told that some stay supportive of the prosecution, giving evidence via video link or sometimes returning to the UK.

Safeguarding and managing risk

6.11 The casework hub highlights the need to consider victimless prosecutions and build evidentially strong cases without victims because cases can fail when victims disengage, disappear, or leave the jurisdiction. CPS Areas were alive to this but we were not told of any cases that demonstrated this, although there were examples where a different strategy was used, for example using HMRC or Department of Work and Pensions (DWP) prosecutions to disrupt activity instead. Areas also told us of using the hearsay provisions for victims and witnesses who cannot be traced. The CPS needs to ensure more cases are being built without victims to mitigate casework risks more effectively.

³¹ *Achieving Best Evidence in Child Sexual Abuse Cases - A Joint Inspection*; CJI; December 2014. www.justiceinspectorates.gov.uk/cji/wp-content/uploads/sites/2/2014/12/CJI_ABE_Dec14_rpt.pdf

Case study

A factory owner who employed large numbers of Hungarians as a “slave workforce” in his multi-million pound bed manufacturing business was part of a persistent scheme of exploitation involving many Hungarian men over a prolonged period of time. He was aware of the circumstances of the Hungarian nationals who were working at his factories and were exploited as a slave workforce; they were vulnerable and desperate for work, and promised good wages and accommodation. Once in the UK they faced a very different reality, living in shared, squalid and grossly overcrowded accommodation, some of which was provided by the defendant. They worked for anything up to 20 hours a day, five to seven days a week, for little or no wages. The money they earned was passed to the trafficking gang, who then handed over minimal amounts to the victims.

The case came to light after two Hungarians were arrested and subsequently convicted of human trafficking charges. In December 2015 the trial judge found that there was no case for the factory owner to answer. He indicated that there was no evidence capable of proving that the defendant was a party to the conspiracy to arrange or facilitate travel of any of the victims; there was no evidence that the defendant was a party to the conspiracy, and he had insufficient evidence of knowledge of exploitation of the victims. The CPS appealed this decision and the case was taken to the Court of Appeal. The Court found in favour of the CPS on the point of law and agreed that a conspiracy to traffic offence would cover the circumstances of this case. The defendant was convicted and sentenced to 27 months’ imprisonment for conspiracy to traffic.

6.12 The key is to ensure that victims remain engaged. Third sector stakeholders reported that there is still huge variation in the response if a victim of trafficking walks into a police station in different parts of England and Wales and even across the London boroughs there is considerable variation. The response needs to be consistent, and particularly from the CPS as a national service. We were also told that victims are not always kept informed during the court process and when cases were either not prosecuted or later discontinued. The quality of the explanations was not always clear and poor communications left already vulnerable victims demoralised. The National Referral Mechanism is only available for 45 days. This is sufficient time to get someone on board, but after an intensive 45 days there seems to be a lack of support thereafter. Individual police officers can spend a lot of time keeping witnesses engaged, but this is down to the commitment of individual officers and can depend on where the victims are relocated. This adds to the already substantial difficulties for victims in this area of casework.



Annexes

A The CPS Response to the Modern Slavery Act Review (Caroline Haughey, July 2016)

There were a number of recommendations in the review that required action by the CPS. We set out below what we found by way of progress at the time of inspection against those recommendations.

Recommendation 2

The National Policing Lead and Chief Constables should ensure that Police SPOCs become a dynamic and thriving community of practice that regularly shares good practice and lessons learned. This should include convening quarterly regional SPOC meetings and six-monthly national SPOC meetings to share information, intelligence and best practice. The meetings should also include strategic and tactical leads from NCA, Border Force, HMRC, GLA, CPS and, where appropriate, local authorities and key NGOs like The Salvation Army.

The recommendation is reliant on the National Policing Lead and Chief Constables establishing the structures and the meetings being convened, which is not within the gift of the CPS. However, once the structures are in place the CPS needs to ensure that there are Area leads who are able to talk to all strands of the crime that fall under modern slavery and human trafficking and are best placed to share information and best practice with partners and across the Area (see **HMCSI Recommendation 6**, paragraph 4.10). There is currently no clarity on the position of Area leads.

Recommendation 4

The Modern Slavery Threat Group should ensure that tailored modern slavery training that has been quality-assured by technical and legal experts is provided more quickly to more frontline staff, prioritising police officers and criminal justice staff. This must be part of a wider training programme, overseen by the Modern Slavery Threat Group, to raise awareness and capability among all frontline staff who play an important role in the operational response to slavery.

Training for prosecution agencies, lawyers should cover:

e. Updated legal guidance on the CPS website to cover the Modern Slavery Act and its associated Orders¹.

(¹ The guidance on the CPS website does not refer to the Modern Slavery Act and is out of date with regards to advice on the defence for the victims of trafficking.)

h. Training for senior charging lawyers in Complex Cases Units should include: cultural awareness of different ethnicities that predominate in trafficking offences; understanding interim orders that can be sought; JTs; International Letters of Request (ILORs) and obtaining third party material.

The CPS website has been updated; both internal and external facing pages now cover the Modern Slavery Act and its associated orders. However, a further update to the guidance on the section 45 defence for the victims of trafficking is under consideration.

A training package has been designed with a view to roll out to tutor Area trainers, who will then deliver training at local level. The training will incorporate the recommendations from the Modern Slavery Act Review, a presentation on credibility versus consent of victims, and a presentation from Eurojust. A training event on joint investigation teams in modern slavery cases was held on 15 September 2017 for representatives from all the CCUs, Headquarters specialist casework Divisions and all police force areas. The fieldwork revealed that, although there were pockets of knowledge and expertise in relation to JITs, this was not spread widely and there was a clear training need. The lawyers who have been trained need to ensure that this is disseminated in the Areas to those for whom it is relevant and that it is supported by additional materials and case studies on the casework hub.

The e-learning Human Trafficking course on the Prosecution College should be mandated for all prosecutors. Consideration should also be given to delivering awareness training to all staff, in particular to those that have contact with victims and defendants. The National Police Lead has packages available for front-line staff across a wide variety of agencies, which could be adapted for Areas (see **HMCPSI Recommendation 5**, paragraph 3.38).

Recommendation 5

The Modern Slavery Threat Group should establish an online resource centre for SPOCs and specifically approved CJSM account holders working for organisations who play a key role in modern slavery and trafficking cases, including CPS and local authorities. The site should contain all cases investigated and/ or prosecuted under the Act.

The online resource should also contain: eLearning tools and an ability to complete CPD for officers; a directory of SPOCs across England and Wales; a message board to enable fast, seamless sharing of tactical advice.

Police SPOCs and case lawyers who have been granted access to the site should complete short pro formas on each of their cases. If feasible, this online resource could house an intelligence database to which SPOCs could upload data.

The CPS has shared templates of risk orders and prevention orders and JITs for the police knowledge hub, the POLKA site,³² but as yet there is no shared hub for case lawyers to access. However, the Anti-Slavery Commissioner proposes the creation of a website portal to allow for the sharing of best practice materials for law enforcement and material relevant to prosecutions could be included here.

The CPS need to maximise the usefulness of the casework hub by incorporating case studies of live and finalised cases, good practice and lessons learned and ensure there is a mechanism to share learning nationally that is coherent and consistent (see **HMCPSI Recommendation 3**, paragraph 3.25).

³² POLKA (the Police OnLine Knowledge Area) is a secure online collaboration tool for the policing community to network, ask questions, share insights, discuss ideas and suggest new ways of working.

Recommendation 9

Strengthen the role of CPS Complex Case Units in trafficking and exploitation and/ or associated cases. All such cases should be referred to a Complex Case Unit and guidance clarifying to which offences this applies should be disseminated to all charging lawyers and CPS Direct. Each CPS region Complex Case Work Unit should have a senior charging lawyer trained to deal with exploitation and slavery cases.

A training package has been designed with a view to roll out to tutor Area trainers, who will then deliver training at local level. Areas need to be clear who needs to be trained following this initial training package, because the fieldwork showed there was a lack of clarity. They also need to consider where the casework is dealt with in the Area and whether court advocates would also benefit from some of the training.

Cases are not dealt with consistently across the Areas. They can be dealt with in the CCUs, RASSO units and Crown Court units depending on their complexity and the nature of offending, therefore training and guidance needs to be provided beyond the limitations of the recommendation (see **HMCSI Recommendation 5**, paragraph 3.38).

After a slow start CPS Direct appointed a lead in September 2017 and the e-learning course on the Prosecution College was mandated for all charging lawyers.

Recommendation 11

A list of advocates who have demonstrated the skills necessary to prosecute trafficking and exploitation offences, derived from the rape list.

The CPS does not agree that a list should be derived solely from the rape list for all other forms of exploitation.

Many slavery and trafficking cases require skills in other serious and complex crimes, such as organised crime, and advocates need expertise in the relevant area of law and particular skills in relation to vulnerable victims.

Recommendation 12

CPS should develop and maintain a contacts database of approved slavery and trafficking experts so that they can be easily contacted. A bank of anonymised reports by those should be uploaded to the shared site (see above) for easy access.

In principle the CPS disapprove of such lists. However, the casework hub has the potential to maintain a list of issues where experts were required, the name of the lawyer and Area dealing with the case and other relevant details. This could then be used by other Areas to enable contact to be made to discuss approaches and effectiveness of the expert evidence in a particular case, whether the use of the expert assisted and any good practice and

lessons learned before an expert is sought. This could be particularly helpful where there may be limited experts available on very specialist topics, for example, Stockholm Syndrome.³³ There is an onus on Areas to ensure information is provided for uploading to the hub and the sharing is actually used in practice (see **HMCPSI Recommendation 3**, paragraph 3.25).

Recommendation 13

All victims of Modern Slavery Act offences should be treated as vulnerable under the terms of Advocacy Gateway, save and unless a defence application or judicial ruling is made or concession is made by agreement. A ground rules hearing should take place outlining the matters in issue and the topics to form cross examination.

The CPS has responsibility and accountability to ensure all prosecution advocates instructed are appropriately skilled, have the relevant areas of expertise and provide the quality of advocacy expected, including the handling of vulnerable victims and witnesses. The CPS needs to monitor compliance by the advocates it instructs.

Recommendation 25

In respect of s45 of the Modern Slavery Act, which provides for a defence for slavery or trafficking victims who commit an offence, consideration should be given to clarifying and/or enhancing the term ‘direct consequence’, and to clarifying the process by which s45 is raised and applied.

The latest update of the legal guidance dealing with this point is awaiting approval. There are two cases (appeals against conviction) awaiting a hearing in the Court of Appeal in early 2018 to decide where the burden of proof lies in relation to the statutory defence, which will provide further clarification, but at present there is limited knowledge amongst practitioners, including the defence, and limited application of the statutory defence to date.

This issue is not just relevant to the more complex cases but instances where there may not be slavery or trafficking offences, but there is a perpetrator of ‘volume’ crime, such as shoplifting, who is actually a victim. Broader awareness training would be helpful for front-line staff who may come into contact with victims of modern slavery and human trafficking at court, or through handling of victims and witnesses (see **HMCPSI Recommendation 5**, paragraph 3.38).

³³ Stockholm Syndrome is a condition that causes hostages to develop a psychological alliance with their captors as a survival strategy during captivity. These feelings, resulting from a bond formed between captor and captives during intimate time spent together, are generally considered irrational in light of the danger or risk endured by the victims.

B Performance data

Completed human trafficking prosecutions by outcome - volume and percentage						
	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Successful	94 (66.2%)	99 (71.2%)	155 (68.6%)	130 (69.4%)	192 (65.1%)	181 (61.4%)
Unsuccessful	48 (33.8%)	40 (28.8%)	71 (31.4%)	57 (30.5%)	103 (34.9%)	114 (38.6%)
Total	142	139	226	187	295	295

Defendant gender - volume and percentage						
	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Female	23 (16.2%)	21 (15.1%)	29 (12.8%)	46 (24.6%)	64 (21.7%)	44 (14.9%)
Male	117 (82.4%)	118 (84.9%)	195 (86.3%)	139 (74.3%)	229 (77.6%)	251 (85.1%)
Unknown	2 (1.4%)	0 (0%)	2 (0.9%)	2 (1.1%)	2 (0.7%)	0 (0%)
Total	142	139	226	187	295	295

Flagged cases with successful outcomes - volume and percentage						
	2012-13	2013-14	2014-15	2015-16	2016-17	
Cymru-Wales	4 (66.7%)	4 (80.0%)	3 (60.0%)	2 (50.0%)	5 (50.0%)	
East of England	4 (80.0%)	5 (55.6%)	6 (54.5%)	20 (100%)	22 (91.7%)	
East Midlands	12 (66.7%)	20 (90.9%)	11 (91.7%)	9 (81.8%)	11 (100%)	
London	18 (60.0%)	38 (74.5%)	43 (75.4%)	63 (72.4%)	33 (75.0%)	
Mersey-Cheshire	0 (0%)	1 (20.0%)	0 (0%)	5 (33.3%)	5 (71.4%)	
North East	8 (72.7%)	6 (85.7%)	2 (100%)	9 (56.3%)	6 (75.0%)	
North West	11 (78.6%)	17 (56.7%)	17 (60.7%)	12 (36.4%)	15 (57.7%)	
South East	19 (90.5%)	17 (89.5%)	9 (100%)	18 (64.3%)	10 (58.8%)	
South West	1 (100%)	0 (0%)	18 (75.0%)	1 (100%)	12 (52.2%)	
Thames and Chiltern	2 (100%)	19 (57.6%)	6 (75.0%)	9 (90.0%)	12 (70.6%)	
Wessex	6 (66.7%)	4 (44.4%)	0 (0%)	4 (57.1%)	6 (85.7%)	
West Midlands	6 (66.7%)	17 (65.4%)	7 (58.3%)	11 (73.3%)	22 (36.1%)	
Yorkshire and Humberside	8 (72.7%)	7 (70.0%)	5 (38.5%)	29 (60.4%)	22 (55.0%)	
National total	99 (71.2%)	155 (68.6%)	127 (69.4%)	192 (65.1%)	181 (61.4%)	

Successful outcomes by Area - defendants, convictions and percentages	2015-16			2016-17			2017-18 1 Apr to 7 Sept		
	Def	Con	%	Def	Con	%	Def	Con	%
	Cymru-Wales	4	2	50.0%	10	5	50.0%	1	0
East of England	20	20	100%	24	22	91.7%	7	4	57.1%
East Midlands	11	9	81.8%	11	11	100%	4	2	50.0%
London	87	63	72.4%	44	33	75.0%	31	22	71.0%
Mersey-Cheshire	15	5	33.3%	7	5	71.4%	3	3	100%
North East	16	9	56.3%	8	6	75.0%	14	10	71.4%
North West	33	12	36.4%	26	15	57.7%	6	3	50.0%
South East	28	18	64.3%	17	10	58.8%	11	8	72.7%
South West	1	1	100%	23	12	52.2%	2	2	100%
Thames and Chiltern	10	9	90.0%	17	12	70.6%	8	6	75.0%
Wessex	7	4	57.1%	7	6	85.7%	5	4	80.0%
West Midlands	15	11	73.3%	61	22	36.1%	13	11	84.6%
Yorkshire and Humberside	48	29	60.4%	40	22	55.0%	9	5	55.6%
National total	295	192	65.1%	295	181	61.4%	114	80	70.2%

NRM referral data (End of Year Summary 2016): all referrals by nationality

	Red – Increase in numbers experienced on previous year
	Amber – No change on previous year
	Green – Reduction experienced on previous year
N/A	Not Applicable

Nationality	Domestic servitude	Labour exploitation	Organ harvesting	Sexual exploitation	Unknown exploitation	2016 total	2015-16 % change
Albania	5	194	0	433	67	699	16.5%
Vietnam	30	307	0	88	94	519	8.6%
United Kingdom	3	85	0	233	5	326	70.7%
Nigeria	77	32	0	109	25	243	-5.4%
China	11	139	0	67	24	241	143.4%
Romania	6	130	0	54	12	202	5.2%
Poland	7	140	0	11	5	163	1.9%
Eritrea	27	41	0	18	23	109	-20.4%
India	17	63	0	9	11	100	40.8%
Afghanistan	5	21	0	12	45	83	72.9%
Sudan	2	75	0	0	2	79	-4.8%
Slovakia	3	57	0	4	9	73	-17%
Pakistan	31	22	0	13	4	70	22.8%
Iran	4	11	0	14	31	60	150%
Bangladesh	24	12	1	10	7	54	22.7%
Ghana	12	8	0	22	3	45	28.6%
Philippines	31	5	0	5	4	45	60.7%
Ethiopia	17	17	0	4	3	41	-32.8%
Iraq	2	11	0	3	23	39	160%
Lithuania	1	28	0	9	0	38	-17.4%
Czech Republic	5	18	0	12	2	37	-14%
Somalia	12	15	0	6	4	37	76.2%
Hungary	3	19	0	12	2	36	5.9%
Thailand	0	2	0	21	0	23	43.8%

Nationality	Domestic servitude	Labour exploitation	Organ harvesting	Sexual exploitation	Unknown exploitation	2016 total	2015-16 % change
Democratic Republic of the Congo	5	3	0	5	9	22	4.8%
Bulgaria	4	13	0	2	2	21	-52.3%
Latvia	0	13	0	5	3	21	61.5%
Uganda	8	0	0	11	2	21	-19.2%
Egypt	1	6	0	3	9	19	90%
Zimbabwe	8	1	0	5	5	19	11.8%
Kenya	8	1	0	6	3	18	28.6%
Cameroon	5	3	0	5	4	17	-5.6%
Syria	2	2	0	1	11	16	166.7%
Jamaica	4	6	0	2	2	14	75%
Burma/Myanmar	3	9	0	0	1	13	-35%
Gambia	5	0	0	6	2	13	116.7%
Malawi	2	3	0	4	2	11	-8.3%
Ivory Coast	1	1	0	7	1	10	100%
South Africa	3	1	0	6	0	10	42.9%
Sierra Leone	3	2	0	4	0	9	-55%
Brazil	1	0	0	7	0	8	300%
Angola	4	1	0	2	0	7	-58.8%
Senegal	3	0	0	4	0	7	250%
Sri Lanka	1	3	0	2	1	7	-61.1%
Zambia	1	1	0	3	2	7	75%
Algeria	0	3	0	2	1	6	100%
Guinea	0	1	0	3	2	6	-33.3%
Morocco	1	1	0	3	1	6	-25%
United States of America	0	2	0	2	2	6	20%
Malaysia	0	3	0	2	0	5	-16.7%
Tanzania	1	0	0	3	1	5	150%
East Timor	0	4	0	0	0	4	N/A
Kosovo	0	2	0	1	1	4	100%
Namibia	1	0	0	1	2	4	-20%
North Korea	1	1	0	1	1	4	-20%

Nationality	Domestic servitude	Labour exploitation	Organ harvesting	Sexual exploitation	Unknown exploitation	2016 total	2015-16 % change
Turkey	1	1	0	2	0	4	-33.3%
Ukraine	0	2	0	2	0	4	100%
Unknown	0	0	0	4	0	4	-42.9%
Botswana	1	2	0	0	0	3	-25%
France	0	1	0	2	0	3	200%
Indonesia	3	0	0	0	0	3	-25%
Ireland	0	3	0	0	0	3	N/A
Mauritius	1	1	0	1	0	3	N/A
Mongolia	0	1	0	2	0	3	200%
Nepal	2	0	0	1	0	3	-40%
Portugal	0	0	0	2	1	3	-66.7%
Russia	1	1	0	1	0	3	N/A
St Lucia	1	0	0	2	0	3	200%
Taiwan	0	2	0	1	0	3	N/A
Trinidad & Tobago	0	0	0	3	0	3	200%
Tunisia	0	2	0	1	0	3	200%
Canada	0	0	0	0	2	2	N/A
Germany	0	0	0	2	0	2	N/A
Grenada	1	1	0	0	0	2	0%
Hong Kong	0	1	0	1	0	2	N/A
Jordan	0	1	0	1	0	2	N/A
Kuwait	0	1	0	0	1	2	100%
Lebanon	0	0	0	0	2	2	100%
Liberia	0	0	0	1	1	2	N/A
Macedonia	0	2	0	0	0	2	N/A
Netherlands	0	1	0	1	0	2	-50%
Rwanda	1	0	0	1	0	2	N/A
Spain	0	0	0	2	0	2	-60%
Armenia	0	0	0	1	0	1	N/A
Australia	0	1	0	0	0	1	0%
Bahamas	0	1	0	0	0	1	N/A

Nationality	Domestic servitude	Labour exploitation	Organ harvesting	Sexual exploitation	Unknown exploitation	2016 total	2015-16 % change
Barbados	0	1	0	0	0	1	N/A
Belarus	0	0	0	1	0	1	N/A
Benin	1	0	0	0	0	1	-50%
Bosnia and Herzegovina	0	1	0	0	0	1	0%
Burundi	0	0	0	0	1	1	-50%
Cambodia	0	1	0	0	0	1	0%
Congo	0	0	0	0	1	1	N/A
Cuba	0	0	0	0	1	1	-50%
Denmark	0	0	0	1	0	1	N/A
Dominican Republic	1	0	0	0	0	1	N/A
Georgia	0	1	0	0	0	1	-50%
Germany/Poland	0	1	0	0	0	1	N/A
Greece	0	1	0	0	0	1	N/A
Guyana	0	0	0	0	1	1	N/A
Italy	1	0	0	0	0	1	N/A
Mauritania	1	0	0	0	0	1	0%
Mexico	0	0	0	0	1	1	N/A
Moldova	0	1	0	0	0	1	N/A
Mozambique	1	0	0	0	0	1	N/A
Netherlands/Sri Lanka	0	1	0	0	0	1	N/A
Niger	0	1	0	0	0	1	N/A
Sao Tome & Principe	0	1	0	0	0	1	N/A
South Korea	0	1	0	0	0	1	0%
St Vincent & Grenadines	0	1	0	0	0	1	N/A
Togo	1	0	0	0	0	1	N/A
Total	429	1,575	1	1,313	487	3,805	

C Examples of best evidence detailed in the Memorandum of Understanding between the CPS, National Police Chiefs' Council, NCA and HMRC

Such best evidence includes:

- covert surveillance evidence of premises
- intercept evidence authorised in another jurisdiction
- downloads from mobile phones/phone history and texts/messaging
- communications data including subscriber, call data and cell site information in relation to mobile numbers. Analysis of data to establish location, dates and times of calls/messaging
- downloads from email accounts
- internet-based apps used for communications between suspects and victims
- browsing history on computers and IP addresses used
- evidence of credit cards and statements
- financial and banking evidence – cash deposits and payments, eg flights, rental properties, vehicles bought/leased, websites
- Money transfer bureaus
- cash and document seizure from premises/vehicles/suspects/victims
- forensic/DNA – linking suspects to properties/vehicles
- property purchases/rentals
- undercover officers' deployments/test purchases
- covert evidence of customers visiting premises
- bookings for flights and other forms of travel between source, transit and destination countries
- evidence from travel companies/airline companies of passengers
- CCTV evidence from airports/bus and rail stations/ports
- evidence of immigration checks from Border Force
- payments for renting premises
- evidence of who controls website advertising victims and administration fees
- payments to websites to recruit or advertise victims
- profiles of victims on websites to evidence their movement between locations

- CCTV evidence of premises/movements of suspects and victims
- HMRC - Tax evidence to capture PAYE and self-assessments showing earnings during period/details of child and tax credits
- DWP – benefits being claimed/National Insurance numbers
- local authorities’ housing records, benefits, council tax details
- housing officers who supervise management of rental properties
- links to vehicles used by traffickers
- previous convictions/bad character evidence/relevant previous criminal conduct
- links to ID documents
- withholding of ID documents/visas
- immigration enforcement evidence of investigation into sham marriages
- evidence from Registrars of suspicious marriage reports
- evidence from Companies House of companies established
- evidence from Gangmasters and Labour Abuse Authority on abuse of regulatory measures/inspection
- photographic/video evidence of premises where victims accommodated/working
- evidence from Fire and Rescue/Planning/Environmental Health re: accommodation
- provision of safety equipment/lack of equipment
- expert evidence – cultural, medical evidence: clinical psychiatrist/intermediary for those with learning difficulties/mental health issues. Physical health of victim: full skeletal scan to evidence historical fractures, malnutrition, teeth decay (eg use of drugs/high energy drinks); Sexual Assault Referral Centres (SARCs) and sexual health or genitourinary medicine (GUM) clinics
- evidence to assist in establishing the relationship between suspect and victim
- evidence from third party witnesses such as neighbours, family members, local shop workers
- evidence from participating informants
- intelligence checks overseas.

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