

Written evidence from the Law Society of England and Wales

The Law Society of England and Wales is the independent professional body that works globally to support and represent 170,000 solicitors, promoting the highest professional standards and the rule of law.

1. Summary

- 1.1. The Law Society believes that action against modern slavery should be further strengthened.
- 1.2. While the number of prosecutions for modern slavery offences and the number of victims entering the National Referral Mechanism (NRM) are increasing, modern slavery remains a largely hidden crime.
- 1.3. The Law Society believes that the Government should go further to ensure the implementation of the provisions of the Modern Slavery Act, by listing those companies which are required to produce statements but which fail to do so, and by providing further training for police officers, investigators and prosecutors.
- 1.4. The Law Society calls on Government to ensure that victims of modern slavery, especially those trafficked to the UK as minors, have this status considered when applying for asylum or leave to remain.
- 1.5. The Law Society recommends that the Home Office should implement the findings of the Review it commissioned back in 2014 into the NRM. It should also implement the findings of the pilots it established in West Yorkshire and the South West.¹

2. Background

- 2.1. The Law Society believes that enforcement of modern slavery legislation could be strengthened, as this crime continues to be pervasive.
- 2.2. Modern slavery remains a largely hidden crime. The Government estimates that there were between 10,000 and 13,000 potential victims of slavery in the UK in 2013.²
- 2.3. Figures show that many more victims have entered the NRM, the UK's system of support for victims of modern slavery. Numbers have risen from 2,340 in 2014 to 3,805 in 2016, a rise of 63 per cent.³
- 2.4. The police in England and Wales recorded 884 modern slavery crimes between April 2015 and March 2016.⁴ Modern slavery was introduced as a separate crime recording category in April 2015, so it is not possible to compare this to pre-Modern Slavery Act data.
- 2.5. The number of prosecutions for modern slavery offences is increasing. In 2015, 117 offenders were prosecuted for modern slavery offences in the UK, 19% higher than the 98 prosecuted in 2014.⁵ In the year to March 2017, police in England and Wales recorded 2,255 modern slavery offences, a 159 per cent increase on the previous

¹ **Reducing Modern Slavery**, National Audit Office, 15 December 2017

² **Modern Slavery Strategy**, 29 November 2014 [<https://www.gov.uk/government/publications/modern-slavery-strategy>]

³ **"Modern Slavery Two Years On"**, Letter from Kevin Hyland to MPs, 3 April 2017

⁴ **Crime in England and Wales**, Office of National Statistics, 27 April 2017

⁵ **Theory, Practice and Principles**, The Police Journal, 2016
[<http://journals.sagepub.com/doi/abs/10.1177/0032258X16675687?journalCode=pjxa>]

year. In the year to March 2017, Police Scotland recorded 60 offences and the Police Service of Northern Ireland (PSNI) recorded 35 offences.⁶

- 2.6. However, a higher number of modern slavery offenders may be prosecuted or convicted for other offences. Between January 2015 and June 2016, approximately 340 cases have been referred to the Crown Prosecution Service that concerned trafficking and exploitation. Of these cases approximately 215 were charged, with convictions in approximately 75% of those cases.⁷
- 2.7. A total of 289 offences were prosecuted in 2015, 27 offences under the Modern Slavery Act (cases ongoing) and 262 under previous slavery and trafficking legislation.⁸

3. Compliance with the Modern Slavery Act

- 3.1. Compliance on the reporting requirements of the Modern Slavery Act continues to be patchy.
- 3.2. Reports suggest that out of the top FTSE 100 firms, 28 company statements on modern slavery did not explicitly say they were approved by the Board (or equivalent); nine company statements were not signed by a director (or equivalent); and 16 companies did not have a link to the statement on the homepage of the company website.⁹
- 3.3. The Law Society has issued a practice note to help solicitors comply with the Modern Slavery Act by providing practical advice and highlighting examples of good practice.¹⁰
- 3.4. Our practice note outlines who the Modern Slavery Act covers, what it requires, and the consequences of failing to comply. It covers both the statement required under section 54 of the Act, and other reporting requirements.
- 3.5. The Law Society believes that Government should go further to ensure compliance with the Act. To do so, the Government should address:
 - Training for police officers, investigators and prosecutors, which is patchy and sometimes absent;
 - The quality and quantity of intelligence about the nature and scale of modern slavery at a regional, national, and international level, which is often insufficient and hampers the operational response;
 - The lack of a structured approach in operational agencies to identify, investigate, prosecute and prevent modern slavery, including learning from what works and what does not; and,
 - Complainants not being afforded the vulnerable witness protections available to them during and after the court process. In practice, NRM support often stops

⁶ **2017 UK Annual Report on Modern Slavery**, October 2017

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/652366/2017_uk_annual_report_on_modern_slavery.pdf]

⁷ **The Government's Modern Slavery Act Review one year on 2015**

[<https://www.gov.uk/government/publications/modern-slavery-act-2015-review-one-year-on>]

⁸ *ibid.*

⁹ **"FTSE 100 Reports Under the Modern Slavery Act: Towards Elimination?"**, Business and Human Rights Resource Centre, 2017

¹⁰ **Law Society Modern Slavery Act Practice Note**, The Law Society [<https://www.lawsociety.org.uk/support-services/advice/practice-notes/modern-slavery-act-and-section-54/>]

whilst a police investigation is ongoing, with the effect of the police losing their witness.

4. Recommendations

- 4.1. The Law Society believes that the Government should improve monitoring mechanisms to ensure that companies that are required to report under the Act are penalised for failing to do so.
- 4.2. The Law Society recommends that the Government should publish a list of the companies required to produce statements under the Act and support open, free and accessible information regarding company compliance.
- 4.3. The Government must provide clear incentives for corporate action, for instance on procurement rules. Bids for public contracts should be dependent on companies demonstrating due diligence in their operations and their modern slavery statements.
- 4.4. The Law Society believes that the Government should commit to only support projects through UK Export Finance that have undertaken strong human rights due diligence and are not associated with serious rights abuses.
- 4.5. The Government should improve access to remedy by utilising existing legislation (Criminal Law Act 1977) to hold companies accountable for abuses committed abroad and explore using the Bribery Act as a model to further extend extra-territorial criminal liability for human rights abuses.
- 4.6. The Law Society calls on Government to ensure that victims of modern slavery, especially those that were trafficked to the UK as minors, have this status taken into account when applying for asylum or leave to remain. These victims should also, under no circumstances, be placed in immigration detention centres, as has happened previously.
- 4.7. As recently stated by the Court of Appeal, the Home Office guidance should reflect the language of the Council of Europe's convention on action against trafficking, which states that a victim can be granted leave to remain if their stay is "necessary owing to their personal situation."¹¹
- 4.8. The Law Society recommends that the Home Office should implement the findings of the Review it commissioned back in 2014 into the NRM. IT should also implement the findings of the pilots it established in West Yorkshire and the South West.¹²

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¹¹ "Ex-slave wins appeal against 'unlawful' Home Office guidance", BBC News, 13 February 2018

[<http://www.bbc.co.uk/news/uk-43045126>]

¹² Reducing Modern Slavery, National Audit Office, 15 December 2017