



Work and Pensions Committee

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From the Chair

6 June 2016

Rt. Hon Stephen Crabb
Secretary of State for Work and Pensions
Department for Work and Pensions
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Recognised EU/EEA victims of slavery

The UK Independent Anti-Slavery Commissioner, Mr Kevin Hyland, has written to me in my capacity as Chair of the Work and Pensions Committee regarding welfare support for recognised victims of modern slavery. I have appended Mr Hyland's letter.

He is particularly concerned about the support available to those victims who are EU/EEA nationals.¹ These are people who have been through the UK's National Referral Mechanism (NRM) and received a 'conclusive grounds' decision, which recognises them as a victim of modern slavery.

Mr Hyland has said that these victims 'have very limited options to access support and welfare benefits, including not being able to claim Housing Benefits'. He also cites a case where a DWP employee stated that, unless the Government made an exception for victims, they would be treated the same as everyone else.

The Committee have a number of questions regarding the status of recognised victims of modern slavery and their interaction with the Department for Work and Pensions:

¹ Non-EU/EEA victims tend to enter the asylum system following a 'conclusive grounds' and are subject to a different inquiry.



1. What does the 'conclusive grounds' decision from the NRM mean in terms of DWP benefit claims?
2. Are Jobcentre staff given the discretion to treat recognised victims of modern slavery differently to other EU/EEA nationals?
 - a. If so, what exceptions can they make for victims?
 - b. If not, why not?
3. What specific guidance and training is given to front line staff for working with:
 - a. Recognised victims of modern slavery; and
 - b. Individuals they suspect may be victims of modern slavery?
4. What plans does the Department have for supporting victims who have been recognised by the NRM as victims of modern slavery?

As I am sure you will agree, victims of modern slavery need to be given the protection and support needed to ensure that they do not return to traffickers. Any information your Department can provide on this matter would be much appreciated.

I look forward to receiving your response.

Rt Hon Frank Field MP
Chair



Kevin Hyland OBE

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The Rt Hon Frank Field MP
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London SW1A 0AA

Wednesday 27th April 2016

Dear Frank,

Support and protection of EU/EEA national victims of modern slavery after they exit National Referral Mechanism support

I am writing to follow-up and update you on some of the developments that have happened since we last met, as well as to seek your advice as the Chair of the House of Commons Committee on Work and Pensions on how to address the existing failures in protection of victims of modern slavery.

Tatiana Jordan, who you know well from her previous capacity at the Human Trafficking Foundation is currently looking into the issue of lack of post safe-house support to the EU/EEA nationals that I discussed with you previously.

As you know, the protection of all victims and potential victims of modern slavery is one of my core priorities as Commissioner. Any factors that are thought to heighten vulnerabilities to such abuse are of utmost concern.

The current situation

Potential victims of modern slavery, who are referred into the UK's National Referral Mechanism (NRM) and receive an initial positive ('reasonable grounds') decision may be able to access accommodation and support within the Government-funded safe houses for a 'recovery and reflection period' of a minimum of 45 days period (Article 13, EU Convention Against

Trafficking, 2005). If a potential victim receives a positive 'conclusive grounds' decision, and therefore is officially recognised as a victim of modern slavery, he or she will be required to leave the safe-house within 14 days, which is often not enough time to establish safe and secure pathways to mainstream services (where required). If a negative decision is received, then that person will only be given 48 hours to leave safe accommodation.

We currently have an unacceptable situation where many victims leaving safe-houses after receiving an NRM decision are disappearing off the radar. There is no obligation under the Government Adult Victim Support contract (run by the Salvation Army) to collect data or monitor what happens to victims who had received support after they have left a safe house. The Salvation Army requests its clients to provide information on their destination upon leaving the safe-house, but not all choose to do so. Available information from the Salvation Army shows that the majority of victims exiting safe-houses return home, or move into private accommodation or National Asylum Support Services.

Whilst the well-being and protection of all victims and potential victims of modern slavery is of high importance, I have been made aware and am particularly concerned about a specific group of individuals: EU/EEA nationals who receive positive conclusive grounds decisions. Non-EU national victims of modern slavery tend to apply for asylum and to enter into NASS accommodation. The adequacy and readiness of the NASS system to respond to the needs of modern slavery victims is subject to a separate inquiry. The focus of this letter, however, is on the support for EU/EAA nationals after they leave the NRM.

A positive NRM conclusive grounds decision on its own is not recognised by any statutory services. After the introduction of the Housing Benefit (Habitual Residence) Amendment Regulations 2014 that amended the Housing Benefit Regulations 2006, EU/EEA national victims of modern slavery have very limited options to access support and welfare benefits, including not being able to claim Housing Benefits, and therefore are at high risk of becoming destitute and homeless. At the present moment the options include:

- a. **Job Seekers Allowance (JSA)** if they can pass the Habitual Residency Test (HRT), which is not possible in many cases as victims can rarely prove their residence or employment history in the UK, or provide required evidence in form of payslips, P45 and P60 forms, due to the hidden nature of modern slavery crime. Those who do pass the HRT can get Job Seekers Allowance for 3 months only, and have to prove their "*genuine prospect of work*", which many fail to do at the end of these 3 months. Whilst there may be limited access to JSA, there is no possible access to housing benefit at all. In one case, a victim who was receiving JSA for three months was still sleeping on the floor of a homeless shelter.

- b. **Discretionary Leave** – EU/EEA nationals can apply for Discretionary Leave (DL) to remain in the UK, though many victims, as well as professionals, are unaware of this option, believing that DL is there only for those who are subject to immigration control. Discretionary Leave can be granted based on “compelling personal circumstances”, which is most often related to severe health issues, or if victims are prepared to cooperate with law enforcement. However, even in this case not every victims application for DL will be successful, as the decision is based on what evidence the victim is able to offer.

On 21st of March 2016 the Home Office issued an up-dated guidance for the Competent Authorities responsible for making NRM decisions – the UK Human Trafficking Centre (a part of the National Crime Agency) in the case of EU/EEA nationals, and UK Visa and Immigration in the case of non-EU nationals. The new guidance states that application for DL can only be made on receipt of a positive conclusive grounds decision, whereas the previous guidance stipulated that it could be done at the stage of positive reasonable grounds decision. This significantly delays the process, and ultimately pushes victims onto the streets while they await a decision on their Discretionary Leave application. I enclose a letter that was sent to my office from Detective Chief Inspector Nick Dale from West-Midlands police which provides a clear example of how the system fails victims of modern slavery and negatively affects the course of investigation.

Tatiana has informed me of conversations she has had with managers of safe houses whose clients have felt their only viable options have been to return to the traffickers who “at least offered a roof over their head”. This is of course unacceptable.

The evidence coming from the managers of safe-houses across England and Wales suggests that on many occasions professionals, including local DWP staff, have very limited or even no knowledge and understanding of modern slavery and the impact it has on its victims. In one particular case a DWP employee stated that unless the government made an exception for victims of trafficking and it was a written law, only then would they be able to help, otherwise the rules are the same for everyone. Also, the time that it takes to get an appointment with DWP and then wait for a response on the application, for example for JSA, takes longer than the allowed two weeks that victims have in the safe-house after they receive a positive conclusive grounds decision. The Home Office may grant an extension of stay, but this is not always the case.

According to the latest report released by the National Crime Agency, there were 3,266 potential victims of trafficking referred to the National Referral Mechanism in 2015. 674 of

these received positive conclusive grounds decision (the majority would have been EU/EEA nationals). Based on our enquiry, at least 37 adult victims of these 674 ended up homeless and destitute after leaving the safe house during the period of April – October 2015. There is also evidence suggesting that adult victims had to take up high-risk job offers and ended up in exploitative situations again because they had no other alternative options.

On 1 December 2015 a High Court Judge gave permission for a judicial review on behalf of four men who were trafficked to the UK, identified as victims of modern slavery, but then left destitute as a result of lack of access to support and benefits once they exited safe accommodation. The men are all EU/EEA nationals who escaped exploitation and forced labour in UK food processing factories. These victims were key witnesses in a successful prosecution, but meanwhile were sleeping rough for a period of five months. The ruling is due later this month and could potentially set a precedent for other victims of modern slavery. This is further evidence that there is an urgent need for more wide ranging measures to ensure victims of modern slavery are continuously supported and, therefore, prevented from the risk of further harm and exploitation.

Suggested steps forward

Having reviewed the current position and consulted a number of front-line organisations, I believe that the following measures need to be put in place to prevent victims from becoming homeless, destitute, and at risk of being re-trafficked:

1) A concession for EU/EEA national victims of modern slavery

A concession for EU/EEA nationals with positive NRM conclusive grounds decision should be introduced which would entitle them to well-fare benefits with full Recourse to Public Funds, in particular Job Seekers Allowance and Housing Benefits for a minimum of 6-9 months. This will allow some time for the survivor to learn English, if needed, and with necessary help from support agencies, seek further reliable employment, or have a well-prepared assisted voluntary return to their country of origin, if they wish to do so. Where there is an on-going investigation and cooperation with police, this will also provide sufficient time to apply and process the application for Discretionary Leave to remain.

Such a concession is not a panacea to all the issues faced by victims of modern slavery when they exit safe accommodation, but it will provide for the basic and vital needs – food to eat and a place to live.

A good example of a similar concession has been set by the National Health Service in its Regulations No.238 in regards to health charges to overseas visitors. Regulation 16 stipulates that where a competent authority identifies an overseas visitor as a victim of trafficking or has reasonable grounds to believe so, this person is then exempt from all NHS healthcare charges. Currently work is underway to extend such exemptions to all victims of modern slavery.

In this context it is important to mention the DWP's own concessions introduced in April 2012 for victims of domestic violence: the JSA Domestic Violence Easement and the Destitute Domestic Violence Concession. Both of these policies were introduced as part of the DWP's contribution to a wider 2010 cross-government strategy on Violence Against Women and Girls. The JSA Domestic Violence Easement allows for an exemption from job seeking conditions and requirements for an initial four week period, which can be extended for up to 13 weeks provided certain conditions are met. The Destitute Domestic Violence Concession allows access to income-related benefits to those who have suffered from domestic violence and have been granted limited leave to remain out-side the immigration rules. Considering that the concessions we are seeking for should be for EU/EEA national victims of modern slavery, immigration status would not be relevant.

2) Guidance for front-line staff

Guidance for DWP staff on modern slavery and the impact it has on its victims should be developed and made widely available. Such guidance will help reduce the gap in knowledge and understanding of the phenomenon and equip DWP staff with necessary tools to efficiently respond to the needs of survivors. This, hopefully, will also include shortening waiting times for victims of modern slavery and easier access to DWP services.

My office is already working on writing a practical and usable guidance for local authorities and health services to assess and identify long-term needs of victims of modern slavery. This piece of work will also involve analysis of potential risks to further harm or exploitation in order to reduce the chance of survivors slipping through the gaps in support services or authorities and increase accountability. The aim is to publish the guidance in October 2016, and I hope this practical tool could also be disseminated amongst DWP front-line staff to assist them in their work.

It would be beneficial if a Single Point of Contact (SPoC) on modern slavery issues could be appointed at DWP local offices, who would then receive a specially designed training, similar to what has been provided for other public servants.

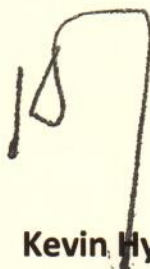
As the Chair of the House of Commons Committee on Work and Pensions, and of course with your great interest in modern slavery issues, I am seeking your advice on how I could most effectively take these suggested measures forward in order to ensure that victims of modern slavery are better protected and supported.

On another note, in relation to your constituency, I would also like to use this opportunity to inform you about the most recent developments in the Merseyside area where an anti-slavery multi-agency partnership has been developed and led by the City Hearts, which I know you have visited previously. The Merseyside Modern Slavery Forum includes a number of statutory and non-statutory partners, including police, Port Authority, local authorities, NHS, the International Slavery Museum, Red Cross and others. An example of this partnership working is the performing random checks by Merseyside Police and the Port Authority of the containers to identify potential cases of human trafficking. Currently, a new pilot scheme to support victims of trafficking is being developed in partnership with Co-operative Food. It intends to provide 6 week training and work placements for victims exiting the safe-house with a guaranteed job interview at the end of the training period. Merseyside Police officers who attend partnership meetings have expressed the need to continue supporting victims of modern slavery after they leave the safe-house to help them keep contact with them as witnesses in criminal proceedings.

I would also like to thank you for your initiative to ensure that government suppliers are compliant with Section 54 of the Modern Slavery Act.

I look forward to working closely with you and your team as this work is developed further and to hearing your thoughts on my suggested measures for EU and EEA national victims. I mentioned that I would be writing to you on this issue when I recently met with Minister Karen Bradley, and I am out of courtesy providing a copy of this letter to her.

With best wishes

A handwritten signature in black ink, appearing to read 'Kevin Hyland'. The signature is stylized, with a large, sweeping 'K' and 'H'.

Kevin Hyland

UK Independent Anti-Slavery Commissioner



Tatiana Jordan
Anti-Slavery Commission

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Please ask for: Chief Inspector Nick Dale
Direct Telephone:
Email: n.dale@west-midlands.pnn.police.uk
Crimestoppers: 0800 555 111
Our Reference: Operation Fort
Your Reference:

Date: 24th March 2016

Dear Tatiana,

I am currently the Senior Investigating Officer on Operation Fort, a Modern Slavery case involving Polish Nationals.

The suspects in this matter are predominantly from the Polish Roma Community and are currently living throughout the West Bromwich and Walsall areas of the West Midlands.

There are currently 13 suspects on bail with 59 victims to date, all of whom who are Polish nationals.

Officers working on this case are in contact with the Crown Prosecution Service and are gathering evidence with a view to seeking charging authority under the Modern Slavery legislation. If the matter goes to trial, this could take place within the next 6 months to a year.

In order to progress enquiries and assist the investigation, I have liaised with UKV&I for Discretionary Leave to remain (DLR) for victims who are in support the prosecution and want to stay in the United Kingdom. It has been agreed that an 18 month period would be appropriate for the needs of this investigation.

It has come to my attention that numerous victims have applied for DLR through support workers and not received their biometric cards in a timely manner, which has meant that after the 45 day reflection period victims are left in a situation where they are either homeless or forced to return to Poland. In some cases, safe houses have had to apply for numerous extensions whilst waiting for the biometric cards to be issued.

I am also aware of issues with local authorities when victims have received their biometric cards and are applying to be put on the housing register. They are effectively turned away with excuses such as the victim not having connections to the local area or them failing a habitual residence test due to their own unfortunate circumstances over which they have no control. An example of this being the fact that victims are predominantly all single males with no dependants in this country and will therefore be effectively pushed to the back of the housing priority list.

In reality, the number of victims actually in a position to apply for DLR is very small in comparison with the total number of victims in this case. The DLR for victims is carefully selected based on the evidence that the victim can offer. The majority of victims have a willingness to work and a desire to contribute to society.

If a victim leaves a safe house without further support this creates great difficulties in trying to trace them both here and in Poland if they return This will significantly impact on the investigation as crucial enquiries such as Identification Parades, witness statements or liaising with victims to secure their attendance at court. Victims will be in a vulnerable position where they could potentially be re-

trafficked or resort to criminality in order to support themselves.

I am aware of the significant pressure that the Syrian refugee crisis has had on local authorities' ability to house foreign nationals; but I would be most grateful if the relatively small number of DLR applications submitted on this case be fast tracked and that local authorities are made aware of their obligations under the DLR to house our victims.

Yours sincerely,



Nick Dale
DCI 3273