

# FINANCIAL INVESTIGATION OF MODERN SLAVERY

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# FOREWORD

## Dame Sara Thornton – Independent Anti-Slavery Commissioner

Modern slavery is a trade in human beings and in 2017 the International Labour Organization estimated that it generates \$150bn in profits a year. In my first strategic plan I expressed concern at the very low level of compensation orders made and committed to encouraging much greater use of financial investigation with a view to identifying assets and compensating victims. As I have listened to investigators and researched good practice it has also become apparent that there is so much more potential to exploit financial data to build the evidence case against traffickers and abusers. I therefore asked Detective Inspector Richard Marsh who was seconded to my team to work with law enforcement to identify the barriers to effective financial investigation and to seek out good practice. This report draws his findings together and is a valuable resource for police leaders.

There remain significant gaps in financial investigation capability across forces which significantly reduces our ability to compensate victims for the harm caused to them and undermines successful investigation. The Council of Europe Convention on Action Against Trafficking in Human Beings which the UK signed in 2009 commits the government to provide for the rights of victims to compensation from the perpetrators. This means that law enforcement needs to play its part in ensuring that financial investigators identify the assets of perpetrators so that victims can be compensated through the court system.

The Serious and Organised Crime Strategy published in 2018 argues that financial investigation techniques remain underused and pledges to publish research on the benefits of financial investigation to guide future investments by operational agencies. The strategy is in place however the investments are yet to be realised. Having looked at financial investigation through the lens of modern slavery it would appear that the investment is overdue.

## INTRODUCTION

Modern slavery and human trafficking (MSHT) offences were created by the Modern Slavery Act 2015, and carry a sentence of up to life imprisonment. In part they replaced pre-existing legislation, and brought the UK to the legislative forefront of the fight against human trafficking.

Despite this, prosecutions remain low in the UK and internationally. More victims are identified every year, and more police operations begin, yet fewer offenders are prosecuted. There are many difficulties in addressing this crime type, including the vulnerability of the victims and the complexities of the criminal businesses involved. New approaches are needed to reach the evidential threshold and deliver justice for victims of slavery.

Modern slavery offences are dehumanising and significantly impact their victims, but the motivation of the offenders is invariably personal gain. It is apparent that the exploitation of human beings in this way is viewed as a lucrative and low risk method of making money (or avoiding spending it) in the UK. It is therefore important that investigators recognise modern slavery as an economic crime and engage the tools at their disposal in this arena to meet the points to prove.

In 2012, a Home Office research paper identified the three-pronged effectiveness of financial investigation in tackling serious organised crime.<sup>1</sup> A financial investigation, instigated early and properly supported, can simultaneously provide evidence to prove criminal offences are taking place, identify and secure assets for seizure under the Proceeds of Crime Act 2002 (POCA), and disrupt the activities of an organised crime group (OCG) by cutting off its finances and denying it access to property and vehicles. Research has indicated that too often, financial strategies still focus near exclusively on achieving successful asset seizure and the opportunity to assist in proving the offence is neglected.<sup>2</sup>

This report will focus on two key aims for a financial investigation in modern slavery – proving the criminal offence has taken place, and compensating the victims for their suffering.

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<sup>1</sup> Brown, R., Evans, E., Webb, S., Holdaway, S., Berry, G., Chenery, S., Gresty, B. and Jones, M. (2012), 'The Contribution of Financial Investigation to Tackling Organised Crime: A Qualitative Study', Home Office Research Report 65:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/116518/horr65.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/116518/horr65.pdf).

<sup>2</sup> Wood, H. (2017), 'Every Transaction Leaves a Trace: The Role of Financial Investigation in Serious and Organised Crime Policing', Royal United Services Institute: <https://rusi.org/publication/occasional-papers/every-transaction-leaves-trace-role-financial-investigation-serious>.

## GLOSSARY

<b>CICS</b>	Criminal Injury Compensation Scheme
<b>ECAT</b>	Council of Europe Convention on Action Against Trafficking in Human Beings
<b>FIO</b>	financial intelligence officer
<b>FI</b>	financial investigator
<b>HMRC</b>	Her Majesty's Revenue and Customs
<b>JMLIT</b>	Joint Money Laundering Intelligence Taskforce
<b>MSHT</b>	modern slavery and human trafficking
<b>MSOIC</b>	Modern Slavery and Organised Immigration Crime Unit
<b>NCA</b>	National Crime Agency
<b>NEEC</b>	National Economic Crime Centre
<b>NRM</b>	National Referral Mechanism
<b>OCG</b>	organised crime group
<b>POCA</b>	Proceeds of Crime Act 2002
<b>SIO</b>	senior investigating officer
<b>SARs</b>	Suspicious Activity Reports
<b>UKFIU</b>	UK Financial Intelligence Unit
<b>VCC</b>	Victim Care Contract

# 1. FINANCIAL INVESTIGATION IN PROVING MODERN SLAVERY

## Financial investigative opportunities

In considering modern slavery as an economic crime, an investigator can utilise the flow of money and assets to assist in proving exploitation is taking place, and who is benefiting from it. While the victims of slavery may be well hidden or unable to give evidence, the money provides forensic opportunities to policing.

When setting the direction of an investigation into a serious crime, the senior investigating officer (SIO) makes policy decisions and sets strategies. Common examples would include witness interview policies, telecommunication strategies, digital media strategies or forensic strategies. In planning the initial stages of a modern slavery investigation, a financial strategy gives the SIO the opportunity to identify opportunities to:

- Identify offenders and map the OCG, assigning roles and understanding hierarchies
- Identify additional victims
- Reconstruct suspect activity
- Identify ownership and use of properties, vehicles and communication devices
- Evidence suspects' lifestyles and draw comparison to their legitimate income
- Discover and secure assets which may be subject to confiscation
- Demonstrate financial exploitation such as withholding/removal of pay, debt bondage, excessive deductions and redirection of funds without victim testimony
- Detect money laundering
- Discover covert opportunities
- Enable analytical products such as criminal business profiles
- Discover partners who may hold relevant material, such as the Department for Work and Pensions, Her Majesty's Revenue and Customs (HMRC) and the Joint Money Laundering Intelligence Taskforce (JMLIT)

Financial strategies are recommended by the Modern Slavery and Organised Immigration Crime (MSOIC) Unit 'What Works' team in their published guidance,<sup>3</sup> and included in the Modern Slavery Investigator's course,<sup>4</sup> but it appears that they are rarely completed in the early stages of modern slavery cases and as a result these opportunities are often lost or only pursued later when the OCG has had an opportunity to conceal its assets and change or dismantle its operation.

**Recommendation 1:** SIOs should include a financial strategy in their early policy decisions for MSHT cases.

## Embedding financial knowledge in investigation teams

The Vulnerability Assessment and Partnership Team at the Metropolitan Police triage and conduct initial enquiries on modern slavery investigations. Within their team they have a

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<sup>3</sup> Modern Slavery and Organised Immigration Crime (MOIC) Unit (2019), 'A Guide to Labour Exploitation: Investigative Opportunities under the Modern Slavery Act 2015'.

<sup>4</sup> College of Policing (2020), 'Modern Slavery Investigator version 1.2' course material, available on the Managed Learning Environment.

financial investigator (FI) and several officers at constable and sergeant level trained as financial intelligence officers (FIOs), with an ambition for this training to be delivered to all. This has produced a team that can bring financial expertise to the development of modern slavery intelligence at the earliest stage.

This team can access Suspicious Activity Reports (SARs) directly with the understanding to act on them, as well as utilising financial intelligence systems to build subject profiles, test and develop intelligence, establish ownership of property and map OCGs. The combination of specialist experience of offender tactics and victim vulnerabilities in the MSHT arena with knowledge of the financial sector, traditional and emerging, is particularly effective.

This model could be duplicated in other investigative departments, and would pay dividends for other crime types as well if those departments are not specifically focused on MSHT. Accredited FIs are limited, often force level, resources and accordingly may be difficult to embed, but the financial intelligence qualification can be obtained by existing investigators. In the same manner as departments currently train Police and Criminal Evidence Act 1984 (PACE) advisors, advanced interviewers, or other specialist skillsets into their departmental resources, financial intelligence capabilities would prove advantageous to any team tackling modern slavery.

**Recommendation 2:** Embed FIOs in investigative teams with responsibility for MSHT.

### Assigning a financial investigator

Modern slavery and human trafficking are criminal lifestyle offences (in the meaning of Schedule 2 of POCA) and the offenders benefit from their crimes directly, at the expense of vulnerable victims. As a result, a financial investigation utilising the POCA powers and orders is entirely appropriate, but there are difficulties inherent to this crime type, and caused by the efforts of offenders to conceal their criminal property. Where a victim has been used for slave labour, for example, it is arguable that the offender has benefited to the value of the wages that person should have received. But that benefit may not exist as a realisable asset held by the offender. Offenders are known to move money out of the UK, spread money amongst family members, or divide money into ever smaller amounts across many hundreds of accounts to conceal it. There is a lack of strong evidence as to the scale of revenue that can be generated by this crime type, but investigators report that offenders often use their benefit from crime very quickly, using it to enhance their lifestyle or dispersing money abroad, but accumulating little in the way of tangible high value assets.

The effect is that investigators report difficulty identifying available assets, and a great deal of time spent pursuing ever smaller amounts through complex chains of transactions and into the international arena. FIs indicate that the most effective use of their skills, and the most likely strategy to succeed in significant asset discovery, is to employ them at the very beginning of an investigation, involving them in SIO decision making from the earliest days of the enquiry. This allows them to offer advice on the best way to proceed and makes sure they are not having to catch up with a long investigation, placing them in the best position to identify criminality, restrain assets and prevent them being dissipated. They will also have early interaction with disclosure and exhibits officers on larger enquiries, contribute to victim and suspect interview strategies, and identify key partner agencies with whom to work.

POCA provides for a wide range of powers and orders which can be used to restrain assets held by suspected offenders, and ultimately to confiscate those which were obtained through crime, or came about as a benefit of a criminal lifestyle. As well as evidencing assets to help prove the offence and to inform a confiscation hearing, these powers can be used to disrupt criminal

networks and limit their operation while investigations continue. The most appropriate use of these powers will be best facilitated by the early advice of an FI in setting the financial strategy.

The above points echo those made in the Independent Review of the Modern Slavery Act published in May 2019 (Recommendations 64 and 65).<sup>5</sup> Practitioners do not report significant improvements.

The most common issue raised was the system in place to obtain FI resources. Most UK police forces place FIs in a central hub or unit and make them subject to a bid based tasking system. The paradox often faced by modern slavery SIOs is that their bids for FIs are not successful until significant assets have been identified or the OCG is mapped, which they need an FI to accomplish. Both investigators and FIs report that the bulk of the successful bids relate to confiscation investigations for large-scale organised drug crime and that it is difficult to obtain FI support for modern slavery investigations, particularly at the beginning.

A Home Office research report into the use of FIs in serious and organised crime recommended that FIs should be co-located with investigative teams to encourage collaborative working.<sup>6</sup> This would offer significant benefit to teams charged with investigating modern slavery, but with the limited supply of this speciality, it may not be immediately practical. It is likely that MSHT investigations will have to operate in existing structures for the foreseeable future.

A case file audit conducted by the MSOIC concluded that “overwhelmingly, forces [were] not identifying or scoring modern slavery organised crime groups using MoRiLE”<sup>7 8</sup> and as a result of this tendency, responsible officers and SIOs found that the investigations were starved of resources, including FIs. Examining the barriers to successful financial investigations, the National Crime Agency (NCA) found “a direct correlation between the correct identification, scoring and tasking of MSHT investigations and their subsequent success.”<sup>9</sup> In order to support sustained investment of resources in their investigations, SIOs should give strong consideration to scoring organised MSHT offenders once identified as operating in their area.

The introduction of FIOs into a team provides an asset to SIOs bidding for a dedicated FI. FIOs can utilise their financial intelligence access and skills to build a case to support the bid, establish key accounts and assets, and begin the mapping and scoring of the OCG to demonstrate its scope and impact. This facility means that the threat, harm and risk of an emerging MSHT enquiry can be more accurately discussed and the need for an FI more convincingly demonstrated, even in the absence of detailed intelligence from other sources.

**Recommendation 3:** MSHT OCGs should be mapped and scored at the earliest opportunity to support tasking processes and give appropriate weight to bids for resources and capabilities.

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<sup>5</sup> Field, F., Miller, M. and Butler-Sloss, E. (2019), ‘Independent Review of the Modern Slavery Act 2015: Final Report’: <https://www.gov.uk/government/collections/independent-review-of-the-modern-slavery-act>.

<sup>6</sup> Gale, E. and Kelly, J. (2018), ‘Exploring the Role of the Financial Investigator Report’ Home Office Research Report 104: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/753212/exploring-the-role-of-the-financial-investigator-report-horr104.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/753212/exploring-the-role-of-the-financial-investigator-report-horr104.pdf).

<sup>7</sup> Management of Risk in Law Enforcement (MoRiLE) is a methodology for scoring and comparing different types of problem in a consistent manner, see: <https://www.app.college.police.uk/app-content/intelligence-management/analysis/evaluation-and-review/>.

<sup>8</sup> MSOIC Unit (2015), ‘Slavery and Trafficking Orders- S.8 Modern Slavery Act’.

<sup>9</sup> National Crime Agency (2018), ‘Key inhibitors to a successful Modern Slavery and Human Trafficking financial investigation across UK law enforcement’.

**Recommendation 4:** This mapping and scoring process should lead to the allocation of financial investigation resources to MSHT investigations commensurate with the identified risk and opportunities.

## Use of the Joint Money Laundering Intelligence Taskforce

The Operations Group of the JMLIT is a critical tool for SIOs of modern slavery investigations to consider in their financial strategies. The Operations Group is a team led by the NCA which includes representatives from the Serious Fraud Office, HMRC, the Financial Conduct Authority, the Metropolitan and City of London police forces, and a range of vetted representatives from the banking and insurance sectors. The group meets once a week to hear presentations from SIOs on current operational work, and offers advice, assistance, and intelligence sharing (voluntarily under s.7 Crime and Courts Act 2013) to further the investigation being presented. Large amounts of intelligence about illicit financing and money laundering is held in the private sector. JMLIT is designed to overcome that issue using a collaborative approach. Currently, MSHT investigations are under-represented before the group.

As well as being a source of information, the Operations Group gives SIOs the chance to develop working relationships directly with key individuals in the financial sector and receive tailored advice and guidance from experts in the field of tackling illicit finances. The group can help the investigation fill intelligence gaps and establish networks which are linked to multiple institutions much more quickly and tailor their production orders to produce evidential material efficiently. These relationships can also assist with a joint approach to managing risk to the financial institutions and mitigate the risk of a subject becoming alerted by an institution unilaterally de-banking where criminal activity is highlighted by an unexpected production order.

**Recommendation 5:** SIOs should utilise the JMLIT in their financial strategy.

## Making use of Suspicious Activity Reports

Suspicious Activity Reports (SARs) are submitted by financial institutions when they encounter customer activity which is suspicious and might indicate criminal behaviour. These may relate to general financial intelligence, or specifically to defending against money laundering. The number of SARs submitted continues to grow, and they are utilised for a wide range of investigative purposes. As well as raising concerns about illicit finances, they can provide investigators with a rich source of intelligence to analyse organised crime networks, trace assets, understand money flows and identify unknown victims. The National Economic Crime Centre (NECC) is undertaking an improvement project for SAR analysis and they report that this will include thematic analysis functions and better search capabilities, along with increasing the number of possible users.

Because of the volume of SARs received, analytical tools are used to sort and search the database. The software makes use of structured glossary codes which identify the crime type suspected – MSHT has its own – and keyword searches which can identify reports containing words and phrases which may indicate the crime type of interest.

It is apparent that this system is underused for modern slavery investigation. As part of the wider lack of financial investigation resources allocated to this threat type, only a few forces appear to actively utilise SARs to tackle MSHT. There is also concern over whether financial institutions regularly identify behaviours linked to slavery as suspicious. The Metropolitan Police is concerned about the use of children's bank accounts and identities to launder money for county lines exploiters and believes that this financial exploitation is a precursor to trafficking as well as

having adverse effects on the children's future financial security. This is an area in which SARs are being utilised to good effect; identifying offenders and safeguarding opportunities for children.

The UK Financial Intelligence Unit (UKFIU) has made addressing trafficking a priority over recent months and in November 2020 focused a week of activity under the Project AIDANT initiative on illicit finances. Included in this work was a podcast and publication designed to draw financial institutions' attention to modern slavery risk indicators and explain how they can report them. The UKFIU has identified that public awareness campaigns tend to have a positive effect on SAR quality and quantity and it is hoped this will be the case here. In addition, an aide memoire has been produced using the information gathered during AIDANT to assist in identifying modern slavery related SARs. This complements a similar document produced earlier in the year for the county lines threat type. A further illicit finance AIDANT is planned for 2021.

## Emerging issues

The options available to manage money are growing and with them the options available to exploiters to move and conceal criminal property. New app based 'challenger' banks are emerging which provide alternatives to the 'big four' banking groups in the UK representing the bulk of the retail banking sector. Online money transfer companies and currency exchanges can provide a way of storing money outside of the banking sector, as can a myriad of gambling and investment services. New financial institutions and services will often respond directly to police requests under the Data Protection Act 2018 exemptions and investigators report willingness to assist the police in tackling trafficking, but they are often not contributing to existing financial intelligence systems. Investigators need to know to request this data and how to go about it.

The role played by cryptocurrencies in organised exploitation remains unclear and by nature is difficult to research. It is hard to imagine that anonymous transactions which can cross international borders are not attractive to traffickers but their use is not well documented and as such it is not known whether they are not yet being widely used, or going undetected. No cases of their use in MSHT have been identified in the UK by the NCA, but a recent research paper highlighted use of cryptocurrencies in arranging organised exploitation in Estonia.<sup>10</sup> At present knowledge and use of these novel currencies is limited in the population at large but this will grow. Investigators here should be aware of the potential for exploiters to utilise cryptocurrencies to launder money or pay co-conspirators and consider contacting the NECC for advice if use is suspected.

**Recommendation 6:** The MSOIC Unit and NCA should undertake monitoring of threats and opportunities in emerging financial sectors and keep investigators updated.

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<sup>10</sup> Jokinen, A. and Ollus, N. (Eds) (2019), 'Shady business: Uncovering the business model of labour exploitation':

[https://csd.bg/fileadmin/user\\_upload/publications\\_library/files/2019\\_12/FLOW/FLOW\\_D2.4\\_final\\_EN.pdf](https://csd.bg/fileadmin/user_upload/publications_library/files/2019_12/FLOW/FLOW_D2.4_final_EN.pdf).

## 2. COMPENSATION FOR VICTIMS

MSHT offences are inhumane and cause victims long term suffering and lasting impact on their physical and mental health and on their ability to live independently. Often, they are targeted because of existing vulnerabilities and their treatment while enslaved can exacerbate this, creating drug and alcohol addictions, financial and credit damage and psychological dependencies caused by the offenders' methods of control. In some cases victims have been held in servitude for many years and have been denied the ability to earn a wage, save for retirement or otherwise establish a secure financial footing for themselves. To have a realistic chance of sustainable independence following rescue, and to obtain some restitution for their suffering, victims need access to effective compensation mechanisms. Article 15 of the Council of Europe Convention on Action Against Trafficking in Human Beings (ECAT) 2005 requires each country to "adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under internal law."<sup>11</sup>

Nevertheless, obtaining compensation for victims of slavery remains a significant challenge. Each route for victim compensation below has its unique challenges, but key themes are consistent:

- A lack of identified and realisable assets owned by offenders which can be used to compensate victims.
- The time delays inherent to MSHT investigations and National Referral Mechanism (NRM) decisions may affect eligibility for compensation.
- Compensation criteria are not well aligned with the nature of trauma suffered by victims of MSHT.

### Routes to compensation

#### **Court orders following conviction: Compensation or reparation?**

Where an offender is convicted of an offence, the court may order that they compensate the victim of the offence. Two main routes seen in modern slavery cases are compensation orders and reparation orders.

Compensation orders are created by s.130 of the Powers of Criminal Courts (Sentencing) Act 2000 and give a court the power to make an order requiring the offender to pay compensation for "any personal injury, loss or damage resulting from that offence." A court is required to consider a compensation order whenever it has the power to grant one, and give reasons if it chooses not to make one. No prior POCA confiscation is required, but the court is required to consider the defendant's means and ability to pay the order within a reasonable time. The stipulation of "injury, loss or damage" is quite specific and can prove limiting when it comes to compensating for aspects of MSHT such as loss of liberty, unpaid wages, or psychological control.

Reparation orders were created by s.8 of the Modern Slavery Act and give the court powers to make an order requiring reparations to be paid to the victim of an offence under sections 1, 2 or 4 of that Act for "any harm" resulting from the offence, a broader definition than for compensation orders. A reparation order can only be made where a confiscation order under POCA has been made against the defendant, and it cannot exceed the amount of that

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<sup>11</sup> Council of Europe Convention on Action against Trafficking in Human Beings (ECAT), Treaty Series No. 37 (2012): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/236093/8414.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236093/8414.pdf).

confiscation. In essence, a reparation order functions as a means of diverting the proceeds from a POCA confiscation to the victim of the offence. In theory the wider provision of “any harm” should allow for larger awards of compensation to be made than under the s.130 power. However, it should be noted that the confiscation order is not based upon harm caused, but upon monetary benefit obtained from crime, and it will be this figure that limits the size of the reparation order. It is conceivable that an offender would cause significant harm to a victim without making substantial monetary benefit.

A court cannot make both types of order on the same case. In the event of a conviction, therefore, the question may arise as to which approach is the most appropriate.

A 2015 ministerial report notes that the Modern Slavery Act designated its new offences as “criminal lifestyle” crimes in order to “...attack the profits of traffickers and slave drivers through greater use of asset recovery and financial investigation in the future.”<sup>12</sup> It is clear that the intent was to empower detailed financial investigations of traffickers to seize their profits, and reduce the attractiveness of the crime type. Reparation orders were created to make the results of a rigorous criminal lifestyle investigation available to the victim in compensation.

Reparation Orders have significant benefits:

- A POCA confiscation investigation allows wide ranging powers to seize or restrain assets and property at an early stage in the investigation, making them available as sources of funds for reparation. The “criminal lifestyle” element means that the range of assets available to be confiscated will be as wide as possible. Compensation orders alone do not confer the POCA powers.
- The wording of “any harm” allows a court to consider a wide array of harms to which a victim may have come, compared to the relatively narrow categories under compensation orders which are not well suited to this crime type. Victims who have not been physically assaulted or stolen from would benefit particularly from this.
- The circumstances in which a court could reasonably decide not to make an order at all are greatly reduced following a POCA investigation, as the defendant’s assets and lifestyle are clearly evidenced, and the legislation supports making an order regardless of whether there is a victim statement of injury or financial loss.
- The enforcement tools for confiscation orders, and therefore the resulting reparation orders, are extensive and allow realisation of the offenders’ assets to pay the order, ensuring that victims are more likely to actually receive the money they are owed. In contrast, a compensation order is treated in the same way as a fine, and the offender can serve a prison sentence instead of paying the order, which will prevent the victim receiving any recompense.
- Reparation orders can be varied with a confiscation order. A confiscation order can be varied upwards for six years following conviction if new assets are discovered or new evidence emerges. If this occurs, a reparation order can be increased as well, an option not available for compensation orders. These are more often varied downwards on appeal by the defendant.

The key to the effectiveness of the confiscation order is the evidencing of the defendant’s assets and their criminal lifestyle. This is best served by early involvement of an FI with the investigation and prudent use of powers and Crown Prosecution Service liaison to restrain assets discovered. However, even with the most effective financial investigation, it remains a common occurrence that MSHT offenders do not have significant demonstrable assets to fund a sizeable order.

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<sup>12</sup> Report of the Inter-Departmental Ministerial Group on Modern Slavery (2015).

In September 2020, the Law Commission of England and Wales began a consultation on changes to the confiscation regime to deal with areas in which it has proven ineffective. Several reforms are being considered to strengthen enforcement and speed up the process of compensating victims even when confiscation procedures are incomplete. The result of this consultation is awaited and may change the landscape for compensating victims of modern slavery.

**Recommendation 7:** Modern slavery investigators should set an objective to obtain Slavery and Trafficking Reparation Orders for victims, and structure their financial investigation towards this.

## Police training on compensation

There are currently three licensed products produced by the College of Policing for training on MSHT. None of these contain learning descriptors relating to compensation and reparation for victims, nor the orders available on conviction to facilitate this.<sup>13</sup> Given the requirements of the Council of Europe treaty, the statement of parliamentary intent described above, and the necessity of starting a financial investigation at an early stage to maximise opportunities, the established police training presents an ideal opportunity. Introducing reparation orders at this early stage in a modern slavery investigator's development will help with setting an effective financial strategy and ensuring that the investigation maintains a victim focus.

**Recommendation 8:** Compensation for victims, and reparation orders in particular, should be added to the learning descriptors of the Modern Slavery Investigator course.

## Contacting victims

The Independent Review of the Modern Slavery Act highlighted an issue with contacting victims who had not engaged with a criminal prosecution in order that they may receive compensation following a conviction.<sup>14</sup> This is part of a wider concern about policy strategy to build trust and rapport with modern slavery victims which is beyond the scope of this report, but is particularly relevant to the matter of compensation if the victim chooses not to take part in the court case as a witness or the prosecution choose not to use their evidence. The Independent Review recommended that police should include in their victim liaison strategy a method of continued contact in the event of compensation, and inform them of the possibility of an award.

**Recommendation 9:** Investigators should establish ongoing contact arrangements with victims to facilitate later compensation.

## Civil remedies

It remains the case that even with the best practice recommendations from the Independent Review implemented, a significant number of MSHT victims will not be able to obtain compensation through the criminal courts, either because nobody is convicted, or because the defendants have insufficient provable assets for reparation orders to be made.

It is open to victims of modern slavery to pursue compensation via the civil courts. Damages could be sought for a range of torts such as false imprisonment, harassment, negligence, and breaches of duty. During the passage of the Modern Slavery Act, a specific civil tort for modern slavery was rejected as unnecessary. This route does not require a criminal conviction or

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<sup>13</sup> College of Policing (2020), Modern Slavery e-learning package, 'Modern Slavery General Awareness' and 'Modern Slavery Investigator' course material, available on the Managed Learning Environment.

<sup>14</sup> Field, F. et al. (2019), 'Independent Review of the Modern Slavery Act 2015: Final Report'.

confiscation order to be in place, but it also suffers from significant limitations. The means of the defendant to pay any damages awarded are still very relevant, and the Independent Review found that victims struggled to obtain legal aid to pursue cases. Pro bono assistance has been used by a number of victims but there is not capacity for this to be made available to all.

There is also an issue of the limitation period – the timeframe for starting a civil claim – which is only three years for personal injury. Firms representing victims indicate that clients often miss this deadline, in part because of the lengthy criminal investigations and NRM decision making involved. ECAT Article 15 states that victims should “have access to information on [compensation and redress] in a language which they can understand.”<sup>15</sup> However, investigators may find conversations with victims about compensation difficult as it could lead to accusations of inducement. Information about possible compensation routes would be best provided by a party external to the criminal investigation, such as via the NRM. Currently, the Victim Care Contract (VCC) does not specifically require this, and this is an opportunity to raise victim awareness of compensation routes.

**Recommendation 10:** The VCC under the NRM should require that victims are informed about routes to compensation.

## The Criminal Injury Compensation Scheme

The Criminal Injury Compensation Scheme (CICS) is a means by which victims of crime can seek compensation from a central publicly funded scheme and operates according to a range of eligibility criteria which sets out what can be awarded and how the amounts are calculated. The most recent version dates from 2012 and is currently under review. The Independent Anti-Slavery Commissioner welcomed this review and submitted a response to the consultation, highlighting several areas where victims of MSHT encountered difficulties obtaining compensation under the rules as they stand.

In particular, victims of MSHT have had issues with the two year time limit for the scheme (as noted already, modern slavery investigations and NRM decisions can lead to significant delays) and the definition of a ‘crime of violence’ eligible for compensation, as trafficking is not seen, per se, as being such a crime under the rules. There is also a concern about the guidelines relating to claimants with unspent convictions, as it is not uncommon for victims of MSHT to have convictions as a result of acts they were compelled to undertake due to their exploitation, despite the existence of the statutory defence under s.45 of the Modern Slavery Act.

One area of compensation particularly relevant to labour exploitation is unpaid wages. The CICS rules can take into account loss of income as a result of crime, but this can be difficult to demonstrate as victims of MSHT may be vulnerable individuals with histories of unemployment prior to being trafficked. The compensation for lost wages is also limited to statutory sick pay. The scheme is intended to cover periods of incapacity for work due to injury, and is not designed to take proper account of the fact that a victim of crime may have spent months or years working for little or no pay as a result of criminal action.

In the event of a CICS award, victims have found that their award amount is taken into account when determining their eligibility for benefits, and as such stand to lose out on benefit payments they would otherwise have received. As a result of this, money intended to compensate them for harm caused by being a victim of serious crime is quickly expended on basic living – in real terms it becomes not compensation, but benefits in advance.

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<sup>15</sup> ECAT, Treaty Series No. 37 (2012).

## CONCLUSION

Financial investigation of modern slavery offending has the potential to increase prosecutions and maximise the chance of victims receiving reparations. In dealing with serious organised exploitation where victim evidence is often unavailable, the truth of a case can be illuminated by financial evidence, alongside other techniques such as telecommunications and digital forensics.

By normalising the use of financial techniques in the investigation of modern slavery, and embedding expertise in the teams which deal with it, investigating agencies can make sure that opportunities are seized, and evidence is secured as soon as possible. Effective mapping and scoring for modern slavery threats will then allow financial investigator resources to be deployed appropriately. Tools such as the JMLIT will offer investigators access to a wealth of information and should be used more widely to discover exploiters' finances.

Reparations for victims of modern slavery should be at the forefront of investigators' minds during their planning and resourcing decisions, and a commitment to a POCA investigation with a view to reparation orders following any successful prosecution will maximise the chance of success.

Mainstreaming financial forensics in this field will improve the likelihood of conviction and victim reparation, as well as opening up possibilities for more sophisticated prevention and detection work in the financial field as law enforcement develops into the future.

## Recommendations

1. SIOs should include a financial strategy in their early policy decisions for MSHT cases.
2. Embed FIOs in investigative teams with responsibility for MSHT.
3. Modern Slavery OCGs should be mapped and scored at the earliest opportunity to support tasking processes and give appropriate weight to bids for resources and capabilities.
4. This mapping and scoring process should lead to the allocation of financial investigation resources to MSHT investigations commensurate with the identified risk and opportunities.
5. SIOs should utilise the JMLIT in their financial strategy.
6. The MSOIC Unit and NCA should undertake monitoring of threats and opportunities in emerging financial sectors and keep investigators updated.
7. Modern slavery investigators should set an objective to obtain Slavery and Trafficking Reparation Orders for victims, and structure their financial investigation towards this.
8. Add compensation for victims, and reparation orders in particular, to the learning descriptors of the Modern Slavery Investigator course.
9. Investigators should establish ongoing contact arrangements with victims to facilitate later compensation.
10. The VCC under the NRM should require that victims are informed about routes to compensation.

