

# Submission to the Committee for Justice on the Justice (Sexual Offences and Trafficking Victims) Bill

By email to

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CARE NI supports the key changes that will be introduced by the Justice (Sexual Offences and Trafficking Victims) Bill on human trafficking and exploitation.

However, we believe the Bill should go further. We suggest several areas for possible amendments. CARE NI's key concern is to ensure that there is statutory assistance support for confirmed victims of trafficking and exploitation.

Detailed text for amendments is set out in the Appendix to this submission.

## Introduction to CARE in Northern Ireland

1. CARE (Christian Action Research and Education) Northern Ireland is a well-established mainstream Christian charity providing resources and helping to bring Christian insight and experience to matters of public policy and practical caring initiatives. CARE NI demonstrates Christ's compassion to people all faiths and none believing that individuals are of immense value, not because of the circumstances of their birth, their behaviour or achievements, but because of their intrinsic worth as people.

## Overview of Modern Slavery In Northern Ireland

2. The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (HTEA) **was the first comprehensive piece of legislation on this subject to be passed throughout the United Kingdom.**<sup>1</sup> It goes beyond the current provisions made in England and Wales particularly in enshrining support for adult victims of human trafficking in law and through the introduction of independent guardians for unaccompanied migrant and trafficked children.<sup>2</sup>
3. The Department of Justice (DOJ) consulted on a new Modern Slavery Strategy which was published on 24<sup>th</sup> May 2021.<sup>3</sup> The key priorities for 2021-22 are set out under three key strands, namely, to pursue offenders, protect victims and prevent these crimes from occurring.<sup>4</sup>
4. In March, the UK Government set out their plans for how to assess victims of human trafficking and how they might be treated for immigration purposes in the *New Plan for Immigration*.<sup>5</sup> The consultation closed in early May, and a new Nationality and Borders Bill was introduced on 6<sup>th</sup> July 2021.<sup>7</sup> Part 4 of the Bill (clauses 46-57) deals specifically with matters related to modern slavery, but the wider reforms to asylum will also impact victims. The proposals set forth in this Bill will impact victims in Northern Ireland because of changes on *how* victims are to be identified. It will also reduce the time period from 45 days to 30 days when victims cannot be removed from the UK. However, section 18(3) of the HTEA allows victims to have a minimum of 45 days of support. During Second Reading, Gavin Robinson MP highlighted the 'conflict that will arise' between the Nationality and Borders Bill and the HTEA.<sup>8</sup>

<sup>1</sup> <https://www.legislation.gov.uk/nia/2015/2/contents>

<sup>2</sup> See sections 18 and 21 <https://www.legislation.gov.uk/nia/2015/2/contents> <https://www.legislation.gov.uk/nia/2015/2/contents>

<sup>3</sup> [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2\\_0.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2_0.pdf)

<sup>4</sup> [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2\\_0.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2_0.pdf)

<sup>5</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/972517/CCS207\\_CCS0820091708-](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972517/CCS207_CCS0820091708-)

<sup>6</sup> [Sovereign Borders Web Accessible.pdf](#)

<sup>7</sup> <https://publications.parliament.uk/pa/bills/cbill/58-02/0141/210141.pdf>

<sup>8</sup> House of Commons, [Hansard, 20 July 2021](#), col 838

5. The Bill is being debated in the context of both adults and children being trafficked; and few prosecutions and convictions. The tables below set out the latest data for the number of victims of trafficking and exploitation referred to the National Referral Mechanism (NRM) for confirmation of their trafficking status; and data on prosecutions and convictions.

Number referred into the NRM from NI	2018	2019	2020	2021 (Jan-June)
Number of children	19	16	20	13
Total number of adults	33	65	99	75
Adults referred for sexual exploitation	14	24	26	7
Adults referred for slavery, servitude or forced compulsory labour	19	36	60	61

Table: Number of Adults and Children Referred into the NRM from Northern Ireland, 2018-2021.<sup>91011</sup>

	2017/18	2018/19	2019/20	2020/21
Number of recorded crimes for human trafficking and exploitation offences	30	37	41	36
Number of persons prosecuted	5	4	0	3
Number of persons convicted <sup>9</sup>	2	0	2	0

Table: Police Recorded Crime, Human Trafficking Prosecutions and Convictions

Northern Ireland, 2017/18-2020/21<sup>12</sup>

## Key Changes through this Bill

6. This Bill will introduce two key clauses that affect victims of trafficking/slavery.

### *Support for victims*

7. **Clause 16** of the Bill will provide support for victims of exploitation by extending the statutory assistance and support provided under section 18 of the 2015 Act to adult potential victims of slavery, servitude or forced or compulsory labour where there is no element of trafficking. This support has been provided since 2016, but it has not been on a statutory basis.<sup>13</sup>
8. While **we welcome this Clause** and consider it a positive step towards ensuring all victims of modern slavery are provided with assistance and support while they are in the so-called National Referral Mechanism (NRM), the process which determines whether or not a person is a genuine victim of trafficking or slavery, we urge the

<sup>9</sup> National Referral Mechanism statistics UK: End of year summary 2018-2020: data tables

<https://nationalcrimeagency.gov.uk/who-we-are/publications/282-national-referral-mechanism-statistics-end-of-year-summary-2018/file>

<sup>10</sup> data onwards can be found on <https://www.gov.uk/government/collections/national-referral-mechanism-statistics>

<sup>11</sup> In 2018 two persons were convicted of other offences (controlling prostitution) arising from modern slavery/human trafficking investigations, [Independent Anti-Slavery Commissioner's 2020/21 Annual Report](#), Appendix B, Footnote 221, page 79

<sup>12</sup> [Independent Anti-Slavery Commissioner's 2020/21 Annual Report](#), Appendix B, Table A17, page 76 and Table A22, page 79

<sup>13</sup> Consultation on Proposed Amendments to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, [July 2020](#), para 1.5, page 3,

Assembly to go further. We **recommend that support should also be available after the NRM for those who have positive conclusive decision** for a period of twelve months since most confirmed victims of modern slavery **are unable to access support with any degree of security from the point at which they are confirmed to be a victim of modern slavery**. Section 18(9) of the HTEA provides for support to be continued on a discretionary basis following a positive conclusive grounds decision. Under this power, support is currently only being provided to a limited number of victims and only as a short-term transition to mainstream services or repatriation according to information provided by the Department of Justice to the UK Government in 2019.<sup>14</sup> *The arguments for providing longer-term support?*

9. The 2016 GRETA Report on the implementation of the European Convention against Human Trafficking urged *“the UK authorities and devolved administrations to make further efforts to ensure that all victims of trafficking are provided with adequate support and assistance, according to their individual needs, beyond the 45-day period covered by the NRM, with a view to facilitating their reintegration and recovery as well as guaranteeing their protection.”*<sup>15</sup>
10. As well as aiding recovery, it makes no sense to support people we think might be victims during the NRM (as occurs under section 18 of the HTA for a minimum period of 45 days), but not continue that support when the NRM confirms that a person is a victim of modern slavery (which can be done under the HTEA but only by discretion). It is from the point at which a person is confirmed as a victim of modern slavery – and are likely to have been exploited within the UK<sup>16</sup> – that our obligation to these victims should increase. Beyond this logical point about moral obligation, there are also two important and entirely self-interested motivations to support confirmed victims of modern slavery.
  - 10.1. As set out below, if a confirmed victim is left without support to help them recover from the trauma of being trafficked, they will be extremely vulnerable to being re-trafficked. To bring a confirmed victim to this point and then leave them without secure support, amounts to the reckless use of tax-payer’s money, because it effectively invites the money that has been invested in them hitherto to be thrown away as the victim is made vulnerable to re-trafficking and we are pushed back to square one.
  - 10.2. The Minister has stated in the Modern Slavery Strategy 2021/2022 that success under the ‘pursue’ strand of the strategy will mean *“the prosecution and conviction of modern slavery offenders and the disruption of criminals and organised crime groups responsible for modern slavery.”* This is an integral part of the strategy because if conviction rates remain low traffickers will judge that, given the huge economic returns from trafficking, it is worth their taking the chance of being caught. In this context care for confirmed victims of trafficking is vital because their evidence in court is central to successful convictions. At the point at which a victim is confirmed to be a victim, they will usually be feeling very vulnerable and often in no place to decide whether they are ready to help the police and give evidence in court. They are also likely to disappear. If a confirmed victim receives support for 12 months this will give the person a sense of stability and security. It also means the police and Public Prosecution Service are likely to know where the victim is and be able to approach them to act as a witness in criminal cases against traffickers.
11. In October 2020, the Assembly unanimously supported the motion tabled by the Chair of the All Party Group on Modern Slavery, Joanne Bunting MLA which called for *“consideration of further support for victims of trafficking beyond the end of the support provided under the National Referral Mechanism (NRM).”*<sup>17</sup> This would give effect to the objectives of the Modern Slavery (Victim Support) Bill<sup>18</sup> sponsored by Lord McColl and the former Conservative Party Leader Sir Iain Duncan Smith MP which is supported by the Free for Good Campaign, a

<sup>14</sup> Report pursuant to section 3(12) of the Northern Ireland (Executive Formation etc) Act 2019 – Human Trafficking, September 2019, 2.

<sup>15</sup> GRETA October 2016, para 186 <https://rm.coe.int/16806abcde>

<sup>16</sup> "As in 2019, the majority (63%; 6,716) of individuals referred to the NRM claimed exploitation in the UK only, whilst a quarter (26%; 2,722) claimed exploitation overseas only. Some (11%; 1,156) claimed exploitation both within and outside of the UK, and the location of exploitation was unknown in a small number of referrals (19)." Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary, 2020 - GOV.UK ([www.gov.uk](http://www.gov.uk))

<sup>17</sup> <http://data.niassembly.gov.uk/HansardXml/plenary-13-10-2020.pdf>

<sup>18</sup> <https://publications.parliament.uk/pa/bills/lbill/58-01/021/5801021.pdf> <sup>17</sup> <https://www.freeforgood.org.uk/>

- coalition of 27 organisations, who believe that victims need more support:<sup>17</sup> *What is the evidence on the impact of victims of lack of support?*
12. Victims of trafficking have usually experienced significant trauma and often can face major challenges in moving on with their lives. As Flourish, a charity that specialises in working with victims of trafficking who have exited the NRM in NI, put it: *“Without support clients face significant barriers to moving on. Examples of these are: social isolation, re-exploitation, homelessness, poverty, mental health issues, alcohol or substance misuse and a general lack of capacity to thrive.”*<sup>19</sup>
  13. In a recent report focused on Great Britain, the Centre for Social Justice outlined the following: *“Long-term support is a further significant gap in the support system. In recent years a number of reports have concluded that lack of long-term support puts victims of modern slavery at risk of homelessness, destitution and even re-trafficking after they exit the NRM support provision. It also has a significant negative impact on their engagement with the criminal justice system. Many survivors are unable to access welfare and healthcare systems, education and employment and have no income because they do not have recourse to public funds and their immigration status is not confirmed. This draws many back into exploitative situations.”*<sup>19</sup> These issues also impact victims identified here, especially if they are not given any discretionary support after a positive conclusive grounds decision.
  14. Long term support for victims is not just necessary to facilitate victims’ recovery, but also is central to bringing traffickers to justice and breaking the cycle of criminality. The Centre for Social Justice report also highlights this saying: *“Failure to support survivors increases re-trafficking rates and hinders our ability to dismantle the criminal networks managing the abuse because their vital evidence and intelligence is lost. It is time to invest for their benefit and ours.”*<sup>20</sup>
  15. Since September 2019, longer term support has been available to confirmed victims in England and Wales under the Recovery Needs Assessment.<sup>20</sup> It is neither a statutory scheme nor guaranteed for any amount of time. In response to an Assembly Question in March the Minister of Justice said the Department has undertaken to consider the possibility of an extended recovery and reflection period and will also be considering the Recovery Needs Assessment process introduced by the Home Office in England and Wales.<sup>22</sup> **Nevertheless, currently victims in England and Wales receive more support after a positive conclusive grounds decision than those in Northern Ireland.**

*What has the Department of Justice said about long-term support for victims?*

16. The Department of Justice (DOJ) has said that it will conduct a scoping review on the possibility of extending support to victims beyond the NRM in both the Minister’s response to the October motion and on page 27 of the published Modern Slavery Strategy 2021/22.<sup>21</sup> In answering a Written Assembly Question in November 2020, the Minister of Justice said, *“work to scope extended support arrangements will commence in April 2021”* and *“It is not possible at this point to provide a definitive timescale for completing the scoping exercise. An update on progress will be provided as part of the annual progress reports on the delivery of the Modern Slavery Strategy. During the Second Stage debate, both Joanne Bunting MLA and Mervyn Storey MLA, the Chair of the Justice Committee, raised the failure of the Bill to address the challenge of longer term support.”*<sup>22</sup> The Minister in response stated, *“In his time as Minister, David Ford, working closely with Maurice Morrow and others, managed to extend the cover and support that we already give to victims of human trafficking. The Bill will put that on a statutory footing. However, I am, of course, open to looking at what more can be done.”*<sup>23</sup>

<sup>19</sup> Flourish, “Key Services,” accessed 20 September 2021, <https://flourishni.org/key-services> <sup>19</sup>  
Centre for Social Justice, *“It still happens here: Fighting UK Slavery in the 2020s,”*

2020, 44 <sup>20</sup> Centre for Social Justice, 70

L	V	P	Case	Summary
<a href="https://www.duncanlewis.co.uk/news/Home_Office_concedes_that_their_45_day_policy_for_providing_support_for_victims_of_trafficking_is_unsatisfactory_(28_June_2019).html">https://www.duncanlewis.co.uk/news/Home_Office_concedes_that_their_45_day_policy_for_providing_support_for_victims_of_trafficking_is_unsatisfactory_(28_June_2019).html</a>				

<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/953307/recovery-needs-assessment-v3.0-gov-uk.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/953307/recovery-needs-assessment-v3.0-gov-uk.pdf</a> <sup>22</sup>	<a href="http://aims.niassembly.gov.uk/questions/printquestionssummary.aspx?docid=297140">http://aims.niassembly.gov.uk/questions/printquestionssummary.aspx?docid=297140</a>
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<sup>21</sup> [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2\\_0.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2_0.pdf)

<sup>22</sup> <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2021/09/13&docID=348691>

<sup>23</sup> <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2021/09/13&docID=348691>

### *CARE NI's Recommendation*

17. CARE NI is **recommending that there should be an amendment to clause 16 to enact this support**. The details are set out in the Appendix. Please see amendment 1.
- 17.1. A change from discretionary support to a statutory provision of post NRM support would incur a cost to the Executive. It is estimated that between 35.5% and 47.8% of people who have a reasonable grounds decision subsequently receive a conclusive grounds decision.<sup>24</sup> Using the 2020 NRM statistics this could result in approx. 45 adults potentially being entitled to government support.<sup>25</sup>
- 17.2. However, currently only those individuals who are British citizens or have leave to remain (either as an asylum seeker, based on humanitarian protection or the current discretionary leave to remain for victims of trafficking/exploitation) would be able to access this support.
- 17.3. **At CARE NI, we would like to see all victims across the UK receive at least 12 months post NRM support and leave to remain.** We believe this change would offer value for money as confirmed victims would not be re-trafficked and there would likely be an increase in conviction rates, leading to less trafficking.<sup>26</sup> Indeed, we are disappointed that the UK Government is not proposing such support for victims in England and Wales through the Nationality and Borders Bill. That Bill does include statutory support for victims in England and Wales while in the NRM (which has been the case in Northern Ireland since 2015).
- 17.4. **If the Assembly were to vote in favour of longer-term support for victims who had received a positive reasonable grounds decision, Northern Ireland would again be leading the way across the UK on support for victims and would bring pressure on the UK Government to change their policy on immigration leave for such victims.** We urge you to support Amendment 1 because:
- 17.4.1. Adopting this position would help the limited number of confirmed victims of modern slavery in Northern Ireland who have leave to remain to access the kind of sustained support required to enable them to recover, guarding against re-trafficking and building resilience to empower them to engage in the court process and thereby help secure an increased conviction rate.
- 17.4.2. Taking this step would enable Northern Ireland to highlight the failure of leadership at the UK level on immigration leave for confirmed victims of modern slavery by drawing attention to the fact that the only reason why *all* confirmed victims of modern slavery in Northern Ireland would not be able to access the support to recover offered under amendment 1 would be if the UK Government refuses to provide those confirmed victims of modern slavery currently without leave to remain, the requisite immigration status for 12 months to enable them to access that support. In taking the lead in highlighting this issue within the UK, Northern Ireland would not only be demonstrating how we should discharge our moral responsibility to confirmed victims, but would also be demonstrating what needs to happen if we are to see an increase in conviction rates of traffickers which is vital if we are to see a reduction in trafficking. **CARE NI believes that amendment 1 presents Northern Ireland with a strategic opportunity not only to help some confirmed victims in Northern Ireland but also to take the lead within the UK in highlighting what needs to be done for all victims.**

### *Modern Slavery Strategy*

18. **Clause 17** will amend section 12 of the HTEA to change from an annual cycle of producing a strategy to tackle trafficking/slavery to a three-year cycle.
- 18.1. We at CARE NI **support this clause**. In addition, **we suggest that the DOJ should be required under the HTEA to publish annual progress reports**. This would be in line with the recommendation from the

<sup>24</sup> University of Nottingham, [The Modern Slavery \(Victim Support\) Bill: A Cost Benefit Analysis](#), July 2019, para 9, page 7

<sup>25</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/969978/national-referral-mechanism-statistics-uk-quarter1-2020-january-to-march-tables.ods](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/969978/national-referral-mechanism-statistics-uk-quarter1-2020-january-to-march-tables.ods)

<sup>26</sup> University of Nottingham, [The Modern Slavery \(Victim Support\) Bill: A Cost Benefit Analysis](#), July 2019,



Criminal Justice Inspection Northern Ireland (CJINI) ‘Modern Slavery and Human Trafficking’ report,<sup>27</sup> which recommended the need for published annual progress reports, noting that the Scottish Government publishes annual progress report on its human trafficking strategy “which provided transparency and increased public awareness of progress and developments, and the DoJ should consider whether a similar approach would have benefit.”<sup>28</sup>

- 18.2. In proposing its intention to change the HTEA requirement for annual strategies to a three year strategy the DoJ has stated that “*the Department considers that a longer term strategy, combined with an annual progress report would provide an appropriate and proportionate level of assurance that we can deliver on a longer term vision while also responding quickly to a changing environment.*”<sup>29</sup> In its response to the consultation on the change to section 12 the DoJ said that respondents supported the idea with the “*majority favouring a move to a three year strategy while underlining the need for the Strategy to be published and the continuing importance of producing annual progress reports*”.<sup>32</sup> During the Second Stage debate of the Justice Bill, the Minister, in response to a question raised in relation to annual progress reports, reassured the Member that the Department, “will continue to produce annual progress report updates. It is important we keep a watching brief on this area of work.”<sup>30</sup> **We welcome these positive statements by the Department and the commitment by the Minister to publish annual progress reports.**

## **ADDITIONAL SUGGESTIONS FOR AMENDMENTS ON HUMAN TRAFFICKING AND EXPLOITATION Slavery and Trafficking Risk Orders**

19. The HTEA does not currently contain Risk Orders, only Slavery and Trafficking Prevention Orders (STPOs).<sup>31</sup> STPOs can only be made when the person has been convicted of a modern slavery offence.<sup>32</sup> Slavery and Trafficking Risk Orders (STROs) under the Modern Slavery Act 2015 applicable in England and Wales, can be made on application to the court where the person’s behaviour indicates that there is a risk they will commit a human trafficking/modern slavery offence and that an order is necessary to protect the public.<sup>33</sup>
20. There are two circumstances where having risk orders in Northern Ireland would be helpful:
- 20.1. When a defendant is convicted for a crime other than human trafficking, but where there are suspicions that trafficking may have been involved or there is a connection between trafficking and that offending behaviour – most obviously where people are convicted of controlling prostitution for gain or brothel keeping. It is widely accepted that human trafficking/modern slavery crimes are complex and difficult to investigate and that it is difficult to gather all the necessary evidence in relation to such cases. We know from England and Wales that some crimes are flagged by the CPS as having indicators of trafficking but are ultimately prosecuted for other crimes.<sup>34</sup> While similar data for NI is not published, data published by the Anti-Slavery Commissioner reported that in 2018 two persons were convicted of other offences (controlling prostitution) arising from modern slavery/human trafficking investigations.<sup>35</sup> In these

<sup>27</sup> <https://www.cjini.org/getattachment/df690ef3-5352-457e-bbeb-ea2957b531b0/report.aspx>

<sup>28</sup> Ibid- Strategic recommendation 2 page 77, also para 3.134

<sup>29</sup> DOJ Annual Strategy 2021-22 para 1.5 [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2\\_0.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2_0.pdf) <sup>32</sup>

[Summary of responses to human trafficking legislation amendments \(justice-ni.gov.uk\)](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2_0.pdf)

<sup>30</sup> <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2021/09/13&docID=348691>

<sup>31</sup> HTEA schedule 3 paragraph 3 ‘Meaning of Relevant Offender’

<sup>32</sup> Or they can also be made where the person is not guilty by reason of insanity or considered ‘unfit to plead’

<sup>33</sup> <https://www.legislation.gov.uk/ukpga/2015/30/part/2/crossheading/slavery-and-trafficking-risk-orders>

<sup>34</sup> See for example the [Independent Anti-Slavery Commissioner’s 2020/21 Annual Report](#) para 2.3.1 and Appendix B, page 77

<sup>35</sup> *Ibid*, Appendix B, footnote 212, page 79

situations when convictions are secured STROs can be applied. In 2020, for example, a couple convicted in Lincoln of controlling prostitution not trafficking were made the subject of an STRO.<sup>36</sup>

- 20.2. Where people have not (or not yet) been convicted. This includes situations where there is a need to protect future potential victims while modern slavery/human trafficking crimes are being investigated, especially where such investigations are very long and drawn out. The Independent Anti-Slavery Commissioner said in her Annual Report 2019/20, “*The risk orders can be particularly helpful when investigations are lengthy and make it possible to protect victims prior to prosecution...In Northern Ireland the legislation did not include risk orders but I urged the minister for justice when I met her in February 2020 to reconsider their value as evidence of effective use in England and Wales and Scotland emerges.*”<sup>37</sup>
21. The CJINI report in October 2020 says “*STROs were not included in the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 and so these Orders were not an option available to the PSNI, the PPS or the Northern Ireland Courts and Tribunals Service for use against people who had not been convicted but posed a continuing risk of committing MSHT crime in Northern Ireland.*”<sup>38</sup> The report includes some evidence of examples from England and Wales of the beneficial use of STROs in cases where there are protracted investigations (ie applying for an STRO before a prosecution might be brought) and says “*these civil orders were seen as an important tool to prevent slavery-related harm before it occurred and to prevent reoffending*”.<sup>42</sup> The CJINI recommended “*The Department of Justice, in consultation with the Police Service of Northern Ireland and the Public Prosecution Service for Northern Ireland, and after consideration of the experience in England and Wales, should re-examine the need for Slavery and Trafficking Risk Orders in Northern Ireland to prevent modern slavery and human trafficking-related crime and support victims within one year of the publication of this report.*”<sup>39</sup> Examples of possible STROs in this scenario were given in a case in Doncaster where an interim risk order was applied with travel restrictions preventing the suspect leaving the country;<sup>40</sup> and by Merseyside police applying and enforcing risk orders to protect vulnerable individuals.<sup>41</sup>
22. The DOJ Annual Strategy 2021/22 published in May 2021 included a commitment to “*engage with key stakeholders to consider the potential benefits and implications of introducing Slavery and Trafficking Risk Orders (STRO) in Northern Ireland based on evidence and experience from other jurisdictions.*”<sup>42</sup> However, no public consultation has yet been announced in relation to the DOJ strategy commitment to engage with stakeholders on this matter.
23. CARE NI is **recommending that there should be a new clause after clause 17 with a new schedule to the HTEA based on the STROs text in the Modern Slavery Act 2015 and Schedule 3 of the HTEA.** The details are set out in the Appendix. Please see amendment 2.

### Requirement for juries to be given directions in human trafficking/modern slavery cases

24. In its October 2020 report on modern slavery, the CJINI recommended a consultation on “*legislation to contain a requirement for jury directions to be given in modern slavery and human trafficking offence cases to enable juries to approach court evidence in a more informed manner.*”<sup>43</sup> This recommendation follows an earlier recommendation by the CJINI in a different report regarding directions for juries in trials for sexual offences.<sup>48</sup> **It appears that that neither recommendation has been implemented as yet.** The CJINI highlights the legislative provision on directions for juries in the Abusive Behaviour and Sexual Harm (Scotland) Bill 2016 regarding sexual

<sup>36</sup> This story details their conviction: <https://www.granthamjournal.co.uk/news/couple-given-suspended-jail-sentences-for-running-prostitution-racket9119902/>  
Further information on the STRO found here: <https://www.lincs.police.uk/news-campaigns/news/2021/couple-handed-slavery-and-trafficking-risk-orders/>

<sup>37</sup> Independent Anti-Slavery Commissioner *Annual Report 2019/20* para 2.3.3. See also the *Independent Anti-Slavery Commissioner’s 2020/21 Annual Report* para 2.3.8

<sup>38</sup> <http://www.cjini.org/getattachment/df690ef3-5352-457e-bbeb-ea2957b531b0/report.aspx> Para 2.44 <sup>42</sup>

Ibid. paragraphs 2.46-2.48

<sup>39</sup> Ibid. Operational Recommendation no. 1

<sup>40</sup> <https://www.doncasterfreepress.co.uk/news/crime/doncaster-woman-stopped-from-leaving-country-by-police-over-modern-slavery-concerns-3162796>;

<sup>41</sup> <https://www.liverpoolecho.co.uk/news/liverpool-news/three-people-slapped-strict-anti-20109978>

<sup>42</sup> [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2\\_0.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2_0.pdf)

<sup>43</sup> CJINI Modern Slavery Report October 2020 Op.Cit. Strategic recommendation 3 page 87 <sup>48</sup> Ibid. para 3.191

offences, and guidance in England and Wales in the Crown Court Compendium regarding assumptions etc in sexual offences as relevant precedents. However, there is no equivalent provision on jury directions on modern slavery cases for either Scotland or England & Wales, so if this recommendation were accepted, Northern Ireland would be leading the way again.

25. The DoJ Annual Strategy 2021/2022 includes an action point to “*Scope the need for legislation to require jury directions to be given in modern slavery and human trafficking offence cases*”.<sup>44</sup> In answer to an AQW the Minister said (in November 2020) “*My Department is looking at a number of recommendations relating to jurors’ responsibilities emanating from the CJINI report on modern slavery and human trafficking and the Gillen Review, which includes a similar recommendation about giving directions to rape trial jurors (an issue which was also previously noted by CJINI). I intend to roll these together into a policy review in 2021, which will include a public consultation on a range of juror issues later in the year. Any proposals for legislation which emerge will be considered for inclusion in the legislative programme for the next mandate.*”<sup>45</sup>
26. CARE NI is **recommending that there should be a new clause in relation to directions to juries in cases of modern slavery after clause 17 based on the precedent of how the Scottish Abusive Behaviour and Sexual Harm (Scotland) Bill 2016 applies directions in cases involving sexual abuse.** The details are set out in the Appendix. Please see amendment 3.

### Reform of Criminal Injuries Compensation Scheme (CICS)

27. Very few victims of trafficking have been awarded compensation under the CICS operating in Northern Ireland: “*there have been no successful applications from victims of human trafficking under the Criminal Injury Compensation Scheme. There have been a total of 10 applications [in the last five years], eight of which have been denied and two are currently being processed by Compensation Services.*”<sup>46</sup>
28. Significant legal barriers have been identified that mean many trafficking victims are not eligible for compensation under the scheme: comments by relevant officials to the Modern Slavery and Human Trafficking Engagement Group suggest that the difficulty arises over the definitions of eligibility in the legislation underpinning the compensation scheme. These problems are:
- (i) modern slavery and human trafficking are not specifically considered a crime of violence;
  - (ii) victims who do not suffer debilitating physical injury or diagnosable psychiatric injury are not eligible. We understand that the need for physical injury to be debilitating is the test applied although no such requirement appears in the official text of the compensation scheme (the scheme currently allows for an award where there have been multiple minor injuries although at least one must have effects lasting beyond six weeks).<sup>47</sup>
  - (iii) the need for medical evidence of injuries, both physical and psychological which is not always possible for victims who have not accessed medical treatment or due to delays in accessing psychological services.
29. There is a further barrier to victims of trafficking: applications can be rejected if the victim has failed to co-operate with the police or other authority in attempting to bring the assailant to justice. However, many victims of trafficking are very wary of the state authorities and do not wish to engage with them (in part this is recognised in the need for jury directions in relation to reporting an MSHT offence). Similar problems exist in relation to the Criminal Injuries Compensation Scheme in Great Britain, which have been noted by a joint NGO submission to the current GRETA review of the United Kingdom’s compliance with the Council of Europe Convention on Action against Trafficking in Human Beings.<sup>48</sup>

<sup>44</sup> [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2\\_0.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/modern-slavery-strategy-27-05-v2_0.pdf)

<sup>45</sup> <http://aims.niassembly.gov.uk/questions/printquestionssummary.aspx?docid=313928>

<sup>46</sup> <http://aims.niassembly.gov.uk/questions/printquestionssummary.aspx?docid=291584>

<sup>47</sup> <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/ni-criminal-injuries-amendment-2020.pdf>

<sup>48</sup> [https://www.antislavery.org/wp-content/uploads/2020/03/GRETA\\_submission\\_Final-Feb20.pdf](https://www.antislavery.org/wp-content/uploads/2020/03/GRETA_submission_Final-Feb20.pdf) At section 4 <sup>54</sup> [https://ec.europa.eu/anti-trafficking/sites/default/files/cets\\_197.docx.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/cets_197.docx.pdf)



30. Article 15(4) of the European Convention against Trafficking requires States to “*adopt such legislative or other measures as may be necessary to guarantee compensation for victims.*”<sup>49</sup> The last GRETA report for the United Kingdom, published in 2016 recommended UK authorities should “*ensure that all victims of human trafficking are eligible for compensation from the Criminal Injuries Compensation Authority, regardless of the nature of the means used, and that the amount of compensation from the Northern Ireland Criminal Injuries Compensation Authority is not made dependent on the victim’s co-operation with the authorities or prior convictions.*”<sup>49</sup> At CARE NI, we recognise that compensation for victims is important in helping their recovery and protecting them from re-trafficking. In the case of victims who have been exploited in Northern Ireland, compensation paid out under the CICS is “*designed to compensate blameless victims of violent crime for the injuries suffered. The payment can never fully compensate for the injuries suffered, but it is in recognition of public sympathy for the pain and suffering caused.*”<sup>50</sup>
31. **CARE NI recommends easier access to compensation for victims of modern slavery.** We have suggested an amendment after clause 17 which would require the DoJ to make changes to Criminal Injuries Compensation (Northern Ireland) Order 2002.<sup>57</sup> The details are in the appendix. Please see amendment 4.

### Conclusion

32. CARE NI has made a series of recommendations for amendments to this Bill to increase the support for victims – namely amendments 1 (support for confirmed victims) and 5 (compensation); amendment 3 to protect victims from being exploited (STROs); amendment 4 to aid successful prosecutions through jury directions; and amendment 2 to hold the DoJ to account.
33. CARE NI urges the Committee to support these amendments. We believe amendment 1 is essential for victims.

Rebecca Stevenson, CARE NI Policy Officer t: [REDACTED]

Lauren Agnew, Human Trafficking and Sexual Exploitation Policy Officer, t: [REDACTED]

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<sup>49</sup> Group of Experts on Action against Trafficking in Human Beings (GRETA) Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom Second Evaluation Round 7 October 2016, paragraph 245

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806abcde>

<sup>50</sup> <https://www.justice-ni.gov.uk/news/justice-minister-announces-changes-criminal-injuries-compensation-scheme> <sup>57</sup> <https://www.legislation.gov.uk/nisi/2002/796/contents>

## APPENDIX: DRAFT TEXT OF AMENDMENTS

### Amendment 1: Support for victims of slavery and human trafficking following a conclusive determination

Clause 16, page 20, line 12, at end insert—

“(2) For subsection (9) substitute—

“(9) Where—

- (a) assistance and support has been provided to a person under this section; and
- (b) there has been a conclusive determination that the person is a victim of trafficking in human beings or slavery, servitude, or forced or compulsory labour

the Department must ensure that assistance and support continues to be provided to that person for a period of at least 12 months from the date on which the conclusive determination was made.

(9A) The assistance and support to be provided under subsection (9) must be provided in accordance with an assistance and support plan which specifies that person’s individual needs for assistance and support and how those needs will be met for the full duration of the period.

(9B) Where assistance and support is provided to a person under subsection (9) the Department must consider whether it is necessary for the victim’s physical, psychological and social recovery to provide assistance and support after the end of the period in subsection (9) for as long as they think appropriate.”

### Amendment 2: Slavery and Trafficking Risk Orders

#### New clause

After clause 17 insert—

#### ‘Slavery and Trafficking Risk Orders

**17A.**—(1) The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 is amended as follows. (2) After section 11 (*Slavery and Trafficking Prevention Orders*) insert—

#### “Slavery and Trafficking Risk Orders

**11A** Schedule 3B (which makes provision for, and in connection with, slavery and trafficking risk orders) has effect.”

(3) After schedule 3 (*SLAVERY AND TRAFFICKING PREVENTION ORDERS*) insert—

#### “SCHEDULE 3B SLAVERY AND TRAFFICKING RISK ORDERS PART 1

#### MAKING AND EFFECT OF SLAVERY AND TRAFFICKING RISK ORDERS

##### *Slavery and trafficking risk orders on dealing with defendant*

**1**—(1) A court of summary jurisdiction may make a slavery and trafficking risk order against a person aged 18 or over (“the defendant”) on an application by the Chief Constable.

(2) The court may make the order only if it is satisfied that the defendant has acted in a way which means that—

- (a) there is a risk that the defendant will commit a slavery or human trafficking offence, and

- (b) it is necessary to make the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.
- (3) The Chief Constable may make an application under this paragraph only in respect of a person—
- (a) who lives in Northern Ireland, or
  - (b) who the Chief Constable believes is in, or is intending to come to, Northern Ireland.
- (4) An application under this paragraph is to be made by complaint.
- (5) The acts of the defendant which may be relied on for the purposes of sub-paragraph (2) include acts taking place before this Schedule comes into operation.
- (6) The Department may by order provide that an application under this paragraph may be made by a person or body specified in the order (as well as by the Chief Constable); and such an order may make such consequential amendments to this Schedule as the Department thinks necessary or expedient.

#### *Effect of slavery and trafficking risk orders*

- 2—**(1) A slavery and trafficking risk order is an order prohibiting the defendant from doing anything described in the order or requiring the defendant to do anything described in the order (or both).
- (2) The only prohibitions or requirements that may be included in the order are those which the court is satisfied are necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence.
- (3) The order may prohibit the defendant from doing things in any part of the United Kingdom, and anywhere outside the United Kingdom.
- (4) Subject to paragraph 3(1), a prohibition contained in a slavery and trafficking risk order has effect— (a) for a fixed period, specified in the order, of at least 2 years, or (b) until further order.
- (5) A slavery and trafficking risk order—
- (a) may specify that some of its prohibitions have effect until further order and some for a fixed period; (b) may specify different periods for different prohibitions.
- (6) If a court makes a slavery and trafficking risk order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order ceases to have effect.

#### *Prohibitions on foreign travel*

- 3—**(1) A prohibition on foreign travel contained in a slavery and trafficking risk order must be for a fixed period of not more than 5 years.
- (2) A “prohibition on foreign travel” means—
- (a) a prohibition on travelling to any country outside the United Kingdom named or described in the order,
  - (a) a prohibition on travelling to any country outside the United Kingdom other than a country named or described in the order, or
  - (b) a prohibition on travelling to any country outside the United Kingdom.
- (3) Sub-paragraph (1) does not prevent a prohibition on foreign travel from being extended for a further period (of no more than 5 years each time) under paragraph 6.

- (4) A slavery and trafficking risk order that contains a prohibition within sub-paragraph (2)(c) must require the defendant to surrender all of the defendant's passports at a police station specified in the order— (a) on or before the date when the prohibition takes effect, or (b) within a period specified in the order.
- (5) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a slavery and trafficking risk order containing a prohibition within sub-paragraph (2)(c).
- (6) Sub-paragraph (5) does not apply in relation to—
  - (a) a passport issued by or on behalf of the authorities of a country outside the United Kingdom if the passport has been returned to those authorities;
  - (b) a passport issued by or on behalf of an international organisation if the passport has been returned to that organisation.

#### *Variation, renewal and discharge*

- 4—(1) A person within sub-paragraph (2) may by complaint to a court of summary jurisdiction apply for an order varying, renewing or discharging a slavery and trafficking risk order.
- (2) The persons are— (a) the defendant; (b) the Chief Constable.
- (3) On the application the court, after hearing—
  - (a) the person making the application, and
  - (b) the other person mentioned in sub-paragraph (2) (if that person wishes to be heard), may make any order varying, renewing or discharging the slavery and trafficking risk order that the court considers appropriate.
- (4) An order may be renewed, or varied so as to impose additional prohibitions or requirements on the defendant, only if the court is satisfied that—
  - (a) there is a risk that the defendant may commit a slavery or human trafficking offence; and
  - (b) it is necessary to renew or vary the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.
- (5) Any renewed or varied order may contain only those prohibitions or requirements which the court is satisfied are necessary for that purpose.
- (6) The court must not discharge an order before the end of 2 years beginning with the day on which the order was made, without the consent of the defendant and the Chief Constable.
- (7) Sub-paragraph (6) does not apply to an order containing a prohibition on foreign travel and no other prohibitions.

#### *Interim slavery and trafficking risk orders*

- 5—(1) This paragraph applies where an application under paragraph 1 (“the main application”) has not been determined.
- (2) An application for an interim slavery and trafficking risk order—
  - (a) may be made by the complaint by which the main application is made, or
  - (b) if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.
- (3) The court may, if it considers it just to do so, make an interim slavery and trafficking risk order.



(4) An interim slavery and trafficking risk order is an order prohibiting the defendant from doing anything described in the order or requiring the defendant to do anything described in the order (or both).

(5) The order—

- (a) has effect only for a fixed period, specified in the order;
- (b) ceases to have effect, if it has not already done so, on the determination of the main application.

(6) The applicant or the defendant may by complaint apply to the court that made the interim slavery and trafficking risk order for the order to be varied, renewed or discharged.

### *Appeals*

6—(1) A defendant may appeal to the county court—

- (a) against the making of a slavery and trafficking risk order;
- (b) against the making of an interim slavery and trafficking risk order;
- (c) against the making of an order under paragraph 4, or the refusal to make such an order.

(2) The county court may make such orders as may be necessary to give effect to its determination of the appeal, and may also make such incidental or consequential orders as appear to it to be just.

(3) An order made by the county court on an appeal against the making of a slavery and trafficking risk order or an interim slavery and trafficking risk order is to be treated for the purposes of paragraphs 4 or 5 as if it were an order of the court from which the appeal was brought.

(4) Sub-paragraph (3) does not apply to an order directing that an application be reheard by a court of summary jurisdiction.

## **PART 2**

### **NOTIFICATION REQUIREMENTS**

#### *Offender subject to notification requirements*

7—(1) References in the following provisions of this Schedule to an offender subject to notification requirements are references to an offender who is for the time being subject to a slavery and trafficking risk order or an interim slavery and trafficking risk order which is in effect under this Schedule.

(2) Sub-paragraph (1) has effect subject to paragraph 10(7) (which excludes from paragraph 10 an offender subject to an interim slavery and trafficking risk order).

#### *Initial notification*

8—(1) An offender subject to notification requirements must notify the required information to the police within the period of 3 days beginning with the date on which the slavery and trafficking risk order or the interim slavery and trafficking risk order comes into force in relation to the offender (“the relevant date”).

(2) The “required information” is the following information about the offender—

- (a) date of birth;
- (b) national insurance number;

- (c) name on the relevant date or, if the offender used two or more names on that date, each of those names; (d) home address on the relevant date;
  - (e) name on the date on which the notification is given or, if the offender used two or more names on that date, each of those names;
  - (f) home address on the date on which the notification is given;
  - (g) the address of any other premises in the United Kingdom at which on that date the offender regularly resides or stays;
  - (h) any information prescribed by regulations made by the Department.
- (3) When determining the period of 3 days mentioned in sub-paragraph (1), there is to be disregarded any time when the offender is—
- (a) remanded in or committed to custody by an order of a court;
  - (b) serving a custodial sentence; (c) detained in a hospital; or (d) outside the United Kingdom.
- (4) In this Part “home address” means in relation to the offender—
- (a) the address of the offender's sole or main residence in the United Kingdom, or
  - (b) if the offender has no such residence, the address or location of a place in the United Kingdom where the offender can regularly be found or, if there is more than one such place, such one of them as the offender selects.

#### *Notification of changes*

- 9—**(1) An offender subject to notification requirements must, within the period of 3 days beginning with the date on which any notifiable event occurs, notify to the police—
- (a) the required new information, and
  - (b) the information mentioned in paragraph 8(2).
- (2) A “notifiable event” means—
- (a) the use by the offender of a name which has not been notified to the police under paragraph 8 or this paragraph;
  - (b) any change of the offender's home address;
  - (c) the expiry of any qualifying period during which the offender has resided or stayed at any premises in the United Kingdom the address of which has not been notified to the police under paragraph 8 or this paragraph; (d) any prescribed change of circumstances; or
  - (e) the release of the offender from custody pursuant to an order of a court or from a custodial sentence or detention in a hospital.
- (3) The “required new information” is—
- (a) the name referred to in sub-paragraph (2)(a),
  - (b) the new home address (see sub-paragraph (2)(b)),
  - (c) the address of the premises referred to in sub-paragraph (2)(c),
  - (d) the prescribed details, or
  - (e) the fact that the offender has been released as mentioned in sub-paragraph (2)(e), as the case may be.
- (4) A notification under sub-paragraph (1) may be given before the notifiable event occurs, but in that case the offender must also specify the date when the event is expected to occur.
- (5) If a notification is given in accordance with sub-paragraph (4) and the event to which it relates occurs more than 2 days before the date specified, the notification does not affect the duty imposed by sub-paragraph (1).
- (6) If a notification is given in accordance with sub-paragraph (4) and the event to which it relates has not occurred by the end of the period of 3 days beginning with the date specified—
- (a) the notification does not affect the duty imposed by sub-paragraph (1), and

- (b) the offender must, within the period of 6 days beginning with the date specified, notify to the police the fact that the event did not occur within the period of 3 days beginning with the date specified.
- (7) Paragraph 8(3) applies to the determination of—
- (a) any period of 3 days for the purposes of sub-paragraph (1), or
  - (b) any period of 6 days for the purposes of sub-paragraph (6), as it applies to the determination of the period of 3 days mentioned in paragraph 8(1).
- (8) In this paragraph—
- (a) “prescribed change of circumstances” means any change—
    - (i) occurring in relation to any matter in respect of which information is required to be notified by virtue of paragraph 8(2)(h), and
    - (ii) of a description prescribed by regulations made by the Department;
  - (b) “the prescribed details”, in relation to a prescribed change of circumstances, means such details of the change as may be so prescribed.
- (9) In this paragraph “qualifying period” means—
- (a) a period of 7 days, or
  - (b) two or more periods, in any period of 12 months, which taken together amount to 7 days.

#### *Periodic notification*

- 10**—(1) An offender subject to notification requirements must, within the applicable period after each notification date, notify to the police the information mentioned in paragraph 8(2), unless the offender has already given a notification under paragraph 9(1) within that period.
- (2) A “notification date” means, in relation to the offender, the date of any notification given by the offender under paragraph 8(1) or 9(1) or sub-paragraph (1).
- (3) Where the applicable period would (apart from this paragraph) end while sub-paragraph (4) applies, that period is to be treated as continuing until the end of the period of 3 days beginning with the date on which sub-paragraph (4) first ceases to apply.
- (4) This sub-paragraph applies if the offender is—
- (a) remanded in or committed to custody by an order of a court,
  - (b) serving a custodial sentence, (c) detained in a hospital, or (d) outside the United Kingdom.
- (5) In this paragraph “the applicable period” means—
- (a) in any case where sub-paragraph (6) applies, such period as may be prescribed by regulations made by the Department, and
  - (b) in any other case, the period of one year.
- (6) This sub-paragraph applies if the last home address notified by the offender under paragraph 8(1) or 9(1) or subparagraph (1) was the address or location of such a place as is mentioned in paragraph 8(4)(b).
- (7) Nothing in this paragraph applies to an offender who is subject to an interim slavery and trafficking risk order.

*Absence from notified residence*

**11—(1)** This paragraph applies to an offender subject to notification requirements at any time if the last home address notified by the offender under paragraph 8(1), 9(1) or 10(1) was an address in Northern Ireland such as is mentioned in paragraph 8(4)(a) (sole or main residence).

(2) If the offender intends to be absent from that home address for a period of more than 3 days (“the relevant period”), the offender must, not less than 12 hours before leaving that home address, notify to the police the information set out in sub-paragraph (3).

(3) The information is—

- (a) the date on which the offender will leave that home address;
- (b) such details as the offender holds about—
  - (i) the offender's travel arrangements during the relevant period; (ii) the offender's accommodation arrangements during that period; (iii) the offender's date of return to that address.

(4) In this paragraph—

“travel arrangements” include, in particular, the means of transport to be used and the dates of travel,

“accommodation arrangements” include, in particular, the address of any accommodation at which the relevant offender will spend the night during the relevant period and the nature of that accommodation.

(5) Where—

- (a) an offender has given a notification under sub-paragraph (2), and
- (b) at any time before that mentioned in that sub-paragraph, the information notified becomes inaccurate or incomplete,

the offender must give a further notification under sub-paragraph (2).

(6) Where an offender—

- (a) has notified a date of return to the offender's home address, but (b) returns to that home address on a date other than that notified, the offender must notify the date of the offender's actual return to the police within 3 days of the actual return.

(7) Nothing in this paragraph requires an offender to notify any information which falls to be notified in accordance with a requirement imposed by regulations under paragraph 12.

(8) In calculating the relevant period for the purposes of this paragraph there is to be disregarded—

- (a) any period or periods which the offender intends to spend at, or travelling directly to or from, an address of the kind mentioned in paragraph 8 (2)(g) notified to the police under paragraph 8(1), 9(1) or 10(1);
- (b) any period or periods which the offender intends to spend at, or travelling directly to or from, any premises, if his stay at those premises would give rise to a requirement to notify the address of those premises under paragraph 9(2)(c).



*Travel outside the United Kingdom*

**12**—(1) The Department may by regulations make provision with respect to offenders subject to notification requirements, or any description of such offenders—

- (a) requiring such persons, before they leave the United Kingdom, to give in accordance with the regulations a notification under sub-paragraph (2);
- (b) requiring such persons, if they subsequently return to the United Kingdom, to give in accordance with the regulations a notification under sub-paragraph (3).

(2) A notification under this paragraph must disclose—

- (a) the date on which the offender proposes to leave the United Kingdom;
- (b) the country (or, if there is more than one, the first country) to which the offender proposes to travel and the proposed point of arrival (determined in accordance with the regulations) in that country;
- (c) any other information prescribed by the regulations which the offender holds about the offender's departure from or return to the United Kingdom, or about the offender's movements while outside the United Kingdom.

(3) A notification under this sub-paragraph must disclose any information prescribed by the regulations about the offender's return to the United Kingdom.

*Method of notification and related matters*

**13**—(1) An offender gives a notification to the police under paragraph 8(1), 9(1), 10(1) or 11(2) or (6) by—

- (a) attending at any police station in Northern Ireland prescribed by regulations under section 87(1)(a) of the Sexual Offences Act 2003, and
- (b) giving an oral notification to any police officer, or to any person authorised for the purpose by the officer in charge of the station.

(2) Any notification given in accordance with this paragraph must be acknowledged; and the acknowledgement must be—

- (a) in writing, and
- (b) in such form as the Department may direct.

(3) Where a notification is given under paragraph 8(1), 9(1), 10(1) or 11(2) or (6), the offender must, if requested to do so by the police officer or other person mentioned in sub-paragraph (1)(b), allow that officer or person to—

- (a) take the offender's fingerprints,
- (b) photograph any part of the offender, or (c) do both of those things, in order to verify the offender's identity.

(4) Fingerprints taken from a person under this paragraph (and any copies of those fingerprints) must be destroyed no later than the date on which the offender ceases to be subject to notification requirements.

(5) Photographs taken of any part of the offender under this paragraph (and any copies of such photographs) must be destroyed no later than the date on which the offender ceases to be subject to notification requirements.

(6) In this paragraph “photograph” includes any process by means of which an image may be produced.

**PART 3**

**SUPPLEMENTARY**

*Offences*

**14**—(1) A person who, without reasonable excuse, fails to comply with any prohibition or requirement contained in—

- (a) a slavery and trafficking risk order, or
  - (b) an interim slavery and trafficking risk order, commits an offence.
- (2) A person who, without reasonable excuse, fails to comply with—
- (a) paragraph 8(1), 9(1) or (6)(b), 10(1), 11(2) or (6) or 13(3), or
  - (b) any requirement imposed by regulations made under paragraph 12(1), commits an offence.
- (3) A person who notifies to the police, in purported compliance with—
- (a) paragraph 8(1), 9(1), 10(1) or 11(2) or (6), or
  - (b) any requirement imposed by regulations made under paragraph 12(1), any information which the person knows to be false, commits an offence.
- (4) As regards an offence under sub-paragraph (2), so far as it relates to non-compliance with—
- (a) paragraph 8(1), 9(1), 10(1) or 11(2) or (6), or
  - (b) any requirement imposed by regulations made under paragraph 12(1), a person commits such an offence on the first day on which the person first fails, without reasonable excuse, to comply with the provision mentioned in paragraph (a) or (as the case may be) the requirement mentioned in paragraph (b), and continues to commit it throughout any period during which the failure continues.
- (5) But a person must not be prosecuted under sub-paragraph (2) more than once in respect of the same failure.
- (6) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years;
  - (b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both.
- (7) Where a person is convicted of an offence under this paragraph, it is not open to the court by or before which the person is convicted to make an order for conditional discharge in respect of the offence.

*Supply of information to relevant Northern Ireland departments, Secretary of State, etc.*

- 15**—(1) This paragraph applies to information notified to the police under paragraph 8(1), 9(1) or 10(1).
- (2) The Chief Constable may, for the purposes of the prevention, detection, investigation or prosecution of offences under this Schedule, supply information to which this paragraph applies to—
- (a) a relevant Northern Ireland department,
  - (b) the Secretary of State,
  - (c) a person providing services to a relevant Northern Ireland department or the Secretary of State in connection with a relevant function,
- for use for the purpose of verifying the information.
- (3) In relation to information supplied to any person under sub-paragraph (2), the reference to verifying the information is a reference to—
- (a) checking its accuracy by comparing it with information held—
    - (i) in the case of a relevant Northern Ireland department or the Secretary of State by that department or the Secretary of State in connection with the exercise of a relevant function, or
    - (ii) in the case of a person within sub-paragraph (2)(c), by that person in connection with the provision of services as mentioned there, and (b) compiling a report of that comparison.

- (4) Subject to sub-paragraph (5), the supply of information under this paragraph is to be taken not to breach any restriction on the disclosure of information (however arising).
- (5) This paragraph does not authorise the doing of anything that contravenes the data protection legislation.
- (6) This paragraph does not affect any power to supply information that exists apart from this paragraph.
- (7) In this paragraph—

“relevant Northern Ireland department” means the Department for Employment and Learning, the Department of the Environment, the Department of Health, Social Services and Public Safety or the Department for Social Development;

“relevant function” means—

- (a) in relation to the Department for Employment and Learning, a function relating to employment or training,
- (b) in relation to the Department of the Environment, a function under Part 2 of the Road Traffic (Northern Ireland) Order 1981;
- (c) in relation to the Department of Health, Social Services and Public Safety, a function relating to health or social care;
- (d) in relation to the Department for Social Development, a function relating to social security or child support;
- (e) in relation to the Secretary of State, a function relating to passports or the Gangmasters and Labour Abuse Authority.

*Supply of information by relevant Northern Ireland departments, Secretary of State, etc.*

**16**—(1) A report compiled under paragraph 15 may be supplied to the Chief Constable by—

- (a) the relevant Northern Ireland department,
- (b) the Secretary of State, or
- (c) a person within paragraph 15(2)(c).

(2) Such a report may contain any information held—

- (a) by the relevant Northern Ireland department or the Secretary of State in connection with the exercise of a relevant function, or
- (b) by a person within paragraph 15(2)(c) in connection with the provision of services as mentioned there.

(3) Where such a report contains information within sub-paragraph (2), the Chief Constable—

- (a) may, subject to sub-paragraph (4), retain the information, whether or not used for the purposes of the prevention, detection, investigation or prosecution of offences under this Part, and
- (b) may use the information for any purpose related to the prevention, detection, investigation or prosecution of offences (whether or not under this Part), but for no other purpose.

(4) The information must be destroyed no later than the date on which the offender ceases to be subject to notification requirements.

(5) Sub-paragraphs (4) to (7) of paragraph 15 apply in relation to this paragraph as they apply in relation to paragraph 15.

*Information about release or transfer of offender*

**17**—(1) This paragraph applies to an offender subject to notification requirements who is—

- (a) serving a custodial sentence; or (b) detained in a hospital.
- (2) The Department may by regulations make provision requiring the person who is responsible for such an offender to give notice to specified persons—
  - (a) of the fact that that person has become responsible for the offender; and
  - (b) of any occasion when—
    - (i) the offender is released, or
    - (ii) a different person is to become responsible for the offender.
- (3) In sub-paragraph (2) “specified persons” means persons specified, or of a description specified, in the regulations.
- (4) The regulations may make provision for determining who is to be taken for the purposes of this paragraph as being responsible for an offender.

*Power of entry and search of offender's home address*

**18**—(1) If, on an application made by a police officer of the rank of superintendent or above, a lay magistrate is satisfied that the requirements in sub-paragraph (2) are met in relation to any premises, the lay magistrate may issue a warrant authorising a constable—

- (a) to enter the premises for the purpose of assessing the risks posed by the offender subject to notification requirements to whom the warrant relates; and (b) to search the premises for that purpose.
- (2) The requirements are—
  - (a) that the address of each set of premises specified in the application is an address falling within sub-paragraph (3);
  - (b) that the offender is not one to whom sub-paragraph (4) applies;
  - (c) that it is necessary for a constable to enter and search the premises for the purpose mentioned in sub-paragraph (1)(a); and
  - (d) that on at least two occasions a constable has sought entry to the premises in order to search them for that purpose and has been unable to obtain entry for that purpose.
- (3) An address falls within this sub-paragraph if—
  - (a) it is the address which was last notified in accordance with this Schedule by the offender to the police as the offender's home address; or
  - (b) there are reasonable grounds to believe that the offender resides there or may regularly be found there.
- (4) This sub-paragraph applies to an offender if the offender is—
  - (a) remanded in or committed to custody by order of a court;
  - (b) serving a custodial sentence; (c) detained in a hospital; or
  - (d) outside the United Kingdom.
- (5) A warrant issued under this paragraph must specify the one or more sets of premises to which it relates.
- (6) The warrant may authorise the constable executing it to use reasonable force if necessary to enter and search the premises.
- (7) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the lay magistrate is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose mentioned in subparagraph (1)(a).
- (8) Where a warrant issued under this paragraph authorises multiple entries, the number of entries authorised may be unlimited or limited to a maximum.



- (9) In this paragraph a reference to the offender subject to notification requirements to whom the warrant relates is a reference to the offender—
- (a) who has in accordance with this Schedule notified the police that the premises specified in the warrant are the offender's home address; or
  - (b) in respect of whom there are reasonable grounds to believe that the offender resides there or may regularly be found there.

#### *Guidance*

**19**—(1) The Department must issue guidance to the Chief Constable in relation to the exercise of the powers of the Chief Constable under this Schedule.

(2) The Department may, from time to time, revise the guidance issued under sub-paragraph (1).

(3) The Department must arrange for any guidance issued or revised under this paragraph to be published in a way the Department considers appropriate.

#### *Interpretation of this Schedule*

**20**—(1) In this Schedule—

“cautioned” means cautioned after the person concerned has admitted the offence;

“custodial sentence” means—

- (a) a sentence of imprisonment,
- (b) a sentence of detention in a young offenders centre;
- (c) a sentence of detention under Article 13(4)(b) or 14(5) of the Criminal Justice (Northern Ireland) Order 2008;
- (d) a sentence of detention under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998;
- (e) an order under Article 39A of that Order sending the offender to a juvenile justice centre;
- (f) any other sentence under which a person is detained in custody;

“detained in a hospital” means detained in a hospital under Part 3 of the Mental Health (Northern Ireland) Order 1986;

“home address” has the meaning given by paragraph 8(4);

“interim slavery and trafficking risk order” means an order under paragraph 5;

“slavery and trafficking risk order” means an order under paragraph 1;

“slavery or human trafficking offence” has the meaning given by paragraph 1(4) of Schedule 3.

(2) In this Schedule “passport” means—

- (a) United Kingdom passport within the meaning of the Immigration Act 1971;
- (b) a passport issued by or on behalf of the authorities of a country outside the United Kingdom, or by or on behalf of an international organisation;
- (c) a document that can be used (in some or all circumstances) instead of a passport.

(3) In this Schedule a reference to a conviction includes a conviction for an offence in respect of which an order for conditional discharge is made, despite—

- (a) Article 6(1) of the Criminal Justice (Northern Ireland) Order 1996 (conviction with conditional discharge deemed not to be a conviction), or
- (b) section 14(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (equivalent provision for England and Wales).

(4) Sub-paragraph (3) applies only to convictions after this Schedule comes into operation.

- (5) In this Schedule a reference to a conviction includes a finding of a court in summary proceedings that the accused did the act charged, where the court makes an order under—
- Article 44(4) of the Mental Health (Northern Ireland) Order 1986;
  - section 37(3) of the Mental Health Act 1983, or
  - section 58(3) of the Criminal Procedure (Scotland) Act 1995, (hospital and guardianship orders).
- (6) References in this Schedule to an offender subject to notification requirements are to be read in accordance with paragraph 7.
- (7) A person's age is to be treated for the purposes of this Schedule as being that which it appears to the court to be after considering any available evidence.”

### **Amendment 3: Jury directions relating to sexual offences and slavery or human trafficking offences**

#### **New clause**

After clause 17 insert—

#### **‘Jury directions relating to sexual offences and slavery or human trafficking offences**

- 17A.**— (1) Subsection (2) applies where, in a trial on indictment for a sexual offence, or a slavery or human trafficking offence—
- evidence is given which suggests that the person against whom the offence is alleged to have been committed—
    - did not tell, or delayed in telling, anyone, or a particular person, about the offence, or
    - did not report, or delayed in reporting, the offence to any investigating agency, or a particular investigating agency, or
  - a question is asked, or a statement is made, with a view to eliciting, or drawing attention to, evidence of that nature.
- (2) In charging the jury, the judge must advise that—
- there can be good reasons why a person against whom a sexual offence, or a slavery or human trafficking offence is committed may not tell others about it or report it to an investigating agency, or may delay in doing either of those things, and
  - this does not, therefore, necessarily indicate that an allegation is false.
- (3) Subsection (2) does not apply if the judge considers that, in the circumstances of the case, no reasonable jury could consider the evidence, question or statement by reason of which subsection (2) would otherwise apply to be material to the question of whether the alleged offence is proved.
- (4) Subsection (5) applies where, in a trial on indictment for a sexual offence, or a slavery or human trafficking offence—
- evidence is given which suggests that the sexual activity or exploitative conduct took place without physical resistance on the part of the person against whom the offence is alleged to have been committed, or
  - a question is asked, or a statement is made, with a view to eliciting, or drawing attention to, evidence of that nature.
- (5) In charging the jury, the judge must advise that—
- there can be good reasons why a person against whom a sexual offence, or a slavery or human trafficking offence is committed might not physically resist the sexual activity or exploitative conduct and
  - an absence of physical resistance does not, therefore, necessarily indicate that an allegation is false.

- (6) Subsection (5) does not apply if the judge considers that, in the circumstances of the case, no reasonable jury could consider the evidence, question or statement by reason of which subsection (5) would otherwise apply to be material to the question of whether the alleged offence is proved.
- (7) Subsection (8) applies where, in a trial on indictment for a sexual offence, or a slavery or human trafficking offence—
- (a) evidence is given which suggests that the sexual activity or exploitative conduct took place without the accused using physical force to overcome the will of the person against whom the offence is alleged to have been committed, or
  - (b) a question is asked, or a statement is made, with a view to eliciting, or drawing attention to, evidence of that nature.
- (8) In charging the jury, the judge must advise that—
- (a) there can be good reasons why a person may, in committing a sexual offence, or a slavery or human trafficking offence, not need to use physical force to overcome the will of the person against whom the offence is committed, and
  - (b) an absence of physical force does not, therefore, necessarily indicate that an allegation is false.
- (9) Subsection (8) does not apply if the judge considers that, in the circumstances of the case, no reasonable jury could consider the evidence, question or statement by reason of which subsection (8) would otherwise apply to be material to the question of whether the alleged offence is proved.
- (10) For the purposes of this section—
- “exploitative conduct” means the conduct which is the subject of the alleged slavery or human trafficking offence,
- “investigating agency” means—
- (a) a police force maintained for the area where the offence is alleged to have been committed,
  - (b) any other person who has functions (to any extent) of investigating crime in the area where the offence is alleged to have been committed,
- “sexual activity” means the sexual activity which is the subject of the alleged sexual offence,
- “sexual offence” means an offence under Articles 5 to 8 of the Sexual Offences (Northern Ireland) Order 2008,
- “slavery or human trafficking offence” means an offence under—
- (a) section 57, 58, 58A or 59 of the Sexual Offences Act 2003 (trafficking for sexual exploitation);
  - (b) section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation);
  - (c) section 71 of the Coroners and Justice Act 2009 (slavery, servitude and forced or compulsory labour); or
  - (d) section 1 or 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (slavery, servitude, forced or compulsory labour and human trafficking).’

#### **Amendment 4: Compensation for victims of slavery and human trafficking offences**

##### **New clause**

After clause 17 insert—

##### **‘Compensation for victims of slavery and human trafficking offences**

**17A.**— (1) The Department shall make revisions to the Criminal Injuries Compensation Scheme in accordance with Article 4(6) of the Criminal Injuries Compensation (Northern Ireland) Order 2002 as follows—

- (a) the definition of a ‘criminal injury’ under the Scheme shall include an injury sustained in and directly attributable to a slavery or human trafficking offence ,
- (b) compensation shall be payable for mental injuries resulting from a slavery or human trafficking offence—
  - (i) whether or not the person also suffered physical injury or a sexual offence, or was in reasonable fear of physical harm to his or her own person, and
  - (ii) without formal psychiatric diagnosis where the person has sought and received a psychiatric diagnosis or mental health treatment, or is waiting for a diagnosis or treatment on the recommendation of their doctor.
- (c) compensation shall be payable for criminal injuries resulting from a slavery or human trafficking offence—
  - (i) whether or not a person has co-operated with the police or other authority in attempting to bring the assailant to justice;
  - (ii) where a person has prior criminal convictions unless convicted of one or more offence listed in Schedule 2 of the Criminal Justice (Northern Ireland) Order 2008

(2) In this section ‘a slavery or human trafficking offence’ has the meaning given in paragraph 1(4) of Schedule 3 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.’