

## Factsheet 3

BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

# Identifying victims of modern day slavery and responding to their needs

Modern day slavery encompasses slavery, servitude, and forced or compulsory labour and human trafficking<sup>1</sup>. Modern day slavery is not specific to immigration law (although it is a common factor), but could also appear in cases of employment, crime, housing and civil law. Recognising that a person is a victim of modern slavery could be a defence in the criminal courts, and may give rise to claims against employers and civil claims against the police for e.g. failure to investigate or unlawful detention. As a result, this is a risk factor that many barristers would benefit from being able to identify.

Modern slavery and torture are serious violations of a person's right to life, liberty and security and their human dignity and integrity, yet the overlap between the two are often overlooked<sup>2</sup>. Modern slavery is wide-spread and is increasing<sup>3</sup>, and human rights bodies have recognised that modern slavery can amount to torture and other forms of inhuman and degrading treatment<sup>4</sup>. It is known that both men and women who are victims of modern slavery suffer a high incidence of rape and sexual abuse<sup>5</sup>. The risk factors present in cases involving victims of modern slavery may therefore result in severe vulnerability.

Being able to identify victims of modern slavery is important not only due to the severity of potential risk factors, but because victims of modern slavery often struggle to disclose their history. You should therefore be aware of the possibility that the solicitor (if instructed) may not have identified this issue. Establishing a relationship of trust is crucial to identifying indicators of modern slavery. If a client does provide an account of such an experience, do not dismiss this in the early stages of contact because it seems flawed. Evidence from those who work with victims of modern slavery suggests that accounts become more coherent over time, as the relationship and trust become more established<sup>6</sup>.

Hope for Justice, an organisation that fights to end modern day slavery, notes six key areas to be aware of when trying to identify a victim of modern slavery:

- general indicators
- sexual exploitation
- forced labour
- child abuse
- criminal activities
- domestic servitude.

1. HM Government (no date) [Help for victims of modern slavery](#)  
 2. Organisation for Security and Cooperation in Europe (OSCE) (2013) [Modern slavery in Human Beings Amounting to Torture and Other Forms of Ill-treatment. Occasional paper series no.5.](#)  
 3. National Crime Agency (2017) [National Referral Mechanism Statistics – End of Year Summary 2016](#)  
 4. OSCE (2013)  
 5. Ibid  
 6. Ibid

Whilst these areas should be considered together, being able to identify one or more of these indicators does not necessarily mean a person is a victim of modern slavery. If you do suspect that your client is a victim, consider the need for a clinical assessment and additional support.

Victims of modern slavery will have wide-ranging experiences, perhaps most notably due to the purpose for which they were trafficked. However, it is important also to recognise that victims of trafficking for the same particular purpose may have had drastically different experiences from one another. For example, some victims of trafficking for the purpose of forced labour may have experienced extreme physical violence from their traffickers, whilst others may have been deprived of money or food. An understanding of the range of experiences will help you to identify potential indicators and appreciate the psychological impact this may have had on your client and how they can be supported. A selection of case studies from a report by the Office of the Special Representative and Co-ordinator for Combating Modern slavery in Human Beings<sup>7</sup> is provided on the following page to help illustrate this.

### **Domestic servitude**

Valerie, from Togo, was a child when she was brought to a Togolese family in Paris. In return for taking care of the family's child she was promised a monthly salary and professional training. Instead, she was forced to take care permanently of the child, was never paid any salary, had to do almost all the housework and was not allowed to talk to anyone outside the house. She was punished daily for practically no reason by the mother. She was burnt with cigarettes, was beaten with hot irons and her palm was burnt on a hot plate.

### **Labour exploitation**

In 2009 Serbian, Bosnian and Macedonian women and men were trafficked to Azerbaijan for labour exploitation. They had to work in kitchens, do administrative work or work on construction sites. It cost them RUR 200-250 to sign the contracts and a salary of USD 700-800 was promised. After arriving, passports and travel documents were taken away, living conditions were bad, working hours were exceeded, remuneration was less than agreed and the workers were not paid at all for four months. In their accommodation, strict house rules were applied. The workers had no possibility to complain or refuse work, even in case of illness. They were punished for different acts and a fine imposed on them. They were exposed to physical punishment and threats.

7. (OSCE) (2013)

### **Sexual exploitation**

A Moldovan national was kidnapped at the age of 14 and trafficked for the purpose of sexual exploitation to Italy, Turkey, Hungary, Romania, Israel and the UK. In 2003, the UK police and Home Office immigration officers raided the brothel in which she was forced to work. She was accused of possessing false documents, imprisoned for three months and sent back to Moldova. Back in Moldova, her trafficker found her, savagely ill-treated her and re-trafficked her. In 2007, after being re-trafficked to the UK, she was arrested and detained again. Finally, she was referred to an NGO which identified her as a victim of modern slavery and she was granted refugee status because Moldovan authorities could not offer her adequate protection against her traffickers.

Victims of modern day slavery often do not consider themselves to be a victim, seeing themselves as complicit in their own trafficking, and are therefore very much reliant on their lawyers. For example, your client may have signed a debt bondage agreement or consented to work in exchange for accommodation and food, or to low or no wage in exchange for their travel costs to the UK. Victims are often fearful of their exploiters, which prevents self-identification and can have a significant psychological impact.

### **Juju trafficking (taken from OSCE, 2013)**

In cases of Juju trafficking, traffickers perform ritualised, often violent ceremonies in order to subjugate and silence victims through the threat of their destruction, or that of their loved ones, by malign spirits. Victims of Juju modern slavery are often subjected to very high levels of physical control, abuse and violence throughout their modern slavery experience, but are in any case psychologically entrapped and overwhelmed.

### **Eliza's story**

The trafficker took Eliza to a house. There were several men in the room. She was told to go to the bathroom and change. They took her clothes, including her underwear. They took samples of her pubic hair and nails. They removed some blood from her arm. The men then showed her a mirror in which she believes her image appeared even though she was not looking directly at it. She was told she had to keep everything secret, and never run away. They said they would know if she tried to run away as the mirror showed them what she was doing. The hair samples meant that if she ran away she would go mad. The blood samples meant that she would bleed to death.

The table below contains a non-exhaustive list of general indicators of modern slavery to look out for:

Indicators of modern slavery <sup>89</sup>
<ul style="list-style-type: none"> <li>• Finds it difficult to communicate without assistance/interpretation</li> <li>• Being fearful and/or distrustful of police/authorities</li> <li>• Reluctance to disclose their immigration status</li> <li>• Showing fear/anxiety</li> <li>• Being fearful of the trafficker, believing their lives or their family's lives are at risk if they escape</li> <li>• Exhibiting signs of physical and psychological trauma (e.g. anxiety, lack of memory of recent events, bruising, untreated conditions)</li> <li>• Being fearful of disclosing their situation to others</li> <li>• Showing signs that their movements are being controlled</li> <li>• Being unpaid or paid very little</li> <li>• Having limited access to medical care</li> <li>• Having limited social interaction</li> <li>• Not knowing their home/work address</li> <li>• Seeming to be in debt to someone</li> <li>• Having no passport or mentioning someone is holding their passport</li> <li>• Being regularly moved (to avoid detection)</li> <li>• Evidence that someone feels controlled by use of witchcraft e.g. Juju</li> </ul>

Where a person has been trafficked for the purposes of sexual exploitation, forced labour, domestic servitude or conducting criminal activities, a number of further indicators, specific to each, may be present. For example, substance use may indicate sexual exploitation, or mentioning that they work excessive hours may be an indication of domestic servitude. For more information on these issues, refer to the United Nations Office for Drugs and Crime's list of '[Human Trafficking Indicators](#)<sup>10</sup>', or visit the Hope for Justice [website](#).

8. [Hope for Justice Website](#)

9. UN Office for Drugs and Crime (no date) [Human Modern slavery Indicators](#)

10. United Nations Office for Drugs and Crime (no date) [Human Trafficking Indicators](#)

## How you can meet your clients' needs

If you are aware that your client has been trafficked for the purpose of sexual exploitation, domestic servitude, criminal activity or otherwise, assess how this affects the way in which you provide your service and how it could be managed. Be prepared to adapt your approach according to the circumstances. If support is required, this should be arranged in a timely manner to ensure full participation throughout<sup>11</sup>.

The emotional impact of trauma on modern slavery victims can be significant, and people who have experienced trauma may present with physical and mental health problems. Consider possible health concerns: they may have been deprived of food or sleep, exposed to hazardous materials or dangerous working conditions. They may also be suffering from post-traumatic stress disorder, which can result in aggression, hostility, difficulty in recalling events and concentrating<sup>12</sup>. Substance use and sexual health may also be issues.

The National Referral Mechanism (NRM) is a framework by which certain professionals can refer a person who may have been a victim of modern slavery to have their case assessed by a 'Competent Authority'<sup>13</sup>. A person must consent to an NRM referral. If you think your client is a victim of modern slavery, you can alert the police, a local authority, the Salvation Army or other organisations which can refer to a Competent Authority. If it is recognised that the person is a victim of modern slavery, they are provided rights such as to accommodation and support. Rights of Women has produced a helpful guide on '[Modern slavery and the National Referral Mechanism](#)' for people who have been trafficked into the UK<sup>14</sup>.

- 
11. National Crime Agency (no date) [Dealing with potential victims of modern slavery or human modern slavery: Best practice guide](#) (webpage)
  12. Home Office (2016) [Victims of modern slavery – Competent Authority guidance \(version 3.0\)](#)
  13. Either within the UK Human Modern slavery Centre or UK Visas and Immigration.
  14. Rights of Women (2014) [Modern slavery and the National Referral Mechanism](#)

The National Crime Agency (NCA) has produced a [best practice guide](#) on dealing with potential victims of modern slavery<sup>15</sup>. The key points for the purposes of this guide are set out below:

- Put the potential victim at ease on first contact, including taking care around verbal and body language used and using neutral spaces where possible;
- Individuals will have differing needs, and consideration must be given to how these are managed and the approach to take;
- Victims may be unwilling to cooperate;
- Possible health concerns must be considered;
- A change of personnel should be avoided where possible (unless requested), including interpreters, to establish and maintain rapport and instil confidence in the victim;
- Interpreters must be on the national register, speak the right dialect, and be aware of the nature of the task and the time it might take;
- A female interpreter should be used for female victims;
- When interviewing victims, check their health and fitness for interview first;
- Ensure the pace of the interview is considerate of the person's state of mind, and explain roles and processes, ensuring they are understood; and
- Recognise the victim may feel stigmatised by the process.

---

15. National Crime Agency (no date) [Dealing with potential victims of modern slavery or human modern slavery: Best practice guide](#)

### **Working with victims of modern slavery: Good practice example**

Gloria has recently been released from prison and is now looking to appeal the decision to remove her from the UK. Her solicitor has instructed a barrister to represent Gloria in the appeal. The barrister receives the papers from Gloria's solicitor, which show that she was imprisoned after the brothel in which she was working was raided. The barrister arranges a conference with Gloria and her solicitor in advance of the appeal date. When Gloria arrives, she is withdrawn and nervous. The barrister reminds Gloria of the confidential nature of the discussion and encourages Gloria to be completely open and honest with them about her circumstances and issues, reassuring her that anything she says will be handled appropriately.

Gloria describes her financial difficulties and states that she has no family or friends in the UK. The barrister adapts to Gloria's style of communication, and she becomes more relaxed. It soon becomes apparent that Gloria has been trafficked to the UK for the purposes of sexual exploitation. Gloria explains that she had until now hidden this from the police and solicitor, because she was ashamed and scared of her traffickers. The barrister asks whether Gloria suffers from any pain or other health complications for which she requires assistance. Gloria says she does not suffer from any pain, but has difficulty in recalling events and sleeping. This prompts the solicitor to explore whether Gloria has any preference for the times at which she should be contacted. Gloria says that afternoons are best, when she is less tired.

Given Gloria's disclosure about how she arrived in the UK, the barrister then asks whether Gloria has received support to help her deal with her traumatic experience of being a victim of modern slavery. Gloria has recently registered with a GP, but is not receiving any further support for her wellbeing and psychological needs. The barrister advises the solicitor that Gloria would benefit from having a medico-legal assessment. The barrister explains to Gloria what this would entail and the solicitor then obtains consent to contact the organisation Medical Justice to seek advice on the need for a medico-legal assessment and report. The barrister also advises the solicitor to refer Gloria to the appropriate organisations that can provide Gloria with specialist support. The barrister then makes a note to remember to check with the solicitor whether Gloria has successfully engaged with any services in a few weeks' time.

In this scenario, managing expectation is key: hope and expectation are tools used by the traffickers to manipulate victims, and assurances which are not carried through can repeat this negative pattern.

## Key questions to ask yourself

- Have I sufficiently encouraged disclosure and reassured my client of legal professional privilege?
- Are there any indicators of trafficking present? Could the solicitor/adviser (if instructed) have missed these indicators?
- Do I need to consider a referral to the National Referral Mechanism?
- Do I need to arrange for a clinical assessment?
- Have I considered particular needs around the involvement of third parties e.g. do I need to hire a female interpreter?
- Have I provided my client with a list of organisations that can support them?

## Key sources of expert support and information for your client

- Bar Standards Board (2016) [Immigration Thematic Review](#)
- HM Government (no date) [Help for victims of modern slavery](#)
- Rights of Women (2014) [Trafficking and the National Referral Mechanism](#)
- [Kalayaan](#) (020 7243 2942)
- [Modern Slavery Helpline](#) (Helpline: 08000 121 700)
- [Poppy Project](#) (Referral line: 020 7735 2062)
- [Rights of Women](#) (Advice Line: 020 7490 7689)

Refer to [Annex 1](#) for further sources of support and advice.



## Further information/ Key resources

- ▶ Hope for Justice (no date) [\*Spot the Signs\*](#)
- ▶ Organisation for Security and Cooperation in Europe (OSCE) (2013) [\*Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-treatment. Occasional paper series no.5.\*](#)
- ▶ Rights of Women (2014) [\*Trafficking and the National Referral Mechanism\*](#)
- ▶ United Nations Office for Drugs and Crime (no date) [\*Human Trafficking Indicators\*](#)