

Meeting: Safer and Stronger Communities Board

Date: 23 March 2023



Modern slavery: recent developments and LGA work

Purpose of report

For direction.

Summary

At the Board meeting in January, Board members emphasised the importance of not treating modern slavery solely as an immigration/asylum issue, and of safeguarding victims. This paper follows up recent developments and considers next steps for the LGA in this area.

Is this report confidential? No

Recommendation

The Board 1) agree whether to write to the Home Office regarding modern slavery issues, and consider the draft letter provided, and 2) agree to undertake further work to understand why some councils/local areas are further ahead on modern slavery work than others.

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Modern slavery: recent developments and LGA work



Background

1. The Board meeting in January discussed modern slavery in the context of recent asylum/immigration issues (specifically, the modern slavery risks that have been highlighted in relation to the Homes for Ukraine refugee scheme), noting that the Government is increasingly perceived to be treating modern slavery as an immigration/asylum issue. A copy of the relevant sections of the Board paper is attached as an annex to this paper.
2. During the discussion, several members of the Board raised concern about viewing modern slavery solely through an immigration/asylum lens, noting that British nationals make up a substantial proportion of modern slavery victims.
3. It was suggested that the Board could write to the Home Office seeking assurances that whatever changes they proposing to the modern slavery framework, the safeguarding approach to victims will not be compromised.
4. At the lead members meeting in February, officers were asked to bring a further paper to the Board, including suggested text for a letter to the Home Office and outlining a suggested area of work for the LGA on modern slavery. As discussed at the previous Board and recent lead members' meeting, officers have developed a draft letter to the Home Office reflecting the points discussed at previous Board meetings. This has been circulated alongside the meeting papers as a separate attachment.
5. This paper actions these two requests, as well as providing an update on developments since the previous Board meeting.

Draft letter to the Home Office

6. Since the Board meeting in January, officers have attended a meeting of the 'First Responders Forum' (representatives of organisations/sectors which can submit National Referral Mechanism (NRM) referrals about suspected victims of modern slavery, and heard further information about changes made with effect from Monday 30 January, under Part 5 of the Nationality and Borders Act.
7. As set out in the previous Board paper (see paragraph 9 of the Annex), these changes were to amend the threshold for a reasonable grounds definition for suspected victims of modern slavery, and introduce scope for public order and bad faith disqualifications to prevent people receiving modern slavery support in specified circumstances. Victims whose referrals are accepted (via reasonable grounds and then conclusive grounds decisions) are entitled to a period of support provided under the Modern Slavery Victim Care Contract (MSVCC).

8. The Government has also stated that *'[it] is committed to ensuring that the National Referral Mechanism effectively supports genuine victims to recover and to support the prosecution of their exploiters. That is why we have made clear for the first time in primary legislation, that where a public authority, such as the police, is pursuing an investigation or criminal proceedings, confirmed victims who are co-operating in this activity and need to remain in the UK in order to do so, will be granted temporary permission to stay for as long as they are required to be in the UK to support the investigation. This is supported by the introduction in the October 2022 of Appendix Temporary Permission to Stay for Victims of Human Trafficking or Slavery (VTS in the Immigration Rules).'*
9. The First Responder Forum provided confirmation that under the Nationality and Borders Act changes, decision makers will now seek objective evidence regarding whether an individual is a victim of modern slavery; and that the relevant competent authorities would expect to receive more information than simply an individual's account that they have been a victim of modern slavery.
10. However, the Home Office has clarified that the professional judgement of somebody working with a suspected victim and making an NRM referral, who believed there were indicators of modern slavery, would be likely to be considered as objective evidence. This appears to be a helpful clarification. While LGA officers have heard concern from some local government officers about this position, including how the Government intends to publicise it, as a policy position it does not appear to be a significant change from what would always have been considered to be a good quality NRM referral with supporting information.
11. The Government is now updating its NRM referral forms to reflect the new policy.
12. More recently, on the 7 March, the Government's Illegal Migration Bill was introduced to the House of Commons to underpin the Prime Minister's [priorities on illegal migration](#) outlined in December 2022. The Bill's intent is to ensure that anyone arriving illegally in the UK will be promptly removed to their home country or to a safe third country to have any asylum claim processed. It also proposes to set an annual cap on resettlement through safe and legal asylum routes.
13. Given the politically contentious nature of asylum and immigration, as well as the forthcoming election 'purdah', the LGA's current focus has been on identifying the specific impact on councils and monitoring the early debates. The key potential impacts on councils of the Bill as it currently stands include:
 - The fact that provisions in relation to unaccompanied asylum seeking children do not resolve concerns about who has corporate parenting responsibility for children placed in hotels by the Home Office. The Bill strengthens the government's powers to direct councils to accommodate and support lone children, and remove them. The LGA continues to raise concerns about the safeguarding of those children and to work with government to try end use of hotels for lone children.

- Provisions for detention raise questions about where people would be detained and what would be the process for identifying those locations: the LGA would want advance consultation with potential local areas.
 - The Bill sets an intention to consult local authorities on numbers to be resettled in the UK. While it is helpful that councils are expected to be consulted on the impacts on their services, other service providers (health and education) will need to be engaged too.
14. Clauses 21 – 28 of the Bill concern modern slavery and introduce new measures intended to deter what the Government believes is the abuse of the Modern Slavery Act by those arriving in the UK illegally. Alongside the Bill, the [Government published statistical information showing the extent to which NRM referrals made by people detailed for return have increased as small boat arrivals have increased](#). The statistics do show a significant increase; just 6% of detentions ending in 2019 involved a referral, rising to 53% in 2020, and to 73% in 2021, before falling back to 65% for detentions ending between January and September 2022. However, they also show that the vast majority (92%) of people referred to the NRM while detained for return received a positive reasonable grounds decision, which typically leads to an individual being confirmed as a victim of modern slavery.
 15. Clause 21 of the Bill provides that the public disorder disqualification from modern slavery support, introduced by the Nationality and Borders Act, will be applied to an illegal migrant if the Secretary of State is required to make arrangements for their removal¹ and they have received a reasonable grounds decision that they are a potential victim of modern slavery. The disqualification removes the prohibition on removing a potential victim from the UK, as well as any requirement to grant limited leave to remain to a confirmed victim. An exception to this automatic disqualification can be made if the individual is cooperating (for example with the National Crime Agency) in connection with an investigation relating to the positive reasonable grounds decision.
 16. Further clauses in the Bill: disapply the duty on the Secretary of State to provide MSVCC assistance and support during the recovery period to potential victims who are illegal entrants; make provision for the suspension (and reinstatement) of the modern slavery measures if they are no longer justified; and amend the Modern Slavery Act 2015 to reflect the changes to entitlement to support introduced by the Bill.
 17. It is not anticipated that the changes proposed in the Bill should have a significant impact on councils in terms of their work on modern slavery, as they aim to amend the Government's framework of support for suspected victims of modern slavery, rather than any support provided by councils to victims of modern slavery.
 18. As outlined at paragraph 13, there may be other implications for councils arising from the fact that individuals not eligible for the MSVCC are required to be detained somewhere. These wider asylum and immigration issues are the responsibility of the

¹ Under section 2 of the Bill, this is a person who entered the UK irregularly; entered or arrived in the UK on or after 7 March 2023; did not come directly from a country in which their life and liberty were threatened; and who requires leave to enter or remain in the UK, but does not have it

LGA's Asylum, Refugee and Migration Task Force (which comes under the remit of the Community Wellbeing Board) rather than the Safer and Stronger Communities Board; however, as the SSCB's remit includes cohesion and counter extremism issues, the Board has a clear interest in the impact of asylum issues on community tensions and local cohesion.

19. Therefore, viewed through a local government lens there are no council specific points for the LGA to make in relation to the Bill's modern slavery provisions. It would however be helpful to understand if there is a consensus view on whether the Board should comment on the modern slavery provisions more generally and to share this with the LGA governance structures leading on any response.
20. In addition, as the outline of letter from the Board was agreed ahead of publication of the Illegal Migration Bill, members' views on the points to be included in the letter, and the timing of it, would be welcomed. Officers will then ensure that any correspondence is coordinated with other engagement with the Government on this issue.

Further LGA activity on modern slavery

21. At their recent meeting, lead members requested that a proposal for further research on modern slavery be considered by the Board. As the Board are aware, the LGA recently updated its modern slavery guidance and developed a maturity matrix enabling councils to benchmark their work on modern slavery.
22. Lead members have suggested that it would be useful to undertake more work to understand why some councils/areas are performing significantly better on modern slavery than others. While we already know that the effectiveness of council's modern slavery work is largely shaped by whether it is prioritised and the resources available to support it (for example, through the creation of dedicated modern slavery lead officer roles or teams, or funding for dedicated modern slavery support services), there is also scope to build a more nuanced understanding of why practice differs. Qualitative research on this could help us understand why councils do, or do not, have modern slavery strategies, and why partnership working on modern slavery is more effective in some areas than in others. We believe that research of this nature would be of interest beyond the LGA and to other partners, who may be interested in supporting it.
23. Board members are asked to provide their views on undertaking more work on this issue.

Implications for Wales

24. Modern slavery is a reserved issue, although the structures for dealing with it in Wales differ to those in England. We will therefore engage with the WLGA to ensure officials are aware of next steps on this issue.

Financial Implications

25. None. Any research undertaken on modern slavery would be expected to be undertaken by LGA officers, unless additional funding became available.

Equalities implications

26. There are a number of equalities implications linked to modern slavery. People with disabilities can be more likely to become victims of modern slavery, and some groups with protected characteristics are disproportionately likely to become victims of some forms of slavery.

Next steps

27. Officers to take forward as directed.

Annex 1: modern slavery extract of January 2023 SSCB paper

Modern slavery

1. Several concerns have been raised about the risks of modern slavery and exploitation among individuals and communities newly arriving in the UK.
2. In particular, there has been a significant focus on the risk of exploitation amongst refugees from the war in Ukraine arriving under the Homes for Ukraine scheme. As the scheme was being developed, the LGA and other partners highlighted the possible safeguarding risks arising as people made matches with hosts, and the importance of ensuring procedures for vetting/checks (and that these could be resourced). From the outset of the Homes for Ukraine scheme, we have been engaging with partners in the anti-trafficking sector to share intelligence about risks for refugees on the Ukraine border and transiting Europe, the emerging picture in the UK and good practice approaches by councils in overseeing the Homes for Ukraine scheme.
3. The Department for Levelling Up, Housing and Communities (DLUHC), which oversees the Homes for Ukraine scheme, recently undertook a series of safeguarding deep dives to understand the threats relating to the scheme. Confidentially, we understand that on modern slavery issues, the threat panel concluded that the scheme carried a relatively low level of threat from modern slavery and human trafficking. This may in part due to be people within the scheme having visas and a legitimate right of passage to the UK (therefore meaning they are less likely to be debt bonded from their travel to the UK) and have access to welfare benefits and housing, meaning they are less likely to be destitute. This therefore removes two risk factors that can make individuals more likely to be exploited.
4. While there have been cases of modern slavery under the scheme – and evidence of some businesses in the agricultural sector in particular using the scheme to try to recruit workers – councils' responses to this, working on a multi-agency basis with local partners to address issues, have been praised by the officials we have spoken with. Government officials have emphasised the importance of councils following their normal processes for responding to modern slavery in the event that they identify issues of concern, and have brokered peer support between areas with more or less experience of this.
5. Councils have however flagged wider concerns about the risks of people on other refugee/asylum pathways being exploited. There have been many anecdotal reports of people placed in hotels going missing from them, and while not all of those cases will involve exploitation, it is clear that there are safeguarding risks, particularly in relation to children.
6. The LGA recently published comprehensive, updated guidance for councils on modern slavery, supported by a maturity matrix enabling councils to assess their work and progress on this issue. Following a positive recent meeting to discuss partnership working on modern slavery, we are also now establishing a national network of council officers working on modern slavery to share learning and best practice and discuss common challenges of working on this issue, based on the model of our community safety advisers network.

7. We are continuing to engage with the Home Office on the development of the delayed updated modern slavery strategy, and officers in the LGA safer communities, community wellbeing and children and young people's teams work together to share information and updates about these cross-cutting issues.
8. In relation to modern slavery and asylum/immigration, it is also worth highlighting so the Board are aware the increasing links being made by the Government between modern slavery and the immigration system. This is a concern to many organisations within the anti-trafficking sector, who perceive immigration enforcement being prioritised over victims of modern slavery and have general concerns about linking modern slavery and immigration.
9. This has been the direction of travel for some time; the [2021 New Plan for Immigration included a chapter on modern slavery](#). Although the chapter focused on clarifying the support available to victims of modern slavery, it also included provisions intended to 'distinguish more effectively between genuine and vexatious accounts of modern slavery' and [tackle alleged abuses of the modern slavery framework](#), but which were perceived by the anti-trafficking sector to potentially restrict support being made available. Provisions now enacted through the Nationality and Borders Act have, or will in due course:
 - Introduce new procedures for 'slavery of trafficking information notices' issued to individuals subject to immigration control to require them to provide information about trafficking within a specified timeframe.
 - Amend the threshold for the reasonable grounds decision, the first decision individuals receive after being identified as a possible victim of modern slavery, to make the assessment more robust and evidence focused.
 - Reduce the minimum length of support available to victims with a reasonable grounds decision from 45 to 30 days to bring it into line with the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT). In practice, victims receive support for much longer periods.
 - Disqualify from modern slavery victim support, on public order grounds, individuals who have served certain custodial offences or been prosecuted for specific offences.
10. More recently, Ministerial responsibility for modern slavery within the Home Office has been switched from the Minister for Safeguarding to the Minister for Immigration, under the heading of illegal migration and asylum. Again, the anti-trafficking sector have expressed concerns that this treats modern slavery as an immigration enforcement issue rather than seeing it through the lens of victims and ignores the fact that many victims are UK nationals or not otherwise involved in illegal migration/the asylum system.
11. At the end of last year, the Government amended the statutory guidance on modern slavery to reflect changes to victim support, and to suspend the multi-agency assurance panel process whereby negative conclusive grounds decisions (the final assessment of a suspected victim's case) were automatically reviewed, on the basis that this is adding to decision making time.

12. There has also been significant media reporting of the potential link between arrivals of asylum seekers in small boats and alleged abuse of the UK's modern slavery laws as a means to avoid deportation.
13. The LGA has not taken a position on the developments within the modern slavery framework, nor these wider stories. As with our work on wider asylum and immigration, given the politically contentious nature of some of these issues, our focus has remained on the impact on councils. It is not clear at this stage that changes to Ministerial portfolios, or even to thresholds/victim support, will substantially impact councils given that this relates to support provided through the national victim care contract rather than by councils. However, given our broad work on modern slavery, it is important to be aware of the wider, increasingly politicised context of this issue at the current time.