

**Focus on Labour Exploitation (FLEX) written evidence to the Public Accounts Committee**

**Subject: Reducing Modern Slavery**

16 February 2018

**Summary**

Focus on Labour Exploitation (FLEX) welcomes the opportunity to contribute to the Public Accounts Committee's Inquiry on Reducing Modern Slavery.

FLEX is a United Kingdom (UK) based charity that works to end human trafficking for labour exploitation, both in the UK and worldwide. To achieve this, FLEX conducts research and policy advocacy that aims to prevent labour abuses, protect the rights of trafficked persons and promote best practice responses to human trafficking for labour exploitation. Trafficking for labour exploitation is an offence under the Modern Slavery Act 2015.<sup>1</sup>

In the UK, FLEX has conducted research on a range of issues relevant to the current inquiry, including the importance of labour inspection for combatting labour exploitation;<sup>2</sup> improving identification and support of victims of trafficking in the European Union (EU);<sup>3</sup> and the impact of migration status, labour market structures, and immigration control measures on vulnerability to exploitation.<sup>4</sup>

FLEX works to ensure that the enforcement of labour rights forms a key part of the national and international responses to trafficking for labour exploitation. We believe labour standards and their enforcement are a central component of an effective anti-trafficking response. FLEX therefore highlights the importance of labour inspection as a means of preventing labour abuses from developing into severe labour exploitation, and as a way of identifying potential victims of trafficking.

In this submission, FLEX provides evidence for two of the five questions put forward by the Public Accounts Committee as part of this inquiry. These are:

- I. What is the quality and suitability of government support provided to identified victims of modern slavery?

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<sup>1</sup> National Crime Agency (NCA). Modern slavery and human trafficking. Available at <http://www.nationalcrimeagency.gov.uk/crime-threats/human-trafficking>

<sup>2</sup> FLEX. 2015. Combatting labour exploitation through labour inspection. Available at <http://www.labourexploitation.org/sites/default/files/publications/Flex%20Labour%20Inspection%20Blueprint.pdf>

<sup>3</sup> FLEX, Fairwork and ADPARE. 2016. *Improving the identification and support of victims of trafficking for labour exploitation in the EU*. Available at <http://www.labourexploitation.org/sites/default/files/publications/PROACT%20Policy%20Paper.pdf>

<sup>4</sup> FLEX. 2017. Risky business: Tackling exploitation in the UK labour market. Available at [http://www.labourexploitation.org/sites/default/files/publications/Risky%20Business\\_Tackling%20Exploitation%20in%20the%20UK%20Labour%20Market.pdf](http://www.labourexploitation.org/sites/default/files/publications/Risky%20Business_Tackling%20Exploitation%20in%20the%20UK%20Labour%20Market.pdf)

2. How successful has the 2014 Modern Slavery Strategy been so far in tackling modern slavery?
3. How effective is the governance system that government has put in place for tackling modern slavery?

The key points of made by FLEX in this submission are summarised below.

**Summary of key points:**

**Quality and suitability of Government support**

1. Destitution is a key driver of modern slavery. The reduced financial support for victims of trafficking is insufficient and puts trafficked persons at serious risk of re-trafficking as they struggle to survive.
2. A lack of long term support options, tailored to the needs of trafficked persons, can leave people vulnerable to re-trafficking and exploitation.

**Success of the 2014 Modern Slavery Strategy**

3. Victims of trafficking face far too many barriers to accessing compensation, despite this being one of the key objectives of the Modern Slavery Strategy.

**Effectiveness of the governance system**

4. The Government needs to set out a comprehensive understanding of the drivers of human trafficking and modern slavery, including the impact of immigration control measures on risk of trafficking and exploitation.
5. In order to be effective, the governance system put in place to tackle modern slavery needs to invest in pro-active and effective labour inspection and enforcement of labour rights.

**1. What is the quality and suitability of government support provided to identified victims of modern slavery?**

Insufficient financial support

1. Financial support is essential for victims of modern slavery to get their life back on track and reduce the risk of being re-trafficked. The current provisions for financial support are already insufficient, yet the government has recently announced that it is lowering the allowance paid to trafficked people even further, from £65 per week to £37.75.<sup>5</sup>
2. On less than £40 a week, trafficked people must now cover the cost of their food, toiletries, transport, communications, non-prescription medication and other essentials.

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<sup>5</sup> Thomas Reuters Foundation. 2018. <http://news.trust.org/item/20180207130111-lyz6b/>; FLEX. 2018. <http://bit.ly/2G9sP7w>

3. By lowering their allowance, the Government is endangering its stated commitment to fight modern slavery by putting trafficked people at serious risk of re-trafficking, just to survive.
4. Research by FLEX and the Labour Exploitation Advisory Group (LEAG), a group of experts working directly with victims of labour exploitation, has shown poverty to be a major driver of exploitation.<sup>6</sup>
5. Survivors living in poverty are extremely vulnerable to being exploited as they are forced to look for other ways to make enough money to survive. Re-trafficking is a real risk for many, particularly if the alternative is destitution: trafficked people may see no other possibility than returning to their traffickers.
6. Trafficked persons who are struggling to survive on the £37.75 allowance but are not permitted and supported to take up regular employment are more likely to take up informal work. Unscrupulous employers who know that workers are reliant upon them to survive can take advantage of this situation and exploit vulnerable employees.

## Insufficient long-term support

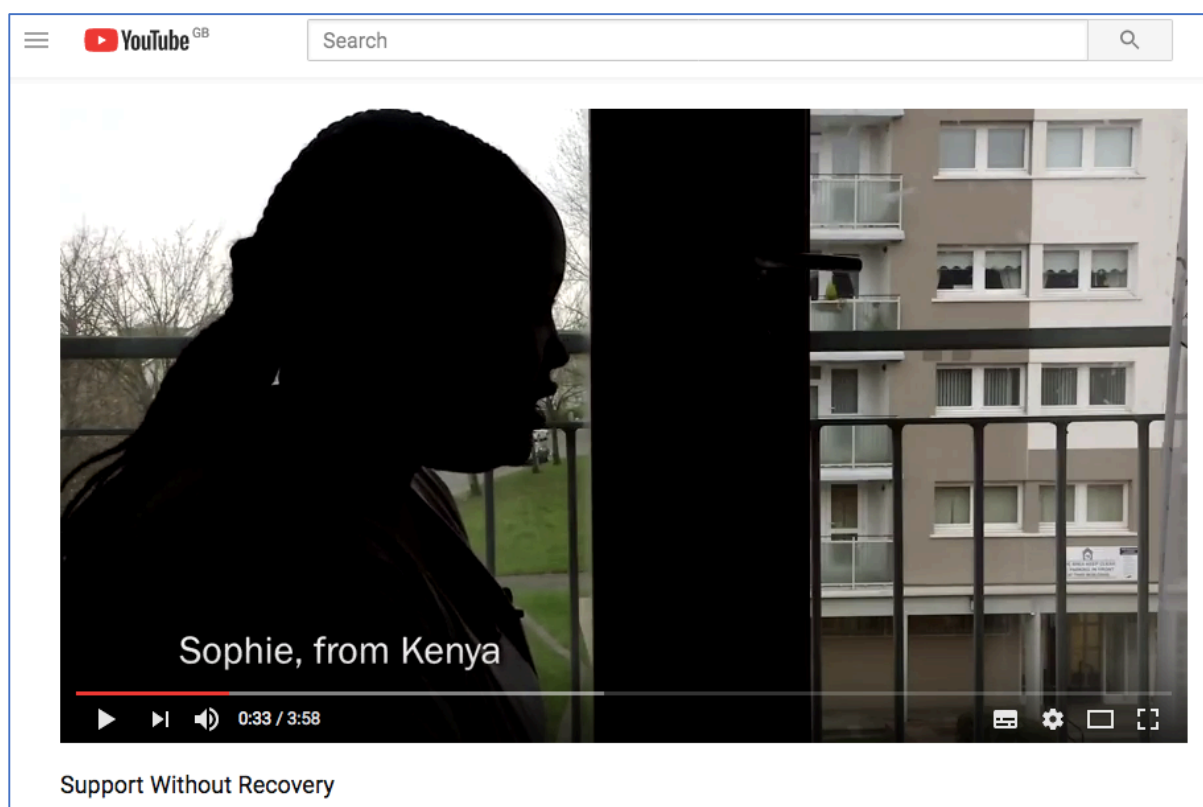
7. Research by FLEX as part of the Pro-Act project has found that weak assistance programmes coupled with barriers to accessing safe work and accommodation are leaving trafficked persons extremely vulnerable to re-trafficking in the UK.<sup>7</sup>
8. Access to housing and livelihoods are a key priority for victims of human trafficking. However, limitations on the availability and access to mainstream housing, combined with a lack of awareness among responsible authorities and institutions (local authorities, social workers, etc.) often leave victims at risk of destitution post-reflection and recovery period.
9. Government support for victims of modern slavery should seek to bring about positive long-term outcomes and to reduce potential risks of re-trafficking and further victimisation.
10. The Pro-Act research found that the level of support for victims of trafficking was inadequate, and that support was not tailored to the needs of victims, and particularly to the differing needs of men and women.
11. Furthermore, the length of the support provided is arbitrary and is not related to the ongoing needs of victims. As a result, many victims are left without support too soon, and become vulnerable to re-trafficking and exploitation.<sup>8</sup>
12. The below short film by FLEX, *Support Without Recovery: the UK anti-trafficking response*, gives an insight into the fear and uncertainty faced by those who have to wait for months to be recognized as victims of trafficking, with little or no support to help them move on with their lives. (click on picture for link)

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<sup>6</sup> FLEX and the Labour Exploitation Advisory Group. 2016. <http://bit.ly/2EuVOWc>

<sup>7</sup> FLEX, Fairwork, and ADPARE. 2016. <http://bit.ly/2Hjrnu>

<sup>8</sup> FLEX, Fairwork, and ADPARE. 2016. <http://bit.ly/2Hjrnu>



**2. How successful has the 2014 Modern Slavery Strategy been so far in tackling modern slavery?**

13. Already in 2014, the UK Government recognised the vital importance of access to compensation for victims of trafficking, setting out to ensure “that there are avenues for victims to receive reparation and compensation” as one of the key objectives of its Modern Slavery Strategy.<sup>9</sup>
14. However, during the passage of the Modern Slavery Act, amendments seeking to introduce a general civil remedy for trafficking failed, as they were rejected by the government as unnecessary.<sup>10</sup>
15. Instead, the key measure introduced in the Modern Slavery Act to address access to compensation was the ‘slavery and trafficking reparation orders’, a specific form of compensation for victims of human trafficking awarded as part of criminal proceedings.
16. Under section 8 of the Modern Slavery Act, criminal courts are required to consider making a slavery and trafficking reparation order in all cases where a person has been convicted of a) slavery, servitude or forced labour, b) human trafficking, or c) committing an offence with intent to commit human trafficking.
17. The Court must consider making an order whether or not reparation was requested by the prosecution, and any decision by a Judge not to grant a reparation order must be explained.

<sup>9</sup> UK Government. 2014. <http://bit.ly/1LZvZu6>

<sup>10</sup> HL Deb 23 Feb 2015. Vol 759. Cols 1465-1466. <http://bit.ly/2o6pihS>

18. For a victim to obtain compensation through a slavery and trafficking reparation order, the perpetrator must have been convicted under the Modern Slavery Act, and a confiscation order must have been made against them.
19. Despite the increase in prosecutions in recent years, the high criminal threshold of proof makes it difficult to successfully prosecute, and in many cases prosecuting is not possible due to lack of evidence.
20. This avenue is therefore only available to a very limited number of victims of human trafficking who have seen their traffickers convicted for the abuses committed against them.
21. To illustrate the problem, in 2015, only 30 persons were convicted for offences related to human trafficking, slavery, forced labour, and servitude.<sup>11</sup> Meanwhile, 3,266 potential victims of human trafficking were referred to the National Referral Mechanism in the same year.<sup>12</sup> This represents a 40 per cent increase in referrals, yet a 23 per cent drop in convictions since 2014.
22. The situation could be improved by providing for civil remedy in the Modern Slavery Act. This would assist victims of modern slavery to more easily pursue claims for compensation from perpetrators.
23. For a comprehensive review of other barriers to accessing compensation for victims of human trafficking, please see FLEX's 2016 report [Access to compensation for victims of human trafficking](#).

### **3. How effective is the governance system that government has put in place for tackling modern slavery?**

#### **Counterproductive policies**

24. As the National Audit Office report on reducing modern slavery recognises, more needs to be done by the Government to gain a better understanding of modern slavery. The Government needs a comprehensive understanding of the drivers of exploitation, and in particular those drivers that are within State control, including labour market regulation and immigration control
25. The current lack of clarity is leading to conflicting and counterproductive policies: The state is acting to combat human trafficking and modern slavery on one hand, and at the same time acting in ways that create vulnerability to this very exploitation.
26. The below sections highlight two key areas where the Government is implementing counterproductive and conflicting approaches to trafficking and modern slavery.
  - i. Immigration enforcement and modern slavery
27. The 'offence of illegal working' established in the Immigration Act 2016 serves to undermine efforts to address modern slavery. Fear of criminalization is one of the primary tools used by traffickers to control exploited workers.
28. The recent Home Office Select Committee report, *Home Office delivery of Brexit: immigration*, highlights this issue in its discussion of the Government's 'hostile environment' policy, which involves a series of measures aimed at making it so difficult

<sup>11</sup> Home Office. Written question 48815. <http://bit.ly/2HhK6vP>

<sup>12</sup> National Crime Agency. 2015. <http://bit.ly/2EGnCPM>

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to live unlawfully in the UK that those here illegally will leave, and those seeking to come without permission will be deterred from doing so.<sup>13</sup>

29. The report expresses concerns that hostile environment measures are preventing people from reporting crimes or seeking medical help, because they are afraid that their details will be shared with the Home Office. This is clearly counterproductive for the Government's efforts to tackle human trafficking and modern slavery, as victims that fear being criminalised themselves are unlikely to report the crimes to which they are being subjected.
30. This chilling effect extends beyond undocumented workers to all migrant workers. Research by FLEX and others has repeatedly shown that the so called 'hostile environment' makes migrant workers feel that they have no rights, and that they will be penalized for speaking up. These are the conditions in which exploitation thrives.
31. The Select Committee report confirms that hostile environment measures are changing behaviour towards people lawfully resident in the UK, including EU and EEA citizens.<sup>14</sup> Some landlords and employers are refusing to engage with any foreign nationals for fear of criminal sanctions if they make a mistake in applying the rules.<sup>15</sup> Such behaviour is likely to increase uncertainty among migrant workers, and make them more vulnerable to modern slavery offences.
32. Implementing such a counterproductive and conflicting policy is especially worrying when the Home Office has not set any targets against which to measure the effectiveness of the hostile environment policy. The Home Office Select Committee says they "find it unacceptable that the Government has not yet made any assessment of the effectiveness of the policy and call on them urgently to do so. We question the appropriateness of a policy that discourages individuals from reporting a crime or seeking medical attention."<sup>16</sup>
33. The Health Select Committee has asked the NHS to withdraw immediately from a memorandum of Understanding with the Home Office that allows for the sharing of patients' addresses for immigration enforcement purposes, while it carries out a review of the process.
34. A similar review of the impact of immigration enforcement policies on the Government's efforts to tackle human trafficking and modern slavery should be carried out. A memorandum of understanding between immigration enforcement and labour inspection should be implemented to ensure that migrant workers are safe to report abusive employment practices, including modern slavery and human trafficking offences, without fear of criminalisation.
35. Labour inspectors that have a dual immigration control and labour inspection function are hampered in their efforts to identify cases of modern slavery. Labour inspectors tasked with checking the legal status of workers are prevented from gaining the trust of workers that is essential to uncovering exploitation.
36. Identification of victims of trafficking takes trust, support and the availability and offer of a positive alternative. Immigration control breaks trust, is not victim centred, and risks

<sup>13</sup> Home Office Select Committee. 2018. <http://bit.ly/2HiZdoH>

<sup>14</sup> Home Office Select Committee. 2018. <http://bit.ly/2HiZdoH>

<sup>15</sup> Kentish, B. 2017. <https://ind.pn/2w883Pf>; Travis, A. 2017. <http://bit.ly/2fe74Y8>

<sup>16</sup> Home Office Select Committee. 2018. <http://bit.ly/2HiZdoH>

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returning victims to countries where they will be re-trafficked. In addition, traffickers often use fear of immigration controls to hold people in situations of extreme cruelty.<sup>17</sup>

### ii. Insufficient labour inspection and enforcement

37. In the context of trafficking for labour exploitation, labour inspectorates have a vital role to play in the prevention of exploitation and the proactive identification of and assistance to victims.<sup>18</sup>
38. The International Labour Organisation Protocol of 2014 to the Forced Labour Convention 1930, to which the UK is a Party, clearly articulates the importance of comprehensive coverage of labour law and calls for States to ensure that ‘labour inspection services and other services responsible for the implementation of this legislation are strengthened’<sup>19</sup>
39. This is recognised in the 2016 Group of Experts on Action against Trafficking in Human Beings (GRETA) report concerning the UK’s implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, which underlined “the significant role of workplace inspections, including on health and safety, compliance with labour standards and revenue laws, in deterring instances of human trafficking for forced labour and identifying possible victims of [trafficking in human beings].”<sup>20</sup>
40. In its report, GRETA recommended that UK authorities take measures to “strengthen the capacity and remit of the relevant inspectorates” to “enable proactive identification and referral of cases of human trafficking for labour exploitation.”<sup>21</sup>
41. Currently, the UK’s labour inspection capacity falls well below the ILO recommended target of one inspector for every 10,000 workers.<sup>22</sup>
42. The UK has one of the poorest resourced labour inspectorates in Europe. In a survey of comparable countries in the European Economic Area, FLEX found that UK labour inspector figures come bottom when pitched against similar EU countries: The UK has just 0.9 inspectors per 100,000 workers as compared to 4.6 in Ireland, 5.1 in the Netherlands, 12.5 in Belgium and 18.9 in France (see graphs below).<sup>23</sup>

Graph I and II. Number of labour inspectors per 100,000 workers.<sup>24</sup>



<sup>17</sup> FLEX. 2015. <http://bit.ly/2HgmYOp>

<sup>18</sup> ILO. 2014. Article 2 of the Protocol to the Forced Labour Convention;

<sup>19</sup> Ibid.

<sup>20</sup> GRETA. 2016. <https://rm.coe.int/16806abdc4c>

<sup>21</sup> Ibid. p.28

<sup>22</sup> David Weil. 2008. [http://www.ilo.org/public/english/revue/download/pdf/s3\\_weil.pdf](http://www.ilo.org/public/english/revue/download/pdf/s3_weil.pdf)

<sup>23</sup> FLEX. 2015. <http://bit.ly/2HgmYOp>

<sup>24</sup> Ibid.



43. In a climate of deregulation there have been repeated efforts, some successful, to cut the budget of the Gangmaster's and Labour Abuse Authority's (GLAA's), Employment Agency Standards Inspectorate and the Health and Safety Executive. The Deregulation Act 2015 brought in changes to rules governing health and safety for self-employed workers and curtailed the powers of employment tribunals and the main UK labour inspection authorities.
44. All three enforcement agencies were hard hit by the 2010 Spending Review. This coupled with general moves against regulatory measures seen to be acting as barriers to growth and productivity has meant UK labour inspection has been under attack in recent years. Many of these measures had an impact on protections for workers.
45. FLEX has repeatedly highlighted the disconnect between weakened labour inspection and enforcement and UK commitments to end modern slavery and to combat trafficking for labour exploitation in particular.<sup>25</sup>
46. The UK's lack of investment in labour inspection means labour laws are not being enforced and unscrupulous employers are getting away with exploiting workers with impunity.
47. Some efforts have been made to address this through the expansion of the Gangmaster's and Labour Abuse Authority's (GLAA's) remit in 2016. However, the Government is yet to provide adequate funding to permit a full expansion of the GLAA functions, and have to date only provided a moderate increase in budget to permit their new police-style powers. More investment is needed to enable the GLAA to effectively tackle modern slavery and human trafficking abuses.
48. Victims of modern slavery want labour inspectors to help them escape and tackle exploitation in the workplace. In interviews conducted by FLEX, trafficked persons have shared a strong desire for official intervention in workplaces to offer guidance, assistance and support:

*I would like people to talk to my employer about how much they pay, how much holiday they're giving, how much time we're working for them [...] Because otherwise we don't tell anyone, we are scared because we are foreign [...] I wish someone talks to them who has a responsibility'*

*- Trafficked person's testimony<sup>26</sup>*

49. In order to be effective, the governance system put in place to tackle modern slavery needs to invest in pro-active and effective labour inspection and enforcement of labour rights.

<sup>25</sup> FLEX. 2015. <http://bit.ly/2HgmYOp>

<sup>26</sup> FLEX Interview in December 2014 for Pro-Act Project. 2015. Pro-Active Identification and Support in the Netherlands, the UK and Romania.