



Briefing for Sentencing Council in response to Modern Slavery Offences Consultation

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These are the views of:	<i>Welsh Women's Aid (Third Sector) - the national charity in Wales working to end domestic abuse and all forms of violence against women.</i>

About Welsh Women's Aid

Welsh Women's Aid is the umbrella organisation in Wales that supports and provides national representation for independent third sector violence against women, domestic abuse and sexual violence (VAWDASV) specialist services in Wales (comprising our membership of specialist services and members of the regional VAWDASV Specialist Services Providers Forums). These services deliver life-saving and life-changing support and preventative work in response to violence against women, including domestic abuse and sexual violence, as part of a network of UK provision.

As an umbrella organisation, our primary purpose is to prevent domestic abuse, sexual violence and all forms of violence against women and ensure high quality services for survivors that are needs-led, gender responsive and holistic. We collaborate nationally to integrate and improve community responses and practice in Wales; we provide advice, consultancy, support and training to deliver policy and service improvements across government, public, private and third sector services and in communities, for the benefit of survivors.

We also deliver the Wales National Quality Service Standards (NQSS), a national accreditation framework for domestic abuse specialist services in Wales (supported by the Welsh Government) as part of a UK suite of integrated accreditation systems and frameworks. (More information on the NQSS can be found here: <http://www.welshwomensaid.org.uk/what-we-do/our-members/standards/>)

Key concern: No recourse to public funds

Welsh Women's Aid welcomes the opportunity to respond this consultation on the sentencing of modern slavery offences. We have prepared a short briefing in response to the Council's call for views on:

- the principal factors that make any of the offences included within the draft guidelines more or less serious;

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- the additional factors that should influence the sentence;
- the types and lengths of sentence that should be passed

Welsh Women's Aid are in broad agreement with both the culpability factors and additional influencing factors in sentencing guidance on Slavery, servitude and forced or compulsory labour/ Human trafficking. However, we feel that an acknowledgment of the gendered nature of the modern slavery, the links with other forms of violence against women and girls (VAWG) and the impacts of no recourse to public funds should be present in all three guidance documents.

Context

Modern slavery is a highly gendered crime; in its causes, its nature and its consequences. The UN Women UK National Committee conference in April 2018 heard 40.3 million people across the world are held in slavery with 70% of those women, predominantly sold into forced labour, sexual exploitation and domestic servitude.¹ Additionally, 94% of the adult women recommended to the National Referral Mechanism (NRM) in the UK are referred following sexual exploitation.² In Wales, Bawso, a national organisation supporting people from black and minoritised background, found that the majority (41 out of 57) of women it had supported in regards to modern slavery, had been trafficked for sexual exploitation.³

The *Overcoming Barriers and Healing the Scars of Human Trafficking* report by Bawso found systems which discriminate against women led to some of the women they supported being trafficked.⁴ Women and girls face additional threats; domestic servants face the threat of rape and sexual exploitation and women trafficked across borders to work often experience sexual violence during the journey. The Home Office economic and social costs of modern slavery report⁵ found that domestic servants, who are predominantly women, spend longer enslaved than other victims of modern slavery, again creating high costs to the public purse.

It is vital to note that sex trafficking is making criminals a significant amount of money. An inquiry into organised sexual exploitation conducted by the All-Party Parliamentary Group (APPG) on Prostitution and the Global Sex Trade in 2018 concluded that the UK currently a low risk, high value destination for sex traffickers. The report found that 85% of potential victims are non-UK nationals.⁶ As the vast majority of people who are sexually exploited are women. Welsh Women's Aid would therefore argue

¹ <http://www.unwomenuk.org/what-we-do/news-1/ending-slavery-and-trafficking-un-women-nc-ukbrunch.html>

² *ibid*

³ <http://www.bawso.org.uk/assets/Uploads/Files/PDF/Bawso-Trafficking-Nov-2012.pdf>

⁴ *ibid*

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729836/economic-and-social-costs-of-modern-slavery-horr100.pdf

⁶ <https://appgprostitution.uk/wp-content/uploads/2018/05/Behind-closed-doors-APPG-on-Prostitution.pdf>





that, given the gendered nature of this form of exploitation, a clear recognition of the gendered nature of the crime and the discrimination which can lead to vulnerability and exploitation is vital.

When sentencing it is vital that the victim having no recourse to public funds should be considered as an increased vulnerability factor. Victims with no recourse to public funds face additional barriers to safety and support, and often cut off from accessing the same resources and support services available to other survivors.⁷ If perpetrators have exploited this reduced access to support, then this should influence sentencing.

A person will be 'subject to immigration control' if they:

- Have been granted leave to enter or remain in the UK with the condition of 'no recourse to public funds'. This may include women who have joined their husband or partner on a spousal visa or may have limited leave granted under family or private life rules.
- Have leave to enter or remain in the UK but may have a restriction or prohibition on claiming public funds for a period of time. For example, persons from the European Economic Area (EEA) nationals may be prevented from accessing public funds when they do not meet the eligibility criteria.
- Do not have leave to enter or remain, such as those who overstay their visa or who enter illegally.
- Individuals on a time limited visa, such as a student or work visa.

This results in migrant women unable to access support or a safe place to stay. It forces survivors to remain with abusive partners, putting them at further risk of harm, exploitation, modern slavery or facing destitution.

The Istanbul Convention, which the UK has signed but not yet ratified, requires that survivors of violence against women and girls can access protection *irrespective* of their immigration status. We know that migrant women are particularly vulnerable to gender-based violence – they are also more likely to face a language barrier, to be abused by multiple perpetrators and face specific forms of violence including forced marriage and so-called honour-based violence. Current immigration policy including the imposition of no recourse to public funds however directly increases the risk migrant women face by emboldening perpetrators with further control and increasing victims' fears of reporting whilst also shutting them out from public services and making it harder to access specialist support. This at a time when we expect the number of European survivors who become undocumented with no recourse to public funds due to Brexit, to soar.

The Domestic Abuse Bill has just seen its second reading in the House of Lords and is due to enter committee stage. Protection for migrant women as a glaring gap in the Bill. There is concern that in its current form the Bill will not go far enough to fulfil the UK's commitment of ratifying the Istanbul

⁷ <https://www.welshwomensaid.org.uk/wp-content/uploads/2020/12/NRPF-and-VAWDASV-Briefing-for-MSs-Final-ENG.pdf>



Convention. Equal protection and support for migrant women and survivors with no recourse to public funds is a key priority for Welsh Women’s Aid concerning the Domestic Abuse Bill.⁸

Conclusion

Until there are sufficient protections in place for survivors with no recourse to public funds, they will continue to be vulnerable to modern slavery, human trafficking and exploitation. When this factor is exploited by this is a factor which perpetrators of the crime this must be considered in sentencing.

Similarly, the clear evidence of modern slavery being gendered within many cases and the discrimination which can lead to vulnerability and exploitation is vital, as well the interrelation with other forms of violence against women, including rape, sexual assault and domestic abuse, it is vital that this is reflected in the sentencing guidance.

⁸ <https://www.welshwomensaid.org.uk/wp-content/uploads/2020/06/WWA-DA-bill-compact-briefing-2020.pdf>

