

Post-investigation

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Arrest and charging

Arrest should be focused on identifying the most appropriate charge for a modern slavery offence to be dealt with efficiently. The suspect does not, therefore, have to be arrested on suspicion of modern slavery offences. If there is insufficient evidence for the substantive charge, the following alternative charges should also be considered if they can be evidenced:

- ill-treatment or willful neglect of a child
- rape and associated **sexual offences**
- assault
- false imprisonment
- kidnapping
- fraud and **money laundering**
- possession of false documents
- forgery
- managing or controlling prostitution

As outlined above, not all incidents of modern slavery will be prosecuted as modern slavery offences. To facilitate recovery of information and the monitoring and evaluation of a case, actual offences of modern slavery should be flagged onto force systems.

This list is not exhaustive. See also **additional relevant legislation**.

For further information see:

- **APP Detention and custody, Arrest and detention**
- **APP Prosecution and case management, Charging and case preparation**

- Knowledge Hub Modern Slavery community, for case studies (available to authorised users who are logged on to Knowledge Hub)

Prosecution

The following will assist in the preparation and prosecution of modern slavery cases.

For further information see:

- APP Prosecution and case management
- Crown Prosecution Service: Suspects in a criminal case who might be victims of trafficking or slavery

Effective early consultation between the police and the Crown Prosecution Service (CPS)/Public Prosecution Service for Northern Ireland (PPSNI)

This should include face-to-face meetings to identify investigative strategies (including financial investigation and asset restraint), and working together to build a case. These are particularly important when evidence needs to be obtained from other jurisdictions.

Early case conferences

Early case conferences with counsel, forensic accountants and analysts to seek timeline charts and other lines of enquiry enable all relevant evidence to be obtained before trial. These case conferences help counsel to draft a full and detailed opening note for trial. This can also be instrumental in persuading defendants to enter late guilty pleas.

Early applications for special measures

Early applications for special measures to assist victims in giving their best evidence in court are helpful. These include live links from abroad in cases where victims wish to return to their home countries.

Early applications for discretionary leave to remain

These should be made on behalf of any victim reporting or assisting with an investigation.

Early applications for witness anonymity (applicable in the UK only)

These applications protect victims who fear that their details and those of their families may be made public if they cooperate, allowing them an alternative method to provide evidence.

Applications for reporting restrictions also do this, as defined in the Youth Justice and Criminal Evidence Act 1999 section 46.

Acceptance of successful hearsay applications for the evidence of a victim

It may be necessary to apply for the introduction of hearsay evidence to support a prosecution where, for example, a victim refuses to give evidence against a perpetrator because they are a family member. To overcome complications, the first account evidence should be available in a format that can be presented as hearsay, for example, an Achieving Best Evidence in Criminal Proceedings (ABE) video interview (see Appendix C of the ABE guidance) supported by a short statement signed by the interviewees confirming that the video is their evidence.

Considerations in cases of child trafficking

When managing a case of child trafficking, prosecutors only need to consider whether or not any offence committed was as a direct consequence of, or in the course of, trafficking.

Ensuring that key information and relevant unused material has been obtained

All reasonable lines of enquiry should be followed and the police should obtain key information and forward it to the CPS, including:

- statements from social services
- statements from Home Office Immigration Compliance and Enforcement (HO ICE)
- medical evidence
- witness statements

Non-criminalisation of victims

If evidence supports the fact that a suspected perpetrator of modern slavery has committed the offence while in a coerced situation, there is strong public interest to stop the prosecution. Where there is clear evidence that the suspect has a credible defence of duress, the case should be discontinued on evidential grounds.

Section 45 of the Modern Slavery Act 2015 has introduced a statutory defence for slavery or trafficking victims who commit an offence, if it can be evidenced that they were compelled to commit the offence as a result of exploitation. The defence in section 45 does not, however, apply to victims who have committed offences outlined in **Schedule 4 of the Act**.

Slavery and trafficking reparation orders

Section 9 of the Modern Slavery Act 2015 introduces the use of a slavery and trafficking reparation order, which requires the perpetrator to pay compensation to the victim of a modern slavery offence for any harm resulting from that offence. The compensation must not be more than the amount the perpetrator is required to pay under a confiscation order.

Repatriation

If a victim is from outside the European Economic Area (EEA), they can receive help and financial assistance to return home through the Home Office **Assisted Voluntary Return of Irregular Migrants (AVRIM)** process. If they are an EEA national, support organisations will put them in contact with their embassy and any relevant charities or NGOs which may be able to help.

If a victim of modern slavery is not involved in the criminal justice process, the Home Office may consider a grant of discretionary leave to remain in the UK under usual immigration rules, depending on the victim's personal circumstances.

Tags

Modern slavery