

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT MODERN SLAVERY ACT 2015 (CODE OF
PRACTICE) REGULATIONS 2016

Monday 18 April 2016

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The Committee consisted of the following Members:

Chair: MR DAVID NUTTALL

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| † Ansell, Caroline (<i>Eastbourne</i>) (Con) | † Green, Chris (<i>Bolton West</i>) (Con) |
| Arkless, Richard (<i>Dumfries and Galloway</i>) (SNP) | Hayman, Sue (<i>Workington</i>) (Lab) |
| † Bradley, Karen (<i>Parliamentary Under-Secretary of State for the Home Department</i>) | † Holloway, Mr Adam (<i>Gravesham</i>) (Con) |
| † Campbell, Mr Ronnie (<i>Blyth Valley</i>) (Lab) | † Jones, Graham (<i>Hyndburn</i>) (Lab) |
| † Champion, Sarah (<i>Rotherham</i>) (Lab) | Kendall, Liz (<i>Leicester West</i>) (Lab) |
| † Dowden, Oliver (<i>Hertsmere</i>) (Con) | † Stephenson, Andrew (<i>Pendle</i>) (Con) |
| † Durkan, Mark (<i>Foyle</i>) (SDLP) | † Stuart, Ms Gisela (<i>Birmingham, Edgbaston</i>) (Lab) |
| † Elphicke, Charlie (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † Sunak, Rishi (<i>Richmond (Yorks)</i>) (Con) |
| † Fabricant, Michael (<i>Lichfield</i>) (Con) | Kevin Maddison, <i>Committee Clerk</i> |
| † Garnier, Sir Edward (<i>Harborough</i>) (Con) | † attended the Committee |

First Delegated Legislation Committee

Monday 18 April 2016

[MR DAVID NUTTALL *in the Chair*]

Draft Modern Slavery Act 2015 (Code of Practice) Regulations 2016

4.30 pm

Motion made, and Question proposed,

That the Committee has considered the draft Modern Slavery Act 2015 (Code of Practice) Regulations 2016.—(*Karen Bradley.*)

Sarah Champion (Rotherham) (Lab): I apologise if I was late, Mr Nuttall—I got caught up with the Secretary of State—but it is a huge pleasure to serve under your chairmanship.

The magnitude and scale of human trafficking and modern slavery across the world are beyond most people's comprehension. The United Kingdom, in common with every country on earth, is not spared from this insidious crime. The National Crime Agency reports that last year 3,266 people, 928 of whom were children, were identified as potential victims of trafficking in the UK. That is a 40% increase on the number of potential victims in 2014.

The trafficking of human beings, whether for sexual exploitation, forced labour, domestic servitude, organ harvesting or child trafficking, is part of serious, internationally organised crime. Perpetrators are often linked across a number of international networks, and can change their routes and methods faster than the international and national authorities can keep up.

The UK, in common with many other countries in western Europe, is primarily a destination country for victims of trafficking. In 2015 potential victims of trafficking found in the UK were reported to be from 102 different countries of origin. The global scale of trafficking, the number of transit countries through which a victim is transported and the sheer diversity of trafficking routes associated with western Europe make human trafficking all the more difficult to tackle. Our police and border forces must, therefore, have use of the most effective powers to pursue, disrupt and serve justice on those engaged in human trafficking.

Throughout its passage in both Houses, the Modern Slavery Bill was approached in a collaborative and cross-party manner. The Act and the regulations that have followed have been much stronger as a result, and I am genuinely grateful to the Minister for making that so. I admire her courage and conviction in getting the right legislation in place and allowing us all to have a strong debate about it.

Given the scale and complexity of human trafficking, I am sure that the Minister appreciates that the code of practice before the Committee today must be fit for purpose. It must support our police and border forces to make arrests without ambiguity and, as such, to deal effectively with maritime trafficking.

Michael Fabricant (Lichfield) (Con): As the hon. Lady knows, victims of trafficking are held in our care for 45 days in hostels, but are then released. Although I may be wrong, I understand that once they are released there is no monitoring of them. For all we know, they might be going back to the people who have trafficked them. I hope that the Minister will comment on that in her summing up. Does the hon. Lady agree with me, however, that it is important that we keep a close and watchful eye on them?

Sarah Champion: I completely agree with the point made by the hon. Gentleman. I am particularly interested in the children who have been trafficked, and one of my concerns is that up to 60% of children who have come into local authority care and whom we believe to have been trafficked then go missing, within the timeframe he was talking about. One can only assume that they are back in the clutches of the traffickers and abusers, so yes, that is very worrying. I know that ECPAT UK is doing further research into the data, but the figure for the proportion of children going missing, while not as high as 60%, still seems high. I agree that the same is happening with adults. We need to be much more mindful of that, because these victims need our support to enable them to rebuild their lives and to go home, if that is what they want to do. The Government need to give more attention to that.

As I was saying, I want to ensure that the code of practice receives sufficient scrutiny to be able to deliver its objectives. I thank Human Rights at Sea, ECPAT UK and the Independent Anti-slavery Commissioner for their expert analysis and the guidance they have given to me on this code that enables me to recommend the following additions. Crucially, I urge the Minister to include an additional exception under paragraph 3.1(a) on urgent interviews. Currently, the code allows for an urgent interview to take place away from a police station or other authorised place of detention if any delay would result in an interference with, or harm to, evidence or people or serious damage to property. I believe it is necessary to include an additional exception under paragraph 3.1(a) for when the consequence of a delay could lead to potential or imminent loss of life. That would cover possible eventualities when trafficked individuals may be trapped in vehicles, containers or other forms of trafficking apparatus. This may become apparent on, or after, the point of arrest of a suspected perpetrator or subsequently during initial inquiries and should be explicitly articulated in the code to prevent potential or actual loss of life.

Paragraph 4 of the code outlines the power to obtain information. I believe that paragraph 4 should include references to existing stop-and-search powers as well as the existing powers outlined in the code, to ensure officials are able to use all powers available to them. The paragraph, as drafted, is restricted to obtaining information on the ship only. I recommend that it is broadened to include obtaining relevant information under the Act on the quayside, in the area of a port, in a harbour, in warehouses, in packing sheds or in the immediate locality of the ship. I also recommend that this power is extended in order to be exercised on tenders, liberty boats and all other watercraft used to re-supply ships.

There may be the need for a small number of additional clarifications, particularly regarding the definitions of specific terms in the code. I would be more than happy

to write to the Minister about those issues to ensure that we avoid any ambiguity on the implementation of the code, as we all want it to be as effective as possible.

The code does not make reference to the College of Policing's authorised professional practice on modern slavery. I understand that the code relates to constables and other enforcement officials and is specific to maritime enforcement, but it is important to ensure consistency of practice across police activity in relation to modern slavery. Will the Minister consider updating the code to ensure that it makes reference to the College of Policing's APP and other professional codes of practice? Likewise, I urge the Minister to redraft elements of the code so that it has a closer relationship to other codes of practice under the Police and Criminal Evidence Act 1984. That issue has been raised by the Independent Anti-slavery Commissioner who has written to the Home Office about the inconsistencies in the code of which I have given examples.

Will the Minister consider revising the code in the areas I have outlined using the powers granted to her under paragraph 5(5) of schedule 2 to the Act?

4.38 pm

Graham Jones (Hyndburn) (Lab): It would have perhaps been helpful if the Minister had spoken first and outlined the regulations, as we would all have been clearer as to what we are discussing. In the absence of that, I have a couple of quick questions that I would like to ask.

It says in schedule 2 to the Modern Slavery Act 2015 that, in summary, the changes will include the power to stop, board, divert and detain a vessel; the power to search a vessel and obtain information; and the power to make arrests and seize any relevant evidence. Obviously this will apply to ships in British waters. Does that mean that the ships have to have gone to, or be going to, a British port? I presume not. How does this apply to international waters, because the whole issue is about ships in international waters? Will it include, for example, British merchant ships or, in particular, British military ships that might be in the Indian ocean, when there may be British servicemen involved? How will that affect matters?

Will a vessel need to be going anywhere connected with Britain for us to have an involvement in it? What happens if a vessel is going from country B to country C and we understand that there may be people in enslavement on it? Will we be stopping that vessel, in the knowledge that it may contain people who are vulnerable and being abused? It could be in some far-off sea, such as the Pacific, the Indian ocean or whatever; we have military vessels out there. Will this apply then, and what will happen? How will we divert those ships, and to where? To what extent are we getting involved in the oceans of the world, and what will we do once we become aware of such behaviour? Will we act, and what will that action mean?

4.39 pm

Mark Durkan (Foyle) (SDLP): It is a pleasure to serve under your chairmanship, Mr Nuttall. The questions that I would like the Minister to address relate to the extent of the code in respect of the territorial waters of England and Wales. Will she clarify how well attuned the code of practice will be with what is planned to

happen with the territorial waters of Northern Ireland and Scotland, in terms of the understandings that exist around hot pursuit should there be controversies after a maritime intervention in respect of modern slavery? These issues often arise, so we should make sure that there are no problems.

There is also the question of Irish territorial waters. As someone who represents a border constituency in Northern Ireland, I am closely aware of the issues and sensitivities around the whole concept of territorial waters and where they are or are not. As well as the engagement with devolved Administrations on bringing the code of practice forward—I understand the intention is that all the Administrations will have their arrangements and legislation in place from 31 May of this year—have the conversations gone further than just the commencement date of those codes?

Given that there would be a common and shared objective in respect of modern slavery across all jurisdictions of these islands, including not just the Republic of Ireland, Scotland, Wales, Northern Ireland and England, but the Isle of Man and Guernsey—we all share those waters—would there be merit in using the British-Irish Council so that there is a clear and consistent stand? That would bring together Government representatives of all those territories to discuss these issues, alongside other issues of maritime management and co-operation that they should also be looking at.

Beyond those questions, and as the hon. Member for Rotherham did, I ask the Minister to address some of the questions that have been raised by the anti-slavery commissioner, and whether the Government would be in a position to take on board some of the suggestions about ensuring greater compatibility, comparability and consistency in all these matters.

4.44 pm

The Parliamentary Under-Secretary of State for the Home Department (Karen Bradley): It is a pleasure to serve under your chairmanship, Mr Nuttall. I start by apologising to the hon. Member for Hyndburn. These were matters that we discussed at length during the passage of the Modern Slavery Bill through Parliament last year. I had not wished to detain the Committee by repeating those discussions and arguments, but I am more than happy to answer his concerns and, if there are any outstanding issues, to write to all members of the Committee so that they are clear about what the Government intend with the measures that we are commencing and the code of practice.

My hon. Friend the Member for Lichfield made a point about the 45 days granted under the national referral mechanism. His comments relate to the Modern Slavery Act, so I am more than happy to respond to them, although they are not strictly within the remit of our discussion today. The national referral mechanism is an international obligation on the UK Government: under international conventions, we are obliged to provide a 30-day minimum period of reflection and safety. In fact, we guarantee a minimum of 45 days, and very few victims or potential victims of slavery get only that; the average is considerably longer. They are given specific provision for their welfare to ensure that we can support them to the best of our ability.

[Karen Bradley]

There is no doubt that there have been problems with the national referral mechanism, which is why we are piloting a new form of it. I agree absolutely with my hon. Friend's point about understanding what happens to victims afterwards to ensure that they are not re-trafficked; that is exactly why we are piloting the new scheme, and it is exactly the point that we hope the Independent Anti-slavery Commissioner, Kevin Hyland, will take on board—I know he is doing a lot of work to ensure that there is full understanding. My hon. Friend will know that the Salvation Army currently runs the care contract for the Government, and a very good job it does too. But there is definitely more we can do to ensure that victims and potential victims of trafficking get the support they need.

I also agree absolutely with the point that the hon. Member for Rotherham made about children. We have to help child victims of trafficking; that is why we trialled independent child trafficking advocates and why I am determined that we must have an appropriate advocacy scheme for children. She also made the point about children going missing; she will know that, when the trial was run by Barnardo's—and a very good job it did—the evidence was that as many, if not more, children who had an advocate went missing as those who did not.

We have to get this right. Children going missing is not acceptable, because, as the hon. Lady says, the danger is that they will return to their traffickers. I fully intend to bring forward proposals for a revised scheme; we must try to get this right so that children are given the support they need. She is also right that this is an issue of organised crime and that the UK is a destination country, but it is also a source and transit country. Slavery is happening in towns, villages and cities up and down this country, and we need to do everything we can to deal with it.

On the matter under discussion today, colleagues will know that, before the Modern Slavery Act, police and other law enforcement agencies had the right to board a ship if it arrived in a port over which they had jurisdiction, but not if it was in open waters. Organised crime gangs were putting slaves on ships and, when they got wind of the possibility that authorities knew about them, they were disposing of the evidence. Frankly, that is not an

acceptable situation, and that is why the measures in the Modern Slavery Act were introduced; the hon. Member for Foyle contributed to many of the debates on it when the Bill was in Committee. The original proposals did not include the territorial waters of the devolved Administrations in Scotland or Northern Ireland. We wanted to make sure we got this right and that we included the territorial waters of all the United Kingdom, so that when law enforcement officers are in hot pursuit of a British ship, they can go into the territorial waters of the devolved Administrations, find the victims of slavery and board the ship in open water.

Since the Act was passed in March last year, we have been working with the devolved Administrations to deal with the intricacies that come from subsequent Acts in those Administrations that have caused some slight problems. The regulations we are bringing forward today will make sure that these measures will be live from 31 May this year, so that we can find, protect and look after as many victims of slavery as possible. I want to assure the hon. Member for Foyle that work is going on with the devolved Administrations to ensure that we are able to protect victims. For example, we know that there is organised criminality in the fishing industry between the Faroe Islands and Scottish waters, with slaves being held on trawlers. We need to ensure that we can not only get to those slaves in a port, but in open waters.

I will address two specific points and, as I have said, write on other specific points that have been raised. The hon. Member for Rotherham talked about an additional exception in paragraph 3.1(a). I am satisfied that such circumstances would be caught by the power to search and obtain information under paragraph 3 of schedule 2 to the 2015 Act. I hope that that clarifies the point.

The hon. Member for Hyndburn asked about ships in international waters. The issue is whether an offence has taken place contrary to either section 1 or section 2 of the 2015 Act. The locations where the powers can be used are set out in section 35(1) of the Act. I hope that that clarifies the point he raised.

With that, I hope that the Committee will be happy to accept the regulations.

Question put and agreed to.

4.51 pm

Committee rose.