

# Impacts of a lack of legal advice on adults with lived experience of modern slavery

## Research Summary

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Research by:

This is a summary of the report: *Impacts of a lack of legal advice on adults with lived experience of modern slavery*, based on research conducted by the British Institute of International and Comparative Law (BIICL) in partnership with Unseen UK and their lived experience consultants group. The project was funded through an open call for proposals by the Modern Slavery and Human Rights Policy and Evidence Centre (Modern Slavery PEC), which in turn is funded and supported by the UK Arts and Humanities Research Council (AHRC).

The full report can be accessed on the Modern Slavery PEC website at [modernslaverypec.org/resources/lack-access-legal-advice](https://modernslaverypec.org/resources/lack-access-legal-advice).

The Modern Slavery PEC has actively supported the production of this Research Summary. However, the views expressed in this summary and the full report are those of the authors and not necessarily of the Modern Slavery PEC.

## Key findings

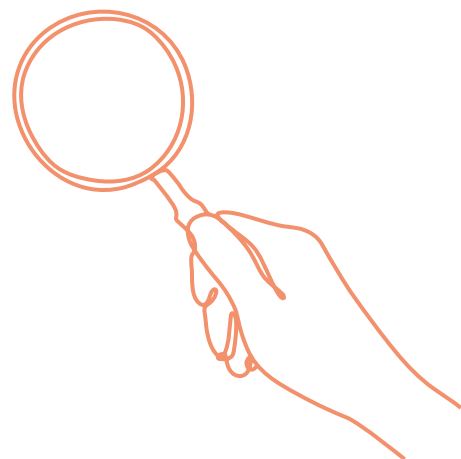
1. People with lived experience of modern slavery often have complex and intersecting legal needs, yet they face a range of challenges in accessing legal advice. These challenges stem from issues relating to the supply of legal aid, awareness of rights, and support in accessing this advice in practice.
2. Access to legal advice is key to the wellbeing of people with lived experience of modern slavery, with quality of legal advice being a critical factor in its impact on individuals. Factors determining the quality of legal advice include the technical expertise of the legal service provider, the adoption of a 'holistic approach' to legal advice provision, effective and trauma-informed communication with the client, and timeliness.
3. A lack of quality legal advice can impact every area where people with lived experience of modern slavery are in touch with the legal system, including: formal identification as a 'victim of modern slavery' and referral into the National Referral Mechanism (NRM); immigration and asylum processes; access to compensation and other remedies; criminal proceedings; family matters; and access to mainstream services.
4. Lack of access to quality legal advice can directly affect the recovery and wellbeing of people with lived experience of modern slavery by contributing to ongoing uncertainty, anguish and anxiety around their situation. A lack of access to quality legal advice can also have significant financial consequences for those who feel compelled to seek private legal advice, which can in turn leave them in debt and increase their vulnerability to re-exploitation. Finally, it can also have negative impacts that extend beyond the situation of the individual in question, for example by reducing the rates of successful prosecutions, as well as on public finances, with quality legal advice having the potential to reduce the number of costly appeals.
5. The research identified a number of promising practices, including dedicated programmes in Scotland and Northern Ireland providing advice prior to entering the National Referral Mechanism; formal collaborations between NGOs, local authorities and legal service providers promoting a holistic approach to legal advice provision; and training and mentoring of legal practitioners by NGOs specialising in modern slavery issues.

## Background

This project examined the experiences of access to legal advice in the United Kingdom for adults with lived experience of modern slavery, as well as the impacts of a lack of access to quality legal advice on wellbeing, recovery, and protection outcomes. While the importance of legal advice and representation for adults with lived experience of modern slavery has been recognised in relation to specific issue areas (particularly immigration and criminal defence matters), other areas of concern for many people with lived experience of modern slavery – such as compensation and family law issues – do not appear to have received a similar level of attention. This research set out to understand (as far as possible) the full range of issues where legal advice may be required, as well as experiences of accessing advice in these areas. Moreover, it sought to assess how the provision of quality legal advice not only contributes to specific legal outcomes, but can also directly impact the wellbeing of people with lived experience of modern slavery – for instance, by helping achieve a sense of justice or a feeling of being in control of one’s situation.

## Methodology

The project deployed a process-tracing methodology and used mixed methods consisting of: desk research (involving legal and policy analysis and a review of the academic and grey literature); a survey (which received 60 responses) from a broad range of stakeholders, including: NGOs providing non-legal support, local authorities, barristers, law centres and NGOs offering legal services, survivor-led organisations, law firms, and other public authorities, such as police and immigration officials; focus group discussions and consultations with people with lived experience of modern slavery based in England and Wales; and a roundtable discussion with stakeholders. The project was based on an equitable partnership model between BIICL and Unseen UK across the project cycle (including in the design of the research tools and the validation of the results) with the involvement of ten adults with lived experience of modern slavery who were recruited as project consultants.



## Findings

1. People with lived experience of modern slavery often have complex and intersecting legal needs, yet they face a range of challenges in accessing legal advice. These challenges stem from issues relating to the supply of legal aid, awareness of rights, and support in accessing this advice in practice.

With respect to supply, research participants reported, amongst other issues, that cuts to legal aid funding have reduced the number of legal service providers with expertise on modern slavery issues in the UK, with many operating at full capacity and therefore unable to take on new cases. An overwhelming majority (80%) of survey respondents employed in law firms and legal NGOs explained that they have had to turn away people with lived experience of modern slavery, even if they would formally qualify for legal aid – a situation which project consultants with lived experience of modern slavery explained had sometimes left them feeling that they had been treated unfairly.

Lack of awareness of rights and the options available for accessing legal advice among people with lived experience of modern slavery was also identified as a key challenge, underlining the important role played by First Responders and support workers in filling this gap. As much of the onus is placed on support workers to facilitate access to legal advice, often on a long-term basis, the findings highlight the need to ease some of this pressure. This can be achieved by developing partnerships between support organisations and legal representatives, as well as boosting the capacity of frontline support organisations to facilitate access to legal advice for people with lived experience of modern slavery while providing care in relation to other needs.

2. Access to legal advice is key to the wellbeing of people with lived experience of modern slavery, with quality of legal advice being a critical factor in its impact on individuals. Factors determining the quality of legal advice include: the technical expertise of the legal service provider, the adoption of a 'holistic approach' to legal advice provision, effective and trauma-informed communication with the client, and timeliness.

Poor-quality legal advice can seriously damage a client's case and can often only be rectified (if at all) through subsequent legal challenges, which are costly, time-consuming and not always accessible. Research participants explained that the expertise of the legal service provider should be broad enough for them to be able to identify the separate and often intersecting legal issues that people with lived experience of modern slavery commonly present with, even if they do not specialise in each of these areas. Responses also underlined the importance of a 'holistic approach' to legal advice provision which addresses the broader aspects of the client's wellbeing and considers both their legal and non-legal needs in the long term, coordinating with support providers.

A factor highlighted by project consultants with lived experience of modern slavery was the importance of keeping clients directly updated on the progress of their case, as well as implementing a trauma-informed approach in all interactions to aid informed decision-making. Finally, timeliness was identified as an important indicator of the quality of legal advice in ensuring the swift resolution of cases and improving the quality of decision-making by public authorities at first instance.

3. A lack of quality legal advice can impact every area where people with lived experience of modern slavery are in touch with the legal system.

A consistent theme from the research was that access to quality legal advice was generally deemed significant or extremely significant for the achievement of positive legal outcomes across a range of areas and processes, including: formal identification as a 'victim of modern slavery' and referral (if appropriate and desired) into the National Referral Mechanism (NRM); immigration and asylum processes; access to compensation and other remedies; criminal proceedings; family matters; and access to mainstream services.

When arrested for a criminal offence or detained as part of immigration proceedings, adults with lived experience of modern slavery will usually have had access to some form of legal advice as part of these processes. However, several research participants raised concerns about the quality of the advice provided in those situations, echoing existing research. Survey respondents and consultants with lived experience of modern slavery also drew attention to a range of legal issues where legal advice was less likely to be available. These include identification within the NRM, advice prior to referral, certain family issues, and compensation claims.

4. While an inability to access quality legal advice can have a significant impact on the outcome of a specific legal case or process, it can also directly affect the recovery and wellbeing of adults with lived experience of modern slavery by contributing to ongoing uncertainty around their situation and exacerbating feelings of anguish and anxiety connected with this.

The impact of a lack of quality legal advice on recovery and wellbeing was considered to be significant or extremely significant by almost three quarters of survey respondents. As well as directly resulting in feelings of anguish, anxiety and stress, a lack of awareness of legal rights and available options can leave individuals in a state of limbo, further frustrating recovery prospects and negatively impacting wellbeing. A lack of access to legal advice can also have significant financial consequences for the person with lived experience of modern slavery, especially where that individual feels compelled to seek private legal advice, which can in turn result in indebtedness and heightened vulnerability to (re-)exploitation.

A lack of access to legal advice can also have negative impacts that extend beyond the situation of the individual in question. Difficulties in securing legal advice can negatively impact an individual's trust in the legal system they are trying to navigate, affecting their willingness to engage with public authorities in securing criminal convictions, as well as potentially contributing to delays in decision-making within the identification procedure. Research participants also highlighted potential impacts on public finances. For example, access to quality and timely legal advice may reduce the need for lengthy appeal procedures to vacate convictions that could have been avoided had such advice been available in the first place.

## 5. The research identified a number of promising practices.

Promising practices include the public funding of dedicated programmes in Scotland and Northern Ireland designed to provide access to specialised advice for adults with lived experience of modern slavery prior to entering the NRM; formal collaborations between NGOs, local authorities and legal service providers aimed at promoting a holistic approach to legal advice provision; and training and mentoring of legal practitioners by NGOs specialising in modern slavery issues to improve technical expertise and promote trauma-informed working practices.

# Recommendations

## For the Ministry of Justice

- 1. Free legal advice should be made available for people with lived experience of modern slavery as a standalone entitlement, encompassing the whole range of legal issues individuals might need advice on.** Currently, access to pre-NRM advice has been proposed as an 'add-on' service for individuals already receiving legal aid on an immigration or asylum issue. Instead, free legal advice prior to entering the NRM should be available to all individuals based on their experiences of modern slavery, while legal aid should also be extended to cover issues of identification within the NRM and applications for criminal injuries compensation. Such advice should be independent, timely, and equally accessible for all people with lived experience of modern slavery irrespective of nationality, immigration status, or other characteristics (such as exploitation type). We recommend that the Ministry of Justice reconsider the appropriateness of means testing where clients present with indicators of lived experience of modern slavery, in line with the views of practitioners consulted in this and other research.
- 2. The legal aid funding structure should be revised to ensure that lawyers are not disincentivised from taking on claims by people with lived experience of modern slavery.** Such revisions should include a reconsideration of standard fixed fees, which this and other research has shown are too low to allow legal representatives to adequately address the complex legal needs of people with lived experience of modern slavery. These fixed fees should be replaced by hourly rates. Moreover, greater flexibility should be introduced into the legal aid contracting process to allow the market to respond to a critical need for qualified advisers in specialised areas (such as modern slavery) when the need arises, even if this is outside of the standard tendering cycle (which currently only allows for organisations to enter into legal aid contracts every few years).
- 3. Adequate training and mentoring opportunities for providers of legal services should be ensured.** Such training should cover relevant substantive and procedural issues, as well as interpersonal skills, including trauma-informed responses and interviewing skills that are relevant for engaging with, and supporting disclosure from, people with lived experience of modern slavery. This training, together with a competency-based assessment, should be integrated within existing accreditation requirements for all areas of civil and criminal legal aid where a need for legal advice may arise for people with lived experience of modern slavery. Additional training opportunities should be made available on a voluntary basis and should be publicly funded.
- 4. Data on the availability and uptake of modern slavery-related legal advice should be collected by the Ministry of Justice and regularly analysed and monitored by relevant decision-makers to better understand access to justice for people with lived experience of modern slavery.** Such data should be both quantitative and qualitative in nature, indicating not only the number of people with lived experience of

modern slavery that have received legal advice, but also, amongst other things, the areas in which such advice was received. Any such data should be publicly available for scrutiny by researchers, NGOs and other interested parties.

5. Views of people with lived experience of modern slavery should be sought and actively taken into account when revisions to legal aid structures and processes are deliberated.

## For the Home Office

6. Greater collaboration between legal advice providers and frontline organisations operating Modern Slavery Victim Care Contract (MSVCC) services should be promoted, including through partnerships that incorporate feedback sessions and mutual training opportunities. This will improve the identification of legal needs and timely, supported referrals to appropriate (independent) legal services, while also promoting a model of holistic legal advice provision that places the wellbeing of the client at its centre. Formal partnerships may also encourage specialisation by legal aid firms if they can expect steady referrals of modern slavery cases.
7. Frontline organisations should receive additional support (including training and financial support as necessary) in order to implement these measures, owing to the wide range of care responsibilities they already assume. Training for support workers should include how to prepare and support clients for meetings with solicitors and how to negotiate expectations on both sides.

## For support workers and the legal community

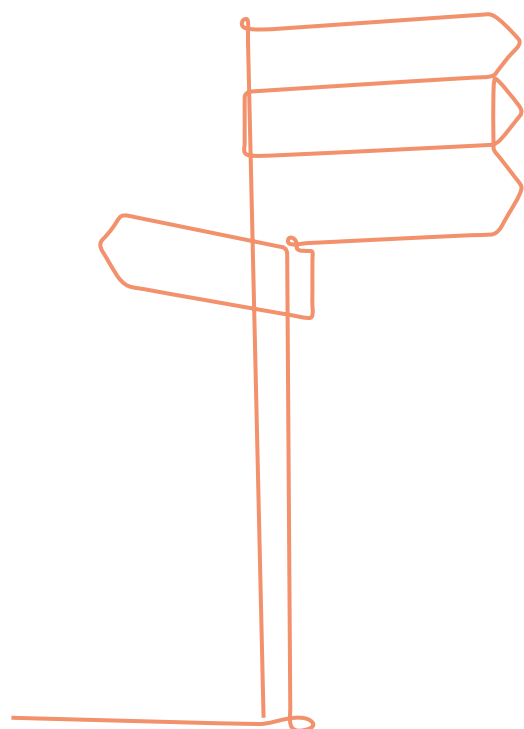
8. The legal advice provided should consider the significant and complex needs experienced by some people with lived experience of modern slavery, particularly due to: cultural disorientation, lack of trust, trauma and wider mental health issues, language barriers, and other factors. People with lived experience of modern slavery may need to be assisted by support workers to effectively access and benefit from the legal advice provided. Legal representatives should also be encouraged to manage the expectations of clients – clearly explaining the legal process, relevant timeframes, their own role, and the responsibilities of the client at the outset – and should be subject to clearer complaints processes to ensure ongoing communication and greater accountability in the quality of the service provided.





## Areas for further research

1. This report sought to provide a broad perspective on the various issues where legal advice may be required for people with lived experience of modern slavery, as well as to document the impact of a lack of quality legal advice across these areas on recovery, wellbeing, and protection outcomes. Subsequent research may focus more narrowly on under-researched issue areas identified by this study, including: advice prior to entering the NRM, identification within the NRM, family-related matters, and compensation claims.
2. Further research is required to understand the different nature of the issues presented in the project report across UK jurisdictions, and especially in Northern Ireland. Comparative studies may, in particular, examine how different legal aid rules affect both the accessibility and quality of the advice available. Based on a comparative analysis, research might also look into other ways of funding legal advice for people with lived experience of modern slavery while continuing to ensure the independence of this advice.
3. A further area of research could address the longitudinal effects of legal advice in terms of recovery, wellbeing and protection outcomes, while also tracing how the legal needs of people with lived experience of modern slavery fluctuate over time.



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