

Cuckooing

The case for strengthening the law
against slavery in the home

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About the report

Modern slavery is a crime which evolves and adapts as criminals find new ways to exploit others for their own gain. The law, the police, and the prosecution service, need to be able to respond so that offenders who take advantage of vulnerable people can be brought to justice. This paper explores a form of modern slavery which has grown in prominence over recent years, known as 'cuckooing', often associated with 'county lines' drug gangs. Through the work of both our Modern Slavery and Criminal Justice Units¹ we have heard from grassroots charities that increasing numbers of vulnerable people are being severely affected, while police officers report significant challenges in bringing offenders to justice. This paper explores the impact of the practice and the challenges for enforcement, and uncovers a worrying gap in the law.

To address this gap and tackle the scourge of cuckooing we recommend the Government amends section 1 of the Modern Slavery Act 2015 to bring cuckooing expressly within that offence.

Cuckooing explained

We use the term 'cuckooing' here to refer to the practice whereby offenders take over a person's home (hereafter referred to as 'the victim') and use the property to facilitate exploitation. The most common form of cuckooing is where drug dealers take control of the victim's home and use the premises to store, prepare or distribute drugs often as part of 'county lines' networks.

Cuckooing in real life - Anne's story

Anne is 51 years old, born and raised in West Yorkshire. She had a difficult upbringing and a poor relationship with her mother. From a young age she experienced abusive relationships. Anne got married and had three children, but her husband abused her physically and emotionally. He made her feel worthless and coerced her into taking drugs.

A few years ago, the relationship with her husband completely broke down and Anne had to leave the house they shared. She was homeless for many months, sofa surfing where possible. Two of her three children were taken into care, and the oldest lives independently and has children of their own.

Anne was eventually given local authority housing in a hot zone for drug activity which was full of people in similar situations and attracted many drug dealers.

Due to an alcohol and drug-fuelled life, Anne's physical and mental health deteriorated quickly. She has liver cirrhosis and mobility problems due to her being overweight and having to deal with lung issues. She also suffers from anxiety and depression and has a history of self-harm and drug-induced psychosis.

Anne was in a dark and dismal situation when she was found by the police during a week of intensive police action across the country on county lines drug dealing. When the police encountered Anne, it was clear that she was a vulnerable adult cuckooed by a sophisticated gang operating across West Yorkshire and connected to London. She was immediately allocated a Victim Navigator from the charity Justice and Care who supported her from day one.

When the police entered her property, the perpetrator, who was 21 years of age, was lying on the sofa. He was in possession of drugs, weapons and some cash which police found in the flat.

Anne was in a very bad state. She saw the perpetrator as her protector who was "keeping the trouble out of the door". Yet, he himself punched and smacked Anne, threatening her on multiple occasions. He made Anne become a drug mule for him by supplying other dealers, although she was given no money, just some drugs to feed her addiction.

¹ Modern Slavery Unit is a joint initiative between the Centre for Social Justice and an anti-slavery charity Justice and Care set up with a mission to keep modern slavery on the top of the political agenda.

After the arrest, the perpetrator was released on bail. He managed to indirectly exert control over Anne through others. People were turning up at her home and making threats while the investigation continued.

The Victim Navigator connected Anne to the support services she was entitled to. Due to the ongoing risk from the perpetrator, she was offered accommodation in the Greater Manchester area – her own flat on the ground floor with easy access to a GP and shops. A safeguarding plan was put in place and a support worker was allocated from the government funded National Referral Mechanism for victims of slavery. Anne is now receiving treatment for her addiction and has asked for help to find a detox programme. Thanks to the Navigator, she has been reconnected with her children. Anne is also supporting a police investigation into the drug dealers.

Prevalence

With over a thousand recognised and operational ‘county lines’ drug distribution networks we believe it is reasonable to fear that there are many hundreds of vulnerable victims currently suffering. During the National County Lines intensification week which took place during 11-17 October 2021 – targeting drug traffickers who often recruit children and vulnerable adults to supply drugs across the country – 894 cuckooed addresses were visited, 1,468 people were arrested and 2,664 vulnerable people, including 2,209 children, were engaged for safeguarding purposes.² Vulnerable victims whose properties are being taken over for criminal activity endure what none of us could accept – indignity, insecurity and the wrongful infringement of their right to privacy and a home life by the forced occupation of their property by criminal gangs.

“We have seen a sharp rise in the number of people being forced out of their homes as they have been taken over by drug dealers. These individuals are highly vulnerable and are easily manipulated into allowing their homes to be used in this way or they have had dealers force their way in and take it over, using threats of violence to them and their children. Soon they reach a point where they feel so intimidated that they choose to flee from their accommodation, choosing rather to become street homeless. This ‘cuckooing’ has been something we had seen before, however the impact of Covid seems to have significantly grown the problem. We have seen an increase in influence that drug dealers have gained during the lockdowns, but also it is as a result of more vulnerable people being isolated and therefore more open to abuse such as this.” CEO, Exaireo³

Awareness and prosecution action

This is an issue of which the Prosecution authorities are well aware and the firm intention to deal with this sort of offending is a matter of public record. Indeed, the [published typology](#) that sets out the approach of the police and the Crown Prosecution Service to ‘County Lines’ offending, including the safeguarding of vulnerable persons and the investigation and prosecution of criminal offences states that:

‘The police recognise that where there is ‘exploitation’ and ‘coercion’, ‘vulnerable people’ will be involved, including Class A drug addicts and those with mental health problems whose addresses are taken over (cuckooing). The police will, where appropriate, secure a vulnerable location to prevent ‘cuckooing’.

The guidance goes on to say that:

‘Consideration should also be given to investigating offences under the Modern Slavery Act as it provides an added dimension to the case and may act as a deterrent to criminals planning to exploit individuals’.

² National Police Chiefs’ Council press release, 21 October 2021 <https://news.npcc.police.uk/releases/over-1-400-arrested-in-a-national-week-long-operation-on-county-lines-drug-dealing>

³ Exaireo is a charity in the East Midlands that works with those who have been made homeless through different reasons, providing accommodation and support.

The Modern Slavery Act 2015

We believe that the Modern Slavery Act (hereafter, 'the Act'), in its recognition of the criminalisation of holding another 'in servitude', ought to afford protection to people when their homes are taken over by another. This should be the case irrespective of whether, and without the need for, any 'additional' service or labour is required and irrespective of whether 'additional' offending takes place against the victim. The question we have sought to answer is whether the current law should be interpreted and applied in such a way as to be applied where 'mere occupation' occurs. For clarity, and ease of reference, we simply note the provisions in s.1 (a) and (b)⁴.

Section 1: Slavery, servitude and forced or compulsory labour

(1) A person commits an offence if—

- (a) the person holds another person in slavery or servitude and the circumstances are such that the person knows or ought to know that the other person is held in slavery or servitude, or
- (b) the person requires another person to perform forced or compulsory labour and the circumstances are such that the person knows or ought to know that the other person is being required to perform forced or compulsory labour.

Our primary concern

We have heard compelling frontline evidence from a number of constabularies that the CPS is regularly refusing charge, under s.1 of the Act as the established position seems to be that mere occupation is inadequate to allow a charge under s.1 of the Act.

"It is a constant that the CPS are charging for the drugs offences and in cases S45 Serious Crime Act (part of an OCG). I have recently obtained charges for Section 1 under the MSA 2015 outlining to the two reviewing lawyers the reasons why I believe that servitude is covered when persons lives are being taken over, address, income etc. I explained that just because at the time the victims aren't committing I forced to commit crime doesn't mean that they are not a victim of the offence. Initially this led to the charging of defendant under the MSA 2015. However, I have recently received notification from the CPS that a third lawyer reviewed the case and [...] has removed the slavery charge, keeping the drugs offences." **Police officer**

Confirmation of the legal position before action

The CSJ, with the assistance of Fiona Bruce MP, sought clarity from the Director of Public Prosecutions and invited clarification on whether we were dealing with a misapplication of the law or a potential gap in the legislation. We set out the requisite law and posed the question using an example of a typical set of case facts for consideration.

Example case for consideration

A vulnerable adult, 'B', with learning difficulties had his address used by a Serious Organised Crime Group as a location for them to cut up drugs, rest as well as shelter from the elements and the unwanted attentions of the police. 'B' did not want them to be there but felt he could not ask them to leave and certainly could not force them to. They had no relationship, prior to the group moving in. He was in fear of violence most of the time. At no point was the victim made to deal drugs, provide services or benefits beyond those intrinsic to the occupation of the home, nor was he forced to engage in anything that could be defined as labour. It is his own home, and he has not been moved by the group. He is responsible for all bills.

⁴ For its proper application, understanding and context this must be read in conjunction with the remainder of that section and as well as additional provisions in the Act, particularly s.3 and Article 4 of the ECHR.

We posed the question: 'Is it the case that a criminal gang can take over a vulnerable person's home and not be deemed to have placed the legitimate occupier in servitude until they demand some service or labour?'

In short, the answer to this question appears to be, yes. An extract from the CPS response to our enquiry reads as follows:

[It is] correct to identify from the published guidance, and your discussions with law enforcement, that the CPS position is that a charge under section 1 MSA is highly unlikely to be pursued in cases where the cuckooed victim has done nothing apart from acquiesce to drugs being supplied from their home. In these cases, it would be challenging for a prosecutor to argue that this amounts to an offence under section 1 MSA.

However, cuckooing activity does not involve rights of ownership of the person or the requisite denial of freedom to amount to slavery or servitude. That leaves only forced or compulsory labour. The issue then is whether the owner / occupant of the property has been forced or deceived into providing a service or a benefit. The provision of a service or benefit involves a person actively doing something for another. A service or a benefit cannot be provided by passively doing nothing. Simply failing to notify the police that your home is being used by others to supply drugs cannot amount to the provision of a service or benefit.

Whilst this may suggest a gap in terms of MSA, there is a wide range of criminal activity associated with county lines and, on a case-by-case basis, prosecutors will consider different legislation which fully reflects the criminal conduct and gives courts sufficient sentencing powers.

Before we examine the consequences of this helpful clarification of the CPS position it is worth just making one observation in relation to the advice. The CPS state that 'simply failing to notify the police that your home is being used by others to supply drugs cannot amount to the provision of a service or benefit'.

For clarity, we should state that it is not the failure to notify the police that is adduced here, or in any other part of our argument, as something that could constitute the alleged 'service or benefit'. The alleged 'service or benefit' is the use of the premises, its shelter, its water supply, its heat and lighting and its seclusion and privacy – all of which are services in the view of the market, all are paid for and can be withdrawn if bills are not settled and, in any event, if they are not services, they should fall within the definition of a 'benefit of any kind'.

However, for the purposes of this document, we do not seek to challenge the CPS interpretation of this wording here. Indeed, it is perfectly arguable to say that the interpretation given to these words may be a matter of settled law that supports the CPS position. Our position is rather to acknowledge that the position appears to be that mere occupation of a person's home by a criminal gang seeking refuge and shelter cannot constitute a 'benefit of any kind' without an additional service being requested. If this is the right reading of the law our position is simply this: it ought not to be the case.

Our position and the case for reform

Taking over someone's home is a serious and harmful act in and of itself. To run a lucrative criminal enterprise and operating base which attracts other aggravating 'knock on' factors, often associated with increasing levels of anti-social behaviour and people living in fear, is debilitating, exploitative and accordingly, unacceptable in modern society. There is a further impact on the police and other services, such as those operating in the third sector, that pick-up the bill, temporally, financially, physically and emotionally, when trying to safeguard the 'cuckooing' victims. Meanwhile, criminals are cashing in on these activities which are sweeping through our communities, across the UK.

The challenge for police and partners working together are that often 'cuckooing' victims are extremely vulnerable people who have drug, alcohol, physical and mental health problems. They may also have learning difficulties or other disabilities, making them 'easy targets'. It is difficult for them to realise what is happening to them, due to a lack of understanding or them being 'conditioned' by their exploiters who move into their place of abode bringing with them those that may be working for that perpetrator. It is also difficult to get potential victims to cooperate and obtain witness testimony which leaves the police often reliant on other evidential material to try to substantiate their case.

The public interest behind tackling the sort of offending that involves 'mere occupation' could scarcely be greater. Often quite vulnerable people are targeted by county line operations and have their homes taken over for prolonged periods of time by potentially dangerous people. This practice is an affront to the human rights inherently held by that victim and exposes them to a significant risk of harm. It is unsatisfactory to allow such a serious and harmful act to be left unreachable by the law and to rely on the prosecution of the perpetrators for other offences leaving this exploitation to be addressed only at the point of sentencing.

Solution

Part of the issue here is the existence of an evidential burden which requires a highly vulnerable person to give a reliable account of the offences to the authorities before any action can be taken. Indeed, we have encountered some cases that, on the face of it, are indicative of at least questionable practices in which residents, acknowledged as vulnerable and subject to cuckooing practices, have been themselves charged with allowing their premises to be used. Perhaps the case of Mr Forster below has been written up in the press release in a way which is inequitable to the reasoning behind his charge but this example, on the face of it, causes some concern. The CPS press release announced⁵:

Three 19-year-old Manchester men have been jailed for a total of nine years for forcing a vulnerable drug user to become involved in the sale of drugs in Cumbria.

Cade Steven Higson, Nemieh Fletchman and Akweel Fatinikum 'cuckooed' Douglas Foster, 61, into using his home in Carlisle, Cumbria to supply Class A drugs.

The offences came to light when a housing authority representative attended Foster's home to check on his welfare following reports from concerned neighbours. When police attended, the men were seen running between rooms in the house where they were keeping a large amount of heroin and crack cocaine.

Rebecca McGregor for the CPS said: "These young men targeted a vulnerable man who was addicted to drugs and manipulated him into making his home a safe house for them to run their drugs operation.

Foster pleaded guilty to permitting his premises to be used for drugs supply and was sentenced to 12 months' imprisonment.

It is clear that there was an acknowledgement of the vulnerability of Mr Foster and it appears a number of professionals recognised the same. While there will inevitably be more to this case, it squares with the frustrations we hear on the frontline of enforcement that too little is done to specifically direct sanction away from and afford protection to those that suffer from their home being taken over.

Creating an offence in law capable of application: Using a presumption in law

Some police officers have suggested that it may be appropriate to create a presumption in law regarding the offence of servitude in certain circumstances where there is no legal connection between the offender and the known address. We can see that this would be intended to respond to the realities of the case where victims are often vulnerable, but equally there are concerns about the fairness of such a presumption. The Home Office may wish to conduct a public consultation on such an approach.

⁵ CPS Press Release, April 2019 <https://www.cps.gov.uk/north-west/news/manchester-drug-dealers-jailed-county-lines-cuckooing-operation-cumbria>

Creating an offence in law capable of application without the need for a presumption

Our proposed approach would simply involve adding a provision in s.1, marked in red here, so that the Act reads⁶:

- (1) A person commits an offence if—
- (a) the person holds another person in slavery or servitude and the circumstances are such that the person knows or ought to know that the other person is held in slavery or servitude, or
 - (b) the person requires another person to perform forced or compulsory labour and the circumstances are such that the person knows or ought to know that the other person is being required to perform forced or compulsory labour, or
 - (c) the person occupies or exercises some substantial control over another's home in connection with the commission of another criminal offence and the person knows or ought to know that the other person
 - (i) has not given consent
 - (ii) is unable to give free and informed consentor
 - (iii) has withdrawn consent.

Conclusion

Sadly, the current omission in the law has a real-world impact. We believe that today, and not far from the reader of this paper, there are vulnerable people held in servitude in dangerous circumstances and at the mercy of organised crime groups. Of course, these prosecutions will not always be appropriate. The judgement of the investigating officer and the reviewing lawyers will endeavor to distinguish those cases where complicity and autonomy define the act of allowing the premises to be used but, where the converse is true, where fearful compliance under servitude is endured, a clear legal recourse is needed.

By equipping the police with the powers they need and want, proactive and effective prosecution action can reach the people who are so desperately waiting for our help.

Perpetrators must be met with robust and clear legislation that can reflect the true criminality of their offending from the indictment to sentencing. Relying entirely on broad sentencing guidelines deployed on conviction for other offences to recognise the offending is wholly inadequate to meet the threat to public safety.

⁶ This wording is only provided by way of an example.

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