

**Written evidence submitted by by Wilson Solicitors LLP (HUM0016)**

1. [Wilson Solicitors LLP](#) (Wilson's) is a predominantly Legal Aid firm based in Tottenham that specialises in immigration and asylum, family and public law & human rights. The provision of high-quality legal representation for victims of human trafficking is at the core of our work, and we have developed a reputation of excellence for this. Our firm's work over the past 30 years has assisted in shaping and advancing the legal framework around human trafficking.
2. Some of our recent ground-breaking litigation in the area of human trafficking and modern slavery include the Supreme Court case of [Basfar v Wong](#) which found that foreign diplomats are no longer immune to civil claims for compensation by victims of modern slavery, and the judicial review claim [All the Citizens v Supply Chain Coordination Ltd](#) which led to improvement in the Government's due diligence regarding modern slavery in public supply chains of Personal Protective Equipment.
3. We are grateful for the opportunity to respond to the Home Affairs Select Committee (HASC's) inquiry into human trafficking in the UK. We have focussed our responses to questions 2, 3, 4 and 5 reflecting Wilson's' particular expertise in this area.

***2. How effective is the UK's approach to discouraging the demand that leads to trafficking?***

4. We understand the use of the word '*demand*' to cover both the: i) demand of criminal trafficking gangs for free labour or services; and ii) needs of the victims of trafficking who are vulnerable to entering into trafficking situations. As we represent victims of trafficking, our response focuses on the latter.
5. Individuals are vulnerable to, or forced into, trafficking situations for a multitude of different and often compounding reasons. We draw HASC's attention to two particular patterns we have observed working with survivors of trafficking and exploitation, which forces victims into the hands of traffickers.

**Unavailability of Safe Routes to Claiming Asylum**

6. It is not legally possible to claim asylum from outside of the UK. Therefore, an individual fleeing persecution from any other country must find a way to arrive in the UK to claim asylum. The few routes that do exist, such as the Family Reunification Scheme, the Syrian Resettlement Scheme, the Afghan Relocation Scheme, and the Ukrainian Settlement Scheme are inadequate and highly restrictive. The Afghan Relocation Scheme in particular has attracted considerable criticism in failing to provide protection to many vulnerable people who are being left behind in extreme danger.
7. The lack of available safe routes pushes people into seeking invisible routes to travel to the UK. Traffickers are able to exploit people's desperation to coerce and deceive them into trafficking and modern slavery situations, forcing them into criminality, exploitation and debt bondage. The desperation is created both by the persecution they are fleeing, and the UK government's design of a hostile and restrictive environment which prohibits the claiming of asylum outside of the UK.
8. If the government created more safe routes for people seeking asylum, then this would reduce reliance on other more invisible and unsafe routes, which in turn will also reduce opportunities for traffickers to take advantage and exploit vulnerable and desperate asylum seekers.

### Inadequate support and protection

9. In our experience, state bodies prioritise law enforcement as opposed to providing support, resulting in many victims being charged and prosecuted for crimes they committed while enslaved or trafficked. Many of our clients report that support provided to them, either under the Victims Care Contract or asylum support provisions under the Immigration and Asylum Act 1999, is inadequate.
  - i. Victims who are provided with support under the Victims Care Contract may be eligible for safe house accommodation. Safe house accommodation is only available for victims for a period of 45 days following which victims are expected to move on to mainstream asylum support accommodation provided by the Home Office, which does not meet their specific needs. At present, most asylum seekers, including victims of trafficking, are placed in hotel accommodation by the Home Office, which is highly unsuitable. Hotels are often located in remote areas with limited access to local services. There are long delays in the Home Office relocating individuals in dispersal accommodation. Often there is no access to kitchen or laundry facilities and the food provided in the hotels is reported to be of very poor quality and lacking in nutrients. Victims are also frequently moved and dispersed to locations far from established support networks which leads to isolation and deterioration in recovery.
  - ii. Victims are often placed in unsuitable accommodation, which does not meet their specific needs. Victims can therefore find themselves isolated from local communities and support services and unable to integrate.
  - iii. Our clients also report that financial subsistence is low and does not cover their essential living needs. We have seen that this can push victims into destitution, which increases victims' vulnerability and puts them at a high risk of further exploitation and trafficking.
10. The insecurity of immigration status, financial instability and destitution are vulnerabilities which are utilised by traffickers to manipulate and control victims and force them into situations of exploitation. Most recently, we have seen this happen with unaccompanied asylum-seeking children placed in hotels, many of whom have gone missing and potentially in situations of exploitation. We discuss the adequacy of the support provided to victims of trafficking in more detail in question 3 below.

### ***3. To what extent do support services meet the needs of victims who have been trafficked in or to the UK?***

#### Identification and referral into the NRM

11. The provision of support and protection begins with identification, a responsibility which primarily falls on first responders, such as the Home Office, police forces and local authorities. Too often we have cases where clear indicators of trafficking and/or modern slavery are missed by the Home Office, the police and/or local authorities; when we take initial instructions from these individuals we immediately recognise trafficking indicators and have to alert the authorities so that an NRM referral can be made.
12. The consequences of failing to identify victims of trafficking can be grave. If victims are not identified, they will not be referred to the NRM and cannot receive support, which leaves them vulnerable to re-trafficking and exploitation.

13. It also means the state continues to treat victims as potential immigration and/or criminal offenders rather than victims of crime. Many of our clients are prosecuted and convicted for offences committed due to their trafficking situation, despite there being an available defence under s45 of the Modern Slavery Act 2015, and in contravention to the state's obligation not to punish and prosecute where the offence is closely connected to their exploitation.
14. Consequently, victims convicted of offences committed due to their trafficking may be then subject to deportation action and detained under immigration powers pending removal, on account of their 'foreign national offender' status. Many victims remain unidentified whilst in detention due to routine failures to follow safeguarding processes.
15. Wilsons represents many victims to secure their release from detention, challenge the Home Office's failure to recognise them as victims, and ensure their asylum claims are properly considered. We have noticed, however, a culture of disbelief within Home Office leading to refusals on trafficking and asylum claims, even where strong evidence is provided, which we then need to challenge by way of judicial review claims or appeals, only for the Home Office to then decide to reconsider their decision. And this is for clients fortunate enough to find a specialist legal aid representative.
16. We also notice a lack of training for professionals, such as police and immigration officers, who are responsible for the identification of victims. Victims can be too afraid to report their experiences because they may have been told by traffickers that by doing so they will be arrested or deported to their country of origin where they will be punished by traffickers. They may not also realise their experiences amount to trafficking. Victims can therefore be reluctant or not well-enough informed to disclose their experiences to state bodies. This could be avoided if more non-statutory first responders, who have specialist anti-trafficking experience, are appointed.
17. The issue is exacerbated by the fact that the Home Office is responsible for both identifying victims as well as deciding on their eligibility for immigration status. This patently gives rise to a conflict of interest where, in our view, the pursuit of immigration policy often takes precedence over the protection of vulnerable victims. The NRM process should be separated from immigration control so the deciding body does not have, or appear to have, a stake in the outcome of the NRM decision.
18. We are concerned that the provisions of the Nationality and Borders Act 2022 regarding the identification, support and protection of victims of trafficking, which came into force on 30 January 2023 and the Illegal Migration Bill, if passed into law, will create even harsher system for victims of trafficking which will mean a greater risk of support being refused to victims, thus forcing them back into the hands of traffickers.

#### Provision of support

##### *Support for adult victims*

19. The provision of adequate support is crucial for the recovery needs of victims of trafficking. As mentioned above, many of our clients do not receive adequate accommodation or financial support.
20. We have also seen cases where detained victims of trafficking are released from detention to no address rendering them street homeless and extremely vulnerable to re-trafficking. In other instances, victims are released to unsuitable accommodation where they can be easily traced by their traffickers, despite warnings from us (their solicitors)

and support workers. We have had many clients released and, sometimes immediately, going missing and later found in situations of trafficking and exploitation.

21. In addition, it is also our experience that support under the Victims Care Contract can end very abruptly after a Conclusive Grounds decision is made. We have seen failures by organisations to complete recovery needs assessment which enables the support worker to consider whether a victim has any ongoing recovery needs. As a result, support can end without ongoing needs being met and often without any support to access alternative housing or apply for benefits.

#### *Support for child victims*

22. We have seen similar issues with the identification and the provision of support for child victims of trafficking. Unaccompanied children who arrive in the UK do not qualify for asylum support and would normally be supported by local authorities and provided with protections under the Children Act 1989.
23. Our experience is that local authorities and other state bodies, such as the Home Office and police, routinely fail to identify child victims and refer them in to the NRM. The support provided by local authorities often fails to recognise the specific needs of child victims.
24. These failures are particularly evident in the cases of children whose age is disputed by the Home Office and/or local authorities and who are assessed as being adults. As a result, children are denied support by Children's Services and sent to unsuitable asylum accommodation where they are often sharing a room with unknown adults which presents a considerable safeguarding risk and makes them susceptible to re-trafficking. We are often instructed by age disputed children to challenge unlawful age assessments by local authorities and obtain appropriate support for them. The process however is extremely distressing and traumatising for children and has a deleterious impact on their recovery.
25. Since July 2021, the Home Office started accommodating unaccompanied asylum-seeking children (UASC) in hotels as opposed to them being taken into the care of a local authority. Wilsons represents a number of children who were placed in UASC hotels and engaged in pre-action correspondence with the Home Office on the lawfulness of accommodating children in hotels. Our clients reported dire conditions in the hotel including lack of safeguarding and security, lack of access to medical care and education, insufficient food provision and lack of nutritious meals. As HASC will well be aware, hundreds of the children who were housed in these hotels have gone missing, and likely have been trafficked. Placing unaccompanied children in hotels, outside of established statutory protections, places them at a considerable risk of trafficking and exploitation and fails to meet their needs.

#### ***4. What evidence is there, if any, that the National Referral Mechanism process is being exploited by individuals seeking asylum in the UK?***

26. Our firm does not have the resources to gather this type of empirical data within our own client base. However, we note that the Office for Statistics Regulation has found no evidence supporting the Home Secretary's claims that individuals are abusing the modern slavery system.<sup>1</sup>

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<sup>1</sup> <https://osr.statisticsauthority.gov.uk/correspondence/ed-humpherson-to-jennifer-rubin-use-of-national-referral-mechanism-statistics/>

27. We also note that, until we advise our clients that they may be potential victims of trafficking, nearly none of them have any prior awareness of the NRM process, the support that is available to them and how it may affect their asylum claims or that it may act as a barrier to removal. Many victims also do not self-identify as victims. Men in particular may be reluctant to self-identify as a victim, as it can feel like it transgresses ideas of masculinity and social and cultural expectations. As such, the notion that asylum seekers are exploiting the NRM process is simply not reflective of what we see in our practice.

***5. How can legislation, including the Modern Slavery Act 2015, policy and criminal justice system practice be improved to prevent and address human trafficking?***

28. We make the following specific recommendations:

- i) The focus of government policy should be shifted from preventing people exploiting the system (of which there is no evidence) to that of protecting and supporting potential and confirmed victims of trafficking (in light of the substantial evidence of inadequacies in their protection).
- ii) The NRM process and Single Competent Authority should be institutionally independent from the Home Office and NRM decision-making should be independent from immigration decisions and immigration control.
- iii) More non-statutory first responders must be appointed that victims can turn to for advice, support, and potential referral to the NRM.
- iv) There should be long-term specialist support for victims of trafficking.
- v) Unaccompanied asylum-seeking children should not be placed in unsuitable Home Office-run hotel accommodation and should be placed in the care of local authorities under the statutory protections of the Children Act 1989.
- vi) The government should create more safe routes for people seeking asylum to remove the opportunity for traffickers to exploit desperate people fleeing persecution.
- vii) Staff responsible for identifying potential victims should be better trained to recognise the specific indicators of trafficking and modern slavery.
- viii) The adequacy of financial support and accommodation provided to victims of trafficking should be improved so that it meets victims' specific needs.

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