

Written evidence submitted by Hope for Justice

About Hope for Justice

Hope for Justice (HfJ) is an international non-governmental organisation working across five continents with a vision to end slavery and change lives by preventing exploitation, identifying victims, restoring lives, and reforming society. In the UK, Hope for Justice has programmes on community prevention and identification; provides long term independent advocacy for survivors and is working to develop an Independent Modern Slavery Advocacy Model (and is working with partners to develop an accredited model of Independent Advocacy); conducts training and works with businesses to mitigate exploitation in supply chains (Slave Free Alliance). Hope for Justice welcomes the opportunity to respond to the Home Affairs Committee Inquiry into Human Trafficking. Hope for Justice has also had sight of the submissions made by ATLEU and submissions made by the Anti-Trafficking Monitoring Group (ATMG) which we also endorse. The submission will largely focus on adult survivors.

Executive Summary

Human Trafficking violates the human rights of men, women, and children. The UK has ratified several international instruments which adopt a human rights-based approach and framework to tackling human trafficking. This includes human rights obligations to prevent exploitation, identify, safeguard, and enable access to holistic support for victims (including access to remedies) and hold perpetrators to account.¹ The UK was once considered world leading in its fight against modern slavery including with the enactment of the Modern Slavery Act in 2015. However, the significant retrograde steps made by the government in the last 2 years in our opinion will take the fight against human trafficking back at least 13 years. Hostile migration policies towards those seeking refuge and victims of human trafficking such as the Nationality and Borders Act 2022 and the recent introduction of the Illegal Migration Bill are in violation of international law and lack any evidence base to support that they will be effective people smuggling or human trafficking. In addition, unevidenced claims by the government that the National Referral Mechanism (system for identification and support) is being abused (contrary to Home Office data) coupled with a lack of an updated Modern Slavery Strategy will, in our experience, severely hamper the UK's efforts. In fact, the government's policies are actively increasing vulnerability to exploitation, hampering identification and access to support which in turn hampers efforts to investigate cases and bring perpetrators to justice. The government is creating a fertile not hostile environment for exploiters.

1. What is the scale and nature of human trafficking in the UK

Overall, as a hidden crime the scale of human trafficking is unknown and data from the National Referral Mechanism (NRM) represents a snapshot of an overall picture. The ecosystem of human trafficking can also look very different regionally. The Annual Report for the National Referral Mechanism data for 2022 notes 16,938 potential victims of modern slavery referred to the Home Office in 2022, representing a 33% increase compared to the preceding year (12,706) and the highest annual number since the NRM began in 2009.² Of all referrals this year, 52% (8,854) were for potential victims who claimed exploitation as adults,

¹ This includes, but is not limited to, the Universal Declaration on Human Rights, United Nations Convention against Transnational Organized Crime (UNTOC) and its relevant protocols including the Migrant Smuggling and Palermo Protocol; International Labour Organization Conventions and other relevant instruments such as the International Covenant on Civil and Political Rights. The European Convention on Human Rights¹ which are guaranteed in domestic law through the Human Rights Act 1998 (note Articles 3 and 4 are absolute rights and non-derogable rights), ratifying the European Convention against Trafficking in Human Beings (ECAT) and opting into Directive 2011/36/EU (the Trafficking Directive). There are also many other international legal instruments which also intersect, including but not limited to, the Universal Declaration on Human Rights (UCHR) (see Articles 4 and 5); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); The Refugee Convention; United Nations Convention on the Rights of the Child (UNCRC).

² <https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2022/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2022>

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whilst 41% (7,019) claimed exploitation as children. For adult potential victims, labour exploitation was most commonly reported (39%; 3,433), whereas child potential victims were most often referred for criminal exploitation (43%; 3,013).³ In addition of the total referrals for adult potential victims, 78% (6,874) were male and 22% (1,978) were female; whilst for child potential victims, 80% (5,607) were male and 20% (1,401) were female.⁴ The top three nationalities referred into the NRM were Albanian, UK and Eritrean.⁵ In addition, the competent authorities issued the highest number of reasonable and conclusive grounds decisions in 2022, with almost 17,000 reasonable grounds and just over 6,000 conclusive grounds decisions made; of these, 88% of reasonable grounds and 89% of conclusive grounds decisions were positive.⁶

In addition, the annual report for 2022 shows 4,580 reports of adult potential victims via the duty to notify process, the highest annual number since this began.⁷ This represents a significant number of victims not wishing to enter official systems. Anecdotally Hope for Justice frontline staff have indicated that this can be a number of reasons including fear of entering official systems; the NRM has not been properly explained to them, and/or concerns raised about support provision by other victims who have already entered the NRM system.

It should be noted however children may be significantly under-reported in the NRM data for a number of reasons including that the National Referral Mechanism does not enable access to specialist support in many cases. However the annual Department of Education Data for Children in Need issued in October 2022 (covering the period until 31st March 2022) identified at the end of the assessment that 10,140 children were identified in the assessment as related to child criminal exploitation and 16,330 related to child sexual exploitation, a further 15,740 were identified as going missing and gangs were noted as the prime concern in 11,600 cases.⁸ This shows some differences to the NRM data and a significant issue of child sexual exploitation which is detailed in this data as higher than that of child criminal exploitation.

In the UK, the number of people identified and referred into the National Referral Mechanism (NRM) as potentially trafficked continues to rise. Traffickers look for vulnerabilities which they can use to control and exploit individuals and groups. In the UK, these include vulnerabilities created through isolation, poverty, mental health issues and insecure immigration status. This is now compounded by EU Exit where many EEA nationals now also have insecure immigration status and wider migration policies (see below) which are hampering victim identification.

Overall, the vulnerabilities identified by ourselves (which are also often at risk of re-trafficking) include, but are not limited to: -

- Gender
- Adverse Childhood Experiences including abuse and/or trauma prior to being exploited.
- Poverty
- Poor education
- Limited economic opportunities/unemployment
- Insecure immigration status
- Diagnosed or undiagnosed learning disabilities
- Mental Health Issues
- Alcohol and/or drug addiction
- Homelessness
- Bereavement
- Marital Breakdown

³ Ibid

⁴ Ibid

⁵ Ibid

⁶ Ibid

⁷ Ibid

⁸ <https://explore-education-statistics.service.gov.uk/find-statistics/characteristics-of-children-in-need#releaseHeadlines-tables>

- Traditional practices including Ju Ju
- Culture of working abroad.
- Cultural disorientation e.g., not understanding rights and entitlements in a country
- Debt bondage
- Poor language skills in the country a person is residing in.
- Previous offending

Many of the survivors that we work with have multiple vulnerabilities to exploitation and addressing vulnerabilities as part of independent advocacy and support is crucial to reducing risks of re-exploitation.

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

As detailed above hostile migration policies and hostile policies towards victims of trafficking more broadly are significantly increasing vulnerability to human trafficking and other forms of exploitation. This is failing to discourage the demand that leads to human trafficking and enables exploiters to act with impunity. The lack of access to long term independent advocacy and support, access to safe reporting mechanisms and access to independent legal advice compounds these issues.

Short Term and Restrictive Visas: Seasonal Workers Visa

Currently short term tied visas and wider immigration policies are increasing risks around exploitation as detailed in a number of reports including a recent report by Focus on Labour Exploitation in November 2022.⁹This includes some of the restrictive practices such as no-recourse to public funds; tied visas; and visas not in compliance with ILO guidance and the Employer Pays Principles¹⁰ which state that the costs of recruitment should be borne not by the worker but by the employer, and that no worker should pay for a job. This actively places vulnerable workers at risk of debt bondage, labour exploitation and more widely trafficking. In our experience the market in terms of recruitment of overseas workers is not well regulated and often those coming on visas such as the seasonal workers visa can be in debt bondage before they arrive. Focus on Labour Exploitation make a number of recommendations in their report in November 2022, and we would agree with these recommendations which include: -

- Creating safe and fair immigration routes for sectors with high demand for labour.
- Mitigate the effects of wider immigration restrictions including targeted proactive state enforcement of worker rights.
- Ensure continued scrutiny of immigration policy decisions which ensure the protection of workers and ensure that they go through full parliamentary and public scrutiny.
- Acknowledge the interaction with different policies and address wider contextual factors including the no-recourse to public funds policy which should be repealed.
- Ensure all workers are able to report abuse safely regardless of their immigration status.¹¹

In our experience the Gangmasters Labour Abuse Authority (GLAA) are completely under-resourced in terms of proactive efforts to prevent exploitation including by ensuring there is a proactive inspection regime. Government announcements in December 2022 that there will be a further 45,000 seasonal worker visas without protective measures in place will compound these issues.¹²

Short Term and Restrictive Visas: Overseas Domestic Worker Visa

The Changes to the Overseas Domestic Worker visa made in 2012 remain in place, despite evidence that this leaves this cohort of workers particularly vulnerable to exploitation, including domestic servitude. The

⁹ <https://www.labourexploitation.org/publications> report "Creating a Safe and Fair Immigration Policy for Workers" November 2022

¹⁰ https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_703485.pdf

¹¹ Ibid

¹² <https://www.gov.uk/government/news/government-provides-boost-to-horticulture-industry-with-certainty-over-seasonal-workers>

ongoing precarious situation of migrant domestic workers on the ODW visa in the UK is particularly disappointing in the context of the government's independent review of the ODW visa, conducted in 2015 by James Ewins QC¹³ Some of the recommendations which the government committed to adopting, such as information sessions for workers newly arrived in the UK, have been effectively abandoned without **explanation** meaning there have been no further legislative or policy changes since 2016, following the Immigration Act. This means that despite the UK Government accepting that safeguards in the application process are not working effectively and workers are not getting information on their - limited - rights, there remains no actual changes made to the system so workers remain uninformed both prior to and after they arrive in the UK. There has been no official explanation for the delay and no safeguards have been put in place pending the government making its decision on procurement. So, while the UK government accepts more needs to be done to protect ODW visa holders, nothing is being done in practice.

Family Workers Exemption

The Family Workers Exemption in the National Minimum Wage Regulations allows live in domestic workers to be paid little or nothing at all where they are treated as members of the family. Following findings by the Low Pay Commission the government committed to adopting removing the Family Worker Exemption.¹⁴ However, nothing has yet been done a year later.¹⁵

Hostile Migration Policies Impact on Prevention, Identification and Protection of Victims

Nationality and Borders Act 2022 and Rwanda Offshoring

Hostile migration policies significantly conflict with human rights obligations including approaches to tackling human trafficking and wider forms of modern slavery e.g., Rwanda offshoring have been widely condemned by the UNHCR as evading international responsibilities towards Refugees and impedes the identification of potential victims of Modern Slavery.¹⁶ The Nationality and Borders Act 2022 (NABA) creates in our opinion a firm and unfair system impeding the human rights of asylum seekers. This includes a two-tier system depending on how someone entered the country (Section 12 NABA). New inadmissibility rules rendering claims inadmissible for those who have entered through a "safe third country" impeding identification of victims and placing people at risk of exploitation/re-exploitation (Section 16 NABA). NABA also criminalizing asylum seekers for illegal entry (Section 40) which may impact access to support and leave as a modern slavery victim.

Part 5 of NABA re-conflates immigration with Modern Slavery and runs contrary to international human rights obligations. For instance, NABA creates a trauma deadline for victims penalising them for late disclosures (section 58-60) contrary to state obligations to identify victims, existing practice, and government guidance.¹⁷ NABA attempts to place into primary legislation the recovery and reflection period in ECAT but severely narrows its scope (section 64). Leave provisions in section 65 of NABA are also narrower than in Article 14 of ECAT and its Explanatory Report.¹⁸ The public order and bad faith provision in Section 63 of NABA, disqualifying certain victims from protection, safeguarding and leave. NRM End of Year data for 2021 highlights that 48% of victims had some form of criminal exploitation as part of their exploitation, 49% of child victims had criminal exploitation as the main type of exploitation which remained high at 43% in 2022.¹⁹ In guidance bad faith is very widely construed as is public order.²⁰ It should be noted

¹³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/486532/ODWV_Review_-_Final_Report__6_11_15_.pdf

¹⁴ [https://hansard.parliament.uk/commons/2022-03-10/debates/bb8249f8-3123-46aa-9536-c27452ff5cea/DraftNationalMinimumWage\(Amendment\)Regulations2022](https://hansard.parliament.uk/commons/2022-03-10/debates/bb8249f8-3123-46aa-9536-c27452ff5cea/DraftNationalMinimumWage(Amendment)Regulations2022)

¹⁵ <https://atleu.org.uk/news/2023/3/9/family-worker-exemption-still-driving-exploitation>

¹⁶ [UNHCR 'firmly' opposing UK-Rwanda offshore migration processing deal | UN News](https://www.unhcr.org/news/2022/03/2022-03-10-debates/bb8249f8-3123-46aa-9536-c27452ff5cea/DraftNationalMinimumWage(Amendment)Regulations2022)

¹⁷ See the Statutory Guidance on Identification and Care particularly Chapter 13 [Modern slavery: how to identify and support victims - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/486532/ODWV_Review_-_Final_Report__6_11_15_.pdf)

¹⁸ For instance, paragraph 184 recognises a wide concept of personal situation which may require leave and the only condition for leave to be granted for children is the best interests of the child (Article 14 (2) ECAT).

that a negative National Referral Mechanism decision would address “vexatious claims.” Public order provisions only penalise genuine victims and are contrary to human rights obligations on the state including to identify, safeguard and support victims, non-punishment principles and wider child rights.²¹ Leave provisions have also been severely restricted in both the primary legislation and application of the statutory guidance and fail to take into account that in Article 14 of ECAT leave for children should be on a best interest’s decision only.

The lack of secure reporting mechanisms for those with irregular status also dissuade victims from reporting crimes.²² In addition, the number of victims held in detention has significantly increased in the last few years.²³ This is contrary to human rights non-punishment principles.²⁴ This is only going to be exacerbated by the Illegal Migration Bill.

Narrowing of International Definition of Human Trafficking and Access to Support

Changes to the definition of Modern Slavery within The Slavery and Trafficking (Definition of Victim) Regulations 2022 are confusing and narrower and depart from international definitions.²⁵ Narrowing entry to the NRM. In addition, the recovery and reflection period has been reduced to 30 days in guidance from 45.

Bill of Rights – currently paused but still of grave concern

Also of significant concern is the plan to overhaul the Human Rights Act 1998 (HRA) with a Bill of Rights. The ECHR including ECtHR judgements play a pivotal role in protecting the rights of victims.²⁶ Positive obligations, place a duty on public authorities to take active steps to protect human rights, including, ensuring people are not subject to inhumane or degrading treatment (Article 3) and are protect people against all forms of slavery (Article 4). The Bill of Rights undermines every aspect of the ECHR including, but not limited to, positive obligations to identify victims, investigate cases of Modern Slavery, ensure victims receive protection and support, and are not placed at risk of re-exploitation in the UK or by returning them to another country.

Illegal Migration Bill

Aside from breaching numerous pieces of international law (see above) the current draft of the Illegal Migration Bill would have catastrophic consequences for survivors of trafficking and other forms of modern slavery. Despite significant consequences and creating an asylum ban and ban on victims of trafficking due to irregular entry there has been no public consultation on this bill or wider consultation with the sector. The

¹⁹ Home Office (2022). Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK, End of Year Summary, 2021 sourced at: [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary, 2021 - GOV.UK \(www.gov.uk\) and https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2022/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2022](https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2022/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2022)

²⁰ Statutory Guidance sourced at <https://www.gov.uk/government/publications/modern-slavery-how-to-identify-and-support-victims/modern-slavery-statutory-guidance-for-england-and-wales-under-s49-of-the-modern-slavery-act-2015-and-non-statutory-guidance-for-scotland-and-northe-see-paragraphs-14.283-14.314>.

²¹ This conflicts with the domestic child protection frameworks and with domestic child safeguarding obligations and more broadly the UN Convention on the Rights of a Child and ILO Convention 182 on the Worst Forms of Child Labour.

²² See Focus on Labour Exploitation Report on Secure Reporting [Safety for Migrant Workers: the case for safe reporting mechanisms | Focus on Labour Exploitation \(FLEX\)](#)

²³ See reports by After Exploitation on Survivors Behind Bars [Research + briefings \(afterexploitation.com\)](#)

²⁴ See [19-10800_icat_issue_brief_8_ebook_final.pdf \(un.org\)](#) and UN Special Rapporteur Positioning Paper [Non-Punishment-Paper.pdf \(ohchr.org\)](#).

²⁵ [Joint Briefing: draft Slavery and Human Trafficking \(Definition of Victim\) Regulations | ECPAT UK](#)

²⁶ See for instance *Ranste v Cyprus and Russia* (2010) 51 EHRR 1: the state has a positive duty to identify, investigate cases and protect victims or potential victims of trafficking; *J and Ors v Austria* [2017] ECHR 37: the state is required to put in place a legislative and administrative framework to prohibit and punish traffickers but also protect victims and potential victims; *Chowdury v Greece* [2017] ECHR 300: the state must adopt “concrete measures” in a legal and regulatory framework to assist physical, psychological and social recovery of victims.; *TDT, R (On the Application Of) v The Secretary of State for the Home Department (Rev 1)* [2018] EWCA Civ 1395 (19 June 2018) the state has a responsibility to protect victims including from the risk of re-exploitation including pre-NRM decision; *V.C.L. and A.N. v. The United Kingdom* (applications nos. 77587/12 and 74603/12) the state had failed to identify and protect child victims of human trafficking resulting in a breach of Articles 4 and 6.

bill effectively excludes all victims who have entered the UK irregularly from identification, safeguarding, support and leave (as a victim of modern slavery and/or through the wider asylum system) except they can access the NRM, support and leave on a conditional basis i.e. if the survivor is cooperating with an investigation and the Secretary of State deems that they need to be in the country and they are not a risk to wider public safety.²⁷ This will do nothing to enable engagement with criminal investigations as in our experience victims often engage with such processes once they have received the safeguarding and support and a period of stability that they need. Forcing engagement to access safeguarding and support merely replicates control mechanisms used by exploiters. In addition, even if victims/survivors do engage at this early stage its likely to result in allegations of inducement by defence solicitors on the basis that engagement has only been achieved through conditional support and leave. It should be noted that it is very clear in Article 12 (6) of ECAT that support should not be conditional on willingness to act as a witness.²⁸

In summary the Illegal Migration Bill only punishes victims of the serious crimes of people smuggling and human trafficking and enables traffickers to act with impunity. The Illegal Migration Bill is essentially the Human Traffickers Impunity Bill.

Modern Slavery Bill

A Modern Slavery Bill was announced in the Queens Speech focused on victim care, strengthening criminal justice provisions and improving transparency in supply chains but there is currently no date for this bill.

Overall legislative changes also must be set in the context of the impact of Covid-19²⁹, the war in Ukraine³⁰ cost of living crisis³¹ and significant labour shortages particularly for unskilled workers.³² All of which are increasing vulnerability.

In summary far from tackling both people trafficking and people smuggling hostile immigration policies and hostile policies towards victims of slavery (as detailed above) create fertile environments for traffickers and wider exploiters. This is because these policies add significant extra barriers to preventing exploitation, undermines victim identification, denies genuine victims access to safeguarding and support which places them at risk of exploitation/re-exploitation. If victims are not identified and safeguarded, then often they also cannot support criminal investigations limiting the ability of enforcement agencies to tackle organized crime.

Our recommendations would be that Bill of Rights, Nationality and Borders Act 2022, Illegal Migration Bill and Rwanda policy are scrapped. Focus should be on evidence-based policy on both Modern Slavery, Asylum, and Immigration. Those with lived experience should be at the centre of policy making. This includes, creating a fair and compassionate immigration system, safe and legal routes for those seeking refuge and more widely for migrant workers, improve asylum decision making and process including access to legal aid and improve the speed and access to identification and support mechanisms for victims of slavery.³³ In respect of Human trafficking international obligations including ECAT should be directly incorporated into domestic law.

²⁷ Illegal Migration Bill sourced at <https://bills.parliament.uk/bills/3429>

²⁸ ECAT sourced at <https://rm.coe.int/168008371d>

²⁹ [IMPACT OF COVID ON MODERN SLAVERY REPORT 22-136 MAY22 PROOF 1 \(3\) \(2\) \(stmarys.ac.uk\)](#); [HTMSS_Thematic_Brief_on_COVID-19.pdf \(unodc.org\)](#); [briefing-risks-impacts-of-covid-19-for-modern-slavery-survivors-in-the-uk.pdf \(nottingham.ac.uk\)](#)

³⁰ [Ukraine Crisis: Rapid Assessment of Risks of Modern Slavery \(hopeforjustice.org\)](#); [UK's Ukrainian refugee population at risk of homelessness | Work Rights Centre](#) Please note Hope for Justice are starting to identify cases of trafficking of Ukrainians into the UK and are working with the government and wider agencies to prevent this including through a collaborative effort on providing resources for Ukrainian Nationals through the Ukrainians Welcome website - [Ukraine Crisis: Human Trafficking | Hope for Justice](#)

³¹ [Modern Slavery PEC | Cost of living likely to make people more...](#)

³² [Changing trends and recent shortages in the labour market, UK - Office for National Statistics \(ons.gov.uk\)](#)

³³ See also [british-red-cross-response-to-the-borders-bill.pdf \(redcross.org.uk\)](#) [Briefing: Creating a safe and fair UK immigration policy for workers | Focus on Labour Exploitation \(FLEX\)](#)

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

Hope for Justice provides programmes which support victims in terms of identification and also provides long term socio-legal independent advocacy through its Independent Modern Slavery Advocate model supporting survivors through criminal proceedings into civil. Therefore we have a good understanding of what happens in systems pre identification, at identification stage and right through to criminal and civil proceedings.

In our experience there are currently significant barriers for victims accessing the system and first response. Support in the NRM system is short term and many victims require long term independent advocacy and support coupled with long term leave provisions to enable recovery and reintegration and reducing risks of re-exploitation. In addition, there are significant gaps in provisions of independent advocacy and support especially for survivors with complex needs which leaves survivors in a postcode lottery. However, we do welcome the fact that the government committed to adopting the Slavery and Trafficking Survivor Care Standards and also better inspection, monitoring and evaluation via a private contract with the Care Quality Commission. There is still much to do to ensure that those with lived experience are directly engaged and inputting on legislation, policy and practice to improve the system. Access is also likely to be significantly curtailed for a large cohort of victims/survivors by restrictions under the NABA and also Illegal Migration Bill. This leaves a whole cohort of victims with options of staying in their exploitation or being detained and deported placing them at further risks of exploitation. Both options will result in harm leaving survivors in a no-win situation.

First Response - Identification and Access to the National Referral Mechanism

Challenges in Accessing the System

In our experience far from the NRM system being “gamed” as stated by the government, our experience is victims have grave difficulty in accessing the NRM system to start with. Non-statutory first responders are experiencing considerable capacity constraints. Kalayaan noted in the February 2023 report that the NRM system of first response is at breaking point.³⁴As the guidance has still not been issued to allow more independent non-statutory first responders (FRO’s) to first respond. There currently is a very limited number of independent FRO’s who are often not geographically spread across the country. Given that victims lack trust of statutory agencies independent, non-statutory FRO’s and wider specialist organisations are essential for effective referral.

Poor or Non-Existent Training for Statutory First Responders

Hope for Justice frequently find that many statutory first responder organisations have had little or no training on human trafficking and other forms of modern slavery including the NRM system. Some statutory first responders refuse to first respond on the basis that they do not have the resources to do so. In addition, we have had victims identified by ourselves who subsequently entered the NRM system, but previously hadn’t as the statutory first responder agency had failed to explain this to them properly. Lack of pre-NRM support can also place victims at risk of re-exploitation prior to entry into the system if they do not have someone advocating and supporting them and/or if that referral is not made swiftly. Access to first response and the NRM is also compounded if a person is in immigration detention or prison.

Lack of Roll out of Pre NRM-Safe Spaces

The government committed to pre-NRM safe spaces in 2017 but we have seen no evidence of this being rolled out in practice. There are some localised good practice models which have been largely driven by local anti-slavery networks, local authorities and non-governmental organizations working together. These include such as the Passage Multi-Agency Case Conference Approach,³⁵ Welsh Government Multi-Agency

³⁴ <http://www.kalayaan.org.uk/campaign-posts/report-launch-the-national-referral-mechanism-near-breaking-point/>

Risk Assessment Conference,³⁶ West Midlands pre-NRM support project³⁷ and Slavery Adult Safeguarding Case Conference.³⁸ These models all aim at improving multi-agency safeguarding and support pathways especially at the identification stage and involve state and non-state actors.

Further Barriers Created by NABA 2022 and New Illegal Migration Bill

Issues around identification are compounded further by the NABA 2022 and subsequent guidance which has effectively increased the evidential threshold for a reasonable ground's decision via the Modern Slavery Statutory Guidance on 30th January 2023. The decision is no longer "suspects but cannot prove" but is now based on objective factors where a victim's testimony alone is no longer sufficient and there is a requirement for wider evidence such as medical, witness, expert, police reports. Our experience of working directly with survivors at the point of identification is that many victims present with significant safeguarding risks and the clothes they stand up in so expecting objective evidence at this stage is completely unrealistic. In addition, given the capacity issues detailed above these extra requirements will only exacerbate challenges with first response leading to longer delays entering victims into the system and increased risks of re-exploitation. Also, this does increase the need for pre NRM legal advice is currently out of scope for many victims and even in scope significant issues accessing legal advice (as detailed below) compound these issues.

If the Illegal Migration Bill is enacted unamended this will only compound these issues further adding even further barriers and disqualifying more victims from accessing the identification system, support and protection than the current NABA 2022 does (e.g., through the bad faith and public order provisions), a breach of Article 10 of ECAT and Article 4 of ECHR. It should be noted that no other victim of crime is expected to prove they are a victim of crime prior to being safeguarded or disqualified from protection in this way.

Pilots on Devolved Decision Making

On a positive note, the government is currently rolling out pilots on devolved decision making. As stated by the Home Office "*the Pilot Programme forms part of a wider Transformation Programme of activity to identify sustainable longer-term options for the NRM. The purpose of the Pilot Programme is to test whether determining if a child is a victim of modern slavery within existing safeguarding structures is a more appropriate model for making modern slavery decisions for children. This approach will enable decisions about whether a child is a victim of modern slavery to be made by those involved in their care and ensure the decisions made are closely aligned with the provision of local, needs-based support and any law enforcement response.*"³⁹ These are important steps forward in improving responses and should also be rolled out more widely, adapted and considered for adults. This may also improve the speed and quality of decision making.

Support Provision

The provisions in NABA 2022 including limits on the access to support and subsequent reduction of the recovery and reflection period to 30 days will have a significant impact going forward on steps which have been taken to improve support.

Largely improvements, including the development of standards in victim care, are being driven largely by non-governmental organisations. Recognising a gap in long term support provision and reintegration for survivors the Modern Slavery Victim Care Contract (MSVCC) in 2021 launched a new service which included Reach in Support designed to "*to keep a survivor's transition to independence on track if they have*

³⁵ [Modern Slavery Multi-Agency Case Conferences at The Passage, evaluation Report from November 2018 to December 2019 | The Passage](#)

³⁶ [PowerPoint Presentation \(cysur.wales\)](#)

³⁷ [Pre-NRM Support - West Midlands Anti Slavery Network](#)

³⁸ [Slavery Adult Safeguarding Case Conference \(SASCC\) - West Midlands Anti Slavery Network](#)

³⁹ [Devolving child decision-making pilot programme: general guidance - GOV.UK \(www.gov.uk\)](#)

any emerging or reactive requirements for support or advice. It can include links to activities and places where they can get help including finding a job, counselling and other therapies, ESOL classes and translation services." This is a welcome step forward, as is the potential to extend support further following a conclusive grounds decision via a recovery needs assessment. The recovery needs assessment aims to assess the ongoing support needs and whether a survivor continues to need ongoing support through the Modern Slavery Victim Care Contract.⁴⁰ However, there are challenges with the Recovery Needs Assessment as detailed in a report by the Anti-Trafficking Monitoring Group.⁴¹ In addition, we have concerns that reach in support, which in reality is a signposting service, is insufficient for many victims including those with complex needs who often require significant levels of specialist independent advocacy and long-term support in order to ensure their needs are met. Our experience is that many survivors due to issues such as lack of trust; trauma; learning disabilities; cultural disorientation; insufficient language skills; wider mental health issues often require supported referrals in order to access wider services and signposting simply is ineffective to enable engagement. Lack of access to the labour market due to immigration status can impact recovery.

There are also wider services providing long term support and integration including, but not limited to, Hestia's Phoenix Project;⁴² Helen Bamber Foundation;⁴³ Hope for Justice.⁴⁴ Snowdrop Project;⁴⁵ British Red Cross;⁴⁶ Ella's House;⁴⁷ Kalayaan;⁴⁸ Bakhita House;⁴⁹ Adavu Project;⁵⁰ Sophie Hayes Foundation;⁵¹ and Spring Housing Association.⁵² In respect of legal services ATLEU.⁵³ However many of these services are not primarily being funded by the government. This leaves a postcode lottery in respect of the provision of pre NRM, medium to long term support. Ongoing and long standing challenges in the system and recommendations are recognised in a report by The Centre for Social Justice and Justice and Care published in February 2022.⁵⁴ This supports many of the findings of previous research.⁵⁵ In addition, a recent academic research report has also identified significant gaps in the identification of British victims including the provision of support to meet the needs of this cohort.⁵⁶ For survivors who do not choose to enter the NRM system provision is even more scarce and a current academic research project is underway examining the experience of this cohort of survivors.⁵⁷

Modern Slavery Core Outcomes - currently high-quality evidence is lacking about how policies and services can intervene effectively to support the recovery and reintegration of survivors of human trafficking and modern slavery. Standardised outcomes are urgently needed to evaluate and compare policy and service interventions, but no consensus currently exists on what outcomes should be prioritised. The Modern Slavery Core Outcome Set (MS-COS) project will enable this by providing a minimum standard set of outcomes to be measured and reported in all intervention studies and service evaluations for adult survivors

⁴⁰ [Recovery Needs Assessment \(RNA\) \(publishing.service.gov.uk\)](#)

⁴¹ <https://www.antislavery.org/one-day-at-a-time-shedding-light-on-the-recovery-needs-assessment-rna/>

⁴² [Phoenix Project | Hestia](#)

⁴³ [Helen Bamber Foundation | Strength to Fly](#)

⁴⁴ [Questions about Survivor Care in the UK? | Advice Service \(hopeforjustice.org\)](#) and

⁴⁵ [The Snowdrop Project | Stop Modern Day Slavery In The UK](#)

⁴⁶ [After the National Referral Mechanism report | British Red Cross](#)

⁴⁷ [Ella's | Safety, care and support for survivors of trafficking and exploitation \(ellas.org.uk\)](#)

⁴⁸ [Kalayaan | Kalayaan is a small London based charity which works to provide practical advice and support to, as well as campaign with and for, the rights of migrant domestic workers in the UK.](#)

⁴⁹ [Bakhita House | Caritas Westminster](#)

⁵⁰ [Home Page - The Adavu Project](#)

⁵¹ [Human Trafficking | Sophie Hayes Foundation | England](#)

⁵² [Modern Slavery - Spring Housing](#)

⁵³ [ATLEU](#)

⁵⁴ [CSJ-JC-A-Path-to-Freedom-and-Justice-a-new-vision-for-supporting-victims-of-modern-slavery-single-pages.pdf \(centreforsocialjustice.org.uk\)](#)

⁵⁵ [Resources and engagement | Bakhita Centre \(stmarys.ac.uk\)](#) see in particular report a Game of Chance and step-initial-findings-report.pdf (redcross.org.uk).

⁵⁶ [Identifying pathways to support British victims of modern slavery towards safety and recovery: A scoping study \(stmarys.ac.uk\)](#)

⁵⁷ [Pathways Through Liberation: Revealing Survivors' Support Journeys Outside of the UK National Referral Mechanism \(stmarys.ac.uk\)](#)

of human trafficking and modern slavery.⁵⁸ This piece of research will assist both government and non-governmental organisations in assessing its interventions and outcomes to support the recovery and reintegration of victims.

Accreditation Model of Independent Advocacy for Adults and Child Guardians - whilst many services provide some level of advocacy within them there has long been recognised within the sector a need to develop an accreditation model for Independent Advocates to set a framework and standards of independent advocacy in order to end the postcode lottery of access to support. This model is reflected in other forms of abuse such as domestic violence albeit more complex for trafficking survivors. Independent Advocates sit independently of wider services and systems but work with them, build capacity and specialist knowledge into wider support services and systems, empower survivors to understand their rights and entitlements and access to all forms of justice (including support, civil and criminal) as they transition through different services and systems. Developing an accreditation for independent advocacy alongside wider specialist support services is recognised as a best practice model within the OSCE/ODHIR NRM Handbook. Following review of Hope for Justice's Independent Modern Slavery Advocacy Model.⁵⁹ Hope for Justice in partnership with the British Red Cross, Snowdrop Project, Survivor Consultants with the wider sector (state and non-state actors) is working to develop an accreditation model for adult survivors which can then be replicated in different organisations.⁶⁰ This aims to work to improve access to all forms of justice including support, criminal and civil justice as well as reduce some of the issues with a postcode lottery of independent advocacy and support for survivors.

Businesses and supported employment projects have played a key role in providing employment opportunities for survivors such as Jericho Foundation⁶¹ and Bright Futures.⁶²

Access to Legal Advice and Remedy

Early and specialist legally aided legal advice and representation is critical for survivors of human trafficking and wider forms of modern slavery including to access the NRM system, safe housing and support, welfare, community care, non-criminalization, secure immigration status and access to remedies including compensation. In our experience early access to legal advice can reduce risks around homelessness, destitution, removal and ultimately risks of re-exploitation. However, there is currently a legal aid crisis with now legal aid deserts across the country on a number of issues including immigration. This is acute for victims of human trafficking and slavery as this is a specialism within a specialism. Low thresholds for means testing compounds these issues with those who do gain employment as part of recovery effectively being penalised from access to legal aid.

The crisis is caused by a number of factors including the limits of legal aid imposed by the Legal Aid Sentencing and Punishment of Offenders Act (LASPO) 2012 (which take out of scope some types of advice including welfare and criminal injuries compensation); the structure of the legal aid funding system and the frequent administrative barriers to access legal aid put in place by the Legal Aid Agency decreasing its viability commercially and reducing providers delivering legal aid contracts. An October 2022 report by the Anti Trafficking and Labour Exploitation Unit (ATLEU), *'It has destroyed me': A legal advice system on the brink*, clearly demonstrates that survivors are not able to access timely and quality legally aided advice and representation when they need it, with devastating consequences. A staggering 90% of support workers surveyed by ATLEU had struggled to find a legal aid immigration lawyer for a survivor in the past year,

⁵⁸ [MS-COS - Home \(mscos.co.uk\)](https://www.ms-cos.co.uk)

⁵⁹ [Hope For Justice Independent Review Hope For Justice Independent Review- Faculty of Humanities & Social Sciences - University of Liverpool](#)

⁶⁰ [Partnership to help survivors of modern slavery get support \(hopeforjustice.org\)](https://hopeforjustice.org)

⁶¹ [JERICHO](#)

⁶² [Bright Future programme - Co-op \(co-operative.coop\)](https://www.co-operative.coop)

with devastating impacts: 55% of respondents said it left survivors in destitution or unable to access appropriate accommodation or support; 97% said it caused survivors stress, anxiety or contributed to poor mental health; 64% said it resulted in the survivor being unable to meet a deadline in their case, for example with the Home Office; 57% said it left survivors in a position where they were unable to claim asylum, and others shared experiences of survivors being detained or at risk of removal; and 29% said it had left survivors in a situation of exploitation.⁶³ A further report by the British Institute of International and Comparative Law notes the significant impact of a lack of legal advice on adult survivors with lived experience of modern slavery including a direct effect on recovery and wellbeing, contributing to uncertainty, anguish and anxiety and can have negative impacts more widely such as reducing the rates of successful prosecutions.⁶⁴

Following NABA and if the Illegal Migration Bill goes through parliament unamended access to early legal advice including pre NRM legal advice will be essential but currently is not in scope for most victims/survivors.

Access to Housing, Mental Health Support and Community Care

Often victims including children transitioning to adult services are often placed in accommodation which is not suitable to their needs. This can increase risks of re-exploitation and impacts on physical and mental wellbeing. A recent report noted visible, large-scale accommodation in hostels, hotels and houses of multiple occupancy actively being targeted by traffickers.⁶⁵ Overall shortages of long-term housing compounds these issues. In addition victims often do not neatly fit into criteria for local authority housing/homelessness assistance and/or access to safeguarding and community care pursuant to the Care Act 2014. Currently long waiting lists for mental health support also impact on wider recovery.

Our experience is that British victims have found it harder to access safe shelter through the NRM system on the basis that British victims have recourse to public funds and therefore technically are able to access housing and support under the local authority. However, this can often be dangerous if the local area is where they were trafficked, and the person is not often allowed to move to the local area through the local government system. This creates a ‘back and forth’ between the NRM contract holder and the local authority leaving a victim of trafficking vulnerable in the middle of this at risk of re-exploitation. Such issues have been documented in a recent report titled ‘Identifying Pathways to support British Victims of Modern Slavery towards Safety and Recovery: A Scoping Study’ by the Bakhita Centre at St Mary’s University.⁶⁶ There can also be a similar situation post NRM and a need for greater synergy between the NRM system and local authority housing and community care provision. In addition, survivors regularly do not neatly fit into criteria under statutory local authority homelessness assistance and community care provisions regardless of nationality. This is compounded by the lack of incorporation of the international rights of victims into domestic legislation and a need for specialist independent advocacy. This creates the following challenges: -

1. Most local authorities across the country have no specialist support for victims of human trafficking and no specialist commissioned services (pre NRM or otherwise);
2. There are long delays in assessments for instance section 9 assessments under the Care Act (it can take months to obtain an assessment);

⁶³ ATLEU, *'It has destroyed me': A legal advice system on the brink (October 2022)*, Available at <https://drive.google.com/file/d/15xlzaXCpN2eyXSIw7Ubx2Au1lr6mRXRF/view>

⁶⁴ <https://www.biicl.org/newsitems/16477/impacts-of-a-lack-of-legal-advice-on-adults-with-lived-experience-of-modern-slavery>

⁶⁵ <https://www.redcross.org.uk/about-us/what-we-do/we-speak-up-for-change/at-risk-exploitation-and-the-uk-asylum-system#:~:text=The%20British%20Red%20Cross%20and%20UNHCR%20report%2C%20at%20risk%3A%20exploitation,behind%20more%20than%20their%20homes.>

⁶⁶ <https://www.stmarys.ac.uk/news/2022/09/bakhita-centre-report>

3. Whilst there are disagreements between the local authority and the MSVCC victims can experience significant instability and destabilisation which can place them at risk of disconnecting with services and risks of re-exploitation.

4. Services must respect basic principles of non-discrimination within both ECAT and the Equality Act 2010.

5. Currently there are some (as detailed above) pre-NRM support services but this is not reflected across the country and victims may not neatly fit into criteria for homelessness assistance due to immigration status, a victim of trafficking is not automatically considered in priority need and overall, there is a lack of suitable emergency accommodation, long term housing and services across the majority of local authorities.

Financial Support and Subsistence

Low levels of financial support often means that victims aren't able to meet basic needs including access to wider support services and are often inadequate to enable recovery. For those referred in the NRM subsistence levels are low as detailed in the Modern Slavery Statutory Guidance in Annex F.⁶⁷ The low rates of financial support provided to survivors can cause considerable distress and significantly worsen any physical and mental health problems. While enduring long delays in the asylum system, survivors remain in a situation of poverty, dependency, and low socio-economic status. The prolonged inability to work (as many do not have a right to work) to provide for themselves or their family, or to start to move on with their lives meant that some people are more likely to be targeted for exploitation, take up work in exploitative conditions and/or get into debt.

Access to Remedy including Compensation

Whilst in theory there are a number of routes to compensation such as the Criminal Injuries Compensation Scheme; Civil; Employment Tribunal and Reparation Orders (if there is a successful conviction). Compensation can play a role in survivor's journey of recovery including financial justice and can act as a deterrent given that human trafficking is a crime of profit. However, there are numerous obstacles and barriers to access in practice. This includes but is not limited to long term independent advocacy and support needed to enable access to understand rights and legal representation; legal aid system frustrating cases; limited access due to means testing; lack of access to legal representation for Criminal Injuries Compensation; survivors not neatly fitting criteria or being excluded from criteria for CICA's and a lack of a tort of human trafficking and slavery. Such issues have been widely documented in a number of policy papers.⁶⁸ Lengthy processes compound issues and Hope for Justice have had client's die whilst waiting for compensation.

Overall policies are not enabling access to support and there are still longstanding improvements needed to ensure that survivors receive the independent advocacy and support they need including legal advice and representation both before, during and beyond the national referral mechanism.

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

Hope for Justice is not aware of any evidence to substantiate claims that modern slavery laws are being abused including by individuals seeking asylum. There have been unsubstantiated claims by the government of an "alarming increase in the number of illegal migrants including Foreign National Offenders (FNO's) and those who pose a national security risk to our country seeking modern slavery referrals – enabling them to avoid immigration detention and frustrate removal from our country"⁶⁹ and "child rapists, people who

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⁶⁸ <https://www.antislaverycommissioner.co.uk/media/1066/dwp-compensation-f.pdf>; ATLEU https://www.antislaverycommissioner.co.uk/media/1765/iasc-policy-paper_access-to-compensation-and-reparation-for-survivors-of-trafficking_april-2022.pdf; <https://atleu.org.uk/news/2020/11/16/survivors-of-slavery-die-waiting-for-their-compensation-claims-to-be-awarded>

⁶⁹ Home Office (2022). Consultation Outcome. New Plan for Immigration: Policy Statement Chapter 6 sourced at:

<https://www.gov.uk/government/consultations/new-plan-for-immigration/new-plan-for-immigration-policy-statement-accessible#chapter6>

pose a threat to national security and illegal migrants who have travelled to the UK from safe countries have sought modern slavery referrals which have prevented and delayed their removal or deportation”.⁷⁰ Concerns around the lack of supporting data and potentially misleading data have been raised by the Director General for Regulation (Office of National Statistics).⁷¹ Concerns have been raised a number of UN Special Rapporteurs.⁷² In fact, as detailed above evidence from our frontline work suggests the opposite. Victims/survivors frequently struggle to be identified and access support through the National Referral Mechanism (NRM).

Many victims do not self-identify, may not be aware they are a victim and/or may be too fearful of disclosing what has happened to them. In addition, to enter the NRM system, a victim must be identified by a first responder. Consistently Hope for Justice see failures to identify victims often due to poor or no training provided to first responders and lack of wider resources for first responders. A lack of understanding of victimhood often compounds these issues with perceptions of a “perfect and imperfect victim.” Data from the NRM end of year review 2021 also suggest the opposite; 90% received positive NRM reasonable grounds decisions and of these 91% received positive conclusive grounds decisions.⁷³ There is little differentiation in end of year review data for 2022 with 88% of reasonable grounds and 89% of conclusive grounds decisions being positive.⁷⁴ We would note these are decisions made by the Home Office. In addition, consistently, British Nationals feature high or are the number one nationality trafficked in the UK (34% in 2020; 31% in 2021 and 25% in 2022).⁷⁵ This emphasises Modern Slavery is a human rights issue not an immigration issue.

Non-evidence based claims that reporting instances of trafficking are a tactic to avoid removal and access immigration status fails to recognise the Home Office’s own data. Between April 2016 – June 2021 only 7% of confirmed victims of trafficking were granted leave and only 2% of confirmed child victims were granted discretionary leave to remain between 2019 – 2020.⁷⁶

In 2020/2021, overall, only 8% of deportation appeals by Foreign National Offenders were permitted on human rights grounds only.⁷⁷

Our own frontline experience and a recent report by the former Independent Anti-Slavery Commissioner also highlights many victims are still being prosecuted and not identified within the criminal justice system.⁷⁸

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

The below details some of the wider recommendations in addition to recommendations as detailed above and the many evidence-based recommendations in research and policy papers over the last 13 years. This

⁷⁰ Home Office (2022). Consultation Outcome. New Plan for Immigration: Policy Statement Chapter 6 sourced at: <https://www.gov.uk/government/consultations/new-plan-for-immigration/new-plan-for-immigration-policy-statement-accessible#chapter6>

⁷¹ Ed Humpherson to Jennifer Rubin: use of National Referral Mechanism statistics – Office for Statistics Regulation (statisticsauthority.gov.uk)

⁷² <https://www.ohchr.org/en/press-releases/2022/12/uk-un-experts-condemn-attacks-credibility-slavery-and-trafficking-victims>

⁷³ Home Office (2021). Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK, End of Year Summary, sourced at [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary, 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2021)

⁷⁴ Home Office (2023) Modern Slavery End of Year Summary 2022 sourced at <https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2022/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2022>

⁷⁵ Home Office (2022). Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK, End of Year Summary, 2021 sourced at: [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary, 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2021) and end of Year Summary 2020 sourced at

⁷⁶ <https://www.ecpat.org.uk/news/new-data-obtained-from-the-home-office-shows-only-2-of-child-victims-of-trafficking-are-given-discretionary-leave-to-remain-in-the-uk>

⁷⁷ Home Office (2022). Transparency Data. Statistical Note: FNO Appeals Lodged and Allowed on Human Rights Grounds, 2008 to 2021. Sourced at: <https://www.gov.uk/government/publications/foreign-national-offenders-appeals-on-human-rights-grounds-2008-to-2021/statistical-note-fno-appeals-lodged-and-allowed-on-human-rights-grounds-2008-to-2021>

⁷⁸ [Independent Anti-Slavery Commissioner - The Modern Slavery Act 2015 statutory defence: call for evidence - review published \(antislaverycommissioner.co.uk\)](https://www.antislaverycommissioner.co.uk) and IASC and ECPAT Report [Download.ashx \(ecpat.org.uk\)](https://www.ecpat.org.uk).

would invariably involve a complete overhauling of the current legislative framework including scrapping NABA 2022 and the Illegal Migration Bill (see recommendations in question 1).

Overreaching Recommendations including a Clear and Holistic Prevention Strategy

1. **Independent Anti-Slavery Commissioner and Victims Commissioner:** there is a need for independent oversight including the filling of the current vacancy for the Independent Anti-Slavery Commissioner and Victims Commissioner to ensure there is independent oversight of modern slavery in the UK. The independence and power of these roles should be strengthened.
2. **Update the strategy:** the strategy has not been updated since 2014 and the landscape for modern slavery has changed significantly.
3. **Separate out Modern Slavery Policy with Immigration Policy:** This needs to be separated out with safeguarding and survivor care coming under appropriate ministerial governance focused on safeguarding and social care such as under the Secretary of State/Department for Health and Social Care or the Secretary of State/Department for Levelling Up, Housing and Communities.
4. **Governance, Oversight, Coordination and Monitoring and Evaluation -** there is a need for clear inter-ministerial and inter-departmental governance, oversight, and coordination of responses (including with the devolved administrations) at a national, regional, and local level. This needs a clear monitoring, evaluation, accountability, research and learning framework to monitor the impact of the strategy. This will also enable a better understanding of how wider immigration policies including the current lack of access to safe and legal routes for those seeking asylum, Rwanda Scheme, and short term visas increases risks of exploitation and reduces the ability to identify victims. Safe and legal routes and improved protections for low skilled workers with recourse to public funds would result in significant improvements in prevention of exploitation.
5. **Improve Survivor Inclusion and Meaningful Engagement with Civil Society and Wider Departments:** there is a need for survivor inclusion and leadership including the ability of survivor leaders, civil society, and business to meaningfully engage with the government to improve legislation and policy. The Home Office did conduct an engagement exercise with survivors, but the publication of this report is still pending. This could include a survivor advisory council but also engagement through more effective Modern Slavery Strategic Implementation Groups which also should have a clear mandate, be inter-departmental and report directly to a specific minister.
6. **Primary legislation to directly incorporate international rights including ECAT:** there is a need for direct incorporation of international obligations such as ECAT into primary legislation to avoid narrowing ECAT provisions and a piecemeal approach to applying important international obligations.
7. **Holistic prevention response:** including identifying and tackling root vulnerabilities and causes that goes beyond awareness raising, identification and a criminal justice approach. This includes access to safe and legal routes to come to the UK for work or for those fleeing conflict.
8. **Improvements needed to address Transparency in Supply Chains:** it is important that the UK does not fall behind when compared to the legislative approaches of the EU (European Union) who are introducing human rights and environmental due diligence legislation which addresses the continuum of exploitation and in the US with the increasing use of the Tariff Act 1930 including Withhold and Release Orders⁷⁹ in addition to the Uyghur Forced Labour Protection Act.⁸⁰ Currently some EU countries are already enacting more robust legislative provisions. This includes Germany's Supply Chain Due Diligence Act in force from the 1st of January 2023;⁸¹ Norway's Transparency Act in force from July 2022.⁸²
9. **The role of local authorities (with central government funding) should be strengthened:** including on linked issues such as the link between homelessness and vulnerability to exploitation.

⁷⁹<https://www.cbp.gov/trade/forced-labor#:~:text=CBP%20implements%20Section%20307%20of,imported%20into%20the%20United%20States.>

⁸⁰ [Uyghur Forced Labor Prevention Act | U.S. Customs and Border Protection \(cbp.gov\)](https://www.cbp.gov/press-releases/uyghur-forced-labor-prevention-act)

⁸¹ <https://www.business-humanrights.org/en/latest-news/german-due-diligence-law/>

⁸²<https://www.sedex.com/blog/norways-transparency-act-what-you-need-to-know/#:~:text=What%20is%20the%20new%20law,rights%20and%20decent%20working%20conditions.>

Child safeguarding, including the role of adult and child social care should be explored further. Local authorities can play a key role in prevention, disrupting the activities of exploiters, early identification and reducing risks of re-exploitation through long term integration of survivors. However, central government funding is needed to enable this to happen as local authority budgets are already extremely stretched.

Protection: Pre-NRM, National Referral Mechanism and Ongoing Independent Advocacy and Support

1. **Development of an Accredited Model of Independent Advocacy to improve access to all forms of justice (survivor care, criminal and civil) including training regime:** the standard of support or even existence of specialist support varies depending on the area. In our experience specialist support is virtually non-existent for those in immigration detention. We recommend the development of an accredited model of independent advocacy and also assessment more widely of the availability of long-term support provision and outcomes for victims including for those who chose to return home or to another country. In addition, during the passage of the Nationality and Borders Act the government committed to a minimum of 12 months of support for victims. Government commitments during the passage of the Act are detailed in a policy paper by Rights Lab.⁸³
2. **Benchmarking: there needs to be a detailed systems analysis and benchmarking the NRM** and wider strategy against the OSCE/ODHIR NRM Handbook to identify improvements which can be made in the NRM system including where improved policy and greater resourcing in one area may reduce overall costs.
3. **Improved governance:** there is a need for improved governance of the NRM system especially the Victim Care Contract to be under a suitable governance structure for safeguarding and support (with central government funding) transferring this to a department with a clear safeguarding and care remit e.g., Department of Health and Social Care; The Department for Levelling Up, Housing and/or Communities or Ministry of Justice (which oversees support for victims of crime). This would enable greater synergising with wider safeguarding and support responses ensuring that the NRM system is survivor focused and synergised into existing safeguarding and support mechanisms.
4. **Improve the Legal Aid System and Access to Legal Aid -**
 - Immigration legal advice on trafficking and modern slavery cases should be paid on an hourly rate basis and rates for civil legal aid need to be sustainable.
 - Survivors of trafficking and modern slavery should receive non-means tested legal aid.
 - Legal aid should be available for all survivors of trafficking and modern slavery in the following areas that are currently ‘out of scope’: pre-NRM immigration advice; advice on identification as a victim of trafficking and modern slavery; welfare benefits and advice on the Criminal Injuries Compensation Scheme.
 - Address fundamental barriers to access to justice by establishing a legal aid contract for trafficking and modern slavery compensation claims and a civil remedy for trafficking and modern slavery to simplify avenues to compensation.
 - Provide greater clarity about legal aid entitlement for survivors of trafficking and modern slavery for legal aid providers and wider agencies.
 - Ensure that victims/survivors are provided with ongoing independent advocacy and support to enable them to initially and continue to engage with legal representatives.
5. **Access to medium- and long-term support and leave for all survivors requiring status:** currently a positive conclusive grounds decision that a person is a victim of modern slavery does not lead to clear access to ongoing support or leave provision. Regularisation of immigration status for non-UK nationals is often crucial to enable access to ongoing support and ultimately reducing risks of re-exploitation. There needs to be an automatic leave requirement on conclusive ground determination that a person is a victim which ultimately leads to permanent status to enable reintegration and

⁸³<https://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/resources/reports-and-briefings/2022/november/quick-reference-guide-%E2%80%93-uk-government-modern-slavery-commitments-in-the-nationality-borders-act.pdf>

reduce risks of re-exploitation (i.e. a modern slavery visa). Recommendations around long-term regularisation of immigration status were made within the Trafficking in Persons Report in 2022. This is now even more critical as post EU Exit the majority of EEA victims post EU Exit who have no specific entitlements under the EU Settlement Scheme, and enter the NRM and access support provision will require in the majority of cases some form of leave provision (i.e., discretionary leave to remain) to be able to move on from safe house provision.

6. **Access to suitable accommodation within the NRM system and post NRM** - those who enter the National Referral Mechanism as potential victims of trafficking may have access to temporary accommodation, but there are too few 'safe houses' to meet the current need, and most of the existing accommodation is unsafe and inappropriate. Many survivors who are also in the asylum system are housed in 'contingency' asylum accommodation, including hotels, for prolonged periods, which is damaging to their health and well-being.⁸⁴ This is particularly problematic for those transitioning from child services into adult services. Asylum accommodation is often unsuitable and unsafe for survivors yet without regularised immigration there are limited alternatives.
7. **Subsistence levels** - provision of subsistence should reflect subsistence needed to empower recovery. In addition, this needs to take into account wider factors such as the impact of Covid 19 and also the Cost of Living Crisis and enable easy access to more subsistence when needed.
8. **Training:** There is often inconsistent or no training of many first responders and wider frontline agencies leading to failures to identify and/or poor submissions of NRM forms. Mandatory, accredited, and in-depth training is urgently needed for first responders. This is especially important given the extra requirements to obtain "objective evidence" and further complications/barriers such as "bad faith" and "public order" provisions will significantly increase the workload and time needed to first respond (see points regarding legislative changes).
9. **Improve first responders:** as detailed above the resourcing and accredited training of first responders is critical plus issuing of guidance to allow more state and independent non-state actors to apply for first responding is critical.
10. **Address delays:** delays in asylum, NRM decision making and leave provisions needs to be addressed. NRM data from 2022 last quarter identifies decision making was a wait of 536 days.⁸⁵
11. **Appeals Process:** the NRM needs a clear review and appeals process for all negative decisions (including public order and bad faith). The introduction of Multi-Agency Assurance Panels was a step forward in creating some level of accountability for decisions. However, this was removed in December 2022 without any warning or consultation with the sector.
12. **Improved research on long term support needs including those with complex needs:** our experience is that survivors' needs are getting increasingly complex so further research on this is needed to ensure that the needs of survivors (including different nationalities) are being met by the NRM system and not pushed down onto highly stretched local authorities without further central government funding to support these efforts. This issue will be compounded by the increase in threshold requirements for reasonable grounds decision stage and potential disqualification of victims pursuant to the provisions in the Nationality and Borders Act 2022 (see above) and the Illegal Migration Bill.
13. **Independent Inspection and Complaints Processes:** there is need for independent oversight of NRM safeguarding and care including an independent complaints system e.g., Ofsted for children and adult services under the governance of the Care Quality Commission on a statutory basis (as opposed to a private contract).
14. **Localise and create multi-agency decision making, safeguarding and specialist support National Referral Mechanism to a framework for Local Referral Mechanism:** there is a need for a more localised model of multi-agency decision making for the NRM system (see pilot for children and wider pilots on decision making)⁸⁶ including a more joined up approach and synergy between the NRM system and local authority provision/commissioning of services which reflect regional

⁸⁴ Refugee Council, [Lives on hold](#), July 2022

⁸⁵ [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, Quarter 3 2022 – July to September - GOV.UK \(www.gov.uk\)](#)

⁸⁶ [An evaluation of the National Referral Mechanism pilot \(antislaverycommissioner.co.uk\)](#)

variations, types and nationalities of survivors and is flexible to meet the individual needs of survivors and their own unique journey (this would need further central government funding).

15. **Co-locating support services:** this may enable improved engagement and access to multiple services by survivors.
16. **Address the crisis relating to access to legal advice and representation:** access to quality, timely and legally aided legal advice and representation is crucial for victims and survivors. It is the key to being formally recognised as a victim, accessing safe housing and support, and accessing justice and remedies. Yet, research by both ATLEU, and BIICL (in collaboration with Unseen) shows a huge gulf in demand and supply, with devastating consequences for survivors.⁸⁷ The legal aid funding system is driving this crisis, with major changes needed to legal aid contracts in order to make them reflective of the complexity of the cases and commercially viable. Key areas of advice that are currently out of scope for legal aid need to be brought back into scope including pre NRM legal advice and representation.
17. **Adherence to international non-punishment principles:** year on year we are seeing increases in the detention of victims of human trafficking within immigration detention and the prison system.⁸⁸ This has been compounded by the inclusion of victims of trafficking in the Adults at Risk Policy. A report by Helen Bamber Foundation noted “data published by the government and shared via a Freedom of Information request shows that the number of referrals has tripled over the last five years from 501 referrals in 2017/18 to 1,611 in 2021, the year that victims of trafficking were included in the Adults at Risk policy (albeit it with a dip where numbers of detainees overall reduced as a result of the pandemic).”⁸⁹ The report includes clear recommendations on the improvements needed including to abolish the adults at risk levels of risk and also enable access to independent first responders in detention.⁹⁰ There needs to be more robust application of non-punishment principles including active policies not to detain victims of modern slavery and effective application of non-punishment principles within criminal justice processes not primary legislation that actively facilitates this (e.g. Illegal Migration Bill).
18. **Dependent children of adults in the NRM are not recognised as victims themselves:** the NRM does not recognise the intergenerational impact of modern slavery on dependent children. The latter therefore do not have rights under the MSVCC other than being referred to school. Support should be holistic and centred around the family as a collective, and children who have witnessed their parent’s exploitation need to be given adequate and tailored support as evidenced by Hestia’s research and recommendations within the report.⁹¹

Investigations, Prosecutions and Access to Compensation

1. **Broad and holistic approach to perpetrator accountability is needed:** it is important to recognise that criminal justice is one aspect of perpetrator accountability. There are multiple ways that human traffickers can be disrupted in their activities and held accountable. This may include accountability through financial institution responses, business compliance and business remediation; civil justice; labour/wider enforcement mechanisms, restorative justice approaches and offender management.
2. **Access to remedy including compensation:** the number of victims who receive compensation, either from the state and particularly from their trafficker, is tiny. The current avenues for compensation are unsuited for the crime of human trafficking. Crucially, there is no civil remedy for trafficking and modern slavery in law. To recover compensation, survivors have to patch together several different claims which encompass the many wrongs done to them. A civil remedy of trafficking and modern slavery needs to be introduced into law. A legal aid contract for compensation claims relating to trafficking and modern slavery cases should be established. Advice

⁸⁷ATLEU, *It has destroyed me’: A legal advice system on the brink* (October 2022) sourced at <https://atleu.org.uk/news/2022/10/17/it-has-destroyed-me-new-report>

Ibid and <https://www.biicl.org/newsitems/16477/impacts-of-a-lack-of-legal-advice-on-adults-with-lived-experience-of-modern-slavery>

⁸⁸<https://afterexploitation.com/2021/02/03/survivors-behind-bars-nearly-3000-potential-trafficking-victims-detained-since-2019/>

⁸⁹ [Abuse by the system survivors of trafficking in immigration detention_1.pdf \(helenbamber.org\)](#) page 15.

⁹⁰ Ibid page 29.

⁹¹ <https://www.hestia.org/Handlers/Download.ashx?IDMF=9e80d4ef-5910-470d-b46a-968facba852d>

and representation on the Criminal Injuries Compensation Scheme should be brought into scope for legal aid.

3. **Improved Training:** There needs to be improved training for prosecutors, criminal defence solicitors and the judiciary to enable them to identify victims who may initially present in the criminal justice system as offenders e.g., drugs offences in respect of cannabis cultivation or county lines cases. Too many victims are still being prosecuted before being identified and we have even found criminal defence solicitors wrongly advising survivors who have been identified to plead guilty so that the case is dealt with quickly.
4. **Increase in Prosecutions and Improve Sentencing:** whilst prosecutions are increasing, they need to be more reflective of the number of victims identified. There needs to be a greater detailed analysis of what is happening in the system and how, if at all, investigations are progressing including any challenges with resourcing. In addition, in our experience, long term independent advocacy, legal advice and support, including specialist support through justice systems is required to enable initial and ongoing engagement with criminal justice processes. Sentencing Guidance for all modern slavery offences was published by the Sentencing Council in 2021.⁹² This is a crucial step in improving the length of sentences. Maximum sentences under section 1 and 2 of the Modern Slavery Act 2015 were increased to a maximum of a life sentence. The reality is that the UK Annual Report in 2021 noted the average sentence to be much low stating “Since the Modern Slavery Act came into effect in 2015, of the 88 offenders sentenced where modern slavery was the principal offence, 74 (84%) received an immediate custodial sentence. Of all offenders sentenced to immediate custody for this offence in 2020, the average custodial sentence length was 36.2 months.”⁹³ A three-year prison sentence is very unlikely to be an effective deterrent for a career criminal.
5. **Leave Provision:** Leave provisions should be available to all survivors based on being a victim/survivor and lead to long term regularisation of status (e.g. a T visa). Discretionary leave linked to prosecution cases can result in leave being withdrawn following the criminal case and survivors at risk of destitution, homelessness, and re-trafficking. Also this doesn’t enable engagement in the first place. In addition, leave provided due to personal circumstances is difficult to obtain as it is narrowly interpreted often based on medical as opposed to holistic needs including risks of re-exploitation. This is at a point when they can be extremely vulnerable including the risk of reprisals from wider elements of an organised crime group who may not have been prosecuted. In addition, if survivors have leave as a survivor, then it is more likely they will be able to engage in criminal investigations at a point when they are ready to in their own journey of recovery thus improving engagement. For instance, Hope for Justice has cases of survivors with complex needs who have engaged 6 – 12 months post identification and when they are in a more stabilised position to make these choices.
6. **Safe reporting:** there needs to be clear safe reporting mechanisms for survivors with irregular immigration status. Clear recommendations have been made in a number of reports by Focus on Labour Exploitation and LEAG.⁹⁴
7. **Increased Focus on Non-Punishment Principles and Improving Specialist Responses in the Criminal Justice System:** There is a need to improve responses to survivors in the criminal justice system and wider systems with strong adherence to non-punishment principles in line with ECAT; the Trafficking Directive; Slavery and Trafficking Survivor Care Standards; the Witness Charter and Victim Code. Victim Navigators embedded in police forces may also assist with improvements in police responses and specialist support in the criminal justice system. However, there also needs to be more training across the criminal justice system including judiciary, criminal defence solicitors, CPS, enforcement agencies and wider criminal justice support agencies on identification, trauma informed practices, the legal rights of survivors, statutory defence, and non-punishment principles. In our experience too many victims are still not being identified in the criminal justice system and are being prosecuted for offences committed as a result of their trafficking experience.

⁹² [Modern slavery offences sentencing guidelines published – Sentencing \(sentencingcouncil.org.uk\)](https://www.sentencingcouncil.org.uk/publications/modern-slavery-offences-sentencing-guidelines-published)

⁹³ Home Office Modern Slavery Annual Report 2021 para. 2.1.34 sourced at <https://www.gov.uk/government/publications/2021-uk-annual-report-on-modern-slavery>

⁹⁴ labourexploitation.org/publications/opportunity-knocks-improving-responses-labour-exploitation-secure-reporting and a recent report on December 2022 <https://www.labourexploitation.org/publications/safety-migrant-workers-case-safe-reporting-mechanisms>

8. **Greater Understanding of Risk and Protection of Witnesses:** There needs to be a greater understanding, improved risk assessments and approaches to the short, medium and long-term witness protection needs of survivors who engage with criminal justice processes including improving offender management post-conviction and release. For instance, if a survivor decides to return home and post-conviction perpetrators are deported, perpetrators can end up back in the same place where the victim is residing due to the fact a short-term approach is taken to witness protection.

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