

**The Anti Trafficking
Monitoring Group**



**anti-
slavery**

Human

Trafficking

Foundation

Call for evidence: recovery needs for victims of modern slavery

The following briefing responds to the Modern Slavery Unit (MSU) Call for evidence regarding the recovery needs for victims of modern slavery as published in the MSU newsletter dated 7th August 2020. While The Anti-Trafficking Monitoring Group (ATMG), Anti-Slavery International (ASI) and The Human Trafficking Foundation (HTF) contextualise some of the challenges of the RNA policy in this briefing, there are some immediate and practical changes that can be made to the current policy:

- Copies of RNAs, including submissions to and responses from the Single Competent Authority should be provided to every individual by their advocate in a format and language they can understand. This should take place in the context of advice sessions to ensure that each individual understands the purpose of the RNA, the nature of submissions made, possible outcomes and options.
- Regular training on how to carry out an RNA and the process for quality assurance should be made available to all VCC providers and stakeholders inclusive of policies around access to housing support, survivors' rights and entitlements in ECAT.
- Ensure that all individuals assisting police with criminal investigations maintain access to a support worker in the VCC or other specialist advocacy organisation who they have already been supported by for a defined period E.g. victim support, Hope for Justice, Hibiscus.
- Ensure support remains in place until alternative services are actively engaging with individuals referred to their service and not ending NRM support on the basis of a "referral" to relevant agency
- Any review of an RNA should be subject to a reasonable timeframe; that is, not based on emergency need or destitution. Set milestones should be agreed between the individual, their support worker and the Single Competent Authority, e.g. 3 months, 6 months, 1 year.
- If an RNA concludes that ongoing support is needed there must be a reasonable period of time before the next RNA of at least 3 months. This is to ensure survivors can focus on recovery rather than concern about the next RNA.
- A commitment to publish data on the successful and failed applications to the RNA as well as data on the number of concurrent RNA's
- Reviews of the RNA guidance should consult with all stakeholders who have a role in supporting and facilitating survivor recovery e.g. asylum colleagues in the Home Office, Migrant Help, the LGA, NGOs providing post-NRM advocacy and support, lawyers who often

represent survivors, VCC providers, DWP, trauma specialists from within the NHS. This consultation should also include survivors or survivor-led organisations. Any changes should be clearly stated, alongside details of any assessment of need

- Commitment to consult with relevant stakeholders and survivors on all future iterations of the RNA Guidance
- Commitment to consider RNA assessments in the context of pre-existing vulnerabilities that lead to slavery, and not solely assessing individuals on issues arising from experience of modern slavery.

What we know:

The current guidance¹ for Recovery Needs Assessment (RNA) describes how potential victims have their individual support needs assessed at a number of key stages through their NRM journey. These are usually: upon entry, during the recovery and reflection period with frequency of assessments varying between support provider and as an individual exiting the mechanism. For those in receipt of a positive conclusive grounds decision (+CG) this assessment is now formally conducted through the RNA.

Regardless of the stage, all assessments are thematic and derive from different national and international legal obligations including Article 12² ECAT entitlements; these have evolved over time with the most recent example being the publication of Modern Slavery Act Statutory Guidance. As highlighted in the call for evidence, 'need' is categorised as immediate, acute, ongoing and longer-term suggesting that individuals move between these stages once different needs are met. It fails to take into account the NRM decision making process as a central factor in determining individuals' needs.

Common themes associated with NRM assessments are:

- Access to accommodation/housing
- Therapeutic support
- Interpretation Services
- Access to safe and decent work
- Access to legal advice
- Financial support

The RNA considers whether a victim has any ongoing recovery needs arising from their modern slavery experiences, only. This is hugely problematic because modern slavery is not a clearly definable phenomenon nor is recovery from trauma; experience cannot be reduced to a single event

¹ Recovery Needs Assessment (RNA)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/834857/recovery-needs-assessment-v1.0ext.pdf

² Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe Treaty Series No.197, 2005. See also Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings, (2005), available at: <https://rm.coe.int/16800d3812>

or series of events. Modern slavery is a site of contestation over many things, including what it means to be human.

The RNA policy is remarkable for many reasons; chief among them is the policy's unique role in transitioning people out of the NRM. As an assessment, it considers need comparatively by offsetting individuals' needs against specific entitlements or referrals to other services. In most cases, once an individual is signposted or referred to a service their need is considered met by the Single Competent Authority.

In evidence shared by survivors and stakeholders, often RNA's are considered only at the point of destitution, e.g. at the point of an eviction or refusal of another service. This appears to go against the policy's stated aim: to move people on from the NRM and by extension their modern slavery experiences. In its current form, the RNA enables transition based on what individuals are entitled to or lucky enough to secure, not individual need. Instead of the onus within the RNA being demonstration of ongoing need, this is replaced by demonstrating that needs are met by engagement with other services and that there is either negligible or no risk of re-exploitation.

Examples:

- C19 decision to continue RNA policy for individuals in outreach support compared to individuals in government funded safehouses, where the assessment for accommodation was suspended.
- The call for evidence repeatedly references that 'support should be flexible and tailored to the victim's recovery needs.'³ This suggests the RNA should be an on-going and holistic preventative mechanism, and not abrupt. RNAs shared with ATMG have shown some individuals being exited from support with as little as three days' notice where the RNA completed by the caseworker requested a longer transitional period. In information received from partners, the RNA does not allow support to be continued based on an inevitable *future need*, but only where the individual is in immediate need. For example, the Single Competent Authority will not agree to continue casework support for people living in asylum accommodation who inevitably will receive an eviction letter with 28 days' notice to leave once they are granted refugee status or, in some cases, discretionary leave to remain, both of which are usually triggered by the NRM decision. Instead, only survivors in possession of an eviction letter at the time of completing the RNA are granted continued casework support to advocate for suitable housing from the local authority. Those in asylum accommodation will at some point face eviction and require advocacy to transition to housing with the local authority, but access to this support is dependent on factors outside of the individual's control, i.e. when they are granted status and are handed an eviction letter. This has been exacerbated in the Covid-19 pandemic, as asylum evictions have been halted but CG decisions have continued to be issued, triggering the 45 days' time period pre-exit. This has left many facing an end in support without the eviction letter which is considered the proof of need for continued support for transition from asylum housing to local authority accommodation.
- This suggests need is not considered holistically. Furthermore, under newly introduced and contested procedures, if an individual receives an RNA but at the same time is in emergency asylum support accommodation, s.98, their financial support ceases if they are receiving three meals a day. Their engagement with the asylum support system is therefore offset against their needs as a victim of modern slavery.

³Recovery Needs Assessment Call for Evidence, (2020).

The complexity of assessing the needs of individuals is recognised by ATMG, ASI and HTF. However, the degree to which the RNA can enable transition out of the NRM will continue to be limited until the Government, in consultation with survivors and stakeholders, can commit to exploring what sustainable and long-term outcomes look like for individuals and who is best placed to provide these.

The RNA process was established in response to strategic litigation first issued in NN and LP in which the Secretary of State for the Home Department conceded, acknowledging that support should be provided in reference to individual's need rather than by any standard time frame. The RNA process does not effectively meet the spirit of that ruling. In its current form, it fails to take into account the changing nature of recovery and its dependency on social connectedness, social support, agency and public health.⁴

The NRM is specialist to the point that it considers exploitation through a unique framework that's been built around immigration policy while aiming to provide time and space for recovery to meet ECAT requirements. For many people the framework does not engage with recovery needs in a way which promotes healing, agency and the opportunity for integration with society in the medium or long-term. Recognising individuals as exploited by itself does not provide sustainable and durable outcomes which is a key component of prevention as well as protection.

NRM Transformation Programme: Transition and Outcomes

The RNA and NRM Transformation Programme which builds upon the measures announced as part of the NRM Reform Programme in October 2017, describes its aim as to further embed a needs-based approach to support in order to enable individuals to transition away from the NRM and discourage dependence on a temporary support structure. For this to be achievable, there needs to be professional minimum standards for the delivery of services and support within the NRM as well as funding to ensure access to alternative health and social care services investment in infrastructure, knowledge development and training.

Healthcare, local authorities, law enforcement and other statutory organisations and first responders are for the most part reliant on the voluntary sector for training and support in developing approaches to meet their statutory obligations to support survivors. Moreover, these statutory obligations remain unclear in the Statutory Guidance and agencies are often unaware of the limitations of the NRM. Public services are evidently stretched in meeting obligations where there is a clear responsibility set out in guidance. Should the Transformation Programme involve clearer designation of roles and responsibilities – which would be encouraged – this must come with funding to deliver on these, or survivors will inevitably continue to be failed as the support to which they are entitled simply does not exist.

Academically, there is wide-spread acknowledgement of the lack of research examining the impact of transition in a range of social care contexts for vulnerable populations. In the context of modern

⁴ Richard Williams, Social Scaffolding, Applying the Lessons of Contemporary Social Science to Health and Healthcare, (2019) available at: <https://www.cambridge.org/core/books/social-scaffolding/D890B3AD96080B442640960EEC21C97B>

slavery, there is little to no academic attention from a perspective of public policy and public administration in spite of many calls for increased focus and systematic monitoring of survivor outcomes, post-NRM over the years:

- The 2014 Home Office review of the NRM highlighted the unavailability of data concerning the outcomes for victims who go through the National Referral Mechanism, such as information on further access to support or the percentage of victims who return to their country of origin.⁵
- The Houses of Parliament's All Parliamentary Group (APPG) on Human Trafficking and Modern Slavery inquiry into data collection.⁶
- The Human Trafficking Foundation published a report on what happens to victims beyond the 45-day period of state-funded assistance.⁷
- GRETA's 2nd Round Evaluation⁸ of the UK noted all providers met by GRETA throughout their visit underlined that victims exiting NRM accommodation face difficulties in transitioning to independence and benefiting from other types of services to enable them to access housing, health care, employment or training. "There is no hard data of what happens to victims after they exit the government-funded scheme, but there is evidential information in a report by the Human Rights Foundation highlighting concerns about victims' safety and barriers to integration."
- The report from a pilot of post-NRM support by the British Red Cross found survivors needed flexible, individualised support after exiting the NRM for at least 12 months, that an insecure immigration status creates stress and can be a barrier to integration, that the move to long-term secure accommodation is often blocked by administrative delays relating to immigration decisions, and there is high prevalence of need for mental health support.⁹
- As noted by the Public Accounts Committee in its 2018 report, *Reducing Modern Slavery*, 'The NRM does not capture what happens to victims after they leave the NRM, and so the [Home Office] does not know whether victims have been re-trafficked.'

The recent draft of The Care Quality Commission Inspection framework asks providers 'What assessment of survivor outcomes has been made prior to exiting the service? What frameworks or models are used to support this?'.¹⁰ The framework goes on to reference International Justice Mission: Assessment of Survivor Outcomes Tool (ASO)¹¹ but the degree to which this will be

⁵ Home office, Review of the National Referral Mechanism for Victims of Human Trafficking, November 2014, p.55

⁶ Available at: <http://allpartygrouphumantrafficking.org/the-appg/data-collection>

⁷ Human Trafficking Foundation (HTF), "Life Beyond the Safe House for Survivors of Modern Slavery in London" (2015). Available at: www.humantraffickingfoundation.org/life-beyond-safe-house-survivors-modern-slavery-london

⁸ GROUP OF EXPERTS ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, October 2016 P.184

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806abcdc>

⁹ British Red Cross, Hope for the Future: Support for Survivors of trafficking after the National Referral Mechanism, (2019).

¹⁰ Care Quality Commission Draft Inspection Framework, (2019).

¹¹ International Justice Mission, Assessment of Survivor Outcomes (ASO), (2018) available at: <https://www.ijm.org/documents/studies/ASO-Guidance-Manual.pdf>

implemented in future support provisions or how services will be assessed under this framework, remains unclear. As it stands there are no defined standard outcomes for survivors completing the NRM or any gathering of data to review whether desired outcomes have been achieved.

The majority of individuals entering the NRM lack long-term, sustainable outcomes. Of course, while outcomes differ between individuals, all maintain hope in *transitioning* to stability, safety and prosperity. The barriers to transition are not solely the fault of the NRM but are, in part, the result of a range of factors including failing social care and health systems and weakened socio-economic policies. It is recognised that in order to prevent modern slavery, social analysis must be more rigorous and ask what policy decisions of the state might be creating inequality and rendering large numbers of people vulnerable to exploitation;¹² highlighted most recently Kalayaan's report: Dignity not Destitution.¹³ The RNA is attempting to transition individuals out of the NRM into one of two systems: the wider social care system or the immigration system. When those systems are inherently broken, then the Government fails to succeeding in either preventing modern slavery or in safely and sustainably transitioning people out of the NRM.

During his recent visit to the UK, the Special rapporteur on extreme poverty, Philip Alston said "ideological" cuts to public services since 2010 have led to "tragic consequences".¹⁴ The UK's social safety net had been "deliberately removed and replaced with a harsh and uncaring ethos". Covid19 has also pushed social care services to the brink with the impact of lockdown and social distancing presenting a significant threat to the relationship-based skills on which social work has traditionally relied. If you are an individual transitioning into public services from the RNA you face huge barriers in accessing suitable support. The reasons for this are manifold but one of the most serious is the impact of austerity that has resulted in a systematic lack of funding for trafficking response programmes in public and social care settings. Of the few funded pilots that have been running since 2018, there is no publicly available evaluation of their progress or impact. We understand from one Local Authority Pilot that they experienced challenges transitioning people out of the NRM due to a lack of social housing provisions. This led to funding being allocated to private landlords who were reported to be unreliable. Individuals were also housed out of area, and the support provider in partnership with the Local Authority provided negative feedback regarding NRM support as well as a lack of post-NRM services for people generally.

No specific funding is given to councils to support victims of modern slavery, and the Local Government Association continues to urge the Government to provide more funding for councils to help tackle modern slavery and support its victims. They estimate a £3.1 billion funding gap facing children's services, as well as a £3.6 billion funding gap in adult social care services by 2025.¹⁵

As long as there are no automatic entitlements to ongoing support from social and public health systems when a person is a confirmed victim of modern slavery then the RNA will continue to be ineffective as tool for transition. In cases of foreign and non-EU nationals, to access further support and remain in the UK, victims must apply for special discretionary leave to remain, which is only

¹² Julia O'Connell Davidson, *Modern Slavery: The Margins of Freedom*, (2015).

¹³ Kalayaan, *Dignity not Destitution: the impact of differential rights to work for migrant domestic workers*, (2019) available at: http://www.kalayaan.org.uk/wp-content/uploads/2019/10/Kalayaan_report_October2019.pdf

¹⁴ Report of the Special Rapporteur on extreme poverty and human rights on his visit to the United Kingdom of Great Britain and Northern Ireland, (2019), Available at: <https://undocs.org/A/HRC/41/39/Add.1>

¹⁵ Local Government Association: *Modern Slavery Referrals by councils soar nine-fold*, (2019) available at: <https://www.local.gov.uk/about/news/lga-modern-slavery-referrals-councils-soar-ninefold>

available in a narrow range of circumstances and is in practice difficult to advocate for where the individual is not cooperating in the investigation around their trafficking, which goes against the EU Directive. Others, including many EU nationals, at present, are eligible for the benefits system, but face barriers to it because of the terms of other legislation including The Housing Act (1996), section 189(1)(c).

The challenges facing the RNA policy are not easily resolved but they lay bare failing socio-economic policies and a lack of meaningful outcomes for exploited persons, regardless of their nationality.

To provide appropriate and holistic support, all services must be funded to build their knowledge base and to deliver services to this unique population. To recover, individuals need more than an amendment to the legislative framework. They require practical provisions which keep them safe, access to rights and guaranteed minimum standards of professional specialist support, and a future that provides them with sustainable opportunity.