



A Review of the

# **NATIONAL REFERRAL MECHANISM MULTI-AGENCY ASSURANCE PANELS**

The **Anti Trafficking**  
**Monitoring** Group

# About The Anti-Trafficking Monitoring Group

---

The Anti-Trafficking Monitoring Group (ATMG)<sup>1</sup> was founded in May 2009 to monitor the United Kingdom's implementation of the Council of Europe Convention on Action against Trafficking in Human Beings (2005), which came into effect in the UK on 1 April 2009. Following the UK's decision to opt into the EU Directive on preventing and combating trafficking in human beings (2011/36), which entered into force on 5 April 2013, ATMG also monitors the obligations set out in this framework.

ATMG's reports can be accessed here:

[www.antislavery.org/what-we-do/uk/anti-trafficking-monitoring-group](http://www.antislavery.org/what-we-do/uk/anti-trafficking-monitoring-group)

---

<sup>1</sup> The twelve organisations belonging to the ATMG are: Anti-Slavery International, Ashiana, Bawso, ECPAT UK, Focus on Labour Exploitation (FLEX), JustRight Scotland, Helen Bamber Foundation, Kalayaan, Law Centre (NI), Snowdrop Project, TARA (Trafficking Awareness Raising Alliance, a service run by Community Safety Glasgow), UNICEF UK.



*“This report makes an important contribution to our understanding of how the National Referral Mechanism is working and highlights some alarming deficiencies in Multi-Agency Assurance Panels. Given the findings, victims cannot currently have full confidence in decision-making and National Referral Mechanism referrals.*

*Victims of modern slavery are one of the most vulnerable cohorts in the country and it is crucial that the systems designed to identify and protect them are working properly. Government should consider the recommendations from The Anti-Trafficking Monitoring Group closely, to improve the support available to victims of modern slavery.”*

**Claire Waxman, London Victims' Commissioner**



# Executive Summary

---

Since its introduction in 2009, the National Referral Mechanism (NRM)<sup>2</sup> has been subject to various pilots regarding alternative decision-making models for victims, in addition to changes regarding decision-making, most notably the move to all decisions being made by a 'Single Competent Authority' (SCA). ATMG has called for alternative decision-making models in the NRM since 2010. In 2014 the Monitoring Group published '*A proposal for a Revised National Referral Mechanism (NRM) for Adults and Children*'.<sup>3</sup> The models proposed in this publication are victim centred and adopt a human rights based approach. We believe this would result in quicker and more certain decision making, improved identification and increased confidence in decision making.

This briefing reviews the provisions of the recently established Multi-Agency Assurance Panels (MAAPs)<sup>4</sup> to date, assessing the extent to which they contribute to robust and transparent decision-making in the NRM. It focuses on the practical function of the MAAPs based on a survey conducted by ATMG in 2019, and feedback from 8 panellists. It goes on to highlight how this new approach to decision-making has revealed poor information sharing practices between relevant bodies, therefore undermining panel members' ability to quality assure second stage negative decisions. In addition, it asks questions about victim support provisions more widely, especially for those engaging with the criminal justice system.

Our findings are that, at present, MAAPs do not adequately assure NRM decision-making. This calls into question the extent to which they are able to support the NRM reform objectives as set out in 2018:

- Quicker and more certain decision-making in which stakeholders and victims have confidence;
- Improved support for adult victims before, during and after the NRM;
- Improved identification of victims; and
- Improved support to child victims of modern slavery, who are supported outside the NRM.<sup>5</sup>

2 National referral mechanism guidance: adult (England and Wales), available at: [https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales#:~:text=The%20National%20Referral%20Mechanism%20\(%20NRM,human%20trafficking](https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales#:~:text=The%20National%20Referral%20Mechanism%20(%20NRM,human%20trafficking)

3 Proposal for a Revised National Referral Mechanism (NRM) For Adults, The Anti-Trafficking Monitoring Group, 2013, available at: [http://www.antislavery.org/wp-content/uploads/2017/01/atmg\\_national\\_referral\\_mechanism\\_for\\_adults.pdf](http://www.antislavery.org/wp-content/uploads/2017/01/atmg_national_referral_mechanism_for_adults.pdf)

4 Modern Slavery Act 2015 – Statutory Guidance for England and Wales, v2.00 available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/950690/January\\_2021\\_-\\_Modern\\_Slavery\\_Statutory\\_Guidance\\_E\\_W\\_Non-Statutory\\_Guidance\\_S\\_NI\\_v2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/950690/January_2021_-_Modern_Slavery_Statutory_Guidance_E_W_Non-Statutory_Guidance_S_NI_v2.pdf) pg. 116

5 Published Home Office correspondence to Meg Hillier MP, Chair, Public Accounts Committee. 23 July 2018, [https://www.parliament.uk/globalassets/documents/commons-committees/public-accounts/Correspondence/2017-19/Letter-from-Phillip-Rutnam-to-Meg-Hillier-MP-response-to-committee-hearing-on-27-June-180718\\_.pdf](https://www.parliament.uk/globalassets/documents/commons-committees/public-accounts/Correspondence/2017-19/Letter-from-Phillip-Rutnam-to-Meg-Hillier-MP-response-to-committee-hearing-on-27-June-180718_.pdf)

Reasons for this include:

- There is no multi-agency involvement in the reasonable grounds stage of the NRM, undermining confidence that there are any checks on bad decision-making at this first stage;
- MAAPs lack of decision-making powers; and
- At times, the evidence reaching the panels is minimal and of poor quality, revealing a lack of standardised process for information gathering.

Some of these practical issues raise questions around wider victim support processes and the interaction of the NRM with the criminal justice system. The briefing concludes that MAAPs do not sufficiently strengthen the current model of decision-making and as a result, confidence in the system is not improved. As shown in this report and evidenced in previous ATMG research,<sup>6</sup> decision-making models, which historically were shown to be discriminatory, continue to be flawed. To ensure victims' rights are not undermined, the Government must urgently review the function of the MAAPs, and consider the findings of this report in relation to the lack of consistency in victim support which can have significant and long reaching implications for longer term survivor recovery. For survivors and stakeholders to have confidence in the decision-making models of the NRM, there must be a shift towards a system based on the best interests of the individual. Decision-making models must be transparent, accountable and at all stages, multi-agency.

Recommendations:

- All NRM decisions should be made by a multi-agency decision-making panel. In the absence of this, all negative decisions at reasonable grounds, as well as conclusive grounds stage, should be reviewed by a multi-agency panel who have the power to overturn the decision.
- Given the positive findings from the 2015 multi-agency decision-making pilot,<sup>7</sup> the government should clarify why the panels now operate in an advisory capacity only and do not have the ability to make NRM decisions.
- In order to achieve much needed transparency on NRM decision-making, the government should commit to publishing:
  - A breakdown of the MAAP panels make up by sector;
  - A breakdown of MAAP recommendations in relation to SCA decision-making. This should be divided by nationality and age range of the victim and type of primary exploitation;

6 *Wrong Kind of Victim*, The Anti-Trafficking Monitoring Group, 2010, available at: [http://www.antislavery.org/wp-content/uploads/2017/01/full\\_report.pdf](http://www.antislavery.org/wp-content/uploads/2017/01/full_report.pdf)

7 Review of the national referral mechanism for victims of human trafficking, 2014, available at: <https://www.gov.uk/government/publications/review-of-the-national-referral-mechanism-for-victims-of-human-trafficking>

- The number of recommendations made by MAAPs taken forward by the SCA; and
- The number of MAAP recommendations rejected and the reasons why.

This information should reflect individual decisions taken by different sector panellists, (e.g. NGO, Police, Local Authority) to understand where decisions and opinions are similar or differ between subject-matter experts.

- All relevant evidence which has been shared with consent to inform an NRM decision should be disclosed to panels, with any redactions reserved only for information that could identify an individual, in line with General Data Protection Regulation (GDPR).
- ATMG urges the Government to consider the ways in which the standard of information sharing can be improved across all statutory agencies as part of the NRM Transformation programme. Statutory agencies should be compelled and funded to provide the SCA with any and all relevant information pertaining to a potential victim's case, as long as the potential victim has consented to this.
- To improve the identification of victims of modern slavery, ATMG recommends that clear guidance on the rights and entitlements of potential victims of trafficking in prisons and immigration detention centres is produced.

## Reforms to the NRM and establishment of Multi-Agency Assurance Panels

Multi-Agency Assurance Panels (MAAPs) were part of a range of reforms to the NRM announced in 2017. This tranche of reforms was announced following the NRM review commissioned by the Home Secretary in 2014.<sup>8</sup> The review provided key recommendations such as establishing new multi-disciplinary panels, headed by an independent Chair, with a view to replacing the decision-making roles of UK Visas & Immigration (UKVI) and the UK Human Trafficking Centre (UKHTC) with a Single Competent Authority (SCA). This was in recognition of ATMG's research<sup>9</sup> in 2013 that demonstrated discriminatory decision-making between EEA and non-EEA nationals.

To implement these reforms, the Government stated it would:

- Create a single, expert case-working unit in the Home Office to handle all NRM cases and provide high quality, timely decisions for all victims regardless of their nationality – this unit would replace the competent authorities in the National Crime Agency, and UK Visas and Immigration and would be separate from the immigration system. The Single Competent Authority (SCA) now assumes this role.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Hidden in Plain Sight: Three years on: updated analysis of UK measures to protect trafficked*, The Anti-Trafficking Monitoring Group, 2013, available at: <https://www.antislavery.org/hidden-plain-sight/>

- Set up an independent panel of experts to review all negative conclusive grounds decisions, adding significantly to the scrutiny such cases already received.<sup>10</sup>

In 2015, the Home Office launched a pilot to test the review's recommendations in consultation with civil society and operational delivery partners in two locations: West Yorkshire police force and The South West (Avon and Somerset, Devon and Cornwall, Dorset, Wiltshire and Gloucestershire) police force.

The pilot established two new roles:

- Slavery Safeguarding Leads (SSL) – A number of individuals from local statutory agencies were identified as Slavery Safeguarding Leads in the pilot areas.
- Regional multi-disciplinary panels ('the panel') – consisted of a number of representatives from statutory agencies (Local Authorities, police, NHS, UK Visas and Immigration) and NGOs. Each panel was chaired by an individual appointed by the Home Office. The panels made decisions on whether an individual was a confirmed victim of modern slavery. The Chairs of the panels were also responsible for reviewing negative decisions made by other panels. Panels were the Competent Authorities for the conclusive grounds decision in pilot areas.

---

<sup>10</sup> Modern slavery victims to receive longer period of support, available at:  
<https://www.gov.uk/government/news/modern-slavery-victims-to-receive-longer-period-of-support>



**SINGLE COMPETENT  
AUTHORITY (SCA)  
ISSUES CONCLUSIVE  
GROUNDS DECISION  
(CG)**

**IF NEGATIVE DECISION**

**IF POSITIVE DECISION**

MULTI-AGENCY  
ASSURANCE PANELS

MOVE ON SUPPORT

REVIEW ORIGINAL  
HOME OFFICE DECISION

MADE UP  
OF: NGOs,  
POLICE, & LOCAL  
AUTHORITIES

**VIA**

RECOVERY NEEDS  
ASSESSMENT

MAAP CHAIR  
Records Decision

DISAGREE WITH  
DECISION

AGREE WITH  
DECISION

CASE GOES  
BACK TO  
SCA

NEGATIVE CG  
DECISION ISSUED  
TO INDIVIDUAL

SCA WILL REVIEW  
FEEDBACK PROVIDED  
BY PANEL. HOWEVER, FINAL  
DECISION ON WHETHER  
FURTHER CONSIDERATION  
IS REQUIRED, LIES  
WITH THE SCA



The independent panels of experts which now review all negative conclusive grounds (second stage) NRM decisions are called Multi-Agency Assurance Panels, or MAAPs. The primary purpose of the MAAPs is to ensure robust and consistent decision-making processes in the NRM. MAAPs were established in 2019 following invitations to professionals from statutory organisations and civil society members within the anti-trafficking sector to apply to become panellists, with their employers being compensated for their time. Chairs were recruited from both within and outside the anti-trafficking sector.

Each MAAP should consist of a Chairperson, Police, Local Authority and an Adult or Child NGO. Panels convene providing there is representation from at least three panellists, though ATMG understands that local authorities are not frequently represented on the panels. ATMG understands that the SCA will supply further relevant information as requested by panels to support their decision-making. Each Chair communicates the decision of the panel to the SCA and requests can be made to view Chair reports by panellists, although this varies from Chair to Chair.

Since May 2019, a number of MAAPs have convened across the UK. Guidance on how the MAAPs function can be found in the Modern Slavery Act 2015 Statutory Guidance for England and Wales.<sup>11</sup> The statutory guidance explains that quarterly meetings will be held between MAAP chairs, SCA and the Modern Slavery Unit NRM policy team (MSU). The purpose of these meetings is to maintain regular feedback; provide all parties with the opportunity to meet, share lessons learned and best practice as well as highlighting issues, trends and themes that may have arisen during the process.<sup>12</sup>

The primary role and function of the MAAPs are described as follows:

- MAAPs are required to review all negative conclusive grounds decisions made by the SCA across England, Wales, Scotland and Northern Ireland for all cases submitted to the SCA;
- All negative conclusive grounds decisions on referrals made to the SCA are considered by three separate individuals or groups (the SCA decision maker, the SCA technical specialist, and the MAAP).
- Questions the MAAPs may ask to reach their conclusions, may include:
  - *were all the required parties contacted to obtain information?*
  - *were the people contacted given sufficient time to respond?*
  - *was the evidence provided used in the decision-making process?*
  - *was the evidence appropriately weighed and considered?*<sup>13</sup>

---

<sup>11</sup> *Ibid.* 4.

<sup>12</sup> *Ibid.* 4 para. 14.133.

<sup>13</sup> *Ibid.* 4, para 14.125.

## Are MAAPs fit for purpose?

The OSCE suggest<sup>14</sup> that NRMs should be a multi-agency coordination system and that every stage is an opportunity to help trafficked persons.

This is an important consideration when assessing the extent to which the MAAPs enable robust decisions that survivors and other stakeholders can have confidence in. Although MAAPs see all negative second stage or conclusive grounds decisions, the information they review is secured by the SCA, whose training as ‘specialists’ is not transparent. It is unclear what training or experience, understanding of trafficking and vulnerabilities or accreditation and continued professional standards apply to SCA decision makers, if any. Roles at the SCA, which involve the making of reasonable and conclusive grounds decisions, are advertised as ‘admin and secretarial’ and are offered on a temporary basis for a salary of “up to £9.08” per hour.<sup>15</sup>

Despite the lack of clarity around levels of support and training provided to SCA staff, these individuals have responsibility for decision-making which will have a significant impact on the lives of vulnerable adults. There is also limited scope to appeal SCA decisions with no formal appeals process.<sup>16</sup> A decision can be legally challenged by use of Judicial Review but this depends on securing legal representation and being ready to engage in a legal challenge. Although support should continue during this time, it is not clear that it does in every case. At the time of writing, the Government are seeking evidence on the process of Judicial Review and there are concerns that this important tool to access justice may be lost.<sup>17</sup>

The overall quality of information gathering, space for disclosure and decision-making within the NRM are key to assessing the ways in which MAAPs add scrutiny to negative second stage conclusive grounds decisions. These are discussed in more detail below.

In spring 2019, ATMG circulated a survey to potential panellists in order to gather information on expectations and to learn more about the development of the MAAPs.<sup>18</sup>

---

14 Office for Democratic Institutions and Human Rights/Organization for Security and Co-operation in Europe, *National Referral Mechanisms. Joining Efforts to protect the Rights of Trafficked Persons. A Practical Handbook*, 2004, pg. 15, available at: [www.osce.org/documents/odihr/2004/05/2903\\_en.pdf](http://www.osce.org/documents/odihr/2004/05/2903_en.pdf)

15 Brook Street, ‘National Referral Mechanism Decision Maker (Home Office)’ available at: <https://www.brookstreet.co.uk/job/national-referral-mechanism-decision-maker-home-office-1/>

16 *Ibid.* 4.

17 ‘Former Tory justice minister to chair independent JR review’, *The Law Society Gazette*, Monidipa Fouzder, 2020, available at: <https://www.lawgazette.co.uk/news/former-tory-justice-minister-to-chair-independent-jr-review/5105251.article>

18 Panellists were never asked to breach any agreements they have with the Home Office.

Of the 32 responses received from a range of experts,<sup>19</sup> there was a strong commitment to improving negative second stage conclusive grounds decisions made by the SCA. Respondents were generally positive: 'I believe this will increase quality assurance, help to change systems, increase stakeholder confidence in the NRM and challenge legal flaws in competent authority decision-making.'<sup>20</sup>

When asked about what information they would expect to receive as a panellist to make a recommendation over the validity of the decision made by the SCA, respondents included the following:

- NRM referral form
- Decision taken and minutes
- Multi-agency reports
- All other available evidence
- Evidence of efforts made to obtain further evidence from all relevant state and non-state actors

A year on from the survey, through additional monitoring of the MAAPs (including feedback from 8 panellists) ATMG has identified the following key issues:

**There is no multi-agency involvement in the reasonable grounds stage of the NRM, undermining confidence that there are any checks on bad decision-making at this first stage;**

According to the OSCE, NRMs should be a multi-agency system. Given decision-making is not multi-agency, it remains unclear as to why negative reasonable grounds decisions are not reviewed by MAAPs. As the aim of the panels is to provide confidence and transparency in the UK's approach to decision-making, this commitment is undermined when the mechanisms' reasonable grounds stage decision remains without scrutiny or review. Receipt of a negative reasonable grounds decision leaves an individual without any further support. Every person referred into the NRM has been referred by a First Responder who found indicators of trafficking leading them to make the referral. Given the low standard of proof for a first stage reasonable grounds decision, 'suspect but cannot prove', any negative decision at this stage should lead to further scrutiny. Last year, a Freedom of Information request revealed that in the previous 12 months from 13 June 2019, 66 reconsideration requests were received by the SCA and accepted regarding negative reasonable grounds decisions. Of these reconsideration requests, 61 resulted in a positive reasonable grounds decision. A negative reasonable grounds decision means that individual is denied any support within the NRM. Given

---

<sup>19</sup> Survey respondents included: 16 NGOs, 6 Police officers, 7 legal advocates and 3 respondents identified as other

<sup>20</sup> Survey Respondent, May 2019.



the low threshold for a reasonable grounds decision; ‘suspect but cannot prove’ and the fact that NRM referrals can only be made by a government designated First Responder, any negative reasonable grounds decision should be flagged as a cause for concern and in effect trigger a reconsideration of the decision. This should result in an investigation to understand if any key information or evidence is missing or why the referral was made given the low threshold was not met. It is not enough to rely on reconsideration requests as a check for poor decision-making as having been denied support following a negative decision, many potential victims will not be in a position to request a reconsideration. We recommend that there is multi-agency decision-making at this early stage with decision makers able to make appropriate referrals to support services, including in the case of any negative decision, to ensure that the issues which led to the referral are addressed and any exploitation does not escalate. In the absence of this, at minimum, there should be multi-agency checks on negative decisions at the reasonable grounds decision stage.

In 2013, ATMG’s research of trafficking in the UK showed dramatic differences in the number of positive conclusive decisions granted by the then two Government authorities tasked with reviewing trafficking cases.<sup>21</sup> Data from 2012 confirmed over 80% of EU/EEA nationals referred to the system received positive identification decisions. In comparison, less than 20% of third country nationals referred received positive identification. At the time, EU/EEA nationals were not subject to immigration enforcement, which we believe was behind the higher rate of positive decisions for this group. The publication of *Hidden in Plain Sight*<sup>22</sup> clearly established how a hostile immigration environment negatively influences the chances of victims who are subject to immigration control being recognised as victims of crime, as well as how decision makers can be affected by other considerations, demonstrating the need for multi-agency scrutiny of decisions.

Over the years evidence has continued to build around victims being disbelieved from “the start”. In March 2019, Hestia’s Super Complaint<sup>23</sup> was published, citing police failings when interviewing victims of modern slavery. Similarly, the Labour Exploitation Advisory Group (LEAG)<sup>24</sup> and Women for Refugee Women have both considered the Home Office ‘culture of disbelief’<sup>25</sup> in their research on UK detention centres. The consequences of wrong decisions can adversely affect a person in both immigration and non-immigration contexts.

---

<sup>21</sup> *Ibid.* 9.

<sup>22</sup> *Ibid.*

<sup>23</sup> *UNDERGROUND LIVES Police response to victims of modern slavery*, Hestia, 2019, available at: <https://www.hestia.org/Handlers/Download.ashx?IDMF=952a9bfc-b57e-42f0-9ff3-6efcafb5db6f>

<sup>24</sup> The Labour Exploitation Advisory Group (LEAG), 2019, available at: *Detaining Victims: Human Trafficking and the UK Immigration System | Focus on Labour Exploitation (FLEX)*

<sup>25</sup> *Fit for purpose yet?* The Independent Asylum Commission’s interim findings 2008, available at: <http://www.citizensforsanctuary.org.uk/pages/reports/InterimFindings.pdf>

The lack of a multidisciplinary approach across both first and second stage negative conclusive grounds decisions means that the degree to which the MAAPs add scrutiny is extremely limited.

The Government and the Independent Anti-Slavery Commissioner both recognise the value in multi-agency decision-making in relation to vulnerable groups. As aforementioned, this value is evidenced by the national multi-agency decision-making pilots carried out in 2015.<sup>26</sup> The existence of well-developed Multi-Agency Risk Assessment Conferences which are implemented at most regional levels show how multi-agency decision-making is valued. Most recently 'A review of what works in multi-agency decision-making and the implications for child victims of trafficking',<sup>27</sup> was published jointly by The Office of the Independent Anti-Slavery Commissioner and ECPAT. This rapid review was intended to inform Home Office thinking on a potential new pilot to test approaches to devolve NRM decision-making for children to local authorities and local safeguarding partnerships. The scope of the rapid review focused on children and did not consider the role of MAAPs, however it clearly demonstrated that stages of decision-making are best placed in the community and should consider a rights-based approach.

ATMG recommends that:

*All NRM decisions should be made by a multi-agency decision making panel. In the absence of this, all negative decisions at reasonable grounds, as well as conclusive grounds stage, should be reviewed by a multi-agency panel who have the power to overturn the decision.*

## **MAAPs lack of decision-making powers**

MAAPs do not hold a decision-making role. The final decision to uphold a negative conclusive grounds decision remains the responsibility of the SCA. MAAPs do not have the ability to overturn a negative conclusive grounds decision made by the SCA.

Although the SCA must give consideration to the MAAPs review of a negative conclusive grounds decision, it is not obliged to reconsider a case further even if the MAAP recommends this. The lack of decision-making powers afforded to the panels is concerning as decision-making by multi-agency panels were found to be both a positive and successful element of the 2015 NRM decision-making pilot. The regional multi-disciplinary panels appointed under the pilot in 2015 were able to make decisions on whether an individual was a victim of modern slavery and/or human trafficking. The Chairs of these panels were also responsible for reviewing negative decisions made by other panels. Notably, the panels were "the Competent Authorities" for all conclusive grounds decisions in pilot areas.

---

<sup>26</sup> *Ibid.* 7.

<sup>27</sup> *A review of what works in multi-agency decision-making and the implications for child victims of trafficking*, Independent Anti-Slavery Commissioner & ECPAT, 2020, available at: <https://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=ab255152-ebb7-42e0-be96-7454006c93ad>

A review of the 2015 NRM decision-making pilot concluded that ‘the decision-making process in the pilot areas was seen to be credible and independent. The Multidisciplinary Panels were valued because they allowed a range of voices to be heard and considered as part of the decision-making process.’<sup>28</sup>

In the review, the primary concern of panellists was about the time taken to fulfil their role, especially as this was done on a voluntary basis alongside their day job. There was an additional concern on the possibility of judicial review proceedings and how panels could work alongside this process. The concern regarded the associated impact of this on non-statutory agencies from victim appeals over negative conclusive grounds decisions.

Given the findings from the 2015 pilot, the Government should clarify why the panels now operate in an advisory capacity only.

In order to achieve the much-needed transparency on NRM decision-making, the government should commit to publishing:

- A breakdown of the MAAP panels make up by sector;
- A breakdown of MAAP recommendations in relation to SCA decision-making. This should be divided by nationality and age range of the victim and type of primary exploitation;
- The number of recommendations made by MAAPs taken forward by the SCA; and
- The number of MAAP recommendations rejected and the reasons why.

This information should reflect individual decisions between different panellists, (e.g. NGO, Police, Local Authority) to understand the different decisions and opinions shared between subject-matter experts.

## Operational guidance

Paragraph 14.149 of the statutory guidance states:

*All evidence and information that was available to the decision maker will also be made available to the MAAP through a secure online platform, with contingency measures in place in the event of difficulties accessing the platform.*

---

<sup>28</sup> An evaluation of the National Referral Mechanism pilot Research Report 94, 2017, pg.31. Available at: <https://www.antislaverycommissioner.co.uk/media/1177/an-evaluation-of-the-national-referral-mechanism-pilot.pdf>



As per the guidance, panellists and the SCA will have access to the same information. This is important and aids in transparency around the process of reviewing decisions. The statutory guidance was updated in January 2021 following a review of earlier guidance that stated some evidence would be redacted by the SCA if it was deemed non-relevant. In early feedback to ATMG, panellists reported that in the majority of cases they reviewed, second stage negative decisions were reached by the SCA because of a lack of information and or adverse credibility. In addition, some redactions were so severe they were unable to make sense of the evidence or information provided. Comparatively, on other occasions, some redactions were poor with non-relevant and potentially personal information visible to panel members. In the course of drafting this briefing we understand the SCA responded positively to resolve issues raised by panellists by updating the statutory guidance, improving the redaction of data and introducing a secure portal to share un-redacted documents.

ATMG recommends that:

*All relevant evidence should be disclosed to panels, with any redactions reserved only for information that could identify an individual, in line with General Data Protection Regulation (GDPR).*

**At times, the evidence reaching the panels is minimal and of poor quality revealing a lack of standardised process for information gathering.**

Paragraph 14.152 of the statutory guidance states:

*The MAAP's role is to consider whether the negative conclusive grounds decision was made in line with current guidance (i.e. were all the required parties contacted to obtain information; were they given sufficient time to respond; was all appropriate evidence obtained; and was the evidence that was provided and used in the decision-making process, appropriately weighed and considered).*

There is little to no public information on how evidence provided to the SCA is either collected, or considered. Feedback from panellists obtained by ATMG suggests that there are issues around the quality of the evidence received by panellists. This raises questions about information exchange processes in the NRM as well as victim support more generally.

In cases of children, the statutory guidance for England and Wales claims 'a cohesive multi-agency approach is essential to protecting child victims of modern slavery from further risk from their exploiters and of further exploitation'; and 'an NRM referral should still be made by the First Responder who identified the child victim.'<sup>29</sup> It is important to note that the guidance stops short of mentioning that the decision to refer should

---

<sup>29</sup> *Ibid.* 4, Para, 5.44

be made in the best interest of the child. The ECPAT 'What Works Review'<sup>30</sup> noted that across the four models it reviewed 'information sharing was a critical component of success, but was often a challenge to embed effectively in practice. It is therefore crucial to ensure that there are sufficient information sharing protocols in place and that multi-agency partners understand what information they can share, [and] why they need to share it.'<sup>31</sup>

In contrast, panellists who responded to ATMG for the purposes of this briefing cite both a lack of quality evidence upon which to review negative decisions, as well as poor information sharing practices between the SCA and key agencies such as police, and local authorities. While the sharing of information and evidence between the SCA and agencies has long been recognised as inconsistent and under-scrutinised, MAAPs demonstrate the reality of this flaw clearly. In the NRM, the standard of proof is on the balance of probabilities that a possible victim has indeed been trafficked. The burden of proof is on the victim to demonstrate that the trafficking took place. If the victim is reliant upon a variety of agencies to help prove their case, e.g. through medical evidence and professional opinion, this can be impossible if evidence and information is not shared by those agencies where the victim has consented to this. Without a mechanism to compel and fund statutory bodies to respond to authorised requests for information and further evidence, victims are unable to prove on the balance of probabilities that trafficking happened and the likelihood of the SCA making a positive decision is greatly diminished.

There appears to be no standardisation or guidance for determining which steps are taken by decision makers to gather information. Some potential victims are interviewed, some are not, some police forces are chased for information, some are not. Panellists reported reviewing negative conclusive decisions that they felt would have benefited from an NRM interview. There should be a standardised process or clear guidance which sets out minimum steps expected to ensure consistency in decision-making, presently it is far too opaque and inconsistent. A lack of clear process undermines the panel's ability to quality assure decisions if the evidence they are receiving is minimal and not of high quality. ATMG understands there may be reasons why the amount and type of evidence gathered by the SCA varies from case to case; however, without a clear professionalised and transparent process for requesting, collecting and sharing information, quality assurance of decision-making will remain undermined by this.

Since 2009 there has been no examination of the types of and variation in evidence submitted on behalf of victims from the wide range of stakeholders who are obliged or expected to engage with the NRM. Little is known about the types of evidence submitted from NGO's and statutory agencies and what action, if any, is taken by the SCA when statutory agencies do not respond to repeated requests for evidence and information and the impact on this decision-making and individuals' lives.

---

<sup>30</sup> *Ibid.* 27.

<sup>31</sup> *Ibid.*, page 10.

The Government's recent announcement on NRM Transformation<sup>32</sup> states that it places end-to-end needs based recovery at the heart of its approach. This implies a more connected NRM, better equipped to service individuals engaged in the system. With NRM transformation there is opportunity to improve the reliability, transparency and approach to decision-making as well as to reduce the need for victims to resort to litigation, which causes anxiety, insecurity and delays for victims.

*ATMG urges the Government to consider the ways in which the standard of information sharing can be improved across all statutory agencies as part of the NRM Transformation programme. Statutory agencies should be compelled and funded to provide the SCA with any and all relevant information pertaining to a potential victim's case as long as this has been authorised by the victim.*

### **Based on evidence available to the panellists, in some cases Article 12 rights and entitlements are being denied revealing gaps in victim support**

In some cases, panellists concluded that the conditions under which evidence was obtained revealed a breach of Article 12 of the Convention, putting the reliability of the negative decision into question. For individuals who are imprisoned or detained while in the NRM, panels are appointed to review the negative decisions they receive. However, for these individuals it is unclear if their Article 12 entitlements are facilitated, either by the first responder or the prison service. Concerns raised with ATMG include a lack of access to independent and qualified interpreters. At times, we understand this role has been fulfilled by other prisoners who might speak the same language as the potential victim. It is easy to imagine that there are details of exploitation which an individual may feel unwilling or unable to disclose during these circumstances and well as inaccuracies with the interpretation itself. From evidence provided to the panels it appears prison officers are conducting interviews with potential victims in relation to their exploitation. It is unclear what if any training on modern slavery is provided to prison officers despite an increasing number of victims being imprisoned. With this uncertainty and the lack of support provisions provided to victims of exploitation in prison, officers of Her Majesty's Prison Service (HMP) should not conduct interviews with prisoners who are in the NRM.

Based on this feedback and concerns raised with ATMG by panellists, Article 12 entitlements are being denied to individuals who are detained. Not only is the quality of the evidence questionable because of the way it is collected but the conditions under which it was obtained fails to meet the standards of the Convention as defined in Article 12. Qualified interpreters must always be used where potential victims require this provision. There is currently no guidance for HMP relating to support provisions for potential victims of trafficking or modern slavery, nor is HMP Service a designated first responder. In 2018, a report published by The Prison Reform Trust and Hibiscus identified the poor provisions for foreign national women UK prisons:

---

<sup>32</sup> Modern Slavery Unit Newsletter, 31st July 2020.



*Inspectorate reports suggest that provision varies widely. There is no requirement to provide a suitably qualified female interpreter where requested. Unless women can make themselves understood and feel able to speak about the circumstances of their alleged offence, which may involve abuse and coercion, criminal justice agencies cannot make informed decisions about arrest, detention, conviction and sentencing.<sup>33</sup>*

In addition, The Labour Exploitation Advisory Group have reported on the lack of provisions for people in prison, meaning there is no mechanism for identification while serving custodial sentences or while awaiting deportation:

*The lack of mechanisms to identify and support victims of human trafficking in prison under immigration powers is highly likely to mean some victims are not identified at all and are therefore denied support, remedies and recovery to which they are entitled under the NRM.<sup>34</sup>*

The collated feedback and on-going observations from 8 panellists regarding the types of evidence and methods used to collect it also demonstrate gaps in victim support provision and suggests some individuals are receiving sub-standard support and advice regarding their rights; this appears particularly prevalent in cases where victims are imprisoned.

ATMG strongly opposes the imprisonment or detention of trafficked persons and more must be done to stop the increasing number of trafficked persons being detained. If detained, all individuals should have access to independent legal advice on their rights as well as time and a safe space to disclose their experiences.

*To improve the identification of victims of modern slavery, ATMG recommends that clear guidance on the rights and entitlements of potential victims of trafficking in prisons is produced.*

---

33 *Still No Way Out: Foreign national women and trafficked women in the criminal justice system*, The Prison Reform Trust and Hibiscus, 2018, page 8, available at: <https://hibiscusinitiatives.org.uk/wp-content/uploads/2018/09/Still-No-Way-Out-summary-report.pdf>

34 *Ibid.* 24, page 33.

## **MAAPs illustrate a possible tension between the NRM and criminal justice system**

MAAPs illustrate a possible tension between the NRM and the criminal justice system. While the Crown Prosecution can 'request to expedite a decision' if there is an outstanding criminal case, in some circumstances this pressures the SCA to gather information quickly. It is not clear what the impact of this approach has on second stage conclusive grounds decisions for individuals who are moving through the criminal justice system, but there is a risk that evidence is either overlooked or not pursued by the SCA in these cases. The impact of issuing an incorrect negative conclusive grounds decision to an individual can be severe when considered in the context of criminal exploitation, or where an individual has an outstanding immigration application. This affects both adults and children alike. It can also affect access to a range of services because a negative decision is seen to reduce an individual's credibility which impacts the likelihood of them satisfying vulnerability criteria/ thresholds or being believed in other applications e.g. an asylum claim.

As well as being unlikely to receive other types of support, there is significant concern that victims of trafficking who have not been correctly identified as trafficked find themselves back in the same circumstances from which they believed they had escaped, having found themselves not to have been believed and in the situation where, ineligible for further support, they re-enter exploitation to avoid destitution.

# Conclusion

---

The Transformation Programme has a stated commitment to revise decision-making practices in the NRM with the creation of an 'end-to-end' NRM that maintains a victim-centred approach at its heart.

However, this briefing asks serious questions about the quality of evidence used in decision-making and the methods under which evidence is obtained and the effect this has on the role of the MAAPs. It also questions the MAAPs lack of decision-making.

It appears the evidence which MAAPs receive is dependent on a range of factors, many of which are beyond the control of the victim concerned, but which will have a significant impact on their trafficking decision. Without proper oversight of all decision-making, access to all relevant information which has been consented to by the victim, and a decision-making function as part of their operation, MAAPs will be unable to support robust decision-making that victims and stakeholders can have confidence in.

This briefing acknowledges Home Office efforts to respond positively to resolve issues highlighted by panellists since the introduction of the MAAPs, including evaluating the policy with IPSOS Mori. We hope the recommendations in this briefing will assist in further improvements to the process.



# The Anti Trafficking Monitoring Group

Visit our website: **[www.antislavery.org/atmg](http://www.antislavery.org/atmg)**

The ATMG's advocacy and research since 2009 would not have been possible without the funding it has received. The ATMG would like to thank The Esmée Fairbairn Foundation and Henry Scutt for funding the coalition. This briefing is not intended to reflect the opinions of the funders.

