

Written Evidence submitted by the Anti-Trafficking Monitoring Group

Introduction

1. The Anti-Trafficking Monitoring Group (ATMG) is a coalition established in 2009 to monitor the UK's implementation of European anti-trafficking legislation, including the Council of Europe Convention on Action against Trafficking in Human Beings.
2. ATMG operates according to a human rights-based approach to protect the well-being and best interests of victims of human trafficking. It comprises of seventeen leading UK-based anti-trafficking organisations: Anti-Slavery International, Ashiana Sheffield, Bawso, ECPAT UK, Focus on Labour Exploitation (FLEX), Helen Bamber Foundation, Kalayaan, Law Centre (NI), the Snowdrop Project, the TARA service, Just Right Scotland, UNICEF UK, the Children's Law Centre (CLC), Flourish Northern Ireland, the East European Resource Centre, the Scottish Refugee Council and Hope for Justice.
3. Following the recent changes to the Modern Slavery legislation introduced by the Nationality and Borders Act 2022, the changes set out in the 'Illegal Migration' Bill, and the consequent concerns this has raised regarding the identification, support and protection of survivors, this submission addresses all the terms of reference included [in the call for evidence](#).
4. The ATMG is deeply concerned by the following developments affecting human trafficking and modern slavery in the United Kingdom:
 - An increasingly hostile rhetoric used by the Government against victims and survivors of trafficking and modern slavery, which is hindering their capacity to come forward and to be identified and protected.
 - An under resourced non-statutory First Responders' sector, which is constrained by lack of capacity and poor regional spread preventing identification and access to support for survivors.
 - Significant changes to the Modern Slavery Statutory guidance, and the commencement of The Nationality and Borders Act 2022, especially the increase in the Reasonable Ground Decision threshold, will prevent/delay survivors' from accessing the NRM and therefore receive support and protection.
 - Consistent failures in applying the non-punishment provision, which leads to criminalisation of survivors and disqualification from protection.
 - The 'Illegal Migration' Bill once enacted will prevent the majority of victims of modern slavery and human trafficking from the UK's identification process (NRM) and for consequent access to entitlements including protection and support, if they entered the country irregularly. It will also disqualify victims

who entered the UK irregularly from claiming asylum, including unaccompanied children.

- Ongoing child protection failures largely affecting unaccompanied children, who are being placed in unsuitable Home Office hotel accommodations outside of the care of the child protection framework putting them at high risk of trafficking/re-trafficking. These concerns are further exacerbated by the introduction in the 'Illegal Migration' Bill of broad powers for the Home Office to detain and accommodate unaccompanied children.

What is the scale and nature of human trafficking in the UK?

Overview

5. Human trafficking is a very complex phenomenon that can take many forms and can affect anyone in society, hence the difficulty in reaching an accurate estimation of its scale. Over the past few years, the number of referrals to the NRM has steadily increased, reaching 16,938 referrals in the year 2022, a 33% increase from those identified in 2021.¹ However, the Global Slavery Index in 2018 estimated that there were approximately 136,000 people affected by modern slavery on any given day in the UK in 2016.²

Forms of slavery and Human trafficking

6. The latest Home Office statistics reported that the most common form of exploitation in the UK for adults was labour exploitation. Children were mainly identified as potential victims of criminal exploitation, due in part to an increase in awareness of professionals on the identification of children for 'county lines' cases.³
7. It is important to recognise that many people are not trafficked for only one form of exploitation and these may change over time. Mixed exploitation is common, with exploiters acting opportunistically to gain profit and maintain control. For example, someone trafficked for exploitation in the construction industry may also be exploited for financial fraud, and someone exploited in a car wash may also be coerced and controlled through sexual exploitation. Not all forms of exploitation will necessarily ever be disclosed or identified.

¹ Home Office (2023) National Referral Mechanism Statistics: End of Year Summary 2022. Available 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>

² Global slavery Index (2018). Available at: <https://www.globalslaveryindex.org/2018/findings/country-studies/united-kingdom/>

³ Home Office (2023) National Referral Mechanism Statistics: End of Year Summary 2022. Available at: <https://www.gov.uk/government/statistics/national-referral-mechanism-and-duty-to-notify-statistics-uk-july-to-september-2022/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-quarter-3-2022-july-to-september>

8. The Department for Education 'Characteristics of children in need: 2021 to 2022' report identified 10,140 factors of child criminal exploitation, 16,330 factors of child sexual exploitation but only 2,470 factors of trafficking at the end of the assessment in England and Wales.⁴
9. It is believed that the number of criminally exploited children in the UK is much higher than official figures and a Barnardo's report⁵ has identified some of the specific issues in relation to the identification of criminally exploited children. This report found that there is no comprehensive, national data set establishing the number of children who are victims of criminal exploitation. This is the result of the use of different definitions and understanding around criminal exploitation amongst different organisations.
10. The lack of a statutory definition of child criminal exploitation and the consequent different interpretation of this crime leads to many children continuing to be prosecuted for crimes committed as a result of exploitation, for example, drug related offences. Often children in these situations are not considered victims of exploitation and are not referred to the NRM.

Nationalities

11. Although human trafficking can affect anyone, there are some nationalities that consistently rank highest in regard to numbers of cases seen, these include Albanians, British and Vietnamese. The number of Eritreans affected has also consistently increased in the past year. Amongst children, British nationals saw the highest number of referrals (3,337) yet this remains low comparative to the size of the population, whilst Albanian nationals recorded the highest number of overall referrals so far in 2022.⁶ To understand why these nationalities consistently rank amongst the most referred, it is crucial to look at their vulnerability factors.
12. A 2019 report by Asylos and Asylum Research Centre⁷ analysing the situation of trafficked men and boys from Albania, found that the risk factors included poverty, low education, suffering from physical or mental disabilities, domestic violence and/or sexual abuse within the family or a pre-existing blood feud, being LGBT and for children, being Roma or Egyptian or homeless.⁸

⁴ National Statistics (2022) Characteristics of children in need. Available at: <https://explore-education-statistics.service.gov.uk/find-statistics/characteristics-of-children-in-need#dataBlock-1da023da-5d1b-44af-c150-08daa787e284-tables>

⁵ Barnardo's (2021) Exploited and Criminalised. Available at: <https://www.barnardos.org.uk/sites/default/files/2021-10/Exploited%20and%20Criminalised%20report.pdf>

⁶ Home Office (2023) National Referral Mechanism Statistics: End of Year Summary 2022. Available 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>

⁷ Asylos (2019) Albania Trafficked boys and young men. Available at: <https://www.asylos.eu/Handlers/Download.ashx?IDMF=b49e66a6-a777-47da-90f7-b2fcc14946fa>

⁸ David Neale (2023) Albanian trafficked boys and young men: an addendum review of the February 2023

13. A [report from the University of Bedford](#)⁹ examining trafficking in Albania, Vietnam, UK and Nigeria, states that in Albania poverty in rural areas is also a relevant factor, placing extreme economic pressure on families that may result in individuals recruiting family members for trafficking purposes. This applies especially to women due to the unequal nature of gender roles and their lack of access to education and employment, which places them at high risk of violence and exploitation.¹⁰
14. Despite the above findings, consistent inflammatory language and unfounded information have been used and spread against Albanian nationals. At the Conservative Party conference in October 2022, Suella Braverman MP stated: "*The truth is that many of them are not modern slaves and their claims of being trafficked are lies.*"¹¹
15. The system of identification does not allow potential victims to 'make claims', they are referred into the National Referral Mechanism 'NRM' by designated first responder organisations. Children do not need to consent to their referral. The Home Office's own statistics show that during the determination of their referral 87% of adults and 92% of children were conclusively found to be victims. There is no evidence to substantiate the statements made by the Home Secretary.
16. There is a negative narrative pursued by government officials that appears to claim Albanians, particularly boys and young men, cannot be the victims of modern slavery, despite the evidence clearly showing most are conclusively found to be so.
17. The Government's own Country Report on Albania details the presence of well established trafficking routes.¹² This is the result of highly organised crime groups operating in Albania and internationally.
18. The report from the University of Bedfordshire¹³ also found that in Vietnam, gender and age have been identified as significant factors for vulnerability. Men and boys have been found to be working in the commercial fishing industry, but also in agriculture and factory work. Women are also trafficked for forced labour, predominantly for domestic servitude. Economic factors and poverty, especially in rural areas continue to be a significant issue also in Vietnam. The vulnerabilities are accentuated by insecure immigration status, work conditions and lack of documentation.¹⁴

CPIN. Available at: [Albania-trafficking-CPIN-addendum.pdf \(miclu.org\)](#)

⁹ University of Bedfordshire (2019) 'Vulnerability' to Human Trafficking: A study of Viet Nam, Albania, Nigeria and the UK. Available at: [literature-review-final.pdf \(beds.ac.uk\)](#)

¹⁰ Ibid - pp 23-25

¹¹ BBC (5 October 2022) Home Secretary Suella Braverman to change law to stop channel migrants. Available at: [Home Secretary Suella Braverman to change law to stop channel migrants - BBC News](#)

¹² Home Office (2023) Country Policy and Information Note, Albania: Human Trafficking. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1135644/ALB_CPIN_Human_trafficking.pdf

¹³ University of Bedfordshire (2019) 'Vulnerability' to Human Trafficking: A study of Viet Nam, Albania, Nigeria and the UK. Available at: <https://www.beds.ac.uk/media/266806/literature-review-final.pdf>

¹⁴ Ibid

19. A report from ECPAT UK, Anti-Slavery International and Pacific links foundation found there are strong socio-economic 'push and pull' factors that influence the decision of Vietnamese adults and children to leave Vietnam, heightening their vulnerability to being trafficked. Among those, the report cites family pressure; lack of education; lack of support for children in need; lack of protective policies and practice; the spread of misinformation by deceitful labour brokers about opportunities abroad as well as many other factors.¹⁵

Gender

20. Statistics worldwide show that some forms of exploitation disproportionately affect a specific gender such as in the case of women, who see a higher number of referrals for sexual exploitation (92%)¹⁶. Whilst it is estimated that labour exploitation affects six times as many men than women. This can largely be explained by cultural and socio-economic factors, where men are usually seen as the providers for the family and are therefore more easily exploited for forced labour.¹⁷ However it must also be recognised that some forms of exploitation, particularly sexual exploitation, may be less likely to be reported, due to a number of factors, including stigma and feelings of shame.
21. The report from the University of Bedfordshire also found that literature emphasises the link between gender and risk for human trafficking and slavery. However, it appears that the literature tends to focus mainly on the experience of women and girls and acknowledges the under-representation of boys and men when discussing human trafficking. This can be attributed to the greater weight on human trafficking for sexual exploitation.
22. Although sexual exploitation is a very compelling issue, it is paramount to avoid a hierarchisation of forms of exploitation because it might hinder the identification process and minimise the complexity of this phenomenon. As mentioned before, the borders between forms of exploitation are deeply blurred.
23. The discourse around human trafficking has created a gendered and racialised narrative, which has resulted in the stereotyping of women and men.¹⁸ It is important to recognise the systematic discrimination faced by women and girls which acts as a significant driver of exploitation whilst simultaneously rejecting the characterisation of men as invulnerable, undeserving of protection.¹⁹

¹⁵ Anti-slavery International, ECPAT UK, Pacific Links Foundation (2019) Precarious Journeys. Mapping Vulnerabilities of victims of trafficking from Vietnam to Europe. Available at: [Download.ashx \(ecpat.org.uk\)](https://www.ecpat.org.uk/download/ashx)

¹⁶ UN Women (2022) Trafficking in Women and girls: Crises as a risk multiplier: Report of the Secretary General (2022). Available at: <https://www.unwomen.org/en/digital-library/publications/2022/08/trafficking-in-women-and-girls-report-of-the-secretary-general-2022>

¹⁷ Shankley, W (2021) 'Gender, Modern Slavery, and Labour Exploitation: Experiences of Male Polish Migrants in England', *Journal of Ethnic and Migration Studies*. Available at: <https://doi.org/10.1080/1369183X.2021.2000853>

¹⁸ Harriet Gray and Anja K Franck (2019) 'Refugees as/at Risk: The Gendered and Racialized Underpinnings of Securitization in British Media Narratives'. Available at: [Refugees as/at risk: The gendered and racialized underpinnings of securitization in British media narratives - Harriet Gray, Anja K Franck, 2019 \(sagepub.com\)](https://www.sagepub.com/journalsPermissions.nav)

24. A blog from the Children’s Society analyses gender assumptions and how these lead professionals to miss crucial indicators of trafficking.²⁰ These assumptions can be dangerous as they prevent professionals from properly identifying the type(s) of exploitation and therefore from properly safeguarding victims of modern slavery and human trafficking.

How effective is the UK’s approach to discouraging the demand that leads to trafficking?

25. The ATMG is deeply concerned about the absence of a new Government strategy to prevent and tackle human trafficking and modern slavery. This hinders the creation of a consistent and integrated prevention effort, and therefore fosters an environment for exploitation.
26. An ATMG report²¹ published in 2018 analyses the UK response to the prevention of trafficking with the below overall findings:
- The UK continues to lack an overall strategy to prevent trafficking in adults and children.
 - This leads to an inconsistent and fragmented approach to the prevention of trafficking.
 - The UK’s lack of a strategic response means that prevention is often seen through the prism and policies of immigration and crime, hindering effective preventative action.
 - The result of this approach and the wider policies of austerity, a hostile immigration environment and the threats posed by Brexit, is that the vulnerability of adults and children to exploitation is not reduced and the UK risks contravening its positive obligation to prevent trafficking.
27. A recommendation from this report was for the UK Government, in collaboration with devolved administrations, relevant government departments and civil society, to develop a UK-wide, evidence-based, time-bound, prevention strategy, as well as a child-specific strategy.
28. Despite the Home Office commitment to develop and publish a new strategy by Spring 2022²², they are yet to do so, leaving the response to trafficking and modern slavery fragmented, weak and ineffective.

¹⁹ Noemi Maguagliani (2023) Trafficked Adult Males as (Un)Gendered Protection Seekers: Between Presumption of Invulnerability and Exclusion from Membership of a Particular Social Group, *International Journal of Refugee Law*, Oxford Academic. Available at: [Trafficked Adult Males as \(Un\)Gendered Protection Seekers: Between Presumption of Invulnerability and Exclusion from Membership of a Particular Social Group | International Journal of Refugee Law | Oxford Academic](https://www.oxfordjournals.org/doi/full/10.1093/ijrl/nyad012)

²⁰ The Children’s Society (2022) Gender and exploitation: dangerous assumptions. Available at : <https://www.childrenssociety.org.uk/what-we-do/blogs/gender-exploitation>

²¹ Anti Trafficking Monitoring Group (ATMG) Before The Harm is done. Examining the UK’s response to the prevention of trafficking. Available at: <https://www.antislavery.org/wp-content/uploads/2018/09/Before-the-Harm-is-Done-report.pdf>

29. The Home Office has also taken over the stakeholder engagement structure under the Modern Slavery Strategy and Implementation Group (MSSIG). These groups were put on hold during the development of the new Slavery Strategy, meaning an absence of consultation during this time with the anti-trafficking and modern slavery stakeholders. This is evidenced by the Home Office failure to consult stakeholders prior to or during the passage of the Nationality and Borders Bill (before it became Act) and this is happening again with the passage of the 'Illegal Migration' Bill.
30. The failure to consult the modern slavery sector at very crucial times, it's even more concerning since the Government has failed to appoint a new Independent Anti-Slavery Commissioner since April 2022.
31. We have also identified another prevention failure in the Government's policies on immigration, which increases the risk of exploitation. An example of this, is the risk posed by the use and expansion of short term restrictive work visas. Currently the UK has two short term work visas, the Overseas Domestic Worker visa and the agricultural seasonal worker visa. One of our members, Focus on Labour Exploitation (FLEX) found that restrictive short term visas and a lack of proactive labour market enforcement or secure reporting options, combined with other structural factors which reduce workers' options, significantly increase the risk of exploitation. *The vulnerabilities created by labour abuses and other structural factors often intersect with other vulnerabilities, including those stemming from gender inequality, poverty and migrant status, reducing workers' resilience to exploitation.*²³
32. Other issues that are fostering the demand that leads to trafficking/re-trafficking:
 - Concerns around the functioning of NRM First Responders.
 - Changes to the NRM process.
 - Disqualification from protection.
 - Failure in the application of non-punishment principle (Art 26 ECAT).²⁴
 - Increase in the number of victims of trafficking who are being detained.
 - Lack of access to work while in the NRM.
 - Low numbers of leave to remain granted to survivors.

NRM First Responders

33. A recent article from the Guardian reported concerns from some modern slavery organisations in the UK, who exposed the lack of resources to appropriately support

²² International Development Committee (2022) The UK's approach to tackling modern slavery through the aid programme: report from the Sub-Committee on the work of ICAI: Government response to the Committee Third Report. Available at:

<https://committees.parliament.uk/publications/8768/documents/88765/default/#:~:text=The%20Home%20Secretary%20announced%20a,nature%20of%20these%20terrible%20crimes.>

²³ FLEX (2019) The risk of Exploitation in Temporary Migration Programmes. A FLEX response to the 2018 Immigration White Paper. Available at: <https://labourexploitation.org/publications/risks-exploitation-temporary-migration-programmes-flex-response-2018-immigration-white>

²⁴ Article 26 ECAT. *Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.*

survivors. Salvation Army, which is the main contractor for the Home Office providing support to survivors, confirmed that they have had to stop accepting new referrals, for some time, as they were unable to keep up with demand.²⁵

34. One of the ATMG members, Kalayaan, which is also a designated first responder has issued a Public announcement in January 2023 warning that *“the system has become overwhelmed and appears to be at breaking point. This is exposing victims and survivors at real risk of further harm and abuse, including treatment that amounts to slavery.”*²⁶
35. Following the release of the public announcement, Kalayaan has published a report in response to the pressing need to review the numbers of, and available resources to, designated First Responder Organisations in the UK, recognising that this situation has been deteriorating for a number of years, but it is now near breaking point.²⁷ Kalayaan has presented the report at the annual conference organised by the Human Trafficking Foundation, which was also attended by senior Home Office staff, who have also been provided with a copy of the report.
36. The current situation affecting the functioning of non-statutory first responders is very concerning because charities play a crucial role in the identification and support of victims. Survivors often consider charities to be the only organisations they can turn to for help due to fear of authority figures and/or being criminalised for actions conducted as part of their trafficking experience.
37. The lack of capacity of First Responders combined with their poor geographical coverage means that many people won't be referred to the NRM and identified as victims. Survivors, who have already been trafficked once, either across borders or internally within the UK, will be at higher risk of being re-trafficked without the NRM as a safety net.
38. We have seen a consistent increase in Duty to Notify statistics. Over the quarter July to September 2022, the Home Office received 1,160 reports of adult potential victims via the Duty to Notify, the highest since the process began. This tells us increasing numbers of potential victims are not consenting to be referred into the NRM.

Changes to the NRM process

39. The commencement of Part 5 of the Nationality and Borders Act 2022 has brought several changes to the functioning of the NRM process. We are particularly concerned about the following:

²⁵ The Guardian (13 February 2023) Modern Slavery survivors could be re-trafficked in UK, charities warn. Available at: <https://www.theguardian.com/law/2023/feb/13/modern-slavery-survivors-could-be-retrafficked-in-uk-charities-warn>

²⁶ Kalayaan (30 January 2023) Public announcement. BREAKING POINT: Why the UK Government needs to act NOW to protect slavery survivors. Available at: [Public-Announcement-30-01-2023.pdf \(kalayaan.org.uk\)](https://www.kalayaan.org.uk/public-announcement-30-01-2023.pdf)

²⁷ Kalyaan (2023) The National Referral Mechanism: Near Breaking Point. Available at: <http://www.kalayaan.org.uk/campaign-posts/report-launch-the-national-referral-mechanism-near-breaking-point/>

- The increase of the Reasonable ground decision threshold.
 - The reduction of the recovery period from 45 days to 30.
 - Changes to the timeframe for evidence gathering at Conclusive ground decision stage.
 - Removal of Multi Agency Assurance Panels (MAAPs).
40. The Reasonable Grounds Decision threshold is no longer ‘suspects but cannot prove’ and is now based on objective factors’. This means that a victim’s own testimony alone is no longer sufficient and there needs to be additional information or evidence, such as medical, witness or expert statements or police reports submitted. This puts an additional burden on an already collapsing First Responder system, with capacity for referrals extremely low.
41. Furthermore, many adult victims usually start to access specialist services, such as medical and mental health support during their reflection period, which means that they will struggle to access them before entering the NRM. Therefore, they will be unable to gather the necessary evidence to be referred into the NRM or to receive a positive reasonable ground decision.
42. With the commencement of Part 5, the recovery and reflection period was reduced from 45 days to 30, which further hinders victims and survivors ability to access essential services. This is because many specialist services have a very long waiting list and sometimes it takes many weeks before survivors can start accessing them. A similar situation can affect those children that are being placed in hotels and have to wait for a transfer under the National Transfer Scheme, which delays their access to recovery services, such as therapeutic support.
43. We are deeply concerned that this will prevent many possible victims from accessing support and protection and pushing them back into the hands of traffickers. This is a very harmful step back from the promising improvements made since the introduction of the Modern Slavery Act 2015.
44. Furthermore, when making a conclusive ground decision, the competent authority can now ask a victim or their legal representative for information to be provided within (a minimum) of 14 days. This will put an enormous pressure on a legal system already burdened by capacity issues and will leave lawyers with a very small window to prepare sufficient evidence to support a conclusive ground decision.
45. At the same time, Multi Agency Assurance Panels (MAAPs)²⁸ were removed from the process in December 2022, leaving no independent oversight of negative NRM decisions. The Home Office stated that they removed MAAPs from the system to reduce decision making delays in the NRM.
46. Caroline Lucas MP submitted a question to the Home Office requesting how the assurance functioning of MAAPs is being carried out, what is the timeline for the

²⁸ ATMG (2021) A review of the National Referral Mechanism Multi-Agency Assurance Panels. Available at: https://www.antislavery.org/wp-content/uploads/2021/02/MAAPs_report_final.pdf

introduction of the remodelled assurance process and if the MAAPs can be reinstated pending the introduction of the new process.²⁹

47. Robert Jenrick, Minister of State replied that:

All negative reasonable grounds and conclusive grounds decisions continue to require a second pair of eyes review by another caseworker or manager and the Competent Authorities continue to undertake internal assurance of both positive and negative Reasonable Grounds and Conclusive Grounds decisions. The Home Office continues to give consideration towards an alternative process that can provide appropriate assurance and drive further improvements to NRM decision making in such a way that does not add time to service of outcomes.³⁰

48. This means that, at the time of writing, the Home Office doesn't have an independent mechanism that has an oversight of the NRM decision making process. More victims will be excluded from protection and support following a negative decision, especially considering the increase in evidential threshold.

Disqualification from protection

49. The Nationality and Borders Act 2022 under clause 63 introduces the principle of disqualification from protection where a person:

- Is 'A threat to public order'
- Claimed to be a victim 'in bad faith'³¹

50. A person can be assessed as being a threat to public order for different reasons, including if they are considered to be a 'Foreign criminal' which is particularly concerning given the redefinition of who can be considered one. Within the meaning of s32(1) UK Borders Act 2007, a foreign criminal is a person that has committed a serious crime and has been imprisoned for at least 12 months.

51. Clause 38 (NABA 2022) made changes to clause 72 of the Nationality, Immigration and Asylum Act 2002 redefining serious crime as a person that has been convicted to a period of imprisonment of at least 12 months. Foreign nationals that fall under this category are liable to automatic deportation.

52. Clause 63 does not make any reference to the use of s45 defence for children where their sentence might be considered a serious crime. Without clarity on this matter, there is a risk of infringing Article 26 of ECAT, which regulates the non-punishment principle and raises concerns around the protection of children, who were forced to commit crimes as part of their exploitation.

²⁹ Caroline Lucas MP (6 March 2023) Question to Home Office. Available at: <https://www.parallelparliament.co.uk/question/158881/slavery>

³⁰ Robert Jenrick, The Minister for Immigration (14 March 2023) Response to Caroline Lucas. Available at: <https://www.parallelparliament.co.uk/question/158881/slavery>

³¹ Section 63 Nationality and Border Act 2022. Available at: <https://www.legislation.gov.uk/ukpga/2022/36/section/63/enacted>

53. Dame Sara Thornton, former Independent Anti-Slavery Commissioner recently raised concerns in the way these changes will affect possible victims: *“Measures in the Nationalities and Borders Act 2022 may make the fight against modern slavery more difficult. I was particularly concerned about provisions to restrict protections for those with criminal convictions. That would make it very much harder to prosecute offenders.”*³²

Non-punishment principle

54. The commencement of Clause 63 of the Nationality and Border Act 2022 introduced a public order disqualification, which means that people that are considered serious criminals (someone that has been sentenced to 12 months or more) can be excluded from the NRM and the vital support it offers. This also means that a person can automatically be deported with no right of appeal. Given the failures in the application of the non-punishment principle in the UK, people will be, and likely already are, being denied access to support precisely because of their exploitation.
55. In relation to the changes introduced by clause 63 NABA, The Joint Committee on Human Rights, HC 964 stated: *“excluding certain victims from protection increases the likelihood that their case will not be adequately investigated or prosecuted and therefore, that action will not be taken against organised gangs exploiting these victims of slavery or human trafficking.”*³³
56. This change in legislation therefore contravenes the UK obligations under the non-punishment principle (Art 26) set by ECAT and the wider obligations to identify victims and ensure protection and support. It also fails to effectively investigate and prosecute traffickers.
57. The ATMG is very concerned that the public order disqualification is going to increase the risk of re-trafficking for many victims who are left out of vital support due to previous convictions.
58. In 2019, Hestia, a frontline charity that supports victims of human trafficking and modern slavery, submitted a Super Complaint³⁴, which was the first police super-complaint on modern slavery. This raises various concerns about the police response to modern slavery and highlights that police failings in dealing with victims are hindering the prosecution of traffickers and exploiters.
59. Following this super-complaint, the HMICFRS, the College of Policing and the Independent Office for Police Conduct (IOPC) published their assessment and

³² UK Parliament (2 February 2023) Committee Corridor: Modern Slavery in the UK. Available at: <https://committees.parliament.uk/committee/93/human-rights-joint-committee/news/185856/committee-corridor-modern-slavery-in-the-uk/>

³³ Joint Committee on Human Rights (2021) Legislative Scrutiny: Nationality and Border Bill (Part 5) - Modern Slavery. Available at: <https://committees.parliament.uk/publications/8328/documents/84688/default/>

³⁴Hestia (2019) Underground lives. Police response to victims of modern slavery. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/797395/SuperComplaintReport.pdf

findings.³⁵ Some of the issues raised in this response was that often victims of modern slavery are not made to feel safe and they are not referred for support. Some people are afraid they will be treated as immigration offenders or prosecuted for offences they have been forced to commit.

60. The response also highlights a very important issue in regard to the prosecution of traffickers: *"We are also concerned that there is still not enough support for victims during modern slavery investigations and that, as a consequence, victims may be unwilling to engage with the police service and support such investigations. This is a significant factor which helps explain why few cases of modern slavery are prosecuted, and offenders remain free to continue to exploit vulnerable people."*³⁶
61. The above is also the result of a recent change whereby 'Modern Slavery' moved out of the remit of the Minister for Safeguarding and placed under the 'illegal migration and asylum' section of the responsibilities of the Minister of State (Minister for Immigration). This might hinder victim identification and protection efforts, particularly among undocumented migrants.
62. One of the ways in which the non-punishment principle is given effect in the UK is through section 45 of the Modern Slavery Act 2015, which affords a victim of trafficking facing prosecution a defence to certain offences where such offences were committed as a result of trafficking. The use of s45 defence is very inconsistent for both adults and children. Furthermore, GRETA³⁷, in their last evaluation report of the UK³⁸ found that Schedule 4 of the Modern Slavery Act contains a list of more than 100 offences of various degrees of seriousness where the statutory defence cannot be used.³⁹ This is again a narrower interpretation of the non-punishment principle regulated by Art 26 of ECAT and can result in a higher criminalisation of possible victims.
63. The commencement of Part 5 of the Nationality and Borders Act changed the definition of human trafficking by including the element of movement. This over emphasises the use of the term travel, failing to effectively address the means and consent for children. It also limits the definition of exploitation, which might result in the criminalisation of victims and prevent their identification.
64. The Taskforce on Victims of Trafficking in Immigration Detention⁴⁰ will submit separate evidence focusing on the situation of victims of trafficking and modern slavery in detention.

³⁵ College of Policing, HMICFRS, IOPC (2021) The hidden victims: Report on Hestia's Super-complaint on the police response to victims of modern slavery. Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/989185/hidden-victims-report-hestias-super-complaint-police-response-victims-modern-slavery.pdf

³⁶ Ibid

³⁷ Group of Experts on Action against Trafficking in Human Beings

³⁸ GRETA (2021) Third Evaluation report on the United Kingdom. Available at: <https://rm.coe.int/greta-third-evaluation-report-on-the-united-kingdom/1680a43b36>

³⁹ Ibid - p46

⁴⁰ <https://www.labourexploitation.org/about-us/taskforce-victims-trafficking-immigration-detention>

Access to work

65. Victims of modern slavery and human trafficking that enter the NRM and are awaiting to regularise their immigration status are not allowed to work. Once a survivor receives a Positive Reasonable Ground decision, they will access support through MSVVC⁴¹ contracted organisations, making them dependent on state support.
66. The Home Office Statistics reported that as of 26 January 2023, 76% of referrals sent to the Competent Authorities in 2022 are awaiting a conclusive ground decision. The average time it is taking from referral to conclusive ground decision is 543 days.⁴²
67. The long delays in decision making together with the inability to work leave survivors in limbo, heavily impacting on their mental health.⁴³ This situation negatively affects victims' trust in the same system that should protect and support them, incentivising their return into exploitative situations.
68. To address slavery, the UK needs to ensure that its systems provide meaningful options which assist survivors in their recovery. This includes providing options to build independence and sustainable freedom through work, as well as through education, counselling and access to legal justice.⁴⁴

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

69. When the Modern Slavery Act 2015 was brought into force, the then Home Secretary claimed that this legislation was 'world-leading'⁴⁵ and 'the first legislation of its kind in Europe'.⁴⁶ However, the Act focused on criminal's prosecutions rather

⁴¹ The Modern Slavery Victim Care and Coordination Contract.

⁴² Home Office (2023) National Referral Mechanism Statistics: End of Year Summary 2022. Available 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>

⁴³ Kalayaan (2019) Dignity, not destitution. The Impact of differential rights of work for migrant domestic workers referred to the National Referral Mechanism. Available at: http://www.kalayaan.org.uk/wp-content/uploads/2019/10/Kalayaan_report_October2019.pdf

⁴⁴ Coalition briefing (2021) Access to work for survivors of slavery to enable independence and sustainable freedom. Available at: https://www.antislavery.org/wp-content/uploads/2021/03/Coalition_AccessToWork_report_v3.pdf

⁴⁵ Home Office (2015) Modern Slavery and Supply Chains Government Response. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/448200/Consultation_Government_Response_final_2_pdf.pdf

⁴⁶ Theresa May (2016) Defeating Modern Slavery. Available at:

than victims' support. This is also evidenced by the lack of access to work for victims while in the NRM and the low number of leave to remain status granted to confirmed victims. Home Office data shows that among those who requested leave to remain between April 2016 and June 2021 only 447 survivors (7%) were granted it.⁴⁷

70. Furthermore, when the Modern Slavery Act 2015 was introduced, it framed modern slavery and trafficking within an immigration lens. Immigration enforcement has always undermined victim's identification, support and recovery. This was compounded by the hostile environment, especially against some survivor's groups, such as Overseas Domestic Workers visa holders.⁴⁸
71. This situation has been exacerbated by the commencement of the Nationality and Borders Act 2022, which has taken many steps backwards in the prevention and protection of victims as well as in the persecution of perpetrators.
72. The ATMG found that the needs of victims and survivors of human trafficking and modern slavery often go unmet in terms of financial, caseworker and recovery support. Furthermore, we discovered a lack of safeguarding measures, re-trafficking prevention and access to quality legal aid advice. Inconsistencies, in respect of the long term care and support for survivors, negatively impact on victim's recovery and reintegration.
73. We are deeply concerned that the current UK approach to human trafficking and modern slavery is in fact pushing people into the hands of their traffickers and failing to protect and support those most vulnerable in our society.

Recovery Needs Assessment

74. In 2022, the ATMG produced the One day at a time report⁴⁹, which is the first independent review of the Recovery Needs Assessment (RNA), the mechanism through which, since 2019, survivors of modern slavery and human trafficking in England and Wales have their support needs assessed and provided for.

<https://www.gov.uk/government/speeches/defeating-modern-slavery-theresa-may-article>

⁴⁷ The Guardian (4 January 2022) Revealed: just 7% of trafficking victims given leave to remain in the UK.

Available at: <https://www.theguardian.com/uk-news/2022/jan/04/trafficking-victims-leave-to-remain-uk-data>

⁴⁸ Kalayaan (2016) Overseas Domestic Workers left in the dark by the Immigration Act 2016. Available at:

<http://www.kalayaan.org.uk/news/overseas-domestic-workers-left-in-the-dark-by-the-immigration-act-2016-2/>

⁴⁹ Anti Trafficking Monitoring Group (ATMG) One day at a time. A report on the Recovery Needs Assessment by those experiencing it on a daily basis. Available at: https://www.antislavery.org/wp-content/uploads/2022/04/RNA_One_Day_At_A_Time.pdf

75. This report found that the RNA doesn't meet the needs of survivors, including children, and often leaves them destitute. This is primarily because the system is extremely complex, inefficient and unclear plus support providers receive inadequate guidance and inconsistent training.
76. The ATMG made the following recommendations to improve survivors' support:
- Improve procedures. Survivors should not be required to repeatedly provide the same documentation, and at least three months should be allowed after they have been confirmed as a victim of trafficking (known as a conclusive grounds decision) before the first RNA is submitted.
 - Extend support. There should be standardised timeframes with a minimum of 12 months support that is tapered down in line with a person's recovery.
 - Provide better and consistent training. All support workers and decision makers should receive standardised training.
 - Improve survivor understanding of, and engagement in, the RNA. Survivors should know at the earliest possible stage what will happen to their support when they receive their conclusive grounds decision and be provided with copies of all their RNA documents.
 - Ensure that the assessment of needs is holistic, person-centred and recognises the fundamental best interests of adults and their dependent children, rather than being unfairly limited to needs arising out of their trafficking experience and current needs.
 - Involve the anti-trafficking sector and, above all, survivors of trafficking in this review of the RNA in any subsequent development of policies and practices affecting victims and survivors of trafficking.
77. During the passage of the Nationality and Borders Bill, the Government gave assurances that they will create a 12 months support under the RNA system, but unfortunately this promise has not been fulfilled.

Access to legal aid

78. In the majority of cases, victims of human trafficking and modern slavery can only access immigration advice after receiving a positive Reasonable grounds decision, especially if they don't have an ongoing asylum claim.
79. Some of the key issues in respect to legal advice are about the functionality of legal aid contracts and the narrowing of their scope. In addition, there is a lack of commercial viability and of specialism regarding victims and survivors of human trafficking and modern slavery.
80. Furthermore, victims often struggle to access legal advice in a timely manner. A report from ATLEU found that 90% of support workers helping survivors reported that they had struggled to find legal advisors for their clients in the past year.⁵⁰ The British Institute of International and Comparative law found that 80% of legal aid providers had to turn people away due to the lack of capacity.⁵¹

⁵⁰ ATLEU (2022) 'It has destroyed me': A legal advice system on the brink. Available at: <https://atleu.org.uk/news/2022/10/17/it-has-destroyed-me-new-report>

81. In light of the new increase in the Reasonable grounds threshold, it is even more vital that victims have access to legal advice as soon as possible. As explained in a previous paragraph, the evidential threshold will make it even more difficult for people to enter the NRM. However, if this is paired with a lack of quality legal advice, it will further hinder victims' capacity to be identified and supported.
82. An Anti-trafficking sector joint submission found that the Legal Aid funding system is failing survivors of trafficking and modern slavery, leading to destitution, trauma and exposure to further exploitation.⁵²

Accommodation of unaccompanied children in hotels

83. We are also very concerned about the support for unaccompanied children who arrive in the UK on small boats. The government started the practice of accommodating children in hotels in 2020 and despite being proposed as a temporary measure, it has now become common practice whilst children are waiting to be transferred to a Local Authority.
84. Many charities and organisations in the UK have called on the UK Government to stop this harmful practice by asking for better safeguarding for the most vulnerable children.⁵³ This request has become even more urgent after recent reports that a total of 200 children have gone missing from these hotels.⁵⁴
85. A recent article from the Guardian⁵⁵ uncovered the serious risk of trafficking for those missing children, who were abducted and made to work by organised crimes groups in Manchester and other areas of the UK.
86. The 2022 Trafficking in person (TiP) highlighted that those who are arriving in the UK with small boats, specifically children in the care system and unaccompanied minors, are particularly vulnerable and at risk of trafficking. One of the most common risks is around forced criminality such as acting as drug couriers from larger cities into rural areas across the UK. The report also found that traffickers force adults and children to work in agriculture, cannabis cultivation, construction, food processing, factories,

⁵¹ British Institute of International and Comparative Law and Unseen (2023) Impacts of a lack of legal advice on adults with lived experience of modern slavery. Available at: [Legal-advice-Research-Summary.pdf \(modernslaverypec.org\)](https://www.modernslaverypec.org/Research/Summary.pdf)

⁵² Anti-Trafficking sector Joint Response (2022) Immigration Legal Aid: A consultation on new fees for new services. Available at: <https://atleu.org.uk/news/2022/9/9/legal-aid-funding-system-is-failing-survivors-of-trafficking-says-anti-trafficking-coalition>

⁵³ ECPAT and Refugee Council (2023) Open letter: Children missing, trafficked and at-risk in Home Office hotel accommodation for separated and unaccompanied children seeking asylum. Available at: <https://www.ecpat.org.uk/News/charities-call-for-action-on-children-missing-in-hotels>

⁵⁴ The Guardian (24 January 2023) UK Minister admits 200 asylum-seeking children have gone missing. Available at: <https://www.theguardian.com/uk-news/2023/jan/23/uk-minister-admits-200-asylum-seeking-children-missing-home-office>

⁵⁵ The Guardian (18th February 2023) *Revealed: UK's missing child refugees put to work for Manchester gangs*. Available at: <https://www.theguardian.com/uk-news/2023/feb/18/uk-missing-child-refugees-put-to-work-manchester-gangs>

domestic service, nail salons, food services, the hospitality industry, car washes, food supply industry, and warehousing, as well as on fishing boats.⁵⁶

87. A recent article from the Times⁵⁷ reported that the Home Office is planning to change the law to be able to act as corporate parent for those children, who are accommodated in hotels awaiting transfer to a Local Authority. This implies a change to the Children's Act 1989, which currently allows only the Department for Education to act as a corporate parent. This news has been confirmed by the introduction of the 'Illegal Migration' Bill, which seeks to give powers to the Home Secretary to detain and accommodate unaccompanied children and manage their transfer to and from Local Authorities.
88. We are deeply concerned about this new government plan since the Home Office has failed to keep those children safe and has created a very serious child protection crisis.
89. ECPAT UK⁵⁸ will submit separate evidence focusing on the situation of children.

Scotland

90. The provision of support and assistance to victims and survivors of modern slavery and human trafficking is provided by the Scottish Government as it is within the remit of Scottish devolution. This also means the Recovery and reflection period remains 90 days, despite the current changes in the Nationality and Borders Act 2022 in respect to this matter.
91. However, Westminster retains the right to legislate in devolved areas, and an example of this power has been evidenced in the 'Illegal Migration' Bill, which fetters and limits the Scottish Government in carrying out its duties to provide support and assistance to victims of modern slavery and human trafficking in Scotland.
92. Some ATMG members supporting survivors in Scotland, have identified multiple issues, especially concerning the identification of victims as well as their criminalisation.
93. One of the ATMG members, TARA services, who is also a first responder organisation has witnessed a proportionate decrease in adult women trafficked for commercial sexual exploitation (including multiple exploitations) in the NRM statistics since 2018 (UK and Scotland). This seems to be the result of issues with initial identification rather than a decrease in this type of exploitation.
94. Furthermore, TARA suggested that there is inconsistent awareness raising in respect of indicators of trafficking and modern slavery amongst organisations and

⁵⁶ Department of State, United State of America (2022) Trafficking in person report (TPI). Available at: <https://www.state.gov/wp-content/uploads/2022/10/20221020-2022-TIP-Report.pdf> - p573

⁵⁷ The Times (14 February 2023) Home office will act as corporate parents for child refugees. Available at: <https://www.thetimes.co.uk/article/home-office-will-act-as-corporate-parents-for-child-refugees-xtpdjppqhx>

⁵⁸ Every Child Protected Against Trafficking - <https://www.ecpat.org.uk/>

authorities, which hinders efficient identification and support of survivors. They recommend clearer pathways to first responder and support providers.

95. Another ATMG member, JustRight Scotland has identified a pattern of Vietnamese nationals being found in cannabis cultivations, which is the result of changes in how responsible criminal gangs operate. However, there is limited information around this phenomenon.
96. In the past, there was a long standing issue of child victims of trafficking found in cannabis cultivations being prosecuted. After strong advocacy on this issue, the Lord Advocate's changed the instructions on prosecuting victims of trafficking. With regards to adults however, this continues to be an issue, particularly with Vietnamese nationals.

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

97. As far as we as a coalition are concerned, there is no evidence that the National Referral Mechanism is being exploited by individuals seeking asylum in the UK. It is entirely consistent that a person making an asylum claim will also be referred into the NRM, and/or that a trafficking victim's best chance of stability may be to legitimately seek asylum. The framing of this issue shows a fundamental lack of understanding of the system. Individuals are referred into the NRM, by organisations given the power and training to do so by the Home Office. There is then a two-part decision-making process by the Home Office to decide whether that person is a victim of trafficking or slavery.
98. This is also evidenced by the consistently high number of positive reasonable and conclusive ground decisions. The Home office official Statistics from July until September 2022 reports the following findings in relation to Reasonable Ground decisions: *"the proportion of positive decisions has remained relatively similar in recent years, with around nine out of every ten referrals receiving a positive decision. Of the 4,652 reasonable grounds decisions issued this quarter the proportion of positive reasonable grounds decisions was 86% for adult and 90% for child potential victims."*⁵⁹ In relation to conclusive ground decisions: *"For decisions issued this quarter, the proportion of positive conclusive grounds decisions was 89% for adult and 94% for child potential victims."*⁶⁰
99. Suella Braverman MP has used the increase in NRM referrals as evidence that the system was being used by 'illegal migrants' to avoid deportation, but it fails to consider that this is a confirmation that the identification of victims of modern

⁵⁹ Home Office (2023) National Referral Mechanism Statistics: Quarter 3 2022. Available at: End of Year Summary 2022. Available at: [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, Quarter 3 2022 – July to September - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-quarter-3-2022-july-to-september)

⁶⁰ Ibid

slavery and human trafficking has improved in recent years. This is also the result of awareness campaigns being run over the years by statutory and non-statutory organisations.

100. Members of this government are using an increasingly hostile narrative, which is fostering violence in the community, such as the most recent attacks to the Manston centre and the hotel in Knowsley, both hosting people seeking asylum. UN Special Rapporteurs warned that: *“Demonising victims of trafficking and contemporary forms of slavery erodes public sympathy for measures to protect them and may lead to attacks on these groups by extremists”*.⁶¹
101. The Director General for Statistics at the Office for Statistics Regulation sent a reprimand letter to the Home Office expressing concerns around the Home Office claims that people are “gaming” the modern slavery system. They reported that they don’t have any evidence to confirm these claims.⁶²
102. The current hostile environment is a gift to traffickers and is preventing victims from coming forward, hindering their identification and access to support.
103. The ‘Illegal Migration’ Bill, which is currently being discussed in Parliament is akin to a *Traffickers Charter* as described by Yvette Cooper during the Second Reading debate. The provisions in the Bill will criminalise survivors of human traffickers and modern slavery, whilst failing to prosecute traffickers.
104. Anti-Slavery International will submit separate evidence focusing on the Government’s use of hostile rhetoric.

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

105. The ATMG is deeply concerned about the ‘Illegal Migration’ Bill which is currently passing through Parliament. The legislation is incompatible with ECAT, the ECHR⁶³, the Refugee Convention, UNTOC⁶⁴ and its protocols and the UN Convention on the Rights of the Child. It will put survivors and victims of Modern slavery and Human Trafficking at risk of further harm and re-trafficking. We would like to see this Bill scrapped.

⁶¹ United Nation (2022) Press release. UK: UN Experts Condemn attacks on credibility of slavery and trafficking victims. Available at: <https://www.ohchr.org/en/press-releases/2022/12/uk-un-experts-condemn-attacks-credibility-slavery-and-trafficking-victims>

⁶² Office for Statistics Regulator (2022) Letter to Home Office: Use of National Referral Mechanism statistics. Available at: [Ed Humpherson to Jennifer Rubin: use of National Referral Mechanism statistics \(statisticsauthority.gov.uk\)](#)

⁶³ European Convention on Human Rights.

⁶⁴ United Nations Convention against Transnational Organized Crime.

106. The UNHCR⁶⁵ released a statement where they clearly consider this legislation to be a “breach of the Refugee Convention”.⁶⁶
107. In respect of the issues we have identified in this submission, we propose the below solutions:
- The ‘Illegal Migration’ Bill must be dropped and should not proceed to become law.
 - Create secure reporting pathways where all victims of and witness to crimes including modern slavery and trafficking can report to the relevant authorities without fear of their personal data being shared with immigration authorities.
 - Decide on existing applications made from non-statutory First Responders Organisations.
 - Create an NRM First Responders recruitment process and offer consistent and regular training to all statutory and non-statutory first responders.
 - Enable access to work for victims of trafficking and modern slavery while in the NRM.
 - End the unlawful use of hotels to accommodate separated children.
 - Improve and expand safe routes as a practical solution to end dangerous journeys across the English Channel.
 - Ensure that those who receive a positive Conclusive Ground decision receive ongoing advocacy and support, including a minimum of 12 months support and access to regularised immigration status with access to settlement routes.
 - Reform the Legal Aid provision to ensure early access to specialist legal advice.
 - Improve the application of the non-punishment principle and revise the offences eligible under s45 defence.
 - Reinstate a more efficient Multi Agency Assurance Panel system.

March 2023

⁶⁵ United Nations High Commissioner for Refugees.

⁶⁶ UNHCR UK (7 March 2023) Statement on UK Asylum Bill. Available at: [UNHCR - Statement on UK Asylum Bill](#)