

Public Order Disqualifications

Amendment

Clause 38, page 40, leave out Clause 38.

Member's explanatory statement

This amendment would remove Clause 38 from the Immigration and Asylum Bill.

Background

- Part 5 of the Immigration and Asylum Bill, introduced in Parliament on 30 June 2026, contains new provisions relating to modern slavery. Several measures within the *Identification and Support of Victims* section raise significant concerns, as they risk weakening the protections afforded through the National Referral Mechanism (NRM) and exacerbating existing vulnerabilities, increasing the likelihood of re-trafficking and further exploitation of victims.
- Among these measures, clause 38 continues the expansion of the public order disqualification (introduced by section 63 of the Nationality and Borders Act (NABA) 2022) and sits alongside the commencement of section 29 of the Illegal Migration Act (IMA) 2023.
- Survivors of trafficking in the UK can access support such as weekly financial payments, housing, accommodation and independent emotional and practical help through the National Referral Mechanism (NRM), the framework for identifying and protecting victims of trafficking and modern slavery. However, under NABA, the Home Office can disqualify survivors on 'bad faith' or 'public order' grounds from even being confirmed as a victim through the NRM, let alone accessing this vital assistance.
- Clause 38 expands the scope and application of the public order disqualification to individuals in receipt of a suspended sentence and to a wider category of people who are deemed a threat to public order, defining not exhaustively a 'risk to the national security of the United Kingdom'. It also clarifies that if an individual has been disqualified, the Home Office is not required to even make a final 'conclusive grounds' decision as to whether they are a victim of trafficking. The individual can be removed from the UK and will not receive support during the 'recovery and reflection period' and they will not be eligible for a grant of 'leave to remain' (permission to stay in the UK) as a victim of trafficking.
- While this provision does not apply to children who have either the right of abode in the United Kingdom or leave to remain other than under section 65 of NABA, it does apply to children with insecure immigration status. This creates a discriminatory, two-tier system for children and places an already highly vulnerable group at even greater risk.

- This clause not only places the UK in direct conflict with its obligations under the European Convention on Action against Trafficking in Human Beings (ECAT) but is also likely to result in more survivors being denied essential protection and support, leaving them vulnerable to continued exploitation and increasing the risk of re-trafficking.
- **We also call on the Government to repeal section 29 IMA and section 63 NABA**

Interpretation of the public order provision

As stated in the guidance note on Article 13(3) published by the Group of Experts on Action Against Trafficking in Human Beings (GRETA), the group responsible for monitoring the implementation of ECAT, disqualification on the grounds of public order should always be considered on a case-by-case basis. It is intended to apply 'in very exceptional circumstances and cannot be used by States Parties to circumvent their obligation to provide access to the recovery and reflection period'.¹ A recent Court case ([ABW](#)) found that the current application of the public order disqualification relied on a blanket approach and was deemed unlawful.

The implementation of the public order disqualification policy so far

The public order disqualification policy provides that potential survivors who were sentenced to over 12 months imprisonment could be disqualified from support even if this was due to crimes they were forced to commit as part of their exploitation.² In January 2024, the guidance was updated to introduce a risk of re-trafficking assessment before confirming a disqualification, giving the individual or their representatives 10 days to provide further evidence to inform a risk of re-trafficking assessment. However, organisations have consistently flagged significant issues with how public order decisions are served and the way the risk of re-trafficking assessment is implemented, especially because of its application to only immediate risks.³

Following the ABW Judgement in December 2025, the public order disqualification policy has been suspended, and support is being reinstated for those eligible. However, the public order disqualification has been operating since the commencement of NABA in January 2023 and from this date to December 2025 there were 763 confirmed disqualifications. Of these, 97% (744) were on grounds of public order and 3% (19) were on grounds of bad faith. 30% of the public order disqualifications were exclusively referred for criminal exploitation. 28% were referred for "labour and criminal exploitation" - so those with an element of criminal

¹ GRETA. (October 2024). [Guidance note on the recovery and reflection period](#)

² Home Office. (July 2026). [Modern Slavery Statutory Guidance for England and Wales \(under s49 of the Modern Slavery Act 2015\) and non-statutory guidance for Scotland and Northern Ireland. Version 4.6](#)

³ ATMG et al. (28 October 2024). [Joint Submission to the Group of Experts on Action against Trafficking in Human Beings](#)

exploitation made up 58% of all PODs.⁴ This has disproportionately affected victims of forced criminality, who are often prosecuted for these crimes as a result of gaps in the application of the non-punishment principle in the UK, including section 45 defence. A Freedom of Information request dated 18th September 2024 evidenced that the majority of the survivors who had been considered for or had been issued a disqualification were convicted for crimes which are commonly carried out as part of forced criminality, such as those linked to drug production and supply. 266 individuals were convicted for drug production alone.⁵

Section 29 of the Illegal Migration Act (IMA), which has not yet been commenced, further expands the public order disqualification regime. Given the Government's duty to implement the policy, and the significantly wider cohort of survivors that would be affected, the provision is inherently incompatible with Articles 13 and 26 of ECAT, as well as the judgment in *ABW*. The implementation of Clause 38 is therefore closely linked to the commencement of Section 29 IMA, together creating an even more restrictive regime. This would expose a substantially greater number of trafficking survivors to exclusion from identification, protection, and support.

Individuals with criminal convictions face an increased risk of exploitation and re-trafficking, as traffickers frequently exploit the heightened vulnerabilities associated with criminalisation, including barriers to support and reduced engagement with authorities.

Therefore, such provisions, inhibit the Government from fulfilling its commitment to “tackling [modern slavery] in all its forms and to supporting survivors” and instead, they often result in vulnerable individuals languishing in precarity or in detention.⁶

⁴ Helen Bamber Foundation. (July 2026). [When the law changes sides: the criminalisation of survivors of trafficking in the UK](#)

⁵ FOI2024/05669

⁶ Ibid