

Committee of the Parties  
to the Council of Europe Convention  
on Action against Trafficking in Human Beings



CP(2024)10

**Report submitted by the authorities  
of the United Kingdom  
on measures taken to comply with  
Committee of the Parties Recommendation  
CP/Rec(2021)07 on the implementation  
of the Council of Europe Convention  
on Action against Trafficking in Human Beings**

**Third evaluation round**

Received on 29 October 2024

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Ms Petya Nestorova  
Executive Secretary, Convention on Action against Trafficking in Human Beings  
Council of Europe  
Strasbourg

29 October 2024

Dear Ms Petya Nestorova,

**UK Response to the Recommendations of the Committee of the Parties to the Third Round Evaluation on monitoring the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings**

I wish to extend my thanks to the Group of Experts on Action against Trafficking in Human Beings (GRETA) for the comprehensive report for the UK's third round evaluation. I am grateful to GRETA for your continued engagement throughout the evaluation period, including hosting the roundtable in October 2023, and ongoing commitment to supporting Member States to tackle modern slavery and human trafficking.

I enclose the UK's response which sets out measures taken by the previous Government to implement the Convention on Action against Trafficking in Human Beings, in line with the recommendations in the evaluation report. I am sorry for the delay in responding.

I would like to take this opportunity to highlight this Government's commitment to tackling this abhorrent crime, ensuring perpetrators are brought to justice and victims are supported in their recovery to rebuild their lives. In addition, tackling violence against women and girls is a top priority for the Government and we have committed to halve violence against women and girls in a decade.

The Government has also made clear that the migration partnership with Rwanda will end. Consequently, we are considering all options connected with ending that partnership, including the Illegal Migration Act 2023. We are committed to a programme of transformation of the asylum system to speed up and simplify decision making, reducing the time and number of people awaiting decisions.

I am conscious of the immediate pressures that the modern slavery system faces and I am committed to deliver a system that puts victims at its heart. This includes reducing the backlog of cases and increasing prosecution rates.

We have significantly increased our modern slavery workforce for National Referral Mechanism (NRM) decision making and a major recruitment exercise has been initiated to further boost decision-maker numbers by around 200 staff.

Longer term, I am keen to renew our approach to make sure the right systems and tools are in place to ensure victims are identified early and have access to the services and support they need for their recovery. I hope my officials will be able to provide a detailed update when they present the report at the next meeting of the Committee of the Parties.

I would like to say a final thank you to you and your team for your cooperation throughout the reporting period. Your advice and recommendations will be integral to us developing this renewed approach and I look forward to our continued cooperation, including throughout the upcoming fourth round evaluation.

Sincerely,

Jess Phillips MP  
Parliamentary Under-Secretary of State  
Minister for Safeguarding and Violence Against Women and Girls

## **Report of the United Kingdom of Great Britain and Northern Ireland on measures taken to comply with the Recommendation of the Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings CP/Rec(2021)07**

### **INTRODUCTION:**

This document serves as this Government's response to the GRETA report. Please note it sets out the measures taken by the previous Government to tackle modern slavery and human trafficking, in light of the timeline for the third round evaluation reporting period.

The Government is committed to tackling modern slavery and human trafficking, ensuring perpetrators are brought to justice and victims are supported in their recovery to rebuild their lives.

We have significantly increased our modern slavery workforce for National Referral Mechanism (NRM) decision making and a major recruitment exercise has been initiated to further boost decision-maker numbers by around 200 staff.

Tackling violence against women and girls is a top priority for this Government and our manifesto included the mission to halve violence against women and girls in a decade. We will use every tool available to target perpetrators and address the root causes of abuse and violence.

The Government has made clear that the migration partnership with Rwanda will end. Consequently, the Government is considering all options connected with ending that partnership, including the Illegal Migration Act 2023.

Instead, efforts have been refocused to strengthen law enforcement to take down the criminal gangs facilitating irregular migration. The Border Security Command (BSC) will work with and provide cross-system strategic leadership for partners across government to disrupt the activity of organised crime groups who are responsible for small boat crossings.

The Home Secretary has removed the retrospective application of the Illegal Migration Act. This allows decision-makers to decide asylum claims from individuals who have arrived in the UK since 7 March 2023, with claims to be considered against the existing legislative regime under the Nationality and Borders Act 2022.

The Government is reforming the asylum system. The Home Office continues to invest in a programme of transformation and business improvement initiatives to speed up and simplify decision making, reduce the time people spend in the asylum system and decrease the number of people who are awaiting an interview or decision.

*The Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings, acting under the terms of Article 38(7) of the Convention, recommends that the Government of the United Kingdom take measures to address the following issues for immediate action identified in GRETA's second evaluation report of 20 October 2021:*

**RECOMMENDATION:**

- 1. Take further steps to facilitate and guarantee access to justice for victims of human trafficking, in particular by ensuring that:**
  - **victims, and in particular children, receive legal assistance during the identification process and are properly informed of their rights and options before entering the NRM;**
  - **access to free legal aid is ensured across the UK and is granted in a timely manner;**
  - **the assistance of a lawyer is ensured for state compensation proceedings, by making the Exceptional Case Funding scheme accessible in practice to victims seeking compensation before the Criminal Injuries Compensation Authority (paragraph 92);**

**RESPONSE:**

**England and Wales**

The UK Government is committed to ensuring victims of modern slavery are able to engage effectively with the justice system.

All potential victims of modern slavery with a positive Reasonable or Conclusive Grounds decision have access to the legal aid system, including in relation to criminal proceedings and civil legal aid for legal matters related to trafficking and exploitation. Victims of trafficking can also access the full civil legal aid scheme on the same basis as other eligible individuals, for example if they need help with homelessness. All applicants for legal aid must meet the relevant statutory criteria, which includes means and merits tests.

The Government provides support to adult potential and confirmed victims of modern slavery in England and Wales through the Modern Slavery Victim Care Contract (MSVCC). This support includes safe accommodation where necessary, financial support and a support worker to help them access wider support services, including medical treatment, legal aid, legal representatives, and legal advice. Equivalent support is provided in immigration detention settings.

For child potential victims, local authorities, alongside the Independent Child Trafficking Guardianship service where it is present, may obtain legal advice or instruct a legal representative to act on the child's behalf where its considered necessary and appropriate to do so. This advice or representation may relate to the

support and care needs of the child, any immigration or criminal proceedings the child is involved in, or circumstances which may be considered to have a detrimental impact on the child.

Access to legal aid is a key part of a fair immigration system. Legal aid is available in relation to various immigration matters including: for asylum cases; for victims of domestic abuse and modern slavery; for separated migrant children; and where someone is challenging an immigration detention decision.

In all other immigration matters, where an issue falls outside the scope of legal aid, individuals can apply for Exceptional Case Funding (ECF) where they can show that, without legal aid, there is a risk that their human rights may be breached.

Applications for ECF can be made for applications to the Criminal Injuries Compensation Scheme.

## **Scotland**

If the potential victim is under 18, referral to the NRM should follow on from an Inter-agency Referral Discussion (IRD) and Child Protection processes. Children do not have to consent to the NRM but child protection procedures involve early and ongoing engagement between the local authority and the young person (including informing them of the NRM process).

Where appropriate, a referral to Guardianship Scotland is made; Guardians play a key role in supporting unaccompanied children through trafficking and asylum processes, ensuring they have legal representation.

Local authorities need to have processes in place to identify a child's nationality and immigration status when their involvement begins or when a child's circumstances change.

A child with an outstanding immigration issue needs to be referred to specialist legal advice and support urgently, including a referral to Guardianship Scotland where appropriate.

In Scotland publicly funded legal assistance ('legal aid') allows people to pursue or defend their rights or pay for their defence when they could not otherwise afford to do so.

In order to target funding appropriately, when someone applies for legal aid, the application is subject to statutory tests which cover the merits of the case and the means available to the applicant.

Publicly funded legal assistance is available via Advice and assistance to provide legal advice on Criminal Injuries Compensation Authority (CICA) applications.

### **RECOMMENDATION:**

- 2. Make additional efforts to guarantee effective access to compensation for victims of human trafficking, in particular by:**

- enabling all victims of trafficking, including undocumented migrants, to exercise their right to compensation, and carrying out a review of the “illegality defence”, aimed at enabling victims of trafficking who are irregular migrants to seek unpaid salaries before employment tribunal;
- ensuring that the Family Worker Exemption and the “live in domestic workers exemption” do not prevent domestic workers who are victims of trafficking from accessing compensation;
- ensuring that victims of labour exploitation have accessible remedies for obtaining more than two years owed in National Minimum Wage;
- making full use of the legislation on the freezing and forfeiture of assets and international co-operation to secure compensation to victims of human trafficking;
- improving training programmes on compensation for legal practitioners, prosecutors and the judiciary, and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of human trafficking;
- enabling victims of trafficking to effectively exercise their right to state compensation within reasonable time, by ensuring their access to legal aid when submitting applications to the Criminal Injuries Compensation Scheme as well as to experts who can assess psychological injuries, and providing appropriate guidance to the Criminal Injuries Compensation Authority;
- ensuring that the amount of compensation from the Northern Ireland Criminal Injuries Compensation Authority is not made dependent on the victim’s co-operation with the authorities or prior convictions (paragraph 132);

## **RESPONSE:**

### **England and Wales**

The Sentencing Act 2020 enables courts to impose a compensation order on an offender requiring them to make financial reparation to the victim for any personal injury, loss or damage resulting from the offence. Compensation orders, available for any criminal offence including human trafficking offences, must be considered in all eligible cases.

It is an obligation for courts to consider making a compensation order in all cases involving personal injury, loss or damage, and to give reasons where no such order is made.

There is no limit to the amount of compensation that can be imposed on an adult offender as part of a compensation order and, when determining the amount, the court must consider the financial means of the offender. The courts will do everything within their powers to trace those who do not pay and use a variety of means to ensure the recovery of criminal financial penalties, including compensation orders.

Under the Code of Practice for Victims of Crime, victims are entitled to be told about how to claim compensation for any loss, damage or injury caused as a result of crime. Victims injured by violent crime are entitled to be told by the police how to apply for compensation through the Criminal Injuries Compensation Scheme 2012 (the Scheme).

The Scheme compensates victims injured as a result of being a direct victim of a violent crime committed in Great Britain or another relevant place as defined in the Scheme. Victims of human trafficking may be eligible for compensation through the Scheme only if they have been conclusively identified as such by a competent authority. The Scheme makes specific provision for claims to be deferred pending the outcome of the competent authority's assessment. Victims are compensated for the injuries they have sustained rather than the nature of the incident (with the exception of sexual assault or abuse).

The Criminal Injuries Compensation Authority (CICA), which administers the Scheme, provides awareness sessions to stakeholders, including the police, who deliver frontline services to victims of violent crime. The CICA has also improved trauma-informed training for its staff in recent years, to make its processes more accessible and sensitive. The CICA has guidance which requires its officers to consider the psychological impact of crimes and how this may influence their application, for instance regarding any delay in applying to the Scheme or reporting the crime to the police (a prerequisite for applying for compensation), or cooperation in bringing the assailant to justice.

Individuals can apply direct to the CICA without instructing a solicitor. Legal aid may be available to challenge a final CICA decision by judicial review if a claimant is dissatisfied following an appeals process.

### **Northern Ireland**

The Northern Ireland Criminal Injuries Compensation Scheme (the NI Scheme) requires victims of violent crime to cooperate with police and with Compensation Services with an aim to provide appropriate compensation, as well as establishing liability and aiding in the apprehension of offenders. The scope of the NI Scheme extends only to crimes of violence committed in Northern Ireland. The Department of Justice Modern Slavery & Human Trafficking Strategy 2024-2027, which was published July 2024, includes a commitment that the Department will engage with the Compensation Agency to identify and address barriers to accessing compensation for eligible victims.

### **Scotland**



Under section 249 of the Criminal Procedure (Scotland) Act 1995, courts are required to consider, where relevant, whether a compensation order is required to pay compensation to any victim of trafficking and/or exploitation as part of the sentencing of the accused person. The judge determines the amount to be paid, which takes into account the crime committed and the offenders' ability to pay. Prosecutors do not have a role in the determination of the sentence imposed by the court. Prosecutors simply advise the court of relevant factors which the court may take into account when determining the appropriate sentence, e.g. the extent of loss suffered by a victim.

The Proceeds of Crime Unit within the Crown Office and Procurator Fiscal Service (COPFS) makes full use of the proceeds of crime legislation to restrain realisable property so that it is available for confiscation. When the court is invited to make a confiscation order, if there is an identifiable victim this is brought to the attention of the court and the court invited to make a compensation order. Prosecutors seek to restrain an individual from dealing with their realisable property wherever that property is situated in terms of the Proceeds of Crime Act 2002.

Prosecutors do not play a role in determining the appropriate sentence that is imposed on an accused person - their role is to advise the court of relevant factors which may affect the sentence that the court decides to impose.

Where prosecution is not possible or is unsuccessful, cases are referred to the Civil Recovery Unit within COPFS to consider whether there are assets which could, by that means, be removed from the criminal economy.

On joining COPFS, new prosecutors undergo a rigorous training programme at the specialist COPFS training facility in Glasgow, which covers a broad range of topics to equip them to become effective prosecutors. Part of that training encompasses narration of relevant factors that the Court may wish to consider when selecting the appropriate sentence.

Prosecutors also have at their disposal a broad suite of guidance regarding every aspect of prosecution of trafficking and exploitation offences including mandatory E-Learning modules which provides detailed training regarding the prosecution of perpetrators of trafficking and exploitation offences including powers in relation to the seizure and detention of property under the 2015 Act as well as powers under the Proceeds of Crime Act 2002.

The Proceeds of Crime Unit within COPFS are also involved in the training of legal staff, including Advocates Depute, within COPFS on criminal confiscation under proceeds of crime legislation and the compensation of victims forms part of that training.

Publicly funded legal assistance is available via Advice and assistance to provide legal advice on CICA applications.

**RECOMMENDATION:**

**3. Strengthen efforts to ensure compliance with the non-punishment provision, by:**

- **ensuring that the non-punishment provision is capable of being applied to all offences that victims of trafficking were compelled to commit, by ensuring that victims are promptly identified as such and receive adequate support from their first contact with law enforcement agencies;**
- **ensuring that the allocation of the burden of proof does not substantially hinder the application of the non-punishment provision;**
- **removing the requirement to apply the “reasonable person” test in the framework of the statutory defence of child victims pursuant to section 45 of the Modern Slavery Act;**
- **strengthening their efforts to ensure the compliance with the principle of non-punishment of victims of human trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, by further developing the existing guidance and promoting it through training of police staff, prosecutors and judges, including staff working in prisons and immigration detention centres, as well as social workers and all First Responders (paragraph 177);**

**RESPONSE:**

The UK's aim is to identify victims of exploitation and modern slavery in the first instance, to prevent further re-traumatisation and wrongful prosecution. Designated First Responders which includes the police and other law enforcement agencies are responsible for ensuring that all potential victims of modern slavery are rapidly referred into the NRM, where the individual consents (in the case of an adult) to enable access to appropriate support.

**England and Wales**

In England and Wales, section 45 of the Modern Slavery Act (MSA) 2015 provides a statutory defence for victims of modern slavery to protect individuals from prosecution for crimes they have been compelled to commit (in the case of an adult) or have committed as a direct consequence of being or having been a victim of slavery or relevant exploitation (in the case of a child).

The defence as it relates to children provides that a person under the age of 18 at the time of an act which constitutes an offence is not guilty of that offence if they commit the offence as a direct result of their being a victim of slavery or relevant exploitation, and a reasonable person in the same situation and having the person's relevant characteristics (including their age) would do that act. The reasonable person threshold for children is lower than the test for persons over 18 (which is that a reasonable person having the persons relevant characteristics would “have no realistic alternative to doing that act”).

The lower threshold for meeting the reasonable person test and omission of the compulsion requirement is in recognition of the unique vulnerabilities of children. The relevant characteristics of the victim that will be considered for the purposes of the reasonable person test include “relevant exploitation”, which is exploitation attributable to the person being or having been a victim of trafficking. This definition, and the inclusion of the “reasonable person” test also ensures that a link between the exploitation and the offence is maintained. Each case will be assessed on its own facts and merits. To successfully raise the defence, an evidential burden is only placed upon the individual to the extent where they have to adduce sufficient evidence to allow the defence to be considered by the court, and in doing so, the legal burden falls upon the prosecution to disprove the defence beyond reasonable doubt.

The defence does not apply in certain cases where serious offences have been committed. Schedule 4 of the MSA 2015 sets out the offences to which the defence does not apply, which includes serious sexual or violent offences, to avoid creating a legal loophole that would allow those who have committed serious offences to escape justice. In cases where the defence does not apply or cannot be evidenced to the criminal standard, the Crown Prosecution Service (CPS) can still exercise its discretion and decide whether it is in the public interest to prosecute.

There is currently no data available on the use of the section 45 defence, as it is not routinely recorded by the CPS, police or the courts. The Government acknowledges that this is an evidence gap and is committed to continuing to work with criminal justice partners to explore how this data can be captured, to better understand its effectiveness. This has included working closely with the police to develop a new data collection request for police forces in England and Wales, as part of the Home Office Annual Data Requirement process, which gives a statutory basis for the collection of data from forces. This new request has initially been implemented as a voluntary requirement from April 2023, seeking data from forces on an annual basis.

The UK has improved its efforts to ensure it continues to meet its obligations under the Convention on Action against Trafficking in Human Beings following the European Court of Human Rights ruling in 2021 in the case of VCL and AN v UK 2009, concerning two minors convicted for drugs offences but later found to be victims of modern slavery. The Court found the UK to be in violation of the European Convention on Human Rights. In January 2022, the UK Government submitted its action plan, setting out how it will implement the Court’s ruling. Updated action plans were also submitted in March 2023 and March 2024. The action plan highlights the steps taken by relevant organisations, including police and prosecution services across the UK, to disseminate the judgment and its implications through updated training and revised guidance to raise awareness amongst police and prosecutors of the changed approach. Prosecutor guidance has also been revised to reflect the findings of the judgment. This should prevent wrongful prosecution of victims of modern slavery.

In relation to recommendations regarding judicial training, GRETA will be aware that the judiciary of England and Wales is independent of Government. To preserve the independence of the judiciary, the Lady Chief Justice has statutory responsibility for the training of the courts' judiciary in England and Wales under the Constitutional Reform Act 2005. These responsibilities are exercised through the Judicial College.

The UK Government is aware that the Judicial College publishes its annual training prospectus. Issues relating to human trafficking are specifically addressed in the current training programme at seminars on sentencing and on the long and complex trials seminar. The College also produces resources which summarise recent developments in the criminal law and reported cases of importance. Any significant matters in relation to human trafficking feature in these materials.

The Judicial College also publishes the Equal Treatment Bench Book (ETBB), which provides guidance to Judicial Office Holders. It aims to increase awareness and understanding of the different circumstances of people appearing in courts and tribunals and it helps enable effective communication and participation. The latest edition, published in February 2021 and revised in July 2024, includes a chapter on Modern Slavery, with specific references to the protections available to victims of trafficking, such as Slavery and Trafficking Reparation and Prevention Orders. It also provides practical tools for supporting victims with the court process and links to additional references and resources. The ETBB also refers to the availability of a statutory defence under section 45 of the Modern Slavery Act 2015 and the vulnerability of victims of modern slavery as witnesses, particularly during cross-examination.

His Majesty's Prison and Probation Service are developing a strategic response to modern slavery and human trafficking which includes raising awareness, identification of victims in prisons and on probation and how they can be supported and protected from re-trafficking. This includes publishing modern slavery guidance for prison staff in 2023.

## **Scotland**

The Scottish Parliament has taken the necessary measures, as required by Article 8 of the EU Directive, by implementing Section 8 of the Human Trafficking and Exploitation (Scotland) Act 2015. This required the Lord Advocate to issue and publish instructions for prosecutors regarding the prosecution of victims of human trafficking or exploitation who are alleged to have committed criminal offences. The section further provides that the instructions must, in particular, include factors to be taken into account or steps to be taken by the prosecutor when deciding whether to prosecute a person who has been compelled to commit an offence and the compulsion is directly attributable to the person being or appearing to be a victim of trafficking or slavery servitude and forced or compulsory labour.

The Lord Advocate's Instructions for Prosecutors when considering Prosecution of Victims of Human Trafficking and Exploitation were published in 2016 and continue to be applied by prosecutors. The Instructions are publicly available on the COPFS website and were last updated on 15 January 2024.

The revised Instructions take into account, amongst other matters, recommendations made by the Department for the Execution of Judgements and the Organization for Security and Cooperation in Europe (OSCE), the United Nations Convention on the Rights of the Child (UNCRC), and evolving trends in trafficking and exploitation. The revisions highlight evolving trends such as county lines offences, cuckooing and sexual exploitation online. In addition, to assist prosecutors in identifying those at risk of exploitation, reference to the Guidance on Criminal Exploitation produced by the 'Divert 3' Sub-Group of the Serious Organised Crime Taskforce has been inserted into the Lord Advocates Instructions with relevant links to the guidance. The list of indicators to assist with identifying victims and examples illustrating the types of scenarios that could indicate an individual is being exploited, have also been inserted.

The revised Instructions provide greater understanding and raise awareness of the different types of trafficking and exploitation that exist and highlight that such offending does not always, and often will not, have an international aspect. This will not only assist prosecutors in being alert to the possibility that an accused person is a victim of human trafficking or exploitation when dealing with reports received from the police in relation to any crime but also first responders and defence lawyers who can access the Instructions on the Crown Office and Procurator Fiscal Service (COPFS) website.

The updated Instructions make it clear that prosecutors must wait for the Conclusive Grounds Decision before making a final decision on whether to prosecute an accused person, but prosecutors can exercise their discretion to decide not to prosecute an accused person as soon as the evidence and/or public interest supports that decision without waiting for the Conclusive Grounds Decision. Prosecutors can, therefore, (after making appropriate further inquiries to ensure that all relevant information has been obtained, including the Reasonable Grounds Decision, and consideration of all relevant factors in accordance with the Prosecution Code), take no action or discontinue proceedings before the Conclusive Grounds Decision is received where it is in the public interest to do so in all of the circumstances of the particular case after receiving authority from the National Lead Prosecutor.

In addition, the Instructions (and separate associated internal guidance for staff) now specify prosecutors may raise or continue proceedings despite a positive Conclusive Grounds Decision only if there are clear reasons, which are consistent with the definition of trafficking contained in the Palermo Protocol and the Anti-Trafficking Convention, for disagreeing with it and that clear reasons for recommending and approving the decision to prosecute the individual contrary to the NRM decision must be recorded in the report to the National Lead Prosecutor.

All internal guidance and mandatory training for COPFS staff and prosecutors has been updated to reflect the revised Instructions and to provide more specific and in-depth guidance on domestic trafficking and exploitation to ensure prosecutors consider all types of trafficking and exploitation when considering reports made by the police to make sure potential victims are identified at the earliest opportunity.

The internal training is mandatory, and all staff and prosecutors are required to re-take the updated training.

In addition to the mandatory training for police officers, in-depth Human Trafficking training is provided to Detectives, Sexual Offences Liaison Officers, Advanced Investigators, Senior Investigating Officers and specialist Human Trafficking Investigators. Training is also provided to probationary police officers in their initial training course. Police Scotland have appointed Human Trafficking Champions across Scotland in each of the geographical Divisions to act as a point of contact to cascade learning and support operational officers.

All these training courses include content relating to the duties imposed by the VCL and AN vs the UK ECHR Ruling (2021) and the Lord Advocate's Instructions for non-prosecution of victims of human trafficking.

A suite of measures has been implemented and continues to be developed by Police Scotland to ensure compliance with these instructions. These measures include liaison with Crown Office and Procurator Fiscal Service, internal media campaigns, guidance available to all officers and changes to recording systems to ensure trafficking indicators are considered for all such suspects. This work is ongoing to protect vulnerable victims of trafficking and implement domestic and international duties to this end.

COPFS also entered into a new Memorandum of Understanding in October 2023 with Trafficking Awareness Raising Alliance (TARA) and Migrant Help, organisations which provide support to victims of human trafficking and aim to prevent a person being re-trafficked. These organisations receive funding from the Scottish Government to provide that support, thus fulfilling the Scottish Ministers' obligations in terms of section 9 of the Human Trafficking and Exploitation (Scotland) Act 2015).

The Memorandum of Understanding relates to providing support to potential victims of human trafficking or exploitation on their liberation from prison or court to ensure they receive adequate support immediately upon their release from custody/prison.

#### **RECOMMENDATION:**

- 4. Further improve the identification of victims of human trafficking, including by:**
  - ensuring that the identification process has a reasonable duration, by providing appropriate funding for the recruitment of new staff and making the process more efficient;**
  - continuing to monitor the implication of the Immigration Act 2016 offence of illegal work for the identification and protection of victims of trafficking, and adopting necessary measures for ensuring that victims of trafficking who are undocumented migrants are identified as victims instead of being considered as criminals (paragraph 268);**

#### **RESPONSE:**

**England and Wales**

## Identification

The Government is focused on improving NRM decision-making timescales. The Home Office makes around 3,000 decisions each month for victims of modern slavery, encompassing Reasonable Grounds, Conclusive Grounds, Recovery Need Assessment, permission to stay, Public Order and Bad Faith Disqualifications and Reconsideration decisions. The Government has seen an unprecedented increase in the volume of referrals in the NRM; a 628% rise between 2014 and 2023. This has presented significant challenges in resourcing and workflow. The time taken also reflects the requirement to obtain appropriate levels of evidence, which can be challenging. Despite this, since the first quarter of 2023 the number of decisions outstanding has been coming down for the first time ever.

The UK has significantly increased its modern slavery workforce for NRM decision making and further staffing uplifts are currently being delivered, with an additional £10 million funding to onboard a further 200 decision-making staff, alongside wider posts essential for operation, across the competent authorities. Competent authorities have also introduced initiatives including peer coaching of decisions makers and sharing best practice in the use of the case management tool.

The circumstances under which First Responders encounter victims will be specific to their role and that of the organisation for which they work. All First Responder Organisations should ensure they have pathways and protocols in place to support First Responders and ensure that they are trained appropriately. The Home Office has previously published two e-learning modules to help ensure that First Responders better understand how to identify indicators of modern slavery and refer into the NRM as appropriate.

The Home Office are looking to develop an online Hub for First Responder Organisations to share resources and best practice, as well as a First Responder Toolkit that will provide clear, user-friendly guidance to support First Responders in identifying victims of modern slavery and increase the quality of referrals into the NRM.

In January 2023 the Reasonable Grounds test was updated in the Modern Slavery: Statutory Guidance for England and Wales (under section 49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland. In July 2023, the Guidance was updated further regarding Reasonable Grounds decision making. The updated Guidance requires decision makers to use all available evidence to make an objective determination whether a case meets the Reasonable Grounds threshold. The Guidance details that all available information must be considered, including – but not limited to – any police investigations, medical reports and the indicators observed by the First Responder. The Guidance also makes clear that the decision maker should consider whether, taking account of all the circumstances, it is reasonable to expect supporting evidence or corroborating information in the individual case to be available at that time.

In order to inform NRM decisions, the Competent Authorities consider information and evidence from a range of stakeholders relevant to a case. The Guidance was

updated in January 2023 to introduce timescales for potential victims, their legal representatives and other relevant stakeholders to provide information to decision makers to enable more timely Conclusive Grounds decision-making and identification.

In May 2023, the digital NRM referral form was updated, separating the previous single 'What did they say happened?' question into multiple questions. These changes were made to help ensure that the right information is gathered by First Responders when they encounter individuals that could be potential victims of modern slavery to support prompt formal identification decisions.

The Government has also been running a Devolved Decision-Making Pilot (the pilot) as part of wider work to identify sustainable and longer-term solutions for the NRM which aims to test devolving decision-making from the Home Office to local safeguarding partners for potential child victims of modern slavery. The pilot is open to identified children in the existing 20 pilot site areas (covering 30 local authorities) and both the Reasonable Grounds (RG) and Conclusive Grounds (CG) decisions are taken at one or more multi-agency panel meetings including the three core safeguarding partners – the local authority, the police and health.

Within the pilot an RG decision should be made within 45 days of receiving the referral, and a CG decision should be made within 45 days of making an RG decision, so final decisions should be made within 90 days of the initial referral. The standout benefits of the pilot have included quicker CG decision-making timescales, an increased awareness and understanding of the NRM process and modern slavery within local authorities, and improved multi-agency partnership working ensuring a range of professional voices are used to inform decisions.

### Implications of the Immigration Act 2016

The UK is committed to tackling all forms of modern slavery and ensuring victims, both UK and foreign nationals, are provided with appropriate support to begin rebuilding their lives.

Home Office Immigration Enforcement (IE) have a person-first approach and will always seek to protect and safeguard any victim before any possible enforcement action is taken. All IE staff have mandatory Vulnerability Baseline training. This includes a specific module on modern slavery, indicators, NRM referrals and the safeguarding and support provisions available. The baseline training has been updated to reflect recent changes in legislation. Training on how to make a comprehensive NRM referral has been developed for IE staff who undertake the First Responder role.

The Government recognises that some migrant workers face additional challenges, this is why the labour market enforcement bodies actively engage with all workers in the labour market. Enforcement bodies continue to work in partnership with NGOs, such as Unseen through their Modern Slavery helpline, to ensure every possible reporting avenue is available for those who have concerns.



IE and employment rights enforcement agencies both share a commitment to safeguarding any vulnerable individual encountered, with the sharing of information enabling all organisations to perform an active collaborative role in protecting the wellbeing of migrant workers. Information sharing enables, for example, an employment rights enforcement agency to potentially acquire a fuller understanding of a migrant's particular needs and circumstances. The Home Office may have relevant information and be able to help to protect and support victims and help with an investigation (including establishing the immigration status of the individual), which may assist in determining the most appropriate and effective intervention(s).

All individuals referred into the NRM and identified as a potential victim of modern slavery are entitled to support – regardless of their nationality or where their modern slavery experience occurred. The Government will continue to take action against those who exploit foreign workers and facilitate illegal working in UK. We urge all workers to ensure they have the necessary permissions to work in the UK so that they are protected by UK employment law which helps prevent their exploitation. The Government is currently working to operationalise the Fair Work Agency, a single enforcement body that will tackle non-compliance and protect vulnerable workers.

## **Scotland**

Working together, NRM First Responder organisations in Scotland developed a toolkit<sup>1</sup> to support frontline teams. The document sets out the local and global human trafficking and exploitation context, the legislative framework, the purpose of the NRM, guidance on how to best complete an NRM referral and advice on the need for informed consent to enter the NRM (in relation to adults) and what to expect once a referral is submitted. The toolkit takes a trauma-informed approach to identifying vulnerable adults and children and provides helpful advice on how to provide a safe environment to encourage potential victims to disclose their experiences.

Scottish Borders Council (SBC), Trafficking Awareness Raising Alliance, COSLA and the Scottish Government are working together to pilot implementation of the NRM toolkit in the SBC area. The pilot will look to develop knowledge of human trafficking and exploitation amongst frontline staff and provide appropriate pathways for concerns to be raised, considered and ultimately individuals protected.

## **RECOMMENDATION:**

- 5. Ensure that all victims of human trafficking who have received a positive Conclusive Grounds decision and whose immigration status requires it are issued a renewable residence permit when their personal situation warrants it or when they are co-operating with the authorities in criminal investigations or proceedings and their presence in the UK is required for this purpose, as well as that all child victims are issued such**

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<http://www.migrationscotland.org.uk/uploads/National%20Referral%20Mechanism%20Toolkit%20March%202021.pdf>

**residence permits, in accordance with the best interests of the child, pursuant to Article 14(2) of the Convention (paragraph 314).**

**RESPONSE:**

**England and Wales**

An individual (adult or child) who has been confirmed as a victim of trafficking or modern slavery through a positive Conclusive Grounds decision will be considered for temporary permission to stay automatically if they do not already have leave to remain in the UK. This decision is made by the Competent Authorities who will decide on the information available, and any information provided on request.

An individual may be given temporary permission to stay (TPS) as a confirmed victim of trafficking or modern slavery if it is considered necessary to; assist the person in their recovery from any physical or psychological harm; enable the person to seek compensation; or enable the person to co-operate with a public authority in connection with an investigation or criminal proceedings, in respect of the relevant exploitation. TPS is not considered necessary for assisting in recovery if it is assessed that the individual's need for assistance can be met in the country of return. TPS is not considered necessary for compensation purposes if the individual is capable of seeking compensation from outside the UK and it would be reasonable for the individual to do so in the circumstances.

TPS can be granted for up to 30 months at a time for assisting with recovery needs or assisting public authorities. TPS can be granted for a maximum of 12 months at a time for pursuing a compensation claim. Individuals can request extensions to their existing grant of leave before this expires, upon application, if the individual continues to meet the suitability and eligibility criteria under TPS.

The Nationality and Borders Act 2022 established that confirmed victims of modern slavery are eligible for temporary permission to stay in the UK, this is supported by the introduction of, in the October 2022 Immigration Rules changes, the Appendix Temporary Permission to Stay for Victims of Human Trafficking or Slavery (VTS).

The policy objective is to deliver a fair and effective permission to stay process in relation to confirmed victims of modern slavery, allowing those who are cooperating with public authorities in the investigation and/or prosecution of their exploiters to stay in the UK for that purpose. The policy also intends to deliver a needs-based approach to supporting victims of modern slavery. Grants of VTS are subject to the exemptions set out in Section 63 of the Nationality and Borders Act 2022.

Where VTS is applied with respect to children, decisions will be made with consideration of the duty set out in Section 55 of the Borders, Citizenship and Immigration Act 2009.

**RECOMMENDATION:**

- 6. Review the victim return and repatriation policies in order to ensure compliance in law and practice with Article 16 of the Convention, including by:**

- **ensuring that the best interests of the child are effectively respected, protected and fulfilled, including through pre-removal risk and security assessments, in particular for unaccompanied children, by specialised bodies working with relevant partners in countries of return; such assessments should also ensure effective enjoyment of the child's right to education and measures to secure adequate care or receipt by the family or appropriate care structures in countries of return (Article 16 (5) of the Convention);**
- **ensuring that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity, is preferably voluntary and complies with the obligation of non-refoulement. This includes informing victims about existing support programmes, protecting them from re-victimisation and re-trafficking;**
- **carrying out a comprehensive risk assessment prior to the return of victims, including through enhancing international co-operation, in order to ensure compliance with the non-refoulement principle, as well as enabling the effective reintegration and protection of victims of THB returned to other countries (paragraph 322).**

## **RESPONSE:**

### **England and Wales**

The Voluntary Returns Service (VRS) is a Home Office unit that offers practical support for people who are in the United Kingdom with no right to reside, as well as people who have or who are claiming asylum, and who have decided that they wish to return home. The Home Office recognises that there will be people who choose to return to their country of return, but who have no means of doing so, or who need some assistance, depending on their personal circumstances. It is the role of the VRS to provide practical support to assist those who wish to return. The level of support available depends on individual circumstances. Support can simply be the provision of a travel document which may be held in a Home Office location, or it can be as comprehensive as helping someone with a complex medical condition to travel safely. Assistance may also be given to obtaining documentation or reintegration (financial) support if eligible. The support is provided as money on a card to be accessed once the applicant has returned to their home country, or cash - if the card does not work in their country of return. The amount of support will depend on the country of return.

If the applicant is returning to a country that is defined as developing by the Organisation for Economic Co-operation and Development (OECD) then they could receive £3000 per person returning.

If returning to a country that is not defined as developing, then the applicant could receive from £1500 per person if they need additional assistance because of their personal circumstances. This includes being a confirmed victim of modern slavery. Each case will be considered on its merit, and support may be available from £1500 to a maximum of £3000, depending on individual circumstances.

This support is a one-off payment per person who is subject to immigration control which can be used to support reintegration in the country of return, for example to find somewhere to live, support education, find a job or start a business.

Voluntary returns are the Home Office's preferred return route, and we encourage people who have no right to reside in the United Kingdom to return voluntarily.

The Home Office invests in programmes to strengthen national responses to modern slavery and human trafficking in countries from where high numbers of victims are trafficked to the UK. These include funding for long term and comprehensive reintegration support for survivors of trafficking in Albania and Vietnam, which is available to both domestic victims and returnees from overseas. In 2023, the Home Office developed and translated information sheets in English, Albanian and Vietnamese which set out how to access the support available. These have been shared with The Salvation Army, Voluntary Returns Service, Border Force, Immigration Enforcement and the police's Modern Slavery and Organised Immigration Crime (MSOIC) unit to try and increase awareness of and access to this support. In 2024, a new pilot programme has begun with the aim of improving voluntary return and reintegration arrangements and outcomes for survivors of modern slavery.