

Fact sheet: modern slavery and the Illegal Migration Bill

May 2023

Modern slavery provisions in the new Bill

The modern slavery measures in the Bill apply to people who enter the UK by irregular means (for example those who arrived by small boats), as well as non-British citizens who are liable for deportation and those who have been sentenced to immediate imprisonment. Under the Bill's measures, people from these cohorts who are identified by the Home Office as potential victims of modern slavery, won't be offered specialised support and may be detained and removed from the UK. The only exemption from these measures is if the Home Secretary decides people need to be in the UK to cooperate with a law enforcement investigation.

The denial of support would happen after the Home Office has made a 'reasonable grounds' decision through the process formally identifying people as victims of modern slavery, the National Referral Mechanism (NRM). A final 'conclusive grounds' NRM decision would not be made for this cohort of people.

The Bill will automatically disapply legislative protections for this cohort by using the so-called public order disqualification.

The protections revoked by the public order disqualification include:

- potential victims' right not to be removed from the UK during the recovery and reflection period,
- their right to specialist support services,
- a conclusive grounds decision confirming whether or not they are recognised as a victim of modern slavery.

Potential impact of the Bill

The Modern Slavery PEC (Modern Slavery and Human Rights Policy & Evidence Centre) has published an evidence-based [analysis of the proposed Illegal Migration Bill](#), which concluded that:

1. If enacted, the Bill would deny potentially thousands of people protection from trafficking each year and strengthen the hand of traffickers.

- The Bill will affect potentially thousands of people who have been trafficked and exploited, including people who are forced to enter the UK by their traffickers.

- People who are being exploited will face more obstacles when trying to escape their traffickers, because they know they won't receive protection.
- It would undermine prosecution of the offenders, as cases against them are often based on testimonies of survivors.

2. The evidence doesn't support the UK Government's claims that the measures are needed because of 'abuse' of the modern slavery support system.

- **There are robust measures built into the system to spot those who lack credibility.** NRM decisions are made by trained Home Office caseworkers according to detailed Statutory Guidance, and there is already the ability to revoke protections for people who have said they are a victim in bad faith.
- The available data on referrals to the National Referral Mechanism (NRM, see below) of people who arrived on small boats generally shows that the Home Office has recognised them as victims of modern slavery at similar levels compared to all NRM referrals. For example:
 - **The UK Government has published data indicating that the pattern of the NRM referrals for people who arrive on small boats has changed**, but this change is not in itself indicative of abuse. Claims that the system is being abused are contradicted by other evidence. Only **7%** of people who arrived on a small boat between 2018 and 2022 have been referred into the NRM (6,210 individuals). Of those who received conclusive grounds decisions (505 people), the Home Office confirmed 85% as victims of modern slavery (427 people), which is broadly in line with the average for all NRM referrals.
 - **Home Office Ministers have pointed to the increasing number of people referred to the NRM when detained for immigration removal as an indication of abuse.** However, available data for this cohort shows that the Home Office determined there were reasonable grounds to believe that they are victims of modern slavery in **93%** of cases (between January and September 2022). This compares to **88%** of all people referred to the NRM in the same period. An increase in NRM referrals for people referred from detention for removal could be related to a range of factors including an increase in identification of victims by relevant agencies (for example for people who are forced into criminal exploitation being arrested and detained); improved functioning of safeguards (the 'Adults at Risk in immigration detention' policy); as well as an increase in survivor self-identification, for example by being able to access relevant legal advice or other support whilst in immigration detention.

3. The Bill's modern slavery measures are incompatible with the UK's international obligations.

- [Legal analysis](#), commissioned by the Modern Slavery PEC and carried out by Dr Marija Jovanovic from the University of Essex, concluded that the Bill would be incompatible with the UK's obligations under international law.
- The modern slavery measures in the Bill would be incompatible with the UK's obligations under Article 4 of the European Convention on Human Rights (ECHR), which are part of UK law under the Human Rights Act 1998 (HRA), and its obligations in international law under the European Convention Against Trafficking (ECAT). These international instruments place a duty on states to take operational measures to protect victims, or potential victims, and a

procedural obligation to investigate potential situations of modern slavery and punish the perpetrators. They require that victims shouldn't be removed from their territory until the identification process as victim has been completed by the competent authorities.

Modern slavery in the UK

What is modern slavery and human trafficking?

Modern slavery is an umbrella term for crimes in which people are trapped, controlled and exploited in situations they can't escape because of coercion, threats, violence, or someone taking advantage of their vulnerability. Modern slavery takes many forms such as slavery, human trafficking, forced labour, criminal exploitation, and servitude.

For **human trafficking**, three components must be present in the case of an adult:

1. action (recruitment, transportation, transfer, harbouring or receipt, which includes an element of movement whether national or cross-border)
2. achieved by a means (threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability),
3. and for the purpose of exploitation, which includes scenarios where a person has not yet been exploited but trafficked for that purpose. Exploitation can take a number of different forms, including sexual exploitation, criminal exploitation, forced labour and domestic servitude.

For children, only the 'action' and 'purpose' elements need to be present to meet the definition.

National Referral Mechanism (NRM)

How the NRM works:

- The current system for identifying and supporting victims of modern slavery – the National Referral Mechanism (NRM) – is run by the Home Office.
- Trained professionals from First Responder Organisations (which include Border Force, Immigration Enforcement, the police, local authorities and nominated charities) refer people who they think display indicators of modern slavery into the system. Individuals cannot refer themselves to the NRM. Formally, it is incorrect to talk about 'modern slavery claims' in relation to people being referred into the NRM system.
- After someone is referred, the Home Office runs a two-stage decision-making process to determine whether someone is a victim of modern slavery.
- The first stage – a reasonable grounds decision – is meant to be made within 5 days. Receiving a positive reasonable ground entitles individuals to a recovery and reflection period, which includes access to specialist support such as accommodation (if required), legal representation or healthcare.
- Following that, the Home Office gathers further information about a case to make a final conclusive grounds decision to determine whether on the 'balance of probabilities', the person is a victim of modern slavery. This involves gathering a range of evidence from relevant bodies, for example from the police.

- Adults must give their consent to be referred to the NRM. If they don't, the First Responder must notify the Home Office. This is captured by the 'Duty to Notify' statistics.
- At the moment, the process is taking nearly two years on average (in 2022 median time from referral to conclusive grounds decisions was 543 days).

Modern Slavery referrals – 2022 stats

- There were 16,938 potential victims of modern slavery referred to the NRM in 2022, representing a 33% increase compared to the preceding year.
- 52% referrals were for potential victims who claimed exploitation as adults, 41% (7,019) claimed exploitation as children, in 6% the age was unknown.
- Overall, of the 16,938 potential victims referred in 2022, 78% (13,290) were male and 21% (3,634) were female.
- The most common form of exploitation is for labour, which accounted for 30% (labour only) of all referrals. Children were most often referred for criminal exploitation (43%; 3,013).
- 88% of reasonable grounds and 89% of conclusive grounds decisions were positive.
- The Home Office received 4,580 reports of adult potential victims via the Duty to Notify (DtN) process, where people chose not to be referred to the NRM.
- The most common nationality referred was Albanian, which accounted for 27% (4,613) of all potential victims (20% in the previous year). The second most commonly referred nationality was UK (25%; 4,185) and the third was Eritrean (7%; 1,171).
- 80% (3,337) of referred UK nationals were children.

Stats for the first quarter of 2023 (January -March)

- 4,746 potential victims of modern slavery were referred to the Home Office in January to March 2023, representing a 7% increase compared with October to December 2022 (4,416) and a 26% increase from January to March 2022 (3,773), and the highest number of referrals since the NRM began in 2009.
- Albanian nationals were the most commonly referred nationality, followed by UK nationals.
- 3,528 reasonable grounds and 2,275 conclusive grounds decisions were issued this quarter; of these, 58% of reasonable grounds and 75% of conclusive grounds decisions were positive.
- The Home Office received 1,420 reports of adult potential victims via the Duty to Notify process, the highest since the DtN began in 2015.

NRM and immigration

- Having a positive 'reasonable grounds' decision entitles people to a 'reflection and recovery period' which includes protection from removal from the UK until the final (conclusive grounds) decision is made (unless grounds of public order prevent it or it is found that victim status is being claimed improperly).
- Decisions made through NRM about victim status are separate to decisions made about asylum. However, being a victim of modern slavery may form part of person's claim for asylum, which is a distinct legal process.
- Being referred to the NRM doesn't automatically provide people the right to permanently stay in the UK. Between April 2016 and June 2021, 7% confirmed victims of modern slavery who applied were granted leave to remain (447 out of 6,066).

Smuggling vs trafficking

Human trafficking is distinct from human smuggling which occurs when a person seeks help to be moved across a border illegally. Smuggling is a voluntary, transactional arrangement which ends once the person enters the country. In trafficking, people are not free to go and can be exploited.

Human trafficking is about coercing people into situations of dependency and exploiting them, often using their vulnerable situation, be it back at home or during their journeys. Some people might already have been coerced and forced to travel to the UK. Others, even though they haven't been exploited yet, they might arrive in the UK with a debt to pay or other dependency, meaning they may be exploited after crossing the Channel (for example by being forced to work off their debts), so that person might become a victim of trafficking on their way or after they arrive.