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## Introduction

The International Organization for Migration, Country Office for the United Kingdom of Great Britain and Northern Ireland (IOM UK) is pleased to submit a written response to the Home Affairs Committee's [inquiry](#) into the trafficking of human beings.

Founded in 1951, IOM is the leading inter-governmental organization in the field of migration. With 175 member states and presence in over 100 countries, IOM as the UN Migration Agency is committed to the principle that humane and orderly migration benefits migrants and society. The Organization works with its partners in the international community to assist in meeting the operational challenges of migration, advance understanding of migration issues, encourage social and economic development through migration and to uphold the well-being and human rights of all migrants.

According to Article I (c) of the IOM Constitution, one of the purposes and functions of the Organization is “to provide [...] advisory services on migration questions and other assistance as is in accord with the aims of the Organization”. The IOM Strategy, adopted by the IOM Council in 2007, further provides that the Organization will focus on inter alia “assisting States in the development and delivery of programmes, studies and technical expertise on combating migrant smuggling and trafficking in persons, in particular women and children, in a manner consistent with international law”.

Since the mid-1990s, IOM and its partners have provided protection and assistance to more than 100,000 men, women and children, who were trafficked for sexual and labour exploitation, slavery or practices similar to slavery, servitude, or organ removal.

## Evidence submission:

IOM's submission focuses on responding to questions 3, 4 and 5 as set out in the inquiry's terms of reference. This submission is based on IOM's recent experience in supporting survivors of modern slavery in the UK, ongoing research, and analysis of raw data on referrals to the UK's National Referral Mechanism (NRM).<sup>1</sup>

## **Question 3: To what extent do support services meet the needs of victims who have been trafficked in or to the UK?**

### **Learning from IOM's Skills Training and Reintegration (STAR) Project:**

3.1 Between November 2020 and March 2022 IOM's STAR project delivered weekly skills development training over 3 months with 18 survivors of modern slavery in the UK to improve their digital literacy skills, life skills and employment skills to support them on their journey towards employment and integration in the UK.<sup>2</sup>

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<sup>1</sup> The Home Office has deposited raw NRM data for referrals from 2014-2022 on the UK Data Service. <https://beta.ukdataservice.ac.uk/datacatalogue/studies/study?id=8910>

<sup>2</sup> <https://unitedkingdom.iom.int/skills-training-and-reintegration-star-project>

3.2 In comparison to other areas of support there has been limited employment-related support. The Modern Slavery Victim Care Contract (MSVCC) funded by the UK government to support potential and confirmed adult survivors of modern slavery in England and Wales includes ‘employment’ in the list of support services to be provided (including preparation for work) but it is not clear what is specifically provided or who this is accessible to.

3.2.1 There are some positive examples of employment-oriented support provided by various organisations outside of the MSVCC. For example, the Bright Future Programme, Business in the Community and the Sophie Hayes Foundation all support survivors with work placements and skills training to help people find and apply for jobs and gain employment.

3.2.2 A report by the UK Independent Anti-Slavery Commissioner (IASC) and the University of Nottingham on the benefits of employment for survivors of modern slavery and the barriers to it<sup>3</sup> highlighted that more evidence is needed about the existing skills, qualifications and work experience of survivors as well as their work and career aspirations. The research recommends the co-development of a standardised suite of employability trainings by survivors and the anti-slavery sector to form an accredited work preparation curriculum for all survivors in the NRM.

3.3 The provision and accessibility of employment support provided to people through the NRM is impacted by barriers to the right to work for many survivors. IOM recommends that the UK labour market should be open to people waiting for an asylum decision or Conclusive Grounds (CG) decision.

### **Impact of the Illegal Migration Bill:**

3.4 IOM is concerned about the impact that the Illegal Migration Bill (introduced in the House of Commons on 7 March 2023) would have on support and protection services for victims of trafficking in the UK.

3.4.1 The effect of the Bill, in its current form, would be to prevent access to the support services provided through the NRM for victims of trafficking if they had taken an irregular route to the UK.

### **Question 4: What evidence is there, if any, that the National Referral Mechanism process is being exploited by individuals seeking asylum in the UK?**

4.1 IOM is not aware of any empirical data which provides evidence of the exploitation of the NRM by individuals seeking asylum in the UK. Claims about abuse of the NRM have coincided with record high numbers of people being officially recognised as victims of modern slavery by the Home Office, as noted by the UK Statistics Authority in their letter to the Home Office.<sup>4</sup> IOM’s analysis of raw NRM data sets (made available via the UK Data Service)<sup>5</sup>, finds that in 2022, 89% of the CG decisions made by the Competent Authorities within the Home Office were positive, continuing the trend of very high rates of positive CG decisions in recent years (91% in 2021 and 90% in 2020).

4.2 IOM believes that the increased number of referrals and the high percentages of people officially recognised as a victim of modern slavery is a result of the successful work of different stakeholders to improve awareness of modern slavery in the UK and to improve the capacities of those responsible for referring potential victims.

<sup>3</sup> [https://www.antislaverycommissioner.co.uk/media/1599/rights\\_lab\\_access-to-work-pathways\\_final.pdf](https://www.antislaverycommissioner.co.uk/media/1599/rights_lab_access-to-work-pathways_final.pdf)

<sup>4</sup> [https://osr.statisticsauthority.gov.uk/wp-content/uploads/2022/12/Ed\\_Humpherson\\_Jennifer\\_Rubin\\_National\\_Referral\\_Mechanism\\_statistics.pdf](https://osr.statisticsauthority.gov.uk/wp-content/uploads/2022/12/Ed_Humpherson_Jennifer_Rubin_National_Referral_Mechanism_statistics.pdf)

<sup>5</sup> [https://osr.statisticsauthority.gov.uk/wp-content/uploads/2022/12/Ed\\_Humpherson\\_Jennifer\\_Rubin\\_National\\_Referral\\_Mechanism\\_statistics.pdf](https://osr.statisticsauthority.gov.uk/wp-content/uploads/2022/12/Ed_Humpherson_Jennifer_Rubin_National_Referral_Mechanism_statistics.pdf)

<sup>5</sup> In quarter 4, 2021, the UK Data Service (UKDS) began publishing raw data sets of NRM data containing detailed row-level data that was not previously available.

### **In-built safeguards against abuse or exploitation of the NRM:**

4.3 It is important to acknowledge that individuals cannot self-refer into the NRM. A referral can only be made by a ‘First Responder’ who works for a First Responder Organisation (FRO). First Responders are trained to identify indicators of human trafficking and modern slavery to make appropriate referrals. The statutory guidance for the Modern Slavery Act explains that “A First Responder’s decision as to whether to refer a potential victim into the NRM is a decision of professional judgment based on the evidence available to them.”<sup>6</sup> The fact that individuals cannot self-refer and that referrals must be made by an FRO designated by the Home Office helps prevent potential malicious misuse of the NRM.

### **Absence of data on those referred to the NRM and claiming asylum:**

4.4 There is an absence of data regarding people who have been referred to the NRM and claimed asylum in the UK. None of the NRM statistics published by the Home Office contain any data about people referred to the NRM who have also claimed asylum or any data on decisions for those who have claimed asylum and those who have not. The lack of such data makes it difficult to demonstrate abuse of the NRM or to understand the impacts and outcomes for those who are in both the asylum system and NRM. However, data provided to the IASC from the Home Office showed that asylum decisions made in 2018 and 2019 with an associated NRM referral were seven times more likely to have taken more than 12 months than asylum decisions without an associated NRM referral.<sup>7</sup> IOM’s analysis of recent NRM data has shown non-EU nationals are waiting significantly longer for their CG decisions than the median waiting time, but the data does not identify those cases which also have an asylum claim.<sup>8</sup> IOM recommends the collection and publishing of data on people referred to the NRM that have claimed asylum.

### **Minority of NRM referrals come from small boat arrivals claiming asylum:**

4.5 In February 2023 the Home Office published analysis of their official statistics on irregular migration which stated that “a small proportion of small boat arrivals are referred into the NRM as potential victims of modern slavery.”<sup>9</sup> Only 6,210 small boat arrivals between 1 January 2018 and 31 December 2022 were referred to the NRM, 7% of the total 83,236 small boat arrivals in that period.<sup>10</sup>

4.5.1 Of the 6,210 people referred to the NRM, 95% also claimed asylum.<sup>11</sup> However, the vast majority of non-UK and non-EU nationals referred to the NRM were not recorded as a small boat arrival. IOM’s analysis of the raw NRM data finds there were more than 37,000 non-UK and non-EU nationals referred to the NRM between 2018 and 2022. However, the data does not show how many of them also claimed asylum or the outcome of that claim.

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<sup>6</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1139341/Modern\\_Slavery\\_Statutory\\_Guidance\\_EW\\_Non-Statutory\\_Guidance\\_SNI\\_v3.1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1139341/Modern_Slavery_Statutory_Guidance_EW_Non-Statutory_Guidance_SNI_v3.1.pdf)

<sup>7</sup> [https://www.antislaverycommissioner.co.uk/media/1687/iasc-paper\\_nrm-and-asylum-decision-times-for-potential-victims-of-modern-slavery\\_october-2021.pdf](https://www.antislaverycommissioner.co.uk/media/1687/iasc-paper_nrm-and-asylum-decision-times-for-potential-victims-of-modern-slavery_october-2021.pdf)

<sup>8</sup> [https://unitedkingdom.iom.int/sites/g/files/tmzbd11381/files/documents/IOM\\_UK\\_NRM\\_Briefing\\_Q1\\_2022.pdf](https://unitedkingdom.iom.int/sites/g/files/tmzbd11381/files/documents/IOM_UK_NRM_Briefing_Q1_2022.pdf)

<sup>9</sup> <https://www.gov.uk/government/statistics/irregular-migration-to-the-uk-year-ending-december-2022/irregular-migration-to-the-uk-year-ending-december-2022>

<sup>10</sup> Ibid

<sup>11</sup> Ibid

**Home Office data shows that the majority of people entering the NRM who arrived on small boats go on to receive a positive conclusive grounds decision:**

4.6 The Home Office's data on small boat arrivals provides data on NRM decision making at both the reasonable grounds (RG) and CG stages.

4.6.1 At the RG stage, the Home Office's data shows that between 2018 and 2022 85% of referrals from small boat arrivals were positive. IOM's analysis of the NRM data for all RG decisions made in the same period finds that 88.5% were positive. This means that those referred to the NRM who arrived on a small boat are only marginally less likely to receive a positive decision at the RG stage, as compared to any other person referred to the NRM.

4.6.2 At the CG stage, 85% of those referred to the NRM who arrived via small boat between 2018 and 2022 were positive. IOM's analysis of the NRM data for the same period finds that 85% of all CG decisions were positive. Therefore, small boat arrivals were just as likely to receive a positive CG decision as all people referred to the NRM. However, the positivity rate has reduced for decisions made in 2022 for those arriving by small boats to 70%, compared to 89% for all CG decisions made in the year. However, this still means that 7 out of 10 people arriving via small boat who received a CG decision were found by the government to be a victim of modern slavery. Furthermore, a negative RG or CG decision does not mean that the person referred was trying to exploit the system or that they had not suffered abuse or mistreatment of some kind. A negative decision simply means that the Home Office did not consider a person's experiences to have met the definitions.

4.6.3 The Home Office data highlights that 95% of NRM referrals from small boat arrivals claimed asylum but does not provide disaggregated data on NRM decisions for those who had claimed asylum and those who had not. Therefore, it is not possible to tell how many of the 889 negative RG decisions and 78 negative CG decisions for small boat arrivals between 2018 and 2022 were for individuals who had claimed asylum.

**Reducing waiting times for decisions is the biggest challenge for the NRM:**

4.7 At the time of the data extraction for the irregular immigration statistics published on 23<sup>rd</sup> February 2023, there were 4,374 people who arrived in the UK via small boat between 2018 and 2022 who were waiting for a CG decision. This illustrates the biggest challenge for the UK's NRM which is the long waiting times to make a CG decision. Survivors are waiting longer than ever for their decision. The median waiting time for CG decisions made between 1<sup>st</sup> October and 31<sup>st</sup> December 2022 was 642 days.<sup>12</sup> This was the longest median waiting time for a quarter ever recorded. IOM's analysis of the raw NRM data finds that there are approximately 30,000 people waiting for a CG decision. There are still potential victims of modern slavery waiting to receive a CG decision who were referred to the NRM before the 2015 Modern Slavery Act had received royal assent.

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<sup>12</sup> [https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-october-to-december-2022/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-quarter-4-2022-october-to-december#:~:text=In%20quarter%204%202022%2C%20the,4%20in%202021%20\(3%2C331\)](https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-october-to-december-2022/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-quarter-4-2022-october-to-december#:~:text=In%20quarter%204%202022%2C%20the,4%20in%202021%20(3%2C331))

**Question 5: How can legislation, including the Modern Slavery Act 2015, policy and criminal justice system practice be improved to prevent and address human trafficking?**

**Concerns about continued criminalisation of potential victims of human trafficking and modern slavery in the criminal justice system:**

5.1 IOM is concerned that despite the introduction of Section 45 of the 2015 Modern Slavery Act and guidance issued by the Crown Prosecution Service and police, potential and confirmed victims of modern slavery in England and Wales seem to continue to be punished for offences they appear to have committed as a direct consequence of being a victim of modern slavery. These concerns are based on IOM's analysis of nearly 200 media reports between 2017 and 2023 from regional online news websites about foreign nationals who received custodial sentences after being found guilty of the production of cannabis where the media report describes strong indicators that those who were convicted were a potential victim of human trafficking. In most of the reports there is no reference to the defendants being recognised as potential victims of human trafficking or modern slavery. However, IOM has identified multiple cases in which defendants were explicitly described as a victim of human trafficking and modern slavery during their criminal trial.

5.1.1 IOM recognises the limitations of analysing these news reports as they do not provide all the pertinent details of the cases. However, we feel they give insights into concerning trends that justify further investigation. This submission includes a small snapshot of cases that have been reported in the media in the past 12 months. The cases suggest more training on human trafficking and Section 45 of the Modern Slavery Act is needed for stakeholders throughout the criminal justice system. As a result of the Section 63 public disqualification in the Nationality and Borders Act, all the individuals imprisoned in these cases could be excluded from the NRM.

5.1.2 The criminalisation of victims prevents them from accessing the specialist support and assistance they are entitled to, risks further harm and re-traumatisation and undermines efforts to prosecute and convict those committing modern slavery offences in the UK.

5.2 Despite recognition that victims of modern slavery have been imprisoned for offences they committed while they were being exploited there has been an absence of policy dealing with the identification of victims of modern slavery in prison or how to address their support needs. Ongoing research by IOM in partnership with the University of Essex and Hibiscus Initiatives<sup>13</sup> has interviewed key stakeholders who have worked with victims of modern slavery while in prison and after their release as well as those with lived experience of modern slavery and being in prison. The research has identified a lack of awareness and understanding about the NRM and modern slavery among staff in prison, practical barriers to being referred to the NRM while in prison, a lack of support for victims while in prison and significant risks to victims in how their release from prison has been practically managed which has included individuals being bailed to the location where they were exploited.

5.3 IOM welcomes the new modern slavery guidance for prison staff which was published by HM Prisons and Probation Service (HMPPS) in February 2023<sup>14</sup> following the settlement of a judicial review claim brought by the legal charity, Anti-Trafficking and Labour Exploitation Unit (ATLEU) on behalf of victims and potential victims of modern slavery in prisons.<sup>15</sup>

5.3.1 IOM notes that the new HMPPS guidance makes it clear that prison staff should continue to report potential cases of modern slavery to a first responder organisation since the enactment of the public order disqualification of Section 63 of the Nationality and Borders Act 2022. IOM recommends

<sup>13</sup> <https://modernslaverypec.org/research-projects/modern-slavery-uk-prisons>

<sup>14</sup> <https://www.gov.uk/government/publications/modern-slavery-guidance>

<sup>15</sup> <https://atleu.org.uk/cases/2022/7/12/new-modern-slavery-guidance-prison-staff>

that the UK government collects and publishes data on cases where a public order disqualification has been issued.

**Examples of cases where there appears to be a formal or informal recognition that the defendant could be a victim of modern slavery:**

- 5.4 In February 2023 an 18 year-old Vietnamese man was given an eight month custodial sentence at York Crown Court after pleading guilty for the production of a Class B drug. The prosecutor is quoted in the media report as saying *“Clearly, he was a vulnerable young adult and there has been a finding by the (authorities) that he has been trafficked.”* And the Judge, the Recorder of York, was quoted as saying, *“It’s quite clear you have been used or (you were) what is termed these days a modern slave . . . It’s a common story that people are hoodwinked into thinking they can get work and they are abused in this way.”*<sup>16</sup>
- 5.4.1 In January 2023 a 33-year-old Albanian man was given a 30-month custodial sentence at Leeds Crown Court for the production of cannabis. The media report mentions that ‘The court heard the defence of modern slavery was raised in the lower court.’ The prosecutor is quoted in the media report as saying, *“there seems to be some strength in the argument that there was some element he was forced into the country but the crown take the view not to proceed in any event.”*<sup>17</sup>

**Examples of cases where strong trafficking indicators appear to have been acknowledged but do not seem to have been recognised or acted upon:**

- 5.5 In December 2022, two Albanian men were given custodial sentences of 12 months each at Oxford Crown Court for the production of cannabis. The media report notes that the solicitor for one of the men explained that they *“had incurred a £20,000 debt coming to the UK in search of a better life. He said the two farmers had ‘never left’ the factory in Thame over the month they were there; they were locked in and food was delivered to them.”* The Judge told the men, *“In order to repay the debt you owed to these gangsters you had no hesitation, probably because you hadn’t very much choice, in agreeing to work in this cannabis factory.”*<sup>18</sup>
- 5.5.1 In October 2022, three Albanian men were given custodial sentences of between 21 and 18 months at Maidstone Crown Court for their involvement in the cultivation of cannabis. The media report summarises the remarks of the Judge, *“the three had been used as ‘gardeners’ and had been locked inside the building in squalid conditions and had been exploited.”*<sup>19</sup>
- 5.5.2 In March 2022, a 27-year-old Albanian man was given a 13-month custodial sentence at Newcastle Crown Court for the production of cannabis. The prosecutor in the case told the court that the defendant *“said that he had been required to tend to the plants by people who threatened to harm his family in his homeland Albania and they required him to work off the debt he had incurred from his transfer to the UK.”* The Judge was quoted as telling the man, *“You arrived illegally in the UK and were placed in the cannabis farm to pay off debt to the people who brought you here . . . You had a limited function and were working under direction.”*<sup>20</sup>

March 2023

<sup>16</sup> <https://thestrayferret.co.uk/harrogate-cannabis-gardener-jailed-after-250000-farm-found>

<sup>17</sup> <https://www.examinerlive.co.uk/news/west-yorkshire-news/two-albanian-men-found-living-26089962>

<sup>18</sup> <https://www.oxfordmail.co.uk/news/23208635.albanians-trafficked-thame-locked-cannabis-factory/>

<sup>19</sup> <https://www.kentononline.co.uk/sheerness/news/three-jailed-after-2-300-cannabis-plants-found-in-club-275593/>

<sup>20</sup> <https://www.chroniclive.co.uk/news/north-east-news/hetton-le-hole-cannabis-farm-23293807#>