

## Recommendations on anti-trafficking for the UK UPR, 2022 (Fourth Cycle)

### Summary

Despite being lauded for its 2015 Modern Slavery Act and accepting related recommendations during the last UPR cycle, the UK government has since eroded its credibility on this issue.<sup>1</sup> It has moved away from supporting victims and aligning with its international obligations, including under the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT), and instead, further entrenched its immigration enforcement lens. In many cases the UK has responded to modern slavery issues with discredited 'Hostile Environment' policies, while its scheme to remove asylum seekers to Rwanda has embedded trafficking into government policy. In distancing itself both from civil society and international and regional human rights standards (i.e. by repealing the Human Rights Act 1998), while failing to sufficiently address corporate responsibility for trafficking and modern slavery, the UK government is creating a country in which survivors are more vulnerable to harm, hostility and exploitation.

### Recommendations

- **Fully adopt and give effect to the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT) in domestic legislation, in accordance with its obligations.**
- **Remove immigration enforcement from modern slavery protection policies and mechanisms support and end the 'Hostile Environment' legislative programme.**
- **Remove tied visas and ensure that all migrant workers are able to change employers and apply to renew their visas in a manner that is not dependent on their employer, or Scheme Operator.**
- **Commit to and implement a fit-for-purpose Business, Human Rights and Environment Act that, among other aspects, creates a corporate duty to prevent negative human rights and environmental impacts among those operating in the UK via proactive due diligence across their operations, subsidiaries and value chains.**

### Key issues: Tackling trafficking and modern slavery in the UK

*For sources please refer to the attached stakeholder submissions on trafficking, signed onto by 17 UK-based civil society groups (A) and on migrant domestic workers, signed onto by 6 groups (B).*

#### ***New legislation undermines protections within the Modern Slavery Act and ECAT***

Much of the Home Office's recent policy directly conflicts with the principles of ECAT – which reflects regional good practice and provides comprehensive support for victims – while undermining the protections brought in under The Modern Slavery Act (2015). The immigration enforcement-centred approach has resulted in a tenfold increase in the number of trafficking survivors held in immigration detention centres in the last four years (A-p22). The recent Nationality and Borders Act (2022) imposes a deadline on those making a protection claim; this poorly reflects the nature of trauma by requiring that they disclose their exploitation by a certain date. The Act makes applications from refugees who enter the country 'illegally' inadmissible, and raises the National Referral Mechanism (NRM) threshold for all victims

---

<sup>1</sup> For example, the UK government accepted recommendation 134.141 on the identification and provision of assistance to victims of human trafficking, as well as 134.138, 134.139, 134.142, 134.143 and 134.144 on national frameworks and mechanisms to counter human trafficking.

while allowing the Home Office to disqualify anyone with a criminal conviction of over 12 months from accessing it. These aspects, plus the policy of forced removals to Rwanda, means there is a high risk of trafficking victims being deported before they can be identified. Throughout, the Government has wrongly claimed that it has been more closely aligning the British statute books to its ECAT obligations.

***Victims receive inadequate support and provision, including legal aid***

As also reported in the third cycle, victims still report [difficulties in accessing services](#) they are entitled to, including accommodation, medical services, counselling, adequate financial support and legal assistance (A-p23), despite the Government's support of recommendation 134.154.<sup>2</sup> The level and quality of assistance varies widely. Victims are not entitled to legal aid for most immigration applications until they have been referred into the NRM and received a positive reasonable grounds decision. The process for accessing 'exceptional case funding' is a barrier to justice in its own right (A-p25).

***There has been a failure to address flaws in the National Referral Mechanism***

There remain consistent and worsening flaws in the operation and delivery of the NRM, despite reform in 2017 (A-p8). It has no formal appeals process, fails to make timely decisions, and the lack of a right to work leaves victims in a state of limbo and at risk of re-exploitation. The Home Office's Duty to Notify statistics also show [a sharp increase](#) in the number of identified potential victims not consenting to being referred to the NRM, often because of legitimate fears of reprisal, arrest, or detention and/or deportation. This stands contrary to the Government's own [unevidenced claims](#) that the NRM system is being frequently misused.

***The criminal justice system is failing the majority of victims***

As highlighted by the UK's previous Independent Anti-Slavery Commissioner (a post that has been kept empty now for a long period of time), the majority of victims never see their exploiters brought to justice. Mechanisms to provide remedy, including compensation, are in place, but these remain largely inaccessible in practice. Despite guidance from the Crown Prosecution Service, trafficked people are often not identified as such and are consistently wrongly criminalised for offences committed as a result of their exploitation (A-p28).

***The policy frameworks for temporary working visas are facilitating wide-scale exploitation***

The UK is becoming increasingly reliant on temporary and fixed worker visas. In particular, restrictions in the UK's Overseas Domestic Worker visa 'ties' a domestic worker to an employer and increases their vulnerability to abuse, exploitation, and trafficking (B-p18). While seasonal agricultural workers can transfer employers, many have reported [being refused this](#). Evidence from these two sectors show that temporary fixed visas not only increase the risk of a person being exploited, but trap victims in their exploitation, yet new government policies continue to employ this element. Recent reports have highlighted similar concerns emerging in the care sector.

***The absence of robust due diligence legislation is leading to exploitation in supply chains***

Despite the UK's support of recommendations 134.138 to 134.147, the UK's business and human rights framework needs strengthening to adequately address human trafficking (A-p37). Section 54 (Transparency in Supply Chains - TISC) of the Modern Slavery Act provides a useful route but is insufficient for increasing transparency among companies. Five years since its introduction, TISC has not led to tangible, positive changes to modern slavery in supply chains and for the workers they employ. The Business & Human Rights Resource Centre has found significant failings in compliance since its implementation, with only a 40% compliance rate amongst relevant businesses (A-p39). Many companies approach TISC as a compliance exercise, meeting only the basic legal requirements of the law in terms of disclosure, rather than dedicated due diligence.

---

<sup>2</sup> To ensure the accessibility of appropriate legal aid to safeguard access to justice for all, particularly for the most marginalised groups in society