



Organization for Security and Co-operation in Europe

Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings

Foreword

On 7-11 November 2022, the then OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings Valiant Richey paid an official visit to the United Kingdom to hold consultations with high-level government officials, law-enforcement, and the judiciary, parliament as well as representatives of civil society.

The objectives of the visit were to identify promising practices for combating trafficking in human beings (THB) as well as to promote the full implementation of OSCE commitments in the field of anti-trafficking, notably holistic and comprehensive actions aiming to better prevent and respond to human trafficking and to protect and support its victims.

The Report from the visit was finalized on 20 April 2023 and was presented to all government and public agencies met during the visit on 10 May 2023. The UK Government submitted its final comments on 4 July 2023, which are annexed to the report.

The Report contains the main findings and observations from the visit, as well as a list of recommendations to strengthen the modern slavery/anti-trafficking frameworks and effectiveness in the UK. The then Special Representative closely coordinated the drafting of this report. This Office thanks the UK Government for the close cooperation in organizing the visit, and stands ready to provide further support in the field of combating trafficking, including in the implementation of the recommendations contained in this report.

A handwritten signature in black ink, appearing to read 'Andrea Salvoni'.

Andrea Salvoni

Acting Co-ordinator, Office of the OSCE Representative/Co-ordinator for Combating
Trafficking in Human Beings



Organization for Security and Co-operation in Europe

Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings

Report by the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Valiant Richey following the country visit to the United Kingdom 7-11 November 2022

Summary:

The OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings Valiant Richey conducted an official visit to the United Kingdom (UK)¹ from 7 to 11 November 2022 to assess the country's anti-trafficking laws, policies and practices. During the visit, special attention was paid to the current legal framework for combating modern slavery² and human trafficking, as well as measures to prevent human trafficking, to protect the rights of and provide assistance to trafficked persons, and to prosecute perpetrators in line with OSCE commitments and relevant international standards.

The Special Representative positively notes the UK's establishment of mechanisms and institutional frameworks for identification and referral of modern slavery and human trafficking victims, including its expansive system of "First Responders" which is a driving force for victims' access to the National Referral Mechanism (NRM). The UK's First Responders' victim referral rate is – by far - the highest in the OSCE area and is commendable. The Home Office's pilot NRM Transformation Programme has yielded positive results such as establishing devolved decision making and assistance for child victims of modern slavery and trafficking. The Special Representative acknowledges the leading role of the UK both domestically and globally, such as within the G7 group, to ensure that global supply chains are free from the use of forced labour. The work of the Modern Slavery Policy and Evidence Centre serves as a good practice for the OSCE States to develop evidential research, including with the engagement of survivors to inform anti-trafficking policies.

Scotland's ongoing efforts to update its Trafficking and Exploitation Strategy, facilitate co-ordination among various agencies and government institutions serve as a promising

¹ The Special Representative visited England and Scotland.

² Modern Slavery is not the term used by the OSCE or recognized by international instruments. However, given that it is a term used in the UK legislation and in the UK's anti-trafficking field at large, the term is used in the present report. The UK uses the umbrella term of modern slavery to define slavery, servitude and forced or compulsory labour and human trafficking.

example of high-level attention to combating and preventing human trafficking. The innovative “Victim Navigators” who are embedded in police teams to engage with victims and provide coordination between the victim and the police investigators is a welcome initiative and a good practice to follow for other OSCE participating States.

Despite these positive developments, the Special Representative also wishes to share several key observations and concerns with regard to specific actions and challenges in the country’s anti-trafficking response. He expresses his concern that a growing number of UK’s flagship initiatives and commitments – such as the update of Anti-Slavery Strategy, renewal of the 2015 Modern Slavery Act, and adoption of the Online Safety Bill - remain unfulfilled. The failure for one year to appoint someone to fill the key position of Independent Anti-Slavery Commissioner is among the stalled actions that has a profound impact on the UK’s anti-trafficking response. While noting the effectiveness of the First Responders in identifying and referring a large numbers of potential victims to the NRM, the Special Representative is seriously concerned about the length of time taken by the Home Office’s Competent Authorities to conclusively decide whether or not the referred individual is a victim of modern slavery or trafficking.

He also takes note of the government’s unsupported position that large rates of migrants are abusing the NRM with false claims of victimhood. Some of the government’s recent proposals in the area of migration are contrary to fundamental principles of international law, including in the field of trafficking. He warns of the harmful consequences of conflation of modern slavery with immigration as reflected in the Nationality and Borders Act. The Bill on Illegal Migration proposed in March 2023 lacks a balance between the protection of human rights and ensuring security, and it will significantly prevent the UK’s ability to identify and protect victims of modern slavery and trafficking.

In the area of victim identification and assistance, while noting the efforts made to identify labour exploitation, the Special Representative is concerned that trafficking for sexual exploitation - including when facilitated through technology - remains under-addressed. Furthermore, much work remains to be done to address the exponential increase in trafficking of children, particularly for criminal exploitation in so-called “county lines” offences. Despite the statutory provision permitting victims to remain in the UK, lax application of the “leave to remain” discourages victims’ cooperation with authorities and undermines the effectiveness of the NRM. The introduction of the “trafficking information notice” and its potential damage to credibility and the disqualification of victims from protection on the grounds of “threat to public order” and prior criminal record by the Nationality and Borders Act will have serious consequences for many victims.

In the area of criminal justice response, there is a notable and commendable increase in investigations and prosecutions. However, the huge numbers of referrals to the NRM (and the high rates of positive conclusive decisions) highlight the scope of exploitation in the UK and the need for much more rigorous and enhanced efforts by criminal justice practitioners and the judiciary. It is important that criminal justice practitioners further scale up their efforts to investigate, prosecute and effectively adjudicate all modern slavery and human trafficking cases. In other words, investment and prioritization by the criminal justice system needs to match the scale of the crime as currently indicated

by the NRM referrals. Increasing the use of (proactive) financial investigations and enhancing the focus on the online marketplace for trafficking can reduce the burden on victims and potentially boost victimless prosecutions.

With regard to prevention, the UK does not appear to be taking substantive steps to tackle the demand that fosters trafficking for sexual exploitation, despite the international legal obligation to do so. Enforcing existing legal provisions that target the buyers of sexual services from trafficking victims is crucial to tackle and discourage the growing demand fostering sexual exploitation.

The UK's Transparency Act introduced a groundbreaking transparency obligation to businesses to ensure exploitation-free operation; however, the Act would benefit from modernization to align with increasing requirements of due-diligence measures and enforcement mechanisms. The Special Representative stresses the importance of a Single Enforcement Body that the Government has committed to establish to solidify efforts to prevent and tackle labour exploitation.

Below, the Special Representative makes several concrete and urgent recommendations to enhance the UK's response on several key areas, including development and timely adoption of the new National Modern Slavery Strategy, finalization of the update of the Modern Slavery Act, adoption of the Online Safety Bill and the appointment of the Independent Anti-Slavery Commissioner. He calls on the Home Office to accelerate the conclusive decision making of victims' trafficking status. He further urges the Government to significantly revise or remove entirely several clauses under Part 4 and 5 of the Borders Act and warns against the irreversible consequences of the Illegal Migration Bill.

Further recommendations touch on the need for capacity building for criminal justice practitioners across the board, increase in financial investigations and development of a dedicated guidance to all stakeholders on the key principles guiding anti-trafficking work, including the non-punishment of trafficked persons for offences committed as a result of their trafficking victim status.

He further makes recommendations to help prevent and combat all forms of trafficking in children. These recommendations include urgently addressing the rising rate of exploitation of children and vulnerable adults in country lines offences and other criminal activities through stronger protection mechanism and effectively applying the MSA to exonerate victims from prosecution.

I. Introduction

1. This Report presents the central findings and recommendations of OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Valiant Richey, (hereinafter referred to as the Special Representative) following his country visit to the United Kingdom on 7-11 November 2022.³
2. The purpose of the visit was to hold consultations with government officials and experts from state institutions and civil society to learn of promising practices as well as to support and advance ongoing efforts to prevent trafficking, assist trafficked persons and protect their rights, and bring perpetrators to justice in line with OSCE commitments and relevant international standards.
3. In the course of the visit, the Special Representative engaged in direct consultations with high-level government officials in London, including Lady Theresa May; Andrew Patrick, UK Migration and Modern Slavery Envoy under the Foreign, Commonwealth and Development Office (FCDO); Lord Randall of Uxbridge and Baroness Butler-Sloss from All-Party Parliamentary Group on Human Trafficking and Modern Slavery; Dame Diana Johnson from All Party Parliamentary Group on Commercial Sexual Exploitation; the Home Office Modern Slavery Unit; the Crown Prosecution Service; the National Crime Agency (NCA); the Financial Intelligence Unit (FIU); the National Police Chief's Council Lead for Modern Slavery (NPCC); the UK Border Force; the UK Immigration Enforcement; the UK Visas and Immigration; the Gangmasters and Labour Abuse Authority (GLAA); the Modern Slavery and Human Rights Policy and Evidence Centre; the Independent Child Trafficking Guardians; Doughty Street Chambers and the Salvation Army.

In Edinburgh and Glasgow, the Special Representative met with the Scottish Government; Police Service of Scotland, Crown Office and Procurator Fiscal Service; Scottish Commissioner for Children and Young People, Scottish Guardianship Service; Scottish Refugee Council and Trafficking Awareness Raising Alliance (TARA). He held an online meeting with the Scottish Parliament Cross-Party Group on Human Trafficking.

The Special Representative also held online consultations with anti-trafficking NGOs and experts, including Furnival Chambers; Anti-Trafficking and Labour Exploitation Unit (ATLEU); Focus on Labour Exploitation; Helen Bamber Foundation; Hope for Justice; Justice and Care; JustRight Scotland (Scottish Anti-Trafficking and Exploitation Centre); Unseen UK and ECPAT UK.

Finally, the Special Representative met with a representative of the private company Boohoo Group to discuss the due diligence measures it has taken to prevent trafficking for labour exploitation and respect human rights within its supply chains.

4. The Special Representative wishes to thank the UK authorities, and in particular, Home Office Modern Slavery Unit and the FCDO, for their co-operation and assistance in organizing and facilitating the visit. He also wishes to thank all interlocutors, including

³ The Special Representative was accompanied by the Programme Officers, Tarana Baghirova and Oleksandr Kyrylenko

civil society organizations, experts and private company representatives for their willingness to share their knowledge and insights.

5. Consultations during the visit focused on the situation of trafficking in human beings (THB) in the country and the ongoing policy, legislative, and practical responses to it. More specifically, discussions focused on adoption of policy and legal documents; the identification of, and the provision of assistance to, victims of all forms of modern slavery/trafficking, including child victims; the protection of victims' rights, including of migrant workers and asylum seekers; efforts in the area of prevention and countering the demand that fosters sexual and labour exploitation; co-operation with civil society and partnerships with public and private entities; and prosecutions and convictions of perpetrators.
6. Over the course of the visit, the Special Representative noted with appreciation that many government officials and civil society representatives demonstrated significant awareness and understanding of human trafficking as a serious violation of fundamental rights, as well as knowledge of new modern slavery/ human trafficking trends in the country. However, he observed with concern a decline in high-level attention to modern slavery and human trafficking and warned that a persistent decline in attention could jeopardize the important results already achieved by the UK.

II. Legal framework

7. The Special Representative commends the UK for being a party to major international instruments in the fight against trafficking in human beings, such as the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children ("Palermo Protocol"), ratified on 9 February 2006, and the Council of Europe Convention on Action against Trafficking in Human Beings, ratified on 17 December 2008.

The country has also ratified a number of Conventions addressing slavery and forced labour such as the ILO Forced Labour Convention No.29 and its Protocol of 2014 ratified in 1932 and 2016, respectively; the ILO Convention on the Abolition of Forced Labour No.105, ratified in 1957; the ILO Convention on Worst Forms of Child Labour No.182, ratified in 2000; and the UN Convention on the Elimination of All Forms of Discrimination against Women in 1986.

The UK also ratified the UN Convention on the Rights of the Child in 1991. The Optional Protocol on the involvement of children in armed conflict and on the Sale of Children, Child Prostitution and Child Pornography, were ratified in 2003 and in 2009, respectively.

8. The Special Representative recommends that the UK sign and ratify the ILO Convention 189 concerning Decent Work for Domestic Workers, which serves as an effective instrument for the prevention of THB for labour exploitation, especially for

domestic servitude.⁴ The ratification of this Convention will advance efforts in preventing and addressing the exploitation of migrant domestic workers in the country.

9. The Special Representative further recommends that the UK sign and ratify the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. The ratification of this Convention is of particular importance to enhance protection mechanisms in the context of mixed migration flows.
10. As a participating State to the OSCE, the UK has also pledged to implement the commitments it has undertaken in the OSCE framework, in particular the recommendations contained in the 2003 Action Plan to Combat Trafficking in Human Beings, as well as its 2005⁵ and 2013⁶ Addendums.
11. Domestically, the UK's Modern Slavery Act (MSA)⁷ adopted in 2015 was a critical milestone in the country's approach – not to mention globally - to tackling slavery and human trafficking, providing a comprehensive set of legal obligations to prevent and prosecute the crime and protect its victims and establishing crucial institutions. The majority of provisions under the Modern Slavery Act 2015 apply only to England and Wales. Some provisions in respect of maritime enforcement, the Independent Anti-Slavery Commissioner and transparency in supply chains provisions also extend to Northern Ireland and Scotland. Under the respective devolution settlements for Scotland and Northern Ireland, responsibility for the policy and legislative response to modern slavery rests with the respective devolved Governments.

The MSA introduced two separate offences through two parts: part 1 on slavery, servitude, forced and compulsory labour, and part 2 on human trafficking. A non-exhaustive list of exploitative purposes also includes removal of organs, securing services from children and vulnerable persons in addition to the broadly defined slavery and human trafficking. The punishment prescribed under the Act is imprisonment for life if a person is found guilty on conviction, and imprisonment for a term not exceeding 12 months or a fine or both if a person is found guilty on summary conviction. The Act also introduced important provisions such as slavery and trafficking prevention orders, statutory defence for slavery or trafficking victims who commit an offence; protection of victims including establishing independent child trafficking advocates; guidance and regulations for identification and support to victims; duty to notify about suspected victims of slavery or human trafficking and overseas domestic workers. A noteworthy provision of the Act is the establishment and the mandate of the Independent Anti-Slavery Commissioner (IASC).

12. Part 6 of the Act contains a crucial provision on transparency in supply chains (TISC) making it the first national legislation of its kind globally. It introduces a requirement on commercial organizations which operate in the UK with an annual turnover of GBP 36 million or more to report annually on the steps, if any, they have taken to ensure modern slavery is not taking place in its supply chains and in any part of its own

⁴ OSCE, Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude, Occasional Paper Series No. 4, 2010. Available at <http://www.osce.org/cthb/75804>

⁵ OSCE Permanent Council Decision No. 685 [Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: Addressing the Special needs of Child Victim of Trafficking for Protection and Assistance](#), PC.DEC/685

⁶ No.1107 [Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later](#), PC.DEC/1107/Corr.11

⁷ [Modern Slavery Act 2015 \(legislation.gov.uk\)](http://legislation.gov.uk)

business, through publishing a slavery and human trafficking statement for every financial year on the organization's website. (see paragraph 70 for further details)

13. In July 2018, the UK Government commissioned an Independent Review of the MSA to review the effectiveness of the Act and to suggest potential improvements. On the basis of the final review report, Parliament made 80 recommendations across four areas (the Independent Anti-Slavery Commissioner (sections 40 – 44), Transparency in Supply Chains (section 54), Independent Child Trafficking Guardians (section 48), legal application of the MSA, namely, the definition of exploitation (section 3), Reparation orders (sections 8-10) and the statutory defence (section 45).⁸ The Government's response to the Independent Review was published on 9 July 2019.⁹ The Government partially accepted the majority of the Review's recommendations and committed to strengthening transparency in supply chains laws, appointed an international Modern Slavery and Migration Envoy, and rolled out the Independent Child Trafficking Guardians (ICTG).
14. Progress on adopting and implementing the recommendations, however, has been slow. In May 2022, some three years after the Government's response, the UK Government announced its intention to introduce a Modern Slavery Bill. The main purpose of the Bill is to 'strengthen the protection and support for victims of human trafficking and modern slavery and increase the accountability of companies and other organisations to drive out modern slavery from their supply chains'. The Bill foresees strengthening the TISC provision with stricter requirements on businesses with a turnover of GBP 36 million or more to publish an annual modern slavery statement to set out steps taken to prevent modern slavery in their operations and supply chains; requiring that these statements are published on a government-run registry; extending all these requirements to public bodies and introducing civil penalties for organizations for non-compliance. At the time of writing, this bill was still not adopted.
15. In Scotland, the Human Trafficking and Exploitation Act (hereinafter referred to as Scottish Act) was adopted in 2015 and a review took place in 2020. It criminalizes the offences of human trafficking, slavery, servitude and forced and compulsory labour and aggravated human trafficking such as aggravation involving a child, involving a public official and general aggravation. The Scottish Act provides for support and protection of adult and child victims by establishing Independent Child Trafficking Guardians (ICTG) and provides for discretionary power to the Lord Advocate not to prosecute trafficking victims. It further sets out court orders to stop trafficking by issuing Trafficking and Exploitation Prevention Order (TEPOs) and Trafficking and Exploitation Risk Orders (TEROs). A noteworthy provision of the Scottish Act places an obligation on Scottish Ministers to develop and publish a Trafficking and Exploitation Strategy which was published in 2017.
16. The UK Government adopted its Gangmaster (Licensing) Act in 2004 to safeguard the welfare and interests of workers in agriculture, horticulture, shellfish gathering and any associated processing and packaging. This Act establishes regulations and licensing procedures for employment, placement and supervision of a worker in the listed industries as well as employment agencies. The 2004 Act was amended by the

⁸ [Independent review of the Modern Slavery Act: final report \(accessible version\) - GOV.UK \(www.gov.uk\)](#)

⁹ [Independent review of the Modern Slavery Act: final report \(accessible version\) - GOV.UK \(www.gov.uk\)](#)

Immigration Act 2016, which expanded the role and remit of the GLA, and established it as the Gangmaster and Labour Abuse Authority (GLAA) to help prevent labour exploitation. (see paragraph 71 for further details)

17. The UK's Sexual Offences Act 2003 aimed to strengthen and update the law on sexual offences and provide protection to individuals from sexual offenders. Sections 47-50 criminalize offences of sexual exploitation of children. It identified three categories of offences (sexual activity with a child; causing a child to engage in sexual activity; sexual activity in the presence of a child; and causing a child to watch a sexual act) against children of different ages: offences against those under 13; 16 and 18. The sexual offences committed against children under 13 and 16 are indictable offences only and carry maximum sentence of life imprisonment, while offences against children under 18 are covered under Section 16-24 (Abuse of position of trust) and carry maximum sentence of years on indictment.

Sections 51A-53 criminalize soliciting, causing or inciting prostitution for gain and controlling prostitution for gain. A person guilty of an offence under these sections is punishable by imprisonment for a term not exceeding seven years. Section 53A criminalizes purchase of sexual services of a prostitute subject to force and, upon summary conviction, the offence carries a fine. (see paragraph 59 for further details)

18. Following the proposals set out in the 2021 New Plan for Immigration policy paper, the Nationality and Borders Act (hereinafter referred to as Borders Act) passed the Royal Assent on 28 April 2022. In his assessment of the Borders Act, the Special Representative raises his serious concerns on Part 5 of the Act namely, sections 58-59 and 63 which introduce Slavery and Human Trafficking Information Notices requiring that individuals disclose any relevant status information about their trafficking history before a specified date, with delayed submission potentially being accounted as damaging the person's credibility (sections 58-59), thus disqualifying identified victims from protection (clause 63) if the authority is satisfied that the person is a threat to public order, or has claimed to be a victim of slavery or human trafficking in bad faith. The Special Representative also notes with concern the use of age assessment envisaged under Part 4 of the Act and provides his assessment in below sections of the present report. He notes with regret that the introduction of this Act will inevitably have a profound negative effect on identification and overall rights of trafficking victims (see further details in Section on Identification and Assistance). The introduction of the Borders Act was met with heavy criticism by anti-trafficking NGOs and activists claiming its serious restrictions on the rights of vulnerable individuals. In a letter dated 22 November 2021, over 100 CEOs of Anti-Slavery and Human Rights group called for the removal of Part 5 (Modern Slavery) from the Act in its entirety. The then IASC, Dame Sara Thornton, also sent her concerns to the Home Secretary¹⁰ and provided evidence at Public Bill Committee¹¹ warning against the grave consequences of conflation between immigration and modern slavery for victims' rights as well as the UK's ability to prosecute traffickers.

¹⁰ <http://www.antislaverycommissioner.co.uk/media/1668/iasc-letter-to-the-rt-hon-priti-patel-mp-homesecretary-march-2021.pdf>.

¹¹ UK Parliament (2021.) 'Nationality and Borders Bill (Fourth sitting): Nationality and Borders Bill (Fourth sitting) - Hansard - UK Parliament

19. The Special Representative is concerned about the current detrimental political environment surrounding modern slavery and human trafficking. The lack of action to update/adopt Modern Slavery Act despite the expressed commitment of the Government, coupled with the harmful provisions of the Borders Act are both counter-productive to anti-trafficking efforts and threaten to undermine the UK's once-leading position as a global leader in the fight against modern slavery and human trafficking. The restricted clauses of the Borders Act exhibit a serious deviation from a human rights-compliant anti-trafficking mechanism toward a punitive, immigration-focused approach. The Special Representative also notes with concern statements made by the Home Office and the UK Immigration during the visit that point to misunderstanding of international law as, for example, some interlocutors' repeated assertions regarding widespread abuse of the modern slavery system through fraudulent claims of exploitation by individuals claiming to be trafficking victims. However the Special Representative found no credible evidence or data to support these claims either in the government published data or during the visit.

He voices concern that this harmful rhetoric contributes to an overall minimization of the scope and harms of human trafficking, including for children, in the public discourse and results in laws and policies that are potentially damaging for the UK's anti-trafficking profile, such as the Government's Illegal Migration Bill¹² was introduced to the House of Commons on 7 March 2023. The Bill will amount to an asylum ban, denying the right to seek refugee protection in the UK for those who arrive irregularly, without the UK assessing their claims. The Bill also disqualifies potential victims of slavery or human trafficking from protection against removal and modern slavery support, including leave to remain unless the victim agrees to cooperate with criminal proceedings. The Bill will impose a blanket exemption from the duties under international law to identify and protect trafficking victims, including providing time to recover from and reflect on the exploitation. In the Policy Background section¹³ of the Bill, the Government argues that the high volume of small boat arrivals in the English Channel in 2022 were from safe European countries, including Albania, which the Government believes has led to a backlog of asylum claims to be processed by the Home Office. However, experts state that the sharp rise of the backlog predates the increase in small boat arrivals, and the backlog has actually been attributed to the decrease in the number of applications processed by the Home Office.¹⁴

In anticipation of the impending Modern Slavery Bill, the Special Representative sees an opportunity to improve and advance the UK's legal framework on modern slavery and human trafficking. The Government should make the best use of the recommendations proposed by 2018 Review of the MSA and outcomes of the 2019 TISC consultation. The new Bill should serve as an umbrella law covering all 4P (Prevention, Protection, Prosecution and Partnership) and encompassing the guidance and mechanisms provided under the Statutory Guidance to effectively identify and assist modern slavery and trafficking victims, including the discretionary leave to remain, as well as rehabilitation and (re)integration of victims. The UK Government should critically assess, revise or remove entirely the clauses 58, 59 and 63 of the Borders Act and review Part 4 of the Act on age assessment. These aspects are discussed further in the section on identification and assistance. He further

¹² [Illegal Migration Bill \(parliament.uk\)](https://www.parliament.uk/bills/2023-24/illegal-migration-bill)

¹³ [Illegal Migration \(parliament.uk\)](https://www.parliament.uk/bills/2023-24/illegal-migration-bill)

¹⁴ [The Illegal Migration Bill - UK in a changing Europe \(ukandeu.ac.uk\)](https://www.ukandeu.ac.uk/news/the-illegal-migration-bill-uk-in-a-changing-europe)

recommends that the UK Government either drops the Illegal Migration Bill or removes children and modern slavery victims from its scope to regain critical protections for victims and sustain the UK's leading position on human rights compliant modern slavery and human trafficking efforts.

III. Policy and institutional framework

20. The Modern Slavery Strategy was published in 2014 and covers England and Wales. The Strategy follows the same structure as those on serious and organized crime and on counterterrorism, and has the following four components: (i) pursue – prosecuting and disrupting; (ii) prevent; (iii) protect – strengthening safeguards against modern slavery by protecting vulnerable people and increase awareness and (iv) prepare – improve victim identification and enhanced support and protection.¹⁵

The Strategy is now almost 10 years old and is in need of an update¹⁶. The Home Office expressed its commitment to review the 2014 Modern Slavery Strategy in order to develop a revised strategic approach by spring 2022.¹⁷ During the visit, the Home Office affirmed the plan of the Government to update the Strategy and informed that efforts are in progress to collect data; however, the work was paused with the change of the government and there was no indication as to when the revised Strategy would be finalized. The Special Representative also notes with regret that while the government public reports indicated plans to engage a range of stakeholders to inform the update, the NGOs met on the margins of the visit reported that they are not being consulted on the process; this casts doubts on the transparency and inclusiveness of various viewpoints and expertise in the update of this important strategic document.

While acknowledging the comprehensive structure of the Strategy, which provides a detailed overview of the modern slavery and human trafficking situation in the UK including case studies that describe certain forms of exploitation, the Special Representative notes that the data provided therein is outdated both in terms of the modern slavery situation in the country and the institutional and policy framework. Given the diverse and evolving nature of modern slavery offences in the UK, Special Representative strongly recommends that the Home Office accelerate and scale up efforts to develop a new strategy, including launching public consultations to inform the new Strategy and ensure that this key document encompasses adequate measures for identification and protection of victims, detection and reporting, prosecution of offenders, prevention and protection programmes with the involvement and empowerment of survivors, international cooperation and engagement of the private sector. He recommends that the new Strategy include specific actions to address the increasing prevalence of exploitation of children and adults in committing of crimes; exploitation facilitated by technology including by establishing partnerships with private entities such as technology companies to develop specific tools and strategies; enhance partnerships with financial intelligence, the financial services industry and financial regulators to identify proceeds from trafficking crimes, including through increased use of JMLIT; improve and harmonize the labour inspection mechanisms in

¹⁵ [Modern Slavery Strategy \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

¹⁶ The Strategy was adopted before the MSA went into effect and does not adequately take into account major evolutions such as the misuse of technology to commit human trafficking.

¹⁷ [2021 UK Annual Report on Modern Slavery \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

the UK; and establish regular joint capacity building and consultation among various agencies, such as cybercrime, organized crime and trafficking criminal justice practitioners and social service providers. The new Strategy should build upon the implemented prevention measures, include enhanced focus on the prevention of exploitation of people in seasonal work and advance the remits of the GLAA. The Special Representative wishes to inform about his Office's upcoming policy paper which will provide guidance on the effective structures and comprehensive content for Strategy/NAPs. His Office also stands ready to provide assistance in development of the new Strategy, as needed.

21. The Scottish Government's Trafficking and Exploitation Strategy was published in 2017 and reviewed in 2020. The Trafficking and Exploitation Strategy has been delivered through a structure of implementation groups, focused on the following three priority areas (i) identify victims and support them to safety and recovery; (ii) identify perpetrators and disrupt their activity; (iii) address the conditions that foster trafficking and exploitation. Pursuant to Section 36 of the Scottish Human Trafficking and Exploitation, in 2019, the Government reviewed the Strategy and published the report on the results in 2020. To date, the Scottish Government published four progress reports; with the 2020 report it presented the first statutory review of the Strategy.¹⁸

For the purpose of the review, the Scottish Government undertook an extensive programme of engagement to seek the views of a wide range of stakeholders to consult on the effectiveness of the implementation of the Strategy. The review has also been informed by engagement with victims and survivors. The review concluded that while the Strategy is fit for purpose in the short term, a revised Strategy should be developed and published when possible. At the time of drafting of the present report, a further review is being undertaken by the Scottish Government. The key findings of the review also include that a revised Strategy should consider gendered aspects of human trafficking and exploitation; include child trafficking as the fourth action area particularly given the emerging exploitation of children in county lines offences; and advance the longer term assistance and support to survivors of trafficking. The Special Representative welcomes the Scottish Government's continuous and sustained action to review and modernize the key policy document through multi-agency consultations including with survivors. He recommends several action points for the Scottish Government if it elects to refresh the Strategy. First, the revised Strategy should include more enhanced focus on reducing the demand that fosters sexual and labour exploitation, as well as improve efforts to curb technology-facilitated trafficking through specific measures (action points) to monitor and assess the online platforms that facilitate advertising services including adult services websites. Through the revision, a closer assessment of Section 8 of the Scottish Act and statutory instructions of the Lord Advocate is necessary in order to understand effective application of discretionary powers given to law enforcement and prosecution to apply the non-punishment principle with regard to victims of human trafficking and exploitation, and its practical implementation.

22. Pursuant to section 49 (1) of the MSA, the Government issued the Modern Slavery Statutory Guidance for England and Wales and the Non-Statutory Guidance for Scotland and Northern Ireland. The Guidance has gone through numerous updates to

¹⁸ [Trafficking and exploitation strategy: third annual progress report - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/trafficking-and-exploitation-strategy-third-annual-progress-report/pages/11.aspx)

reflect on the creation of new institutions such as Modern Slavery Victim Care Contract (MSVCC) and Competent Authorities, addition of new first responder organizations, etc. The aim of the Guidance is to guide the competent authorities in the UK who make decisions on whether or not an individual is a potential victim of modern slavery for the purpose of the NRM; and arrange assistance and support to persons with reasonable grounds for being a victim of slavery or human trafficking. It also sets out the roles and responsibilities of organizations involved in tackling modern slavery: public authorities, First Responder Organizations¹⁹ and competent authorities in the Home Office to make decisions on cases referred to the NRM – Single Competent Authority (SCA) and Immigration Enforcement Competent Authority (IECA). The Special Representative positively notes the comprehensive instructions provided by the Guidance which are essential for legal and operational clarity given a diverse range of actors involved in tackling modern slavery and human trafficking in the UK.

23. The modern slavery and human trafficking institutional framework in the UK has gone through a number of changes in the past years which are characterised by some positive efforts and some harmful shifts. In late 2022, the UK Government moved the modern slavery and human trafficking from the responsibilities of the Minister for Safeguarding²⁰ to those of the Minister for Immigration.²¹ The move is seen as a clear sign of the UK Government's shift from regarding modern slavery as a protection issue to an irregular migration concern. While the Special Representative was not provided with clear reasoning behind the move during his visit, such a shift suggests a concerning downgrade in the country's modern slavery response. The shift is particularly worrisome given that one of the largest single group of victims referred to the NRM continues to be British citizens, including children who are exploited in criminal activities. Thus, the migration framing is not reflective of the trafficking situation in the UK. The Special Representative further notes that the responsibilities of the Minister for Safeguarding now includes, among others, the issues related to violence against women and girls, domestic abuse, forced marriage, child sexual abuse and exploitation, sexual violence, prostitution, crime prevention, early youth intervention, victim support, and Gangmasters and Labour Abuse Authority. In this regard, the move of modern slavery away from this arena to immigration also separates modern slavery from issues strongly associated with the country's modern slavery response such as prostitution, victim support and child exploitation, as well as remits of the GLAA as the key agency to tackle labour exploitation and slavery. The Special Representative urges the UK Government to recede modern slavery/human trafficking from immigration and reinstate the issue under the Minister for Safeguarding.
24. The UK has not established a formal National Modern Slavery/Anti-Trafficking Co-ordinator function as recommended by international instruments and the OSCE Action Plan. A Modern Slavery Unit was set up under the Home Office in 2014 and serves as UK's de-facto coordinator on issues related to modern slavery and human trafficking. It holds a large mandate including co-ordination and NRM handling and decision making. However there appears to be a lack of clarity on a designated high-level official/body with decision-making and convening authority who would coordinate this work. The Unit comprises around 70 staff members who are responsible for policy guidance on all aspects of modern slavery and human trafficking.

¹⁹ [National referral mechanism guidance: adult \(England and Wales\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/108211/nrm-guidance-adult-2017.pdf)

²⁰ [Parliamentary Under Secretary of State \(Minister for Safeguarding\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/people/parliamentary-under-secretary-of-state-for-safeguarding)

²¹ [Minister of State \(Minister for Immigration\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/people/minister-for-immigration)

25. The Home Office also collects and maintains modern slavery and human trafficking data, a role it assumed from NCA in 2019. It publishes several reports annually, such as the Modern Slavery Annual Reports, progress and annual figures of referrals to the NRM and Duty to Notify process. The Special Representative positively notes the detailed reports published by the Home Office including the statistics that allows for comprehensive overview of the efforts taken particularly on the number of potential victims and the decisions taken by its Competent Authorities. Given the current rhetoric around irregular migration and potential abuse of the protection system by fraudulent claims, he notes the recent inclusion of statistical data on the number of referrals made among the persons arriving irregularly to the country, particularly through the so-called “small boats”. (see paragraph 40 for more details)
26. The Modern Slavery Strategy Implementation Group was established in 2018 and is chaired by the Home Office. According to stakeholders consulted during the visit, the Group has not met regularly in the past year. The UK Government also established the Single Competent Authority (SCA) and the Immigration Enforcement Competent Authority (IECA) under the Home Office to make reasonable and conclusive ground decisions for victims of modern slavery and human trafficking. The Special Representative provides his detailed analysis of the work of these two bodies in the Identification Section of the report.
27. In Scotland, the co-ordination is done through Human Trafficking Strategy Implementation Group (Strategy Implementation Group) and is chaired by the Scottish Government. The members include wide range of stakeholders such as Crown Office and Procurator Fiscal Service, GLAA, NHS Health Scotland, Police Scotland, Scottish Guardianship Service, TARA, Migrant Help, Welsh Government (policy team) and Home Office (policy team). The Group develops the work of 4 Action Area Groups that focus on (1) addressing the causes; (2) identifying perpetrators; (3) identifying and supporting victims and (4) on strategic oversight group, respectively.
28. One of UK’s best practices was the establishment of a statutory Independent Anti-Slavery Commissioner (IASC) in 2015. However, the Special Representative is concerned that the position of IASC has been vacant since Dame Sara Thornton’s three-year term expired in April 2022. As mentioned in paragraph 11, the MSA established the role of the Independent Anti-Slavery Commissioner, who is appointed by the Home Secretary in consultation with the Scottish Government and Northern Ireland Executive. By this appointment, the UK demonstrated an exemplary system of statutory body which has been instrumental to draw the attention to the scale and scope of human trafficking and modern slavery and critically assess the government’s response to prevent and tackle it, and offer solutions. Amid increasing concerns of government’s influence on the independent role of the Commissioner, the 2018 MSA Review sought to determine possible solutions to retain and strengthen the Commissioner’s autonomy. The Review proposed several crucial measures such as a transparent recruitment process including that the position should be appointed by a sponsoring Secretary of State other than the Home Secretary; discontinuation of the practice of the Home Office to undertake Commissioner’s performance appraisals and setting a sustainable budget for the body. Additionally, the Review also recommended that the UK Government provides a formal response to the Commissioner’s report and recommendations. Additionally, the mandate of the Commissioner is primarily set to

address domestic issues, as the post of envoy or ambassador who would take on the international duties. While some of the recommendations of the Review were addressed, a number of them are yet to be implemented by the UK Government, such as the recruitment process for the Commissioner.

The Special Representative notes that the appointment of the crucial position of the Commissioner is important not only because of the statutory obligation of the Government but is also necessary as an independent voice vital in the current political debate about modern slavery in the country. While the position was advertised on the Home Office website a year ago with the closing date of 17 January 2022 with the shortlist of several candidates drawn up in February 2022 and final interviews reportedly completed in April 2022²², the recruitment process was not finalized. The Special Representative urges the UK government to urgently appoint a new Independent Anti-Slavery Commissioner and reinstate the work of the body as a key source of accountability for the Government's action to prevent and tackle modern slavery and human trafficking, and protect its victims. He further strongly recommends that the government should take measures to implement the recommendations following the 2019 Review of the MSA on the recruitment of the Commissioner.

29. The Modern Slavery and Human Rights Policy and Evidence Centre (Modern Slavery PEC) was established in 2019 with the aim to develop understanding of gaps and challenges to design impactful policies through research work. It commissions impartial research to provide innovative, independent and authoritative insight and analysis on modern slavery. Since its launch, the Centre commissioned several important research projects into visibility of business supply chains on managing forced labour risks; analysing gaps in England and Wales' response to trafficking of children with special needs and disabilities; the UK's agriculture and care visas and vulnerability to exploitation²³; a project examining the mechanisms in place to identify and support survivors of modern slavery in UK prisons;²⁴ and issued six policy briefs focusing mainly on supply chains and public procurement. The Centre also launched a study into the role of adult service websites in addressing modern slavery in partnership with the University of Leicester, the NCA, NPCC and the Unseen, with the findings to be released in the summer of 2023. Among the latest activities is the Modern Slavery PEC's 2023 funding call for applications for research into prevention of modern slavery including identification of child trafficking, cultural competency, homelessness and poverty. The Special Representative commends the work of the Modern Slavery PEC and its innovative approach to impacting policies through evidential data. He welcomes the Centre's survivor engagement work which includes employing a lived experience engagement team, close consultation with survivor organizations and engaging survivors as interim consultants in Centre's research activities. This initiative serves as a good practice to other OSCE participating States.
30. The UK has also established several other structures to address various forms of trafficking both from policy and operational perspectives, such as the Independent Child Trafficking Guardian (ICTG) service (further discussed in paragraph 47); the Modern Slavery Victim Care Contract (MSVCC) (see paragraph 45 for more details); and National County Lines Co-ordination Centre (see paragraph 55 for more details).

²² | [Independent Anti-Slavery Commissioner \(cabinetoffice.gov.uk\)](https://www.cabinetoffice.gov.uk), accessed on 17 April 2023

²³ | [Modern Slavery PEC | UK agriculture and care visas and vulnerability...](#)

²⁴ | [Modern Slavery PEC | People with lived experience of modern slavery...](#)

IV. Identification, referral and assistance for victims of trafficking

31. In recent years, the UK has seen an exponential increase in the number of victims identified and referred to the National Referral Mechanism, with the numbers continuing to rise. According to the Home Office's end of 2022 statistics, there were 16,938 potential victims of modern slavery referred to the Home Office in 2022, representing a 33 percent increase compared to 12,706 in 2021 and the highest annual number since the NRM began in 2009. The number of referrals to the NRM was 10,585 in 2020, 10,608 in 2019 and 6,974 in 2018. While the UK nationals continue to comprise large numbers of referrals, the year saw the highest number of referrals of Albanian nationals since the launch of the NRM, followed by the UK and Eritrean nationals.²⁵ The Special Representative further notes that 77 percent (13,004) of referrals were sent to the Single Competent Authority (SCA) while referrals to the Immigration Enforcement Competent Authority were 23 percent (3,934). In terms of the sheer volume of referrals, the UK's system stands out as a clear global leader since no country comes even close to the same number of referrals. While the UK faces many challenges with fully implementing and operating the NRM, the First Responder system and the number of referrals on their own set a new standard for what is possible in the broad identification of potential victims and should be replicated across the OSCE region.

32. As to the gender profile and forms of exploitation, male victims continue to account for the vast majority of victims with high rates of exploitation in labour followed by criminal exploitation. For example, of the 16,938 potential victims referred in 2022, 78% percent (13,290) were male and 21 percent (3,634) were female. The proportion of referrals for male potential victims in 2022 is the highest since the NRM began. For adult potential victims, 78 percent (6,874) were male and 22 percent (1,978) were female; whilst for child potential victims, 80 percent (5,607) were male and 20 percent (1,401) were female.²⁶ In 2021, of the referred numbers, 77 per cent (9,790) were male and 23 percent (2,923) were female.

With regards to forms of exploitation, labour exploitation remains the most referred form of exploitation (39 percent – 3,433 cases) for adult potential victims whereas referrals of child potential victims are mostly related to trafficking for criminal exploitation (43 percent – 3,013 cases). In comparison to global data trends, the large prevalence of identifications of male victims in labour exploitation suggests that efforts to identify female victims of sexual exploitation are under-developed.

33. With regard to the number of referrals from Scotland, in 2022, the Scottish Government referred 621 potential victims to the NRM, of which 405 were adults, 187 children and 29 were unknown, with the vast majority of victims believed to be exploited in labour, followed by labour and criminal exploitation combined, and sexual exploitation. Vietnamese nationals are the largest group of victims followed by

²⁵ [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2022)

²⁶ [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2022)

Albanians, UK nationals, Iranian, Eritreans, Somalis and Sudanese identified and referred by Scotland to the NRM.²⁷

34. As mentioned above, the UK has been facing a serious increase of cases of trafficking for criminal exploitation, particularly in drug transportation known as “county lines offences”. County lines is a term used to describe a drug market structure where Class A drugs — usually crack cocaine and heroin — are transported across areas and sold through a dedicated phone line. The typical exporting area is a city, and the typical importing area is a deprived coastal town. The Special Representative is particularly alarmed that British minors comprise a large share of NRM referrals related to county lines offences which accounted for 2,281 referrals - 13 percent of all referrals received in 2022. In 2021, the number of county lines referrals was 2,053 which was a 23 percent increase from 2020. The share of referrals of child potential victims exploited in criminal activities was 43 percent (3,013) in 2022 and 49 percent in 2021. According to law enforcement officials met during the visit, the age of minors exploited in county lines offences is getting younger and the number of potential victims is likely to increase to 20,000 in 2023. The organization Crest’s 2020 report²⁸ found that “looked-after children” are disproportionately represented in county lines networks with a growing number of these children who are placed in care settings. Data on children reported missing shows that children placed in residential care homes and unregulated settings are at a higher risk of going missing and fall prey of county lines networks. This is partly due to the impact of traumatic childhood experiences, which can leave children with the desire for a sense of belonging and approval. Children are usually placed in settings distant from their home area which amplifies their vulnerability to exploitation. This is also confirmed by the Independent review of drugs²⁹ commissioned in 2019 by the then Home Secretary and updated in 2020. The review found that children displaying vulnerabilities, such as poverty, family breakdown, becoming known to social workers, looked-after status and exclusion from school are targeted but so are the children from seemingly stable families with no previous contact with police or children’s services. As for adult victims of exploitation by county lines, they are predominantly people with drug addiction and mental health issues who are “cuckooed” whereby their residences are taken over as a base for preparing and dealing drugs.

The Special Representative expresses his concern over exponential rate of trafficking of children for various exploitative purposes. Children compose large numbers in the NRM referrals accounting to 41 percent of all referrals in 2022 compared to 43 percent of all referrals in 2021, 47 percent of all referrals in 2020 and 42.7 of all referrals in 2019.³⁰ These mass increases suggest the need for serious attention to child protection systems and enhanced investment and support to vulnerable, at-risk youth, as well as aggressive investigation and prosecution efforts to hold exploiters accountable.

35. Similarly, trafficking for criminal exploitation in cannabis cultivation has also been an area of concern for the UK.³¹ According to the Report on the 2019 Independent review of the Drugs, there is a considerable amount of small-scale private production but also a large number of Organised Crime Groups involved in the growth, importation and

²⁷ Ibid, Data Table 4-5

²⁸ [County-Lines-and-Looked-After-Children-Crest.pdf \(southglos.gov.uk\)](#)

²⁹ [Review of drugs: summary \(accessible version\) - GOV.UK \(www.gov.uk\)](#)

³⁰ [ecp05-a4-report-snapshot-21_aw7.pdf \(antislaverycommissioner.co.uk\)](#)

³¹ [V.C.L. AND A.N. v. THE UNITED KINGDOM \(coe.int\)](#)

distribution of cannabis in the UK. Vietnamese groups are known to be involved in human trafficking, where Vietnamese nationals are forced to work on cannabis farms in the UK. There is evidence that young people with heavy cannabis use have been pulled into county lines operations to pay off debts.³²

36. Labour exploitation is the main form of trafficking identified and referred to NRM comprising 30 percent (5135 cases) of referrals in 2022. As observed through law enforcement analysis³³, the garment industry has been and remains a high risk sector with complex subcontracting chains and weak corporate governance that lead to a permissive environment for non-compliance and labour abuses. Likewise, car washes, nail bars, restaurants, food supply chains and warehouses are prone to exploitation through “non-employer model” which involves placing victims in legitimate employment and stealing wages as rent or travel fees. This form of exploitation is likely to increase further as sectors face a significant worker shortage and bring labour migrants from countries with less advantageous economic opportunities.
37. Trafficking in human beings for the purpose of sexual exploitation remains under-addressed in the UK. An inquiry by the All-Party Parliamentary Group on Prostitution and the Global Sex Trade in 2018 found that sex trafficking in the UK is dominated by organised crime, that organised sexual exploitation is taking place on an “industrialised” scale, and that the victims are predominantly non-UK nationals.³⁴ According to the APPG 2021 report, Romanian women in particular continue to be sexually exploited in brothels across the UK. According to the discussions in England and Scotland, adult services websites are the single biggest enabler of sexual exploitation, and the online market in the UK is large. An inquiry by the Scottish Parliament’s Cross-Party Group on Commercial Sexual Exploitation found that market-leading pimping websites centralise and concentrate demand online from sex buyers.³⁵ In 2021 APPG launched an inquiry to assess the scale and nature of the contemporary pornographic industry, to identify its types and severity of harms, and establish a legal framework in the UK to prevent and address the harms associated with the production and consumption of pornography.
38. The UK is the third largest global consumer of livestreamed child sexual abuse.³⁶ According to the NCA 2021 report³⁷, there are between 550,000 and 850,000 UK-based individuals posing varying degrees of sexual risk to children. However, these figures are only estimates as detection challenges and a reliance on victim reporting remain key barriers to understanding the true scale of the issue and to effectively tackling this crime.
39. In 2021, the All-Party Parliamentary Group (APPG) on Trafficked Britons in Syria launched an inquiry concerning the trafficking of British nationals by the Islamic State of Iraq and Syria (ISIS).³⁸ The APPG received compelling evidence that British nationals, including children, were trafficked by ISIS to and within Syria and Iraq. The

³² Ibid

³³ National Strategic Assessment of Serious and Organized Crime, 2021, NCA

³⁴ [Bust-the-Business-Model.pdf \(appg-cse.uk\)](#)

³⁵ Online Pimping: An inquiry into Sexual Exploitation Advertising Websites, Cross-Party Group on Commercial Sexual Exploitation, 2021

³⁶ [ecp05-a4-report-snapshot-21_aw7.pdf \(antislaverycommissioner.co.uk\)](#)

³⁷ NCA, National Strategic Assessment of Serious and Organized Crime 2021

³⁸ [Report-of-the-Inquiry-by-the-APPG-on-Trafficked-Britons-in-Syria.pdf \(appgtraffickedbritons.org\)](#)

inquiry revealed that of British nationals currently detained in North East Syria who were not born there, almost half were children at the time of travel and therefore especially likely to be victims of trafficking. Evidence from the international legal charity Reprieve, published in April 2021, indicates that at least 63 percent of British women detained in Syria may have been trafficked into or within Syria or Iraq by ISIS, with at least 44 percent of British women coerced by a male partner or relative. Over half of the British detainees are children, a significant number of whom were born in Syria.³⁹ The Special Representative is mindful of the challenges faced by OSCE participating States to return the citizens from conflict zones and the UK is not an exception in this regard. However, he encourages authorities to analyse these cases for a possible intersection with trafficking in human beings as discussed in the OSCE paper on Trafficking in Human Beings and Terrorism: Where and How They Intersect.⁴⁰

40. One of the key points of discussions during the visit was the identification of modern slavery and human trafficking in irregular migration flows particularly among those who arrive in the UK on “small boats” through the Channel. According to the recent statistics published by the Home Office⁴¹, 45,755 people were detected arriving by small boats in 2022, of which 51 percent arrived in the three months of August, September and October, with a prevailing number of Albanians (28%) followed by Afghanistan nationals (20%) among the arrivals. Nevertheless, the proportion of modern slavery referrals among those arriving through this route is small – in 2022, 6 percent (2,691 people) were referred to the NRM. The statistics show that most small boat arrivals with the NRM referrals who received a reasonable grounds decision are still awaiting a conclusive grounds decisions while 85 percent of the conclusive decisions received a positive result. Nevertheless, 70 percent of small boat NRM referrals since 2018 are awaiting a conclusive grounds decision. Amid the political discussions around the issue and underlining the above statistics, the Special Representative reiterates that the rate of NRM referrals from ‘small boat’ arrivals is trivial, with majority of them receiving positive conclusive decisions confirming their victim status. This pattern is also a testament of the disproportionate and unjustified rhetoric around “the abuse of the NRM” by those arriving irregularly in the UK.
41. Regarding the system for identification and assistance, the National Referral Mechanism (NRM) established in 2009 has gone through numerous updates and continues to be revised regularly. Under the NRM, UK practises three stages of identification. The first stage is initial identification and referral made by designated “First Responders” which include statutory agencies, such as police, specialized government agencies and local authorities and non-statutory organizations such as NGOs. All first responders should use the digital referral system to make referrals for consenting adult victims to the Single Competent Authority (SCA) for the UK and EEA nationals and Immigration Enforcement Competent Authority (IECA) (established in 2021) for non-EEA nationals and EEA nationals subject to immigration control.

The second stage of the identification is known as “reasonable grounds decision” (RGD) when SCA and IECA, respectively, apply a low threshold test where a victim receives provisional identification status and receives access to specialized shelter and assistance was reduced from 45 to 30 days in England and Wales and remains 90 days

³⁹ Reprieve, Trafficked to ISIS, British families detained in Syria after being trafficking to Islamic State, 2021

⁴⁰ [Trafficking in Human Beings and Terrorism: Where and How They Intersect | OSCE](#)

⁴¹ [Irregular migration to the UK, year ending December 2022 - GOV.UK \(www.gov.uk\)](#)

in Scotland. During this period SCA and IECA seek further evidence to establish whether or not the person is a victim of trafficking on a balance of probabilities. This process leads then to the third stage which is the “conclusive grounds decision” (CGD). Foreign victims who receive positive CGD can benefit from the right to “discretionary leave to remain” in the UK or assisted voluntary return to their home country. Those receiving negative CGD have nine days of “move on” support as the individual exits the service. Pursuant to Section 52 of the MSA, specified public authorities have duty to notify the Home Office about the suspected victims of trafficking either through the NRM referral or through Duty to Notify in case the victim does not consent to the NRM.

In 2022, 49 percent (8,338) of the referrals came from government agencies, compared to 37 percent in 2021 and 32 percent in 2020. Of these referrals, 40 percent (3,349) came from Home Office Immigration Enforcement and 57 percent (4,739) came from UK Visas and Immigration. NGO and third-sector organisations accounted for 6 percent (1,034) of referrals. Police forces and Regional Organized Crime Units accounted for 23 percent (3,887) of NRM referrals, compared to 30 percent in 2021. The rate of referrals from local authorities accounted for 22 percent (3,677) of referrals, mostly for child potential victims.

42. The Home Office data shows that in 2022, 16,821 reasonable grounds decisions were issued, the highest annual number since the NRM began. Of these, the SCA issued 12,959 and the IECA issued 3,862 decisions with the rate of 87 percent of positive decisions made by the SCA and 92 percent of positive decisions made by the IECA. The Special Representative notes that the average time taken from referral to conclusive grounds decisions in 2022 across the competent authorities was 543 days, compared to 449 days in 2021. For conclusive grounds decisions made by the SCA, the average time taken this quarter was 583 days, whilst the IECA took an average of 177 days. As to the status of the decisions, as of 26 January 2023, the majority of referrals (76 percent – 12,907) sent to the competent authorities in 2022 were waiting a conclusive grounds decision after receiving positive reasonable grounds decision. Of the referrals made in 2022, 13 percent (2,191) received a negative decision (1,995 at reasonable grounds and 196 at conclusive grounds stage), whilst 7 percent received a positive conclusive grounds decision. These figures suggest a fairly high level of accuracy of initial referrals – a large majority of referrals are positively converted into reasonable grounds and conclusive grounds decisions. However, the amount of time for a decision is approximately a year and a half which can be difficult for a victim caught in a “limbo.”
43. As described in paragraph 41, public authorities have the duty to notify the Home Office through Duty to Notify (DtN) in case the victim does not consent to the NRM. The DtN is in force in England and Wales only. During this process, first responders do not collect a potential victim’s personal details. Similar to NRM referrals, the number of referrals made via Duty to Notify (DtN) process has been on the rise from less than 1000 in 2016 to over 4000 in 2022. For example, in 2022, the Home Office received 4580 reports of adult potential victims via the DtN process compared to 3193 in 2021 and 2175 in 2020 with the Eritrean nationals being the largest groups followed by Albanian and UK nationals. The data also shows that almost all DtN referrals come from statutory agencies, such as the Home Office – UKVI (57 percent), Metropolitan Police Service (6 percent) and Home Office – Immigration Enforcement (5 percent).

44. As stated in paragraph 18, several clauses introduced under the Borders Act appear largely contradictory to the MSA and the Statutory Guidance. Pursuant to clause 58 under Part 5 of the Act the Secretary of State may serve a slavery or trafficking information notice on a person who has made a protection claim or a human rights claim. This notice requires that the person provides, before the specified date, with any relevant status information, information about their trafficking history. The recipient must also provide a statement setting out their reasons for not providing the relevant status information before the specified date. Clause 59 stipulates that the provision of the relevant status information on or after the date specified is considered as damaging the person's credibility unless there are good reasons why the information was provided late. Moreover, clause 63 provides for disqualification from protection of a person who is conclusively granted a victim status if the person is considered a threat to public order under specific circumstances. The threat means that if the person has a prior conviction record of a terrorist offence, or the person is convicted of any offence in the UK, or there are reasonable grounds to suspect that the person is or has been involved in terrorist-related activity (whether or not the terrorism-related activity is attributable to the person being or having been, a victim of slavery or human trafficking), the person is a foreign criminal or deprived of UK citizenship for the public good) or claimed to be victim of modern slavery or trafficking in bad faith. The Special Representative notes with concern that these provisions are related to the claim, although without any evidential data, that the system is being tricked by fraudulent applicants. He shares the opinion of the then IASC Dame Sara Thornton that these clauses fundamentally fail to grasp what being a victim of modern slavery means and the huge impact of trauma on disclosure.⁴²
45. With regard to assistance to victims, the Modern Slavery Victim Care Contract (MSVCC) was established in 2011 to provide victim support in England and Wales and was renewed on 4 January 2021. The new MSVCC is for five years and is managed by The Salvation Army. The new contract grants potential victims access to safe accommodation (where needed), provides help and advice, including translation services, healthcare, specialist legal advice, education for school aged dependent children, transport to important appointment and help to plan their future. Through sub-contractors (12), the Salvation Army provides accommodation to potential victims who are destitute. The Special Representative positively notes the work and the assistance scheme provided under the MSVCC.
46. In 2020, the UK Government launched the NRM Transformation Programme to improve identification of victims and increase effectiveness of decision making. The aim of the programme is threefold: (1) embedding an end-to-end needs-based approach to support; (2) alternative models for decision making and support for adult victims; (3) children. As part of the programme, in June 2021, the Home Office started to devolve NRM decision making for children in 20 pilot areas. The pilot moves the NRM decision making from the Home Office to local authorities who are tasked to make a decision within 90 days. Both the reasonable grounds and conclusive grounds decisions are now taken through a multi-agency structure at one or more meetings, with representation from the three safeguarding partners – the local authority, health and police – as a minimum.⁴³ Since its inception, the pilot had adopted a range of

⁴² IASC, Annual Report 2021-2022

⁴³ [Devolving child decision-making pilot programme: general guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/devolving-child-decision-making-pilot-programme-general-guidance)

approaches to test decision making for child victims within existing safeguarding structures. The Home Office issued three guidance documents that focus specifically on the pilot, and updated the MS Statutory Guidance to reflect the devolved pilots. The Special Representative positively notes the work of the Home Office in providing advanced safeguarding mechanism for child victims. The pilot was positively assessed by numerous stakeholders during the visit. Nevertheless, he notes with concern the recent news on hundreds of trafficking victims going missing after being referred to the NRM. According to media reports, 566 potential or confirmed victims of trafficking – from the UK and other countries – were categorised as “missing” between 2020 and 2022 after being referred to the NRM. The highest number was 258 victims in 2022, up from 232 in 2021 and 76 in 2020. The majority of the children who went missing were Albanian boys.⁴⁴ The Special Representative calls on the UK Government, particularly national and local agencies responsible for child protection to scale up the child protection scheme including by paying more attention to child victims referred to the NRM, children at risk, and those in care facilities, to ensure children are adequately protected from further victimization and abuse.

Moreover, as children comprise the vast majority of numbers of victims exploited in criminal activities, particularly in county lines offences, there is an urgent need for more robust and substantial protection scheme including safe accommodation for child victims including those at high risk of re-exploitation and abuse. Given the nature of this exploitative form which carries criminal liability, effective application of the Section 45 statutory defence of the Modern Slavery Act should be examined at early stages of the identification process and supported by continuous trainings for all criminal justice practitioners and the judiciary.

47. The Independent Child Trafficking Guardians (ICTGs) have been rolled out to cover two-thirds of local authorities in England and Wales, to provide an independent source of advice and support to victims. A pilot has also been launched to explore whether determining if a child is a victim of modern slavery within existing local safeguarding structures is a more appropriate model for making decisions for children. According to Independent Child Trafficking Guardians, the general increase in referrals speaks of better professional relationship between agencies and guardians.

The ICTG service was launched in Scotland in April 2023. Before 1 April, support for child victims of modern slavery and trafficking and for children at risk of trafficking was provided by the Scottish Guardianship Service and local authorities who have a duty to work together with multi-agency partners to support and care for child victims. The framework for safeguarding and supporting children is provided under the National Guidance for Child Protection in Scotland 2021.

48. Victims of slavery and human trafficking who are conclusively recognized as such by the NRM may be eligible for “discretionary leave to remain” in the UK based on their personal circumstances, helping police with enquiries and pursuing compensation as victims of human trafficking. Discretionary leave may be considered where the relevant Competent Authority (SCA or IECA) has made conclusive ground decision that an individual is a victim of slavery.⁴⁵ Section 65 of the Nationality and Borders

⁴⁴ [Hundreds of trafficking victims in UK missing after referral to support scheme | Home Office | The Guardian](#)

⁴⁵ [Discretionary leave.docx \(publishing.service.gov.uk\)](#)

Act sets out in primary legislation the circumstances in which a confirmed victim should be granted limited leave to remain in the UK. Pursuant to the Bill, the Secretary of State must grant the person limited leave to remain in the UK if it is necessary for the purpose of assisting the person in their recovery from any physical harm arising from the relevant exploitation; enabling the person to seek compensation; or enabling the person to cooperate with public authority in connection with an investigation or criminal proceeding. The request for leave to remain may be rejected or revoked (if such leave has been granted) if the Secretary of State is satisfied that the person is a threat to public order or the person has claimed to be a victim of slavery or human trafficking in bad faith. The Special Representative positively notes the introduction of “discretionary leave to remain” in the primary legislation. He is, however, concerned about its ineffective application in practice as evidenced by limited available data presented in various reports. For example, referring to ECPAT UK data, the IASC 2021 annual report indicates that just 8 percent of discretionary leave decisions resulted in grant during the first three quarters of 2021. The Home Office does not routinely collate or publish the data on the number of discretionary leave applications from survivors with positive conclusive grounds decisions, so it is unclear as to whether this is an effective route by which survivors of modern slavery are able to seek leave to remain and access to the labour market.⁴⁶ The Special Representative was informed that victims also remain in the UK through their asylum claims, however he was not provided with data to support this information.

49. As mentioned above, being conclusively recognized as a trafficking victim does not automatically grant the right to leave to remain which subsequently also implies no right to work as this right is linked to a foreign victim’s immigration status. Pursuant to the MS Statutory Guidance, adult foreign victims are able to access the labour market, education and vocational training provided they have an immigration status that allows them to do so. Those with right to work are eligible to seek employment while in the NRM. The assistance with employment including preparation for work can be possible during the move-on period, a period of transition out of MSVCC for conclusively recognized victim as described in paragraph 41. To this end, the Special Representative notes that allowing and facilitating victims’ access to employment is a crucial step in survivors’ (re)integration and rehabilitation process. Thus all persons awaiting Competent Authorities’ conclusive decisions should be allowed to work. Granting this right in early stages of the NRM would also provide meaningful content to the NRM to provide needed support to victims.

50. Pursuant to Part 4 of the Nationality and Borders Act, the Home Office will have the power to make regulations on how to assess age and introduce a standard of proof of the “balance of probabilities” through National Age Assessment Board (NAAB) within the Home Office. In 2022, the Interim Age Estimation Science Advisory Committee was established to advise the Home Office Chief Scientific Adviser on biological methods that might assist with assessing the age of unaccompanied asylum-seeking children (UASC) where the claimed age is in doubt, and will be implemented in 12-18 months. The interim committee was asked to provide advice on existing scientific methods that could support the Merton-compliant process and has provided recommendations on that basis. Moreover, an additional clause allows for the introduction of regulations specifying scientific methods to be used when assessing

⁴⁶ [rights_lab_access-to-work-pathways_final.pdf \(antislaverycommissioner.co.uk\)](#)

age, including ‘examining or measuring parts of a person’s body’. This clause penalises children for not consenting to this process, with their refusal grounds for damaging credibility.⁴⁷ The Special Representative asserts that the risk of harm of mistakenly identifying a child as an adult is more significant than adult being incorrectly identified as a child (because the first instance results in a violation of the child’s rights), especially given the fact that two of every three individuals are likely to be children, according to the immigration officers met during the visit. He shares the opinion of Scotland’s Children and Young People’s Commissioner that medical assessments directly infringe on children’s right to privacy and bodily integrity under the European Convention on Human Rights and risks violation of rights to recovery. Such an approach first and foremost does not serve the best interests of the child.

51. Overall, while commending the UK’s system of identification and referral to the NRM and its MSVCC and the devolved child protection scheme, the Special Representative observes several key challenges with identification and assistance to victims. Firstly, as the number of potential victims increases, the effectiveness of the First Responder scheme should be maintained and supported as it has resulted in an extraordinarily high rate of referrals that are consistently upheld in the follow-up reviews. On 30 January 2023, the First Responder Organization Kalayaan issued a public statement⁴⁸ expressing concern on the lack of action of the Government to recruit and train more First Responder Organizations. According to the statement, the system has become overwhelmed and appears to be at breaking point due to insufficiency of first responders and an increasing number of individuals waiting for referral. Kalayaan proposed a number of recommendations for urgent consideration which include accelerating the decision making on existing applications to become a First Responder Organization, establish a formal recruitment process, develop and maintain a nationwide training programme, and provide funding.

Secondly, the mandatory provision of the modern slavery/trafficking status information by potential victims and its late submission causing damage to their credibility is a discouraging requirement imposed on victims to come forward, and is detrimental to effective implementation of the core purposes of the NRM. The Special Representative affirms that the disqualification from protection of trafficking victims with prior criminal record have very negative consequences for identification and assistance of victims. Trafficking victims are often forced, by a virtue of their trafficking situation, to commit various crimes ranging from breaching immigration rules, holding false identification or committing crimes such as “county lines” offences, and as a consequences are likely to have a prior criminal record. Thus, this provision contributes to a continuum in exploitation and victimization of modern slavery/trafficking victims.

Thirdly, the Special Representative is gravely concerned about the lengthy waiting time taken for making conclusive grounds decisions which has a profound negative impact on trafficking victims’ survival, recovery and (re)integration. Such a delay in decision-making to grant victim status also undermines foreign victims’ right for leave to remain and ability to work in the UK. While there is no international law that would provide an explicit timeline for decision making of victim status, Art 10 of the European Convention obligates the signatory States to [ensure that the different

⁴⁷ [ecp05-a4-report-snapshot-21_aw7.pdf \(antislaverycommissioner.co.uk\)](#)

⁴⁸ [Public-Announcement-30-01-2023.pdf \(kalayaan.org.uk\)](#)

authorities collaborate with each other as well as with relevant support organizations, so that victims can be identified in a procedure duly taken into account the special situation of women and child victims and, in appropriate cases, issued with residence permits...]

Moreover, it is important for the UK authorities to acknowledge that a primary purpose of identification is not to gather evidence from potential witnesses or victims of crime, nor to collect data on the number of people who have been trafficked. It is to trigger a State's obligation to provide protection, including all forms of assistance.⁴⁹ In this regard, taking a decision whether or not a person claiming exploitation is in fact, a victim of trafficking, over 500 days does not encompass this purpose nor is a reasonable timeline.

A major bottleneck in decision making process is also due to a lack of staff of the competent authorities to cope with a growing number of applications. While appreciating the efforts of the Home Office's Competent Authorities to cope with the increasing workload, he recommends that the Home Office should urgently recruit more staff to the Competent Authorities to clear the backlog of cases awaiting decisions. This recommendation also holds true to training existing and recruiting new First Responder organizations to ensure speedy and quality referrals to the NRM. An alternative option to expedite the decision making process could be to de-centralize the identification process. The Home Office's pilot devolving decision making process for children is proving positive. Such an approach should also be sought for adult victims of modern slavery/ trafficking by allowing the devolved governments to play a more active role in decision making process particularly in conclusive grounds decisions.

V. Investigation and prosecution of human trafficking

52. The UK's criminal justice response to modern slavery and human trafficking is led by a diverse group of law enforcement agencies and criminal justice partners across England, Wales, Scotland and Northern Ireland. The focus is increasingly on the collaboration across associated crime types, such as county lines and organized crimes. In the UK, the National Crime Agency (NCA) is the operational agency to investigate modern slavery and human trafficking cases, with its Modern Slavery Human Trafficking Unit (MSHTU) leading the efforts. In Scotland, in 2020 Police Scotland established a National Human Trafficking Unit (NHTU) which now includes multi-disciplinary investigation team. In 2021, the Scottish Government funded a Justice and Care Victim Navigator secondments to the NHTU which helps the police to engage and support traumatised victims.

The National Police Chiefs' Council (NPCC) co-ordinates operational response, facilitate co-operation and communication between various UK police forces and provides guidance. The NPCC's Modern Slavery and Organized Immigration Crime Unit (MSOIC) works to support police officers, staff and other law enforcement partners to lead the fight against modern slavery, human trafficking and organized crime. The MSOIC's 2021/2022 Programme Implementation report indicates, 65

⁴⁹ [Putting victims first: The 'social path' to identification and assistance | OSCE](#)

percent increase in live investigations and training of 119 police officers and staff as Victim Liaison Officers.⁵⁰

53. The Government's 2021 report⁵¹ indicates a steady increase in law-enforcement efforts to detect and investigate human trafficking and modern slavery. The number of live police operations has increased significantly since the Modern Slavery Act was enacted, from 188 police operations in December 2016 to at least 3,335 in August 2021.

Police Scotland also took a range of measures, including Operation PERCEPTIVE which directly targeted labour exploitation in the agriculture, forestry, and fishing sectors; in the first three months of 2021, Police Scotland recorded 175 crimes of human trafficking or exploitation, compared to 236 in 2020. There was 62 percent increase in human trafficking calls received by Police Scotland between 2019-2020.

54. The NCA's multi-agency Operational Project Aidant has yielded significant results with more 300 live operations conducted across the UK, 428 potential victims identified and 94 suspects arrested. However, it is worth noting that – as in most countries - criminal justice operations still lead to a small fraction of the overall number of identified victims.

55. As described in paragraph 34, to respond to the surge in exploitation of children and vulnerable adults in county lines offences, in 2019 the Home Office launched the County Lines Programme. The Programme aims at establishing the National County Lines Co-ordination Centre, conducting targeted operational activities in four major police sites (Greater Manchester Police, Metropolitan Police Service, Merseyside Police and West Midlands Police), as well as investing in new technology and increasing support to victims. Since the Programme was launched in 2019, law-enforcement closed 3500 county lines, arrested 10,200 people and referred 5700 individuals to safeguarding. On 6 December 2021, the government published a 10-year drugs strategy to combat illicit drugs with the funding of GBP 145 million over the three years to tackle this crime.

The NPCCC 2021-2022 report shows that the number of investigations involving children has increased by 76 percent from the previous year which are largely consist of drug related offending such as county lines or other model of drug distribution.⁵² In September 2021, the UK Government established the National County Lines Coordination Centre (NCLCC) which is jointly led by the National Crime Agency and the NPCC to map out the threat from county lines. Backed by GBP 3.6 million of Home Office funding, the NCLCC is composed of multi-agency team of 38 experts who are tasked to develop national intelligence picture of the scale and complexity of the threat and prioritise action to tackle the serious crime. According to NCA⁵³, in its first 12 months, NCLCC has targeted county lines networks and engaged with partners from health, welfare and education spheres to tackle it. It coordinated a three-week operation between police forces and Regional Organized Crime Units and safeguarded over 2400 vulnerable persons, of which 1000 were children. These targeted,

⁵⁰ [Modern Slavery and Organised Immigration Crime Programme \(policingslavery.co.uk\)](https://www.policingslavery.co.uk/)

⁵¹ [2021 UK Annual Report on Modern Slavery \(accessible version\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/2021-UK-Annual-Report-on-Modern-Slavery-accessible-version.pdf)

⁵² [Modern Slavery and Organised Immigration Crime Programme \(policingslavery.co.uk\)](https://www.policingslavery.co.uk/)

⁵³ [More than 1,000 children protected in first year of centre tackling County Lines - National Crime Agency](https://www.nca.gov.uk/news/press-releases/more-than-1000-children-protected-in-first-year-of-centre-tackling-county-lines)

coordinated and enhanced actions to address the exploding problem of county lines offenses are a welcomed example of mobilization and strategic investment, however given the rising pattern of exploitation, early detection of victims is crucial.

56. The Internet is increasingly used by traffickers to recruit, exploit and control victims for various purposes, particularly for sexual exploitation. Adult Services Websites (ASW), such as “Vivastreet” and “Adultwork” continue to be the main platforms through which victims are recruited, controlled and exploited in prostitution. In 2019, the NCA issued a three-step guide for the ASWs advert assessment for industries. The guide looks into adverts which have a higher risk of THB that can be recognized via: those that are part of a network; indicators within individual adverts; and an assessment on the authenticity and payments of the account holder.⁵⁴

In general, the findings of the visit indicated that the UK is taking a collaborative, voluntary approach to efforts by sexual service websites to identify or curb exploitation. The Special Representative strongly urges government authorities to reconsider such an approach, which has consistently proved ineffective across the OSCE region. The business model of such websites is based on making money off the sex industry, which is notoriously high risk and permeated by exploitation. Time and again, the website operators have shown no interest in meaningful prevention or protection and, in some cases, actively contribute to exploitation. The only reliable and effective path forward is a strong regulation requiring basic provisions such as age verification, due diligence and risk assessment, and mandatory monitoring for exploitation. More detailed recommendations for policy action can be found in the OSCE’s paper “Policy responses to technology – facilitated trafficking in human beings: Analysis of current approaches and considerations for moving forward”.⁵⁵

57. In this regard, urgent adoption of the Online Safety Bill is necessary to address the rising use of online platforms by traffickers and risks posed both to children and adults. The Bill would make social media companies legally responsible for keeping children and young people safe online by *inter alia* removing illegal content or prevent it from appearing, enforcing age limits and age-verification measures. The Bill will protect adults through a ‘triple shield’. It would remove all illegal content, content that is banned by the websites’ own terms and conditions, and empower adult internet users with tools to tailor the type of content they see so that they can avoid potentially harmful content if they do not want to see it. Children will be automatically prevented from seeing this content without having to change any settings.⁵⁶ Pursuant to the Bill, Office of Communications (Ofcom) government’s regulator of communications, would act as a regulator for online platforms to protect their users and would have powers to take action against companies for non-compliance. Companies would be fined up to GBP 18 million or 10 percent of their annual global turnover, whichever is greater. The Special Representative urges the UK Government to finalize the passage of the Bill, enhance capacities of law enforcement and prosecutors including with more human and financial resources to make use of online investigations and specialized technology tools which could scale up the fight against online trafficking, including

⁵⁴ NCA, 3 Step Adult Service Website Advert Assessment Process, Industry Guide, Version 1.0, September 2019

⁵⁵ [Policy responses to technology-facilitated trafficking in human beings: Analysis of current approaches and considerations for moving forward | OSCE](#)

⁵⁶ [A guide to the Online Safety Bill - GOV.UK \(www.gov.uk\)](#)

the necessary software, hardware and consistent training.⁵⁷ The Special Representative calls on policy makers and Parliament to specifically account for the use of sexual service websites to exploit adults and children with strong provisions requiring due diligence by those sites as well as criminal liability for facilitation of exploitation.

58. The National Crime Agency is the chair of the Virtual Global Taskforce (VGT) - an international collective of law enforcement agencies from 12 countries working to tackle child sexual abuse. As a result of this initiative, 836 investigations were initiated around the world. So far, over 450 UK-based users have been arrested by the NCA and police with activity still ongoing.
59. In general, the UK has not taken sufficient action to discourage the demand that fosters sexual exploitation in line with its international legal obligations. Demand is clearly a significant market force in the UK, as exemplified by the large online market for sexual services. Such large-scale demand creates a massive incentive for exploiters to traffic vulnerable persons in the UK. As mentioned in paragraph 17, Section 53A of the Sexual Offences Act was introduced in 2010 to criminalize purchase of sexual services of a prostitute subject to force. This offence was introduced to address the demand for prostitution services and reduce all forms of commercial sexual exploitation as well discourage the demand for sexual services. According to the CPS, the offence is triable summarily and carries a fine. The summary nature of the offence means that police retain the discretion not to arrest or report those suspected of committing an offence; police can charge the offence without reference to a prosecutor, or issue a simple caution to a suspect, or decide not to take further action.

In general, the Special Representative noted a resistance among criminal justice practitioners to implement this law or to actively seek other methods to discourage demand despite the strategic value of such approaches as well as the country's international legal obligation to do so. Members of law enforcement agencies have previously reported to the Special Representative that they were too busy or had too many obligations related to trafficking cases to pursue offenses under 53A, which is a low-level offense. Moreover, in a written submission provided to the Special Representative during the visit, the CPS expressed concern with the enforcement of Section 53A which states difficulties in proving the element of knowledge of the sex buyer that the sexual service is provided under force or coercion; obtaining evidentiary data required both from a person in prostitution and a brothel manager or pimp that the sexual services had taken place or were going to take place; and confirming that a person providing sexual services is subject to exploitation through the use of force, threats or any other form of coercion or deception. In his assessment of Section 53A, the Special Representative concludes that Section 53A provides for strict liability and criminalizes the use of the services of a trafficking victim regardless of the user's awareness or knowledge that a person in prostitution is a victim of trafficking. This approach criminalizes acts based on the objective status of the victim and does not require that the user have prior knowledge of that status before using the victim's services. Prosecutors are thus only required to prove that the suspect purchased sex from another person, and that that person was a trafficking victim.

⁵⁷ [Leveraging innovation to fight trafficking in human beings: a comprehensive analysis of technology tools | OSCE, 2020](#)

He acknowledges that such statutes can still be challenging to implement in practice, because they require proof that the person with whom sex was purchased was a victim of trafficking. This element can be difficult to prove if a victim is unable to testify due to fear or trauma, or other reasons, thereby creating the need to prove victim status by indirect or circumstantial evidence. This problem is often exacerbated by the lack of procedures supporting victimless prosecutions. However, on balance, such statutes – broadly implemented - could be a useful tool to discourage demand, since they reflect the reality that most users are unable or unmotivated to determine whether a person is a victim of trafficking. These statutes target the harmful behaviour of the user regardless of the user’s knowledge, and thus they represent a policy response that prioritizes addressing the harm to the victim, rather than the ability to prove the mental state of the user. The burden is placed on the buyer to exercise great caution and due diligence when making purchases, rather than placing the burden on the victim to inform the user of his or her status as a victim.⁵⁸ If – as reported – a primary obstacle to the use of the statute is simply the low level of the penalty, then officials should pursue increasing the penalties to reflect the serious nature of the offense and better motivate law enforcement to pursue its enforcement.

60. With regard to financial intelligence and investigations into the proceeds of modern slavery and human trafficking, the UK Financial Intelligence Unit (UKFIU) is housed within the NCA’s National Economic Crime Centre (NECC) and has national responsibility for receiving, analysing and disseminating intelligence submitted through the Suspicious Activity Reports (SARs) regime, to share with law enforcement agencies at home and internationally. The UKFIU issues a number of guidance to reporting agencies such as its “Reporter Booklets” to provide law enforcement perspective and feedback to the reporting agencies on their use of SARs and share and encourage best practices among reporters. Its SARs Magazine “SARs in Action”⁵⁹ provides information on potential indicators of modern slavery/human trafficking. SARs in Action issue of December 2022⁶⁰ provides a detailed list of red flag indicators for identification and reporting of sexual exploitation, based on the information provided in the Amber Alert issued by the Joint Money Laundering Intelligence Taskforce (JMLIT) and the NECC. The JMLIT is a public-private information sharing model between law-enforcement and the financial sector on money laundering and wider economic threats. Since its inception in 2016, the JMLIT strengthened the capacity of financial institutions to detect and deter modern slavery threats by filing SARs. Nevertheless, according to the visit findings, financial intelligence and investigations are underutilized and there is a need for greater use of JMLIT.

Because human trafficking is a financially motivated crime, financial investigations conducted in parallel to criminal investigations are an increasingly important tool in disrupting the business model of traffickers and in enhancing the use of corroborating evidence in prosecutions. Financial investigations can be used both as a punitive measure against traffickers, as well as a protective measure for victims, helping to deliver reparations and compensation for trafficked persons.⁶¹ While positively noting

⁵⁸ OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Discouraging the demand that fosters trafficking for the purpose of sexual exploitation (Vienna, 2021)

⁵⁹ Each SARs in Action magazine issue focuses on specific issues relevant to the exploitation of financial intelligence to assist in preventing and detecting crime.

⁶⁰ NCA, SARs in Action, Issue18 – December 2022

⁶¹ [Joint Statement on the Critical Role of the Financial Sector in Combating Trafficking in Human Beings and Modern-day Slavery | OSCE](#)

the establishment of JMLIT as one of the early private-public partnership platforms in the OSCE to focus on financial aspects of trafficking, the Special Representative recommends that financial investigations are used more frequently and consistently in all modern slavery/human trafficking cases including through the increased use of the JMLIT.

61. With regard to prosecution, the most common offences associated with a modern slavery prosecution in the past three years were county lines offences, money laundering and exploitation in prostitution. In 2020, there was a 20 percent increase in police case referrals to the Crown Prosecution Service including cases referred for early investigative advice which had resulted in charges. In total, in 2020, 476 cases were referred by law enforcement agencies to the CPS compared to 427 in 2019. 259 defendants were charged in 2020 compared to 239 in 2019, which represents 74.6 percent of all legal decisions which resulted in a charge. Nevertheless, during 2020, the number of completed “flagged modern slavery prosecutions” declined from 349 to 267; this decline is attributed to the Crown Courts being closed or holding very significantly reduced trials, leading to a backlog of more than 54,000 cases in England and Wales by January 2021. According to the CPS, some cases are listed for one or two years which means that witnesses/victims may decide to opt out and people’s memories may become dim, thus affecting the effective prosecution of perpetrators. As a possible solution, the CPS has been looking at weekend or extended sittings and IT solutions such as pre-recorded statements, and cross examination interviews with victims.
62. Alternative to modern slavery offense, a "conspiracy to traffic" is also being used by the prosecution to prosecute trafficking offenders. This clause may involve the commission of an act by one or more of the parties, or the happening of an event in a place outside England and Wales. This situation is covered by section 1A of the Criminal Law Act 1977 which provides that where (a) that act or event would be an offence by the law of that place and (b) it would also be an offence here (but for the fact that it takes place outside the jurisdiction), then a person in England and Wales who becomes a party to the agreement or, being a party, does anything in pursuance of the agreement (even before its formation) can be charged with conspiracy contrary to section 1(1) of the Criminal Law Act 1977. Note, however, prior consent of the Attorney General is required to prosecute offences to which Section 1A applies.
63. With regard to conviction, since MSA came into effect in 2015, of the 88 offenders sentenced, 74 received an immediate custodial sentence. Of all offenders sentenced to immediate custody for this offence in 2020, the average custodial sentence length was 36.2 months. To aid the judiciary, in August 2021, the Sentencing Council published new dedicated Sentencing Guidelines⁶² for sentencing offenders convicted of modern slavery offences in England and Wales. The guidelines aim to provide consistency approach to sentencing and help the courts pass appropriate sentences when dealing with modern slavery offences. The guidelines apply to adult offenders sentenced on or after 1 October 2021 in the Crown Court and magistrates’ courts. In 2021, the Sentencing Council also published data tables which include statistics on volumes and sentencing outcomes for the offences covered by the guidelines which will apply to offences sentenced under sections 1 and 2 of the MSA.

⁶² Sentencing Guidelines for use in Crown Court

64. The principle of non-punishment of victims of trafficking is enshrined in the UK's legislation through Section 45 of the Modern Slavery Act, which provides a statutory defence for victims of slavery and human trafficking who, in the case of adults, were compelled to commit the offence and compulsion was attributable to the slavery or relevant exploitation or, in the case of children, committed the offence as a consequence of being or having been, a victim of slavery or human trafficking. To fill the data gap on the use of the defence, in 2020, IASC launched a call for evidence and received over 100 responses and 200 cases. Despite the lack of quantitative data on the use of the statute, the analysis of collected evidence shows that the defence is predominantly used in drug trafficking cases. The analysis also revealed four interconnected issues with the use of the defence: police are not consistently considering from the outset of an investigation whether a suspect could be a victim of trafficking and whether the statutory defence may apply; discontinuation of investigations and prosecutions as soon as the defence is raised; over-reliance throughout the criminal justice system on the decision making of the SCA; and finally the statutory defence is raised late in the criminal justice process. In 2022, the findings of the Modern Slavery PEC's evidence review⁶³ of the statutory defence concluded that evidence regarding the implementation of the statute was limited and proper assessment of its use would require more in-depth research due to the lack of quantitative data collected on the use of Section 45. The review also reiterated the need for adequate training for police, lawyers and the judiciary to ensure that the statute is used to serve the best interests of victims of modern slavery. The Special Representative notes that Section 45 of the MSA does not provide blank immunity to victims from prosecution, but rather provides for list of offences that are not subject to defence and also requires a proof that there is a link between the defendant's experience of exploitation and offending. Referring to the interpretation of Section 45 by the court of appeal judgements, the review concludes that the statute puts the evidential burden on the defendant and, if they are successful in doing this, that the burden of proof falls upon the prosecution to disprove the defence beyond reasonable doubt.

On 22 July 2019, a revised Plea and Trial Preparation Hearing (PTPH) form (PTPH2) for the use by prosecutors, defence practitioners and judges came into effect with a specific section relating to suspects who may be potential victims of modern slavery and human trafficking. The form asks the defence to highlight whether it is alleged that a defendant is a victim of modern slavery so as to allow for a consideration of a defence under section 45 of the MSA.⁶⁴ The Special Representative highlights that by prosecuting trafficking victims, States fail to fulfil international obligations, namely to identify, protect and assist victims of trafficking, and also to investigate a trafficking situation with the aim of identifying the trafficker and seeking to bring the true perpetrator to justice. He positively notes the provision of the key principle of the non-punishment in the UK's national legislation. Nonetheless, he concurs with the recommendations of the IASC 2019 review and Modern Slavery PEC's 2022 on the prioritization of training for the police, CPS, defence lawyers, magistrates and judiciary and recommends continuous use of the principle by practitioners in early stages of the investigations to ensure victims are not punished for the offences of their traffickers.

⁶³ Modern Slavery and Human Rights Policy Evidence Centre, Evidence Review of Section 45 of the Modern Slavery Act: Background and Context, April 2022

⁶⁴ [Modern Slavery, Human Trafficking and Smuggling | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk/modern-slavery-human-trafficking-and-smuggling)

65. In Scotland, Section 8⁶⁵ of the Scottish Act obligates the Lord Advocate to publish instructions to prosecutors on the application of the non-punishment principle. The instructions⁶⁶ published in 2016 cover the situation where any person is reported to the Crown Office and Procurator Fiscal Service (COPFS) for an allegation that they have committed any criminal offence, and during the investigation of that offence, throughout the prosecution process, or after the conclusion of any proceedings there is credible and reliable information provided from any source suggesting that the accused person committed the offence because they were a victim of human trafficking or exploitation. The annexes to the instruction provide a non-exhaustive list of circumstances and factors to be taken into consideration by the prosecutors in examining the case. Nevertheless, during the visit to Edinburgh, the Special Representative was informed about increasing number of potential child trafficking victims being arrested, charged and detained. In 2019-2020, the Scottish Guardianship Service supported at least 53 young people who have been exploited in drug production. Between September 2020 and March 2021, the Service had referrals for eight young people (all Vietnamese) who were exploited in cannabis cultivation, all of whom were charged with offences under the misuse of drugs act (some additionally with electricity theft). All of the young people had been referred into the NRM by Police Scotland. Most, if not all, had positive reasonable grounds decisions. Of the eight, six children were remanded in custody and two spent time in adult prisons despite already having undergone age assessments that assessed them to be children. According to Scotland's Children and Young People's Commissioner, Police Scotland has expressed the view that they have no discretion not to charge, or to delay charging, where there is evidence that a crime has been committed, even where they also believe the child to be a trafficking victim and have made a referral to the NRM and the view that these offences are too serious for discretion to be used.

According to paragraph 15 of the Instructions, unless there are exceptional circumstances⁶⁷, prosecutors must wait for the Conclusive Grounds Decision before serving an indictment on an accused person. If an accused is remanded, consideration should be given to whether the accused can safely be released on bail pending receipt of the Conclusive Grounds Decision. If an indictment requires to be served, prosecutors should not accept a plea nor commence a trial until the Conclusive Grounds Decision has been received, considered and a final decision in terms of these instructions is made.

Given the lengthy decision-making for conclusive grounds decision which has been the pattern of the past few years and likely to be continued amid heightened focus on immigration, the Special Representative shares the view of the Commissioner's office that the Lord Advocate's instructions should be amended to make clear that the prosecutors can choose to make the decision not to prosecute as soon as the evidence and public interest supports them doing so. Even where a conclusive grounds decision from the NRM is not yet available. This is also stipulated in the landmark ECHR judgement in *V.C.L and A.N v the United Kingdom*⁶⁸ which states that: "...given that an individual's status as a victim of trafficking may affect whether there is sufficient

⁶⁵ [Human Trafficking and Exploitation \(Scotland\) Act 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

⁶⁶ [Lord Advocate's instructions for non-prosecution of victims of human trafficking | COPFS](#)

⁶⁷ For example, according to section 65 of the 1995 Criminal Procedure Act of Scotland the trial is commenced within the period of 12 months, of the first appearance of the accused on petition in respect of the offence

⁶⁸ [V.C.L. AND A.N. v. THE UNITED KINGDOM \(coe.int\)](#)

evidence to prosecute and whether it is in the public interest to do so, any decision on whether or not to prosecute a potential victim of trafficking should – insofar as possible – only be taken once a trafficking assessment has been made by a qualified person. This is particularly important where children are concerned.”

The Special Representative recommends that the Crown Office and Procurator Fiscal Service (COPFS) closely assesses Section 8 of the Scottish Act and revises the statutory instructions of the Lord Advocate to ensure effective use of discretionary powers given to law enforcement and procurator fiscal for considering the possibility of applying the non-punishment principle for victims of human trafficking and exploitation. Additionally, he recommends that the COPFS develops a targeted training for all law enforcement officers, prosecutors and the judges on the key principle of non-punishment to facilitate its appropriate implementation in practice.

VI. Prevention of human trafficking

66. The Special Representative notes a variety of preventive measures enacted by the UK through the implementation of the MSA, particularly its Section 54 that addresses transparency in businesses and supply chains. He further notes that prevention is one of the strands of the current Strategy, which foresees a range of measures, including raising awareness among the general public, vulnerable populations and school aged children, as well as advancing the knowledge and skills of practitioners and professionals involved in anti-trafficking work and improving systems for data collection and analysis. The Border Forces proactive operations at the border are effective tools to prevent modern slavery offences committed by and against travellers from/to the UK. The Home Office’s Modern Slavery Prevention Fund supports organisations to deliver targeted prevention interventions that will help build the evidence base for where the greatest impact can be made. The Special Representative also positively notes the Procurement Bill⁶⁹ that is currently in the House of Commons which would set new rules and procedures for central government and wider public sector when selecting suppliers and awarding contract with a value of certain threshold and create a new public procurement regime. This is an important step forward as public procurement represents more than GBP 300 billion spending per annum in the UK⁷⁰ and has a critical role in addressing modern slavery and human trafficking in supply chains.

67. In Border Force, a great deal of reliance is placed on more than 500 Safeguarding and Modern Slavery (SAMS) officers to provide modern slavery and human trafficking expertise. Not only does SAMS play a key role in identifying modern slavery and trafficking victims at borders for NRM referral, but it also pursues a robust prevention strategy through numerous operational projects. The Special Representative positively notes Border Forces proactive initiatives such as Operations LIMELIGHT, KARETU and its 2022 Operational Bacoli, a four-day (14-18 October), multi-site initiative aimed at raising awareness of the harms of orphanage tourism amongst the travellers flying to South East Asia-Thailand, Vietnam, Laos and Cambodia at three of the busiest UK airports - Manchester, Gatwick and Heathrow.⁷¹ The Border Force’s Cash Teams are

⁶⁹ [Procurement Bill 2022-23 - House of Commons Library \(parliament.uk\)](#)

⁷⁰ [Modern Slavery PEC | Public procurement – key for addressing modern...](#)

⁷¹ [Operation Bacoli - stopping demand for orphanage visits - Hope and Homes](#)

led by UK's Proceeds of Crime laws to look for, identify and examine money and crossing the UK border with highly trained detection dogs. The Cash Teams' specialist SAMS officers are trained with identifying criminal cash mules and participate at JMLIT's national intelligence apparatus. The SAMS is an ancillary function performed alongside other duties and the availability of SAMS officers varies from port to port and shift to shift. The Special Representative positively assesses the proactive work of the Border Force to detect and prevent modern slavery/trafficking through routine checks and dedicated initiatives.

68. Since February 2022, the UK has granted more than 215,000 visas to persons fleeing the war against Ukraine, under the Ukraine Sponsorship Scheme (Homes for Ukraine)⁷², Ukraine Family Scheme⁷³ and Ukraine Extension Scheme⁷⁴. As of 7 March 2023, a total of 221,000 Ukrainians received visas of which 154,700 were issued under Ukraine Sponsorship Scheme.⁷⁵ Nevertheless, amid the increase in cost of living across the UK, since June 2022, the number of Ukrainian households receiving homelessness assistance from their local authority has increased more than six times. According to Government data, 4000 Ukrainian households have received homelessness support due to gaps in other support and funding.⁷⁶ Particularly, due to the fixed payment support regardless of the sponsored family, refugees risk ending up without shelter thus undermining the government's commitment to supporting those in hope of safety from the war. The situation has urged a cross-party coalition of over 70 members of Parliament to sign an open letter to the UK Government to act immediately to support Ukrainian refugees. The Special Representative positively notes the commitment taken by the UK Government to support Ukrainians fleeing the war, however, he is concerned about increasing reports on heightening risks of human trafficking and exploitation within the established mechanisms particularly with lack of vetting and longer-term oversight of the hosts under the Home for Ukraine scheme. He further notes that as the war continues and living costs rise across Europe, the vulnerability of Ukrainian refugees is likely to increase. Particular concern also remains in relation to a toxic demand for sexual access to Ukrainian women: an exponential recorded increase of online searches for Ukrainians women across Europe provides a strong incentive to recruit girls and women into prostitution and highlights the need to discourage demand as a strategy to reduce the market for exploitation. He recommends that the UK Government conduct a review of the established visa schemes for Ukrainians to assess their effectiveness in practice, and also monitor workplaces and online platforms to detect and prevent trafficking for various exploitative purposes against this vulnerable group in line with the OSCE's recommendations issued early in 2022.⁷⁷ He strongly recommends that authorities take immediate action to find sustainable solution for housing for Ukrainians stranded without shelter.

⁷² The Ukraine Sponsorship Scheme (Home for Ukraine) allows Ukrainian nationals and their family members to come to the UK if they have named sponsor under the Homes for Ukraine Scheme.

⁷³ The Ukraine Family Scheme allows applicants to join family members or extend their stay in the UK

⁷⁴ The Ukraine Extension Scheme allows Ukrainian nationals and their immediate family members to apply for permission to stay in the UK if (1) they hold permission to be in the UK on or between 18 March 2022 and 16 March 2023 or if they have previously held permission to be in the UK and that permission expired on or after 1 January 2022.

⁷⁵ [Ukraine Family Scheme, Ukraine Sponsorship Scheme \(Homes for Ukraine\) and Ukraine Extension Scheme visa data - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/ukraine-family-scheme-ukraine-sponsorship-scheme-homes-for-ukraine-and-ukraine-extension-scheme-visa-data)

⁷⁶ [Cross-party MPs urge UK Government to act as homelessness amongst Ukrainian refugees increases sixfold in a year | Crisis | Together we will end homelessness](https://www.bbc.com/news/uk-politics-61844444)

⁷⁷ [Recommendations on enhancing efforts to identify and mitigate risks of trafficking in human beings online as a result of the humanitarian crisis in Ukraine | OSCE](https://www.osce.org/en/ukraine/2022/03/23/recommendations-on-enhancing-efforts-to-identify-and-mitigate-risks-of-trafficking-in-human-beings-online-as-a-result-of-the-humanitarian-crisis-in-ukraine)

69. In response to the labour shortage in advance of and after the UK's exit of the European Union, in 2019 the UK Government launched a two-year Seasonal Workers Pilot (SWP) to bring 2500 workers per year from countries outside the EU to work on UK farms, particularly in the horticultural sector. The SWP also included establishing a new Tier 5 sponsored visa, the Seasonal Workers Visa (SWV), and appointing two licensed scheme operators (Pilot Operators: Concordia and Pro-Force) as visa sponsors who must be licensed by the GLAA. The scheme was increased to 10,000 workers in 2020 and to 30,000 workers in 2021; and increased the Pilot Operators from two to four.⁷⁸ In late 2021, amid a continuing shortage of labourers elsewhere in the food supply chain, the Government temporarily adjusted the SWV to include poultry workers, pork butchers and heavy goods vehicle drivers. In 2022, there were 40,000 visas available (including 2000 for poultry workers). An Independent Review into Labour Shortages in the Food Supply Chain is due to report in spring 2023. Its findings will inform decisions on the future of the Seasonal Worker scheme beyond 2024.⁷⁹ Nevertheless, according to the Government's data, it is estimated that between 50,000 and 60,000 seasonal workers are still needed during the harvest season across the UK.⁸⁰

Ukraine remained the highest recipient of visas in each year with 91 percent of visas (2,261) in 2019, 87 percent (6,297) in 2020, 67 percent (19,894) in 2021 and 23 percent (6,105) between January-June 2022. However, the war against Ukraine also impacted on Ukrainian workers, diverting the interest of UK farmers toward workers from Nepal and Central Asian countries. In the first six months of 2022, the proportion of Seasonal Worker visa holders from Uzbekistan was 14 percent (3,743), Tajikistan was 11 percent (2,971) and Kyrgyzstan was 9 percent (2,505).⁸¹

Seasonal workers are traditionally subject to higher risk of exploitation than other workers. According to a new report published by the Focus on Labour Exploitation (FLEX), 60 percent of SWV workers interviewed for the project were deceived about the nature of the work and remuneration at the point of recruitment and got indebted to come to the UK. Furthermore, 27 percent of SWV workers did not receive information on their work in writing or could not understand the employment contract due to the lack of English language skills. Additionally, while SWV sponsor guidance stipulates that employees are able to change employer (employer transfer), in practice many SWV workers are denied approval to move to another employer or were informed on the impossibility of employment transfers at the point of recruitment. Upon arrival, almost all SWV workers are accommodated in caravans on agricultural sites of their employer, amounting to degrading living conditions. The Special Representative notes that while a 2019 review⁸² of the scheme did not identify any instances of modern slavery, as a temporary and tied migration programmes, the SWP workers face a range of risks associated with the short-term nature of the programme which include, but are not limited to, debt bondage in the country of origin, indecent working conditions, exploitative overtime, difficulties to change the employer/sector and lack of channels to report the exploitation. Therefore, a clear statutory guidance to employers and regular and proactive monitoring of workplaces, regulation and supervision of employment

⁷⁸ Focus on Labour Exploitation and Fife Migrants Forum. 2021. Assessment of the risks of human trafficking for forced labour on the UK Seasonal Workers Pilot. London. Available at: www.labourexploitation.org

⁷⁹ House of Commons, Seasonal Worker visas and UK agriculture, 4 November 2022, available at < [CBP-9665.pdf](#) (parliament.uk)>

⁸⁰ [Written questions and answers - Written questions, answers and statements - UK Parliament](#)

⁸¹ Ibid, p. 28

⁸² [Seasonal workers pilot review 2019 - GOV.UK \(www.gov.uk\)](#)

agencies in the countries of origin, including mandatory work with workers, are necessary measures that should be developed to ensure the SWV workers are protected from any abuse and exploitation.

70. UK's 2015 landmark Section 54 of the MSA – Transparency in supply Chains (TISC) served as a turning point in the Government's approach to ensuring human rights in businesses, as mentioned in paragraph 12. On 9 July 2019, the Government launched a consultation on Transparency in Supply Chains to discuss ways to strengthen transparency in supply chains reporting. These included strengthening the content of modern slavery statements, improving the transparency and enforcement of non-compliance and extending the modern slavery reporting requirements to the public sector. The Government published its response to the Consultation on 22 September 2020 which laid out the Government's key proposals in several areas such as mandatory reporting on each of the six areas listed in Section 54 (5) of the MSA; single reporting of 30 September; general compliance to date of the approval and sign off of the MSA statement; online government registry for MSA statements; development of the single enforcement body for employment rights and extension of the Section 54 requirements of the MSA to public bodies with a budget threshold of 36 million pounds or more.

In 2020, the Government announced its commitment to strengthen Section 54 including extending the duty to publish modern slavery statements to public bodies with a budget of GBP 36 million or more, mandating the reporting topics that statements must cover, and setting a single reporting deadline by which all modern slavery statements must be submitted to the Government's modern slavery statement registry which was launched in March 2021. Subsequently, on 12 January 2021, the Government announced plans to introduce financial penalties for the organizations which fail to meet the statutory obligations to publish annual modern slavery statement. Once established, the Single Enforcement Body would have the powers to impose financial penalties for non-compliance. Among the committed actions, the launch of the modern slavery statement registry in 2021 was a significant milestone in the Government's commitment to improve transparency in supply chains. Nevertheless, a number of UK firms disclosing anti-slavery measures within their supply chains has nearly halved, according to an analysis by the Chartered Institute of Procurement and Supply (Cips). Only 29 per cent of the organizations required to produce a modern slavery statement have submitted it to the UK government registry for 2022, a Cips analysis found.⁸³ The registry recorded just 8,074 statements submitted in 2022, a sharp 46% drop from the 15,019 submitted in the previous year.

The Special Representative notes that the Act was a ground-breaking piece of legislation that has contributed to greater awareness of modern slavery in companies' supply chains. Nevertheless, its legal flaw is that while it provided for mandatory reporting, the content of the statements themselves is only advisory under the MSA, which can create inconsistency among companies and their reporting. Additionally, despite its provision to seek an injunction with High Court against non-compliant organizations and impose penalties, there have been no penalties imposed against organizations to date. Likewise, all of these expressed commitment made after the aforementioned consultations have gone unfulfilled. He notes that while the UK was the first in drawing the needed attention and action to supply chain transparency, it has

⁸³ [UK efforts to tackle modern slavery are waning, analysis finds | Corporate governance | The Guardian](#)

not progressed since then compared to other OSCE participating States which now have developed more advanced legal frameworks, such as France's Duty of Vigilance law, Germany's Supply Chain Due Diligence Act or Norway's Transparency Act (as well as a proposed Directive in the European Union).

71. The Gangmasters and Labour Abuse Authority (GLAA) is a body mandated to protect vulnerable and exploited workers. The GLAA is composed of 119 employees (76 percent are operational) who strive to prevent worker exploitation, regulate businesses and enforce the MSA, and investigate allegations of labour. It runs a licensing scheme for agriculture, horticulture, shellfish gathering and any associated processing and packaging. Labour providers are assessed to check whether they meet the GLAA licensing standards which cover health and safety, accommodation, pay, transport, training and importantly focus on forced labour indicators. GLAA's developed high-risk industry profiles include agriculture, car washes, care, cleaning, construction, courier services, food processing and production, food services, hotel, nail bars, recycling and waste, shellfish gathering, textiles and warehousing. According to GLAA's Annual Report and Accounts 2021-2022⁸⁴, it has conducted 300 investigations which included securing the first modern slavery conviction of a man who played a part in exploiting a victim for 40 years; it has recovered almost GBP 76,000 of withheld holiday pay to which workers were entitled. Its 2022-23, its focus is to enhance the understanding of labour exploitation to better inform the operational activity and deliver an effective regulatory scheme for more effective business compliance. The Special Representative notes that despite the large remits and outstanding outcomes, the GLAA's continuous budget deficit has created challenges to realize its full capacity.
72. In June 2021, the Government committed to establish a Single Enforcement Body for employment rights to better protect vulnerable workers and provide a clearer route for workers to raise a complaint and get support. In its response to the consultation, the Home Office committed to introduce financial penalties for organisations which fail to meet their statutory obligations under Section 54 of the MSA. While the Home Office will maintain and monitor the government-run register of modern slavery statements, and use this to identify the organisations which have not met the reporting requirements, the single enforcement body will have powers to impose financial penalties against non-compliant organisations. However, despite the commitment voiced, there have been no action taken to establish this body. Reportedly, no mention has yet been made of establishing a Single Enforcement Body through the Modern Slavery Bill, although the Bill presents an ideal opportunity for this commitment to be met.⁸⁵ The Special Representative strongly recommends that the UK Government should establish the Single Enforcement Body to solidify coordinated enforcement action to address labour exploitation, protect vulnerable workers and provide better support to businesses.
73. In conclusion, while positively noting the commitment and numerous steps taken in the prevention and countering of trafficking by the UK, particularly through adoption of the landmark Modern Slavery Act, the Special Representative encourages the authorities to advance their efforts and invites them to consider the following recommendations to enhance the implementation of OSCE anti-trafficking commitments, in particular the OSCE Action Plan to Combat Trafficking in Human

⁸⁴ [GLAA](#) Annual Report and Accounts, 1 April 2021 to 31 March 2022

⁸⁵ University of Nottingham Right Lab, Modern Slavery Bill: Strengthening Transparency in Supply Chains

Beings and its Addenda⁸⁶. The Special Representative and his Office stand ready to provide technical assistance, if requested by national and local authorities, as well as civil society, and welcomes further dialogue and co-operation to promote appropriate follow-up to these recommendations.

VII. Recommendations

1. Improve legal, policy and institutional framework by:

- Ratifying the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families of 2003.

- Signing and ratifying the ILO Convention 189 concerning Decent Work for Domestic Workers.

- Updating/adopting the (new) Modern Slavery Bill in line with the recommendations proposed by 2018 Review of the MSA and outcomes of the 2019 TISC consultation. Additionally, the new Bill should serve as an umbrella law covering all 4P (Prevention, Protection, Prosecution and Partnership) and encompassing the guidance and mechanisms provided under the Statutory Guidance to effectively identify and assist modern slavery and trafficking victims, including the discretionary leave to remain and rehabilitation, reintegration of victims.

- Critically assessing, revising or removing entirely the clauses 58, 59 and 63 of the Borders Act and reviewing the part 4 of the Act on age assessment.

- Adopting the Online Safety Bill to urgently address the rising use of online platforms by traffickers and exploitation risks posed both to children and adults in the UK.

- Dropping the draft Illegal Migration Bill or removing children and modern slavery victims from its scope.

- Accelerating and scaling up efforts to develop a new Modern Slavery Strategy, including launching public consultations to ensure that the Strategy encompasses adequate measures for the identification and protection of victims, detection and reporting, prosecution of offenders, prevention and protection programmes with the involvement and empowerment of survivors, international cooperation and engagement of the private sector. The new Strategy should include specific actions to address the increasing prevalence of exploitation of children and adults in committing of crimes, exploitation facilitated by technology including by establishing

⁸⁶ OSCE Permanent Council, Decision No. 557/Rev.1 *OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005); OSCE Permanent Council, Decision No. 1107 *Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later* (Vienna, 6 December 2013).

partnerships with private entities such as technology companies to develop specific tools and strategies; enhance partnerships with financial intelligence, the financial services industry and financial regulators to identify proceeds from trafficking crimes, including through increased use of JMLIT; improve and harmonize the labour inspection mechanisms in the UK; and establish regular joint capacity building and consultation among various agencies, such as cybercrime, organized crime and trafficking criminal justice practitioners and social service providers. The new Strategy should build upon the implemented prevention measures and include enhanced focus on prevention of exploitation of workers in seasonal work and advance the remit of the GLAA.

- Urgently appointing a new Independent Anti-Slavery Commissioner and reinstating the work of the body as a key source of accountability for the Government's action to prevent and tackle modern slavery and human trafficking and protect its victims.

- Appointing a formal National Modern Slavery/Anti-Trafficking Co-ordinator to ensure comprehensive and efficient coordination across government.

- Receding modern slavery/human trafficking from immigration and reinstating the issue under the Minister for Safeguarding.

Recommendations specific for Scotland

- Closely assessing Section 8 of Scotland's Human Trafficking and Exploitation Act and statutory instructions of the Lord Advocate to improve effective application of discretionary powers given to law enforcement and prosecution to apply the non-punishment principle for victims of human trafficking and exploitation.

- Ensuring that the revised Human Trafficking and Exploitation Strategy includes more enhanced focus on reducing the demand that fosters sexual and labour exploitation and also improves efforts to curb technology-facilitated trafficking through specific measures (action points) to monitor and assess the online platforms that facilitate exploitation through advertising services including on adult services websites.

2. Enhance victim identification, assistance and protection by:

- Training existing and recruiting new First Responder organizations to ensure speedy and quality referrals of potential victims of modern slavery/human trafficking to the NRM.

- Urgently recruiting and training more staff for the Home Office's Competent Authorities to ensure that reasonable and conclusive grounds decisions on victims' status are made within the reasonable timeframe.

- Enhancing measures to identify victims of all forms of modern slavery/ human trafficking, particularly exploited in criminal activities, such as those exploited in cannabis cultivation and in “county lines” offences.

- Enhancing measures to identify trafficking victims in commercial sexual exploitation through increasing proactive outreach activities including through screening of at-risk children, monitoring of online platforms advertising sexual services including escort services, and inspection for labour exploitation in industries prone to exploitation, such as agriculture, textile, fishing and hospitality and domestic work, particularly au-pairs.

- Addressing online platforms that ignore risks or facilitate exploitation on their platforms through policy action requiring implementation of safety measures, risk assessments, due diligence and monitoring for illicit content, reporting to authorities, and enhanced transparency. Policies should also provide for enforcement by authorities and liability for harms occurring on or through the platforms.

- Urgently providing a comprehensive and enhanced response to the rising pattern of exploitation of children in various forms of modern slavery/human trafficking, particularly exploitation in criminal activities, by including a specific task in the new Strategy to identify and assist child victims of modern slavery / human trafficking; strengthening child protection mechanisms to address gaps in protection of children at risk and in care facilities. Ensuring that local authorities are trained and supported in working with distressed and traumatised children.

- Enhancing measures to swiftly identify and refer victims of modern slavery/ trafficking among persons arriving in the UK irregularly, in asylum processes and in detention facilities for irregular migrants.

- Finalizing the national rollout of the Independent Child Trafficking Guardians to ensure access for all the children in need of support and assistance.

- Ensuring that foreign victims can benefit from and are granted the “leave to remain” in the UK including by regular monitoring and assessment of the effectiveness of the mechanism and the process.

- Ensuring that foreign victims have the right to work in the UK at early stages of identification of their victim status, such as once a positive reasonable grounds decision is made.

3. Enhance the criminal justice response to all forms of human trafficking by:

- Boosting investigations in all trafficking cases by identifying and collecting sources of evidence in addition to victim testimony including by making use of special investigative tools, including wiretapping, surveillance and undercover operations, financial investigations, the using of the pre-recorded direct evidence and consider pre-recorded cross-examination

methods for all victims of trafficking. Developing capacity building activities for investigators and prosecutors to advance victimless investigations and prosecutions.

- Improving victim assistance and protection schemes to enhance victim co-operation in criminal proceedings, including by ensuring non-conditional residence permits for victims/witnesses, facilitating the return of co-operating victims to testify at trial and enhancing training for prosecutors and judges in the application of victim-centred and trauma-informed approaches.

- Allocating specialized human and financial resources to law enforcement and prosecutors to investigate human trafficking facilitated through the internet, including through multi-department/agency training and capacity building activities to benefit from specialized technology tools which could scale up the fight against human trafficking.

- Effectively and widely applying Section 53A of the Sexual Offences Act to discourage the demand that fosters sexual exploitation that leads to trafficking.

- Effectively using financial investigations in all modern slavery/human trafficking cases including through the increased use of the Joint Money Laundering Intelligence Taskforce (JMLIT). The UK Government should also incorporate a measure in the new Modern Slavery Strategy to enable closer engagement of the Financial Intelligence Unit and JMLIT in the modern slavery/anti-trafficking agenda and enable exchange of information and data - such as typologies and red-flag indicators - with the financial services sector.

- Developing and conducting regular training for the police, Crown Prosecutor Service, defence lawyers, magistrates and judiciary on the continuous application of the non-punishment principle, as enshrined in Section 45 of the Modern Slavery Act, in early stages of the criminal justice process to ensure victims are not punished for the offences of their traffickers.

- Scottish Crown Office and Procurator Fiscal Service should develop a targeted training for all law enforcement officers, prosecutors and the judges on the key principle of non-punishment to facilitate its appropriate implementation in practice.

4. Enhance prevention of human trafficking by:

- Increasing and supporting prevention efforts by focusing on the demand that fosters all forms of trafficking, inter alia through: including specific measures in the new NAP to target demand, particularly that fosters sexual exploitation; effectively and broadly implementing the Sexual offences provisions that bans purchase of sexual services provided by force; pairing implementation of criminal justice measures with education initiatives for young men and boys; closely monitoring the venues where prostitution services can be procured (particularly online) to prevent the exploitation of adults and children in this industry; and developing exit

strategies and programmes for individuals wishing to exit prostitution. Such programmes should include, but not be limited to, education and employment opportunities that can help to support individuals who may have to go through a challenging transition process.

- Conducting a review of the established visa schemes for Ukrainians to assess its effectiveness in practice, as well as monitoring workplaces and online platforms to detect and prevent trafficking for various exploitative purposes against this vulnerable group in line with the OSCE's recommendations issued early in 2022.⁸⁷ The authorities should take immediate action to find sustainable solution for housing for Ukrainians stranded without shelter.

- Providing adequate financial and human resources to the Gangmasters and Labour Abuse Authority to ensure it is supported to fulfil its large remit.

- Developing a clear statutory guidance for employers and regular and proactive monitoring of workplaces. This should also include stronger regulation and supervision of employment agencies in the countries of origin, including mandatory measures with migrant workers to ensure the seasonal workers are protected from any abuse and exploitation.

- Establishing a Single Enforcement Body with adequate funding and resources to solidify coordinated enforcement action to address labour exploitation, protect vulnerable workers and provide better support to businesses.

The Office of the Special Representative stands ready to provide technical assistance, if requested by national and local authorities, as well as civil society, and welcomes further dialogue and co-operation to promote appropriate follow-up to these recommendations.

⁸⁷ [Recommendations on enhancing efforts to identify and mitigate risks of trafficking in human beings online as a result of the humanitarian crisis in Ukraine | OSCE; Recommendations of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings on the need to enhance anti-trafficking prevention amid mass migration flows | OSCE](#)

ANNEX I

Programme of the visit

| Monday, 7 November 2022 | |
|--|--|
| 08:30-10:30 | Meeting with the Home Office Modern Slavery Unit |
| 10:30-11:30 | Meeting with the Foreign, Commonwealth and Development Office |
| 11:30-12:30 | Meeting with the Crown Prosecution Service |
| 13:15-14:30 | Joint meeting with the National Crime Agency, Financial Intelligence Unit, National Police Chief's Council Lead for Modern Slavery |
| Tuesday, 8 November 2022 | |
| 09:00-10:30 | Joint meeting with the UK Border Force, UK Immigration Enforcement and UK Visas and Immigration |
| 10:30-11:30 | Meeting with the Gangmasters and Labour Abuse Authority |
| 12:00-13:00 | Working lunch with Hope for Justice |
| 13:30-14:30 | Meeting with the All-Party Parliamentary Group on Human trafficking and Modern Slavery |
| 16:40-17:40 | Meeting with Doughty Street Chambers |
| 18:00-20:00 | Working dinner with Stop the Traffik |
| Wednesday, 9 November 2022 | |
| 09:00-10:30 | Meeting with the Modern Slavery and Human Rights Policy and Evidence Centre |
| 10:30-11:30 | Meeting with Boohoo Group |
| 11:30-12:30 | Meeting with the Salvation Army |
| 15:00-16:00 | Meeting with the Independent Child Trafficking Guardians |
| 16:30-17:15 | Meeting with Lady Theresa May |
| 17:15-18:15 | Meeting with All-Party Parliamentary Group on Commercial Sexual Exploitation |
| Thursday, 10 November 2022 – Meetings in Scotland | |
| 11:30-12:30 | Meeting with the Scottish Guardianship Service and Scottish Refugee Council |
| 13:00-14:15 | Tri-Agency discussion with the Scottish Government, Police Service of Scotland and Crown Office and Procurator Fiscal Service |
| 14:15-15:00 | Meeting with Police and Crown Office and Procurator Fiscal Service |
| Friday, 11 November 2022 | |
| 09:00-10:00 | Meeting with Scotland's Commissioner for Children and Young People |
| 11:00-12:00 | Meeting with NGO TARA |

ANNEX II. Comments and Remarks of the United Kingdom on the Report of the then OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Valiant Richey, following the official country visit to the UK, 7-11 November 2022

STARTS

The UK Government thanks the Organization for Security and Cooperation in Europe's (OSCE) Special Representative, Valiant Richey, for his visit to the UK and subsequent report.

We are grateful to the Special Representative and his team for taking the time to conduct an in-depth look at the UK's response to modern slavery and providing valuable recommendations. The UK will take these into consideration.

Tackling the abhorrent crime of modern slavery and human trafficking remains a priority for the UK and we are determined to ensure victims of modern slavery are supported in rebuilding their lives. The report notes the potential for Ukrainians fleeing the war to be subject to exploitation. As with all potential victims, this requires an end-to-end response, and we are pleased to be recognised for our leading role on victim identification and the support provided to victims.

We are also proud to have led the way in tackling forced labour in supply chains and increasing the evidence base through collaboration with the Modern Slavery & Human Rights Policy and Evidence Centre.

The UK continues to support significant numbers of victims from identification through support and engagement in prosecutions, where appropriate. We are further committed to bringing perpetrators to justice and have continued to invest in the Modern Slavery and Organised Immigration Crime (MSOIC) Unit, to support police forces across England and Wales to respond to these crimes.

It is also vital that the Government takes steps to reduce or remove incentives for individuals to enter the country illegally. These illegal practices pose an exceptional threat to public order, risk lives, and place unprecedented pressure on public services. That is why we introduced the Illegal Migration Bill earlier this year, which is currently in Parliament.

The report notes the importance of the Independent Anti-Slavery Commissioner role. We agree this is a key position and launched a recruitment process in February which is ongoing. This will be conducted as quickly as possible, whilst ensuring we take the necessary steps to recruit the best person for the role in line with the Governance Code on Public Appointments.

Since the Special Representative's visit, the UK Government has continued to strengthen our cooperation with key partners, including through issuing a Joint Communiqué with Albania

and signing a Joint Action Plan with Romania, both of which reinforce our commitment to working collaboratively to tackle modern slavery and human trafficking.

We thank Mr Richey for his efforts to improve the global response to modern slavery and human trafficking during his term as Special Representative and wish him well in his new role. We look forward to working with Andrea Salvoni as the Acting Coordinator for Combatting Trafficking in Human Beings.

ENDS