



Border Security, Asylum and Immigration Bill

Hope for Justice Briefing, Committee Stage February 2025

“In order for survivors to report their exploitation and abuse we must feel safe in the system, the fear of deportation can be just as equal to fear of being under traffickers - we need time, reassurance to build that trust and time to breathe again.”¹

Alicia, Consultant with Lived Experience

1. About Hope for Justice

Hope for Justice works to bring freedom from human trafficking and modern slavery by identifying victims, supporting survivors and preventing exploitation. Founded in the UK in 2008, Hope for Justice is now an international charity working across the world with a global reach of 146,656 children, women and men.

In the UK, we work with adult and young adult victims and survivors directly through our team of Independent Modern Slavery Advocates® and bring about long-term change through our work with governments, law enforcement, the business community and the general public.

2. Overview: welcome progress, with more work to be done

We welcome the steps taken by the government within the Border Security, Asylum and Immigration Bill to **repeal the Safety of Rwanda Act and to repeal many of the provisions of the Illegal Migration Act 2023** that sought to limit access to protection and support for survivors of modern slavery (Clauses 37 and 38).

There is more to be done to ensure the rights of survivors and those at risk of modern slavery are adequately protected. This includes ensuring that survivors are not disqualified from systems designed to identify and protect them, are not subject to detention and that their international rights are upheld. It also requires that we uphold the rule of law to protect those in vulnerable situations, empowering them to report exploitation and seek assistance.

The Government must of course take action to disrupt trafficking networks and to prevent exploitation. However, **there is an urgent need to address the multitude of challenges within the immigration and asylum systems which create the conditions for traffickers to exploit people in vulnerable positions.**

¹ [Hostile-Environment-and-Modern-Slavery-Paper_02-DIGITAL.pdf \(hopeforjustice.org\)](https://www.hopeforjustice.org/Hostile-Environment-and-Modern-Slavery-Paper_02-DIGITAL.pdf)



3. Recommendations

1. **Repeal public order disqualification provisions of the Illegal Migration Act 2023 (section 29) and the Nationality and Borders Act 2022 (section 63)**
2. **Repeal Part 5 of the Nationality and Borders Act 2022**
3. **Directly incorporate the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT) into domestic law**
4. **Enable secure reporting**
5. **Grant survivors leave to remain with a pathway to settlement in the UK based on broader criteria relating to survivors' needs**

4. Clause 38(1) - Public Order Disqualification: criminalising survivors & creating impunity for traffickers

Clause 38(1) repeals several sections of the Illegal Migration Act 2023 but does not repeal section 29, which relates to the 'disapplication of modern slavery provisions' and which extends the public order disqualification contained within the Nationality and Borders Act 2022 section 63.

Hope for Justice argues that the Border Security, Asylum and Immigration Bill should repeal the public order disqualification provisions of both the Nationality and Borders Act and Illegal Migration Act on the basis that these provisions:

1. Are incompatible with the UK's obligations under international law, and
2. Undermine efforts to safeguard survivors and hold traffickers to account.

Section 63 of the Nationality and Borders Act gives the Home Secretary **expansive powers to disqualify survivors from the support afforded under the recovery and reflection period** and relieves them from the duty to grant leave to remain as provided under section 65 of the Act. The Act empowers the Home Secretary to do so when a potential victim is considered a 'threat to public order'.² Reports from the Council of Europe's Group of Experts on Trafficking (GRETA) and the Modern Slavery Policy and Evidence Centre indicate that the public order disqualification is incompatible with international law.³

This disqualification was significantly expanded by Section 29 of the Illegal Migration Act 2023, which extends the grounds for disqualification and makes disqualification mandatory, rather than discretionary except in exceptional circumstances. As is the case for many provisions of the Illegal Migration Act, section 29 has not been implemented. **Whilst the Border Security, Asylum and Immigration Bill repeals several harmful provisions of the Illegal Migration Act, as detailed in clause 38, the Bill retains this disqualification.**

Hope for Justice therefore recommends that the Border Security, Asylum and Immigration Bill be amended to:

² [Nationality and Borders Act 2022](#)

³ For more information, see guidance from GRETA: [1680b1a3ca](#); and research from MSPEC: [Modern Slavery PEC | Legal Analysis of Section 63 of the Nationality...](#)



1. **Repeal section 29 of the Illegal Migration Act 2023; and**
2. **Repeal section 63 of the Nationality and Borders Act 2022**

4.1 Background to the Public Order Disqualification

4.1.2 Section 63 of the Nationality and Borders Act 2022

The explanatory report to the Nationality and Borders Act 2022 states that the purpose of the public order disqualification is to give effect to the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT), which allows for:

‘an exemption to the protections conferred during the recovery period on public order grounds or if it is found that victim’s status is being claimed improperly. This Section puts these disqualifications into primary legislation’⁴

‘Public order’ is expansively defined in section 63. It includes those who have committed an offence for which they have been sentenced to 12 months or more in prison, or who have committed any offences detailed in Schedule 4 of the Modern Slavery Act 2015. Schedule 4 is extensive and contains many of the offences that victims/survivors may have committed as a result of their trafficking experience.⁵

The exclusion also applies to those who are deemed a risk to national security. **In light of hostile rhetoric, laws and policies towards migrants, there is scope for a large cohort of vulnerable people thought to be potential victims to be disqualified on this basis.**

4.1.3 Modern Slavery Act Guidance

Statutory Guidance published pursuant to section 49 of the Modern Slavery Act 2015 states:

‘A Recovery Period will not be observed where a public order or bad faith disqualification has been applied’⁶

Public order decisions are only made following a positive reasonable grounds decision. Therefore they only apply to those thought to be potential victims. Once a public order decision is made the person has 14 days to move on from the Modern Slavery Victim Care Contract (MSVCC) and there is no reconsideration and/or appeals process for this decision.⁷

In summary, the scope of section 63 is already extensive in its application and impacting on the ability of victims/survivors to access protection and support. Notably IOM data analysis from the first quarter of 2024 noted

“In 2023, the NABA changes enabled the Home Office to disqualify people who had previously received a positive reasonable grounds decision from being able to access protection through the

⁴ NABA Explanatory report para 613

⁵ Notably schedule 4 was never designed to disqualify victims from support rather their ability to apply a section 45 statutory defence in a criminal case. Even so when the Modern Slavery Act 2015 was going through parliament many support agencies including HfJ felt the scope of exclusions was far too wide.

⁶ [Modern Slavery: statutory guidance for England and Wales \(under s49 of the Modern Slavery Act 2015\) and non-statutory guidance for Scotland and Northern Ireland \(accessible version\) - GOV.UK](#), paragraph 8.20

⁷ Paragraph 8.36 [Modern Slavery: statutory guidance for England and Wales \(under s49 of the Modern Slavery Act 2015\) and non-statutory guidance for Scotland and Northern Ireland \(accessible version\) - GOV.UK](#)



NRM, if they had been given a 12-month prison sentence. 70% of people who were disqualified had received a positive reasonable grounds decision as a potential victim of criminal exploitation.”⁸

4.1.4 Section 29 of the Illegal Migration Act 2023

The public order disqualification was extended even further by the Illegal Migration Act section 29. Although this provision has yet to be enforced it significantly widens an already expansive provision within section 63 of the Nationality and Borders Act.

Whilst section 63 of the Nationality and Borders Act stated that an individual *may* be disqualified from protections if deemed a threat to public order, **section 29 of the Illegal Migration Act states that they *must* be disqualified**. The disqualification is extended still further:

1. **Those who have been convicted of an offence and imprisoned for any length of time are to be disqualified.** This removes the previous requirement that they must have been sentenced for 12 months or more.
2. **The definition of ‘imprisonment’ is also expanded:** it refers to a person sentenced to detention or ordered directly to be detained in an institution other than a prison which includes a hospital or young offenders' institute. This scope is wide enough to include those detained in immigration detention.
3. Those who are liable to deportation from the UK on the grounds of it being conducive to the public good (Immigration Act 1971 Act section 3) or on the basis of any other enactment are also disqualified. **This gives the Home Secretary significant discretion to determine who is deemed non-conducive to the public good.**

The Guidance on what is deemed deportation on the basis of being conducive to public good was updated in December 2024 and provides a wide discretion to the Home Secretary. **It includes involvement in the type of offences individuals are commonly compelled to commit as part of their exploitation**, such as drug and gun offences and sham marriages. The Guidance also allows for deportation where the individual's presence will cause ‘serious harm’, even if they have not been convicted of an offence. This notion of ‘serious harm’ is broadly defined and could encompass actions which survivors are forced to carry out, such as brothel keeping. There is also scope for removal on the basis of ‘national security’. **Within current discourse of the issue, irregular immigration is deemed a national security issue, meaning that this might catch any victim/survivor who has entered irregularly.**⁹

4.2 Failure to Comply with International law

4.2.2 Incompatible with obligations towards victims of crime and Protective Obligations Under Article 4 of the European Convention on Human Rights

Article 4 of the European Convention on Human Rights requires states to ensure that no-one is held in any form of modern slavery. The rights are absolute rights which cannot be derogated from under Article 15 (1) even in time of war or other public emergency threatening the life of the nation. Under section 6 Human Rights Act 1998 it is unlawful for a public authority to act in a way which is incompatible with

⁸ [Updated analysis of the National Referral Mechanism data | IOM United Kingdom](#)

⁹ [Conducive deportation \(accessible\) - GOV.UK](#)



rights under the ECHR. As noted in the analysis by the Modern Slavery Policy and Evidence Centre, the **public order disqualification could breach obligations under Article 4 of the ECHR not only in respect of protection but also obligations of the State to investigate cases and prevent human trafficking including re-exploitation.**¹⁰

As well as the obligations towards victims of modern slavery, it should be noted that victims of modern slavery are victims of serious crime. The rights of victims of crime are recognised in international law and regional instruments. **There is no public order exemption within international instruments of the rights towards victims of crime.**

The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power recognises that:

*‘Victims should be treated with compassion and respect for their dignity. **They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.***¹¹

The public order disqualification applies to those who have received a positive reasonable grounds decision, indicating that both a First Responder organisation and the Home Office have found reasons to suspect the individual is a victim of crime. Implementing an automatic exclusion for some survivors therefore appears to run contrary to the UK’s obligations under international law.

4.2.3 Incorrect application of ECAT Article 13(3)

The previous Government justified the public order disqualification on the basis of Article 13(3) of the Council of Europe Convention on Action against Trafficking (ECAT), which states that:

‘The Parties are not bound to observe this period if grounds of public order prevent it or if it is found that victim status is being claimed improperly.’¹²

However, **Hope for Justice contends that the previous Government’s interpretation and application of Article 13(3) was incorrect.** As a result, the Border Security, Asylum and Immigration Bill Clause 38(1) should repeal this disqualification and strengthen survivors’ rights in keeping with international law.

The Council of Europe’s Group of Experts on Trafficking, GRETA, in their Guidance note on the application of the public order provision explain that that:

‘grounds of public order are intended to apply in very exceptional circumstances and cannot be used by State Parties to circumvent their obligation to provide access to the recovery and reflection period.’¹³

If Article 13 (3) is read on its ordinary meaning, its intention was never to exclude survivors and potential victims from support. Rather, States are not bound to observe the recovery and reflection period if

¹⁰ Modern Slavery Policy and Evidence Centre Legal Analysis of Section 63 Nationality and Borders Act 2022 page 14 -15 [Microsoft Word - Legal Analysis NABA FINAL.docx](#)

¹¹ [Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power | OHCHR](#)

¹² <https://rm.coe.int/168008371d>

¹³ [Council of Europe experts give guidance on applying the recovery and reflection period for victims of trafficking - Action against Trafficking in Human Beings](#) see paragraph 33



grounds of public order prevent it, for example where the State is unable to identify and support survivors owing to a particular public order situation, such as mass rioting or a situation of war like in Ukraine for instance.

Article 13(3) also refers to situations where victim status is being claimed ‘improperly’. According to the explanatory report, this is intended to ‘*guarantee that victims’ status will not be illegitimately used*’.¹⁴ However rather than introduce an expansive disqualification for survivors, the UK could reply upon the existing mechanism to exclude those whom the Home Office believes have not suffered exploitation: it could issue negative reasonable and conclusive grounds decisions with the NRM. **It is nonsensical to argue that a victim of trafficking is illegitimately seeking support from a system designed to identify and safeguard survivors of trafficking and modern slavery.**

According to GRETA the:

‘public order clause should be applied with the greatest caution. The protection of the public needs to be balanced against the need and positive obligation to provide support to victims of human trafficking...

*‘the public order clause can only be applied vis a vis victims of trafficking on an individual basis as opposed to a situational cases. This means, for example **that in the case of large groups of migrants being intercepted at the border, steps must be taken to identify any victims of trafficking amongst them and to assess on a case by case basis, their individual threat to public order before any decision disqualifying them from the recovery and reflection period is made***’.¹⁵

However, **the public order provisions within section 63 of NABA and section 29 of the IMA are blanket provisions based on offences or behaviour situations rather than designed to look holistically at the individual circumstances of the person including the type of exploitation that they have been subject to.**

4.2.4 Incompatible with the non-punishment principle

Article 26 of ECAT, Article 8 of the EU Directive on Human Trafficking,¹⁶ the ILO Forced Labour Protocol to the Forced Labour Convention, and the Migrant Smuggling Protocol¹⁷ detail legal requirements upon States to have non-punishment provisions. Notably, none of these frameworks include limits or exclusions based on the severity of the crime the victim has been compelled to commit.

Instead international law recognises that the key factor is the abuse that compelled the criminal act as opposed to the severity of the criminal act. This is because **the very aim and purpose of non-**

¹⁴ [CETS 197 - Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings](#), paragraph 173

¹⁵ [Council of Europe experts give guidance on applying the recovery and reflection period for victims of trafficking - Action against Trafficking in Human Beings](#)

¹⁶ Following EU Exit given the Trafficking Directive has pursuant to Section 4 of the European Union (Withdrawal Act) 2018 the Trafficking Directive has been recognised in UK Courts prior to exit date and thus arguably forms part of EU retained law. The status of the Directive has never fully been clarified by the UK Government. However, it does not appear in the dashboard of retained EU Law [REUL Public Dashboard](#).

¹⁷ International Labour Organization, P029 - Protocol of 2014 to the Forced Labour Convention, 1930 (Geneva, 11 June 2014) (entered into force 9 November 2016) (hereinafter “ILO Protocol”) sourced at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029



punishment provisions is to encourage victims to have confidence in coming forward, be protected, receive support, and prevent secondary victimisation without fear of penalty. This also encourages victims provide intelligence to the police, act as witnesses against perpetrators and recognises that victims will not seek help from authorities if they fear arrest or detention.

Broader principles of non-punishment in international instruments reflect a wider conceptual understanding of non-punishment than criminal justice, including not detaining victims in immigration detention. For instance, the Office of the High Commissioner for Human Rights stated:

'The trafficking cycle cannot be broken without attention to the rights and needs of those who have been trafficked. Appropriate protection and support should be extended to all trafficked persons without discrimination'.¹⁸

The OHCHR goes on to state that:

'The provision of such shelter should not be made contingent on the willingness of the victims to give evidence in criminal proceedings. Trafficked persons should not be held in immigration detention centres, other detention facilities or vagrant houses'.¹⁹

The public order disqualification appears to violate the principle of non-punishment: rather than offering survivors support and protection to assist in their recovery, they face being excluded from assistance and even removed from the UK often for reasons outside their control. If the UK is to abide by the highest standards in international law, it must therefore repeal the public order disqualification.

4.3 Undermining efforts to tackle Modern Slavery

Traffickers prey upon individuals' vulnerabilities, including the targeting of ex-offenders who invariably have convictions in the UK or country of origin. For example, many of those who were identified as part of Operation Fort, which uncovered the largest modern slavery ring in the UK,²⁰ were recruited from outside prisons. This type of vulnerability is used as a method of control and **current immigration policy plays into traffickers' hands as victims are at risk of removal and deportation due to their previous offending behaviour.**

It is essential that law enforcement agencies are equipped to hold traffickers to account. However, an anti-slavery strategy which prioritises law and immigration enforcement is in conflict with the need to ensure effective identification, safeguarding and support of survivors, as it actively **undermines survivors' confidence and trust that the system will prioritise their best interests.** Whether it be due to offences committed prior to their exploitation or offences they have been forced to commit, the public order disqualification significantly undermines access to safety and protection in the UK.

When survivors are unable to access support and protection their vulnerability is heightened and they are at far greater risk of suffering further harm. Law and policy are not balanced in favour of the victim which in turn inhibits the ability of extremely vulnerable individuals to come forward, seek support and also engage in criminal prosecution cases. **Public order disqualifications therefore significantly undermine access to safety and protection in the UK. In turn this also undermines efforts to**

¹⁸ [Recommended Principles and Guidelines on Human Rights and Human Trafficking \(excerpt\)](#)

¹⁹ [Recommended Principles and Guidelines on Human Rights and Human Trafficking \(excerpt\)](#)

²⁰ [Operation Fort: Uncovering the largest modern slavery ring in UK history](#)



improve survivor engagement with criminal justice processes and ultimately improve prosecutions.

During the passage of the Nationality and Borders Act, analysis of Hope for Justice’s casework revealed that: 29% of people we worked with would be disqualified from safeguarding and support; 13% were at risk of disqualification; and 3% had committed offences the gravity of which was unknown. This rate of disqualification is particularly concerning as many of Hope for Justice’s clients did not primarily suffer criminal exploitation. This is then compounded by the expansion of the disqualification by the Illegal Migration Act.

In Hope for Justice’s extensive experience of working with survivors of modern slavery, we have not identified a nexus between an individual’s past criminal behaviour and vexatious claims. In fact, Hope for Justice see the opposite i.e. that genuine victims with pre-existing vulnerabilities including previous (often minor) offending behaviour are actively targeted by traffickers.

The provisions disproportionately impact children. According to National Referral Mechanism data for 2023, potential victims were most commonly referred for criminal exploitation only, 28% of all referrals. For adult potential victims, labour exploitation was most commonly reported (34%), whereas child potential victims were most often referred for criminal exploitation (42%).²¹

The disqualification is incompatible with the rights of children under the UN Convention on the Rights of a Child. Children exploited by terrorist organisations and armed groups, as identified by the CTED,²² risk being excluded in contradiction of international law, including ILO Convention Number 182.²³ Failure to protect victims in this situation also fails to dismantle part of the business model: human trafficking often serves to finance such activities. This has wider negative implications for national security. This is close to home given the anecdotal evidence of the trafficking of children for criminal activities by paramilitary groups in Northern Ireland.

5. Part 5 of the Nationality and Borders Act

In addition to the public order disqualification, the Nationality and Borders Act Part 5 includes a range of measures which create barriers to identification and support for survivors of modern slavery.

The Anti-Trafficking Monitoring Group’s submission to GRETA provides a helpful summary of the changes introduced by the Act in relation to modern slavery:²⁴

- **the definition of a ‘Reasonable Grounds’ decision** (i.e., how to formally determine whether an individual is a ‘potential victim of slavery or human trafficking’). The threshold was increased requiring survivors to present objective evidence to prove they were victims of modern slavery. The threshold requirements were updated following a Judicial Review on 10 July 2023 to slightly decrease the evidence required, but this is still higher than pre-NABA.

²¹ [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2023 - GOV.UK](#)

²² CTED Report Identifying and Exploring the Nexus Between Human Trafficking, Terrorism and the Financing of Terrorism 2019 sourced at <https://www.un.org/securitycouncil/ctc/content/identifying-and-exploring-nexus-between-human-trafficking-terrorism-and-terrorism-financing>

²³ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182

²⁴ [GRETA-4th-round-evaluation-joint-submission-2024.pdf](#)



- **the possibility of disqualification from protection on grounds of ‘public order’ and ‘bad faith’.** The introduction of the public order disqualification provision meant that potential survivors who were sentenced to 12+ months imprisonment could be disqualified from the NRM, both identification and support, even if this was due to crimes they were forced to commit as part of their exploitation. The public order disqualification guidance was updated following Judicial review on the 8th of January 2024 to introduce a risk of re-trafficking assessment before confirming a disqualification.
- **Separate Guidance on 'Temporary permission to stay for victims of human trafficking and slavery'** (implementing section 65 of NABA). This provision narrows the criteria outlined in the European Convention on Action Against Trafficking in Human Beings (ECAT) in relation to granting leave to remain on the basis of being identified (positive Conclusive Ground Decision) as a survivor of modern slavery. (We have provided extensive information on this in section 4.8 of this submission).
- **the definitions of ‘victims of trafficking’ and ‘victims of slavery’** (reflecting the 2022 Regulations adopted under section 69 of NABA). This definition over-emphasises movement to prove trafficking has happened and narrows the definition of victim included in the Modern Slavery Act and international treaties.
- **decrease of the recovery and reflection period from 45 to 30 days;**
- **the entitlement to (additional) recovery periods;** (section 62 NABA). Access to the recovery period and related support may be denied in those instances where people are referred to the NRM again following another instance of exploitation not linked to previous ones.

Research by the Anti-Trafficking Monitoring Group, Human Trafficking Foundation and BIICL found:

*‘Notwithstanding matters of compliance with the UK’s obligations under international law, the evidence presented in this report demonstrates that **the measures adopted to implement Part 5 of NABA have had significant negative impacts on the protection and wellbeing of people with lived experience of modern slavery in the UK, as well as on the organisations supporting them. The research did not identify any positive impacts of Part 5 NABA, including in terms of meeting its express aims.***²⁵

In light of the many barriers created by the Nationality and Borders Act and the immense challenges it has created for survivors in their journey of recovery, **Hope for Justice recommends that the Border Security, Asylum and Immigration Bill seek to repeal Part 5 of the Act.**

6. The Rule of Law: Abiding by our international obligations

We welcome the Government’s commitment to the rule of law and adherence to international human rights obligations. These notions are vital to ensuring that survivors can access the protection they need; to prosecuting trafficking and modern slavery offences; and to preventing exploitation taking place.

For the reasons outlined above, the Illegal Migration Act and Nationality and Borders Act are incompatible with the UK’s obligations under international law and must therefore be repealed through the Border Security, Asylum and Immigration Bill.

²⁵ [NABA_report_ATMG_FINAL.pdf](#)



We also recommend that the government take the opportunity presented by this Bill to **directly incorporate the European Convention on Action against Trafficking (ECAT) into domestic legislation.**

Directly incorporating ECAT would provide some much-needed certainty and clarity both for survivors and for state authorities in terms of their responsibilities. Importantly, this would not be limited to support provision but includes preventative and prosecution measures. Taking this step would thereby end the current piecemeal approach to applying ECAT, driving forward efforts to prevent human trafficking, identify and support victims and hold perpetrators to account.

7. Strengthening Protections for Survivors

The Border Security, Asylum and Immigration Bill is an opportunity to not only reverse harmful legislation but to proactively enhance protections for survivors of modern slavery.

7.1 Secure Reporting

Many of those who are exploited in the UK arrived here legally only to be forced into conditions of modern slavery by their employer: visa schemes which make workers' immigration status dependent on their employer create an environment for exploitation to go unreported. **Many who arrive in the UK by irregular routes are in an extremely precarious position.** Those who are trafficked have often been deceived into coming into the UK including being lied to about their real immigration status. They may have been exploited by traffickers en route and be at risk of further significant harm.

It is critical that those who have suffered exploitation and abuse feel confident that they can report their experiences to state authorities without fear of repercussions, in particular deportation. This is vital not only for the benefit of the individual but to ensure that enforcement organisations can hold traffickers to account.

Victim testimony is often instrumental in successful prosecution cases and their identification, safeguarding and support is integral to public safety. In our experience, if victims are provided with long-term immigration status, support, and advocacy, a considerable proportion of them agree to engage with criminal justice processes. For example, of the victims who received full advocacy support within Hope for Justice Independent Modern Slavery Advocacy programme 73% wanted to report their case and provide witness evidence in a criminal case or had previously engaged with criminal justice processes and of those called to be witnesses 100% attended court. If the victims had been subject to deportation, we would expect the engagement level to be much lower – why would a victim who has been so badly treated by the state help the state to prosecute someone while risking their own life and long-term future if forced to return home?

To ensure that survivors with insecure immigration status can come forward in the first place there needs to be clear firewalls between the police and immigration when a victim/survivor reports the serious crime of human trafficking.



7.2 Leave to remain

A positive conclusive grounds decision confirming status as a victim of trafficking and modern slavery does not give a survivor any statutory rights or entitlements. It confers no automatic grant of leave to remain which would allow the right to work.

Survivors without immigration status can apply for Temporary Permission to Stay which grants the right to work, to study, and to access public funds during this period of up to 30 months. However, **the grounds for being granted Temporary Permission to Stay are limited, and consequently grants of Temporary Permission to Stay are very low.** In 2023 almost 13,000 non-UK nationals were referred to the National Referral Mechanism as potential victims of trafficking. Of those, 3,139 adults were confirmed as victims of trafficking but **only 113 recognised adult victims of trafficking received a grant of Temporary Permission to Stay to assist with their recovery.**²⁶ **Between 2020 and 2022, 5,266 children were confirmed as victims of trafficking, but fewer than 21 were granted trafficking leave.**²⁷ Additionally, when Temporary Permission to Stay has been granted, it has often been for such a short period of time that it was of little to no benefit to survivors.

In the absence of an automatic leave to remain, some non-UK national survivors may apply for refugee status, with their experience of trafficking forming part or all of the grounds for their claim, in order to obtain the right to work. However, the asylum system is beset with delays and an asylum claim may not be successful.

The lack of guaranteed leave to remain following positive identification as a survivor of trafficking and modern slavery is a major flaw in the UK's protection system. It is clear that long-term leave to remain is integral to ensuring that survivors can access services, recover and rebuild their lives and to reduce the risk of re-trafficking or further exploitation.

Following judicial review challenges brought on behalf of survivors of modern slavery, in late July 2024, the government committed to reconsidering its policy and approach for deciding when to grant VTS leave. The updated policy was published on 24 October 2024.

While there are some welcome changes within the updated policy there are still considerable improvements that need to be made to ensure it is a more humane, victim-centred policy that is compliant with ECAT.

The updated version of the policy remains far too restrictive and is likely to only lead to a small increase in the number of grants. A significant overhaul is required and we strongly recommend that all confirmed survivors of trafficking should be granted at least 30 months leave to remain with a route to settlement.

²⁶ Helen Bamber Foundation, Freedom of Information request ref FOI2024/00769

²⁷ [Leave in limbo_Final_Aug23.pdf](#)



8. Recommendations

The Government has taken bold steps in repealing the Safety of Rwanda Act and many harmful sections of the Illegal Migration Act, however they have left the Nationality and Borders Act untouched along with the public order disqualification. **Hope for Justice urges the Government to further protect survivors and those at risk of modern slavery by:**

1. **Repealing public order disqualification provisions of the Illegal Migration Act 2023 (section 29) and the Nationality and Borders Act 2022 (section 63)**
2. **Repealing Part 5 of the Nationality and Borders Act 2022**
3. **Directly incorporating the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT) into domestic law**
4. **Enabling secure reporting**
5. **Granting survivors leave to remain with a pathway to settlement in the UK based on broader criteria relating to survivors' needs**

For more information, please contact ewan.fraser@hopeforjustice.org, telephone [REDACTED]