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Sarah Newton MP
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Home Office
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Dear Sarah,

Identifying, referring and supporting victims of modern slavery in the UK's National Referral Mechanism

I am writing with regards to the National Referral Mechanism (NRM) and the ongoing pilot schemes that aim to improve the access to, and support within, the NRM for potential victims of modern slavery in the UK.

The NRM was established in 2009 as a framework for identifying victims of human trafficking and ensuring they receive appropriate support, following ratification by the UK of the Council of Europe Convention on Action against Trafficking in Human Beings. Since then there has been a considerable increase in the number of potential victims referred to the NRM for assistance (from 714 in 2010 to 3,266 in 2015¹). Not only has the number of potential victims increased, but also the complexity of their needs. Furthermore, the profile of modern slavery, trends, types of exploitation and traffickers' *modus operandi* have changed. The current NRM is therefore no longer able to fully respond to the crime and cater for the multiple, complex needs of victims of modern slavery, despite recent advancement of efforts to fight modern slavery by the UK Government.

The NRM has become a cumbersome process with little coordination among the many stakeholders involved. This has led to a lack of monitoring and accountability, both of which are vital if we wish to deliver a system that effectively identifies and supports victims, and leads to the punishment of criminals; furthermore, the complexities of the current processes

¹ NCA NRM statistics: <http://www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics>

make it easy and sometimes highly likely for individual victims to fall through the gaps, and for the crime to go unchallenged. Despite significant cost allocated to the NCA and UKVI as NRM Competent Authorities, and to the NRM pilot schemes, it may be that a more coordinated approach would deliver better value for money.

Modern slavery is one of the most serious forms of crime, often well organised, and therefore requires the assets utilised in other serious and organised crime types. Collecting, recording and sharing data in order to build strong intelligence which will inform our “pursue” and “prevent” actions must be brought into the picture.

The Government has been committed to improving identification and protection of victims across the UK and has allocated a great deal of resource in the last couple of years to achieve this. The NRM review, carried out in 2014 led by Mr Jeremy Oppenheim, provided a number of key recommendations that resulted in a new NRM pilot model which has been running since August 2015. Since the launch of the review a broad range of stakeholders, both statutory and non-statutory, have worked jointly with the Government to identify existing gaps and possible solutions. However, two years after the NRM review, I am concerned that we are still in the process of searching for solutions; in this time we have potentially left thousands of victims at risk and may have allowed numerous criminal networks to go unpunished.

I strongly believe that the time has come for a radical change. The focus should now be on how we can better identify and assist victims, and how to improve our intelligence in order to disrupt criminal networks. We must stop seeking, and deploying, a ‘band-aid’ solution solely focusing on the consequences of this crime. It is important to think outside of the box; in other words, we ought not to simply look at NRM provisions, but rather consider what happens to victims before and after they access NRM support. This will help lead to successful reintegration of victims, and improve our intelligence picture to ensure the Government’s threat assessment is robust and resources are allocated accordingly. Furthermore, it is important to reflect on other areas of vulnerability and the lessons learned, such as child sexual exploitation (CSE), domestic abuse and sexual violence, as well as look at NRM models in other countries, for example, the USA, the Netherlands, Germany and Italy.

I have already held a number of meetings on this issue with law enforcement agencies, including police, specifically the National Policing Lead on Modern Slavery, the National Crime Agency and UK Visas and Immigration. Likewise I have met with civil society organisations such as the Anti-Trafficking Monitoring Group (ATMG) and the Human Trafficking Foundation (HTF). There is a univocal consensus that the current NRM is in need of reform and development. Over the next couple of months I therefore plan to have a series of meetings across the UK to consult a broader range of stakeholders. Most importantly I will consult survivors on how to improve victim identification and support, as well as build data

collection and a broader intelligence picture. I will ensure that my findings are shared with Home Office officials as this process progresses.

The ATMG and HTF who have produced a briefing paper on support entitlements for potential victims of modern slavery, providing a number of recommendations for NRM key principles, as follows:

- *Adopt a human-rights based, victim-centred approach that has the best interests of the child at its heart*
- *Be non-discriminatory: identification and support provision must not be conflated with or affected by the person's nationality or immigration status;*
- *Be a model involving a wide-range of skilled and experienced professionals, from statutory agencies, civil society and other relevant organisations, working collaboratively in a multi-agency setting to share information to identify victims and provide the best safeguarding solutions;*
- *Allow for a formal right of appeal to negative decisions to protect against erroneous decision-making with support available to victims while the appeal is pending;*
- *Work towards the recovery of victims. This includes providing access to mental health support and specialist legal advice, including on immigration, compensation and criminal matters, providing casework support as long as needed and facilitating access to education and employment opportunities;*
- *Adhere to the principle of informed consent throughout in cases involving an adult. In cases involving a child the opinion of the child should be sought wherever possible.*

I do believe that these recommendations echo the current thinking of the Home Office; however I deem it essential to ensure that these form part of a reformed NRM.

The UK has a high standard and mature system for safeguarding and protecting vulnerable children; this must be used for child victims of trafficking. I commend the Government's decision to commission a new training programme for existing independent advocates, which are a statutory provision to all looked after children and young people, as well as training for foster carers and support workers on how to support trafficked children, in addition to the introduction of the Independent Child Trafficking Advocates in three early adopter sites (Hampshire & Isle of Wight, Greater Manchester and Wales); however it is important to ensure that all of these processes are coordinated and reflected in the reformed NRM for children, while ensuring the child's best interest is at its core. If we do not achieve this, as we have seen on a number of occasions, failings to provide safeguarding to vulnerable children can have catastrophic consequences. For example, I recently identified the case of a 13 year old trafficked child who entered local authority care without a police investigation, despite having been reported to the NRM; this case carries high safeguarding risks, a product of the current uncoordinated approach.

The following are my observations that I believe must be considered for the NRM to achieve its objectives:

1) Access to support services and two stage NRM decision making process

To access NRM support, an adult potential victim of modern slavery must give informed consent. The former Minister for Prevention of Abuse, Exploitation and Crime, Karen Bradley MP, stated on a number of occasions that the Government is keen to ensure that every potential victim of modern slavery has access to and receives the support they are entitled to. However, we are still unable to say how many potential victims fall through the cracks and do not receive access to support, or why this is still happening.

I strongly believe that a two stage NRM decision making process acts as a barrier for potential victims to access support. It puts an onus on the potential victim to prove that they have been a victim of a serious crime. This does not happen in other crimes, such as sexual abuse or domestic violence, nor should it happen in modern slavery.

According to the Home Office guidance for the NRM Competent Authorities, First Responders and Competent Authority staff must ensure that potential victims of modern slavery are provided with a 45 day recovery and reflection period following a positive reasonable grounds decision. This means that potential victims are not entitled to support prior to the reasonable grounds decision, which may take up to 5 working days. In certain exceptional cases, such as if the potential victim faces destitution, access to supported accommodation can be granted before the reasonable grounds decision is made.

The Human Trafficking and Exploitation (Northern Ireland) Act and Human Trafficking and Exploitation (Scotland) Act both place a legal duty on Ministers to provide support to potential victims in the NRM, in the period between the reasonable grounds and conclusive grounds decision. However, both Acts state that support should be provided prior to the reasonable grounds decision and after the conclusive grounds decision for as long as deemed necessary. The Northern Ireland Act goes even further. It states that support can continue to be provided even if a person receives a negative conclusive grounds decision, if continued support is deemed necessary. It also states that support can be given to some victims who leave Northern Ireland if they are still eligible for support. Such legal frameworks provide much more flexibility to the organisations managing the NRM support provision in Northern Ireland (Women's Aid and Migrant Help) and Scotland (TARA and Migrant Help). This allows them to provide a holistic approach offering individually tailored support to victims of human trafficking. As the UK's Independent Anti-Slavery Commissioner, I believe it is essential to ensure consistency across the whole of the UK, following the good practice of Northern Ireland and Scotland in supporting victims.

I strongly believe that under a reformed NRM system, potential victims of modern slavery should be taken to a temporary place of safety immediately after being rescued from a situation of exploitation, so that they can rest and recover. Such an approach has been adopted by the Caritas Bakhita House in London, a safe house for women escaping modern slavery; initial findings show a more positive impact on victims here, as well as a speedy recovery and increased likelihood of cooperation with law enforcement. In addition, this approach provides necessary time to properly explain to potential victims their entitlements to support and obtain informed consent to enter the NRM in a trustworthy environment.

I have recently been made aware that on certain occasions potential victims, who have been rescued by the police and are deemed likely to be a victim of modern slavery in need of urgent assistance, are denied entry into the NRM since they profess a desire to go home. In such cases supported accommodation is not provided to them, therefore these potential victims are at risk of destitution, homelessness and re-trafficking in the interim period while police officers struggle to accommodate victims and arrange for a safe return. This must change. Whether or not an individual professes a desire to return home, as mentioned previously, potential victims of modern slavery should be taken to a place of safety immediately after being rescued from a situation of exploitation, and consequently given the opportunity to enter the NRM, albeit for a short period.

I believe that a two stage decision making process needs to be simplified to a single stage process. In addition, decision making on all cases of potential victims of modern slavery, regardless of their nationality or immigration status, needs to sit with a single, specially trained, expert multi-agency panel that consists of a wide range of professionals. This will ensure a non-discriminatory and fair approach to all cases, as well as allow for greater accountability and transparency in the decision making process. For decision making on cases of child potential victims of modern slavery, the multi-agency panel should include child protection and safeguarding experts to ensure the best interest of the child is at its heart.

2) Move-on support and reintegration

At present many victims who leave safe houses, after receiving a conclusive grounds decision, do not receive further support and thus disappear off the radar. If a potential victim receives a positive conclusive grounds decision they will be required to leave the safe-house within 14 days, which is often not enough time to establish safe and secure pathways to mainstream services (where required). If a negative decision is received then that person will only be given 48 hours to leave safe accommodation. Supporting a potential victim until the conclusive decision is made and then ceasing support so abruptly could be damaging for the victim and negatively affect their recovery.

A positive NRM conclusive grounds decision on its own is not recognised by any statutory services. Non-EU national victims of modern slavery tend to apply for asylum and enter into Home Office asylum accommodation, whereas EU/EEA national victims of modern slavery have very limited options. After the introduction of the Housing Benefit (Habitual Residence) Amendment Regulations 2014, which amended the Housing Benefit Regulations 2006, access to support and welfare benefits for EU/EEA national victims of modern slavery has been restricted, therefore leaving many at high risk of becoming destitute, homeless or re-trafficked.

Victims of modern slavery can apply for Discretionary Leave (DL) to remain in the UK, which can be granted based on “compelling personal circumstances” that are most often related to severe health issues, or if victims are prepared to cooperate with law enforcement. However, in the latter case, not every victim’s application for DL will be successful as the decision is based on what evidence the victim is able to offer, or the importance of their attendance in any pending trial. Updated guidance for Competent Authorities states that applications for DL can only be made on receipt of a positive conclusive grounds decision, whereas the previous guidance stipulated that it could be done at the stage of a positive reasonable grounds decision. This significantly delays the process, and ultimately pushes victims onto the streets while they await a decision on their DL application. This may not only put victims of modern slavery at risk of further exploitation and destitution, but may also negatively affect the course of an investigation.

In April 2016 I wrote to Frank Field MP in his capacity as Chair of the House of Commons Select Committee for Work and Pensions, to alert him to this situation and suggest a number of recommendations to improve victims’ protection and access to support services. This has resulted in the ongoing inquiry by the Work and Pensions Select Committee into access to welfare benefits for all victims of modern slavery, which is also looking at awareness levels amongst the Department for Work and Pensions (DWP) staff on modern slavery issues. One of my core recommendations is to provide concessions to victims of modern slavery who receive positive NRM conclusive grounds decisions, including access to temporary recourse to public funds. Such a concession would not be a panacea to all of the issues faced by victims of modern slavery when they exit safe accommodation, but could provide for vital needs, such as food to eat and a place to live. Other recommendations include the provision of modern slavery awareness raising and training for DWP frontline staff, and the development of guidance on modern slavery and the impact that it has on its victims. This is just a first step and I look forward to the completion of the inquiry and the Select Committee’s recommendations to the DWP.

Last year I commissioned The Passage, a leading homelessness charity with experience in supporting clients who have suffered from exploitation, to conduct a scoping exercise to gain a better understanding of modern slavery within the homelessness sector. The report will be launched on January 26th, and I hope you have by now received an invitation to the

launch. The similarity in vulnerabilities of homeless people and victims of modern slavery, as detailed in this report, is eye-opening. The findings show that homeless people are at risk of being exploited when they are on the streets, but also that victims of modern slavery are at risk of becoming homeless if long-term support is not provided to them.

It is important to ensure that if a potential victim receives a positive conclusive grounds decision, and therefore is officially recognised as a victim of modern slavery by the Government, they must be entitled to further move-on support to help them reintegrate into society, either in the UK or in their home country if they choose to return. Therefore, I believe that a positive conclusive grounds decision must be accompanied by a move-on plan developed by the expert multi-agency decision making panel, if it were to be introduced. This plan ought to be recognised by statutory authorities, such as local councils, DWP, immigration authorities, police, NHS and others. In addition outreach support from social workers should continue after victims leave the safe house, in order to guarantee their successful reintegration into society. In cases of children, the presence of a child protection expert will ensure that a move-on pathway for the victim is child friendly and ties into the mainstream child protection structures. This will result in provision of an individualised, tailored safeguarding response, including links to the Independent Child Trafficking Advocates in the early adopter sites, and nationally in the future.

On a number of occasions victims wish to return to their home country, or an alternative, more suitable option that is in their best interest; however, the Government needs to develop a consistent approach to returning and reintegrating victims safely, voluntarily and successfully as part of the reformed NRM. Victims of modern slavery have specific needs and may have risks associated with returning home, therefore there must be a unique procedure in place to ensure safe return and reintegration that includes risk assessments in the country of origin. In addition data on victim returns should be collected and reported by the NCA, including the number of victims, countries of origin, what safety procedures were put in place, as well as monitoring of the reintegration and its outcomes.

3) A more robust data collection mechanism and intelligence picture

The collection and recording of modern slavery data is currently substandard. From the limited data that is gathered on victims' circumstances via the current NRM system, to compromised crime recording, to a lack of intelligence reporting and evidence-based operational action, victims both present and future are being failed.

The best source of intelligence is often the victim themselves and processes must be developed to capture this more effectively without compromising the need to care for the individual. If one victim is rescued while several others remain in slavery, or if a victim is identified and then lost in the system and re-trafficked, or if criminals act with impunity due

to an agency's failure to share intelligence and information, then this cannot be deemed a success. This is something I highlighted in my annual report in October 2016.

I am encouraged by the Government's decision to invest £8.5 million through the Police Transformation Fund. This will help law enforcement agencies tackle modern slavery, as well as recognise modern slavery crime as the highest priority threat for the Government. These are initial steps and we need to ensure that we are collectively moving in the right direction.

I strongly believe that the NRM data collection system needs to be redesigned and digitalised. It ought to include information that is not only appropriate for victim care, but also evidence led policing in this area. Development of intelligence must be given a greater priority in order to ensure that more victims and perpetrators are identified. Nonetheless, the victim's well-being must remain at the centre of an improved process.

Since 1 November 2015, specified public authorities have a duty to notify the Secretary of State of any individual encountered in England and Wales who they believe is a suspected victim of modern slavery or human trafficking. Similar duty to notify provisions will shortly be in place in Scotland and Northern Ireland. According to the 2016 report of the Inter-Departmental Ministerial Group on Modern Slavery, between 1 November 2015 and 31 July 2016, the Government received notifications of 427 potential victims of modern slavery in England and Wales.² I believe this is still a very small number and it is important to ensure that the statutory authorities are fully aware of their duty and trained to properly meet this by filling in the MS1 form, which should also be in a digital format.

The duty to notify was introduced with the intention of gathering statistics and building a more comprehensive picture of the nature and scale of modern slavery. However, I am concerned that at present the data received through the duty to notify has not been used to its full potential. The data is not simply about the number of potential victims that refuse to enter the NRM; the data must be used as a source of intelligence. It should also help authorities understand why victims refuse to enter the NRM; this in turn will inform the Government on how to address the reasons behind individuals choosing not to access NRM support. Therefore it is important to ensure that any data received through the duty to notify forms is properly collected and analysed together with the NRM data. One way to ensure this is to utilise the newly created Joint Slavery and Trafficking Analysis Team (JSTAC) of the Modern Slavery Police Transformation Fund. This could perform the function of a central repository for all data and intelligence on modern slavery in order to build a holistic and comprehensive picture of the nature and scale of the crime.

² 2016 report of the IDMG on Modern Slavery

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/559690/Modern_Slavery_IDMG_Report_2016.pdf

To conclude, in my opinion the current NRM support provisions are failing victims while substandard data recording and intelligence gathering is allowing traffickers to continue their criminal activity unpunished. To achieve successful results in the fight against modern slavery, it is important to ensure coordination and accountability amongst multiple agencies if we hope to safeguard victims and punish criminals.

In addition, the wording of the title of the “National Referral Mechanism” has little meaning to some who are designated as ‘First Responders’, let alone to potential victims themselves. The title does not reflect the main purpose and objective of the system, which is to provide protection and assistance to victims, whilst ensuring effective investigation and prosecution. A name change would be a simple step to demonstrate the serious nature of the crime and the role of the system.

I do not doubt that 2017 will bring further positive actions and steps forward in the fight against modern slavery, both nationally and internationally. For the UK to really make progress, it is essential that we use the experience we have gained, utilising the many techniques and assets available to law enforcement when addressing serious and organised crime. We must not make the same mistake as when combating other crimes, by allowing the hidden nature of the crime and the vulnerability and marginalisation of the victim to act as a barrier to identification and access to the criminal justice system.

With best wishes,



Kevin Hyland

UK Independent Anti-Slavery Commissioner

CC:

Lynne Owens, Director General, National Crime Agency

Mark Thomson, Director General, UK Visas and Immigration

Chief Constable Shaun Sawyer, National Policing Lead for Modern Slavery