



Assessing the Potential Impact of the Illegal Migration Bill on Victims of Modern Slavery – A briefing for Peers

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To note: Victims of modern slavery will be negatively impacted by other clauses in the Bill but due to the authors' expertise, the focus of this briefing is solely on clauses 21-28 that relate specifically to modern slavery. Other briefings covering the whole Bill and its impact are available.

This briefing is intended to provide an overview of available data and research to assess the accuracy, or otherwise, of government statements made in relation to the modern slavery clauses (21-28) in the Illegal Migration Bill and consider the likely impact of these clauses on those who have experienced modern slavery.

The briefing details four key statements made by the Home Secretary, Suella Braverman MP, in relation to the clauses on modern slavery during the Bill's introduction and first reading in the House of Commons on the 7th March 2023.¹ Against each statement, a summary of the related, pertinent modern slavery data and evidence has been provided which may support or refute the statements made. This briefing, in Annex 1, also outlines the changes proposed and those introduced to the Bill in its third reading in the House of Commons on the 26th April 2023.²

The Bill proposes significant changes to the way the UK identifies and protects potential victims of modern slavery. Currently, potential victims referred into the National Referral Mechanism (NRM) have temporary protection over removal and access to specialist support whilst a decision is made on their case. The Bill will remove and disapply this protection, meaning that any victim that has entered the UK via irregular means will not be supported or protected from removal.

Government have maintained throughout the passage of the Bill that they wish to support victims of modern slavery whilst tackling abuse of the system. Abuse of the system is a claim the government have used as a cornerstone for their actions to reduce support, protections, and entitlements available to potential victims in both the Nationality and Borders Act (2022) and the Illegal Migration Bill (2023). It is also a claim that is unfounded, and no evidence of abuse has been provided.

Annex 1 provides a summary of the amendments and new clauses proposed in relation to modern slavery during the third reading of the Bill in the House of Commons.

Annex 2 provides brief summaries of:

- Clauses 21-28 of the Illegal Migration Bill
- The difference between modern slavery, human trafficking and smuggling
- The UK's National Referral Mechanism (NRM)
- Support entitlements for victims of modern slavery in the UK
- International legislative framework in relation to modern slavery

¹ UK Parliament, [Illegal Migration Bill - Hansard - UK Parliament](#), (Hansard, 7 March 2023).

² UK Parliament, [Illegal Migration Bill – Hansard – UK Parliament](#), (Hansard 26 April 2023).

Statement 1. The Bill will ensure support is provided to genuine victims of modern slavery.

“Far from scapegoating the vulnerable, this is about protecting the vulnerable. This is about empowering our authorities properly to support genuine victims of modern slavery.”- Rt. Hon. Suella Braverman MP³

The Home Office consistently finds 9/10 identified potential victims of modern slavery are 'genuine' and many of these individuals enter the UK by an irregular means.

- 1) Victims of modern slavery may not know they have entered the UK illegally; traffickers may deliberately withhold information and documentation as a means of control and may have offered to arrange travel on behalf of those they are planning to exploit. Potential victims therefore may be unaware of their status or need for entry documentation, believing traffickers have arranged this for them.
- 2) Victims of modern slavery may have entered the UK irregularly as a child, have been identified as a victim but then once they turn 18 may be subject to detention and removal proceedings as a result of measures proposed in the Illegal Migration Bill.

As a result of the Illegal Migration Bill, any adult victim of modern slavery that arrives by irregular means will be detained and arrangements made for their deportation, which means they will be denied access to support and protection.

The two-stage decision-making process in the NRM is designed to identify 'genuine' victims.

It is important to note that an individual cannot self-refer into the NRM; they must be referred by a 'first responder' organisation. A first responder organisation is one that has been authorised by the UK Government to refer a potential victim into the NRM, and includes police forces, UK Visas and Immigration, Immigration Enforcement, local authorities, Border Force, the Gangmasters and Labour Abuse Authority and a number of specialist NGOs.⁴

Decision-making in the NRM is undertaken by case workers in the Home Office – see Annex 1 for further details – designed to identify genuine cases of modern slavery. If there is insufficient evidence to prove that someone is a victim, the individual referred is issued with a negative decision and, subject to review, will be required to exit support.⁵ The data shows that 'genuine' victims are already being missed within the current system. Of the negative NRM decisions that were reconsidered by the Home Office between January 2020 and May 2021, 81% were over-turned at reasonable grounds stage and 75% were over-turned at conclusive grounds stage.⁶

No evidence to show abuse of the NRM

NRM data published by the Home Office challenges the notion that the NRM is being exploited. The table below shows the percentage of positive decisions issued. In the vast majority of cases, trained Home Office case workers agreed with the first responder that the individual referred was a victim of modern slavery.⁷

³ UK Parliament, [Speech to the House of Commons. Illegal Migration Bill](#). (Hansard, Vol. 729), 7 March 2023.

⁴ Home Office, [Guidance - National referral mechanism guidance: adult \(England and Wales\)](#), (Gov.uk, Accessed on 15th December, 2022). In 2022, 49% (8,338) of the referrals came from government agencies, compared to 37% in the previous year. Of these referrals, 40% (3,349) came from Home Office Immigration Enforcement, whilst the majority came from UK Visas and Immigration (57%; 4,739).⁴

⁵ See Home Office, [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 \(accessible\)](#), (Gov.uk, last updated 3 March 2023).

⁶⁶⁶ After Exploitation. [FOI data: Majority of trafficking claims found to be 'positive' after reconsideration](#), (2021).

⁷ Home Office, [Official Statistics: Irregular migration to the UK, year ending December 2022](#), (Gov.uk, Published 23 February 2023).

Year	% of referrals issued with +ve RG decision	% of referrals issued with +ve CG decision
2020 ⁸	92%	89%
2021 ⁹	90%	91%
2022 ¹⁰	88%	89%

Government have previously referred to clause 21(5) in the Bill to evidence the increased support they will provide for victims of modern slavery via this legislation who are cooperating with a public authority in connection with an investigation or criminal proceedings against their trafficker(s). However, the passing of amendment 95 changes clause 21; the police must now assume that it is not necessary for the person to be present in the UK and must apply to the Secretary of State and show that there are ‘compelling circumstances’ why this is the case. This will make it harder for victims to access the support and protection required to engage, and stay engaged, in a police investigation.

The most recent NRM figures from January- March 2023 show that the number of positive RG decisions being issued have reduced from previous quarters (from 85% in Q4 of 2022 to 58% in Q1 of 2023).¹¹ It is assumed that this reduction is as a direct consequence of the change to the RG threshold changes enacted because of the Nationality and Borders Act (2022). It should however be noted that during the same timeframe the number of victims identified but not consenting to enter the NRM (via the Duty to Notify process) has also increased i.e. first responders are continuing to identify victims of modern slavery at the same rate, but fewer victims want to enter the system.

Statement 2. The Bill will tackle the volume of arrivals overwhelming the system.

“Our ability is severely impeded at the moment, because of the overwhelming number of claims in our system, many of which are illegitimate and spurious. They are clogging up our system so that we are unable to properly support those who genuinely need it.” – Rt. Hon. Suella Braverman MP¹²

Increasing referrals to the NRM

There have been year-on-year increases in referrals to the NRM: from 2,337 in 2014 to 16,938 referrals in 2022.¹³ The Home Secretary has cited this increase as proof of ‘*people gaming the system*’.¹⁴ However, in the absence of any corroborating evidence, this increase may instead be reflective of an improved awareness and identification of potential victims by designated ‘first responder’ organisations.¹⁵ If so, this is arguably evidence that the system is working as planned and that the UK is fulfilling its international obligations to identify and support victims.

Backlog in NRM decision-making

⁸ Home Office, [National Referral Mechanism Statistics: End of Year Summary 2020](#), (Gov.uk, Accessed 16 March 2023).

⁹ Home Office, [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary, 2021](#), (Gov.uk, Accessed 16 March 2023).

¹⁰ Home Office, [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2022](#), (Gov.uk, Accessed 16 March 2023).

¹¹ Home Office, [Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK, Quarter 4, 2022](#) & [Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK, Quarter 1, 2023](#) (Accessed 9 May 2023)

¹² UK Parliament, [Speech to the House of Commons. Illegal Migration Bill](#). (Hansard, Vol. 729), 7 March 2023. Col. 173

¹³ All Home Office NRM statistics can be found here - <https://www.gov.uk/government/collections/national-referral-mechanism-statistics>

¹⁴ Suella Braverman MP, [Speech to the Conservative party conference: Our plan for law and order](#), (Conservatives.com, 4 October 2022)

¹⁵ Ed Humpherson to Jennifer Rubin: [use of National Referral Mechanism statistics](#), (ONS, 8 December 2022).

The government state that the NRM system is overwhelmed. There are certainly delays in decision-making and, as a result, a growing backlog cases awaiting decisions. NRM statistics for 2022 show that as of 26 January 2023, the majority (76%; 12,907) of referrals sent to the competent authorities in 2022 were awaiting a conclusive grounds decision, having received a positive reasonable grounds decision. The Home Office reported that the average (median) time taken from referral to conclusive grounds decisions made in 2022 was 543 days, compared to 449 days in the previous year.¹⁶ Steps have recently been taken by the Home Office, including hiring more case workers, to help clear the backlog.

Rights Lab research shows the negative impact that delays in decision-making can have on victims of modern slavery, including on their psychological well-being.¹⁷ While awaiting a decision, many victims cannot work or positively contribute to the economy. This not only leaves them dependent on the system but makes it difficult for them to acquire skills that they can use after receipt of status.¹⁸

NRM referrals for people arriving on small boats (and by other irregular means)

There has been increasing rhetoric from government officials and media commentators regarding the abuse of modern slavery laws by those crossing the English Channel in small boats, particularly Albanian nationals. Official figures show that of the 83,236 people who arrived in the UK on small boats between 1 January 2018 and 31 December 2022, 7% (6,210 people) were referred to the NRM (5,897 or 95% of whom also applied for asylum).¹⁹ Among the highest proportions referred to the NRM were Vietnamese and Sudanese nationals, with 32% and 23% of arrivals being referred, respectively. In 2022, 12,561 Albanians entered the UK in small boats, however only 12% (2,691) of these had indicators of modern slavery and consented to enter the NRM.²⁰

Of those people referred into the NRM after arriving in the UK on small boats since 2018, 85% of decisions made were positive i.e., 85% of the individuals referred were found by the Home Office to be ‘genuine victims’ of modern slavery.²¹

Statement 3. [The Bill will not infer any entitlement to life in the UK if you enter the UK illegally.](#)

“We need to send the message that, if someone comes here illegally on a boat, paying a people smuggler, they will not have an entitlement to life in the UK.” – Rt. Hon. Suella Braverman MP²²

The NRM is not a route to indefinite leave to remain nor does being determined to be a victim of modern slavery equate to having the basis for an asylum claim.

¹⁶Home Office, [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2022](#), (Gov.uk, 2023).

¹⁷ K. Schwarz and A. Williams-Woods, ‘Protection and Support for Survivors of Modern Slavery in the UK’ (2022) 30(2) *Journal of Poverty and Social Justice* 98; Research project, entitled ‘Placing survivor wellbeing on the policy and evidence map’, undertaken by the University of Birmingham, Survivor Alliance, Rights Lab, Anti-Slavery International and the West Midlands Anti-Slavery Network and funded by the Modern Slavery and Human Rights Policy and Evidence Centre. Publications forthcoming.

¹⁸ A. Nicholson, C. Murphy, A. Gardner, A. Lumley-Sapanski, and M. Young. Pathways Through Liberation - Revealing Survivors’ Support Journeys Outside of the UK National Referral Mechanism (ESRC, Grant Ref: ES/T016337/1). Publications forthcoming.

¹⁹ UK Parliament, [Modern slavery cases in the immigration system](#), (House of Commons Library, 8 March 2023).

²⁰ Ibid, p.27

²¹ Home Office, [Official Statistics: Irregular migration to the UK, year ending December 2022](#), (Gov.uk, Published 23 February 2023).

²² UK Parliament, [Speech to the House of Commons. Illegal Migration Bill](#). (Hansard, Vol. 729), 7 March 2023. Col. 167

As identified by UNHCR, some victims will have international protection needs and qualify for refugee status.²³ This is, however, not an automatic consideration and not every victim of modern slavery will be determined to have these needs. The two processes (NRM and asylum) are independent of each other and whilst they can run concurrently are not necessarily linked in all cases.

Currently, if an individual is conclusively identified as a victim of modern slavery and does not have the right to stay in the UK, they will be considered for a grant of leave.²⁴ This leave is a temporary permission to stay and not a route to indefinite leave. In 2015, 12% of conclusively identified modern slavery victims were granted discretionary leave.²⁵ Between 2016 and 2021, this number fell to 7%.²⁶

The government have already reviewed and narrowed the scope of granting temporary leave to victims post a positive NRM determination via Section 65 of the Nationality and Borders Act (2022), altering the validity, suitability and eligibility requirements that need to be met. Under this legislation the reasons to grant leave to remain post a positive trafficking determination have been tightened and reduced.²⁷ Should a confirmed victim be found to have entered the UK irregularly under the Illegal Migration Bill proposals, they will no longer be eligible for any form of leave.

Statement 4. The Bill will enable the detention and swift removal of those who enter the UK illegally.

“The Prime Minister made a promise to the British people that anyone entering this country illegally will be detained and swiftly removed” – Rt. Hon. Suella Braverman MP²⁸

Detaining and enacting removal proceedings on anyone who arrives irregularly means we will not identify or support victims of modern slavery, making it harder to prosecute traffickers.

This approach means that instead of being offered protection and support as per the UK’s obligations under the European Convention on Action Against Trafficking in Human Beings (ECAT),²⁹ upon presentation to authorities, a potential victim of modern slavery will face detention and arrangements for their removal will commence.

Before third reading in the Commons, and the insertion of government amendment 95, the Bill offered protection from removal for victims of modern slavery who were cooperating with an investigation or criminal proceedings that required them to be in the UK.³⁰ This is no longer the case. Research shows that supporting victims effectively leads to greater engagement in investigations and as a result increases the likelihood of participation in these proceedings.³¹ Without supporting victims in the UK, we risk not being able to prosecute traffickers who operate here and as a result will not prevent further people being exploited.

²³ UNHCR, [Trafficking in persons](#), (UNHCR website, accessed 22 March 2023).

²⁴ UK Government, [Immigration Rules Appendix Temporary Permission to Stay for Victims of Human Trafficking or Slavery](#),

²⁵ Rights Lab, [Comparative report: The top ten source countries for modern slavery victims in the UK](#), (2021). See Section 3.3.

²⁶ Diane Taylor, [Revealed: just 7% of trafficking victims given leave to remain in UK](#), (Guardian, 4 January 2022).

²⁷ Ibid

²⁸ UK Parliament, [Speech to the House of Commons. Illegal Migration Bill](#), (Hansard, Vol. 729), 7 March 2023. Col. 167

²⁹ Council of Europe. [Council of Europe Convention on Action against Trafficking in Human Beings \(ECAT\)](#), (Warsaw, 2005).

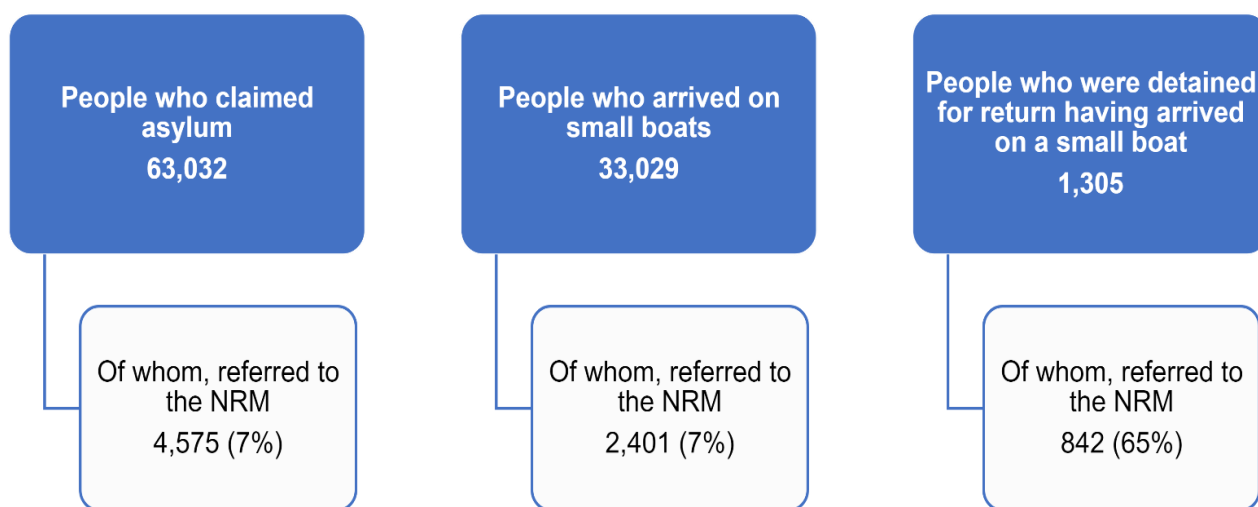
³⁰ UK Parliament, [House of Commons, Report Stage - Illegal Migration Bill, As Amended \(Amendment Paper\)](#), (Hansard, 26 April 2023).

³¹ Schwarz, K., Baumeister, H., Brady, E., Dankova, S., Lott, N., Valverde-Cano., Wright, O. & Hamid, N. (2020) [‘What Works to End Modern Slavery? A Review of Evidence on Policy and Interventions in the Context of Justice’](#) (Delta 8.7 and Rights Lab 2020, p.30).

Identifying, prosecuting, and convicting traffickers is an essential element of working towards reducing modern slavery occurring in the UK and yet the Bill focuses solely on penalising those who have been exploited rather than those doing the exploiting.

Of all NRM referrals relating to adults in 2019 (5,866), 30% were identified in immigration detention settings. Of the 1,767 potential victims who were referred to the NRM in 2019 from detention, 90% received a positive reasonable grounds decision.³² Swift removals may compound the trauma victims are experiencing as well as increase the risk of re-trafficking. If the factors that made someone vulnerable to trafficking initially have not changed, re-trafficking is a potential risk, especially if they are not in receipt of support.³³

Figure 1: Infographic from Home Office analysis of modern slavery NRM referrals from asylum, small boats and detention cohorts using data from January – September 2022 ³⁴



Annex 1

Overview of new clauses and amendments relating to modern slavery from third reading of the Illegal Migration Bill in the House of Commons

The Illegal Migration bill had its third reading in the House of Commons on the 26th April 2023. The Bill passed [289/230] and now moves to the House of Lords for the next stage of its legislative journey.

At report stage in the Commons, the government tabled one new clause and four amendments related to modern slavery. Conservative MPs tabled one amendment related to modern slavery, and opposition parties tabled three new clauses and proposed seven amendments to the Bill. All of these amendments and new clauses are summarised below.

Apart from the government new clause 17 and government amendments 95, 111, 114 and 116, none of the other amendments tabled were put to a vote and therefore have not been included in the Bill as it progresses to the Lords.

³² UK Government. [Research and analysis: Update on modern slavery referrals from detention and prisons](#). (Gov.uk, 2021); Bulman, M. [Female trafficking victims unlawfully held in UK jails due to 'disturbing' failure to identify exploitation, finds report](#). (Independent newspaper, 2018).

³³ Rights Lab. [Re-Trafficking: The current state of play](#) (2021, p28).

³⁴ Home Office. [Annex: analysis of modern slavery NRM referrals from asylum, small boats and detention cohorts](#). (4 May, 2023).

Substantial* Clauses and Amendments incorporated into the Bill at Third Reading in the House of Commons, specifically relating to modern slavery³⁵.

Amendment/ Clause	Clause changed	Proposed by	Overview
Amendment 95	Clause 21: Provisions relating to removal and leave	Suella Braverman (Conservative)	This amendment means the Secretary of State must assume that it is not necessary for a person to be present in the UK to cooperate with an investigation or criminal proceedings into their exploitation and experienced of modern slavery unless there are compelling circumstances which require the person's presence in the UK. It also provides for the Secretary of State to have regard to guidance, to be issued by the Secretary of State, in determining what constitutes compelling circumstances. Equivalent amendments were made to apply to the devolved administrations (see government amendments 96 & 97 to clauses 23 & 24)
Amendments 111 & 114	Clause 1 & Clause 28: Introduction and Disapplication of modern slavery provisions	Suella Braverman (Conservative)	This amendment adds further categories for disqualification of protection under Section 63 of the Nationality and Borders Act (2022). A competent authority must determine that certain modern slavery protections are not to apply to a person who is a threat to public order, or who has claimed to be a victim of modern slavery in bad faith, unless compelling circumstances require them to apply.
Amendments 115 & 116	Clause 28: Disapplication of modern slavery provisions	Suella Braverman (Conservative)	These amendments modify the circumstances in which a person is to be treated as a threat to public order for the purposes of section 63 of the Nationality and Borders Act 2022, to include a case where the person has been convicted of an offence and sentenced to an immediate term of imprisonment.
New Clause 17	Clause 38: Serious harm suspensive claims: interpretation	Suella Braverman (Conservative)	This new clause provides a definition of a "serious harm suspensive claim" and "serious harm condition", and outlines examples that do and don't meet the threshold of serious and irreversible harm, as well as the timeframes in which applications must be made and processed.

**other consequential and drafting amendments were incorporated in addition to the ones identified in the table above.*

³⁵ UK Parliament, [House of Commons, Report Stage - Illegal Migration Bill, As Amended \(Amendment Paper\)](#), (Hansard, 26 April 2023).

Clauses and Amendments not incorporated into the Bill at Third Reading in the House of Commons, specifically relating to modern slavery.

Proposed Amendment/ Clause	Clause inserted/impacted (had it passed)	Proposed by	Overview
New Clause 4	Independent Child Trafficking Guardians (ICTG)	Dame Diana Johnson (Labour)	This new clause would have resulted in the appointment of an Independent Child Trafficking Guardian to support every asylum seeker under the age of 18 in their interactions with immigration and asylum processes.
New Clause 5	Immigration rules since December 2020: human rights of migrants	Bell Ribeiro-Addy (Labour)	This new clause if passed would have required the Secretary of State to provide an independent report to Parliament on the impact of immigration rules on the human rights of migrants since December 2020, including an analysis on how these have impacted victims of modern slavery, before provisions in the Act were enforced.
New Clause 6	Effect of this Act on victims of modern slavery: independent review	Bell Ribeiro-Addy (Labour)	This new clause if passed would have required the Secretary of State to commission an independent review of the effect of the provisions of the Act on victims of modern slavery, to be laid before Parliament within two years of the Act being passed.
Amendment 4	Amending Clause 21: Provisions relating to removal and leave	Sir Iain Duncan Smith (Conservative)	This amendment sought to exempt those exploited in the UK from provisions which would otherwise require their removal during the recovery period and prohibit them being granted limited leave to remain.
Amendment 12	Amending Clause 21: Provisions relating to removal and leave	Yvette Cooper (Labour)	This amendment would have specified that the Clause did not apply to those identified as victims of sexual exploitation.
Amendment 13, 14, 15	Amending Clauses 22, 23 and 24: Provisions relating to support	Yvette Cooper (Labour)	This amendment would have specified that the Clause did not apply to those identified as victims of sexual exploitation. Equivalent amendments were made to apply to the devolved administrations (Amendments 13, 14 & 15 to amend clauses 22, 23 & 24).
Amendment 16	Amending Clause 21: Provisions relating to removal and leave	Yvette Cooper (Labour)	This amendment would have disapplied the duty to remove victims of modern slavery to home nations if these nations have not ratified international agreements relating to human trafficking.
Amendment 47	Amending Clause 2: Duty to make arrangements for removal	Alison Thewliss (SNP)	This amendment would have exempted victims of modern slavery (and other identified people groups) from the Secretary of State's duty to remove.
Amendment 55	Amending Clause 21: Provisions relating to removal and leave	Alison Thewliss (SNP)	This amendment sought to align the provisions in clause 21 relating to exclusion from trafficking protections (a reflection period and leave to remain) to those in article 13 of the European Convention on Action Against Trafficking.

Amendment 56	Amending Clause 21: Provisions relating to removal and leave	Alison Thewliss (SNP)	This amendment sought to protect victims granted leave to remain under s65(2) of the Nationality and Borders Act from the power of the Secretary of State to revoke that in certain circumstances.
Amendment 57	Amending Clause 22: Provisions relating to support	Alison Thewliss (SNP)	This amendment seeks to align provisions in clause 22 relating to provision of support to trafficking victims in England and Wales to those in article 13 of the European Convention on Action Against Trafficking.
Amendment 68	Amending Clause 37: Suspensive claims: interpretation:	Alison Thewliss (SNP)	This amendment would have ensured consideration of protection claims, human rights claims and slavery and trafficking claims resulted in the suspension of removal under clause 45.
Amendments 73 & 74	Amending Clause 59: Report on safe and legal routes	Alison Thewliss (SNP)	This amendment would have required both the Scottish Parliament and Northern Ireland Assembly consent before disapplication of the respective legislation in these countries that make provision for support for modern slavery and trafficking victims could come into force.

Apart from the government new clause 17 and government amendments 95, 111, 114, 115 and 116, none of the other amendments tabled were put to a vote and therefore have not been included in the Bill as it progresses to the Lords. There was commitment from the Minister to continue working with MP's in relation to concerns raised with the impact of amendment 95.

Annex 2

An overview of Clauses 21-28 on modern slavery

Clauses 21-28 of the Illegal Migration Bill focus on cases of modern slavery.

Clause 21 extends the public order disqualification, set out in section 63(3) of the Nationality and Borders Act (NABA) 2022 to all victims of modern slavery who arrive in the UK via irregular means (i.e. if they meet the conditions set out in in Clause 2(2) of the Bill).¹⁸ This will mean that any prohibition on their removal will not apply, and they will not be able to access a 30-day recovery period (as per Section 61 of the NABA), support (as per Section 64 of NABA), or temporary leave (as per Section 65 of NABA) unless they are cooperating with an investigation or criminal proceedings related to their exploitation which requires them to be present in the UK.

Clauses 22-24 disapply the duty on the Secretary of State, Scottish Ministers, and the Department of Justice in Northern Ireland (as per Section 50(A) of the 2015 Modern Slavery Act and respective legislation on human trafficking in Scotland and Northern Ireland) to this cohort of migrants whether they are residing in England and Wales, Scotland or Northern Ireland.¹⁹

Clause 25 of the Bill provides for the automatic suspension of clauses 21-24 two years after the provisions come into force. It grants power to the Secretary of State to issue regulations for the earlier suspension of the provisions in Clauses 21-24, or to continue or revive the provisions (for periods of up to 12 months). Clause 25(6) makes it clear that this regulatory power may be exercised more than once.

Modern Slavery, Human Trafficking and Smuggling

Modern slavery is an umbrella term, which includes slavery, servitude, forced or compulsory labour, and human trafficking. Exploitation in modern slavery offences can take many forms, including forced criminality, domestic servitude, sexual exploitation, financial exploitation, removal of organs, and child exploitation.³⁶

Human trafficking is the recruitment, transportation, transfer, harbouring, or receipt of a person, by coercive or deceitful means, for the purpose of exploitation. It does not need to include the crossing of a border—it can be the movement of a victim within the UK.

Smuggling occurs when an individual seeks the help of a facilitator to enter a country illegally and involves a monetary payment or other material benefit to the facilitator.³⁷ Typically, the relationship between both parties is intended to end once the transaction ends.

Human trafficking and smuggling are sometimes used interchangeably. There are instances where they overlap but it's important to know the difference. In some cases, smuggling may turn into trafficking. Smuggling becomes trafficking where coercive or deceptive means are used, and exploitation takes place (or is intended). For instance, this might take place if the terms change en route or on arrival and a person finds themselves owing money for their journey and is made to work to pay this off.

The National Referral Mechanism

The National Referral Mechanism (NRM) is the framework for support and identification of potential victims of modern slavery.³⁸ There are a range of agencies (known as first responders) who are expected to a) identify the indicators of modern slavery b) enter potential victims to the NRM (with their consent if they're 18+).

The information in an NRM form is submitted to one of two competent authority teams in the Home Office - either the Single Competent Authority (SCA) or to the Immigration Enforcement Competent Authority (if the individual is a Foreign National Offender or detained in an Immigration Removal Centre). A series of decisions in relation to a potential victim of modern slavery are then made. These decisions are as follows:

Reasonable Grounds decision: the test at this stage is whether there is “reasonable grounds to believe, based on objective factors but falling short of conclusive proof, that a person is a victim of modern slavery (human trafficking or slavery, servitude, or forced or compulsory labour)”.

Conclusive Grounds decision: the test at this stage is whether, on the balance of probabilities, there is sufficient information to conclude the individual is, more likely than not, a victim of trafficking.

The timeframes outlined in guidance indicate a reasonable ground decision should be made within five days and a conclusive ground decision made within 30 days. Where the SCA consider that there are reasonable grounds to believe that someone is a victim of modern slavery, the person will be granted a (minimum) 30-day reflection and recovery period (as per

³⁶ Home Office, [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 \(accessible\) - GOV.UK \(www.gov.uk\)](#) (Gov.uk, Accessed 23 march 2023)

³⁷ United Nations, [Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime](#) (2000).

³⁸ Home Office, [National Referral Mechanism Guidance: Adult \(England and Wales\)](#). (Gov.uk, 2022). Accessed 23 March 2023).

the obligations outlined in the Council of Europe Convention on Action against Trafficking in Human Beings, (ECAT) ratified by the UK in 2009).

Since its introduction the NRM has seen a year-on-year increase in the number of referrals received. Between 2021 and 2022 referrals increased by 33%. The latest NRM statistics show nearly 17,000 victims were identified in 2022.³⁹ We know that of this number, 25% were British nationals. Research shows that existing bias in NRM decision-making based upon nationality, exploitation type and first responder agency, with victims from abroad receiving significantly lower positive conclusive grounds determinations.⁴⁰

Support offered to victims of Modern Slavery

For adults, being identified as a potential victim and consenting to enter into the NRM enables access to accommodation (if needed), practical help and advice, translation services, financial support (up to approx. £70 per week depending on circumstances), healthcare and legal advice, for the duration of the reflection and recovery period and until a decision is made about their case. Support and services offered are delivered via the Modern Slavery Victim Care Contract (MSVCC).⁴¹ Children are offered support via the local authority and children’s services, their accommodation and support are not financed or delivered via the MSVCC.

Potential victims, who do not have the right to reside or work in the UK, cannot access benefits or employment whilst they are in the NRM.

The support and protections offered to victims are outlined in Modern Slavery Statutory Guidance.⁴² The guidance is clear that the MSVCC should ‘operate as a bridge, to lift adult victims out of a situation of exploitation and to set them on a pathway to rebuilding their lives’.⁴³ It is not intended to replace other support that may be accessible or available to them.

International legal framework in relation to modern slavery and human trafficking

The UK has ratified a range of international conventions related to modern slavery practices. Core instruments, dates of ratification for UK membership of the agreements, and modern slavery practices addressed are set out in the table below.

Treaty	Ratification date	Slavery	Servitude	Forced labour	Human trafficking
Slavery Convention (1926)	28/06/1927 ⁴⁴	✓	✗	✗	✗
Protocol amending the Slavery Convention (1953)	07/12/1953 ⁴⁵	✓	✗	✗	✗
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956)	30/04/1957 ⁴⁶	✓	✗	✗	✗
International Covenant on Civil and Political Rights (1966)	20/05/1976 ⁴⁷	✓	✓	✓	✗

³⁹ Home Office, [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2022](#), (2023) (Gov.uk, Accessed 16 March 2023).

⁴⁰ Rights Lab, [Comparative report: The top ten source countries for modern slavery victims in the UK](#), (2021).

⁴¹ <https://www.salvationarmy.org.uk/modern-slavery/new-victim-care-contract> (Accessed 23 March 2023)

⁴² Home Office, [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 \(accessible\) - GOV.UK \(www.gov.uk\)](#) (Gov.uk, Accessed 23 March 2023)

⁴³ Salvation Army, [New Victim Care Contract](#), (2021).

⁴⁴ [UN Slavery Convention](#) (1926)

⁴⁵ [UN Protocol amending the Slavery Convention](#) (1953)

⁴⁶ [Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery](#) (1956)

⁴⁷ [International Covenant on Civil and Political Rights \(1966\)](#)

ILO C029 Forced Labour Convention (1930)	03/06/1931 ⁴⁸				
ILO P029 Protocol to the Forced Labour Convention (2014)	22/01/2016 ⁴⁹				
ILO C105 Abolition of Forced Labour Convention (1957)	30/12/1957 ⁵⁰				
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000)	09/02/2006 ⁵¹				
European Convention on Human Rights (1950)	08/03/1951 ⁵²				
Council of Europe Convention on Action Against Trafficking in Human Beings (2005)	17/12/2008 ⁵³				

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⁴⁸ [ILO CO29 Forced Labour Convention \(1930\)](#)

⁴⁹ [ILO P029 Protocol to the Forced Labour Convention \(2014\)](#)

⁵⁰ [ILO C105 Abolition of Forced Labour Convention \(1957\)](#)

⁵¹ [Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime \(2000\)](#)

⁵² [European Convention on Human Rights \(1950\)](#)

⁵³ [Council of Europe Convention on Action Against Trafficking in Human Beings \(2005\)](#)