

**The Anti Trafficking
Monitoring Group**

Human

Trafficking

Foundation



**British Institute of
International and
Comparative Law**

Assessing the Modern Slavery Impacts of the Nationality and Borders Act: One Year On

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Introduction

This report presents the findings of a project that investigated the impacts of the Nationality and Borders Act 2022 (“NABA”) on the identification and wellbeing of people with lived experience of modern slavery in the United Kingdom. The research was conducted by the British Institute of International and Comparative Law (“BIICL”) in partnership with the Human Trafficking Foundation (“HTF”) and the Anti-Trafficking Monitoring Group (“ATMG”). The project was funded by the Modern Slavery and Human Rights Policy and Evidence Centre (Modern Slavery PEC) through its Commissioned Research mechanism. The Modern Slavery and Human Rights Policy and Evidence Centre is funded by the Arts and Humanities Research Council (AHRC), part of UK Research and Innovation (UKRI). The views expressed in the summary and the full report are those of the authors and not necessarily of the Modern Slavery PEC or AHRC.

The Nationality and Borders Act passed into law in April 2022, introducing sweeping changes to British immigration, asylum, nationality, and modern slavery laws. Since January 2023, several of the Act’s provisions related to modern slavery (contained in Part 5 of the Act) have been implemented through amendments to the Modern Slavery Statutory Guidance (“Statutory Guidance”), specifically in relation to:

- 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 definitions of ‘victims of trafficking’ and ‘victims of slavery’ (reflecting the 2022 Regulations adopted under section 69 of the Act);
- the entitlement to (additional) recovery periods;
- the possibility of disqualification from protection on grounds of ‘public order’ and ‘bad faith’.

These measures have been accompanied by corresponding changes to the National Referral Mechanism (“NRM”) online referral form and prompt sheet, while the government has also adopted separate guidance on ‘Temporary permission to stay for victims of human trafficking and slavery’ (implementing section 65 of NABA).

In light of these developments, the report addresses the following research questions:

- What has been the impact of the operationalised NABA measures on the identification and wellbeing of people with lived experience of modern slavery, and are these impacts in line with the stated objectives of the legislation?
- What has been the impact of the operationalised NABA measures on the modern slavery sector more broadly?

Given the timing of this report, the analysis is restricted to the impacts of Part 5 of NABA in the year following its implementation (covering the period from the first quarter of 2023, when

most of the key provision entered into force, up to the fourth quarter of 2023).¹ It is hoped that this analysis will inform any future research on the impacts of this Act, as well as the impacts of other legislation adopted in this area (in particular, the Illegal Migration Act 2023).²

Methodology

To address the research questions, the project team deployed a mixed-methods approach consisting of desk research, a survey (containing both closed and open-ended questions), focus groups, individual interviews, and an analysis of publicly available data published by the Home Office.

1. Desk research

To inform the other research components of the project, the research team began by conducting a review of the existing literature on the actual and anticipated effects of Part 5 of NABA. This covered literature published up to January 2024 on the impacts of the operationalised provisions so far,³ as well as a review of submissions presented during the passage of the Nationality and Borders Bill through Parliament.⁴ In addition to this, the project team conducted a legal and policy analysis of Part 5 of NABA and the changes introduced to implement these provisions.

2. Survey

Based on the themes emerging from the desk research, BIICL, HTF and ATMG developed and distributed a survey to staff of anti-modern slavery NGOs, First Responder Organisations, healthcare workers, and legal practitioners. The survey key, which is available in Annex 1, asked respondents to provide their observations on the impacts of the implemented provisions of Part 5 of NABA on people with lived experience of modern slavery. This was supplemented with questions on the impact of these changes on the respondents themselves (for instance, in terms of their ability to perform their role). Respondents were also asked to comment on

¹ As such, this report does not contain references to statistics from the first quarter of 2024, which were published after the analysis had concluded.

² At the time of writing, the modern slavery provisions contained within the Illegal Migration Act 2023 (“IMA 2023”) are yet to enter into force. Nonetheless, many research participants referred to this Act during the consultations, often expressing concerns that negative impacts associated with NABA would be exacerbated once the modern slavery provisions contained within IMA 2023 have been implemented.

³ This literature includes briefings by NGOs on the impacts of specific changes introduced to implement Part 5 of NABA. See, for instance, Human Trafficking Foundation, [‘Impact of the Nationality and Borders Act: Changes to the Reasonable Grounds Threshold’](#) (May 2023) (accessed 9 May 2024). The review also covered statistical analyses of the impacts of Part 5 of NABA, including the International Organisation for Migration’s (“IOM”) data analysis briefings on NRM statistics. This series is available at: <https://unitedkingdom.iom.int/national-referral-mechanism-analysis-briefs> (accessed 9 May 2024).

⁴ The written evidence submitted at Committee stage is available at <https://bills.parliament.uk/bills/3023/publications> (accessed 9 May 2024). These submissions are referenced throughout the report.

the extent to which they believed the implemented provisions have contributed to achieving the stated aims of the legislation.

The survey was administered via an online survey platform, where participants could choose to remain anonymous or to disclose their identity/affiliation. The platform was open for responses from 22 November 2023 – 26 January 2024. 39 responses were collected from across the United Kingdom, with 2 responses from Northern Ireland (5%), 3 responses from Wales (8%), 3 responses from Scotland (8%), and 31 responses from England (90%).⁵ In terms of sectors, 10 respondents worked in law enforcement (26%), 10 in local authorities (26%), and 7 worked in frontline NGOs (18%). Other respondents worked in healthcare (5, or 13%) and law firms (3, or 8%).

3. Focus groups and individual interviews

In addition to the survey, BIICL, HTF and ATMG conducted four focus groups with stakeholders from across the UK, which were all held in December 2023. These included two focus groups with civil society organisations (“FG CSOs”), one focus group with statutory organisations (“FG StOs”), and a mixed focus group on children (which also included members of the pilot devolved decision-making panels) (“FG Children”).⁶ These were supplemented by three additional interviews with participants who were not able to attend the focus group sessions.⁷ Overall, 32 participants were engaged through these focus groups and interviews.

The research team also held small focus groups and individual interviews with people with lived experience of modern slavery (all in February 2024), engaging 12 lived experience consultants in total. While it was not possible to speak with individuals who had been through the NRM since the changes to implement Part 5 of NABA were introduced, the lived experience consultants provided valuable perspectives on the wider community impacts of these changes, including with respect to the rhetoric that has accompanied the passage and adoption of NABA.⁸ The research team would like to extend a special thanks to all lived experience consultants who contributed to the focus groups and, more broadly, to the project.⁹

4. Analysis of data relating to the National Referral Mechanism, Public Order Disqualifications, and Leave to Remain

To understand the effects of the NABA measures on decision-making, the research team conducted quantitative analyses of publicly available NRM and ‘Duty to Notify’ (“DtN”) data

⁵ Note that respondents were allowed to check more than one option, hence the total exceeding 100%.

⁶ When referencing input from focus group participants, the report uses the acronyms provided here. In each case, the specific participant is identified in anonymised format, together with the date of the relevant focus group.

⁷ Input from interviewees is referenced in anonymised format, together with the date of the interview.

⁸ This is discussed in greater detail in Part 1A of this report.

⁹ Discussions held with lived experience consultants are referenced together with the date they were held (“e.g. Lived Experience Focus Group, 6 Feb 2024”). Note that for these focus groups, individual contributions were not recorded for safeguarding reasons.

for the period from 2021 to 2023. In addition, the research team accessed the United Kingdom Data Service (“UKDS”) to analyse data on public order disqualifications for the first three quarters of 2023. The data analysis takes a descriptive statistics approach and has not involved tests of statistical significance. A Freedom of Information (“FOI”) request was submitted to the Home Office to access data on ‘temporary permission to stay for victims of trafficking or slavery’ (“VTS leave”). However, to date, this request remains pending.¹⁰

Ethics and safeguarding

Throughout the project and its related activities, BIICL, HTF and ATMG have complied with the safeguarding policies of all organisations, as well as those of the Modern Slavery PEC. Regarding the research team’s engagement with people with lived experience of modern slavery, one set of focus group discussions was organised by the Trafficking Awareness Raising Alliance (“TARA”) – which is located within Glasgow City Council and is funded by the Scottish government – with its lived experience Advisory Group (“TAG”). When approaching TARA, the research team explained the nature of the consultants’ involvement, including the length of the focus groups, the questions, and remuneration (in all instances, people with lived experience of modern slavery were compensated for their time). This information was then shared with TAG consultants, who were contacted directly by TARA. Once consultants had confirmed that they wished to be involved in the project, TARA was responsible for mediating all discussions with the research team to ensure that the contact details of participants remained confidential. A TARA staff member was also present on the call during the focus group in case any of the consultants required practical or emotional support.

Additional focus groups and interviews were organised with Survivor Alliance (“SA”) – a UK-wide network of lived experience experts. Unlike TAG, Survivor Alliance is not attached to a specific organisation, meaning that the research team had direct contact with consultants. SA consultants were contacted by HTF, who informed prospective participants of the remuneration and support available if they wished to be involved in the project, while also providing a description of the project and a list of the questions that would be discussed in the focus group. HTF ensured that individuals with and without a right to work had the chance to participate in the project, and the preferred method of remuneration was discussed on an individual basis. Confirmed participants’ contact details were not shared with other participants, nor with other members of the research team – they were only accessed by HTF. Contact details of ATMG and HTF project team members were provided to participants in case they needed practical or emotional assistance prior to, during, or after taking part in the project.

¹⁰ The Freedom of Information request was submitted on 2 February 2024, with the project team providing further clarification on the requested data on 13 February. The team received notification from the Single Competent Authority on 12 March that it was not able to meet the 20-working-day deadline for a full response owing to ‘data quality issues’, but that it was still working on the request. As of the date of publication, we have yet to receive a full response.

BIICL, HTF and ATMG have collected and stored all data in accordance with the Freedom of Information Act 2000, the Data Protection Act 2018, and the UK General Data Protection Regulation 2021.

Outline

The report is organised as follows:

Part 1 draws on the desk research conducted within the framework of this project to provide some background to the adoption of the modern slavery provisions contained in Part 5 of NABA. It proceeds to provide a brief overview of the different changes introduced by Part 5 of the Act, setting the context for the impact analysis conducted in the remainder of the report.

Part 2 explores the impacts of NABA on decision-making outcomes and processes related to the NRM, including public order disqualifications and grants of leave to remain under the new 'temporary permission to stay' policy. This part of the report draws on a quantitative analysis of the available data to highlight key trends coinciding with the changes introduced to implement NABA. These are compared with observations shared by participants involved in the survey and focus groups, as well as insights drawn from the literature review.

Part 3 explores the impacts of NABA on people with lived experience of modern slavery. In so doing, it details the implications of the findings in Part 2 of the report, while also drawing on the qualitative aspects of the research to indicate other areas where these changes have had a direct impact. Part 3 also draws on discussions held with lived experience consultants to underline some of the broader community impacts of the legislation and the rhetoric that has surrounded its adoption.

Part 4 explores the broader impacts of NABA on organisations involved in the anti-modern slavery sector. Drawing on the survey and focus group discussions, this part of the report documents how organisations have adapted their operational practices to respond to the changes introduced to implement Part 5 of NABA. It also shares observations on how the changes have impacted the ability of frontline organisations to support people with lived experience of modern slavery, as well as direct impacts on the mental health of staff employed in these organisations.

Part 5 concludes the report and provides several recommendations based on its findings. These are aimed at the Home Office, Members of Parliament, and the modern slavery sector more broadly.

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Part 1: Key changes introduced by the Nationality and Borders Act 2022

A persistent concern surrounding the passage and adoption of Part 5 of NABA has been the decision to introduce sweeping changes to the UK's modern slavery framework through a piece of immigration legislation.¹¹ This Part of the report begins by placing NABA's modern slavery provisions within their wider political and legal context, highlighting how the conflation of these policy areas should not be construed as a sudden shift in the government's approach, but rather as the outcome of a sequence of measures that 'solidifies the government's direction of travel in relation to modern slavery – clearly viewing this as an immigration issue'.¹² To demonstrate this, [Section A](#) begins by highlighting how modern slavery has historically been framed within UK policy as an issue that is separate from, and can sit alongside, efforts to address unauthorised migration. However, beginning with the announcement of the 'NRM Transformation Programme' in July 2020, a perceived need to protect the UK's modern slavery protections against 'abuse' by individuals subject to immigration control, including individuals who have committed serious crimes, has emerged as an increasingly central policy concern. This discourse paved the way for many of the measures contained in Part 5 of NABA, which will be detailed in [Section B](#).

A. Background to the adoption of Part 5 of NABA



Prior to 2020, modern slavery was framed within UK policy as an issue that overlapped with, but was formally distinct from, concerns over immigration control. Thus, while implementing policies aimed at fostering a 'hostile environment' for migrants, the Home Office (then led by Home Secretary Theresa May) was also able to pass the Modern Slavery Act 2015 ("MSA") – an instrument which, while focused primarily on consolidating existing criminal legislation in this

¹¹ See, among others, University of Nottingham Rights Lab & Human Trafficking Foundation, '[Nationality and Borders Bill Part 5: Modern Slavery – Consideration Paper](#)' (updated December 2021), p. 3 (accessed 9 May 2024).

¹² University of Nottingham Rights Lab, '[Confirmations, Commitments & Concerns – How will Part 5 of the Nationality and Borders Act on Modern Slavery be enacted? – Policy Paper](#)' (November 2022), p. 4. (accessed 9 May 2024).

area, also recognised a responsibility to identify and support ‘victims’.¹³ Other measures adopted prior to 2020 signal a similar intent to detach modern slavery from immigration policy. For instance, in April 2019, the government introduced the Single Competent Authority (“SCA”) as part of a programme of reform which sought to improve the effectiveness and quality of decision-making within the UK’s framework for identifying and supporting people with lived experience of modern slavery (the “National Referral Mechanism”, or “NRM”).¹⁴ The introduction of an independent decision-making body for all NRM referrals responded, at least in part, to concerns about the ability of UK Visas and Immigration (“UKVI”) to be impartial in determining whether individuals subject to immigration control were ‘victims’ of trafficking or modern slavery.¹⁵ In this respect, the establishment of the SCA reflected an acknowledgement that identification and support through the NRM should be the same for all individuals with lived experience of modern slavery, regardless of their immigration status.

From 2020 onwards, however, it is possible to discern a shift in the official rhetoric in this area, with a growing emphasis on the need to reform modern slavery policy to increase the effectiveness of immigration control. Following the introduction of the SCA, the Home Office announced the establishment of an ‘NRM Transformation Programme’ in its Modern Slavery Newsletter in July 2020.¹⁶ The 2020 UK Annual Report on Modern Slavery highlighted how this programme aimed to ‘deliver a world-class system that effectively identifies and delivers needs-based support for victims of modern slavery’.¹⁷ At the same time, this report explained that the Programme sought to uphold public confidence in the NRM ‘by minimising misuse by those seeking to take advantage of the system’.¹⁸ While the *potential* for ‘misuse’ of the NRM had been recognised in prior reviews of the National Referral Mechanism, the reference in the 2020 Annual Report presented this as a live issue.¹⁹ However, no further explanation was provided in the Report as to how the system was being ‘misused’, by whom, or what action might be taken to prevent this.

¹³ Modern Slavery Act 2015, Part 5 (“Protection of victims”). Nonetheless, several authors have argued that this piece of legislation served an important legitimising function for pursuing openly ‘hostile’ immigration policies (including by arguing that these were necessary to combat modern slavery itself). See, for instance, Cameron Thibos, [‘Why have the Tories abandoned migrant victims of modern slavery?’](#), *Open Democracy* (19 July 2023) (accessed 9 May 2024).

¹⁴ 2020 UK Annual Report on Modern Slavery (October 2020), para. 2d.18.

¹⁵ See, for instance, Home Office, [‘Review of the National Referral Mechanism for victims of human trafficking’](#) (November 2014), at para. 8.2.4 (accessed 9 May 2024), noting that ‘a majority press for the removal of responsibility for the National Referral Mechanism from the Home Office and the establishment of an independent body outside of UK Visas and Immigration and the Police’. On concerns around discriminatory decision-making under the former system, see, among others, The Anti-Trafficking Monitoring Group, [‘Hidden in Plain Sight – Three years on: an updated analysis of UK measures to protect trafficked persons’](#) (October 2013), p. 8 (accessed 9 May 2024).

¹⁶ Home Office, [‘Modern Slavery Newsletter – 23 July 2020’](#) (accessed 9 May 2024).

¹⁷ 2020 UK Annual Report on Modern Slavery (n 14), para 2d.15.

¹⁸ *Ibid.*

¹⁹ For an earlier reference, see the Home Office’s 2014 Review of the National Referral Mechanism (n 15), at para. 7.3.3.

The need to prevent the alleged ‘misuse’ of the NRM resurfaced as a central priority in the Home Office’s ‘New Plan for Immigration’ (“NPI”) – a policy paper published in March 2021.²⁰ This paper marked a significant development in the government’s rhetoric around modern slavery and immigration, with the Home Office arguing for an urgent need to combat ‘rising abuse of the NRM’.²¹ Significantly, the NPI attributed this ‘abuse’ to foreign nationals trying to evade immigration controls, ‘including Foreign National Offenders (“FNOs”) and those who pose a national security risk to our country’.²² To address this, the NPI suggested a range of measures, including: enhanced training for First Responders ‘to enable them to quickly identify genuine victims and to assess whether an account of modern slavery is credible’; the introduction of a ‘public order grounds exemption’ from the duty to provide protection through the NRM; and the introduction of a new test, ‘based on objective factors but falling short of conclusive proof’, for determining whether there are ‘reasonable grounds to believe [...] that a person is a victim of modern slavery’.²³ However, commentators argued that no data was presented to substantiate these claims of ‘abuse’ in the first place, with the Plan referring only to increases in the total number of modern slavery referrals, as well as the high rate of positive decisions which resulted in release from immigration detention.²⁴ While further data has since been shared by the Home Office to support these claims,²⁵ the suggestion that this data is indicative of ‘abuse’ of the system has been contested,²⁶ including in the findings of the recent Home Affairs Committee Inquiry.²⁷

In line with the concerns voiced in the New Plan for Immigration, the announcement of the NPI was followed shortly after by the publication of revised guidance that brought decisions on the immigration detention of identified ‘victims of modern slavery’ within the scope of the ‘Adults at Risk’ (“AaR”) policy. This move amended the existing policy, according to which individuals identified as potential or confirmed ‘victims’ of modern slavery while in immigration

²⁰ Home Office, [‘New Plan for Immigration: Policy Statement’](#) (24 March 2021) (accessed 9 May 2024).

²¹ *Ibid.*, p. 31.

²² NPI (n 20), p. 31. See also Home Office and The Rt Hon Priti Patel MP, [‘Press Release: Alarming rise of abuse within modern slavery system’](#) (20 March 2021) (accessed 9 May 2024).

²³ NPI (n 20), pp. 33-34.

²⁴ *Ibid.*, p. 31. The Office for Statistics Regulation argued that there was no clear evidence of ‘gaming the system’, calling on the government to exercise caution in their use of official statistics in public statements. See [‘Email of 8 December 2022 from Ed Humpherson \(Director General for Regulation, Office for Statistics Regulation\) to Jennifer Rubin \(Chief Scientific Adviser, Home Office\)’](#) (accessed 9 May 2024).

²⁵ See, for instance, Home Office, [‘Update on modern slavery referrals from detention and prisons’](#) (19 July 2021) (accessed 9 May 2024).

²⁶ For instance, in response to the increased number of referrals into the NRM from immigration detention, the Independent Anti-Slavery Commissioner commented that this could be explained by factors other than ‘abuse’, ‘including changes over time in the detained population and improved awareness of modern slavery’. Independent Anti-Slavery Commissioner, [‘IASC letter to The Rt Hon Priti Patel MP’](#) (7 September 2021), pp. 2-3 (accessed 9 May 2024). For an overview of this debate, see Melanie Gower and Georgina Sturge, [‘Research Briefing: Modern slavery cases in the immigration system’](#) (House of Commons Library, 8 March 2023), pp. 22-29 (accessed 9 May 2024).

²⁷ Home Affairs Committee, [‘Human Trafficking: First Report of Session 2023-34’](#) (HC 124, 8 December 2023), para. 225 (accessed 9 May 2024).

detention were automatically considered for release, unless they were deemed to pose a threat to public order.²⁸ Under the AaR policy, by contrast, a positive NRM decision is merely one form of evidence of vulnerability that must be weighed against reasons for maintaining the detention, as in the case of all other immigration detainees.²⁹

On 6 July 2021, the government presented the Nationality and Borders Bill to Parliament. This Bill aimed to deliver on the policy priorities outlined in the NPI, including by addressing ‘gaps in the system which allow for the NRM to be misused’,³⁰ and sought to introduce many of the measures suggested in the NPI into primary legislation.³¹ The Bill raised concerns across the modern slavery sector. In addition to concerns raised in response to the NPI, it was argued that ‘[m]easures dealing with identification and support for victims of crime do not belong within a Bill on migration’, and that the presence of modern slavery measures in such an instrument ‘risks muddling the two issues and undermining the Modern Slavery Act 2015’.³² Nonetheless, the Bill received Royal Assent on 29 April 2022, with its modern slavery provisions remaining largely unchanged from the original version presented to Parliament.

During the passage of the Bill, the Home Office announced the creation of an ‘Immigration Enforcement Competent Authority’ (“IECA”) through an amendment to the Statutory Guidance.³³ This body immediately became responsible for making NRM decisions for foreign national offenders and immigration detainees.³⁴ Concerns were raised that this move effectively reinstated the ‘dual system approach’ that existed prior to the establishment of the SCA, creating a ‘significant risk that those victims of modern slavery whose cases are assessed by Immigration Enforcement will have their cases judged by considerations about their immigration status rather than their rights to protection as victims of serious crime’.³⁵

²⁸ Beth Mullan-Feroze and Kamena Dorling (Helen Bamber Foundation), [‘Abuse by the system: Survivors of trafficking in immigration detention’](#) (October 2022), p. 24 (accessed 9 May 2024).

²⁹ Home Office, ‘Adults at risk: detention of potential or confirmed victims of modern slavery’ Version 3.0 (30 January 2023).

³⁰ See [‘Nationality and Borders Bill: Explanatory Notes’](#) (“NABA Explanatory Notes”), paras. 35-36 (accessed 9 May 2024).

³¹ See (n 23), above.

³² Taskforce on Victims of Trafficking in Immigration Detention, [‘Briefing on the Nationality and Borders Bill and its Impact on Survivors of Trafficking’](#) (December 2021) (accessed 9 May 2024).

³³ 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’ Version 2.5 (8 November 2021).

³⁴ *Ibid.*, para. 4.14.

³⁵ Independent Anti-Slavery Commissioner, [‘Letter to Home Secretary on the Creation of the Immigration Enforcement Competent Authority’](#) (11 November 2021) (accessed 9 May 2024). See also the Taskforce on Victims of Trafficking in Immigration Detention (“Detention Taskforce”), describing this as a ‘retrograde step’. Detention Taskforce, [‘Bad Decisions: the creation of an Immigration Enforcement Competent Authority will undermine identifying and protecting victims of crime’](#) (November 2021), p.1 (accessed 9 May).

B. Implementation of Part 5 of NABA (July 2022 – January 2024)

Having briefly introduced the background to the adoption of Part 5 of NABA, this section sets out the measures taken to implement these provisions, laying the groundwork for the impact analysis that follows in the remainder of this report.³⁶ As this section demonstrates, Part 5 of NABA has been implemented in a series of phases from July 2022 onwards.



The most intense phase of implementation came through changes made to Version 3.0 of the Statutory Guidance on 30 January 2023, which was published on the date when most of the provisions of Part 5 of NABA entered into force.³⁷ One of the most significant changes was the amendment of the test for making a Reasonable Grounds decision ("RG decision"). While, formerly, the test for granting a positive RG decision was whether the Competent Authorities agreed with the statement: 'I suspect but cannot prove the person is a victim of modern slavery',³⁸ the January 2023 Statutory Guidance introduced a **requirement for RG decisions to be based on 'objective factors'**.³⁹ Reflecting a policy originally suggested in the NPI, this change was designed to complement section 60 of NABA, which amended the Modern Slavery Act to reflect the fact that there must be reasonable grounds to believe an individual *is*, rather than *may be*, a 'victim' of slavery or human trafficking.⁴⁰ However, the 'objective factors' test was successfully challenged via judicial review for imposing an excessively high evidentiary

³⁶ Given the scope of this report, the present section will focus only those provisions that have entered into force and been implemented by the government as of 1 May 2024. As such, it excludes sections 58 and 59 (on Slavery and Trafficking Information Notices, yet to enter into force) and sections 66 and 67 (on the introduction of add-on services legal aid services related to the National Referral Mechanism, yet to enter into force). It also excludes section 64 (on the test of 'necessity' for providing assistance and support under the MSA), which, while in force, has not been implemented as of 1 May 2024.

³⁷ See the Nationality and Borders Act 2022 (Commencement No. 4 and Transitional Provision) Regulations 2023.

³⁸ 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' Version 2.13 (January 2023), paras. 14.49-14.53.

³⁹ 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' Version 3.0 (30 January 2023), at para. 14.52: 'A decision maker must base their decision on objective factors to have real suspicion and therefore meet the RG threshold. An 'objective' factor is a piece of information or evidence that is based in fact. Ordinarily, a victim's own account, by itself, would not be sufficient absent objective factors to have real suspicion'.

⁴⁰ NABA, s60. According to the NABA Explanatory Notes, this is a 'clarification', rather than change in, the threshold. NABA Explanatory Notes (n 30), para. 533.

burden on the referred individual, with the Home Office subsequently agreeing to review the guidance.⁴¹ The amended Statutory Guidance (Version 3.3, published in July 2023) removed the presence of ‘objective factors’ as a requirement for meeting the RG threshold, although the new test still requires decision-makers to consider whether it is reasonable to expect additional evidence to be made available to support a claim (i.e., outside of the individual’s personal testimony and the observations provided by the First Responder).⁴²

Another major change to the Statutory Guidance in January 2023 was the introduction of a **procedure for disqualification from protection on grounds of ‘public order’ and ‘bad faith’** for individuals with a positive Reasonable Grounds decision, implementing section 63 of NABA.⁴³ While section 63 of NABA does not elaborate on the meaning of bad faith,⁴⁴ it provides a non-exhaustive list of scenarios according to which the individual concerned should be considered a threat to public order, focusing predominantly on criminal convictions and (suspected) terrorist activity.⁴⁵ Section 63 also defines the consequences of a disqualification decision, explaining that this will result in the disapplication of sections 61 and 62 (prohibition of removal during the recovery period) and 65 (duty to grant leave to remain) of NABA,⁴⁶ while section 64 of NABA extends the consequences of disqualification to disapplication of the newly inserted duty to provide assistance and support within the Modern Slavery Act.⁴⁷ The Statutory Guidance also states that a duty to render a Conclusive Grounds determination will cease following a public order disqualification decision.⁴⁸ However, this has no basis in NABA⁴⁹ and would appear to contravene international obligations.⁵⁰

The policy of disqualification on grounds of public order implemented through the Statutory Guidance, like the increased evidentiary requirement at the RG stage, was subject to a judicial

⁴¹ Matrix Law, ‘[SSHD withdraws new evidential test for “Reasonable Grounds” decisions in Modern Slavery Statutory Guidance](#)’ (27 June 2023) (accessed 9 May 2024).

⁴² This test remains in the current version of the Statutory Guidance. 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’ Version 3.8 (22 February 2024) (“Statutory Guidance (v3.8)”), para. 14.55.

⁴³ NABA, section 63(1).

⁴⁴ The Statutory Guidance, however, explains that ‘An individual may be considered to have claimed to be a victim of modern slavery in bad faith where they, or someone acting on their behalf, have knowingly made a dishonest statement in relation to being a victim of modern slavery’. Statutory Guidance (v3.8), para. 14.296.

⁴⁵ NABA, section 63(3).

⁴⁶ NABA, section 63(2).

⁴⁷ MSA, section 50(A)(5).

⁴⁸ Statutory Guidance (v3.8), para. 14.242.

⁴⁹ While disapplication of the duty to complete the identification process was originally contained in Clause 51(2)(a) of the Bill as introduced (Bill 141 2021-2022), this provision was removed from the Bill as enacted.

⁵⁰ Joint Letter of the Special Rapporteur on trafficking in persons, especially women and children, the Special Rapporteur on the human rights of migrants, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (“Special Rapporteur Joint Letter”), (5 November 2021), p. 8. Available here: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26788> (accessed 9 May 2024).

review challenge, this time on the basis that it permitted individuals to be disqualified from protection and support without assessing the risk that this may expose them to re-trafficking. As a result of this challenge, the government was forced to suspend and eventually withdraw this policy, introducing a new version of the test in Version 3.6 of the Statutory Guidance in January 2024.⁵¹ The amended test includes a mandatory assessment of the risk of re-trafficking.⁵²

Other changes made to the January 2023 Statutory Guidance included **updated definitions of 'victims of trafficking' and 'victims of slavery'**, which brought the Guidance in line with regulations adopted under powers conferred by section 69 of NABA.⁵³ The Guidance also introduced a procedure for considering whether individuals are entitled to an **additional recovery period**.⁵⁴ This implements section 62 of NABA, which establishes a presumption against the grant of an additional recovery period for individuals who have already benefited from such a period, and who receive a further positive reasonable grounds decision regarding an incident that predated the original decision.⁵⁵

Outside of the Statutory Guidance, measures taken to implement Part 5 of NABA include the publication of guidance on 'Temporary permission to stay for victims of human trafficking and modern slavery' ("VTS Guidance"), which corresponds to section 65 of NABA on **'leave to remain for victims of slavery or human trafficking'**.⁵⁶ As the government has noted, this provision sets out the conditions for granting temporary leave to remain for confirmed 'victims' of modern slavery and human trafficking in primary legislation for the first time,⁵⁷ recognising a range of grounds under which the provision of leave is mandatory.⁵⁸ One of the grounds for granting limited leave to remain under section 65 of NABA is where 'the Secretary of State considers it necessary for the purpose of [...] assisting the person in their recovery from any physical or psychological harm arising from the relevant exploitation', with the latter defined as 'the conduct resulting in the positive conclusive grounds decision'.⁵⁹ As already indicated above, this duty does not apply where the individual has been disqualified from protection on grounds of public order or bad faith.⁶⁰ Furthermore, the VTS Guidance suggests that any

⁵¹ Note that, in response to this ruling, all public order disqualification decisions were paused from 31 July 2023 until 8 January 2024, when the new policy was introduced to the Statutory Guidance.

⁵² Matrix Law, ['SSHD withdraws Public Order Disqualification policy'](#) (22 January 2024) (accessed 9 May 2024).

⁵³ According to NABA, s69(1), "'victim of slavery" and "victim of human trafficking" have the meanings given in regulations made by the Secretary of State'. These powers led to the adoption of the Slavery and Human Trafficking (Definition of Victim) Regulations 2022.

⁵⁴ Statutory Guidance (v3.8), para. 14.82 et seq.

⁵⁵ NABA, section 62.

⁵⁶ NABA, section 65.

⁵⁷ Home Office, ['Policy Paper – Modern slavery: leave to remain'](#) (updated 13 October 2023) (accessed 9 May 2024).

⁵⁸ NABA, section 65(2).

⁵⁹ NABA, section 65(2)(a), read together with section 65(1). This, however, is subject to limitations – notably, where it is considered that the individual can be supported in another country. See NABA, section 65(4)(a) and (5).

⁶⁰ NABA, section 65(3), (6) and (7).

criminal conviction should be balanced against the individual's recovery needs when considering their eligibility for leave to remain – a qualification which is absent from section 65 of NABA, which refers exclusively to disapplication of this provision on the basis of a disqualification decision.⁶¹

While outside of the scope of the present report, it is important to note that the implementation of Part 5 of NABA has coincided with the proposal of the Illegal Migration Bill and its enactment on 20 July 2023.⁶² Many of the individuals consulted as part of this research indicated their understanding that NABA is a 'stepping stone' for many of the measures contained within the **Illegal Migration Act 2023** ("IMA 2023"). While the relevant provisions are yet to enter into force,⁶³ IMA 2023 is set to extend the grounds for public order disqualification (and the consequences thereof) to *all* individuals who fall within the scope of section 2 of the Act, with the exception of those whose stay is deemed necessary to cooperate with a criminal investigation.⁶⁴ As such, the impacts of disqualification noted in this report are relevant to considering the potential future impacts of that legislation.⁶⁵

⁶¹ See references to Part 9 of the Immigration Rules ("grounds for refusal") in the VTS Guidance. See also NABA, section 65(8).

⁶² Illegal Migration Act 2023 ("IMA").

⁶³ IMA, section 68.

⁶⁴ IMA, sections 22, 23, 24 and 25.

⁶⁵ The anticipation of these effects has likely influenced the decision not to activate sections 58 and 59 of NABA, which introduce the possibility to serve 'slavery or trafficking information notices' ("STINs").

Part 2: The impact of NABA on NRM decision-making outcomes and related processes

This Part of the report explores the impact of the changes introduced to implement Part 5 of NABA on decision-making by the Single Competent Authority (“SCA”) and Immigration Enforcement Competent Authority (“IECA”). [Sections A and B](#) focus on decision-making within the NRM, drawing on data collected and published by the Home Office, together with observations shared by research participants, to assess the impact of the NABA changes on the rate of positive decisions at the ‘reasonable grounds’ (“RG”) and ‘conclusive grounds’ (“CG”) stages. [Section C](#) addresses the impact of these changes on the time taken to render decisions within the NRM, particularly at the RG stage. [Section D](#) turns to public order disqualification (“POD”) decisions, which are based on a procedure introduced in the January 2023 Statutory Guidance for the first time. Here, again, the report conducts an analysis of the publicly available data to identify statistically meaningful trends, comparing these findings with observations collected through the project’s qualitative research components. [Section E](#) concludes Part 2 of the report with a discussion of the changes to the criteria for making decisions on leave to remain for confirmed ‘victims’ of trafficking and modern slavery.

A. Reasonable Grounds stage

(i) Decision-making outcomes

Research participants agreed that one of the most significant impacts of the operationalised NABA provisions was a significant drop in the rate of positive decisions within the NRM, particularly at the RG stage. This was attributed to the introduction of the requirement for ‘objective factors’ in the Statutory Guidance of January 2023, with research participants confirming that large numbers of referrals that would previously have met with a positive RG decision were being rejected for failing to include sufficient evidence.⁶⁶ Concerningly, research participants also noted considerable challenges in meeting the evidentiary threshold even after the Statutory Guidance was amended in July 2023 to remove the ‘objective factors’ requirement.⁶⁷ Other changes introduced into the Statutory Guidance to implement NABA were considered to have been less impactful in this respect. For instance, concerns have been raised around the introduction of new definitions of ‘victims of slavery’ and ‘victims of human trafficking’ in the January 2023 Statutory Guidance, which incorporate The Slavery and Human

⁶⁶ Participant No. 5 (Frontline NGO), FG CSOs (5 Dec 2023); Interview (Frontline NGO), 13 Dec 2023; Survey Respondent No. 16 (Frontline NGO); Survey Respondent No. 33 (Local Authority); Survey Respondent No. 35 (Law Firm); Survey Respondent No. 36 (Frontline NGO).

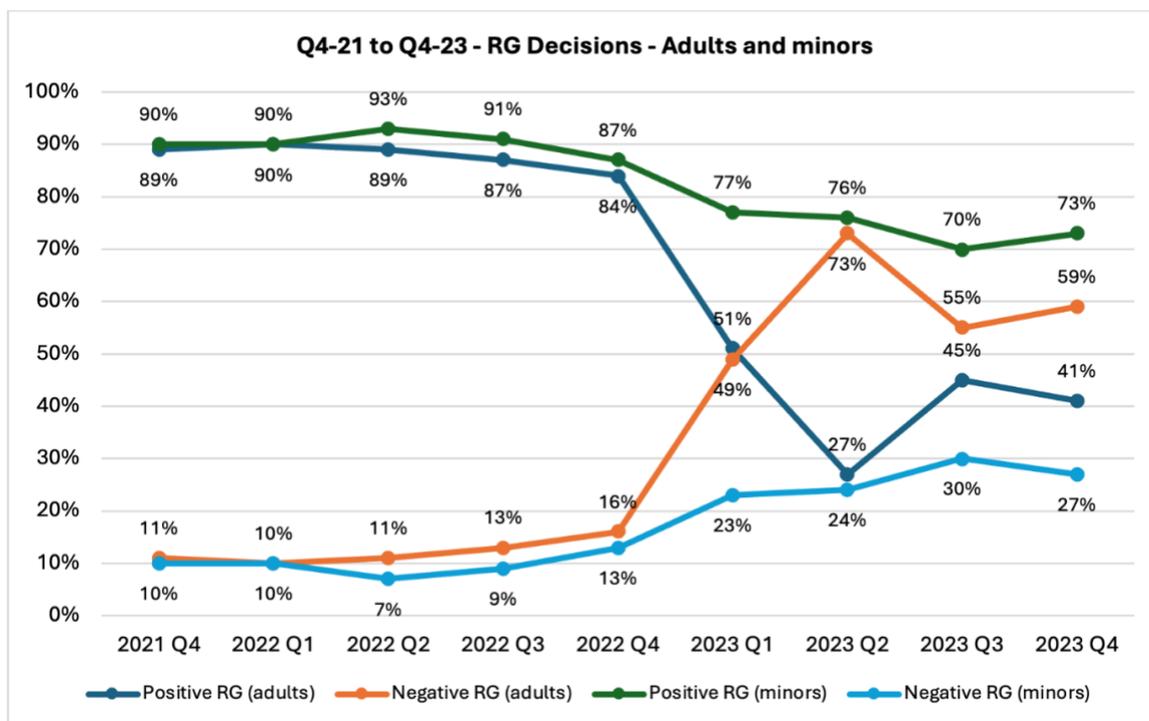
⁶⁷ See discussion on ‘legacy threshold’ below, in Part 2A(ii).

Trafficking (Definition of Victim) Regulations 2022.⁶⁸ However, research participants, when asked about these Regulations, did not perceive a significant impact on NRM decisions, either at the Reasonable Grounds or Conclusive Grounds stage.

The publicly available NRM data supports the observation that the raised evidentiary threshold at the RG stage has had a significant impact on decision-making at the RG stage. While in 2021 and 2022, positive RG decisions were around 90% for both adults and children, in 2023 there was a **drastic decrease in positive RG decisions for adults, from 84% (Q4-22) to 41% (Q4-23), falling to as low as 27% in Q2-23**, and a significant one for children, from 93% (Q2-22) to 73% (Q4-23), with Q3 2023 being the lowest (70%).⁶⁹ A detailed breakdown of RG decisions by quarter for adults reveals that **the most significant increase in the ratio of negative RG decisions coincided with the introduction of the change in the evidentiary requirement at the RG stage in January 2023**: indeed, negative decisions increased from 16% (Q4-22) to 51% (Q1-23) to 73% (Q2-23), followed by a decrease to 53% (Q3-23), when the Statutory Guidance was amended, and a new increase to 59% in Q4-23. The figures in Q3 and Q4 2023 signal that, while the amended Statutory Guidance somewhat reversed the trend introduced by the 'objective factors' requirement in January 2023, the rate of positive decisions has stabilised at a much lower rate than prior to 2023. Negative decisions also increased for children over this period, from 13% in Q4-22 to 23% in Q1-23 and Q2-23, then to around 30% in Q3-23, with a minimal decrease in Q4-23.

⁶⁸ For instance, some have argued these definitions are excessively narrow – particularly with respect to the requirement of 'travel' for an individual to be recognised as a 'victim of human trafficking'. See ECPAT UK and others, ['Joint Briefing for the Sixth Delegated Legislative Committee Debate: The Draft Slavery and Human Trafficking \(Definition of Victim\) Regulations 2022'](#) (29 June 2022) (accessed 9 May 2024).

⁶⁹ Note that statistics for children pertain to age at the time of exploitation, rather than at the time of the referral and/or decision.



The figures thus support the observation that changes to the evidentiary requirements at the RG stage have impacted the rate of positive decisions – a position conceded by the government, which has acknowledged that the decrease ‘is likely to be a result of the change in the test for reasonable grounds decisions’.⁷⁰ A separate question is whether the changes in recognition rates at the RG stage are in line with the stated objectives of the measures, namely, to assist decision-makers in ‘distinguishing more effectively between genuine and vexatious accounts of modern slavery’ and to ‘ensure decision-makers can properly test any concerns that an individual is attempting to misuse the system’.⁷¹ At this stage, it is worth recalling that **there has never been and there continues not to be a self-referral pathway into the NRM**; on the contrary, referrals can only be submitted by designated First Responders who are trained and called upon to refer into the NRM people who display, *according to their professional opinion*, indicators of modern slavery. Therefore, to suggest the existence of ‘vexatious’ referrals necessarily implies a (negative) evaluation of First Responders’ performance of their duties.

In terms of experiences shared by research participants, one surveyed individual explained that imposing a higher evidentiary requirement at the RG stage has served to improve the identification and support of ‘genuine victims’ by ensuring that limited resources were not being spent on individuals ‘who are exploiting the system’, thereby suggesting that the policy

⁷⁰ Quoted in Eliza Stachowska, ‘[The environment of disbelief – the impact of the Nationality and Borders Act 2022](#)’ (9 June 2023) (accessed 9 May 2024). See also HTF (n 3), p. 7, explaining that ‘The sharp decline in positive RG decisions in the first quarter of this year is likely a reflection of these challenges [i.e., the introduction of the ‘objective factors’ requirement], rather than a rise in people being referred to the NRM who have not experienced modern slavery.’

⁷¹ NPI (n 20).

had been effective in achieving its goal.⁷² However, this opinion was very much an outlier among the stakeholders consulted. Instead, **research participants from both statutory and non-statutory organisations resoundingly expressed the belief that the changes in the rate of positive decisions at the RG stage were indicative of the fact that very significant numbers of persons with lived experience of modern slavery had been excluded from protection and support owing to an inability to meet the new evidentiary requirements.** As one survey respondent explained:

*Identification is not occurring as it should because the new higher bar in the decision-making process now results in too many negative RG decisions for individuals who are clearly victims of modern slavery. As such it has a chilling effect on identification.*⁷³

This position was closely linked to the understanding that imposing a higher evidentiary requirement at the RG stage has failed to tackle the alleged ‘abuse’ of the NRM.⁷⁴ As a first point, when prompted on this question, research participants had little (if any) direct experience of individuals trying to ‘game the system’, either before or after the changes in the January 2023 Statutory Guidance came into effect.⁷⁵ As one research participant noted:

*[...] we didn't see any widespread abuse of the system before the [Nationality and Borders] Bill and we haven't seen any widespread abuse of the system after the Bill. So, you know, I think the only deterrent it's put in place is a deterrent of people who need support coming to get it.*⁷⁶

In addition to this, research participants generally agreed that a higher evidentiary requirement would in any case be an ineffective way of weeding out ‘vexatious’ claims:

[I]t's much more likely that somebody who's not a victim of modern slavery will be provided with documents, material, and evidence to present to say that they are a genuine victim. So, [the raised evidentiary threshold] is counterproductive, frankly,

⁷² Survey Respondent No. 31 (Law Enforcement).

⁷³ Survey Respondent No. 28 (Law Firm). As explained by Survey Respondent No. 39 (Frontline NGO): ‘The impact of the changes to the threshold [...] has meant that people who should have been identified as survivors of trafficking were prevented from accessing crucial protection and support and were placed at risk of further exploitation as a result’. These effects are detailed in Part 3A of this report.

⁷⁴ Only 19% of survey respondents believed that the changes introduced to implement Part 5 of NABA were likely to help deliver on the aim of distinguishing between ‘legitimate’ and ‘illegitimate’ modern slavery claims. See Stephanie Harrison QC et al., [‘Nationality and Borders Bill: Advice to Women for Refugee Women’](#) (23 November 2021), at para. 65, arguing that: ‘gatekeeping access to the NRM on the basis of unspecified ‘credibility concerns’ at the referral stage is likely to result in genuine victims of trafficking not being identified’ (accessed 9 May 2024).

⁷⁵ Participant No. 4 (Local Authority), FG StOs (13 Dec 2023); Participant No. 7 (Frontline NGO), FG CSOs (18 Dec 2023); Interview (Law Enforcement), 18 Dec 2024; Survey Respondent No. 18 (Local Authority); Survey Respondent No. 39 (Frontline NGO).

⁷⁶ Interview (Frontline NGO), 13 Dec 2024.

without going into much more detail around it, I don't think it's going to meet any of those kinds of objectives.⁷⁷

This position was also supported by the lived experience experts consulted over the course of the project, with several drawing attention to the fact that individuals attempting to 'game' the system would be much more likely to 'have their stories straight' and have fabricated evidence to support their claims than someone who has recently left a situation of exploitation and, due to trauma, may well struggle to present a coherent account or to provide any evidence to support the claim.⁷⁸

The latter point was identified as a key reason as to why the raised evidentiary threshold had had such a drastic effect on the rate of positive decisions at the RG stage. As a general point, it was highlighted that it is **very difficult for people with lived experience of modern slavery to adduce evidence at this stage in the identification procedure, when they are likely to be in a situation of vulnerability and instability**⁷⁹ – a challenge which was, again, heavily emphasised in discussions with lived experience consultants.⁸⁰ Research participants pointed to the fact that this may be particularly challenging where the police are responsible for the referral, given potential reluctance on behalf of the person with lived experience of modern slavery to provide further information (for instance, out of fear of reprisals),⁸¹ as well as for individuals with disabilities and severe trauma, including lived experience of sexual exploitation.⁸² As one survey respondent explained:

Many victims will not be able to access support due to not being able to provide adequate evidence at the point of completing NRM application to reach the threshold for RG. Trauma impacts on individuals differently; they may not be able to give all the information or to remember significant details at that point[,] which could be coupled with the [fact that the] person conducting [the] NRM may be an authority [who] they are unable to trust due to their exploitation experience.⁸³

Alongside this, it was also highlighted that many First Responders were not sufficiently prepared to adapt to these changes, with many failing to ensure that their referral contained

⁷⁷ Participant No. 4 (Local Authority), FG StOs (13 Dec 2023).

⁷⁸ Lived Experience Focus Group, 6 Feb 2024; Lived Experience Interview, 9 Feb 2024.

⁷⁹ Survey Respondent No. 3 (Local Authority); Survey Respondent No. 28 (Law Firm); Survey Respondent No. 30 (Local Authority). For an overview of these challenges, see Beth Mullan-Feroze and Danning He, '[New Test for "Reasonable Grounds" decisions in Modern Slavery Guidance withdrawn](#)' (12 July 2023) (accessed 9 May 2024). The effects of this requirement on the mental health of people with lived experience of modern slavery are detailed in Part 3B of this report.

⁸⁰ Lived Experience Focus Group, 6 Feb 2024; Lived Experience Focus Group, 8 Feb 2024; Lived Experience Interview, 9 Feb 2024.

⁸¹ Participant No. 8 (Frontline NGO), FG CSOs (5 Dec 2023).

⁸² Participant No. 5 (Frontline NGO), FG CSOs (18 Dec 2023).

⁸³ Survey Respondent No. 38 (Frontline NGO).

an appropriate level of detail to meet this higher evidentiary threshold.⁸⁴ This was linked to the claim that the changes to the Statutory Guidance were not communicated ahead of time and accompanied with appropriate training – a discussion we return to in detail in Part 4 of this report.⁸⁵

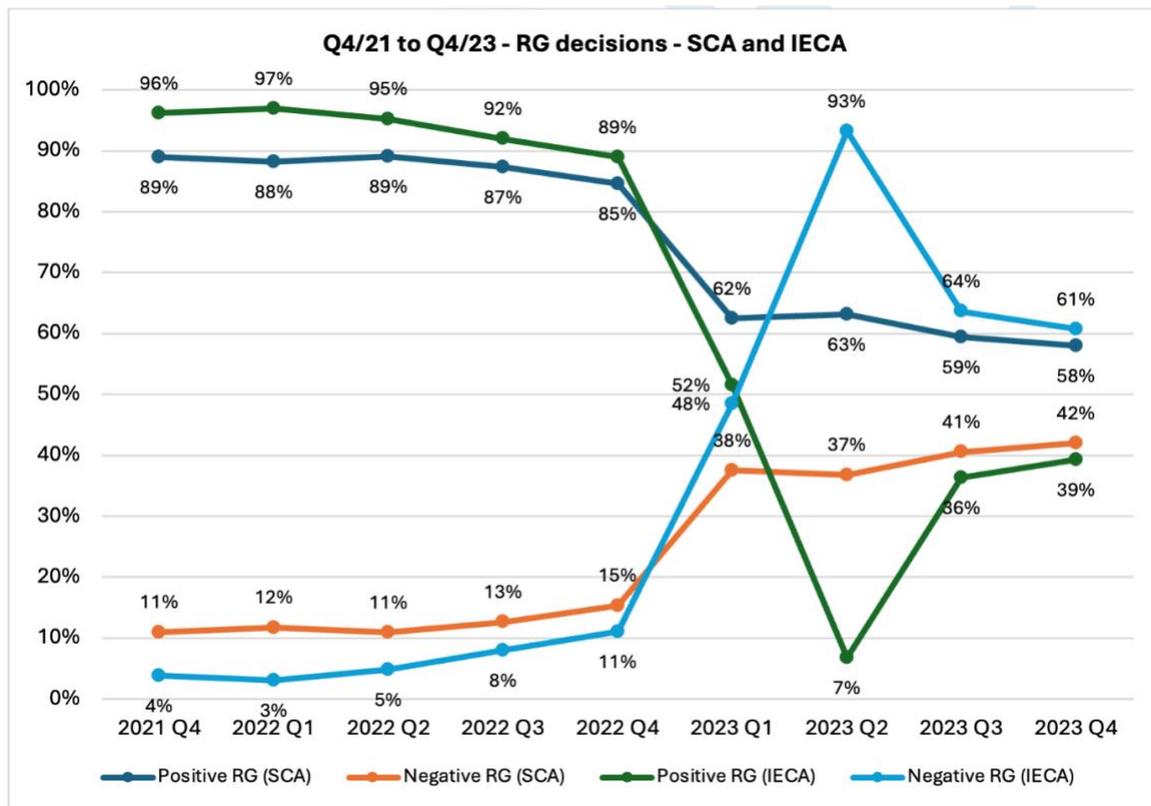
Significantly, however, the NRM data does not only indicate a decline in the rate of positive RG decisions generally, but also suggests that the impacts of the changes to the Statutory Guidance have been felt much more strongly by specific groups of foreign nationals subject to immigration control (such as foreign national offenders and immigration detainees), as well as by certain nationalities. Indeed, **the general trend in the declining rate of positive RG decisions since January 2023 is considerably more pronounced within the IECA than it has been within the SCA.** It is worth recalling that the IECA is responsible for a specific cohort of adult cases, namely, individuals who fall within the following categories at the point of referral into the NRM:

- all adult Foreign National Offenders (“FNOs”) detained in an Immigration Removal Centre;
- all adult FNOs in prison where a decision to deport has been made;
- all adult FNOs in prison where a decision has yet to be made on deportation;
- non-detained adult FNOs where action to pursue cases towards deportation is taken in the community;
- all individuals detained in an Immigration Removal Centre (“IRC”) managed by the National Returns Command (“NRC”), including those in the Detained Asylum Casework (“DAC”) process; and
- all individuals in the Third Country Unit (“TCU”)/inadmissible process irrespective of whether detained or non-detained.

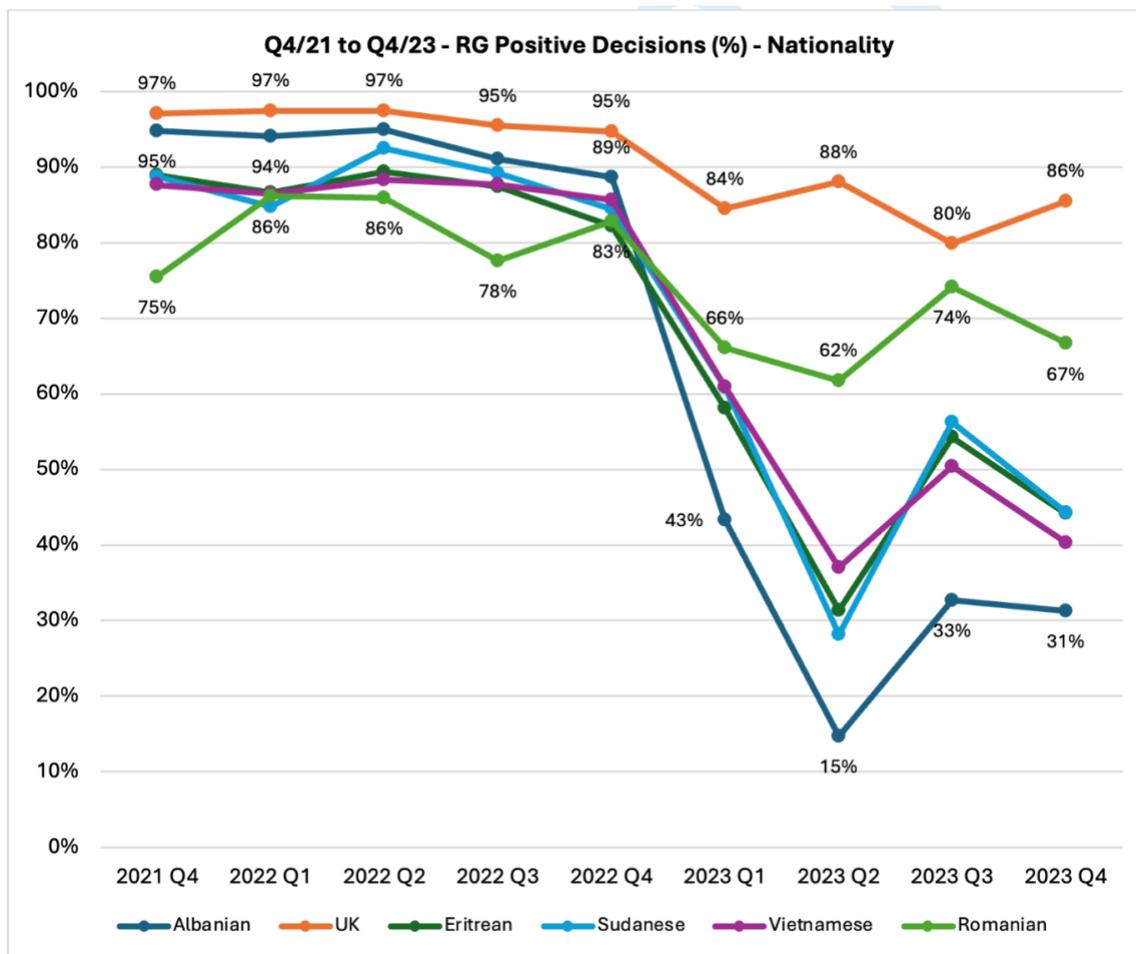
While the ratio of positive RG decisions in the SCA decreased from around 90% in 2021 to around 60% in 2023, the ratio of positive RG decisions in the IECA plummeted from an average of above 90% in 2022 to as low as 7% in Q2-23.

⁸⁴ Participant No. 6 (Frontline NGO), FG CSOs (5 Dec 2023); Participant No. 5 (Frontline NGO), FG CSOs (18 Dec 2023); Survey Respondent No. 1 (Frontline NGO); Survey Respondent No. 28 (Law Firm); Survey Respondent No. 32 (Local Authority); Survey Respondent No. 33 (Local Authority); Survey Respondent No. 39 (Frontline NGO).

⁸⁵ Survey Respondent No. 12 (Anti-Slavery Consultant).



With respect to **nationality**, the impacts of the changes introduced to implement NABA appear to have disproportionately affected foreign nationals – in particular Albanian nationals – while having a much more limited impact on British nationals. While the ratio of positive RG decisions decreased for all nationalities after Q4-22 (from 86% to 64% in Q1-23, to 52% in Q2-23), the change with respect to non-British nationals has been particularly significant. For Albanian nationals, the ratio of positive RG decisions fell from more than 90% in 2022 to 31% in Q4-23, and an all-time low of 15% in Q2-23. Similar drops were recorded for Sudanese (89% to 60% to 28% in the same period), Eritrean (89% to 58% to 31%), and Vietnamese (88% to 60% to 48%) nationals. By contrast, the ratio of positive RG decisions for British nationals remained quite stable – with a limited decrease from 95% in Q4-22 to 86% in Q4-23. Combining nationality and gender, the **most impacted profile has been that of Albanian males** (positive RG decisions as low as 9% in Q2-23), while the **least impacted profile has been that of British females**, with positive RG decisions at 84% in Q4-23.



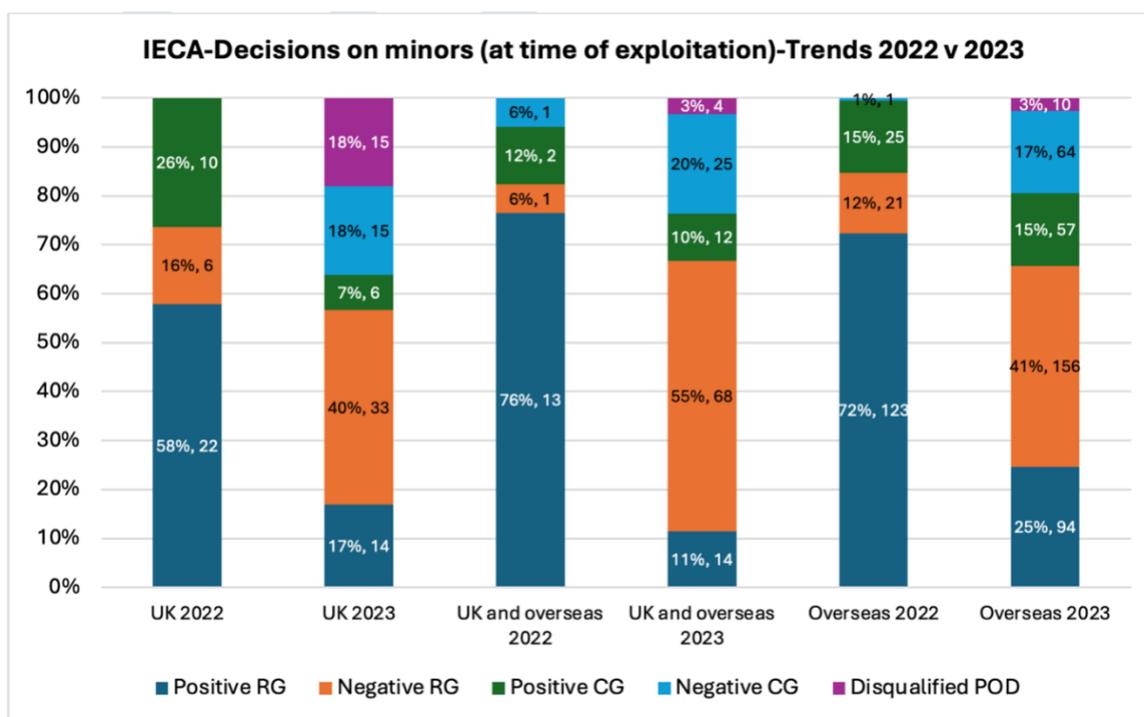
Once again, the **differences between the SCA and IECA are significant**. Within the SCA, the lowest ratio of positive RG decisions was recorded in Q3-23 for Afghan nationals (27%), followed by Albanian nationals (28% in Q2-23). Within the IECA, the lowest ratio of positive RG decisions was recorded for Indian nationals (0% in Q2-23, when all 49 RG decisions were negative), followed by Albanian nationals (3% in Q2-23, with 15 positive RG decisions against 483 negative RG decisions), and Vietnamese nationals (9% in Q2-23, with 3 positive RG decisions against 32 negative RG decisions). These figures give cause for considerable concern. Indeed, as already highlighted in Part 1 of this report, the NRM is not formally aligned with the immigration system – rather, it is meant to be a mechanism for identifying all people with lived experience of modern slavery, *regardless of their nationality or immigration status*.

Despite the IECA being responsible for determining adult cases, **there were 852 cases of children (at the time of exploitation) assigned to the IECA since Q4-21** – distributed as follows: 35 in Q4-21, 362 throughout 2022, and 447 throughout 2023. In terms of case status, out of the 852 cases for which the IECA was deemed responsible, there were:

- Suspended or withdrawn: 27
- Disqualified POD: 29
- Negative RG: 291
- Positive RG: 281

- Pending RG: 2
- Negative CG: 108
- Positive CG: 114

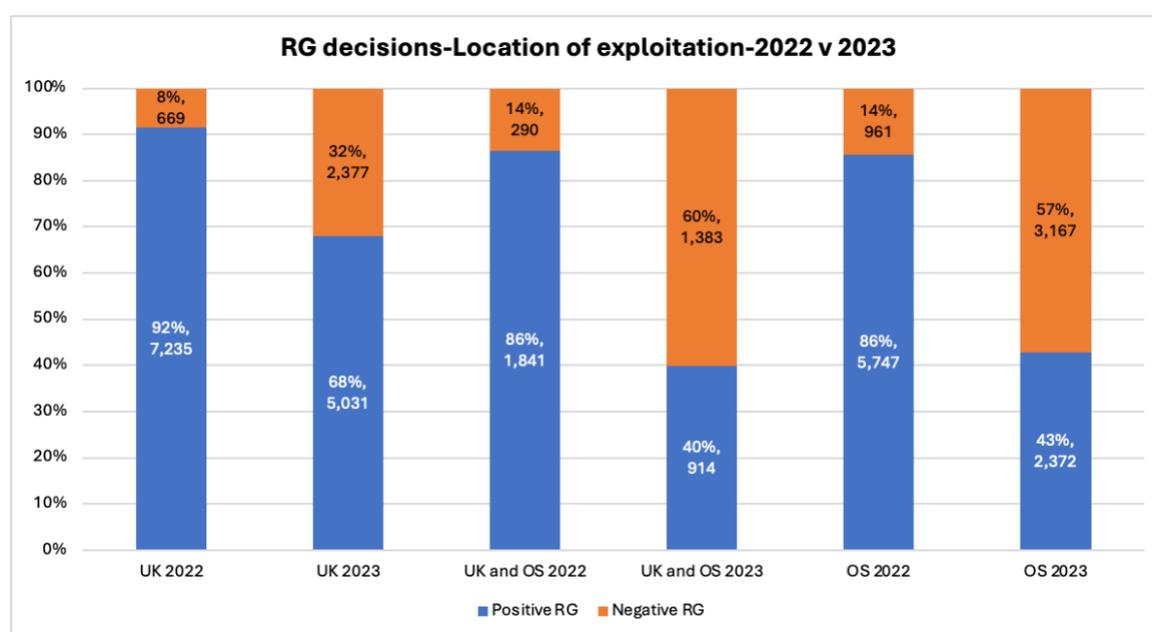
The IECA has confirmed that all the above cases concern individuals who were **adults at the point of entering the NRM, but whose exploitation took place when they were children**. In this regard, it is interesting that in 580 out of 852 cases, exploitation happened overseas – which indicates that it is likely that time has elapsed between the exploitation and the referral. In terms of outcomes for these cases, some trends and patterns can be highlighted regarding location of exploitation and status of the referral.



As the graph above shows, most of the cases decided by the IECA in 2022 and 2023 related to individuals whose exploitation happened (at least in part) overseas. For this cohort, negative RG decisions increased from 22 to 224 between 2022 and 2023, and negative CG decisions increased from 2 to 89 in the same period. At the same time, positive RG decisions decreased from 136 to 108. It is interesting to note that the trend in positive CG decisions is different: there were 27 positive decisions in 2022, compared to 69 in 2023 – though, in relative terms, the percentage on all referrals has been stable. It can be argued that, since the changes introduced in the Statutory Guidance to operationalise NABA in January 2023 mostly related to evidentiary threshold at RG stage, CG decisions were not *as impacted as* RG decisions in 2023.

Concerns around the potentially disproportionate effect of the raised evidentiary requirement on foreign nationals were also raised in discussions with research participants, who indicated that it is particularly difficult to provide evidence of exploitation where this occurred in whole

or in part overseas.⁸⁶ This was also recognised as a factor in child cases considered by the devolved NRM panels, with decision-makers from across the UK commenting on the fact that cases involving unaccompanied children seeking asylum were particularly affected by the greater evidentiary requirements, especially when the exploitation occurred abroad.⁸⁷ This is largely supported by a comparative data analysis on RG decisions taken in 2022 and 2023, broken down by location of exploitation. As the graph below shows, most RG decisions issued in 2023 regarding cases where exploitation had happened, at least in part, overseas (“OS”), have been negative. On the contrary, most RG decisions issued in 2023 regarding cases where exploitation had happened in the UK have been positive. The graph also shows that in 2022, the ratio of positive decisions was largely similar between cases of exploitation in the UK or with an OS element (92% against 86%).



Other research participants, meanwhile, commented on the greater challenges faced by foreign nationals in sourcing the documentation required to substantiate their claim – an issue often exacerbated by language barriers and a lack of familiarity with different systems in the UK.⁸⁸

However, these factors alone fail to explain some of the patterns of decision-making with respect to specific nationalities – and particularly Albanian nationals.⁸⁹ Research participants

⁸⁶ Survey Respondent No. 39 (Frontline NGO); Survey Respondent No. 33 (Local Authority).

⁸⁷ Participant No. 4 (Local Authority), FG Children (14 Dec 2023); Participant No. 9 (Local Authority), FG Children (14 Dec 2023).

⁸⁸ Interview (Frontline NGO), 13 Dec 2023.

⁸⁹ The government has suggested that the disproportionate impact of the changes is linked to an overrepresentation of Albanian nationals arriving in small boats who are referred into the NRM after being detained for removal. Home Office, [‘Modern slavery referrals for people detained for return after arriving in](#)

working with this client base thus strongly felt that Albanian nationals were subject to discriminatory decision-making with the NRM (both at the RG and CG stage).⁹⁰ This was supported by concerning accounts shared by members of the devolved decision-making panels, who informed the research team that the training they received from the SCA on the application of the new evidentiary threshold relied primarily on Albanian case studies as examples that would not meet the RG threshold.⁹¹ It was suggested that the discriminatory treatment of Albanian nationals in NRM decision-making was closely linked to this group being targeted in much of the rhetoric underpinning the introduction of Part 5 of NABA (as well as other parts of the Act) – a suggestion supported by observations shared in other parts of this report.⁹²

Regarding **forms of exploitation**, considering the most prevalent forms of exploitation for which RG decisions were recorded between Q4-22 and Q4-23, a reduction in the rate of positive RG decisions was recorded for all forms – yet not in the same manner. **Labour exploitation referrals were the most impacted, with positive RG decisions decreasing from 89% in Q4-22 to 24% in Q2-23** (before increasing to 41% in Q4-23), followed by labour and criminal (as a mixed form of exploitation). Less severe has been the decrease in positive RG decisions for criminal and sexual exploitation (respectively at around 73% and 61% in Q4-23, against 93% and 84% in Q4-22).

(ii) Quality of decision-making

When it came to decision-making within the NRM, the project raised additional concerns. An express objective of the reforms introduced by Part 5 of NABA was to improve the quality of decision-making within the NRM and increase trust in the system among all stakeholders.⁹³ However, a major theme emerging from discussions with research participants was that the implementation of Part 5 of NABA has had the opposite effect, with participants perceiving **a significant drop in the quality and consistency of decisions delivered by the Competent Authorities** after the adoption of the Statutory Guidance in January 2023. While participants noted that many of these issues existed prior to the implementation of NABA, they highlighted that they have been exacerbated by the measures introduced to implement NABA, particularly

[the UK on small boats](#)' (7 March 2023) (accessed 9 May 2024). This, however, does not in itself constitute clear evidence of 'abuse'. Moreover, this cohort only represents a relatively small proportion of Albanian nationals referred into the NRM (for instance, 807 Albanian nationals were released from detention following a positive RG decision between January 2021 and September 2022, compared to 4609 referred into the NRM in 2022 alone, 90% of whom received a positive RG decision). See other references in (n 26) for an overview on the debate around 'abuse' of the NRM.

⁹⁰ Among others, Participant No. 1 (Law Firm), FG CSOs (18 Dec 23); Participant No. 3 (Frontline NGO), FG CSOs (18 Dec 2023); Participant No. 2 (Frontline NGO), FG Children (14 Dec 2023); Participant No. 3 (Local Authority), FG StOs (13 Dec 2023).

⁹¹ Participant No. 4 (Local Authority), FG Children (14 Dec 2023).

⁹² Participant No. 1 (Law Firm), FG CSOs (18 Dec 23).

⁹³ See the discussion in Part 1 of this report.

with respect to the uneven application of the new evidentiary requirements.⁹⁴ In this respect, several individuals commented on how, following the changes made to the Statutory Guidance in January 2023, similar referrals (in terms of theme and supporting evidence) would often come back with different outcomes,⁹⁵ while others pointed to the fact that some decision-makers were applying the new threshold very restrictively, rejecting referrals with strong supporting evidence.⁹⁶ This was also an issue recognised by members of devolved NRM panels, who highlighted that inconsistency in the quality assurance process applied by the SCA created a great deal of uncertainty in terms of how it should be deciding cases:

The SCA have a very interesting interpretation of decision-making in some cases. We found that incredibly variable – in cases that we thought were extremely clear, [the SCA] have pushed back and vice-versa. And when we were adamant, they weren't. So, we found it really inconsistent. We were kind of then double-checking ourselves in meetings going like, well, would this pass SCA approval or not, it was like a different standard was being applied almost all the time. So, we struggled for a consistency, therefore, to help inform our decision making.⁹⁷

Concerningly, research participants suggested that the **changes to the RG evidentiary threshold in January 2023, despite being amended in the July 2023 Statutory Guidance, continue to have a 'legacy impact' on decision-making within the NRM.** A substantial number of participants reported that decision-makers continued to apply the 'objective factors' threshold from July 2023 onwards, or at least required some kind of additional evidence to grant a positive decision at the RG stage.⁹⁸ This finding is supported by the statistical analysis, which highlights that the rate of positive decisions has stabilised at a much lower level after the changes to the Statutory Guidance in July 2023 when compared with the situation prior to the January 2023 changes.⁹⁹ As one participant observed:

With regard to the raised reasonable grounds threshold, that's still a very live issue for us despite the reissued RG Guidance. We're both seeing and hearing of still a very high number of negative RGs despite the Guidance change that came in after the Duncan Lewis challenge. The reason primarily is "you're not providing enough information" as to the reason for the negative RG, but there doesn't seem to be any attempt by the SCA to get that [] information.¹⁰⁰

⁹⁴ Survey Respondent No. 23 (Law Enforcement); Survey Respondent No. 36 (Frontline NGO).

⁹⁵ Interview (Frontline NGO), 13 Dec 2023; Participant No. 3 (Law Enforcement), FG StOs (13 Dec 2023); Participant No. 9 (Frontline NGO), FG CSOs (5 Dec 2023).

⁹⁶ Survey Respondent No. 36 (Frontline NGO); Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023).

⁹⁷ Participant No. 4 (Local Authority), FG Children (14 Dec 2023).

⁹⁸ Survey Respondent No. 39 (Frontline NGO): 'We have also observed inconsistent decision-making with some decisions appearing to continue to apply the standard of the January guidance even after the guidance was amended in July'; Interview (Frontline NGO), 19 Dec 2023; Interview (Frontline NGO), 13 Dec 2023; Participant No. 6 (Frontline NGO), FG CSOs (18 Dec 2023); Participant No. 5 (Frontline NGO), FG CSOs (18 Dec 2023).

⁹⁹ See Part 2A(i).

¹⁰⁰ Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023).

Research participants involved in devolved panels confirmed that this was reflected in their own decision-making practices, highlighting how, in many cases, a stricter evidentiary standard continued to be applied than was the case prior to the January 2023 Statutory Guidance coming into effect. As one participant noted:

Although there have been amendments to the threshold in July going back to how it sort of was, we do find that it's difficult to reach RG decisions sometimes based on the young person's account alone. So, at the moment, I think we do still kind of see a little bit of an impact on the change from January, although it has been sort of rectified and amended back to how it used to be to a certain extent.¹⁰¹

Other participants agreed with this assessment:

[...] with those cases, had we heard them before, I think they would have flown through the panel, and we wouldn't really be having too much of a discussion about it. So, I think we are double guessing ourselves a little bit in this new threshold and/or newer threshold, and just applying probably at a higher level than we used to, even though our threshold's gone down a bit to what it was normally. I question whether we are still kind of indirectly [...] applying a higher threshold.¹⁰²

More concerningly, one research participant described observing a broader 'culture change' in how decisions are made by the Competent Authorities over the past year, noting the emergence of what they perceived to be a general climate of mistrust towards individuals going through the NRM system that translated into greater hesitation in granting a positive RG decision.¹⁰³ This was noted by another research participant as a particular challenge for individuals who had already previously received a positive NRM decision, and had been referred again on the basis that they had been subjected to repeat exploitation.¹⁰⁴ A greater suspicion around the legitimacy of NRM referrals among decision-makers also helps explain a drop in rates of recognition at the Conclusive Grounds stage – a point that will be returned to below.¹⁰⁵

In line with concerns around the quality and consistency of decision-making, research participants reported **a much greater reliance on reconsideration requests to challenge negative decisions at the RG and CG stages.**¹⁰⁶ While expressing concerns that strong referrals were initially being met with negative decisions, several participants commented on having considerable success in eventually having these decisions overturned – a finding which

¹⁰¹ Participant No. 9 (Local Authority), FG Children (14 Dec 2023).

¹⁰² Participant No. 4 (Local Authority), FG Children (14 Dec 2023).

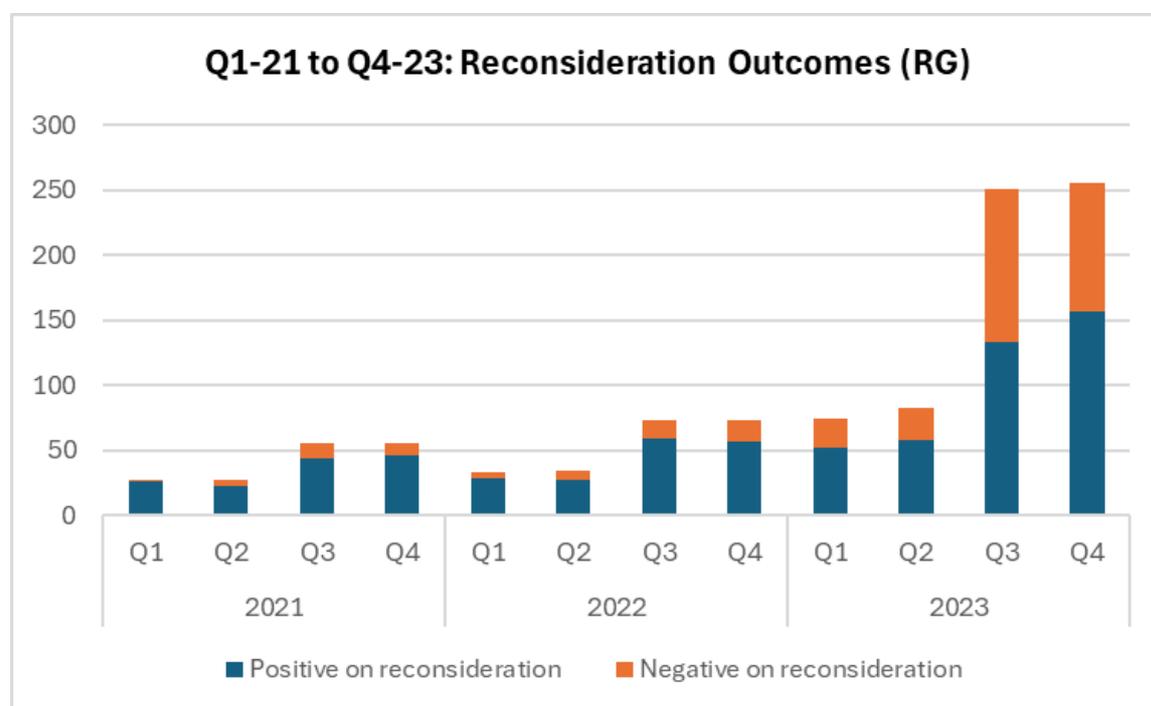
¹⁰³ Participant No. 1 (Law Firm), FG CSOs (18 Dec 2023).

¹⁰⁴ Participant No. 8 (Frontline NGO), FG CSOs (5 Dec 2023).

¹⁰⁵ See Part 2B below.

¹⁰⁶ Survey Respondent No. 34 (Law Firm); Survey Respondent No. 39 (Frontline NGO). Reconsideration of CG decisions is discussed in Part 2B(ii) below.

has troubling implications for the quality of decisions at first instance.¹⁰⁷ This, again, is supported by the data, which shows that the total number of reconsideration decisions at the RG stage (across both the SCA and IECA) increased dramatically for Q3 and Q4 of 2023 (i.e., after the review of the Statutory Guidance in July 2023).



Significantly, the rate of success of these requests varies between the SCA and the IECA. Across 2023 (Q1 to Q4), both Competent Authorities decided a similar number of reconsiderations at the RG stage (335 for the SCA, and 328 for the IECA). However, while the SCA decided 68% of reconsideration decisions positively, over the same period, the rate of positive decisions on RG reconsiderations for the IECA was only 52%.

Despite the dramatic overall increase in overturned decisions at the RG stage, it is important to be mindful of the fact that, in absolute numbers, **the rise in the number of reconsideration decisions in Q3 and Q4 of 2023 pales in comparison to the increased number of rejections at the RG stage in the first two quarters of the year.**¹⁰⁸ As research participants emphasised, many individuals who were rejected in this period have been unable to submit a reconsideration request – particularly where they have lost contact with their First Responder, or where they have been unable to access legal advice.¹⁰⁹ Another participant noted that, at least up until July 2023, First Responders were only being notified of the outcome of a decision,

¹⁰⁷ Participant No. 6 (Frontline NGO), FG CSOs (5 Dec 2023); Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023).

¹⁰⁸ To provide a broad frame of reference, there were 2876 negative RG decisions rendered in Q1 and Q2 of 2023.

¹⁰⁹ Participant No. 6 (Frontline NGO), FG CSOs (5 Dec 2023); Participant No. 1 (Law Firm), FG CSOs (5 Dec 2023); Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023).

absent any reasoning, and had to submit requests to obtain this information.¹¹⁰ This constitutes a major obstacle to successfully challenging low-quality decision-making through the reconsideration mechanism.

Additional concerns have also been prompted by changes made to the Statutory Guidance in February 2024 (v3.8), which introduced significantly truncated timeframes for requesting reconsideration of negative RG and CG decisions. Previously, reconsideration requests could be submitted up to three months after the notification of the negative RG or CG decision where there were concerns that the decision was not taken in line with the Guidance, and at any point where new evidence became available. Under the new Statutory Guidance, requests for reconsideration on either of these grounds must now be submitted within one month of notification of the decision, together with any supporting evidence.¹¹¹ This raises serious concerns that a lot of poor-quality RG decisions will continue to go unchallenged.

B. Conclusive Grounds stage

(i) Decision-making outcomes

There were also changes in the ratio of positive decisions at the CG stage over the same period. **While positive CG decisions were stable at around 90% in 2021 and 2022, the ratio dropped to 68% in 2023.** Though less statistically significant than the changes to the rate of positive decisions at the RG stage, these changes are no less disconcerting. Indeed, while the changes in the rate of positive RG decisions can be explained, at least in part, by the elevation of the evidentiary threshold in the January 2023 Statutory Guidance, when it comes to the CG stage, the drop in the rate of positive decisions is less easily rationalised as the outcome of a change in law or policy. Indeed, neither NABA, nor the Statutory Guidance, have made changes to the standard of proof or the evidence requirements at the CG stage over the period examined.

The drop was much more significant for adults than for children – for adults, the ratio of positive CG decisions dropped from an average of 86% in 2020 to 2022, with peaks of 92% in Q4-21 and Q2-22, to an average of 60% in 2023, with an all-time low of 30% in Q2-23; for children, it dropped from an average of 95% in 2020 to 2022, with peaks of 97% in Q3-20 and 96% in Q4-21, to an average of 81% in 2023, with an all-time low of 76% in Q3-23 and Q4-23. A breakdown of the ratio of positive to negative decisions by quarter shows that the most significant drop in positive decisions for adults took place between Q4-22 and Q1-23, when positive decisions decreased from 82% to 68%, and between Q2-23 and Q3-23, when positive decisions decreased from 70% to 59%, before **plummeting to 44% in Q4-23, which was the**

¹¹⁰ Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023). Note that, under the current version of the Statutory Guidance, notification of a negative decision must be accompanied with a copy of the consideration minute that provides the reasons for the outcome. Statutory Guidance (v3.8), para. 14.183.

¹¹¹ Statutory Guidance (v3.8), paras. 14.216 and 14.223. The Guidance also stipulates, at para. 14.288, that: 'Extensions to this timeframe will only be granted in exceptional circumstances and it will be at the discretion of the decision maker to determine if exceptional circumstances apply.'

first time in the history of the NRM that the number of negative CG decisions was higher than that of positive CG decisions.

As in the case of RG decisions, there were **significant differences between the SCA and the IECA**: positive CG decisions taken by the SCA decreased from over 90% in 2020, and between then and Q3-22, to 86% in Q4-22, before dropping to 71% in Q4-23. Positive CG decisions taken by the IECA, meanwhile, decreased from 100% in Q1-22 to 92% in Q3-22, before plummeting to 24% in Q3-23 and 27% in Q4-23. Significantly, **the IECA took 247 CG decisions for individuals who were children at the time of exploitation** between Q1-22 and Q4-23.¹¹² This number increased quarter by quarter, from 3 in Q1-22 to 136 in Q4-23. As the absolute number of decisions increased, the ratio of positive to negative decisions decreased, from 100% positive CG decisions in Q1-22, Q2-22, and Q3-22 (a total of 23 decisions), to 88% in Q4-22, before a drastic decrease to 50% in Q1-23 and 32% in Q2-23 (followed by an increase to 61% in Q3-23 and a further decrease to 48% in Q4-23).

Exploring data on CG decisions in terms of **nationality, gender, and type of exploitation**, it is concerning that similar trends and patterns emerge compared to those highlighted for RG decisions over the same period. It is first worth noting that between Q3-21 and Q4-23, out of 18,247 CG decisions, 11,732 were made with respect to Albanian (6,658) and British (5,074) nationals – equalling 64% of *all* CG decisions. Comparing the total number of CG decisions over time, while the number of decisions on British nationals per quarter has remained fairly stable (around 535), the number of decisions on Albanian nationals increased significantly from Q4-22 (514 decisions) to Q3-23 (1,214 decisions) and Q4-24 (1,199 decisions).¹¹³ This policy is reflected in the most recent version of the Statutory Guidance, which recognises that ‘Albanian national potential victims’ constitute a priority group for decision-making at the CG stage.¹¹⁴ This change in course is concerning, however, when viewed against the trend in positive CG decisions which has accompanied it, particularly in the absence of an express rationale for prioritising outstanding CG decisions pertaining to Albanian nationals.¹¹⁵ **While, by comparison, the ratio of positive CG decisions generally decreased from 91% in Q3-22 to 85% in Q4-22, 65% in Q3-23, and 54% in Q4-23, for Albanian nationals it decreased from 88% in Q3-22 to 77% in Q4-22, 55% in Q3-23, and 42% in Q4-23.** Other nationalities have also been particularly affected – including Vietnamese, Eritrean, Chinese, Nigerian and Indian nationals, who have seen their positive CG ratio decrease from an average of 92% in Q3-22 to 90% in Q4-22, 62% in Q3-23 and of 52% in Q4-23.

¹¹² See Part 2A(i).

¹¹³ See also below in Part 2B(ii).

¹¹⁴ Statutory Guidance v3.8, para. 14.129.

¹¹⁵ One research participant suggested that the prioritisation of outstanding CG decisions involving Albanian nationals is closely linked with the certification of asylum claims. Participant No. 3 (Law Enforcement), FG StOs (13 Dec 2023). On the relationship between NRM decisions and certification of asylum claims, see Part 3A below.

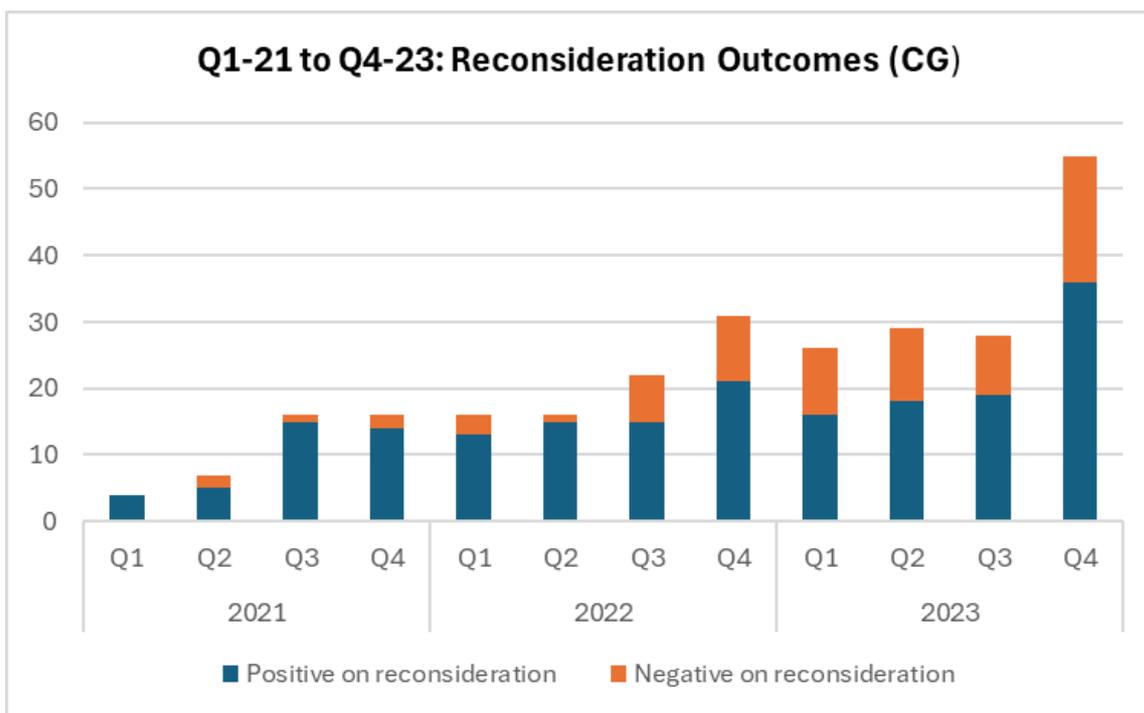
Generally, the **ratio for adults decreased more than the ratio for children** – with positive adult decisions reaching a low of 44% for Vietnamese nationals in Q3-23, and positive children decisions reaching a low of 58% for Albanian nationals in the same quarter. There were no significant differences overall regarding **gender**. In terms of **exploitation type**, as in the case of RG decisions, there was an overall decrease in the ratio of positive CG decisions. The most impacted cases were those related to labour exploitation, followed by labour and criminal exploitation (as a multiple form of exploitation), and criminal exploitation. The impact on cases of sexual exploitation was considerably less severe, with the ratio of positive CG decisions decreasing minimally (from an average of 95% in 2022 to an average of 86% in 2023).

As far as **Competent Authorities** are concerned, for SCA decisions the ratio of positive decisions decreased for all nationalities, particularly for Chinese, Eritrean, Nigerian, and Vietnamese nationals (from an average of 90% in Q4-22 to an average of 70% in Q3-23). **Within the IECA, Albanians were vastly over-represented, with 1,914 CG decisions between Q1-22 and Q4-23**, compared to 121 decisions for Eritrean nationals, the second most represented nationality. For Albanian adults, there has been a decrease in positive decisions within the IECA from an average of 83% in 2022 to an average of 21% in 2023. For Albanian children at the time of exploitation (116 decisions over the whole period), meanwhile, the ratio of positive decisions by the IECA decreased from 100% in Q1-22, Q2-22, and Q3-22 (11 CG decisions) to 50% in Q4-22 (4 CG decisions), 37% in Q1-23 (19 CG decisions), 21% in Q2-23 (19 CG decisions), 40% in Q3-23 (15 CG decisions), and 21% in Q4-23 (48 CG decisions).

(ii) Quality of decision-making

As observed above, not only has the rate of positive decisions fallen drastically for Albanian nationals at the CG stage, but there has also been a proportionally drastic increase in the number of these decisions vis-à-vis nationals of other countries. In this respect, the CG data appears to substantiate concerns around biases and unfair treatment within the NRM. Alongside this, participants noted other patterns of decision-making at the CG stage that appeared to deviate from published guidance. For instance, one focus group participant indicated that, since the suspension of POD decisions following the legal challenge in July 2023, they had noticed a considerable increase in negative CG decisions for individuals who had previously been informed that they were being considered for disqualification, with these decisions focusing much more on minor credibility issues and inconsistencies than similar cases would have been previously.¹¹⁶

¹¹⁶ Participant No. 1 (Law Firm), FG CSOs (5 Dec 2023).



Growing concerns over the quality of decision-making at the CG stage since the implementation of Part 5 of NABA are reflected, again, in an absolute rise in the number of decisions that have been overturned on reconsideration. In contrast to the trends in RG reconsideration outcomes, the CG data shows that the number of reconsideration decisions remained relatively consistent around the introduction of the changes to the Statutory Guidance in January 2023, but spiked in the last quarter of 2023. Unlike the increase in successful reconsiderations of RG decisions in Q3 and Q4 of 2023, this cannot be explained by changes to the Statutory Guidance.

While the SCA and IECA decided a similar number of reconsideration requests in 2023 at the RG stage, this is not the case for CG reconsiderations (the SCA decided 103 cases in total across all four quarters of 2023, compared to 35 for the IECA). Although based on a smaller dataset, there continue to be discrepancies in the rate of positive reconsideration outcomes between the two Competent Authorities at the CG stage, with the SCA deciding 73% of reconsiderations positively, compared to 40% in the case of the IECA. The rise in the total number of decisions overturned on reconsideration is particularly concerning in light of the government’s decision to disband the independent panels of experts set up to review all negative CG decisions (‘Multi-Agency Assurance Panels’, or “MAAPs”) in December 2022.¹¹⁷

¹¹⁷ The decision to withdraw these panels was made ‘[o]n account of the ongoing pressure on the time taken to make decisions in the NRM’. Robert Jenrick (Home Office), 28 Feb 2023, in Joe Tyler-Todd and Joanna Dawson, ‘[Commons Library Debate Pack](#)’ (Number CDP-2023/0062 March 2023), p. 28 (accessed 9 May 2024).

C. Delays in NRM decision-making

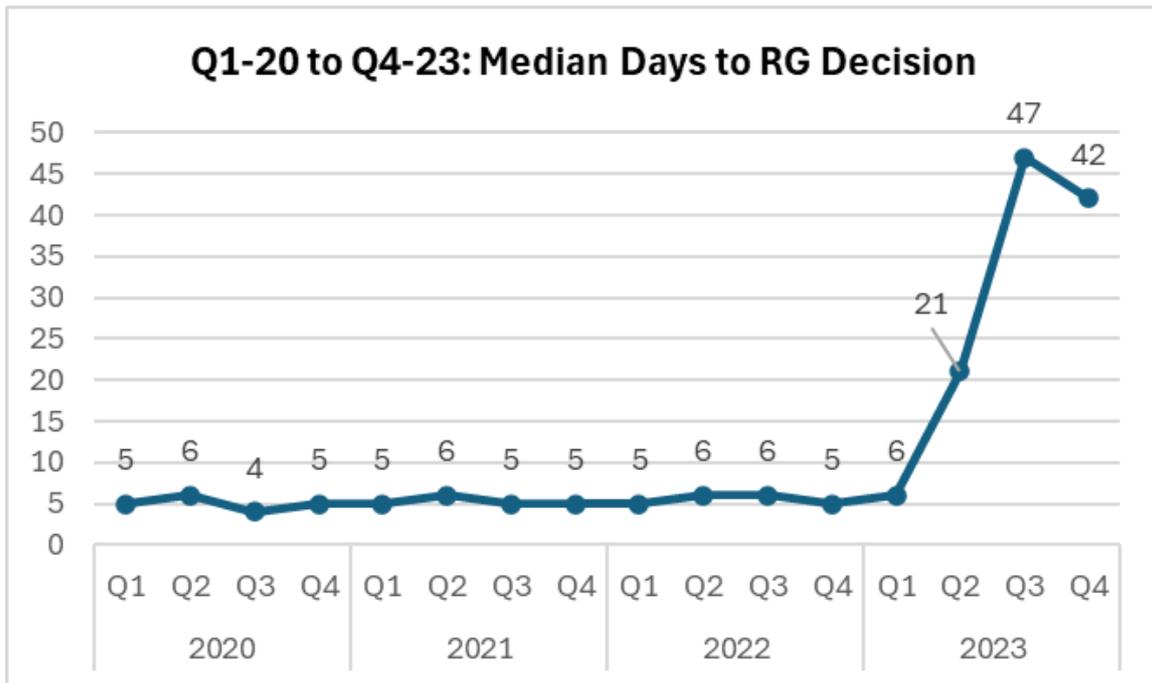
When asked about potential improvements introduced by NABA with respect to the identification and support of people with lived experience of modern slavery, several survey respondents commended the government's commitment to speeding up the decision-making process within the NRM.¹¹⁸ However, only 15% of respondents believed that the implemented changes were likely to contribute to the government's stated objective of 'identifying people with lived experience of modern slavery as quickly as possible', with 60% of respondents considering this outcome to be 'unlikely' or 'very unlikely' (27% and 33%, respectively).¹¹⁹

In terms of the effects of the changes so far, it is clear that the amendments to the Statutory Guidance in January 2023 have had a negative impact in this area, directly contributing to a **significant increase in the average time between an NRM referral and the rendering of a decision at the RG stage**. While the average waiting time for RG decisions had been stable between 2015 and 2022, this more than tripled in 2023 (from 13 days in 2022 to 43 in 2023), reaching 56 and 53 days in Q3- and Q4-23 respectively. This vastly exceeds the target set in the Statutory Guidance, which states that '[t]he expectation is that [C]ompetent [A]uthorities will make a Reasonable Grounds decision within 5 working days, where possible, of the NRM referral being received'.¹²⁰ As the graph below demonstrates, this was matched by an increase in the median number of days between an NRM referral and the issuing of an RG decision. While this generally met the 5-day target prior to 2023, it peaked at 47 days in Q3-23, falling marginally to 42 days in Q4-23.

¹¹⁸ Survey Respondent No. 4 (Local Authority) Survey Respondent No. 18 (Local Authority); Survey Respondent No. 30 (Local Authority).

¹¹⁹ 21% responded 'not sure'.

¹²⁰ Statutory Guidance (v3.8), para. 14.49.



A significant number of research participants considered the increase in the time taken to reach RG decisions to be one of the most significant negative impacts of the changes introduced to implement NABA, attributing this to the increased ‘back-and-forth’ between First Responders and the Competent Authorities as a result of the elevated evidentiary requirements.¹²¹ Again, it was emphasised that these impacts are yet to be reversed by the July 2023 amendments, with the application of requirements akin to ‘objective evidence’ continuing to create delays in the system at the RG stage.¹²² Research participants also argued that changes introduced by NABA have in many cases increased the time it takes to submit NRM referrals in the first place – an additional delay that would not be captured in the statistics.¹²³ Participants attributed this to the much greater burden placed on First Responders to collect evidence to support their referral.¹²⁴ Particular challenges in this respect were noted where a referral is being made on behalf of another organisation (for instance, where that organisation is not a First Responder),¹²⁵ or if the individual is reluctant to disclose further information that may be required to support their case (for instance, where the referral is being made by the police).¹²⁶ Alongside practical impediments to timely referrals, research participants noted how changes to the evidentiary requirements at the RG stage have also caused greater hesitation among First Responders about when to submit NRM referrals, with one participant explaining that:

¹²¹ Survey Respondent No. 15 (Government Department); Survey Respondent No. 16 (Frontline NGO); Survey Respondent No. 21 (Frontline NGO); Participant No. 3 (Law Enforcement) & Participant No. 6 (Healthcare Provider), FG StOs (13 Dec 2023); Participant No. 5 (Frontline NGO), FG CSOs (18 Dec 2023); Interview (Law Enforcement), 18 Dec 2023.

¹²² Participant No. 6 (Frontline NGO), FG CSOs (18 Dec 2023).

¹²³ Statistics are calculated from when NRM referral is received until when the RG decision is made.

¹²⁴ Participant No. 10 (Frontline NGO), FG CSOs (18 Dec 2023).

¹²⁵ Participant No. 4 (Local Authority), FG StOs (13 Dec 2023).

¹²⁶ Participant No. 8 (Frontline NGO), FG CSOs (5 Dec 2023).

The change in reasonable grounds to objective factors means that First Responders are uncertain of when to put referrals in and feel they need to know absolutely rather than putting one in when they think exploitation is happening. This means that there [are] a lot of referrals going in later that could impact on early identification.¹²⁷

This was also reported specifically in relation to child referrals:

We [...] might not refer for an NRM straightaway [...] we might wait a couple of weeks until we get all the information possible to then put in. It's not [that] we're not doing our safeguarding procedures and fulfilling our duty as First Responders, but we're a little bit more cautious about like, evidence and stuff to go through. Like if we do [it] too soon, and we don't have information, then it could fail in itself. So, we're more cautious around that.¹²⁸

As such, the delay in receiving an RG decision may in some cases be much longer than what these figures suggest. The impacts of delays in the receipt of an RG decision on people with lived experience of modern slavery are considered in detail in Part 3 of this report.¹²⁹

At the **CG stage**, the picture is somewhat different, as waiting times had been generally increasing over the years – from an average of 165 days in 2015 to an average of 667 days in 2022 – and they dropped slightly in 2023 to an average of 631 days. However, given the length of time taken to reach CG decisions under the current system, it is too early to say whether any of the changes introduced to implement NABA have had an impact on waiting times. Nonetheless, research participants did comment on efforts to speed up decision-making at the CG stage, including the introduction of the 14-day deadline for providing evidence requested by the Competent Authorities at the CG stage.¹³⁰ Research participants agreed that these deadlines set very unrealistic targets to gather the requested information, especially if expert evidence is required.¹³¹ While it was generally noted that the Competent Authorities have been relatively accommodating when it comes to granting extension requests on these deadlines,¹³² some participants reported issues in this respect, especially where extensions were requested to access legal advice for the purpose of drafting requested witness statements.¹³³ Irrespective

¹²⁷ Survey Respondent No. 8 (Law Enforcement).

¹²⁸ Participant No. 4 (Local Authority), FG Children (14 Dec 2023).

¹²⁹ See Part 3B below.

¹³⁰ This was introduced together with the changes implementing Part 5 of NABA in the January 2023 Statutory Guidance. Under this policy, at the CG stage, the Competent Authorities may impose a 14-day deadline for any additional requested information to be provided from the 'potential victim' or their legal representative, while for other parties involved in the case, the imposition of this deadline is mandatory. Statutory Guidance (v3.8), paras. 14.138 and 14.143, respectively.

¹³¹ Participant No. 1 (Law Firm) & Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023); Survey Respondent No. 38 (Frontline NGO).

¹³² Participant No. 1 (Law Firm) & Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023); Survey Respondent No. 28 (Law Firm). On exercise of this discretion, see Statutory Guidance (v3.8), paras. 14.140-14.142, and paras. 14.144-14.145.

¹³³ Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023); Participant No. 5 (Frontline NGO), FG CSOs (18 Dec 2023).

of whether the extension was granted, participants agreed that preparing and submitting extension requests was time-consuming, especially given the level of detail required for approval.¹³⁴ As such, the research indicated that the imposition of unrealistic deadlines for submitting additional evidence at the CG stage was having little effect on improving the speed of decision-making, while also increasing the burden on services required to gather and provide this evidence.

D. Public order disqualifications (“POD”)

Another heavily criticised aspect of Part 5 of NABA 2022 has been the adoption of section 63, which introduced powers to disqualify individuals with a positive RG decision from protection on grounds of public order or on the basis that this status was claimed in bad faith. When this provision was originally introduced within the Nationality and Borders Bill, commentators raised concerns that it ‘casts a wide net’, potentially affecting a large number of individuals with lived experience of modern slavery.¹³⁵ Concerns over the breadth of disqualification have centred primarily on the public order ground, which introduces the possibility of exclusion from protection on the basis of former criminal convictions and national security concerns,¹³⁶ including where foreign nationals have received a custodial sentence of at least 12 months.¹³⁷ In particular, commentators have noted that this provision risks further penalising people with lived experience of modern slavery who have been wrongly convicted of offences that they were compelled to commit as a part of their exploitation,¹³⁸ ‘introduc[ing] a higher risk of double punishment for those presumed victims who have received convictions’.¹³⁹

These concerns were reflected in the experiences of research participants around the implementation of the public order disqualification procedure (introduced in the January 2023 Statutory Guidance).¹⁴⁰ Research participants confirmed that, in their experience, **POD**

¹³⁴ Survey Respondent No. 28 (Law Firm).

¹³⁵ Independent Anti-Slavery Commissioner (n 26), p. 6.

¹³⁶ NABA, section 63.

¹³⁷ NABA, s63(3)(f), applying the meaning of ‘foreign criminal’ contained in section 32(1) of the UK Borders Act 2007. Commentators have noted that the low threshold for disqualification, rather than protecting against threats to national security and public order, instead introduces a distinction between individuals who are ‘worthy’ and ‘unworthy’ of support based on whether they have a prior a criminal record. Law Society of Scotland, [‘Evidence to the Nationality and Borders Bill Public Bill Committee with Amendments to be tabled in Committee’](#) (August 2021), p. 44 (accessed 9 May 2024).

¹³⁸ Helen Bamber Foundation, [‘Written evidence submitted by the Helen Bamber Foundation \(NBB25\)’](#) (20 October 2021), para. 25 (accessed 9 May 2024).

¹³⁹ Law Society of Scotland (n 137) p. 44.

¹⁴⁰ Over the period under consideration (Q1 – Q4 2023), no disqualification requests were made on grounds of bad faith, according to the data available. Home Office Official Statistics, [‘Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2023’](#) (7 March 2024) (accessed 9 May 2024). Note that, according to Home Office NRM data, 7 disqualification decisions were made on the basis of ‘bad faith’ in Q1 of 2024. Home Office Official Statistics, [‘Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, quarter 1 2024 – January to March’](#) (9 May 2024) (accessed 9 May 2024).

decisions were frequently issued to persons with lived experience of forced criminality.¹⁴¹

Concerns were also raised generally regarding the quality of decision-making in this area, with one participant referring to how decisions were often ‘made without reference to anything other than sentencing remarks, deportation order, very limited documents, and clearly not very well reasoned or thought through’.¹⁴² This is particularly concerning in light of the fact that, according to the Statutory Guidance, there is no possibility for affected individuals to formally appeal or request reconsideration of these decisions, leaving judicial review as the only remedy.¹⁴³ Indeed, research participants confirmed that, in the absence of access to legal aid, it is next to impossible to challenge these decisions,¹⁴⁴ with some expressing serious concerns that, in their experience, **individuals were frequently detained at the time of the POD decision**, severely limiting their ability to access lawyers.¹⁴⁵

Statistics on disqualification drawn from the UK Data Service fully support observations of a disproportionate impact on people with lived experience of forced criminality.¹⁴⁶ In terms of **exploitation type**, most disqualification decisions were issued regarding cases of criminal exploitation (118, 36%) and labour and criminal exploitation (111, 34%), followed by labour exploitation (67, 20%). As such, **70% of all disqualified individuals were acknowledged as having an element of criminal exploitation in their case** (73% of adult cases and 65% of child cases), compared to an average of 44% of NRM referrals with an element of criminal exploitation from 2020 and 2023. All other forms of exploitation in POD cases accounted for 23 cases (7%), while the type of exploitation was unknown in 11 instances (3%). This reinforces concerns that individuals may have been excluded from protection based on criminal conduct that they were compelled to commit as part of their exploitation – an outcome that is not precluded by section 63 of NABA, nor by the procedure foreseen within the Statutory Guidance for implementing this provision.¹⁴⁷ The Modern Slavery Statutory Guidance also relieves the Secretary of State of the duty to issue a CG decision for disqualified individuals, which lacks a clear statutory basis and makes it even more difficult to contest these claims on the basis that the criminal offence formed part of the exploitation.¹⁴⁸

¹⁴¹ Survey Respondent No. 34 (Law Firm); Survey Respondent No. 35 (Law Firm).

¹⁴² Participant No. 1 (Law Firm), FG CSOs (5 Dec 23).

¹⁴³ See Statutory Guidance (v3.8), para. 14.289.

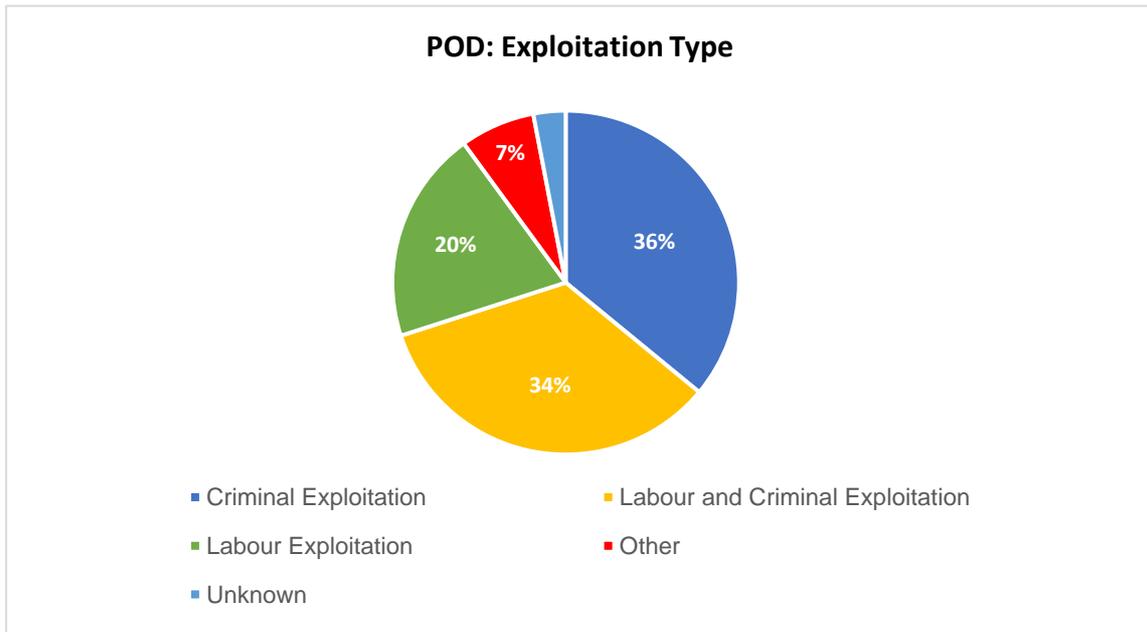
¹⁴⁴ Participant No. 6 (Frontline NGO), FG CSOs (5 Dec 2023).

¹⁴⁵ Participant No. 1 (Law Firm), FG CSOs (5 Dec 2023); Participant No. 7 (Frontline NGO), FG CSOs (18 Dec 2023).

¹⁴⁶ These statistics cover Q1-Q3 2023, given that the Home Office paused all disqualification decisions from 31 July 2023 to 8 January.

¹⁴⁷ Statutory Guidance (v3.8), para. 275. According to this decision-making framework, the fact that the offence was committed as part of the individual’s exploitation is recognised as an indicator that they pose a low risk to public order, but alone is not sufficient to draw this conclusion.

¹⁴⁸ Statutory Guidance (v3.8), para. 14.242. See (n 49) above.



The analysis also uncovered further trends in public order disqualification decisions. Out of 330 cases, 328 related to **males (99%)** and 265 related to **adults (80%)**. Children accounted for 37 cases (11%), of which 24 (65%) had an element of criminal exploitation, and 37 (100%) were male. Age was unknown in 28 cases (9%). In terms of **nationality**, the vast majority of disqualification decisions were applied to **Albanian nationals (230, 70%)**, followed by Vietnamese nationals (11, 3%), Romanian and Polish nationals (7, 2%), and Lithuanian and Portuguese nationals (6, 2%). All other nationalities accounted for 63 cases (19%). It is significant to note that while Albanian nationals represented around 25% of all NRM referrals over this period, they accounted for 70% of all POD decisions, meaning that they were vastly over-represented in this area. Lastly, **most disqualification decisions were taken by the IECA (216, 65%)**, with the SCA taking the remaining 114 decisions (35%). It is also significant to note that **74% of decisions (245) related to referrals originally made by the Home Office Immigration Enforcement (UKIE)**.¹⁴⁹

These figures provide cause for serious concern, highlighting a disturbing nexus between **gender, nationality, and immigration status** when it comes to disqualifying individuals on grounds of public order. As indicated in Part 1, the Statutory Guidance was amended in January 2024 to require an assessment of the risk of re-trafficking prior to deciding on disqualification

¹⁴⁹ Various sources have raised concerns that disqualification may have disproportionate impacts on foreign nationals, especially in light of the immigration offences introduced by Part 3 of the Nationality and Borders Act. See, for instance, Group of Experts on Action against Trafficking in Human Beings, [‘Evaluation Report United Kingdom: Third evaluation round’](#), GRETA(2021)12, para. 8; Independent Anti-Slavery Commissioner (n 26), p. 8; Doughty Street Chambers, [‘Part 4 of the Nationality and Borders Bill 141 of 2021-22: Doughty Street Chambers Anti-Trafficking Team Written Evidence’](#) (2 November 2021), para. 26 (accessed 9 May 2024); Focus on Labour Exploitation (“FLEX”), [‘Written Evidence submitted by Focus on Labour Exploitation \(FLEX\) \(NBB43\)’](#) (29 October 2021), para. 2.5 (accessed 9 May 2024).

on grounds of public order. However, the period analysed in this project predates this change, so the research team has not been able to determine the impact of this amendment (if any).

E. Leave to remain (“VTS leave”) and immigration status

Research participants emphasised that it was already very challenging to secure leave for clients under the former Discretionary Leave to Remain (“DLR”) guidance, with one participant explaining that ‘a very high proportion of the people that were getting it were [...] clients [who had access to] medico-legal reports and clinical evidence’.¹⁵⁰ However, since the publication of the ‘Temporary Permission to Stay’ Guidance (“VTS Guidance”) in January 2023,¹⁵¹ securing limited leave on the basis of accessing recovery support was reported to be ‘next to impossible’, even for immigration lawyers with considerable experience of working with this client group.¹⁵²

This was partly understood to be a result of narrowing the grounds for the conferral of leave to remain. As various commentators noted during the passage of the Nationality and Borders Bill, the formulation of grounds for providing VTS leave on the basis of individuals’ recovery needs is much narrower than the pre-2023 Statutory Guidance, which, in line with the UK’s international obligations under the Council of Europe Convention on Action against Trafficking in Human Beings, referred more broadly to situations where the grant of leave was ‘necessary owing to [the individual’s] personal circumstances’.¹⁵³ Commentaries on NABA have also focused on the lack of child-specific considerations within this provision, and specifically the duty to consider the best interests of the child.¹⁵⁴ This is reflective of a more general criticism of the Act, which highlights the fact that NABA fails to distinguish between adults and children with lived experience of modern slavery – a shortcoming which is arguably inconsistent with international standards.¹⁵⁵

¹⁵⁰ Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023). For statistics on the grant of discretionary leave to confirmed ‘victims’ of modern slavery from 2020-2022, see Helen Bamber Foundation, [‘Leave in Limbo: Survivors of trafficking with uncertain immigration status’](#) (August 2023), p. 9 (accessed 9 May 2024).

¹⁵¹ Home Office, ‘Temporary Permission to Stay considerations for Victims of Human Trafficking or Slavery’ Version 3.0 (updated 8 June 2023) (“VTS Guidance”). As indicated in Part 1B of this report, this Guidance was adopted to implement section 65 of the Nationality and Borders Act.

¹⁵² Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 23); Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023); Participant No. 6 (Frontline NGO), FG CSOs (18 Dec 2023); Survey Respondent No. 1 (Frontline NGO); Survey Respondent No. 35 (Law Firm); Survey Respondent No. 36 (Frontline NGO).

¹⁵³ Helen Bamber Foundation (n 150), p. 10. Anti-Trafficking and Labour Exploitation Unit (“ATLEU”), [‘ATLEU’s Briefing for Committee Stage of the Nationality and Borders Bill’](#) (25 October 2021), p. 13 (accessed 9 May 2024). This was also noted by research participants – among others, Survey Respondent No. 30 (Local Authority) and Participant No. 9 (Frontline NGO), FG CSOs (18 Dec 2023).

¹⁵⁴ See Independent Anti-Slavery Commissioner (n 26), pp. 9-10: ‘[t]here is considerable concern within the sector regarding the absence of children throughout the Bill’. See also Hope for Justice, [‘Written evidence submitted by Hope for Justice \(NBB44\)’](#) (3 November 2021), para. 6.1 (accessed 9 May 2024); ECPAT UK, [‘Written evidence submitted by ECPAT UK \(NBB30\)’](#) (19 October 2021), paras. 6.1-6.8 (accessed 9 May 2024).

¹⁵⁵ Nottingham Rights Lab (n 11), p. 2; Doughty Street Chambers (n 149), para. 21.

However, in applying the VTS Guidance, there was also a general impression among research participants that decision-makers within the Home Office have not been engaging meaningfully with the evidence provided and that the reasoning provided in these decisions has often been inadequate.¹⁵⁶ For instance, one participant described a situation where an individual had been refused VTS leave on the basis that they would be able to access therapy for their condition in their home country, overlooking the fact that the individual also had a pending asylum claim, and therefore could not safely be returned for fear of persecution.¹⁵⁷ Another research participant commented on the fact that the reasoning provided for the rejection of VTS applications was often very limited, making it difficult to challenge these or to understand what evidence may be required for future applications.¹⁵⁸

Alongside this, several research participants commented on the fact that, in their experience, negative VTS decisions often placed great importance on the fact that the individual had a prior criminal conviction, even where considerable evidence was provided to substantiate their need for medical treatment in the UK owing to their experience of modern slavery.¹⁵⁹ This reflects one of the decision-making criteria in the VTS Guidance, which explains that ‘criminals or extremists should not normally benefit from permission to stay because it is a Home Office priority to remove them from the UK’.¹⁶⁰ This raises concerns about access to VTS leave for people with lived experience of forced criminality, in line with many of the issues already raised in this report regarding NRM and POD decision-making (indeed, one participant described the observation that VTS leave was not ordinarily granted to people with criminal convictions as ‘POD through the back door’).¹⁶¹ However, the ability to test these claims against the government’s stated objectives is frustrated by the fact that the Home Office has not, to date, published data on the grant of VTS leave.¹⁶²

Reports of limited access to VTS leave under the new Guidance should be considered alongside concerns raised in the wider literature around the potential impacts of NABA asylum provisions on people with lived experience of modern slavery. Various commentators have suggested that the narrowing of the grounds for qualifying as a refugee through ‘membership of a particular social group’ under section 33 of NABA threatens to undermine the protections offered by the

¹⁵⁶ Survey Respondent No. 28 (Law Firm); Survey Respondent No. 35 (Law Firm); Survey Respondent No. 36 (Frontline NGO).

¹⁵⁷ Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023). This kind of reasoning is particularly worrying in light of a recent ruling by the High Court, which found that Home Office decision-makers were instructed to follow internal guidance to deny leave to remain to confirmed ‘victims’ with pending asylum cases, contrary to the published DLR Guidance applicable at the time. Matrix Law, [‘High Court holds that Secretary of State ran an unlawful secret policy which frustrated the right of c.1500 confirmed victims of modern slavery to leave to remain’](#) (23 January 2024) (accessed 9 May 2024).

¹⁵⁸ Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023).

¹⁵⁹ Participant No. 1 (Law Firm), FG CSOs (5 Dec 2023); Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023).

¹⁶⁰ VTS Guidance (v3.0), para. 12. Note that the rest of this passage has been restricted for internal Home Office use, which also raised concerns among research participants. Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023).

¹⁶¹ Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023).

¹⁶² Nottingham Rights Lab (n 12), p. 22.

asylum system for persons with lived experience of modern slavery.¹⁶³ Sources have also pointed to the fact that, in addition to reduced possibilities of qualifying for asylum among persons with lived experience of modern slavery, the introduction of measures that permit the differential treatment of refugees (section 12 of NABA), together with expanded powers of removal under safe third country rules (sections 16 and 29 of NABA), are likely to be detrimental to the identification and support of individuals with lived experience of modern slavery who are seeking international protection in the UK.¹⁶⁴ Further research should be conducted to understand the impacts of provisions on immigration, asylum, and nationality within NABA on people with lived experience of modern slavery, particularly in light of the additional legislative changes introduced by the Illegal Migration Act.¹⁶⁵

¹⁶³ United Nations High Commissioner for Refugees ("UNHCR"), '[UNHCR Observations on the Nationality and Borders Bill, Bill 141, 2021-22](#)' (October 2021), paras. 150-156 (accessed 9 May 2024); Doughty Street Chambers (n 149), para. 26; Stephanie Harrison QC et al. (n 74), para. 25; Special Rapporteur Joint Letter (n 50), p. 13.

¹⁶⁴ Modern Slavery Policy Unit (Justice and Care and the Centre for Social Justice), '[Written evidence submitted by the Modern Slavery Policy Unit of Justice and Care and the Centre for Social Justice \(NBB19\)](#)', paras. 6.1-6.2 (20 October 2021) (accessed 18 April 2024); Helen Bamber Foundation (n 138), paras. 7-8.; Christian Action Research and Education, '[Written evidence submitted by CARE \(NBB46\): Submission to the Public Bill Committee on the Impact of the Nationality and Borders Bill on Victims of Modern Slavery: Clauses 49, 52 and 53](#)' (3 November 2021) (accessed 18 April 2021), para. 11.

¹⁶⁵ See 'Directions for future research' in Part 5 of this report.

Part 3: The impact of NABA on people with lived experiences of modern slavery

Parts 1 and 2 of this report set out the key changes introduced to operationalise Part 5 of NABA and the impacts these have had in terms of decision-making within the NRM, while also discussing the implementation of the POD procedure and the new guidance on VTS leave. This Part of the report considers the consequences of these findings in terms of their implications for people with lived experience of modern slavery. The government has consistently maintained that NABA is concerned not only with targeting alleged 'abusers' of the NRM, but also with 'giving victims the support they need to rebuild their lives'.¹⁶⁶ However, **the research did not identify any positive impacts of these measures on people with lived experience of modern slavery**. As summarised by one research participant:

I do not believe any aspect [of modern slavery policy] has been improved as a result of NABA. It has placed [a] number of barriers for potential victims to come forward, barrier[s] to access[ing] support services, created [an] untrusting environment and [a] lack of protection for all victims of modern slavery.¹⁶⁷

Part A focuses on the impacts of these changes in terms of access to protection and support within the NRM, while also highlighting how the operationalisation of measures contained within Part 5 of NABA have impacted access to international protection. Part B focuses on the wider impacts of these measures on people with lived experience of modern slavery in terms of distress and mental health, while Part C focuses on the impacts of these measures on their engagement with the NRM process and with the public authorities more broadly.

A. Access to (international) protection and support

Part 2 of this report highlighted how the changes introduced to implement NABA have resulted in a higher risk of individuals with lived experience of modern slavery receiving a negative NRM decision, while also introducing the possibility of disqualification from protection. As our research participants noted, **the clearest impact of these measures on affected individuals has been depriving them of the opportunity to receive the statutory support provided within the NRM mechanism**, which includes housing, financial support, and medical assistance.¹⁶⁸ As was widely acknowledged across the research, an inability to access support vastly increases the vulnerability of persons with lived experience of modern slavery, heightening the likelihood that they will remain trapped in their current situation of exploitation, or, if they have already managed to leave this situation, that they will be trafficked

¹⁶⁶ NABA Explanatory Notes (n 30), para. 32.

¹⁶⁷ Survey Respondent No. 38 (Frontline NGO).

¹⁶⁸ In England, this is provided through a contract concluded between the Home Office and the Salvation Army ("Modern Slavery Victim Care Contract", or "MSVCC"). Different funding arrangements apply for NRM support in Scotland and Northern Ireland.

and exploited again in the future.¹⁶⁹ Research participants highlighted how this will be more acutely felt by people with lived experience of modern slavery who are foreign nationals, and particularly those with no recourse to public funds.¹⁷⁰ There was also a discussion more generally of the devastating effects of a negative RG outcome on individuals who had been placed in a safehouse pending that decision, and who were then required to leave that accommodation at short notice – a situation, we were told, that was highly distressing for the affected individuals, and one which also exacerbated the risk of destitution and homelessness.¹⁷¹

In some instances, research participants confirmed that they were eventually able to secure access to NRM support for service users by having negative RG decisions reconsidered, particularly after the changes made to the evidentiary requirements in the July 2023 Statutory Guidance. However, it was highlighted that the significant delays in receiving a positive RG decision meant that individuals were frequently deprived of appropriate support for extended periods of time, which had lasting impacts on their wellbeing.¹⁷² Even more troublingly, many First Responders commented on **cases where they had lost contact with individuals after the initial negative RG decision, raising serious concerns that these individuals have been re-trafficked** (or, at the very least, that they remain deprived of the support that they require).¹⁷³ This underlines the devastating (and, in many cases, irreversible) impact of the increased evidentiary requirement on the protection and wellbeing of large numbers of individuals with lived experience of modern slavery in the UK.¹⁷⁴

Even for individuals who managed to receive a positive RG decision at first instance, several challenges were reported in terms of accessing support. Research participants commented on the fact that lengthy delays in awaiting this decision – detailed in Part 2 of this report – meant that individuals were frequently presenting with more acute needs when they were eventually able to access statutory support provided through the NRM.¹⁷⁵ Another issue which arose frequently in discussions was the **challenge of securing access to safe accommodation prior to an RG decision** – both through MSVCC safehouses and asylum accommodation. Under the current version of the Statutory Guidance, in England and Wales, MSVCC accommodation must

¹⁶⁹ Survey Respondent No. 30 (Local Authority); Survey Respondent No. 38 (Frontline NGO); Survey Respondent No. 39 (Frontline NGO); Participant No. 1 (Law Firm), FG CSOs (5 Dec 2023).

¹⁷⁰ Given their exclusion from mainstream benefits, these individuals are particularly reliant on support provided through the NRM to help them in their recovery and to guard against destitution and re-trafficking. These insights were shared, among others, by Survey Respondent No. 3 (Local Authority) and Survey Respondent No. 38 (Frontline NGO).

¹⁷¹ Survey Respondent No. 16 (Frontline NGO); Participant No. 4 (Frontline NGO), FG CSOs (5 Dec 2023).

¹⁷² Participant No. 3 (Frontline NGO), FG CSOs (18 Dec 2023); Survey Respondent No. 24 (Law Enforcement); Survey Respondent No. 30 (Local Authority); Interview (Law Enforcement), 18 Dec 2024.

¹⁷³ Participant No. 6 (Frontline NGO), FG CSOs (5 Dec 2023).

¹⁷⁴ Interview (Frontline NGO), 13 Dec 2023.

¹⁷⁵ Participant No. 7 (Frontline NGO), FG CSOs (18 Dec 23); Survey Respondent No. 15 (Government Department); Survey Respondent No. 17 (Law Enforcement); Survey Respondent No. 21 (Frontline NGO); Survey Respondent No. 23 (Law Enforcement).

be provided in the period between an NRM referral and RG decision only in limited circumstances – namely, ‘where there is reason to believe other accommodation available to them may be unsafe due to a risk of re-exploitation from their exploiters, or unsuitable, or if they are likely to be destitute prior to the Reasonable Grounds decision’.¹⁷⁶ Research participants noted that these criteria, reflecting changes made to version 3.5 of the Statutory Guidance (adopted in October 2023), meant that it was increasingly difficult to secure access to specialised MSVCC accommodation prior to the receipt of an RG decision.¹⁷⁷ Others commented on the fact that a reluctance to provide pre-NRM accommodation through the MSVCC was linked to the dramatic increase in negative RG decisions generally, and specifically concerns around the increased likelihood of homelessness should this decision come back negative and the individual concerned was forced to leave the service.¹⁷⁸ These types of issues were not limited to England and Wales – for example, one research participant commented on the situation of people with lived experience of modern slavery in the asylum system in Scotland. It was highlighted that, once in receipt of a positive RG decision, these individuals were entitled to private accommodation. However, until then, it was deemed suitable for these individuals to be in shared accommodation, even though they may be displaying significant symptoms of trauma.¹⁷⁹

In terms of insights shared by the lived experience consultants involved in the project, a lot of emphasis was placed on a **deteriorating quality in the support provided through the NRM**. While consultants’ experiences predated the time period considered in this report, concerns were raised that a growing culture of disbelief around modern slavery claims has led to the support system being less compassionate since the adoption of NABA, with accounts of discrimination in the provision of support against certain stigmatised groups, such as Albanian nationals.¹⁸⁰ Other lived experience consultants, meanwhile, drew attention to the fact that the increasing conflation of modern slavery with organised immigration crime has meant that the needs of British nationals in the NRM system have been increasingly overlooked¹⁸¹ – a concern also raised by survey respondents and focus group participants.¹⁸² While these are general observations only (and therefore do not apply by any means to NRM support across the board), they nonetheless raise serious cause for concern.

Changes to decision-making outcomes within the NRM have not only impeded access to support for individuals with lived experience of modern slavery, but have also had harmful effects on parallel claims related to asylum. One issue that emerged repeatedly in the research

¹⁷⁶ Statutory Guidance (v3.8), Annex F, para. 15.7.

¹⁷⁷ Survey Respondent No. 3 (Local Authority); Survey Respondent No. 8 (Law Enforcement); Survey Respondent No. 23 (Law Enforcement).

¹⁷⁸ Survey Respondent No. 23 (Law Enforcement).

¹⁷⁹ Participant No. 5 (Frontline NGO), FG CSOs (18 Dec 2023).

¹⁸⁰ Lived Experience Focus Group, 6 Feb 2024; Survey Respondent No. 39 (Frontline NGO).

¹⁸¹ Lived Experience Focus Group, 6 Feb 2024.

¹⁸² Survey Respondent No. 12 (Anti-Slavery Consultant); Survey Respondent No. 24 (Law Enforcement); Participant No. 7 (Frontline NGO), FG CSOs (18 Dec 2023).

was the fact that, **for certain nationalities, there was a particularly high risk of asylum claims being certified as ‘clearly unfounded’, including for claims based on fear of re-trafficking or exploitation on return.**¹⁸³ Legal practitioners consulted for the research explained that this was an issue which was particularly prevalent among Albanian nationals, who – they explained – would often need a positive NRM decision to ensure that their asylum claim would be examined thoroughly.¹⁸⁴

Another area where NRM decisions were felt to have a strong impact was with respect to **unaccompanied children seeking asylum.** Research participants generally agreed that recognition as a ‘(potential) victim’ of trafficking or modern slavery through the NRM is less important for children than it is for adults when it comes to accessing support. This stems from the fact that support for children is administered by local authorities through social care services, and these are subject to safeguarding protocols that apply regardless of whether the child is deemed, by the Home Office, to have been subjected to trafficking or modern slavery.¹⁸⁵ Nonetheless, in the asylum context, it was emphasised that a positive decision within the NRM can be very significant, giving greater legitimacy to the asylum claim.¹⁸⁶ As one focus group participant explained:

*Particularly for unaccompanied asylum-seeking children, if they’ve got the trafficking element as part of their asylum [claim], there would be a massive impact for any of those young people where they weren’t meeting that threshold for the RG.*¹⁸⁷

This observation should be considered in light of the fact that, according to research participants, it has been particularly difficult for unaccompanied children seeking asylum to meet the RG threshold since the changes were made to the Statutory Guidance in January 2023. This is consistent more generally with the challenges associating with evidencing exploitation that occurred abroad.¹⁸⁸

B. Distress and mental health

Restricted access to NRM support – including counselling and psychological assistance – is likely to have a direct impact on the mental health of individuals with lived experience of modern slavery. However, research participants also highlighted how **the current operation of the system – with its emphasis on producing evidence at an early stage of the NRM –**

¹⁸³ The certification of protection and human rights claims is based on the Nationality, Immigration and Asylum Act 2002, section 94.

¹⁸⁴ Participant No. 1 (Law Firm), FG CSOs (18 Dec 2023); Survey Respondent No. 26 (Frontline NGO). At the same time, it was noted that Albanian nationals with a positive RG or CG decision still sometimes had their asylum claim certified.

¹⁸⁵ Survey Respondent No. 28 (Law Firm); Participant No. 7 (Frontline NGO), FG Children (14 Dec 2023).

¹⁸⁶ Participant No. 4 (Local Authority), FG Children (14 Dec 2023).

¹⁸⁷ Participant No. 7 (Frontline NGO), FG Children (14 Dec 2023).

¹⁸⁸ Participant No. 4 (Local Authority), FG Children (14 Dec 2023).

has also been very damaging for the mental health of service users. As one survey respondent explained:

Pre-existing barriers to disclosure for many survivors [have been] exacerbated by [the] increased complexity of the information required on referral, [the] potential for First Responders eliciting far more detailed information [to] risk the retriggering of trauma, [and the] decreased likelihood of a positive outcome, especially for groups such as those whose trafficking took place en route to the UK.¹⁸⁹

This point was emphasised in discussions with lived experience consultants, who explained that it is traumatising at any stage to have to 'prove' that you are a victim, but that a requirement to provide evidence will be especially distressing where an individual has just left a situation of exploitation.¹⁹⁰ As explained by a research participant from one of the other focus groups, the initial logic behind keeping the evidentiary requirement low at the RG stage was to give individuals some time to reach a more stable situation before having to engage with the identification process. However, they noted that:

[...] it feels a bit like NABA has forgotten kind of the whole point of an NRM and why we have [...] a two-decision-making situation, and the impact of trauma across all groups impacted by trafficking and exploitation, it feels like that's been absolutely forgotten.¹⁹¹

That same participant also highlighted how they harboured major concerns about the impact of this requirement on women who have experienced sexual violence, given the documented challenges faced by this cohort in disclosing what happened to them.¹⁹² This was connected to general concerns around whether First Responders are adequately trained to gather more evidence at an early stage of the referral while paying attention to the risk of re-traumatisation.¹⁹³

Participants from other focus groups highlighted the fact that rejections at the RG stage owing to a lack of sufficient evidence have been very distressing for individuals going through the NRM system, creating a lasting mental health impact.¹⁹⁴ This, again, was something that came through strongly in discussions with lived experience consultants. While the individuals consulted had been through the NRM system before NABA came into effect, they emphasised

¹⁸⁹ Survey Respondent No. 39 (Frontline NGO).

¹⁹⁰ Lived Experience Focus Group, 8 Feb 2024.

¹⁹¹ Participant No. 5 (Frontline NGO), FG CSOs (18 Dec 2023). This, again, has been widely acknowledged in the literature. See, among others, Anti-Slavery International, '[Submission to the Nationality and Borders Public Bill Committee](#)' (November 2021), pp. 2-3 (accessed 9 May 2024).

¹⁹² Participant No. 5 (Frontline NGO), FG CSOs (18 Dec 2023). These concerns were also shared by lived experience consultants. Lived Experience Focus Group, 5 Feb 2024; Lived Experience Interview, 9 Feb 2024.

¹⁹³ Interview (Frontline NGO), 13 Dec 2023.

¹⁹⁴ Interview (Frontline NGO), 19 Dec 2023; Participant No. 6 (Frontline NGO), FG CSOs (5 Dec 2023); Survey Respondent No. 23 (Law Enforcement).

that not being believed can cause serious psychological damage and interfere with an individual's recovery journey.¹⁹⁵ Participants from other sets of focus groups explained that, in some cases, the psychological impacts of a negative NRM decision disincentivised service users from supporting a reconsideration request ("it's almost like, if they didn't believe me the first time, why should I bother again?"),¹⁹⁶ while in others, the impacts persisted even after the original decision was successfully overturned.¹⁹⁷ Similar effects were noted with respect to repeat refusals for VTS leave.¹⁹⁸

Research participants also noted the **effects of procedural delays in the system on mental health**, particularly with the increase in the average time taken to render RG decisions since the changes to the Statutory Guidance in January 2023.¹⁹⁹ Several research participants explained how the increased 'back-and-forth' between First Responders and the Competent Authorities has not only frustrated access to support, but has also contributed to increased levels of distress as individuals referred into the NRM are maintained in a situation of uncertainty for a longer period of time.²⁰⁰ As one research participant elaborated, while awaiting an RG decision:

There's massive uncertainty about your legal status, what's going to happen next, and [...] that everything's taking longer [...] has a direct effect on that individual's mental health, and so their recovery from their traumatic experiences.²⁰¹

Similar impacts were reported as an effect of excessive delays in completing interviews outside of the NRM process, including in the context of gathering evidence for criminal proceedings and in the context of the asylum process. Various research participants shared examples of services users – often Albanian nationals – being invited for an interview, completing one part of it, and then having to wait for several months to complete the second part.²⁰² This waiting period was reported as having a significant impact on the affected individuals' mental health, which was often exacerbated by uncertainty as to when the second part of the interview would be conducted.²⁰³

Another issue raised by multiple research participants was the fact that **Albanian nationals referred into the NRM with a pending asylum application have been subjected to much more stringent reporting requirements than other nationalities** – a requirement that in

¹⁹⁵ Lived Experience Focus Group, 6 Feb 2024; Lived Experience Focus Group, 8 Feb 2024.

¹⁹⁶ Participant No. 6 (Frontline NGO), FG CSOs (5 Dec 2023); Lived Experience Interview, 9 Feb 2024.

¹⁹⁷ Interview (Frontline NGO), 19 Dec 2023.

¹⁹⁸ Participant No. 1 (Law Firm), FG CSOs (5 Dec 2023).

¹⁹⁹ In addition to delays in accessing support, as detailed above.

²⁰⁰ Participant No. 8 (Frontline NGO), FG CSOs (5 Dec 2023); Survey Respondent No. 21 (Frontline NGO); Survey Respondent No. 39 (Frontline NGO).

²⁰¹ Participant No. 6 (Healthcare Provider), FG StOs (13 Dec 2023).

²⁰² Participant No. 6 (Frontline NGO) & Participant No. 8 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁰³ Ibid.

many cases has required fortnightly travel to locations often several hours' away from where these individuals were based.²⁰⁴ Alongside this, research participants also shared very concerning accounts of Albanian nationals within NRM support being asked to consider voluntary return when they arrived to report, while in more extreme instances, there have also been reports of Albanian nationals being detained upon complying with the reporting requirement.²⁰⁵ The research team was informed that the frequency of these reporting requirements – together with fears of being detained or relocated to accommodation centres upon arrival – has had a hugely significant impact on the mental health of the affected individuals. This was also considered to be contributing to the higher rate of absconding among Albanian nationals being supported through the NRM.²⁰⁶

The mental health impacts of the changes introduced by NABA have not been restricted to individuals going through the NRM post-January 2023. Rather, the research team was also informed that, for individuals who received a positive CG decision prior to this date, **the rhetoric around 'abuse' of the NRM has taken a major toll**. As highlighted in the focus groups, the media attention around NABA and the Illegal Migration Act has led some individuals who have completed the NRM process to feel that they are not welcome in the country – a sentiment which has not only had a significant impact on their recovery journey, but has also led some to question whether they should continue with pending VTS and asylum claims.²⁰⁷ This, again, was corroborated by the lived experience consultants involved in the research, who highlighted that the effects of this 'dehumanising' language were felt broadly across the community, and were particularly damaging by virtue of coming from the central government.²⁰⁸

Regarding individuals within NRM support, meanwhile, research participants explained that the rhetoric around NABA and IMA has created a climate of fear, with many individuals expressing concerns to support workers about being evicted from safehouses or deported.²⁰⁹ As a result, several research participants commented on the need for support workers to provide much more reassurance to service users than before. One research participant described:

Seeing the headline in the media that day or that week, and then having a think about how we [...] communicate with survivors, how survivors interpret that, the fear and the panic that that has kind of caused, that meant we've constantly had to be

²⁰⁴ Participant No. 6 (Frontline NGO) & Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁰⁵ Participant No. 4 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁰⁶ Ibid.

²⁰⁷ Participant No. 5 (Frontline NGO), FG CSOs (5 Dec 2023); Survey Respondent No. 8 (Law Enforcement); Survey Respondent No. 34 (Law Firm).

²⁰⁸ Lived Experience Focus Group, 5 Feb 2024; Lived Experience Focus Group, 6 Feb 2024; Lived Experience Focus Group, 8 Feb 2024.

²⁰⁹ Interview (Frontline NGO), 13 Dec 2023; Interview (Frontline NGO), 19 Dec 2023; Lived Experience Interview, 9 Feb 2024.

*ready and able [to] try to sort of support [...] survivors when they're seeing, you know, their lives and their situation being talked about like that in the media [...]*²¹⁰

Research participants also noted a higher rate of service users disengaging from support and going missing, with many attributing this to concerns that have been exacerbated by the political rhetoric around modern slavery.²¹¹ It was also noted that individuals who received a letter that the Home Office was 'minded to apply' for a public order disqualification were much more likely to disengage from support and go missing.²¹²

C. Engagement with the NRM and public authorities

A key message emerging from the research is that the changes introduced to implement NABA, together with the rhetoric that has accompanied the adoption of those provisions, have resulted in a **greater reluctance for people with lived experience of modern slavery to enter the NRM or otherwise engage with the authorities**.²¹³ This may partially be attributed to greater hesitation among First Responders as to whether an NRM referral is really in the person's best interests. As one participant explained:

*People [...] are more reluctant to submit NRMs and it's no longer seen as something that's the 'go to' in the way that it used to be. There's a lot more questions from professionals around how the NRM is useful, being a lot more wary [...]*²¹⁴

As this statement shows, a loss of trust in the system by First Responders, particularly since the changes introduced to the Statutory Guidance in January 2023, has had an impact on what some consider to be the most advisable course of action for people who they have recognised as (potential) 'victims' of modern slavery.²¹⁵ This dilemma was captured by another research participant, who explained that:

*As a First Responder you then have to consider whether it is beneficial to send the referral into [the] NRM if the victim has a lack of evidence [and whether it] is worth asking someone to relive their trauma and give their statement to you if due to no additional evidence other than their word they may get a negative Reasonable Grounds [decision] despite the fact that they have been exploited.*²¹⁶

²¹⁰ Participant No. 7 (Frontline NGO), FG CSOs (18 Dec 2023).

²¹¹ Participant No. 2 (Frontline NGO), FG Children (14 Dec 2023); Participant No. 4 (Frontline NGO), FG CSOs (5 Dec 2023).

²¹² Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023).

²¹³ Participant No. 4 (Local Authority) & Participant No. 6 (Healthcare Provider), FG StOs (13 Dec 2023).

²¹⁴ Participant No. 4 (Local Authority), FG StOs (13 Dec 2023).

²¹⁵ Interview (Law Enforcement), 18 Dec 2023. Note that for certain First Responders, there is a statutory duty to notify the Secretary of State where they have 'reasonable grounds' to believe they have encountered someone with lived experience of modern slavery (MSA, s52).

²¹⁶ Survey Respondent No. 26 (Frontline NGO).

Another research participant commented how they had been advised by a lawyer not to refer a service user into the NRM as it was believed that there was a high risk that he would be disqualified owing to the nature of his exploitation.²¹⁷ Similar issues were also raised in the context of child referrals, with research participants noting that hesitation among First Responders was closely associated with uncertainty around whether the NRM pathway would be in the child's best interests following the changes introduced by NABA.²¹⁸

However, research participants also observed increased **disengagement from service users themselves, noting that there was generally much more hesitation about being referred into the NRM than before.** This was attributed to the general rhetoric of 'abuse' of the NRM system, as well as specific concerns around not being recognised and/or appropriately supported (for instance, due to being disqualified from protection, or due to the unlikelihood of being granted a secure immigration status).²¹⁹ This was the case even in organisations which have material, psychological and legal support in place to assist with a referral, and who had formerly rarely seen a service user refuse to be referred into the NRM.²²⁰ Research participants also noted that increased reticence to enter the system meant that it was necessary to spend much more time explaining the possible benefits of entering the NRM to enable individuals to make an informed decision that would serve their best interests.²²¹

The research team tested claims of increased disengagement against data on DtN reports, which are submitted when a First Responder encounters an adult who they believe to be a 'potential victim' of trafficking or modern slavery, but that individual does not consent to be referred into the NRM.²²² Looking at the ratio between adult NRM referrals and DtN data, whilst being cautious of the possibility of double-counting in the data sets, we can observe slight increases in the ratio of DtN reports in Q4-21 and in Q3-23: in Q4-21, out of 100 modern slavery-related engagements with First Responders (namely, a First Responder posing the question of whether or not the person consents to being referred into the NRM), 57 resulted in an NRM referral and 43 in a DtN report. In Q3-23, out of 100 modern slavery-related engagement with First Responders, 61 resulted in an NRM referral and 39 in a DtN report. With the exception of these two quarters, the ratio has remained stable at around 65 NRM referrals and 35 DtN reports per 100 engagements.

²¹⁷ Participant No. 10 (Frontline NGO), FG CSOs (18 Dec 2023).

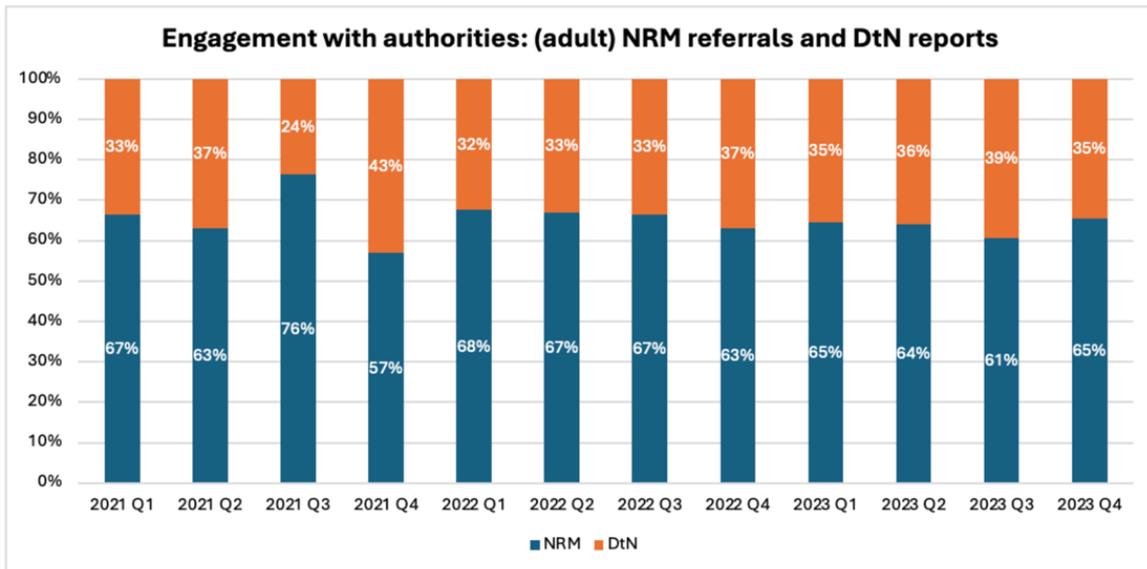
²¹⁸ Participant No. 2 (Frontline NGO), FG Children (14 Dec 2023).

²¹⁹ Participant No. 1 (Law Firm), Participant No. 3 (Frontline NGO), Participant No. 6 (Frontline NGO), Participant No. 9 (Frontline NGO) & Participant No. 10 (Frontline NGO), FG CSOs (18 Dec 2023); Participant No. 4 (Local Authority), FG StOs (13 Dec 2023); Survey Respondent No. 14 (Local Authority).

²²⁰ Participant No. 6 (Healthcare Provider), FG StOs (13 Dec 2023).

²²¹ Participant No. 1 (Law Firm), FG CSOs (18 Dec 2023); Participant No. 6 (Frontline NGO), FG CSOs (18 Dec 2023).

²²² For a detailed discussion of the Duty to Notify process, including reasons cited for not entering the NRM, see Noemi Magugliani, Jean-Pierre Gauci and John Trajer, '[Identification of adults with lived experience of modern slavery in the UK](#)' (February 2024), Parts 3 and 4 (accessed 9 May 2024).



Nonetheless, in absolute numbers, there has been some significant variation in terms of nationality. In particular, there was **a significantly higher number of DtN reports filed on behalf of Albanian nationals – especially in Q1-23**: from an average of 200 between Q1-22 and Q4-22, referrals peaked at 364 in Q1-23. It is true, however, that in relative terms, the engagement rate of Albanian adults has remained roughly the same between 2022 and 2023: for every 100 engagements in 2022, 82 resulted in an NRM and 18 in a DtN; for every 100 engagements in 2023, 80 resulted in an NRM and 20 in a DtN. As always, this data should be read with caution as there are no means to establish how many individuals may have been double-counted in the NRM and DtN datasets.

In terms of engagement, a wide range of consulted stakeholders voiced concerns that increasing numbers of individuals would be ‘driven underground’ by the changes introduced to implement Part 5 of NABA, meaning that they would be absent from the NRM and DtN statistics altogether. As one survey respondent explained:

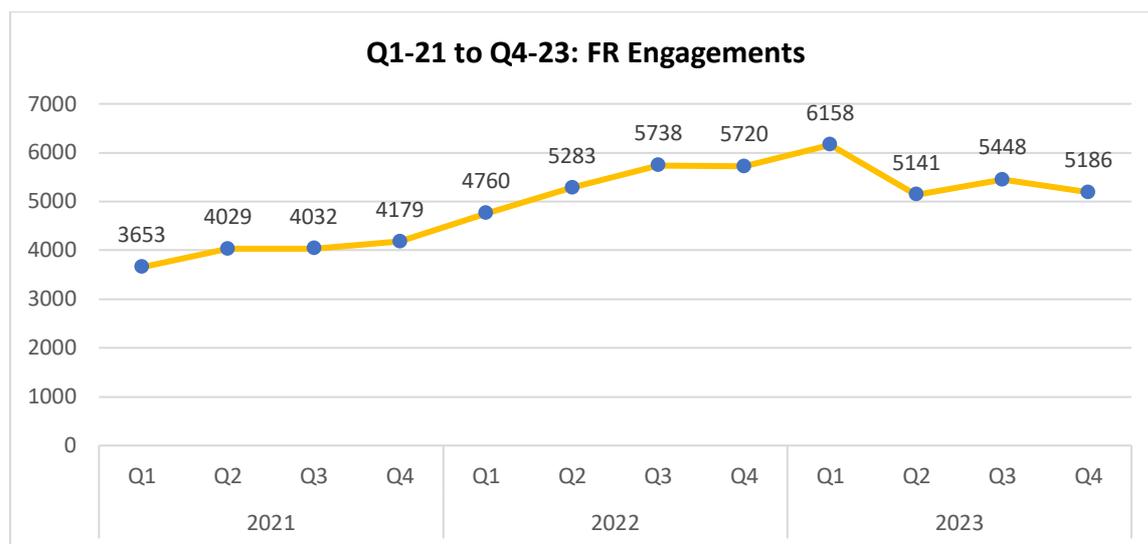
The overarching concern is that the implemented modern slavery provisions are risking forcing victims of MDS [modern day slavery] and trafficking underground and prevent[ing] recognition and support by statutory services.²²³

This concern was shared by lived experience consultants who engaged in the research. One of the main messages emerging from across the discussions held with the lived experience focus groups was that **these measures, combined with a rhetoric around ‘abuse’ of the NRM, have exacerbated existing fears among people with lived experience of modern slavery about approaching and engaging with public authorities**. It was highlighted that there are widespread fears that, by approaching the authorities, one may be detained and/or removed from the country (for instance, to Rwanda, under the widely reported deal),²²⁴ while the

²²³ Survey Respondent 30 (Local Authority); Participant No. 7 (Law Enforcement), FG StOs (13 Dec 2023).

²²⁴ Lived Experience Focus Group, 5 Feb 2024; Lived Experience Interview, 9 Feb 2024.

rhetoric around ‘abuse’ of the NRM has led many to fear that their experiences of exploitation will not be believed.²²⁵ In this respect, it is notable that the overall numbers of modern slavery-related engagements with First Responders have fallen at several points since the introduction of the NABA measures – a finding which supports first-hand observations made by some research participants, particularly those working as statutory First Responders.²²⁶ While these figures are not adjusted for the possibility of double-counting, it is revealing that the trend deviates from the steady rise in combined NRM referrals and DtN reports across the preceding years.



In addition to this, research participants emphasised that a reduced ability to identify and support ‘victims’ as a result of these measures will also **undermine efforts to investigate and successfully prosecute the perpetrators of these offences**.²²⁷ Research participants – and particularly members of statutory organisations – expressed concerns that organised crime groups are drawing on the rhetoric employed by the government to discourage exploited individuals from approaching the authorities in the first place:

*I can see that organised crime groups will already be feeding into this rhetoric. That’s what they’ll be feeding into victims now is that it’s pointless, you know, if you’re going to refer, you’re just going to be rejected, you’re going to be deported [...]*²²⁸

²²⁵ Lived Experience Focus Group, 6 Feb 2024; Lived Experience Focus Group, 8 Feb 2024; Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023); Survey Respondent No. 1 (Frontline NGO); Survey Respondent No. 8 (Law Enforcement).

²²⁶ Focus Group Participant No. 7 (Law Enforcement), FG StOs (13 Dec 2023).

²²⁷ Survey Respondent No. 24 (Law Enforcement); Survey Respondent No. 30 (Local Authority); Interview (Law Enforcement), 18 Dec 2023. This was an issue raised in several discussions around the Bill. See, for instance, Independent Anti-Slavery Commissioner (n 26), commenting that ‘[w]ithout such support prosecution witnesses will be unable to provide witness evidence and this will severely limit our ability to convict perpetrators and dismantle organised crime groups’. See also Nottingham Rights Lab (n 12), p. 17.

²²⁸ Participant No. 7 (Law Enforcement), FG StOs (13 Dec 2023). Similar observations were made by survey respondents – among others, Survey Respondent No. 16 (Frontline NGO).

This was supported by the understanding that traffickers already target individuals with criminal convictions, and may now be even more incentivised to do so with the possibility of disqualification from support²²⁹ – a concern that was frequently raised during the passage of the Nationality and Borders Bill through Parliament, especially in relation to the disqualification clause.²³⁰ Similar themes were picked up by the lived experience consultants, several of whom highlighted that these measures, by effectively ‘criminalising’ individuals with lived experience of modern slavery, would embolden the traffickers.²³¹ As a counterpoint, one lived experience consultant commented on how the measures adopted to implement NABA may, in some cases, incentivise cooperation with the criminal justice authorities, particularly when individuals have already entered the NRM. However, it was emphasised that this was in response to the greater evidentiary requirement that has been imposed at the RG stage, which has compelled some individuals to report to the police to support their claim, rather than because they are in a position where they feel ready to cooperate.²³²

²²⁹ Participant No. 6 (Frontline NGO), FG CSOs (18 Dec 2023).

²³⁰ Independent Anti-Slavery Commissioner (n 26), p.7; ATLEU (n 153), p.12; Modern Slavery Unit (Justice and Care and the Centre for Social Justice) (n 164), para. 4.7.

²³¹ Lived Experience Focus Group, 5 Feb 2024; Lived Experience Focus Group, 6 Feb 2024; Survey Respondent No. 30 (Local Authority). Similar observations have been made by various commentators. See, for instance, Doughty Street Chambers (n 149), arguing that ‘conflating the status of victims of trafficking/modern slavery with foreign national offenders or convicted or suspected criminals or terrorists is not only a misleading and dangerous narrative, but also criminalises and penalises victims, not the perpetrators’. Others have noted that the possibility of disqualification on grounds of public order may further encourage exploiters to target individuals with criminal convictions. See Helen Bamber (n 138), para. 25.

²³² Lived Experience Focus Group, 8 Feb 2024.

Part 4: The impact of NABA on organisations

A. Uncertainty and confusion

When asked about the most significant impacts of the NABA measures on their own work, almost all research participants agreed that the changes have caused considerable uncertainty and confusion. A key reason for this was **a failure by the Home Office to officially communicate the changes ahead of time, or in some cases even after the changes had come into effect**. Experiences of research participants did, however, vary in this respect. For instance, participants involved in the devolved decision-making pilots explained that they had generally been given some prior notification from the Home Office before the changes came into effect, including some training on the application of the new standards in the forthcoming January 2023 Statutory Guidance.²³³ However, several of those individuals noted how the lead time was still excessively short to be able to implement these changes effectively within the panels (only a matter of weeks), with one participant describing the situation as ‘chaotic’.²³⁴

Outside of the devolved decision-making pilots, most participants explained that they were not given any formal notification of the sweeping changes introduced to the January 2023 Statutory Guidance. Rather, in most cases, participants were only notified of the changes by NGO-led stakeholder groups, the Modern Slavery Unit NRM Newsletter, or through ‘word of mouth’ (in each case, after the changes had already come into effect).²³⁵ This was the case across the UK – for instance, organisations in Scotland confirmed a lack of any kind of formal communication of the changes.²³⁶ The research team was informed that these issues also applied to statutory First Responder Organisations, such as the police.²³⁷ As one research participant explained about the situation:

There have been a lot of issues, I think, with the communication of Guidance changes to those working in the sector. And I think there’s also [...] a lot of issues with Guidance changes being communicated with statutory agencies, statutory bodies, even people within the SCA and IECA, because that takes so much time. It seems like it’s taking time to filter through, and then it’ll change back, and it takes time to filter through again.²³⁸

²³³ Participant No. 4 (Local Authority), FG StOs (13 Dec 2023); Participant No. 2 (Frontline NGO), Participant No. 4 (Local Authority) & Participant No. 9 (Local Authority), FG Children (14 Dec 2023).

²³⁴ Participant No. 4 (Local Authority), FG Children (14 Dec 2023).

²³⁵ Participant No. 5 (Frontline NGO), Participant No. 8 (Frontline NGO) & Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023); Participant No. 6 (Healthcare Provider), FG StOs (13 Dec 2023); Participant No. 1 (Law Firm), Participant No. 3 (Frontline NGO) & Participant No. 6 (Frontline NGO), FG CSOs (18 Dec 2023).

²³⁶ Participant No. 5 (Frontline NGO), FG CSOs (18 Dec 2023); Participant No. 9 (Frontline NGO), FG CSOs (5 Dec 2023).

²³⁷ Participant No. 3 (Law Enforcement), FG StOs (13 Dec 2023).

²³⁸ Interview (Frontline NGO), 13 Dec 2023.

This gave rise to concerns that organisations which were not involved in local partnerships and other modern slavery stakeholder networks would be less likely to hold up-to-date information on changes to policy, with potentially more extreme impacts on individuals in their service.²³⁹

In terms of changes to the NRM submission requirements, meanwhile, several research participants described instances where alterations made to the online form were encountered for the first time when First Responders were attempting to make a referral, which caused a considerable degree of confusion as to the information required in successive steps of the process and how that should be included.²⁴⁰ This challenge was exacerbated by delays in updating the offline prompt sheet – while the digital referral system was updated on 6 April 2023 to require the inclusion of additional supporting evidence, the offline prompt sheet (allowing for an overview of the submission requirements) was only updated in June 2023. Research participants also spoke of other changes to the Statutory Guidance (not directly related to NABA) which were not formally communicated – such as changes to the criteria for accessing accommodation services prior to an RG decision – drawing attention to extended periods during which they were sharing out-of-date information to colleagues.²⁴¹ As a general point, it was noted that the lack of any formal notification from the Home Office around the changes to the Statutory Guidance is indicative of how other major changes to modern slavery policy have been communicated in recent years. For instance, one participant explained that their colleagues who had been members of Multi-Agency Assurance Panels only discovered that these had been disbanded via social media.²⁴²

Even where there was some prior notification that changes would come into effect through the Statutory Guidance, research participants noted that there was no effective consultation around the changes and their workability. Rather,

*It was “this has already happened; you’re going to implement it” and then everyone just had so many concerns about it. And so many issues with the actual working of it.*²⁴³

A lack of effective consultation around the changes – in particular with NGOs and people with lived experience of modern slavery – was a more general criticism voiced by research participants.²⁴⁴ One research participant explained how, while they had been consulted on some of the proposed changes to the Statutory Guidance in roundtables held by the Home

²³⁹ Participant No. 4 (Local Authority), FG StOs (13 Dec 2023); Survey Respondent No. 8 (Law Enforcement).

²⁴⁰ Interview (Frontline NGO), 13 Dec 2023; Participant No. 3 (Law Enforcement) & Participant No. 4 (Local Authority), FG StOs (13 Dec 2023).

²⁴¹ See (n 176) above.

²⁴² Participant No. 5 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁴³ Participant No. 4 (Local Authority), FG Children (14 Dec 2023). A similar experience was shared by other participants, including Participant No. 4 (Local Authority), FG StOs (13 Dec 2023); Participant No. 9 (Local Authority), FG Children (14 Dec 2023).

²⁴⁴ Participant No. 3 (Law Enforcement), FG StOs (13 Dec 2023); Interview (Law Enforcement), 18 Dec 2023; Survey Respondent No. 36 (Frontline NGO).

Office, what ended up being published was very different to the versions that they had seen previously, raising questions around the value and genuine nature of such consultation.²⁴⁵ Research participants agreed that an effective consultation process with the modern slavery sector could have helped avoid many of the pernicious effects of the NABA measures that have been detailed in this report, particularly with respect to the effects of the raised evidentiary threshold at the RG stage.²⁴⁶ However, the lack of any such consultation was deemed by several participants to be consistent with a lack of any strategic planning around the changes and the effects they may have. As one participant explained:

Nothing has felt particularly strategic and planned. Everything has felt very reactive, everything has felt very sudden. And it's never necessarily come with a, "oh, if we do this here, it affects this over here", it's just that "we're doing this here" [...] it doesn't sort of instil any confidence that anything is going to be done that isn't just the Statutory Guidance changing and being told we've got to read it, interpret it and work out what it means.²⁴⁷

The **uncertainty caused by successive changes to the Statutory Guidance**, and particularly the impact it had on NRM submission requirements, was recognised by representatives from statutory and non-statutory organisations from across the UK. Respondents generally described feeling unprepared to respond effectively to the changes to the Statutory Guidance.²⁴⁸ This, the research team was informed, was not only due to a lack of formal notification of the changes, but also the absence of any accompanying guidance or other support from the Home Office to help First Responders understand exactly how these changes would be implemented and what this would mean for their own roles.²⁴⁹ As one survey respondent explained,

There was a lack of consultation in advance from the Modern Slavery Unit at the Home Office of the introduction of the changes and a lack of clear information about how many of the provisions would be implemented in practice. This resulted in difficulty in preparing to adapt advice to service users and second tier support to colleagues.²⁵⁰

This was confirmed by other research participants:

²⁴⁵ Participant No. 2 (Frontline NGO), FG Children (14 Dec 2023).

²⁴⁶ Interview (Frontline NGO), 13 Dec 2023; Participant No. 3 (Law Enforcement), FG StOs (13 Dec 2023).

²⁴⁷ Participant No. 5 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁴⁸ Interview (Frontline NGO), 19 Dec 2023.

²⁴⁹ Survey Respondent No. 28 (Law Firm); Survey Respondent No. 31 (Law Enforcement); Survey Respondent No. 33 (Local Authority); Survey Respondent No. 38 (Frontline NGO).

²⁵⁰ Survey Respondent No. 39 (Frontline NGO).

*It has been very difficult to prepare for this or to continue to do so when there has been no consultation about implementation or impact and the Statutory Guidance is constantly changing with no notification.*²⁵¹

As a result, some described adjusting to the new changes as a matter of ‘trial and error’.²⁵² At the same time, research participants emphasised the human impact on those individuals who could not be effectively supported while organisations adapted to the new requirements. As one participant explained:

*[...] what’s really clear from the changes is that we’re using people’s lives as a sort of experiment, in a sense that the first couple of people who get refusals, they’re the ones who are really, really having the negative impact and [...] sort of being used as an example to see what will work and what won’t, which you know, I don’t think anyone else needs to disagree, it’s just a totally inappropriate way for us to be working.*²⁵³

Research participants also explained how needing to stay abreast of the changing requirements and communicating these both internally and to other stakeholders in the sector often had a major impact on capacity.²⁵⁴ This included impacts on the ability of some organisations to conduct police work, with one research participant explaining that:

*Trying to navigate these changes and the impacts [...] detracts myself and other First Responders from other frontline duties both in responding to and investigating modern slavery and other general policing duties, creating wider risk to the public due to unavailable resources.*²⁵⁵

Others commented on the fact that the confusion brought by the changes made it difficult to build trusting relationships with service users, given the impact it had on the ability of staff to provide accurate advice on their situation.²⁵⁶

A failure to officially communicate the changes with an appropriate lead time was connected to **challenges in delivering accurate and up-to-date training to First Responders** – another key issue highlighted by research participants. Issues surrounding the training of First Responders have long been recognised in the sector,²⁵⁷ and the research conducted for this project confirmed that this has been an ongoing concern in the context of NABA, with many

²⁵¹ Survey Respondent No. 23 (Law Enforcement).

²⁵² Participant No. 8 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁵³ Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁵⁴ Participant No. 8 (Frontline NGO), FG CSOs (5 Dec 2023); Participant No. 9 (Frontline NGO), FG CSOs (5 Dec 2023); Interview (Frontline NGO), 13 Dec 2023; Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023); Participant No. 2 (Frontline NGO), FG Children (14 Dec 2023); Participant No. 3 (Frontline NGO), Participant No. 4 (Law Firm) & Participant No. 5 (Frontline NGO), FG CSOs (18 Dec 2023); Interview (Law Enforcement), 18 Dec 2023; Survey Respondent No. 39 (Frontline NGO).

²⁵⁵ Survey Respondent No. 23 (Law Enforcement).

²⁵⁶ Participant No. 6 (Frontline NGO), FG Children (14 Dec 2023).

²⁵⁷ Magugliani, Gauci and Trajer (n 222), Part 2.

statutory First Responders explaining that they were not provided with any training to help them adapt to the changes introduced to implement this legislation.²⁵⁸ Other research participants highlighted that limited training provision, combined with consistently shifting requirements for NRM referrals, compounded a lot of existing challenges relating to discharging First Responder responsibilities. As one survey respondent explained.

[A] lack of understanding of the NRM process and variable practice by First Responders has been exacerbated by the increased complexity of the information required and potential for confusion as a result of the requirements changing to reflect the judicial review in July. Following the July changes, the NRM form and prompt sheet were not revised, and a lack of training and information had the potential to lead to First Responders continuing to believe there was a requirement for objective evidence.²⁵⁹

Similar views were shared by other research participants:

I think the issues that were there before in terms of a lack of understanding of the system [by] First Responders was exacerbated because there were certain [...] massive changes that weren't communicated. I think the lack of training, again, [was] exacerbated because people [...] didn't know what to do before, so [...] any information they did have was probably outdated. And I don't think that was properly communicated. I don't think statutory First Responders were properly equipped for the changes.²⁶⁰

From the perspective of training providers, meanwhile, it was commented that the impact of meeting additional demands for training in the wake of changes to the Statutory Guidance had significant impacts on their capacity, including their ability to perform other aspects of their work (from providing support to service users, to taking on clients for legal advice and conducting police investigations).²⁶¹ There was also significant discussion surrounding the ongoing challenge of ensuring the accuracy of training, particularly in light of the rapidly changing policy environment around modern slavery and a failure by the Home Office to communicate these changes.²⁶² A particularly strong indictment of this situation came from one survey respondent responsible for delivering training to the police, who explained that:

²⁵⁸ Survey Respondent No. 2, (Law Enforcement); Survey Respondent No. 4 (Local Authority); Survey Respondent No. 12 (Anti-Slavery Consultant); Survey Respondent No. 31 (Law Enforcement); Survey Respondent No. 33 (Local Authority).

²⁵⁹ Survey Respondent No. 39 (Frontline NGO).

²⁶⁰ Interview (Frontline NGO), 13 Dec 2023.

²⁶¹ Participant No. 2 (Law Enforcement), Participant No. 3 (Law Enforcement) & Participant No. 10 (Law Enforcement), FG StOs (13 Dec 2023); Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023).

²⁶² Participant No. 5 (Frontline NGO), FG CSOs (5 Dec 2023); Participant No. 3 (Law Enforcement), FG StOs (13 Dec 2023).

*I honestly feel like I don't know how to continue with my role, I am in charge of training people in the Modern Slavery [team], and I feel dubious of how much I understand these changes.*²⁶³

These challenges were confirmed by another research participant, who explained that:

*Part of [my] role is to provide guidance to police First Responders and to other partners and first responding agencies [...] this is almost impossible to do when there has been no consultation about implementation or impact and the Statutory Guidance is constantly changing with no notification [...].*²⁶⁴

Challenges in this area were not only reported by those responsible for training First Responders. Within the healthcare sector, participants explained the additional burden involved in training frontline workers on how they should respond when an individual with lived experience of modern slavery comes into their service, particularly in terms of balancing safeguarding concerns with the added pressure to gather medical evidence to facilitate their access to NRM support.²⁶⁵

B. Adaptation & Capacity

As Part 3 indicated, measures adopted to implement NABA have increased the likelihood that people with lived experience of modern slavery will be excluded from support provided through the NRM.²⁶⁶ In response to this situation, various **frontline organisations reported having to make significant changes to their operations to ensure that people with lived experience of modern slavery could access the support they required**. For instance, organisations that have historically focused on providing post-NRM support described having to change the criteria for accepting referrals to their services, with an increased emphasis on providing support prior to the receipt of an RG decision, as well as to individuals unwilling to engage with the NRM mechanism.²⁶⁷ This issue was reported across the UK – for instance, one respondent working in a Northern Irish NGO emphasised that:

*Historically over the last 18 months [...] we have supported many more who have been pre-NRM where there was no service to support somebody while they were waiting to enter the NRM system [...] So, it was a bit of a shorter-term support, but it was trying to plug a gap that wasn't currently being met.*²⁶⁸

²⁶³ Survey Respondent No. 8 (Law Enforcement).

²⁶⁴ Survey Respondent No. 23 (Law Enforcement).

²⁶⁵ Participant No. 6 (Healthcare Provider), FG StOs (13 Dec 2023).

²⁶⁶ As Part 3 indicated, this has stemmed not only from the higher rate of negative decisions at the RG stage, but also from delays in rendering RG decisions, the introduction of a procedure for disqualification, and a general reluctance to engage with the NRM system.

²⁶⁷ Participant No. 4 (Frontline NGO) & Participant No. 5 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁶⁸ Interview (Frontline NGO), 19 Dec 2023.

This challenge was not only reported by NGOs. For instance, respondents to the project survey commented on the fact that delays in issuing RG decisions have placed additional pressure on local authorities to provide appropriate pre-NRM support, which in some cases has had to be outsourced to local third-sector organisations to ensure access to basic subsistence.²⁶⁹ Focus group participants, meanwhile, reported a significant impact of this situation on police resources, highlighting several examples in which, while waiting for individuals at risk to be housed in MSVCC accommodation prior to an RG decision, it was necessary to keep them in safehouses under 24-hour police surveillance for several days at a time.²⁷⁰

Alongside this, frontline organisations reported having to allocate more resources to contesting flawed decision-making at first instance, including through the establishment of specific roles dedicated to submitting reconsideration requests.²⁷¹ As one research participant explained:

*For our organisation, we've had to become experts in reconsideration requests, both negative RG, negative CG. So, we're spending a lot of time and resources on that within the organisation, something that we haven't previously.*²⁷²

Similar sentiments were acknowledged by other research participants, who commented on the combined effects of the increased rate of negative RG decisions on organisations' resources. As one survey respondent explained:

*The additional demands on First Responders to appeal decisions, on support agencies to prepare for potentially exiting victims from their service and the impact on victims who have increased instability as a result creates increased workloads for stretched resources and detracts resources from [...] organisations' core duties of safeguarding others, investigating offences and pursuing offenders [...].*²⁷³

Dedicating additional resources to reconsideration requests was closely linked with **challenges in securing access to legal advice for service users**. Indeed, a broader theme emerging from the project was that the changes introduced by NABA have exacerbated pre-existing issues regarding access to legal advice for people with lived experience of modern slavery.²⁷⁴ As one frontline worker explained:

²⁶⁹ Respondent No. 33 (Local Authority); Respondent No 39 (Frontline NGO). See also Part 3A on 'Access to (international) protection and support.

²⁷⁰ Participant No. 2 (Law Enforcement) & Participant No. 3 (Law Enforcement), FG StOs (13 Dec 2023); Interview (Law Enforcement), 18 Dec 2023.

²⁷¹ Participant No. 3 (Law Enforcement) & Participant No. 7 (Law Enforcement), FG StOs (13 Dec 2023); Survey Respondent No. 24 (Law Enforcement).

²⁷² Participant No. 4 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁷³ Survey Respondent No. 23 (Law Enforcement).

²⁷⁴ Participant No. 3 (Frontline NGO) & Participant No. 6 (Frontline NGO), FG CSOs (18 Dec 2023); Survey Respondent No. 38 (Frontline NGO). This was acknowledged by legal advice providers consulted through the

[...] previously, we wouldn't take anyone or would rarely take someone on if they didn't have a legal representative because of the impact that that would have on our resources. And we've had to absolutely change that position [...] now, it's more the other way round, that we're lucky if someone does have a legal rep[resentative] when we accept the case.²⁷⁵

Legal practitioners consulted as part of the project confirmed that many of the changes introduced by NABA have had an acute impact on their capacity to take on modern slavery cases, with demand far outstripping supply.²⁷⁶ This related, at least partially, to the growing rate of negative decisions and increased demand for legal advice to challenge these decisions.²⁷⁷ However, legal practitioners also pointed to the increasing complexity of modern slavery cases that were being referred to them, limiting the number of cases they can take on.²⁷⁸ For instance, one research participant highlighted the challenge presented by clients with POD decisions, explaining that:

I think in respect of the POD stuff in particular, again, it was a real capacity issue, because we were starting to see so many referrals and each one, because the way the portfolio policy was framed, require a huge amount of work [...] in terms of gathering evidence, and so forth, and a lot of it was very urgent, because in a lot of the referrals I got people [who] were either detained and due to be released to a potentially unsafe location without any support in place, and/or [were] detained for very long time and for obvious reasons, were desperate to be released.²⁷⁹

As this participant explained, many of these issues stem from the fact that duty solicitors working in detention centres are unaware of the changes introduced by NABA, with the result that much of this work is being picked up by a small number of solicitors who are informed on these developments.²⁸⁰ Other research participants consulted for the project underlined that it is particularly difficult to secure legal representation for Albanian service users, given the additional work and higher costs associated with 'frontloading' these cases (i.e., ensuring evidence is gathered upfront to ensure that asylum claims are not certified).²⁸¹

research, including Survey Respondent No. 28 (Law Firm) and Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023).

²⁷⁵ Participant No. 10, FG CSOs (5 Dec 2023).

²⁷⁶ Participant No. 1 (Law Firm), FG CSOs (5 Dec 2023); Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023).

²⁷⁷ Participant No. 1 (Law Firm) & Participant No. 4 (Law Firm), FG CSOs (18 Dec 2023).

²⁷⁸ Survey Respondent No. 34 (Law Firm).

²⁷⁹ Participant No. 1 (Law Firm), FG CSOs (5 Dec 2023).

²⁸⁰ Participant No. 1, FG CSOs (5 Dec 2023). As another research participant explained, challenges associated with accessing legal advice are even greater for people with lived experience of modern slavery who have been detained – a number which has increased significantly since the extension of the Adults at Risk policy. Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023). On this policy, see Part 1A of this report.

²⁸¹ Participant No. 1 (Law Firm), FG CSOs (18 Dec 2023). See (n 184) above.

Meanwhile, **challenges in securing legal services for people with lived experience of modern slavery was reported as having a broader impact on the operations and capacity of frontline organisations.** A specific issue emphasised by research participants was that the Competent Authorities frequently request witness statements to support referrals into the NRM. However, many reported struggling to secure legal advice for this purpose, be it due to the narrow timeframe, the complexity of the case, the capacity of the legal professional, or the argument that this advice falls outside of the scope of legal aid.²⁸² As a result, frontline organisations have been faced with the difficult decision of drafting witness statements themselves (despite lacking the requisite qualifications and experience), or dedicating additional resources to securing legal advice for the service user, often under tight deadlines imposed by the Competent Authorities.²⁸³ This, we were told, could be a source of tension between frontline staff and the individuals they are supporting.²⁸⁴

Alongside witness statements, research participants explained that there was also a **significant increase in the requirement for clinical evidence**, resulting in added strain for organisations involved in providing psycho-social support. As one research participant explained:

*We're now being asked for much more detailed evidence, the letters that were being asked for from our clinical team, they're almost taking the form of medico-legal reports, because they're having to be so detailed. And then in turn, we're seeing a huge increase in pre-[NRM] decision requests for medico-legal reports.*²⁸⁵

The emphasis on requiring medical evidence at the NRM pre-decision stage, as opposed to only in the case of a refusal or as part of a Recovery Needs Assessment, was confirmed by other research participants, as were the challenges involved in securing this evidence, particularly for those organisations without a clinical team.²⁸⁶ One participant informed us that this was also having a major impact on the capacity of experts, with a shortage of professionals able to provide independent medical or other evidence to support modern slavery claims.²⁸⁷ It was also highlighted that medical evidence often needed to be proven by the fact that the individual was receiving treatment for their condition, despite the extensive waiting lists in place (particularly for accessing therapy).²⁸⁸ These changes were reported as having severe impacts on the capacity of frontline organisations involved in providing these services, forcing them to make difficult strategic decisions. As one research participant explained:

²⁸² Participant No. 4 (Frontline NGO) & No. 6 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁸³ Participant No. 4 (Frontline NGO), Participant No. 6 (Frontline NGO) & Participant No. 8 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁸⁴ Participant No. 6 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁸⁵ Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁸⁶ Participant No. 6 (Healthcare Provider), FG StOs (13 Dec 2023).

²⁸⁷ Participant No. 1 (Law Firm), FG CSOs (5 Dec 2023).

²⁸⁸ Participant No. 6 (Healthcare Provider), FG StOs (13 Dec 2023).

It means that we're having to make more difficult decisions about when we will provide evidence. We might say that we just can't provide a letter because we've provided one previously, or because we have to think about being able to actually provide the therapy as well. So, it's really having an impact on our resources.²⁸⁹

This was presented as a specific instance of a more general increase in workload for First Responders given the greater emphasis placed on gathering evidence to support claims.²⁹⁰

Finally, research participants also commented on the **impacts of the NABA measures on police investigations**. As already noted in this report, increased safeguarding and training demands as a result of NABA and related policy changes have impacted the capacity of forces to engage in other aspects of police work, including investigating trafficking and modern slavery cases. In addition to this, it was highlighted how the drastic increase in the number of negative Reasonable Grounds decisions has also caused a lot of confusion in terms of the duty to record and investigate crimes.²⁹¹ As one participant explained,

You've got police officers now thinking, well, if the Single Competent Authority hasn't made [a] positive Reasonable Grounds decision, that means I've not got a modern slavery investigation and that's the end of my investigation.²⁹²

This was supported by other participants, who explained that the changes introduced by NABA – and especially the stricter timeframes for producing evidence – have severely inhibited the ability of the police to conduct modern slavery investigations.²⁹³ The situation was summed up by one survey respondent, who explained that: 'the situation was already challenging but now is going to be impossible to police based on NABA.'²⁹⁴

C. Mental health

The combined effects of the NABA changes in terms of increased uncertainty, the added pressure placed on organisations' capacity, and the distress caused to service users, were all reported to have taken a major toll on the mental health of staff working in this area.²⁹⁵ Participants noted that the **intensity of what support workers are dealing with has increased drastically**, with the situation described as a 'constant uphill battle'.²⁹⁶ Research participants discussed the impact of increased caseloads and uncertainty on their staff as a

²⁸⁹ Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁹⁰ Interview (Frontline NGO), 13 Dec 2023; Participant No. 5 (Frontline NGO), FG CSOs (18 Dec 2023); Survey Respondent No. 15 (Government Department); Survey Respondent No. 33 (Local Authority).

²⁹¹ Participant No. 3 (Law Enforcement), FG StOs (13 Dec 2023); Interview (Frontline NGO), 18 Dec 2023.

²⁹² Participant No. 3 (Law Enforcement), FG StOs (13 Dec 2023).

²⁹³ Participant No. 7 (Law Enforcement), FG StOs (13 Dec 2023).

²⁹⁴ Survey Respondent No. 8 (Law Enforcement).

²⁹⁵ Survey Respondent No. 39 (Frontline NGO).

²⁹⁶ Participant No. 5 (Frontline NGO), FG CSOs (5 Dec 2023).

result of the NABA changes and the need to be mindful of caseworkers not being overloaded.²⁹⁷ As one respondent highlighted with respect to a Scottish NGO:

*Staff is overwhelmed, burnout is really high, we've got lots of people across different organisations that are signed off with stress, often long term.*²⁹⁸

As various participants noted, pre-existing challenges in the sector have been exacerbated by the changes introduced by NABA, leaving staff feeling hopeless and compelling them to move into other sectors where they feel that they may be able to achieve positive results for service users.²⁹⁹ It was also noted that the rhetoric around 'abuse' of the system has contributed considerably to the high levels of burnout and staff turnover in the sector.³⁰⁰ This general exasperation was described by another participant, who commented that the general feeling among NGOs in the sector is that:

*No matter all the hard work that we've done over the last decade, [it] is just being eroded and eroded really, really quickly with no consultation, no anything else.*³⁰¹

Others similarly pointed to the fact that having to consistently react to policy changes to mitigate harm, rather than being able to advocate for positive change, also had a detrimental impact on the wellbeing of persons employed in the sector.³⁰²

This is closely connected to what research participants considered to be the most significant contribution of the NABA changes to the mental health of organisational staff – namely, **the effects they have witnessed on clients and service users.**³⁰³ As one individual explained:

*From a well-being perspective it does [have an] impact, making you feel like your potential clients are not going to [get] the support they should be entitled to. It gets tiring having to appeal and challenge things when you know someone should be entitled to support or a fair assessment. It wears you down and you have to fight for your own well-being more to ensure you can remain sustainable in your work.*³⁰⁴

One participant spoke generally about the anger felt by many people working in the sector, particularly when seeing the effects of a rhetoric of widespread 'abuse' of the NRM on vulnerable individuals who they are tasked with supporting.³⁰⁵ That same participant noted generally that, for First Responders,

²⁹⁷ Interview (Frontline NGO), 19 Dec 2023; Survey Respondent No. 39 (Frontline NGO).

²⁹⁸ Participant No. 9 (Frontline NGO), FG CSOs (5 Dec 2023).

²⁹⁹ Participant No. 9 (Frontline NGO), FG CSOs (5 Dec 2023); Interview (Frontline NGO), 19 Dec 2023.

³⁰⁰ Participant No. 4 (Frontline NGO), FG CSOs (18 Dec 2023).

³⁰¹ Participant No. 6 (Healthcare Provider), FG StOs (13 Dec 2023).

³⁰² Survey Respondent No. 36 (Frontline NGO).

³⁰³ Interview (Frontline Organisation), 19 Dec 2023.

³⁰⁴ Survey Respondent No. 26 (Frontline NGO).

³⁰⁵ Interview (Frontline NGO), 13 Dec 2023.

It was incredibly tough for them because it's just so dejecting seeing negative [decision] after negative [decision] coming back, for people who, you know, have sat in front of you and just sort of poured their story out.³⁰⁶

Generally, research participants also explained that the changes have left staff feeling helpless, especially when they are uncertain of how they can best advise service users,³⁰⁷ while others highlighted how losing contact with services users (for instance, after they have been taken away by the immigration authorities) was extremely distressing for staff.³⁰⁸ Other impacts reported included the additional emotional burden of providing reassurance to service users,³⁰⁹ as well as the distress caused by having to approach traumatised individuals for further information to help ensure that they can meet the evidentiary threshold required to secure a positive RG decision.³¹⁰

³⁰⁶ Interview (Frontline NGO), 13 Dec 2023.

³⁰⁷ Participant No. 6 (Frontline NGO) & Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023).

³⁰⁸ Participant No. 2 (Law Enforcement), FG StOs (13 Dec 2023).

³⁰⁹ Participant No. 6 (Frontline NGO) & Participant No. 10 (Frontline NGO), FG CSOs (5 Dec 2023).

³¹⁰ Survey Respondent No. 26 (Frontline NGO); Participant No. 5 (Frontline NGO), FGO CSOs (18 Dec 2023).

Part 5: Conclusions and recommendations

Conclusion

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.

Drawing on a range of qualitative and quantitative data, the report indicated that one of the most significant impacts of the operationalised NABA provisions has been a significant drop in the rate of positive Reasonable Grounds decisions delivered within the NRM. While this can partially be attributed to changes to the evidentiary threshold adopted in the January 2023 Statutory Guidance, this fails to fully account for the drastic changes in the recognition rates of certain nationalities, such as Albanian nationals. Concerningly, many of the patterns observed in Reasonable Grounds decisions since the beginning of 2023 are replicated in Conclusive Grounds decisions over the same period, even though the requirements for decision-making at this stage were not amended. Concerns were also raised around the impact of the measures adopted to implement NABA on individuals with cases involving an element of criminal exploitation, both in terms of the possibility of disqualification from protection on public order grounds, and in terms of securing 'temporary permission to stay' under the VTS Guidance.

This report also detailed specific impacts of NABA on the wellbeing of people with lived experience of modern slavery. Contrary to the stated aims of NABA, large numbers of individuals displaying indicators of modern slavery were reported as being unable to access support, thereby increasing risks of (re)trafficking and other harms. Research participants also highlighted other aspects of the measures that caused considerable distress for individuals in the system, including an emphasis on adducing substantial evidence at an early stage of the identification procedure, delays in serving NRM decisions, and the broader government rhetoric around 'abuse' of the NRM system. Concerns were also raised around the impact of these measures on the willingness of people with lived experience of modern slavery to enter the NRM or otherwise engage with the authorities, with implications for identification and protection, as well as for the ability of the authorities to investigate and successfully prosecute the perpetrators of these offences.

Finally, this report noted impacts of the NABA measures on organisations operating within the modern slavery sector, including statutory First Responders. Chief amongst these impacts was the uncertainty and confusion caused by the measures adopted to implement Part 5 of NABA, which several research participants explained were introduced without sufficient notice or guidance for organisations to prepare accordingly. Adapting to the changes – including

through the provision of additional services – was reported to have had significant impacts on the capacity of organisations working in this policy space, as well as on the mental health of staff.

Recommendations

Based on the findings of the project, the research team makes recommendations to Parliamentarians, to the Home Office, and to the modern slavery sector. These are to be understood as *mitigating* recommendations: in light of the findings of the report, the only *remedial* recommendation would be to repeal Part 5 of NABA and to put in place a non-discriminatory, evidence-based, and international law-compliant set of measures to tackle modern slavery and ensure protection for people with lived experience thereof.

A: For Parliamentarians

1. Revisit and amend relevant provisions of NABA (and implementing measures) to ensure compliance with the UK's international obligations and alignment with best practice. Ensure that all stakeholders, including people with lived experience of modern slavery, are consulted as part of the process of reviewing the Act and its impacts.
2. Avoid stigmatising language in all communications around modern slavery. Special attention should be paid to ensuring that claims around modern slavery – for instance, in relation to alleged 'abuse' of the NRM system – are clearly supported by publicly accessible data. Consider processes for examining explicit and implicit biases in policy and decision-making at all levels.
3. Ensure that comprehensive and transparent impact assessments are undertaken, and promptly published, when new legislation likely to impact people with lived experience of modern slavery is being considered. Ensure that such impact assessments are inclusive of voices from the sector – including people with experiences of modern slavery – and are considered when draft legislation and policy changes are being proposed.
4. Consider removing modern slavery from the remit of the Minister of State for Countering Illegal Migration and placing it under the responsibility of Minister for Safeguarding, with a view to potentially establishing a designated Ministerial Brief for Modern Slavery.

B. For the Home Office

1. Ensure that any changes to modern slavery policy, including changes to the online referral form and Statutory Guidance, are communicated effectively to First Responder Organisations and other relevant stakeholders, allowing them time to prepare appropriately before the changes come into effect. This could be ensured through measures including:

- a. The establishment of a fixed notice period from the publication to the implementation of any future changes, using the First Responder Forum as the dedicated group for the Modern Slavery Unit to communicate with First Responder Organisations.
 - b. Offering support to First Responders in adapting to any such changes – for instance, in the form of training or detailed guidance on the practical effects of the changes on the referral process.
 - c. Improving existing and establishing additional channels of communication to ensure that changes to modern slavery policy are disseminated more widely among stakeholders in the sector – including legal professionals, healthcare workers, social services providers, training providers, and anti-slavery partnerships.
2. Ensure compliance with international legal obligations in the development of legislation and policy, including through an in-depth, transparent, and open impact assessment ahead of the formalisation of proposals.
3. Implement a transparent impact assessment and consultation procedure for any future legislative, policy and practical developments related to modern slavery. The current procedures are not fit for purpose or are not being utilised effectively, as was found by the recent Home Affairs Committee Inquiry, published in December 2023.³¹¹ Such a procedure must seek out and actively consider the views and experiences of individuals with lived experience of modern slavery, as well as other frontline staff active in the sector. Consultation procedures should be particularly sensitive to concerns that proposed measures will adversely impact the ability to identify and effectively support persons with lived experience of modern slavery.
4. Ensure the fairness of the decision-making process within and across the SCA and IECA, including through regular reviews of data around NRM outcomes, disqualification, and VTS decisions by nationality, age, gender, and exploitation type. Special attention should be paid to ensuring that policies are not themselves discriminatory, nor implemented in a discriminatory manner. Where reviews identify matters of concern, measures including training and further guidelines for decision-makers should be instituted and any policy underpinning such measures should immediately be placed under review (and withdrawn/amended as appropriate). An important step towards ensuring the fairness of decision-making would be the re-establishment of a Single Competent Authority responsible for deciding on all cases, regardless of immigration status or other factors.
5. Make data on ‘victim of trafficking and slavery leave’ (“VTS leave”) decisions publicly available for scrutiny by researchers, NGOs, and other interested parties. The research team notes that considerable strides have been taken toward making modern slavery-

³¹¹ Home Affairs Committee (n 27), para. 40.

related data accessible to the wider public (most recently in relation to the average length of time for issuing RG decisions and the outcomes of reconsideration requests). However, the lack of publicly available data on VTS leave remains a key omission. VTS data should be disaggregated by age (at time of decision), gender, nationality, exploitation type, grounds on which leave was granted, and length of leave. The data should be included in an accessible format as part of the Home Office's quarterly NRM statistical bulletin.

6. Avoid stigmatising language in all government communications around modern slavery. Special attention should be paid to ensuring that claims around modern slavery – for instance, in relation to alleged 'abuse' of the NRM system – are clearly supported by publicly accessible data. Consider processes for examining explicit and implicit biases in policy and decision making at all levels.
7. Revise the current 'Adults at Risk' policy and its application to individuals formally recognised as 'victims' of modern slavery through the NRM. The detention (under whichever guise) of people with lived experience of modern slavery should be permitted only in very exceptional circumstances. The Home Office should consult with a wide range of stakeholders, including people with lived experience of modern slavery, to agree on the threshold of this test.

C. For the Modern Slavery Sector

1. Provide ongoing support to staff within their organisations, including necessary psychosocial support, in recognition of the nature of the work and the possibility of burnout, secondary trauma, and related issues.
2. Document and publish the impacts of policy measures, including NABA and implementing measures, on sector staff and on people with lived experience of modern slavery, thereby contributing to the knowledge base around the impact(s) of such measures.
3. Continue to engage proactively with reviewing existing and proposed legislation and policy around modern slavery, highlighting negative impacts on people with lived experience of modern slavery and presenting evidence to counter any narrative that is not founded in existing data.

Directions for future research

1. Longitudinal research that examines the impact of NABA within its broader legal and policy context (including the adoption of the Illegal Migration Act).
2. Longitudinal and cross-sectoral research that examines, in-depth, the impact of non-modern slavery specific provisions in the Nationality and Borders Act (and related instruments, including the Illegal Migration Act) on people with lived experience of modern slavery, including their protection, (immigration) status, and wellbeing.

Annex: Survey key

Respondent data

1. Name (optional)
2. Organisation (optional)
3. Organisation:
 - Law enforcement
 - Local authority
 - Government department
 - Healthcare provider
 - Law firm
 - Research
 - Policy
 - Frontline NGO
 - Other (please specify)
4. Role:
 - Police Officer
 - Immigration Officer
 - Labour Inspector
 - Community Safety Officer
 - Social Worker
 - Support Worker
 - Policy Coordinator
 - Legal professional
 - Other (please specify)
5. Work location (tick all that apply):
 - England
 - Wales
 - Northern Ireland
 - Scotland

Survey questions

6. How familiar are you with each of the following changes introduced by Part 5 of the Nationality and Borders Act? [On a scale from Very familiar to Not familiar at all]
 - Changes to the definition of a Reasonable Grounds decision (including all amendments to the Statutory Guidance from January 2023 to the present);
 - Introduction of new definitions of 'victims of trafficking' and 'victims of slavery' through The Slavery and Human Trafficking (Definition of Victims) Regulations 2022;
 - Changes to the entitlement to (additional) recovery periods;

- Introduction of a procedure for disqualification from protection on grounds of 'public order' (including all amendments to the Statutory Guidance from January 2023 to the present);
- Introduction of a procedure for disqualification from protection on grounds of 'bad faith' (including all amendments to the Statutory Guidance from January 2023 to the present);
- Adoption of 'Temporary Permission to Stay' Guidance;
- Changes to the timeframe to submit further information at the 'Conclusive Grounds' stage;
- Changes to the National Referral Mechanism online referral form and prompt sheet.

7. Is there anything you would like to add to your responses to Q6?

8. In your experience, what are the three most significant impacts of the implemented modern slavery provisions in Part 5 of the Nationality and Borders Act on the identification of persons with lived experience of modern slavery? For each impact, please specify whether you consider this to be positive or negative.

9. In your experience, what are the three most significant impacts of the implemented modern slavery provisions in Part 5 of the Nationality and Borders Act on the support provided to persons with lived experience of modern slavery? For each impact, please specify whether you consider this to be positive or negative.

10. Are there specific elements of the implemented modern slavery provisions, or of the Nationality and Borders Act more generally, that you think may result, directly or indirectly, in the improved identification and support of people with experience of modern slavery?

11. In your experience, have any of the implemented modern slavery provisions in Part 5 of the Nationality and Borders Act disproportionately affected (or are likely to disproportionately affect) people based on personal (e.g. age, gender, sexual orientation, nationality) or situational (e.g. type of exploitation, immigration status) characteristics? How so?

12. Have you noticed any impact (and if so, what kind of impact) on people with lived experience of modern slavery as a result of the following changes:

- Changes to the definition of a Reasonable Grounds decision (including all amendments to the Statutory Guidance from January 2023 to the present);
- Introduction of new definitions of 'victims of trafficking' and 'victims of slavery' through The Slavery and Human Trafficking (Definition of Victims) Regulations 2022;
- Changes to the entitlement to (additional) recovery periods;
- Introduction of a procedure for disqualification from protection on grounds of 'public order' (including all amendments to the Statutory Guidance from January 2023 to the present);
- Introduction of a procedure for disqualification from protection on grounds of 'bad faith' (including all amendments to the Statutory Guidance from January 2023 to the present);

- Adoption of 'Temporary Permission to Stay' Guidance;
- Changes to the timeframe to submit further information at the 'Conclusive Grounds' stage;
- Changes to the National Referral Mechanism online referral form and prompt sheet.

13. Have you noticed any impact (and if so, what kind of impact) of provisions contained in other parts of the Nationality and Borders Act (i.e. related to nationality, asylum, immigration control, and age assessments) on persons with lived experience of modern slavery?

14. On a scale from 1 ('not prepared at all') to 5 ('very prepared'), to what extent do you think that your organisation is prepared to address changes arising from the implementation of modern slavery provisions in Part 5 of the Nationality and Borders Act? (Select one option)

15. Is there anything you would like to add to your response to Q14?

16. To what extent do you feel that changes arising from the implementation of modern slavery provisions in Part 5 of the Nationality and Borders Act have affected your ability to perform your own (professional) role? In what way(s)?

17. Are there any pre-existing challenges in the identification and support of persons with lived experience of modern slavery that you believe have been exacerbated or improved by the implementation of modern slavery provisions in Part 5 of the Nationality and Borders Act?

18. Leading up to the adoption of the Nationality and Borders Act, the government argued that there is evidence of 'an alarming increase in the number of illegal migrants, including Foreign National Offenders (FNOs) and those who pose a national security risk to our country, seeking modern slavery referrals'. Have you noticed any impacts of the political rhetoric surrounding the adoption of this Act on persons with lived experience of modern slavery?

19. To what extent do you think the implemented modern slavery provisions in Part 5 of the Nationality and Borders Act are likely to contribute to achieving the following objectives: [Scale from Very likely to Very unlikely]

- Distinguishing between legitimate and illegitimate modern slavery claims;
- Identifying people with lived experience of modern slavery as quickly as possible;
- Enhancing the support received by people with lived experience of modern slavery;
- Withholding protection from serious criminals and people who pose a risk to national security;
- Preventing persons subject to immigration control from frustrating the removal process by making additional and/or illegitimate modern slavery claims.

20. Is there anything you would like to add to your responses to Q19?

21. Is there anything you would like to add that you did not have a chance to express so far in your answers to the survey?

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