

## **Identifying, referring and supporting victims of modern slavery in the UK through the National Referral Mechanism**

### **Introduction to the Helen Bamber Foundation**

The Helen Bamber Foundation is the leading UK based charity providing clinical care to survivors of trafficking, modern slavery and other forms of torture. It advocates a multidisciplinary approach and has integrated clinical, legal and social care services, including specialist psychological care and physical rehabilitation, safeguarding, welfare and housing support & community building. The Foundation is known for its expertise in producing medico-legal evidence, and is published both internationally and nationally on: *Trafficking in Human Beings Amounting to Torture and other forms of Ill-Treatment* (2013, with the Organisation for Security and Cooperation in Europe (OSCE)), *Addressing the Mental Health Needs of Survivors of Modern Slavery* (2015, supported by The Freedom Fund), *The mental health difficulties experienced by victims of human trafficking (modern slavery) and the impact this has on their ability to provide testimony* (Briefing Paper with Kings College, London) and the *Trafficking Survivor Care Standards* (2015, with the Human Trafficking Foundation).

### **Background for this submission to the IASC Consultation:**

The Helen Bamber Foundation works with men and women who have been trafficked for all forms of exploitation. Many of our clients were trafficked as children. Victims of trafficking have continuous access to HBF's Counter-Trafficking Programme, which ensures they are in contact with, and safeguarded by, an independent advocate to ensure their protection and sustained recovery before, during and after the NRM process. Our clients are predominantly non-EEA nationals who may be undergoing NRM and asylum procedures, although that is not our criteria for referral. The anonymous quotes which are provided for this consultation are from notes taken from client sessions, and they are intended to provide helpful insight from the victim's perspective in relation to specific aspects of the consultation. Victims are not named and we have not referred to the country of origin of each victim but rather the continent of origin, in order to protect their identities.

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### **What is the best way to ensure that potential victims give informed consent to enter the NRM?**

- Appropriate provision of information:

For a person to be considered to be '*informed*' to the extent that they know what they are doing when they give their consent to enter into NRM procedures, they should have all the information explained to them in their own language or their language of choice. If an interpreter is used, then the guidelines provided in the Trafficking Survivor Care Standards should be followed. See Trafficking Survivor Care Standards, 2.1.2: Working with Interpreters.

In HBF's experience, with provision of appropriate legal advice, and following best practice procedures, it is possible to obtain the informed consent of any person who has the mental capacity to provide it, including those who are particularly vulnerable:

- Sufficient time must be spent with the victim in order to establish, and maintain, a working relationship of trust.
- Independent legal advice should be provided by a solicitor who specialises in working on trafficking cases with victims of modern slavery.
- An independent advocate (akin to the 'Guardians' allocated for child victims) should be designated to support the victim throughout the process, to accompany them for appointments and procedures and explain things to them in an accessible way, repeating and checking their understanding as required. The independent advocate can also liaise with other professionals and services on behalf of the victim.

**A person can only provide informed consent if they fully understand all aspects of the process that they are consenting to.** In HBF's experience, although victims may not at first realise that they are victims of the crime of human trafficking, they always know that they have been ill-treated and abused. Therefore it is the job of professionals who are working with them to permit them an appropriate opportunity to disclose this, and to respond with immediate help and support. With the correct approach we find that victims are able

to understand the NRM system, at least as well as anyone else, when it is explained in a way that is appropriate for them and tailored to their needs. As we explain further on however NRM procedures are complex by any standard, and should be made more comprehensive for victims to understand and be able to navigate.

**In all cases, professionals should be trauma-informed and know how to minimise distress effectively.** In our experience, victims who are traumatised may experience some level of panic, anxiety and confusion if they are asked about legal or procedural case matters outside of the context of other aspects of their case, or if they are without the professional prompts from a trusted person whom they work with. However, the ongoing support of an independent advocate can help to maintain their awareness and understanding of the process, and assist their confidence by offering them a familiar presence. The initial presentation of a person shortly after escape or after first identification - when they may be extremely distressed and suffering intrusive psychological symptoms - can sometimes change relatively quickly and within days if they are provided with the right care, protection and support, as this helps to establish trust. This change is useful for progressing their case in order to protect them, however any person who presents in this way at any stage should be referred for therapeutic care. A change in presentation does not mean that psychological problems are resolved. See Trafficking Survivor Care Standards: Part 2, B.2: Understanding the Psychological Needs of Survivors.

- Information that should be provided to a victim about the NRM:

**The victim should be able to ask about anything at all that they wish to know: anything that is important to them or relates to their specific circumstances, and this should be repeated for them as many times as required.** The needs of each individual person vary greatly, and many victims feel unable to assert their needs or to ask questions openly without feeling inhibition, shame or fear. It is essential that professionals are able to establish and maintain a positive relationship of trust in order to impart advice and information effectively.

**Trust takes time to develop, and several sessions with a victim are ideal, but not always possible.** Due to the trauma that victims have suffered, and the significant effect that this can have on their ability to comprehend advice and information that they are given, it is essential that professionals are trained in, and able to follow, a trauma-informed and victim-centred approach, especially as mental health consequences can severely inhibit victims' understanding and ability to disclose their background.

**In all cases, the process of establishing trust can be helped and hastened by using basic therapeutic principles when working in contact with a victim.** The therapeutic principles, which are outlined in the Trafficking Survivor Care Standards, provide simple but effective methods for professionals in all fields, supporting them to maintain a sense of calm and safety in the room. It is therefore easier to obtain disclosure from victims and assist them to absorb and retain the information that they are given. The therapeutic principles are not simply an ethical tool for victim contact, but can be followed as a code of professional conduct. They assist support workers to avoid ‘burning out’ over time which can be caused in part by the need to draw solely upon their personal intuition and experience when working with traumatised victims. See: Trafficking Survivor Care Standards, B.3. Advice for Non-Clinicians: Working with Survivors who have Psychological Needs (Attached in full at Annex A).

**Victims need to know what the NRM procedures entail:** This is difficult to advise upon because the timings of the two stages of decision making are currently impossible to predict and both can be subject to unexplained delays. If the client also has an asylum claim, this needs to be explained in parallel, which is how the two systems operate, but again the timings for each system are unpredictable. The concept of ‘Reasonable Grounds’ and ‘Conclusive Grounds’ decisions are complex for any person to grasp, especially if they are feeling traumatised and nervous. Good practice is to explain this only when a person is in the right condition to understand it,<sup>1</sup> to explain it as simply as possible, with drawing aids if visual guidance helps. The two-stage process, together with information about the potential for refusal, and the routes for reconsideration (rather than a formal appeals process) is difficult to go through with a victim, and can understandably leave them feeling uncertain and apprehensive.

**Victims need to have a realistic picture of protection, support and services that the NRM may provide them with during the process.** Again, it is difficult to predict where/when there may be bed spaces or outreach services available for them from the Salvation Army or other accommodation providers. In our experience, safe-house bedspaces are not possible to obtain for men, or for women with infant or older children within London. Safe-house accommodation and outreach services provided under the Government contract vary, as does the level of service provided by individual support workers. It is also difficult to know whether victims will be able to access all, or any, of the services provided for under the Council of Europe Convention during their 45 days Recovery and Reflection period, and therefore to state accurately how they

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<sup>1</sup> Trafficking Survivor Care Standards: B.2: Urgent Referral to Mental Health Services. This explains when victims should be urgently referred to healthcare services due to their mental health condition. B.2.1: Referral for Psychological Health Problems enables professionals to know how to refer victims for additional psychological support.

may benefit from them. We believe that the only way forward in such a system is for each victim to have a designated independent advocate who can pro-actively pursue services on their behalf.

- The importance of access to quality legal advice:

**The legal implications of entry into the NRM are very significant for victims of modern slavery. Independent legal advice is an essential piece of the 'jigsaw' of care and protection, and it should be in place prior to referral into the NRM.** Any person who enters a legal process which may have life-changing consequences requires comprehensive legal advice which is provided by a reputable legal representative.

**Quality legal firms are usually over-stretched and lack capacity to take on complex cases due to the high level of demand and the restrictions on legal aid. Victims of trafficking require legal representatives who are trauma-informed and specialised in working on cases of modern slavery to advise and represent them.**

Under the NRM system, a person may be recognised as a victim of trafficking and permitted leave to remain in the UK, and if they do not have rights of residence in the UK they may be granted a renewable period of leave to remain. However, they will also need to prepare for the possibility that they may be disbelieved, found to be 'non-credible' and consequently refused recognition and/or leave to remain in the UK. Therefore it is vital that professionals who are qualified to provide the legal advice and representation necessary for a person's entry into complex legal procedures are involved from the outset.

**Consent to enter the NRM can lead directly to onward referral between the Home Office and the police. The issue of cross-referral between authorities when a person enters the NRM is also significant: Victims need independent advice prior to any police contact.** The police may then contact the victim directly and it is not currently possible to predict for a client how this will be done, or when it will be done. The client may have an NGO/other support service helping them, and the police may arrange contact with the client through them. However most victims will not have NGO or other support, and even in cases where the victim does have this the police may still by-pass it from the outset and contact a victim directly, or drop the NGO/support service from proceedings at various stages of contact with the victim. We have known the police to make first contact with a victim by phone, in the evening, which can cause confusion and distress. If they are suddenly contacted by the police, a victim may believe they are in trouble, and not understand the nature of the conversation. This can lead to increased mental health distress, panic, dissociation and insomnia, which is not conducive to progression of a productive investigation. Providing information on the crime of trafficking to the police can have significant positive and/or negative consequences for victims. We are aware of cases in which victims want to seek justice against their traffickers but are very afraid to speak to the police. Many may have had negative experiences of police in their own countries where corruption may exist, and associate the UK police with this context.

**We believe that all pre-interview discussions conducted by the police should follow a uniform format which is agreed in advance with a supporting independent advocate so that clients can be correctly advised of what to expect.** In practice, we have found that the approach in police pre-interview discussions is not predictable and therefore difficult to explain reliably to victims: some police will work to best practice principles and never ask a victim about their trafficking background at the initial meeting, they will simply advise them about the process of providing information to the police and leave them to consider their options. However, others may quickly launch straight into questions about the trafficking history. This varied approach means that if an independent advocate or other trusted support worker tells a victim that they will not have to explain their background at the first pre-interview discussion with police and then they are directly asked about it, essential trust among all parties can be damaged.

- How to ensure that the victim is able to provide consent after receiving all of the relevant information:

HBF's experience of client work has shown that *appropriate time to reflect* is needed in order for a victim of trafficking to be able to provide informed consent. The amount of time that is required varies from person to person. This includes the time taken to explain all the information that is necessary (as detailed above), and also the time that is necessary afterwards for the client to consider the information that has been provided to them. They may need to ask further questions or just take a while to think it through. Sometimes they will have the well-being of other family members or dependents to consider. Several conversations may be required and in all cases they should have ongoing access to independent legal advice.

HBF has found that victims find it easier to give consent when they know that they can change their mind and withdraw that consent at any time AND that they have an independent and pro-active advocate to assist and support them throughout all forthcoming procedures. Many victims experience profound loss of self-esteem, autonomy and a strong sense of shame from their experiences in trafficking and slavery, and they find it extremely difficult to assert themselves<sup>2</sup>. They may avoid entire situations where they could seek and obtain assistance because of this, so being supported in a consistent and reliable way is essential for them.

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<sup>2</sup> See: See p.66-83 on psychological impact of trafficking and related trauma symptoms, Clinical Links between Human Trafficking and Torture. Part 2 of Trafficking in Human Beings amounting to Torture and other forms of Ill-treatment. Witkin R (2013) on behalf of the Helen Bamber Foundation, Vienna, Organization for Security and Cooperation in Europe .

### Client Quotes relating to informed consent:

*'No one ever talked to me like this, no one explained it to me. If I understood it all, it would have been different and maybe I could have said what happened to me'. Woman from Asia who suffered multiple child trafficking. She progressed through the entire asylum system without disclosing sexual exploitation.*

*'I didn't know I had rights, and I have needed an explanation of what 'rights' means. I just thought it was my fault and I would go to prison. I thought because I have mental health problems, that I would be locked up anyway'. Man from Asia trafficked for criminal exploitation on Cannabis farms.*

*'I have a wonderful lawyer, she told me everything I needed to know and helped me a lot. But I was too afraid to ask her if the judge could detain me straight after the appeal hearing, I see now that it must have been too obvious to her to have mentioned that I would be free to leave afterwards, but I really didn't think I could just walk back out'. Woman from Africa, trafficked for domestic servitude and sexual exploitation, after leaving her asylum appeal hearing.*

*I couldn't think of anything at all at first, every time I tried to speak I kept having flashbacks and I was afraid because the trafficker told me they knew all the authorities. Woman from Europe trafficked for sexual exploitation*

### Would providing immediate access to a temporary place of safety after being rescued help to ensure informed consent?

Safe accommodation is crucial at every stage of a victim's sustained recovery, and in HBF's experience unsafe housing and destitution constitute the greatest risks to victims of further disappearance, exploitation and harm. Therefore offering victims immediate safe accommodation is helpful and in many cases, necessary. However, whether the provision of accommodation can ensure victims' 'informed consent' depends upon parallel provision of access to multi-agency support services. As well as appropriate accommodation, victims need physical and psychological healthcare, independent legal advice and housing//welfare advice. We believe that each victim needs to have an independent advocate to conduct needs and risks assessments, to remain in continuous contact with the victim to safeguard them and ensure they have access to services. This model is successfully followed for victims of trafficking at HBF and we find

that each of these services are necessary in order that victims can feel secure, safe, supported and properly advised. In HBF's experience, victims of modern slavery are simply unable to '*recover and reflect*' on their own, which is a reason why the Council of Europe Convention provides them with access to crucial services during their Recovery and Reflection period.

**HBF believes that multi-agency services should be made available to potential victims regardless of whether they choose to enter the NRM, or whether they are later refused recognition by the Competent Authority.** Victims of modern slavery have suffered a serious crime which has a devastating impact upon their life and health, therefore immediate protection, healthcare, welfare and well-being are in all cases the first priority. Decision-making by the Competent Authority is not of a standard high enough to risk neglecting a victim due to a negative decision being made, and it is often the case, in our experience, that a victim requires support to pursue reconsideration of a negative decision.

**Providing accommodation is essential for victims, but it is also complex, resource-intensive and problematic due to the vulnerability and circumstances of this specific client group.** We believe that in order to create a system whereby provision of immediate accommodation for potential victims is appropriate, a wide-ranging consultation process is required in order to develop a best practice model. This would collate information from all of current accommodation providers, including those who operate under the Government contract and those who operate independently, as well as victims who have used the accommodation and other related NGOs and organisations.

**There is good basic advice about safe-house accommodation in the Trafficking Survivor Care Standards<sup>3</sup>, but more detailed information is required to establish substantive guidelines.** Accommodation providers who live with victims and see them on a daily basis and at all hours of the day and night, can share a lot of useful information about methods of working and challenges faced, as well as services that are effective and those which are not. A Consultation will help to explain the multiple challenges faced by victims and support workers within provided accommodation, and set a path as to how they can be resolved. It is not clear, for example, how a person would qualify for entry into accommodation which is provided for victims of modern slavery without being subject to a detailed interview about their history. Currently this is the case for all accommodation provision, and we know of some victims who have avoided applying for necessary safe accommodation because they fear such an interview.

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<sup>3</sup> Part 3, Trafficking Survivor Care Standards

**Overall in HBF's experience, victims do not feel secure in the accommodation situations that are listed below.** It is important to understand that this does not mean that they simply feel uncomfortable or inconvenienced, but rather that they may flee their accommodation and enter into destitution, exploitation or dangerous survival relationships, due to hyper-vigilance, fear and re-traumatisation. We find it difficult to explain this to accommodation providers and housing services on a case by case basis:

- Accommodation which is mixed-gender, particularly for women who have suffered sexual exploitation or rape in the course of being trafficked.
- Accommodation in which victims are expected to share bedrooms and bathrooms with others. This applies particularly to men and women who have suffered rape within trafficking situations.
- Accommodation where their confidential personal details, including medical information or personal history, or even reference to their trafficking background is discussed in front of others to any extent OR an environment in which they *fear* that this could happen due to a carelessness about professional conduct of support workers or the conduct of housemates.
- Accommodation where staff are not trained in trauma-informed methods of working and do not act kindly or sympathetically towards them.
- Accommodation, for example shelters, which are primarily for people who are exiting street prostitution (non-trafficked) or are primarily residing there as recovering drug or alcohol users. This is not appropriate for recovering victims of trafficking.
- Accommodation which keeps them feeling strictly monitored, subject to illicit filming, or where they are given a curfew etc. This can, if it is not done sensitively, mirror their trafficking experiences.
- Any accommodation which reminds them of their trafficking experiences, for example hostels where rooms are organised in a way that is similar to the brothel they were held in, restricted rooms which remind them of a DVD factory they slept and worked in. For some victims rooms can feel unsafe due the furniture arrangements, ie a young man who has been victim of a paedophile network fears his bed being near the entrance to his flat to the extent that he would prefer to sleep on the floor; a young woman who was in a brothel from childhood fears putting up the blinds in her room even for a moment. Victims basically fear living anywhere they feel that attack is threatened or may be imminent. It is

important that this is taken seriously and each person's circumstances and background are considered individually.

#### Client Quotes on accommodation:

*'I don't want to be at the safe-house – they asked me to give my medical details in front of another housemate.'* **Man from Africa trafficked for forced labour and sexual exploitation.**

*'They make you feel like you are a burden at Barry House. If you ask for anything they treat you with contempt, they think you are lucky to have anything at all and they let you know that.'* **Woman from Africa trafficked for domestic servitude.**

*'The rooms were in a corridor at the top of some stairs and it reminded me of the brothel I was in. This triggered panic attacks and bad memories, but no one understood.'* **Woman from Asia trafficked for sexual exploitation**

*'There are very loud people there, I hear them talking at night and it brings back memories. It's supposed to be all-female accommodation but the women bring their boyfriends in and I am too afraid to go to the bathroom.'* **Woman from Europe trafficked for sexual exploitation.**

*'They gave me so much support, and helped me with the baby, I feel at home there, I have friendships there.'* **Woman from Asia trafficked for forced marriage and domestic servitude.**

*'I feel safe because the area is lit at night and near the shops. I have my own room and bathroom so I don't have to be afraid of other people. It's a new life'*. Woman from Europe trafficked for sexual exploitation. She won her case to be housed in a safe, central London Borough in housing which is specifically for vulnerable people.

#### What existing good practice is out there helping potential victims to access support?

There are good frontline NGOs, and individuals working within NGOs and statutory services who can be relied upon to 'go the extra mile' in order to provide victims with protection, care and support. Lawyers also have a key role to play in assisting victims to access services, although they are not re-numerated

through legal aid for this extra work, and it relies upon their individual good-will, knowledge and interest in best practice.

**Unfortunately there is no uniform access to statutory and other services which can be relied upon in England and Wales due to the lack of a statutory duty of care in the Modern Slavery Act or statutory guidance published for professionals.** We believe that protocols and training on modern slavery should be embedded into the qualifications for the careers of all professions that come into contact with victims. This training should ensure that professionals are informed about trauma and the mental health problems experienced by victims.

**Independent support organisations are overstretched and unable to meet the high demand for services. There are not many organisations that are equipped with the multi-disciplinary expertise (including integrated health/therapeutic care and legal/welfare) and ability to provide care long term, which is required for this specifically vulnerable client group.** Statutory agencies and police endeavour to meet and plan, and take the subject forward, but this is fairly limited and lacks consistency. Essentially, victims are in a situation of 'luck of the draw' as to who identifies them first and how they are protected, supported and assisted. Even the Salvation Army houses vary markedly in approach and quality of service.

**NGOs such as the NSPCC, Barnados, Baobab and Children's Society which provide services for children and young people to the age of 25, offer a vital lifeline to young victims.** They recognise that the vulnerability of young people lasts far longer than the artificial 'cut off' of age 18. It is important to understand the serious impact on the development of victims who are trafficked as children, as well as the loss of education and practical 'life' learning, which makes them highly vulnerable to further exploitation and harm. We find that young people remain at significant risk due to their level of immaturity well into adulthood. This is not only because they are the highest target age-group for trafficking and exploitation, but also because they can lack the emotional maturity and confidence to accurately read the motivations of others, and to understand how to avoid situations that are dangerous (for example, social media or sexual advances). This is compounded by the mental health impact of traumatic experiences. Some find it challenging to make decisions for themselves which keep them protected and can become highly avoidant of any situation in which they feel they may lose control, which can result in social isolation. We find that the same vulnerability can extend to all men and women who have suffered multiple rape, violation or injury, and this should be borne in mind by all those working with adult victims. Independent living is an important objective, but it should not be expected to happen all at once, only gradually and with incremental support provided at each stage.

Quotes from young adults which reflect their particular vulnerability and challenges:

*'I think a lot about what love is, if anyone could ever love me. When he has sex with me, he just pushes me over and has it, it's painful. I'm not good looking enough for him, he says his other girls look prettier. If I can look better, he'll take me to a hotel, but I think I'm too ugly.'* **Woman from Africa trafficked for care work, sexual exploitation and domestic servitude.**

*'I am so scared, this man asked me for my number, he just followed me out of the building and asked me. I froze, I gave it to him, without even thinking. Now he is calling me all the time and I'm really worried.'* **Woman from Africa trafficked for sexual exploitation.**

*She says I am her brother and she is my sister. In my culture because she is older than me, a married lady with kids, I have to do things for her, you know carrying things for her, helping with the children, and she and her boyfriend just asked me to buy phones for them.* **Man from Africa trafficked for sexual exploitation.**

*'I don't know if I loved her or not, maybe I do love her. She called me a witch and I was so afraid of her, but she was like my mom because I only lived with her, and I did everything for her. It makes me confused all the time.'* **Woman from Africa trafficked for domestic servitude.**

*'I could never look at him in the face, he was like a God, and he said he would kill me if I looked at him. Even now I see him everywhere, I think he is watching me all the time. You say I'm not cursed, but you never met him, so how do you know?'* **Man from Africa trafficked for forced labour.**

*'When he took me to the parties he said 'why can't you smile? What's wrong with you?'. I've never been able to smile properly, it's a fault that I can't help.'* **Man from Europe who was kidnapped by a paedophile network as a child.**

*I was with a friend in John Lewis, we walked past the makeup counter and suddenly I smelt an aftershave. It made me sick, really sick, like I remembered it, I thought I would vomit. I didn't say anything, I just ran out of the shop and home to my room, I stayed there for days without seeing anyone or doing anything. I just felt like shutting myself off. I'm too embarrassed to contact my friend again, I just can't see her.* **Woman from Europe trafficked by a paedophile ring as a child.**

**The Human Trafficking Foundation and the Anti-Trafficking Monitoring Group are important and effective coalitions able to articulate the collective wisdom of specialist organisations working on modern slavery:**

NGOs which specialise in specific trafficking situations provide specialist support to victims and expert knowledge to the sector which is beneficial for both policy and practice. Afruca (for Nigerian and Juju trafficking cases, and Southall Black Sisters (for Asian forced marriage and ‘honour’ cases), specialise in regional and cultural understanding of trafficking. Organisations such as Kalayaan (domestic migrant worker cases) and the former Poppy Project (women’s sexual exploitation and domestic servitude cases) specialise in particular forms of trafficking exploitation and can widen their client knowledge into practical policy to benefit other victims.

**There is a marked lack of services for men.** Men who have suffered trafficking for sexual exploitation or have been raped/sexually abused in the course of trafficking for other forms of exploitation (which is common) lack a dedicated organisation which provides specialist support including trauma-focused therapeutic care. In our experience, it is impossible to get a male victim placed in safe-house accommodation within London. We are aware (anecdotally from our clients and other sector partners) that men can experience particular difficulties in coming forward to both the immigration authorities and the police. In our experience, men who have been trafficked for forced labour can be misunderstood as economic migrants who are not truthful about their background. They may have a history of psychological control, sexual abuse and rape which is not disclosed due to shame, stigma and issues of ‘honour’. Often the full disclosure of victims who have suffered prolonged control, assault, rape and sexual violence only becomes possible with the provision of a dedicated and long-term support service which provides therapeutic care as well as a gateway to multi-agency services. Any discriminatory responses that men experience from NRM, asylum decision makers and police officers could be addressed in part by the provision of independent advocates.

Quotes from men which demonstrate vulnerability:

*‘If I talk about what he did to me, I might lose physical control and I’m afraid of that. I know you know what he did – but please, don’t look at the medical pictures that the doctor took, I can’t bear for you to see them’.* **Man from Asia trafficked for exploitation in catering who suffered sexual violence including rape.**

*There is nowhere else to live now, a man from the neighbourhood has given me a space on the floor with a blanket. I don’t have to work for him but I clean everyone’s room and do all the laundry. Now that I have*

*lost my case, I feel like I should do that, I'm very grateful to him for helping me. Man from Asia trafficked for various forms of labour exploitation including construction and restaurant work.*

## **What needs to be put in place to help potential victims access support as soon as possible? What are the barriers to accessing support?**

### **- Victims fear coming forward:**

**Studies indicate that trafficked men, women and children have experienced high levels of violence and significant physical health difficulties, as well as mental health problems such as depression, anxiety and post-traumatic stress disorder<sup>4</sup>. Victims feel deep shame, distress and stigma associated with the trafficking experience.** Due to the demographic of this population, issues of language, cultural understanding and crucially, fear and lack of autonomy and agency, there is a lot to overcome before victims are able to come forward to ask for help. Often victims they feel unable to fully disclose their history and circumstances. People who have experienced extreme trauma are likely to experience Post-Traumatic Stress Disorder (PTSD) and other severe mental health problems. Those who have experienced sexual violence or rape may feel shame, guilt or self-disgust, which are powerful psychological responses that can inhibit disclosure.<sup>5</sup>

**Victims of trafficking may fear consequences for themselves or their families in their home country if they inform on their traffickers. In HBF's experience, victims believe and fear the threats of their traffickers for a very long time after leaving their control.** In some cases traffickers and their associates may attack and target their family members, or issue further threats. In cases where Juju ritual ceremonies have been used to keep the victim silenced, they will be terrified of coming forward and will need specialist therapeutic care in order to do so safely.<sup>6</sup> They may have been subjected to ritual ceremonies (Juju/Voodoo) involving threats of violence or reprisals if they disclose what has happened to them. In some cases of traffickers may have

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<sup>4</sup> Prevalence and risk of violence and the mental, physical and sexual health problems associated with human trafficking: an updated systematic review. *Epidemiology and Psychiatric Sciences* (2016) L. Ottisova et al.

<sup>5</sup> See, The mental health difficulties experienced by victims of human trafficking (modern slavery) and the impact this has on their ability to provide testimony (Prof Katona, Helen Bamber Foundation & Prof Howard, Kings College London) and Helen Bamber Foundation/OSCE op cit, 'Clinical Links between Trafficking & Torture, Understanding the Psychological Impact of Trafficking Upon Victim's Ability to Provide an Account of their Experiences, p.66-71.

<sup>6</sup> See, Helen Bamber/OSCE, op cit, p.68, 'Ritualised violence, Subjugation and Threats in Juju Trafficking Cases; p.104, Working with Internalised Beliefs and Experiences'.

provided victims with false accounts of their history, with warnings of further violence against them or their families if they stray from a false or 'displaced' narrative that they have been given<sup>7</sup>.

**Victims have often suffered previous negative experiences with the UK authorities, for example, within the criminal justice system, in prison, during raids and in immigration detention.** They are aware of other cases where victims of trafficking have suffered criminalisation, detention or enforced removal from the UK and they fear it happening to them also. In addition, victims have often been controlled by traffickers who utilise the threat of the actions of the authorities. Traffickers may tell victims that they have corrupt friends and associates within the UK authorities and that if they inform anyone about what has happened to them, they will suffer serious consequences. For those victims who have suffered Juju ceremonies and related oaths and threats from traffickers, the fear of coming forward is even greater.

**Victims who escape their trafficking situation, usually do not have any understanding that a system of rights and protection exists for them in the UK.** The fact that the UK immigration authorities are associated in the minds of most recent victims with immigration control (ie immigration raids, detention, enforced removal) makes it particularly difficult for them to understand that they could ask the same authorities for protection. It is often the case that refusal decisions from the Home Office (Competent Authority or Asylum Casework Directorate) penalise victims for not coming forward to the authorities immediately upon escape. This overlooks the specific vulnerability of the victims concerned, their low level of knowledge and confidence, and the individual circumstances they often find themselves in after leaving a trafficking situation.

**Victims who leave a trafficking situation have to do whatever they can to survive.** They are in circumstances where they know of no other choice, and they often end up working irregularly, sometimes in exploitative work, sometimes on fake documents which have been used for them their traffickers or which are provided for them by others. Acquiring fake documents can result in further exploitation as victims may then 'owe' the document provider their wages, or have their wages go into a bank account that they do not control. We know of some victims who have handed over the majority of their wages account to traffickers who have threatened them with Juju or attacks on their families. Victims can suffer prosecution and imprisonment for working on false documents, and the fact that this could become a focus for police in the course of pursuing a trafficking investigation inhibits victims from coming forward.

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<sup>7</sup> See, [Chapter 4, Understanding the Psychological Impact of Trafficking Upon Victims' Ability to Provide an Account of their Experiences](#), Helen Bamber Foundation/OSCE, 2013 op cit.

Section 45 of the Modern Slavery Act 2015 introduces a defence for victims of trafficking who are compelled to commit criminal offences, and this has been advanced with the recent case of R v Joseph and others (Anti-Slavery International intervening) [2017] All ER (D) 100 (Feb). However, the defence is still not well known or used by lawyers even in its most basic form, and demonstrating a connection ('nexus') between the trafficking and the crimes that many victims of trafficking commit in order to survive directly after their escape, requires the specialised work of a small pool of legal representatives who are well versed and experienced in working on cases of modern slavery. Many victims of trafficking have experienced prosecution and prison for offences that are directly or indirectly related to their trafficking, while the vast majority of traffickers have not. Victims of modern slavery are of course aware of this, and in our experience frequently refer to cases of others who have suffered detention and enforced removal when they are explaining why it took them so long to come forward and be identified.

#### Quotes on irregular survival after trafficking:

*'I like nursing, and I liked working at the care home. It helped me with my own problems to be helping the old people. I ended up in prison for it though and there I felt truly helpless. **Woman from Africa trafficked for domestic servitude and sexual exploitation.***

*I had to pay the woman back for the fake documents, she had control of the bank account and just gave me pocket money from my supermarket wages. **Woman from Asia trafficked for sexual exploitation.***

#### - Lack of resources for statutory services

**Statutory services are subject to increasing cuts and austerity measures.** This has a knock-on effect throughout the NGO/support services sector and has resulted in statutory services negating their responsibility to victims due to resource constraints. HBF has to expend considerable time and resources to engage statutory services to act appropriately through advocacy for individual clients and the production of medico-legal evidence. We have observed that as austerity measures have increased and accumulated, the morale of the workforce in housing, welfare, healthcare and police has deteriorated in response to requests and enquiries. Considering how much this impacts our service, it is extremely concerning to imagine how it impacts upon the many victims of modern slavery who lack independent advocates to work on their behalf.

**Lack of appropriate training:** Training for statutory professionals remains inadequate. Recent evidence shows that victims of modern slavery often come into contact with healthcare services both during the time

they are exploited and after their escape,<sup>8</sup> and that up to one in eight NHS professionals report having been in contact with a patient they knew or suspected had been trafficked.<sup>9</sup> Equivalent research is yet to be conducted in respect of other statutory services, but referral data for the NRM demonstrates that victims come into contact with a variety of agencies and that key among these are police, the NHS and social care.<sup>10</sup> According to an audit conducted by HBF with King's College London, training is currently conducted on an ad hoc and limited basis and it lacks appropriate information on the effects of trauma or the psychological nuances in presentation which are specific to victims of slavery. Multi-agency training is urgently needed for frontline professionals to ensure that vital opportunities to identify, assist, and support victims of Modern Slavery are not missed, and that best practice procedures are followed.

- Lack of adequate legal advice and representation

**There is a lack of access to quality legal advice and representation for victims. Lawyers who are experienced in working with traumatised victims of trafficking can make the difference between them accessing support or never coming forward and remaining in poverty and exploitation.** We are aware that, while a small pool of lawyers are conducting excellent work for victims, there are numerous lawyers who either take legal aid, or a private fee from victims (which can put victims at risk due to borrowing/exploitation) and do negligent, inadequate work. This takes advantage of an extremely vulnerable client group: it can lead to victims' cases being wrongly refused and victims subsequently going underground, or 'disappearing'. **It is a matter of urgency that quality legal advice and representation is provided for all victims of trafficking, and that negligent/inadequate legal firms are prevented from exploiting victims.**

Quotes on lawyers:

*'I only spoke to the interpreter. He wrote down what I said and gave it to the lawyer, I didn't ever meet the lawyer and the interpreter told me what I could say'.* **Woman from Asia who was trafficked as a child for sexual exploitation.**

*'The solicitor told me that my trafficking case would not work. Instead I had to make up a story about a family debt and someone killed. I was only 17, I was forced into marriage at 13 and prostitution, I didn't understand anything and I daren't question it'.* **Woman from Europe trafficked for sexual exploitation.**

<sup>8</sup> Westwood J, Howard L, Stanley N, Zimmerman C, Gerada C, Oram S. Access to and experiences of healthcare services by trafficked people: findings 1 from a mixed methods study in England. *British Journal of General Practice*. In Press.

<sup>9</sup> Ross C, Dimitrova S, Howard LM, Dewey M, Zimmerman C, Oram S. Human trafficking and health: a cross-sectional survey of NHS professionals' contact with victims of human trafficking. *BMJ Open*. 2015; 5: e008682.

<sup>10</sup> National Crime Agency. National Referral Mechanism Statistics: End of Year Summary 2015. London: National Crime Agency; 2016.

*The first thing the solicitor told me when I lost my case, was that I owed her £1,500. I had hoped so much for a good result, and now I had to think about going back to prostitution. It made me take an overdose – I would rather die than do that.* **Woman from Asia trafficked for sexual exploitation.**

*'My solicitor told me that I was talking about 'rape' and she explained what 'rape' was. I had been 'raped' many times and she asked me about all of it. She wrote a very long witness statement. She helped me with my police interview and she was there at my Home Office interview. She talked to the doctor for me, and helped me to tell the police. She did everything she could'.* **Woman from Africa trafficked for sexual exploitation.**

- The impact of immigration detention and the UK Government's 'Adults at Risk' Policy

**Immigration detention is a system that denies victims of modern slavery who have not received a positive Reasonable Grounds decision access to crucial support services. The experience of immigration detention impacts upon the mental health of vulnerable people.** Vulnerability indicators include experiences of rape, torture, human trafficking, domestic violence or other forms of extreme human cruelty. The ongoing situation of victims of modern slavery being detained is a matter of serious concern. Their past traumatic experiences almost invariably involve a degree of confinement, subjugation and loss of autonomy; traumatic experiences which are replicated in the detention setting. Scientific studies have shown that detention is particularly harmful to those who have a pre-existing mental or physical illness or a history of trauma. Immigration detention is a system that causes harm.

**The Adults at Risk Policy states that vulnerability can be outweighed by immigration factors including a person not coming forward to claim asylum immediately on arrival and failing to report to the UK authorities as required.** This is inappropriate: factors such as a poor immigration history or non-compliance may in fact be indicators of significant vulnerability, and should not be presumed to simply reflect wilful 'abuse' of the immigration system. If a person has a poor immigration history or a previous background of criminal prosecution (for example, due to working with false documents), this should not be a basis for assuming that a person does not have a genuine claim for recognition and protection as a victim of modern slavery. In some cases, such a background may indicate a history of trafficking which should be pursued further.

**With regard to late claims, or absence from reporting, Post-Traumatic Stress Disorder (PTSD) should always be a consideration due to its prevalence in victims of modern slavery.** People who have PTSD perceive themselves as being in current danger. It can cause individuals to re-experience traumatic events as if they are happening in the here and now, thereby forcing them to re-live the trauma repeatedly. Re-experiencing traumatic events may be triggered by detention which replicates experiences of being confined and controlled. Such psychological fear can impact on the individual's willingness to contact the authorities and may be directly relevant to an apparently poor compliance history.

Under the Adults at Risk Policy, in addition to the 'High level 3' evidence that is required to demonstrate that a person is a 'vulnerable adult' and therefore should not be detained, victims of trafficking have to meet the additional requirement of obtaining a positive Reasonable Grounds decision in order to secure their release from immigration detention. We are particularly concerned about the quality of NRM decisions which are made by the Competent Authority for people who are in detention.

**See Case Example at Annex C**

## **Who should be able to make an initial referral? Is a "first responder" role a barrier to accessing support?**

In HBF's experience, many people - victims, general professionals and even professionals who work within the sector - do not understand the term 'First Responders' or the role/function of First Responders. However, if the initial referral consists of an NRM Referral Form which is sent directly to the UK Competent Authority, then having a restricted pool of First Responders will remain the only option. This is because, in being referred to the NRM, potential victims of trafficking will be providing confidential information to the person who refers them in, which then goes directly to the UK authorities. Therefore there needs to be a high level of training, accreditation, professionalism, duty of confidentiality and a sound understanding of NRM procedures.

However, we believe a better system would entail potential victims being referred by first responders directly on to specialist multi-agency services. These services should include accommodation, healthcare, protection, independent legal advice and representation and the allocation of an independent advocate who can oversee their access to services. This would enable victims to have the support required to make an informed decision about entering the NRM. The pool of trained First Responders could then be widened because they would not be obliged to correspond directly with the UK authorities. The wider the pool of First

Responders, the better known its function will become, which will lead to increased national support and protection for victims.

**Immediate provision of a multi-disciplinary model of integrated care after escape from trafficking helps to ensure that all aspects of a case are considered appropriately. We believe that this approach at the outset of identification would also substantially improve the quality of NRM decisions.** Competent Authority decision makers would be better informed, with more evidence provided by a reputable legal representative within an appropriate timeframe. Victims would have had assistance and support to present their case and detail their history. Under the current system, victims' access to support services is a matter of luck as to how they are identified and who assists them. It a notable advantage to victims within the system of NRM decision-making if they are in receipt of support services due to the letters and reports which are written on their behalf by service providers, and evidence that respected organisations are involved in their care. Equally they are disadvantaged if they do not have access to healthcare and support services, and in some cases lack of therapeutic care or medical documentation has been explicitly used against them in negative CG decisions.

#### Quote on multi-agency support

*'I had no one who was on my side, I felt alone, and I had problems in my head. Then I got a new doctor, the old one didn't have much time, but this doctor wrote the first letter for me. It said I had PTSD, I got referred to therapy and the therapist wrote a letter as well. This meant that my lawyer could do her job of explaining it all to the Home Office. It helped a lot because in my interview I found it difficult to express myself and I felt the interpreter didn't approve of me. Once I met the right person, other people helped as well.'* **Woman from Asia trafficked for forced labour.**

## Part 2 – Decision making process

### How can the current two-stage decision making process be simplified?

The Reasonable Grounds (RG) decision is not helpful in its current form. The threshold for the decision is low, based on indicators only and made remotely by the Competent Authority, which in our experience is a standard of proof that is often misapplied. It can be devastating when on this basis alone the case is refused, and more so when, in an error of legal interpretation, the Competent Authority sends a lengthy and

detailed letter which sets out the reasons that a person is not considered to be truthful/credible with regard to their NRM application. A negative Reasonable Grounds decision means that victims may be roundly refused and their credibility undermined before they have had a chance to engage with essential services or put forward evidence about their case history. This can lose the trust of victims at an early stage, disengaging them from the process, preventing them from obtaining help and putting them at risk of further harm. The first priority for potential victims of trafficking should be their immediate health, legal advice, welfare, protection and support. We believe that access to multi-agency support *prior* to entry into the NRM is the best-practice solution.

**The Conclusive Grounds decision should be properly informed, pro-actively considered and decided fairly without the influence of concerns regarding immigration control.** It should not be subject to long delays without valid justification or any interim update being sent to the victim. Some victims may be left for months or years waiting for a CG decision, which leaves them in a distressing state of limbo, unable to know their future, to work or pursue a meaningful occupation and often living in very poor socio-economic conditions which can put them at risk.

**If evidence is lacking for a case the Competent Authority should request it and consider it properly prior to making a decision.** Anecdotally we are aware from solicitors that the request for further information has increased since the NRM multi-agency panel was piloted, and we believe that this is due to an ‘all around’ view of the case and a fresh outlook as to what is required for a decision to be made. In the case of medical evidence, this is useful for decision makers, but the lack of it should never be given as a reason for undermining the credibility of individual victims who claim to have mental problems or to have suffered physical injury/health conditions from trafficking. It is very difficult for victims to access appropriate healthcare and therapeutic services, and even more difficult for them to be able to obtain Medico-Legal reports.

**If country information is required, then it should be sourced from independent, reputable expert organisations and academics.** It should relate directly to the specific region of origin for the trafficking AND to the victim’s individual situation and personal circumstances.

**The credibility of victims should not be undermined by decision-makers due simply to un-justified presumptions about the motivations, actions or behaviour of traffickers and/or victims.** This stems from a lack of understanding about the psyche of those who have been trafficked, and the mental health consequences of prolonged fear, subjugation and control. Victims should not be required to ‘answer for’ unexpected events which occur during their trafficking experiences or the actions of their traffickers.

Accounts which seem unusual, and have unexpected elements, may indicate that a person is not fabricating their account, however too often decision makers swiftly arrive at the opposite conclusion. In our experience, despite all that is now known about *modern* slavery, credibility issues in Conclusive Grounds decisions can still arise when a person has had some level of physical freedom which does not fit with traditional notions of enslavement. It is well documented that traffickers may control people in all forms of exploitation via psychological methods, and that, as time goes on, victims may be permitted more allowances as traffickers become less stringent and rely on victims habitual dependence and lack of autonomy.<sup>11</sup>

Better quality of decision making is of course helpful to victims and those who work to support them, but will also save time and resources with regard to the number of necessary reconsideration requests and judicial reviews.

Quote on decision making:

*'I don't know what else I can do to make them believe me. It's like the Home Office hates me, they said I am a liar, that I wouldn't have got an education if my childhood had been so bad. I think about this every day of my life, how to show them I am not lying. I've done everything I can to be educated – it's been my dream to do it'. Man from Africa trafficked for forced labour.*

## How to ensure the decision-making process is non-discriminatory and is not affected by their nationality or immigration status?

It is not possible to ensure against discrimination while the Competent Authority which has primary responsibility for making NRM and asylum decisions for victims of trafficking also has primary responsibility for immigration control. Even with the best intentions, it is not possible to attempt to balance these two distinct agendas.

**In the meantime, multi-agency NRM panels are the way forward, and collectively they can become a Competent Authority.** Training for the multi-agency Competent Authority should be ongoing and without pause, it should be published so that it is available for scrutiny, and regularly updated. Members of the panel should receive, and exchange, current information on all new or varying scenarios in trafficking which are

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<sup>11</sup> Helen Bamber Foundation/OSCE op cit

occurring especially as exploitative behaviours by traffickers and associated criminals are constantly evolving.

**Decision-makers must be trained to consider cases with an enquiring mind and be ready to learn from them. For example, it is not acceptable for decision makers to think they have ‘seen this scenario before’ and that fact alone equips them to judge the merits of a case.** In cases where certain accounts seem to be too much alike other cases, or likely from their facts to be fabricated, a pro-active approach is even more important. This could mean that a full account has not been taken correctly, or it may be an indication that a person/persons are be under control/instruction and therefore at risk. An outlook of objective enquiry is vital for each case.

**Decision makers should carefully consider the advice and information provided by professionals who are working with the individual and multi-agency services which victims are accessing.** Frontline professionals have valuable information about individuals for whom they write letters and reports, as well as wider experience of this client group and the various scenarios within trafficking.

### **Is an expert multi-agency panel consisting of a wide range of professionals and sitting in one place a possible solution? What are Pros and Cons?**

#### **Pros:**

- The multi-agency panel, whether it is conducted remotely or in person is far better than a single-body decision-maker. It is able to consider all aspects of a case ‘in the round’ and each decision maker has the support of the presence and opinion of professionals from various related fields.
- An in-person meeting is always more effective and fluent than a remote phone call between multiple members.
- The obligation to be at a specific venue in person is more of a commitment than the obligation to dial in, and therefore the preparation work and discussion for consideration of the case may be more thorough and uniform, as the work of each member of the panel is clearly visible and available to others in the room.

- The networking/discussion opportunity from an in-person meeting is greatly enhanced, and will give members a chance to update and exchange current information.

**Cons:**

In HBF’s view, in order for the panel to be effective and competent it needs to be made up of professionals who are currently working directly with victims of modern slavery in their individual fields of discipline. The obligation to attend a meeting in person may therefore be rather restrictive for them, especially if this is on a voluntary basis. We do not think that working voluntarily and long term is appropriate for a panel of professional decision makers in any case, so one way to overcome this obstacle is to re-numerate each member of the panel for the time spent as well as ensuring the panel confers status and progression for them in terms of their career development. This is an investment in the issuing of robust decisions, which are therefore time and cost-efficient.

It is notable at conferences where different regional areas come together to discuss modern slavery, that regions have distinct cultures. They often have a regionally-based knowledge about trafficking, and various distinct habits in terms of meeting, making decisions and methods of working. It would be advisable to have local panels which meet nationally at least annually. They should train together, and have a system of temporary placements on each panel for rotation of visiting members.

**If such a panel is convened, where should it sit?**

The venue should be independent of the police and UK Government.

**Part 3 – Move-on pathways and long-term support**

**How to ensure a smooth move-on transition from safe accommodation to mainstream support services? What is needed to be put in place?**

As documented in the reports, ‘Life Beyond the Safe House’<sup>12</sup> and ‘46 Days: Is there life beyond the Safehouse for Victims of Modern Slavery’<sup>13</sup> and ‘Beyond the Safehouse’, this transition is fraught with difficulties, and can put victims at serious risk. At HBF we see the emotional impact on victims of suddenly

<sup>12</sup> Human Trafficking Foundation, 2015

<sup>13</sup> Human Trafficking Foundation, 2016

having to leave accommodation which they have made their home, with an uncertain future and the sudden loss of support workers whom they have come to know and can trust. In our experience support workers are also impacted in terms of knowing that a victim clearly needs continued support and yet the terms of their contract mean that they are not permitted to work with them any longer. This system does not take account of the needs of victims, nor the professionalism and commitment of support workers, who are left feeling that they have been forced to be negligent of their client, rather than fulfilled in their role due to the way in which this system is organised. An immediate improvement to this would be a significant extension of outreach support by the same personnel after a victim leaves the safe-house.

**However, we believe that the best solution is to have an independent advocate for each victim in place throughout the process, before, during and after the safe-house, who takes over continued care upon a victim leaving.** Moving on in terms of securing appropriate accommodation, welfare benefits, National Insurance number, healthcare services and further support services is fraught with problems and often subject to delays which victims find frightening because they fear destitution and the risks of being alone. At HBF we frequently take over the role of housing/welfare support, as well as continuing therapeutic care, contact and safeguarding further to victims in our care leaving the safe-house. We are aware therefore of the particularly high level of needs at this difficult stage.

We welcome the report by the House of Commons Work and Pensions Committee, 'Victims of Modern Slavery', which recommends *at least one year's automatic leave to remain in the UK*:

- Provision of an automatic grants of leave to remain avoids the serious consequences faced by victims who are issued with a positive CG decision, but have no leave to remain. They still have to leave the safe-house (if they have been able to reside there), but they are unable to access mainstream services and benefits. They must try to seek reconsideration while they are in straitened circumstances, without desperately needed support. Those who are given very little leave to remain, for example 3 months, can also find themselves in a desperate situation.
- We agree with the Committee that one year is a minimum duration of leave for victims of trafficking, and it should in all cases be renewable. One year's leave is not generally understood or accepted by landlords, employers or educational institutions and it can therefore mean that victims end up in irregular accommodation, exploitative work and foregoing their education. Those who fear further reprisals from traffickers do not feel safe with one year's leave and the worry of it ending often becomes a pre-occupation from the time that it is received.

- Victims of modern slavery who receive a positive CG decision should have a document which entitles them, as vulnerable adults who are victims of a serious crime, to a fast tracked, priority service for mainstream accommodation and benefits. It should not identify them to anyone other than professional providers in housing services and benefits services, as having been trafficked, as having to show such a document could deter them from accessing services and put them at risk. We agree with the recommendation that DWP staff should all be trained, and that the Leeds Jobcentre project should be extended nationally and as soon as possible.
- As well as fast track access to accommodation and benefits however, victims of trafficking require ongoing care and support. In our view, which is taken from experience of HBF's working model of integrated care, victims should not be without independent advocates at any stage of the process. If key support workers build a relationship of trust and advocate for them *only* during their time in the safe-house, leaving it can then be devastating and cause a set-back in recovery. If independent advocates are in place from the point of initial identification as a potential victim of trafficking it means that (a) the victim will have been needs and risk assessed from an early stage, so provision for leaving the safe-house will be prepared for by support services which are already involved in their care, and (b) the victim will have a familiar independent advocate to ensure that they are able to make the transition from the safe-house into mainstream accommodation and benefits.

### **Would an individually tailored pathway developed by the expert multi-agency panel be a potential solution:**

**In an ideal system, referrals for care and support would be made prior to entry into the NRM with provision of independent legal advice and an independent advocate.** Such support should be available from the outset, and should not rely upon entry into, or positive recognition from, the NRM but be based solely upon evaluation of individual and personal need.

**We believe that any Competent Authority should consist of decision makers from multi-agency services and this is supported by HBF's experience of the NRM pilot panel.** They will need to focus upon the substantive decision as to whether a person is a victim of trafficking, and carefully consider all of the evidence presented. It is important that decisions made as to their care and support are not an 'add on' to this important function, but are treated as a primary concern. Therefore while a multi-agency Competent Authority could function as a secondary 'check and balance' that a person is receiving, and will in future

continue to receive appropriate services, we believe that an individually tailored pathway for appropriate care and support should be:

- Started at the time of their initial identification with the help of an independent advocate.
- Taken from a face to face assessment (or a few sessions) with a victim. We find that an effective Needs and Risk assessment should always be conducted in person, particularly for this vulnerable client group. In our experience it almost always uncovers issues and problems that are not recorded on a person's documents.

**If yes, what should it include? What are the minimum support services that should be available to victims after they leave the safe accommodation? (i.e. access to accommodation, recourse to public funds, health, English classes, education, employment, safe return)**

- We agree with the items listed above, and would add the continuation of an independent advocate, healthcare services, appropriate therapeutic care and independent legal advice.
- With regard to 'safe return' we refer to the Trafficking Survivor Care Standards, 5. Safe Return. This is a complex area and beyond the scope of our submission.
- With regard to education, we agree that being able to have a meaningful occupation and obtaining personal progression through education is very helpful for sustaining recovery, integrating with a positive community and eventually obtaining employment. Victims face specific challenges in mainstream education, so it would be helpful for tutors and administrative staff at colleges and universities throughout the UK to have training so that they are modern slavery-aware and understand that it is not uncommon for victims of trafficking to be taking courses. In such cases a level of pastoral care is required.

Quotes on some of the challenges that victims have encountered in pursuing their education:

*We were going around the class at college, each person had to introduce themselves and say where they were from and about their family. I pretended I had to use the bathroom and I left before they got to me. I haven't been back – I don't feel I can ever go ever back to college now. **Woman from Asia trafficked for sexual exploitation.***

*They have written to me saying I am not attending the course enough so they are dropping me. I couldn't afford to travel there and I couldn't afford the books. It was either eat or travel, sometimes I don't eat. **Woman from Europe trafficked for sexual exploitation.***

*'I never tell anyone about what happened to me. Then at college I met this girl who was so kind and she listened to me. I trusted her and gradually I told her almost everything. Then one day she was cold to me for no reason and I found out she had put it on social media– all about me and how I was making up a story to make people feel sorry for me. She said my name and she said I had been sex trafficked. Everyone at college saw it, I wanted to die. I didn't feel I could talk to any of the staff there about it' **Woman from Asia trafficked for sexual exploitation and domestic work.***

*'I needed a student travel card, but to get it the Student Office told me I needed a bank account. I can't get a bank account so they told me I needed to use a college friend's bank account. But I am too shy to ask anyone, I don't have any friends at the college, even from my class. It's not safe to use other people's accounts either, I've learned that.' **Woman from Africa trafficked for domestic servitude.***

**What do you think, from your practical experience, are successful outcomes for victim's integration? When and how should the support be ceased?**

At the Helen Bamber Foundation, we envisage a client's ongoing and future integration from the first meeting at their initial Needs & Risk assessment, and at every stage throughout their care. It is an objective that we work towards from the outset, but we lend support for the length of time that it takes in each individual case, until they feel sufficiently independent. There is no 'one size fits all' answer to integration, it takes as long as it takes, dependant on the mental health and other vulnerabilities of a person, but our team works towards achieving independence and autonomy at all times. In HBF's experience, the support

required towards integration gradually decreases as clients gain confidence. It is important to understand the challenges that may arise over years after escape from a trafficking situation. These may cause sudden or gradual social isolation or withdrawal from education/employment:

- Legal procedures, decisions and outcomes
- Mental health problems related to trauma
- Physical health problems, illnesses and conditions
- Re-visitation of traffickers, threat of new perpetrators
- Welfare and housing issues
- New relationships and changes in families.

We believe that resources expended at the urgent end of healthcare, police and other services are significantly more costly and time consuming overall than support provided regularly over a longer-term proactive programme of care.

**For HBF's explanation of 'The Meaning of Sustained Recovery' see Annex B.**

## **Part 5 – Other relevant questions**

### **Is the name – National Referral Mechanism – the best fit? What are Pros and Cons for changing the name? What would possible alternatives be?**

‘National Referral Mechanism’ is meaningless to most of the population and few people, even those working in related professions, are aware of it, or its function, or what it is a mechanism for. However, this terminology was designed by OSCE to perform an important international function. It is a term enshrined in the Council of Europe Convention, and while there may be an easier shorthand term that could be used, that should not be lost. Signatory countries each have a ‘National Referral Mechanism’ and although the interpretations of the NRM vary, international efforts to combat trafficking and protect victims are aided by the use of a common language.

### **How to ensure professionalism and accountability in providing care and support to victims of modern slavery (care standards)? (Who should do that?)**

In the view of HBF, ensuring professionalism and accountability requires:

- a) **A duty of care for victims to be inserted into the UK Modern Slavery Act.** This should provide parity for the England & Wales Act with the equivalent Acts for Scotland and Northern Ireland. Currently victims of modern slavery who are identified within England or Wales will be disadvantaged in terms of response to their needs in comparison with those similarly identified within Scotland or Northern Ireland. The disparity between the Acts is set out fully in the report, Class Acts: Examining Modern Slavery Legislation across the UK (Anti-Trafficking Monitoring Group 2016).
- b) **Publication of Statutory Guidance for the UK Modern Slavery Act.** This should set international standards of excellence in order to ensure that appropriate protocols, training and expertise is instilled across all professional disciplines within the UK statutory sector. We recommend that the Statutory Guidance incorporates the Trafficking Survivor Care Standards (Human Trafficking Foundation 2015), which is a concise manual of best practice expressing the consensus view of specialist trafficking organisations across the UK. We also recommend that the Statutory Guidance

is drafted in close consultation with expert clinicians who are experienced in working with victims of modern slavery.

- c) **Amendment to the Care Act 2014** in order that it's application to victims of modern slavery and related guidance is clear to all relevant professionals.
- d) **Training for all professionals who come into contact with victims of modern slavery.** Please see reference to training in this submission at **p: 13, 21, 22, 29, 35**
- e) **Official recognition of the role of independent advocates** through appropriate accreditation and monitoring.

### **Trafficking Survivor Care Standards:**

#### **B.3 Advice for non-clinicians: working with survivors who have psychological needs<sup>14</sup>**

Psychological problems can affect mood and behaviour in a variety of ways and at different times. This means that the presentation of clients can vary distinctly from session to session, and in between. Frequency of contact with the same professional person is helpful in building and establishing trust, which can help clients to feel secure and calm. Any changes in mood should be observed carefully. It is good to maintain awareness throughout contact work that symptoms (including, for example, flashbacks, dissociation, intrusive thoughts, or neurological symptoms resulting from head injuries) can cause the person to be distracted, lose their focus, or to become completely disconnected from their current surroundings.

Symptoms may not be immediately obvious and it is important to keep an open mind and not make assumptions about what any client may be experiencing. For example, apparent detachment or even hostility should not be assumed to mean that the person is disengaged or reluctant to converse. Likewise, outward confidence, eye contact and engagement may be masking problems that emerge later on.

##### **B.3.1 Applying Basic Therapeutic Principles to Contact Work with Survivors of Trafficking**

It is essential that all professionals working with survivors of trafficking are able to initiate early referral for appropriate medical services and therapeutic care. However, it is also useful for them to know that they can apply simple therapeutic principles to their work which can help to manage clients' psychological symptoms and minimise distress. These are straightforward and can be maintained consistently in the course of any task. Training for non-clinicians in applying basic therapeutic principles to contact work is strongly recommended by the Helen Bamber Foundation. It should be initiated in consultation with treating clinicians to promote consistency of approach and high standards of care.

People who have suffered inter-personal violence in any form need to feel they are in a place of safety, kindness and professionalism. All people who work with victims of trafficking should be aware that they are, at all times, communicating with them; not only through speech but also movement, gesture, eye contact and expression, so these should be calmly paced and positive. A non-judgmental attitude, together with respect for cultural, religious and gender issues as well as the person's integrity and privacy, are integral to this.

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<sup>14</sup> Rachel Witkin & Katy Robjant, Helen Bamber Foundation

### **B.3.2 A Safe, Calm, Consistent Environment and Approach**

Any working environment should feel safe and confidential for the client. All actions which take place within it should be calm and predictable, helping the client to feel secure, and therefore confident. It is good to maximise light and space in the room, both in terms of the room's physical arrangements and also in the movements and choices that the client is able to make. This can be particularly helpful to those who have been held in confined spaces by traffickers or have been previously detained or imprisoned. It is best to avoid a 'formal interview' setting in which the professional faces the client across a desk. This can be intimidating and distancing, and suggest that the professional is an authority figure. Sitting as equals in the room creates a feeling of safety and openness which assists communication. This approach is possible even in a tiny room, and is helped by the presence of plants or other comforting, natural objects.

In terms of being able to make choices, clients should be offered a drink and given the opportunity to make small choices such as where to sit, and whether to have the window open or the heating on.

Demonstrating attentiveness to individual needs is especially reassuring for people who have been subjugated and for some it can be a small step towards their recovery of agency and autonomy. If this calm and consistent environment and approach remains the same at each point of contact, the client's confidence and trust should gradually increase over time and allow them to speak more openly.

### **B.3.3 The Client Should Know Who is Working with Them**

People who have been trafficked may be easily confused about who is working with them. There are many reasons for this, but it is good to bear in mind that they may have had multiple interviews or exchanges with a wide range of professionals, including those who work for the authorities. Some will have come directly out of their trafficking situation or other disorienting experience, such as detention or prison. It is important to explain who each person in the room is at the outset, their professional role, why they are there, and their professional obligations to ensure client confidentiality. It is important to check that the client understands and that they know they can ask questions about any aspect of the work or people's roles at any time. Use of professional interpreters is essential in all cases (see Part 1 – section 2.1.2 Working with Interpreters).

### **B.3.4 The Client Should Know that They Have Time to Be Heard**

It is important to create the impression that you have plenty of time for the client, even when that is not the case. It is far more effective to listen carefully and pace a conversation, then simply agree a further appointment to hear more, than it is to share the frantic nature of your schedule with a client from the outset, which can inhibit them from speaking openly.

The appearance of having time to listen and time for the person is calming and increases their confidence. Hurried, swift movements, lack of eye contact or any form of action which suggests that you are in a hurry or have authority over the client has the opposite effect, and can exacerbate any anxiety they may be feeling. It is important not to make assumptions about a person's initial presentation which may have little bearing on how they are actually feeling. A clear and demonstrated willingness to listen and lend time builds trust. For those professionals who work in a busy or 'crisis' environment, this consistent approach can actually be a time saver because it enables people to explain their needs and their background more easily.

### **B.3.5 Demonstrated Interest in the Client's Immediate Safety, Health and Practical Needs**

Care for the client can be demonstrated immediately through concern for their physical comfort, acknowledgement of any pain or discomfort they may be experiencing, and an interest in helping them to solve their immediate practical needs. It is important to establish trust, with mutually agreed, realisable objectives and importantly, to avoid making any promises or guarantees to the client which may not be possible to keep. Try to finish contact work by providing the client with moderate 'next steps' that they can focus on, for example another appointment, finding an address or other information that they need.

### **B.3.6 Maintaining Focus on the 'Here and Now'**

People who have been trafficked often find discussion of their traumatic history or uncertain future overwhelming, and this can exacerbate existing psychological problems and symptoms. Although such discussions may be necessary, it is important to be aware that immediate 'debriefing' which involves discussion of survivors' traumatic history is not recommended and can be harmful. This engagement needs to be managed at a pace that survivors can cope with, so that they do not become overwhelmed. Consistent return to practical issues and the discussion or planning of small actions that are in the current moment or 'here and now' can be very effective in helping clients to feel in safe and in control. It is sometimes helpful to simply say to an anxious client that they are safe right now, and everything is fine here.

Sometimes dissociation is experienced as a response to severe trauma. This is the perceived detachment of the mind from the emotional state and the body and it is frequently observed across the clinical spectrum of cases in which interpersonal violence has occurred. Survivors might talk about feeling numb psychologically or in certain areas of their body. Movement is helpful in managing this, so the client can be encouraged to take a break and walk around. Ensure that clients have breaks wherever needed, but do not leave them on their own if they are very distressed or appear emotionally 'cut off' or 'numb'.

There is a lot to be said for a few simple words or expressions of positivity, kindness and recognition of what a victim has been through. For those whose work involves seeking further information or questioning, the account of a person's background, an outward expression of disbelief or indifference is detrimental. All people have to establish a relationship of trust before they can be expected to discuss issues of rape and other forms of assault, shame, stigma and intricate family details. In cases where juju ritualised violence forms part of the background, it may not be disclosed at an early stage, if at all. Where a background of juju/ritualised violence or oath taking is known, it should not be explored without the client having ongoing appropriate therapeutic support and care.

### 10.4 The Meaning of “Sustained Recovery”<sup>15</sup>

All clients in the care of HBF are encouraged and assisted to gradually increase their own autonomy and agency from the moment that work with them begins, not only through sessions of formal therapy (in cases where that applies) but also in the course of working with them to meet each practical problem for which they require assistance. In HBF’s clinical experience, once they have the necessary tools and support to do so, clients want to move forward by themselves and establish their own lives, families and communities.

The majority of HBF’s clients initiate their own departure from therapy when they are ready to move forward. They are helped to prepare for this in the knowledge that the offer of further assistance or support is available should they need it at any time in the future. Whether former clients take up this offer at any time is entirely their choice; but the knowledge of it travels with them and can be sustaining in itself.

At HBF we respond to any signs of recovery swiftly and positively, working with the client to build and maintain it. However, in decades of work with survivors, we have found that it is not possible to assume that a person has ‘fully recovered’ or will not suffer setbacks once recovery progress has been made. The recovery of people who have suffered inter-personal violence, and particularly those who are at risk of trafficking/exploitation, needs to be sustained on a continuing basis in order to be considered to be stable and enduring by our clinicians.

This means that clients who have moved on from HBF’s services are always aware that further therapeutic support is available to them if it is needed: They may at some point choose to return to having regular therapy sessions/ counselling, receive occasional phone or visit support, consult our internal GP or attend classes or activities.

Over decades of working with survivors of inter-personal violence including victims of trafficking, we have learned that it is a far more effective use of resources to sustain recovery in a *flexible way that is responsive to changing individual need*.

If treatment is restricted to a limited time period there is a risk that we may have to confront a situation some years later in which a person’s mental health has deteriorated, for example because of a situational de-stabilisation, resulting in worsening complex trauma or depression, and even, in some cases, psychosis or a serious suicide attempt.

Underestimating the potential risks to victims of trafficking who appear to be coping very well at particular stage of their recovery can leave them vulnerable to de-stabilisation as well as further harm, re-trafficking and exploitation.

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<sup>15</sup> Helen Bamber Foundation/OSCE, Clinical Links Between Trafficking and Torture, 10.4, Op Cit

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## Annex C:

### Case example: Immigration Detention:

In a recent case of a man held in immigration detention, there were indicators of trafficking and abuse from childhood prior to his being trafficked to the UK. A negative reasonable grounds decision was issued prior to the Rule 35 report, and turned on the credibility of the applicant as the trafficking claim was not raised when he was first questioned by the authorities in the UK. Threats by the trafficker not to tell anyone of the exploitation at the time of initial questioning, were not given any weight by the Competent Authority. Indicators existed that the individual had been re-trafficked after coming into contact with the UK authorities initially. A marked deterioration in mental health and suicidal ideation was then recorded by a doctor and a Rule 35 report from a detention centre doctor noted extensive scarring that was in keeping with a history of torture.

Detention had been maintained for four months on the following basis (quotes in present tense as in the original:

- entry into the UK occurred *“in a clandestine manner”* (the person arrived in the back of a lorry)
- *“you have no close ties in the UK to ensure your compliance”* (Indicators were present that the individual had been trafficked).
- *“given the clear evidence of non-compliance with immigration rules, it is considered that you are highly unlikely to be removable unless detained”* (Indicators of the man’s re-exploitation in the UK were not considered as a possible factor with regard to their failure to report to the authorities previously).
- *“Whilst it is noted that you have encountered physical torture and are suffering poor mental health as a result of this, the doctor has not diagnosed any serious physical or mental health conditions that are likely to worsen within the detained environment during the duration necessary to effect your removal. (Shaw Review, p.306<sup>16</sup>: “Together the literature, which spans a 25-year period and a number of legal systems, tells a consistent story of the harmful effects of detention on mental health.” (Shaw Review, page 306)*
- *“when balancing your vulnerability against your negative immigration factors, the negative factors outweigh the risks”*
- *You are removable on an emergency travel document which can be arranged while your asylum process is being concluding, depending on available flights and escorts your removal is likely to be effected within 14 weeks”.*

At the time of his referral to HBF this man had remained in immigration detention under the Adults at Risk Policy for four months with a further three and a half months being proposed to effect removal. Unfortunately we see many such cases at HBF.