

## THE COVID-19 PUBLIC HEALTH CRISIS:

Urgent call for the UK Government to  
protect and safeguard survivors of  
Modern Slavery who have insecure  
immigration status

Helen Bamber Foundation



The Helen Bamber Foundation (HBF) is an expert clinical and human rights charity. Our multi-disciplinary and clinical team works with survivors of human trafficking/modern slavery, torture, and other forms of extreme human cruelty. We provide a bespoke Model of Integrated Care for survivors which includes medico-legal documentation of physical and psychological injuries, specialist programmes of therapeutic care, a medical advisory service, a counter-trafficking programme, housing and welfare advice, legal protection advice and community integration activities and services. Our training, research and medico-legal evidence is recognised globally and by the UK Government and courts.

During the Covid-19 public health crisis, the Helen Bamber Foundation is continuing to deliver its multi-disciplinary and clinical services for survivors of trafficking and torture but is now doing so remotely.

We are providing our clients with medico-legal documentation, clinical and other professional evidence (including Counter-trafficking evidence) from our client records and where possible the use of remote appointments and assessments<sup>1</sup>. Our (now virtual) reception remains open, and we are ensuring that our clients have access to appropriate healthcare advice, support to access appropriate housing, provision of food and other essentials, and legal protection advice. Our Counter-Trafficking programme team are conducting frequent contact calls to check our client's needs and to conduct remote risk assessments to safeguard against re-trafficking, exploitation or further harm. Our specialist therapy team are continuing to contact clients remotely to provide therapeutic support and to help them manage their trauma symptoms at this especially challenging time.

Regular contact and professional support is vital for survivors' safety, health and well-being. Many lack access to internet and it is essential that this is made available to them throughout and beyond the Covid-19 crisis.

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<sup>1</sup> <http://www.helenbamber.org/our-services/legal/medico-legal-reports/>

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## EXECUTIVE SUMMARY

### Overview: HBF's urgent call for action in the Covid-19 Public Health Crisis

**In any public health crisis, thorough preparation and foresight for each stage is key.**

All countries in the world are tasked with addressing the disaster of the Covid-19 pandemic. There will be a period of immediate crisis, an indefinite period in which the crisis continues and then gradual, phased emergence from it. In some ways this echoes the situation for survivors of modern slavery after leaving the direct control of traffickers. Over years of delivering an integrated model of care in accordance with survivors' individual needs, we have found that a 3-stage process (stabilisation, trauma-focused therapy, gradual reintegration) is required for their sustained recovery from trauma and the ability to begin to rebuild their lives.

The risks faced by survivors of Modern Slavery – which are a serious concern at any time – are compounded by the Covid-19 public health crisis. This particularly applies to those who have insecure immigration status, who are without leave to remain in the UK or have been granted short terms of leave to remain (1 year or less). Isolation, poverty and poor housing conditions, underlying health conditions, lack of access to appropriate care and essential services and experiences of marginalisation all contribute to survivors being unable to manage this crisis and to defend themselves effectively against Covid-19. Many survivors live in fear of threats and reprisals from traffickers and can face the risks of re-trafficking and other crimes being committed against them, particularly at times of crisis or increased vulnerability.

In our experience - and those of our partners in the anti-trafficking sector - even in normal times it takes at least 3 years for survivors to stabilise, access services, sustain recovery and reintegrate. The certainty of secure immigration status enables survivors to regain the confidence they need to remain safe, to avoid further trafficking risks, to pursue social reintegration in employment, education and the community, and to contribute positively to society.

**In the context of Covid-19, three years is the minimum period of stable leave to remain that we can recommend in order to support vulnerable survivors of trafficking crime to remain as safe as possible and thereby to safeguard the public health of the population as a whole.**

## The need for a published UK Government Strategy and Covid-19 Modern Slavery Crisis Committee

The Helen Bamber Foundation is calling for the UK Government to publish a coherent strategy for survivors of human trafficking/modern slavery ('survivors') with specific procedural measures to protect and safeguard them throughout this public health crisis. It is a matter of particular urgency that the Government should address the high risks which are faced by survivors who have insecure immigration status in the UK. This applies to all those who are without any form of leave to remain in the UK, and also to those who have been granted short terms of leave to remain (1 year or less).

The Government's strategy should demonstrate the UK's ambition to be a 'world leader' in the fight to combat modern slavery. It can now be guided by, and accord with, the principles and health standards contained in the newly published Modern Slavery Act 2015, Statutory Guidance<sup>2</sup> and the UK Slavery and Trafficking Survivor Care Standards (2018)

**To be effective, a strategy for survivors of modern slavery must be published urgently and must set out clearly the Government's actions in all respects in relation to the Covid-19 public health crisis. It should be underpinned by the following 3 core objectives:**

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<sup>2</sup> United Kingdom Home Office (2020) "Modern Slavery Act 2015 – Statutory Guidance for England and Wales" London: Home Office. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/875281/March\\_2020\\_Statutory\\_Guidance\\_under\\_the\\_Modern\\_Slavery\\_Act\\_2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875281/March_2020_Statutory_Guidance_under_the_Modern_Slavery_Act_2015.pdf)

- a) To ensure the health and safety of survivors and therefore the health and safety of the wider UK population throughout the Covid-19 public health crisis.
- b) To prevent traffickers and other perpetrators taking advantage of the instability of the Covid-19 crisis period to target vulnerable survivors in order to commit re-trafficking, exploitation and other crimes against them.
- c) To ensure that survivors have swift access to all the protective and safeguarding measures, rights and entitlements provided by the UK NRM and asylum systems, and to prepare for an increased backlog of cases and workload when the UK Home Office gradually returns to normal functioning after the Covid-19 crisis.

The strategy must clarify detail on exactly how the UK NRM victim care contract and NRM resources are being adapted specifically to manage the Covid-19 crisis in order to ensure that survivors remain safe and that their health and welfare are safeguarded. **We recommend that the Government set up and be guided by a Covid-19 Modern Slavery Crisis Committee of experts from the UK's clinical and anti-trafficking sectors.**

### Summary of recommendations: Urgent procedural measures for survivors of Modern Slavery in the Covid-19 public health crisis

The Helen Bamber Foundation's recommendations for survivors of modern slavery are produced by a multi-disciplinary committee with representation from our clinicians, counter-trafficking, legal protection and housing & welfare teams. The recommendations are supported by our wider partners in the UK anti-trafficking sector who are co-signatories.

The health, well-being and safety of survivors of Modern Slavery are at the centre of these recommendations. Each is explained and rationalised further in our report below. It is important to note that all of these recommendations can and should be implemented with respect for and preservation of the Covid-19 public crisis measures of 'lockdown', social isolation and distancing.

The issuing of leave to remain in the UK should not require any individual to leave their current accommodation until the Covid-19 crisis is over and it is safe and appropriate for them to do so. They should not lose any current support or welfare entitlements which are essential and should be consistently maintained. It is in our view neither acceptable nor logical to delay making positive decisions concerning legal protection for any reason that is related to the Covid-19 crisis or otherwise. Legal protection helps survivors to remain safe during this exceptional period of instability.

- ✓ The UK Government should publish a coherent strategy for survivors of Modern Slavery with specific procedural measures to protect and safeguard them throughout this public health crisis. It should set up, and be guided by a Modern Slavery Covid-19 Crisis Committee of experts from the UK's clinical and anti-trafficking sectors.
- ✓ All survivors of trafficking/modern slavery who have a positive Conclusive Grounds decision should be automatically granted a Residence Permit with a minimum renewable term of 3 years leave to remain in the UK.
- ✓ All positive Reasonable Grounds, Conclusive Grounds decisions and positive asylum decisions should be expedited and issued with urgency to protect the health of survivors

and help to keep them safe. This should be facilitated for survivors with continued support provided under the UK NRM victim care contract.

- ✓ If NRM and asylum decisions for victims of trafficking should be placed on hold if a decision-maker is 'minded to refuse'. We are aware that many initial negative decisions are reconsidered or appealed successfully. Negative decisions should not be issued to survivors throughout the Covid-19 public health crisis.
- ✓ It is neither safe nor ethical to leave any person behind in the current crisis. Unless a positive Conclusive Grounds decision can be made with a grant of 3 years leave to remain, all trafficking survivors with pending immigration and identification claims and insecure immigration status should be granted leave to remain for at least 30 months on human rights/discretionary leave to remain grounds, with longer periods of leave (such as five years of Humanitarian Protection) being granted where appropriate. This should be granted at the first stage decision ('Reasonable grounds') stage. Decisions on leave to remain should not be placed on hold other pending decision-making. This is necessary to reduce the urgent risks that the most vulnerable people in our society – survivors who do not have secure status in the UK – are facing.
- ✓ Access to safe and appropriate housing for survivors of modern slavery is greatly impacted by the Covid-19 crisis. A coherent, published strategy which sets out the specific plans for provision of accommodation and welfare for survivors of Modern Slavery throughout the Covid-19 public health crisis and for the subsequent gradual emergence stage is required. In addition to providing as many safe-house spaces as possible while observing Covid-19



safety measures (social isolation and distancing), the Home Office must urgently support NRM victim care contract providers by exploring additional housing options which are appropriately managed and are safe for survivors. These include current offers of temporary accommodation from a range of providers including hoteliers and local authority Covid-19 homelessness schemes for self-isolation support.

## REPORT

### The Covid-19 Public Health Crisis

NHS & Government Advice instructs all persons in the UK to engage in social distancing. Those who are specifically vulnerable to the Covid-19 virus are expected to self-isolate. This includes people who have symptoms of the virus or are living with others who have symptoms, elderly people, pregnant women and all people who have underlying medical conditions or a weakened immune system. It is advised that those who are deemed extremely vulnerable should “shield” fully. The national guidance to delay the spread of transmission and protect those most vulnerable to the virus will save lives only if the most vulnerable people in our society are supported and enabled to apply it in practice.

**As we explain below, survivors of modern slavery are more vulnerable in this Covid-19 public health crisis than the general population. This particularly applies to those who have insecure immigration status.**

Experts acknowledge that the Covid-19 public health crisis is likely to continue in waves for at least the next year and beyond due to factors which include the slow development of herd immunity, resurgence of the virus when isolation techniques are lifted, and possible seasonal variation. Development of a vaccine is reported to be at least a year away from now and distribution will then have to be put into practice. We appreciate that the current advice is likely to develop over time.

There is no foreseeable end to this pandemic and return to the normalcy of everyday business in the UK and the wider world once the crisis is over is likely to be both gradual and

problematic after significant loss of time and resources. The current pressure of caseload and backlog in the UK National Referral Mechanism (NRM) and asylum systems will only increase over the next few years in this situation. Consistent preparation and action is necessary to ensure that survivors have expedited access to their rights and entitlements so that a workable system, which safeguards survivors' health and safety can be preserved.

## The specific health risks for survivors of Modern Slavery in the Covid-19 crisis

From decades of collective clinical experience and research, we are aware that survivors often have significant underlying physical and mental health conditions related to their trafficking history. These vulnerabilities may put them at risk of developing serious forms of Covid-19. Chronic medical conditions, such as cardiovascular disease, diabetes and respiratory disease, are often poorly controlled due to deprivation and difficulty accessing healthcare (either historically or at present). Infectious diseases such as tuberculosis, HIV and hepatitis may also be more prevalent within vulnerable communities. Some survivors may have physical disabilities and learning difficulties which exacerbate barriers to accessing healthcare. The present public health crisis has worsened barriers to healthcare generally, especially for those with language barriers or limited access to the internet, and increased levels of deprivation. Poor health and increased difficulty in accessing medical care mean that health conditions such as Covid-19, are likely to be presented late to health services and become more severe. This increases the risks to the public as well as to individuals.

The overwhelming majority of survivors suffer from trauma symptoms and many have complex forms of Post-Traumatic Stress Disorder (PTSD). In any situation these mental health

conditions are difficult and distressing to manage. Without appropriate support, survivors are likely to experience mental health deterioration. There is also evidence that Post-Traumatic Stress Disorder can suppress the immune system and render individuals more vulnerable to illness.<sup>3</sup> Connected to this issue, conditions such as depression, which can be closely linked to trauma symptoms, can impact negatively on self-care (for example by reducing motivation and even the will to live). This is a particular concern at this time in the Covid-19 crisis, when survivors have to self-isolate and will be without access to appropriate mental healthcare services and in-person professional support.

Most survivors of Modern Slavery in the UK are not housed in safe house accommodation, either in independent shelters or under the NRM victim care contract. The precarious living situations of survivors who are without secure immigration status often comprises transient, poor quality and overcrowded housing (including asylum support housing for those who have an asylum claim pending) which makes it impossible for them to isolate/socially distance effectively. Survivors who are denied permission to work suffer financial hardship if they are without funds or on low subsistence payments which makes it extremely difficult for them to purchase essential supplies and remain safe.

### The risks to survivors of re-trafficking, exploitation and other forms of harm during the Covid-19 Crisis

HBF's multi-disciplinary team works closely with survivors for some years after they leave the direct control of traffickers. From this experience, and our knowledge of the situations of

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<sup>3</sup> 'Suppression of cellular immunity in men with a past history of posttraumatic stress disorder', Kawamura, Kim and Asukai, *Am J Psychiatry*, 2001 Mar; 158(3):484-6.

survivors in the wider UK sector, we are aware that their risks of being targeted for re-trafficking, exploitation and further crimes often remain high. This is due to their specific vulnerability which can be a consequence of prolonged experiences of subjugation and control by traffickers, mental and physical health problems sustained from the process of trafficking, and current situations of extreme financial hardship and adverse living conditions. Natural disasters, including pandemics, are known to increase the risks of re-trafficking of vulnerable people, and this is a population that is often afraid of authorities and has difficulties with confidence, disclosure of their circumstances and language barriers which can inhibit them from coming forward to ask for help and support. We find that even those who are able to benefit from long term access to a network of professional support in normal (non-crisis) times, can nonetheless be targeted by traffickers and other perpetrators.<sup>4</sup>

Risks to survivors are now significantly increased by the current Covid-19 crisis: access to all healthcare and professional services for survivors is severely restricted. Social isolation for survivors of modern slavery will often take place in poor-quality, overcrowded accommodation which is located in areas that are dangerous for them. From our experience of daily communication with survivors, we are aware of the negative impact on our client's

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<sup>4</sup> There is consistent research evidence that victims of abuse and exploitation are at greater risk of being 'revictimised' (Classen et al 2005; Van der Kolk 1989). An important aspect of therapy for survivors of abuse and exploitation is to help them learn to protect themselves and to make conscious choices about not engaging in relationships or behaviours that are harmful (Van der Kolk 1989). The key clinical point is that abuse renders victims more rather than less vulnerable to future abuse. The psychological damage caused by severe abuse over-rides the sensible conscious decision-making that might on first principles be thought such people might learn and apply as a result of their experiences.

mental health which is caused by the uncertainty of Covid-19. This is linked with rapid loss of routine together with diminished access to support services and mental health services at all levels from crisis teams to specialist therapeutic care. There are also risks of destitution and food insecurity. These problems are worsened by open-ended uncertainty about when survivors' legal protection and other issues may now be resolved.<sup>5</sup>

### The urgent need for survivors who have insecure immigration status to be granted leave to remain in the UK

It is in this above context that we believe there is an urgent need for survivors to be provided with the safety, stability and certainty that a grant of leave to remain would provide. However, in our collective experience, many survivors who receive a positive Conclusive Grounds decision from the UK Competent Authorities are not provided with any leave to remain in the UK or are granted short terms of leave (1 year or less). We find that this is the case for most of our own clients despite their having access to medico-legal documentation and other multi-disciplinary professional supporting evidence. We are aware from our wider partnerships in the UK anti-trafficking sector that the experience of other organisations is broadly the same, with (in many cases) an even higher proportion of survivors who are not

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<sup>5</sup> It is important to note that the Helen Bamber Foundation actively works with other organisations and agencies on a daily basis in the field of trafficking and exercises a multi-agency approach. While our clients are accepted into HBF on the basis of multiple clinical and other needs, we have a high level of referrals that we are unable to take on due to our capacity, and we are unable to provide services (with the exception of Medico-Legal reports) for people within our client base but living outside of Greater London. We are aware that these risks are experienced by survivors across the UK and that survivors who have the least professional support are at the highest risk.

granted any leave to remain at all. Sometimes this appears to be due to the Home Office policy of delaying consideration of leave to remain until all other immigration avenues have been considered by a different Home Office team, even if that process takes months or years.<sup>6</sup>

We are concerned that this situation can reflect lack of appropriate consideration by the UK Competent Authorities of Article 14 (1)(a) of the Trafficking Convention which obliges States to consider the '*personal circumstances*' of victims of trafficking in terms of *whether it would be unreasonable to compel them to leave the national territory*.<sup>7</sup> A broad range of consideration is permitted by the Convention '*tak[ing] in a range of situations, depending on whether it is the victim's safety, state of health, family situation or some other factor which has to be taken into account*'.

The many survivors who receive a positive Conclusive Grounds decision but are not provided with leave to remain in the UK are presented with significant problems at the same time as they are formally recognised as victims of a serious crime. Those who are granted short terms

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<sup>6</sup> 'Discretionary Leave Considerations for Victims of Modern Slavery', Home Office, v.2.0 10 September 2018, p.12.

<sup>7</sup> See Council of Europe (2005) "Council of Europe Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings" Article 14.182-184. Pp. 29. Warsaw: Council of Europe Treaty Series – No. 97. Available at:  
<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800d3812>

See also the Council of Europe (2005) "Council of Europe Convention on Action against Trafficking in Human Beings" Article 14.1a. Pp. 7. Warsaw: Council of Europe Treaty Series – No. 97. Available at:  
<https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008371d>

of leave to remain in the UK (1 year or less) can experience significant obstacles to accessing accommodation, education/training and legal employment. It is understandably difficult or impossible for many survivors to convince reputable landlords, employers or educational/training institutions that immigration status of 1 year or less is secure enough to warrant their acceptance.

In the course of our multi-disciplinary and clinical work, we find that short periods of leave to remain can have a negative impact upon survivors' mental health.<sup>8</sup> Survivors often become preoccupied with concerns about the multiple, practical challenges they face with only short-term leave to remain, and continue to fear what will happen to them when their leave expires. These worries can aggravate pre-existing trauma, depression and anxiety symptoms and also often act to impede integration into work and social/family functioning. Furthermore, obtaining access to the good quality mental health care that they need to manage trauma symptoms is often not possible within such a short time frame. In many cases we find that they are living in fear of further threats to themselves and their families from traffickers. We find that short terms of leave to remain can result in repeated homelessness and resultant vulnerability to targeting for re-trafficking, exploitation and further crimes. We are of course particularly concerned about the exacerbation of these problems for survivors in the current Covid-19 public health crisis.

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<sup>8</sup> Our research has found that survivors often experience a deterioration in mental health in the 12 months after leave is granted as they adjust to multiple circumstantial changes; Lauren Rowley, Nicola Morant & Cornelius Katona (2019) 'Refugees Who Have Experienced Extreme Cruelty: A Qualitative Study of Mental Health and Wellbeing after Being Granted Leave to Remain in the UK', *Journal of Immigrant & Refugee Studies*.



It is also the case that the need to renew short-term residence permits can create huge difficulties for survivors. They usually need to instruct a legal representative to apply for an extension of leave and a renewal application may only be accepted within 28 days of the expiry of leave. Survivors then face risks of re-traumatisation due to having to disclose their trafficking history and situation over again. It is often difficult for survivors to access good quality legal advice; renewal of leave requires the services of solicitors who are able to take on complex casework at a fixed legal aid fee. In our experience, once renewal has been applied for, survivors can then find themselves in situations of increased risk. They no longer have documentary evidence which provides evidence of their current and future leave to remain for the purposes of housing, education/training and gainful employment. The fear and uncertainty of this situation is often compounded by survivors themselves, or others who are providing accommodation or employment, not understanding the system of renewal. For example, some clients tell us that they fear being arrested and detained during this period, others are informed by employers or landlords who don't understand or cannot navigate online checks or other methods, that they cannot remain in their housing or current employment due to lack of evidence of duration of leave.

There is often a long period of waiting with this situation of uncertainty: we find that the renewal process can often take two or more years. It should be borne in mind that HBF's client base are survivors who have the unusual benefit of long-term professional support which can cover the renewal period, and detailed documentary evidence from our clinical team and other experts. Many other survivors are placed at even higher significant risk if they are only granted short periods of leave. This situation can only be worsened by the current public health crisis, in which access to the legal aid services necessary for renewal and efficient

administrative service at the UK Home Office are more restricted than usual. From our long-term experience of working with survivors, we are concerned that traffickers and other perpetrators will be able to exploit the instability of the Covid-19 public health crisis situation and utilise the hardship and vulnerability experienced by survivors to target them for further exploitation.

## **Recommendations & Rationale: Urgent procedural measures for survivors of Modern Slavery in the Covid-19 public health crisis**

The Helen Bamber Foundation's recommendations for survivors of modern slavery are produced by the committee of our multi-disciplinary team which includes clinicians, counter-trafficking, legal protection and housing & welfare teams. The recommendations are supported by our wider partners in the UK anti-trafficking sector who are co-signatories. A concise summary of the recommendations is contained in the Executive Summary.

**The health, well-being and safety of survivors of Modern Slavery are at the centre of these recommendations. It is important to note that all of these recommendations can and should be carried out with respect for and preservation of the Covid-19 public crisis measures of 'lockdown', social isolation and distancing. The issuing of leave to remain should not require any individual to leave their current accommodation or to lose any current support and welfare entitlements until the Covid-19 crisis is over and it is safe and appropriate for them to do so. It is not acceptable or logical in our view to hold off on making positive decisions concerning legal protection for any reason that is related to the Covid-19 crisis or otherwise. Legal protection helps survivors to remain safe during this exceptional period of instability.**

- ✓ The UK Government should publish a coherent strategy for survivors of Modern Slavery with specific procedural measures to protect and safeguard them throughout this public health crisis. It should set up and be guided by a Modern Slavery Covid-19 Crisis Committee of experts from the UK's clinical and anti-trafficking sectors.

The Government's strategy should demonstrate the UK's ambition to be a 'world leader' in the fight to combat modern slavery. It can now be guided by, and accord with the principles and health standards contained in the newly published Modern Slavery Act 2015, Statutory Guidance<sup>9</sup> and the UK Slavery and Trafficking Survivor Care Standards (2018)

To be effective a strategy for survivors of modern slavery must be published urgently and set out clearly the Government's actions in all respects in relation to the Covid-19 public health crisis. It should be underpinned by the following 3 core objectives:

- (a) To ensure the health and safety of survivors and therefore the health and safety of the wider UK population throughout the Covid-19 public health crisis.
- (b) To prevent traffickers and other perpetrators taking advantage of the instability of the Covid-19 crisis period to target vulnerable survivors in order to commit re-trafficking, exploitation and other crimes against them.

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<sup>9</sup> United Kingdom Home Office (2020) "Modern Slavery Act 2015 – Statutory Guidance for England and Wales" London: Home Office. Available at:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/875281/March\\_2020\\_Statutory\\_Guidance\\_under\\_the\\_Modern\\_Slavery\\_Act\\_2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875281/March_2020_Statutory_Guidance_under_the_Modern_Slavery_Act_2015.pdf)

- (c) To ensure that survivors have swift access to all protective and safeguarding measures, rights and entitlements provided by the UK NRM and asylum systems and to prepare for increased backlog of cases and workload when the UK Home Office gradually returns to normal functioning after the Covid-19 crisis.

The strategy must clarify detail on exactly how the UK NRM victim care contract and NRM resources are being adapted specifically to manage the Covid-19 crisis in order to ensure that survivors remain safe and that their health and welfare are safeguarded. **We recommend that the Government set up and be guided by a Covid-19 Modern Slavery Crisis Committee of experts from the UK's clinical and anti-trafficking sectors.**

- ✓ All survivors of trafficking/modern slavery who have a positive Conclusive Grounds decision should automatically be granted a Residence Permit with a minimum renewable term of 3 years leave to remain in the UK.

An efficient email or online system should be set up to allow survivors of human trafficking who have a positive Conclusive Grounds Decision and insecure immigration status to access their automatic grant of leave to remain.<sup>10</sup> Anyone receiving a new positive Conclusive Grounds decision should be given a grant of discretionary leave for three years and those with a pre-existing positive Conclusive Grounds decision should be able to apply under the email

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<sup>10</sup> With a pragmatic and humane approach taken to enrolling biometric data, for example, using details already on Home Office systems and allowing photographs to be emailed by applicants or their legal representatives in order to activate the issue of a biometric residence permit. In the alternative, a flexible, efficient online or email system could be set up to allow survivors to register.

or online system. 3 years is the minimum period which HBF's multi-disciplinary and clinical team find to be safe, appropriate and sufficiently protective for survivors of modern slavery. This duration of time will enable survivors to remain safe throughout the Covid-19 crisis and to be provided with a genuine opportunity to access safe accommodation, education/training and gainful, safe employment. Many have key skills and professional backgrounds and would like the opportunity to contribute these to the wider society.

3 years minimum leave to remain should be granted in recognition of survivors' personal circumstances in accordance with Article 14 (1) (a) of the Council of Europe Convention on Action against Trafficking in Human Beings.<sup>11</sup> The 'personal circumstances' clause logically applies to all survivors of modern slavery in the current Covid-19 public health crisis. It is also unsafe (and not feasible) for survivors to be expected to leave the United Kingdom during the Covid-19 crisis. Many countries have closed their borders, but even where a transit route would in theory be possible, international travel would be unreasonable given that it cannot be undertaken in line with the government's recommendations on social distancing, isolation and minimising travel.

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<sup>11</sup> Council of Europe (2005) "Council of Europe Convention on Action against Trafficking in Human Beings" Warsaw: Council of Europe. Available at: <https://www.coe.int/en/web/anti-human-trafficking/about-the-convention>. See also, the Home Office (2018) "Discretionary leave considerations for victims of modern slavery" London: Home Office. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/739436/dl-for-victims-of-modern-slavery-v2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/739436/dl-for-victims-of-modern-slavery-v2.pdf), noting however that the grant of discretionary leave to remain should not usually be paused behind any decision on international protection or human rights given the delays anticipated in that decision-making and the impact of insecure immigration status on survivors during this public health crisis.

As a specialist, multi-disciplinary and clinical organisation working with survivors we recommend in line with our experience that leave to remain in the UK be granted for no less than 3 years.<sup>12</sup> However, in our view any grant that is less than 30 months leave to remain in the UK would be unacceptable and unworkable in the current crisis and could increase, rather than ameliorate, difficulties with access to justice and Home Office backlogs.

- ✓ All positive Reasonable Grounds, Conclusive Grounds decisions and positive asylum decisions should be expedited and issued with urgency to protect the health of survivors and help to keep them safe. This should be facilitated for survivors with continued support provided under the UK NRM victim care contract.
- ✓ All NRM and asylum decisions for victims of trafficking should be placed on hold if a decision-maker is 'minded to refuse.' We are aware that many initial negative decisions are reconsidered or appealed successfully. Negative decisions should not be issued to survivors throughout the Covid-19 public health crisis.

We are aware that there can be flaws in NRM and asylum decision making, and that many initial negative decisions are reconsidered or appealed successfully. It is extremely distressing

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<sup>12</sup> The clinical opinion of the Helen Bamber Foundation's Medical Director Professor Katona was recently accepted by the UK courts on the issue of trafficking leave to remain in the case of *JP v Secretary of State for the Home Department* [2019] EWHC 3346 (Admin), for example at paragraph 165: "***That impact includes the psychological impact of the prolonged uncertainty suffered by victims as to their immigration status, which, as the evidence of Professor Katona shows, inhibits the ability of many victims to begin proper trauma recovery work.***".

at any time for survivors to receive negative decisions, but this is especially the case during the public health crisis when they are without appropriate support and safeguarding for the consequential upheaval. The resulting loss of accommodation and subsistence funding can give rise to immediate risks of re-trafficking and further harm. There is significantly reduced capacity during this crisis for NRM reconsideration reviews and asylum appeals.

If refusals trigger an appeal right, with the standard 14 days to appeal (such as where the refusal forms part of the refusal of a human rights claim), many survivors will not be able to comply with that deadline. They may then believe (understandably) that their appeal deadline has passed and this right has been lost. Similarly, 3 month judicial review deadlines may pass without access to legal advice. We therefore suggest that where a decision-maker is 'minded to' refuse a trafficking case, the case be put on hold and considered properly further on after emergence from the Covid-19 crisis, so that the individual has a fair opportunity to submit all the evidence in support of their claim and activate any appeal or review right.

Survivors may be unable to find legal representation as law firms are closed, lawyers may be unable to take instructions remotely from vulnerable people, and crucial evidence (such as medico-legal reports) may not be currently available. Survivors may also face practical barriers such as accessing phone credit or internet for communication or news and may struggle to find a private space to discuss personal/private information. In addition, revisiting traumatic events is a particular risk factor that can cause a deterioration in a trafficking survivor's mental health and increase trauma symptoms, including suicidality. While in isolation people's anxiety regarding their status can increase.

Furthermore, it is inappropriate for survivors of torture, trafficking and severe abuse to be asked to revisit their past trauma without the safety net of social engagement and/or specialist trauma-focussed therapeutic care. This includes having to provide evidence remotely, without a safeguarding plan in place. The mental health risks for vulnerable survivors who receive negative decisions are significant.<sup>13</sup>

✓ It is neither safe nor ethical to leave any person behind in the current crisis. Unless a positive Conclusive Grounds decision can be made with a grant of 3 years leave to remain, all trafficking survivors with pending immigration and identification claims and insecure immigration status should be granted leave to remain for at least 30 months on human rights/discretionary leave to remain grounds, with longer periods of leave such as five years of Humanitarian Protection being granted where appropriate. Decisions on trafficking leave to remain should not be placed on hold behind other decision-making. Discretionary leave should be granted at the first stage decision ('Reasonable grounds') stage. This is necessary to reduce the urgent risks that the most vulnerable people in our society – survivors who do not have secure status in the UK – are facing.

Denying the right to access gainful employment makes it impossible for people to look after themselves and their families sufficiently. It causes unnecessary suffering, particularly in the context of increasing, long-term delays experienced in all legal systems for status

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<sup>13</sup> We recommend that negative decision-making be suspended urgently and that in due course a legacy case review scheme be considered and implemented on a staged basis to reduce the burden on the Home Office and case backlog for vulnerable individuals and those with ties to the United Kingdom.



regularisation. We know from our professional experience of working with survivors that this population includes people who have a wide range of professional skills.

**Due to the extenuating circumstances and challenges of the Covid-19 public health crisis, it is essential that survivors do not have any current support and entitlements they are receiving terminated for any reason. These include provision of accommodation, welfare (including financial subsistence entitlements) and outreach support provided under the UK Victim Care Contract.**

### **The urgent need for survivors to have safe and appropriate accommodation & welfare throughout the Covid-19 crisis**

- ✓ Access to safe and appropriate housing for survivors of modern slavery is greatly impacted by the Covid-19 crisis. A coherent, published strategy is required from the UK Government which sets out the specific plans for provision of accommodation and welfare for survivors of Modern Slavery throughout the crisis. In addition to providing as many safe-house spaces as possible while observing Covid-19 safety measures (social isolation and distancing), the Home Office must urgently support NRM victim care contract providers by exploring additional housing options which are appropriately managed and safe for survivors. These include current offers of temporary accommodation from a range of providers including hoteliers and local authority Covid-19 homelessness schemes for self-isolation support.

The situation for survivors seeking safe houses, shelters and other accommodation in this pandemic crisis is urgent due to lack of safe and appropriate housing stock and the lack of

current access to professional support services. There is a need for survivors of trafficking to be housed, via the NRM Victim Care Contract, in accommodation which allows them to comply with isolation and social distancing requirements and to avoid unnecessary travel. In the experience of professionals across the anti-trafficking sector, there are not enough bed spaces in NRM safe houses for men and women who need them. While it is welcomed that more bed spaces are being increased it is important to be aware of exactly how many more are being provided, and what is the entire accommodation strategy for the victim care contract throughout the Covid-19 crisis through to eventual emergence from it. Safe and appropriate housing must be provided for survivors of modern slavery, particularly in metropolitan areas in order that survivors can retain vital professional support and reduce the risk of re-trafficking and further forms of harm.

This should mean that survivors could access offered emergency hotel rooms or other accommodation which is appropriately managed and safe for purpose, without losing any of their rights and entitlements from the NRM, from the asylum support system or local councils. Survivors should have the same rights of access to any form of state-funded accommodation when they leave hotel or alternative accommodation as when they entered it. For example, those who are supported within the UK NRM victim care contract should continue to have access to full subsistence funds throughout the crisis and those who may be entitled to council accommodation and homelessness assistance should not lose their established link to one borough council by being temporarily moved to another.

- ✓ It is common for survivors who are not in safehouse accommodation to lack access to the internet, which is a great disadvantage, particularly during this crisis when lockdown and

social isolation is necessary. They often lack an appropriate 'smart' phone and are unable to afford mobile data. Libraries and internet cafes where survivors may formerly have obtained access to the internet are now closed. It is essential for survivors to have ongoing access to vital information and services, all of which are now delivered remotely and online, including (but not limited to): GP services, mental health support, NRM outreach support, legal services and NGO specialist support. It is essential that the NRM Victim Care Fund be specifically increased for this purpose so that survivors of Modern Slavery can have access to the internet.

The Helen Bamber Foundation would like to thank the UK Government for its consideration of this report and recommendations. We are grateful to our multi-disciplinary team, and our co-signatories and partners who span the field of UK anti-trafficking and clinical work who support these recommendations.

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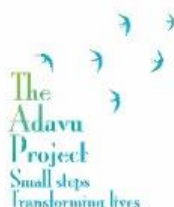
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