



Human Trafficking Foundation Online Forum

The Experience of Detention & Asylum for Modern Slavery Survivors

27th April 2021 2pm – 4pm

Chaired by Tamara Barnett, Director of Operations and Phil Brewer

Co-ordinated by Jasmine Selby

The recording of the meeting can be viewed [here](#)

Maya Esslemont (Director at After Exploitation) *'Detention of Survivors: The Data so Far'*

After Exploitation is a volunteer led organisation using freedom of information requests to track the outcomes held by government which are routinely denied to NGOs, MPs and academics.

Modern slavery is routinely referred to as a hidden crime, but we know the government holds detailed information on the longer-term implications and outcomes of Modern Slavery for survivors such as immigration claims. There is no data to the level of National Statistics on the detention, deportation or return of survivors which is an anomaly. Where trafficking is concerned there is a huge blind spot in government information.

Fighting for regular and consistent reporting on safe housing access, mental health provision, wrongful rejections, legal aid access. Information when requested has been denied to those who could have the capacity to recommend policy changes.

The psychological ramifications of detention for survivors doesn't bare thinking about. Survivors of modern slavery have a great risk of PTSD, depression, and suicidal thoughts in detention because through this the state is repeating restrictions on their liberties.

Data so important from policy perspective because we know the threat of deportation is used by traffickers and exploiters as a means of continuing coercion of survivors. Traffickers can say the survivor could be at risk if they disclose experiences as there is no guaranteed protection from immigration enforcement.

Since 2015 there have been at least 25 instances where MPs have requested data on detention of survivors who have been told that there is no central records of those who have received Positive Grounds decision for their trafficking claim who have gone on to go into detention. The government doesn't collate this data, nor does it publish the data requested.

The evidence so far is shocking, since 2019 Jan 1st - 2020 September 4th, 4,102 people with NRM referrals were detained. In 2020 alone 969 people engaging with the NRM were held in close quarter detention, despite the public health crisis.

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In 2019 between Jan 1st - September 4th 2020 2,914 potential victims, who have a right to assistance and support under Modern Slavery Act, were held in prison like settings as a result of their immigration status. The increased risk of being detained can in some cases be attributed to poor identification before detention. The Place of Safety Scheme would address these inconsistent referral rates and would give survivors 3 days with legal advice when they can choose whether to enter NRM. However, this scheme never materialised, and currently there is no automatic legal right to support before engaging with the NRM.

The numbers who are identified as suspected victims but do not result in a NRM referral are already very high. Currently we have a situation that shadow data is showing us - around 2,000 every year are coming into contact with authorities but are not issued a referral to NRM. These people are slipping through the net.

Patricia Durr (Chief Executive at ECPAT) *'The Impact of the New Plan for Immigration Proposals on Child Victims of Trafficking'*

Taken as a whole the New Plan for Immigration has so many detrimental impacts for children victims of trafficking and exploitation and there is a worry that their voices and experiences may be lost because there's so many concerning things in there. Children are caught between conflicting and siloed systems, so this is quite often the case. As the plan looks at trafficking and slavery alongside immigration, this means that all children victims will be impacted included British national child victims. Unaccompanied migrant children are also hugely at risk.

ECPAT have created a guide to the consultation to show the main concerns for children which can be found on their website. In light of NRM data, which identifies that more children than ever in 2020 are being referred into the system, this is more important than ever.

Main concerns for ECPAT:

1. Chapter 4 looks at disrupting criminal networks and the asylum system, cracking down on illegal entry routes into the UK which will significantly impact children. Within this chapter there are references to age assessments proposals which ECPAT believes will result in more children being classed as adults and therefore at more risk and contradicts the protections laid out in the Modern Slavery Act 2015. This includes immigration officers being able to make age assessments not social workers.
2. Concern over changing rules so that people who have been sentenced to at least one year in prison could constitute a danger to the UK could have their refugee status revoked. This will have an impact on children who have been criminally exploited and never identified as victims.
3. Chapter 5 is proposing streamlining asylum claims and appeals and a new 'one stop' immigration process requiring people to raise any protection related issues up front. VOT's don't always disclose their experiences immediately and this is particularly relevant for children as abusers' coach them on stories to tell authorities.
4. Chapter 6 focuses on Modern Slavery and lays out plans for new credibility assessments for FR, which comes with a concern that this could limit children's access to the NRM. Children are frequently not believed by FRs who do not have the training to assess child trafficking cases. One of the biggest concerns in this chapter is clarifying reasonable grounds threshold

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which will impact all children victims. This higher standard of proof will exclude many children and constitute a moral and legal failure to protect children.

5. Moreover, clarifying the definition of public order - ECAT provides recovery and reflection period for a minimum of 30 days to potential victims of modern slavery. The Government is posing a draft definition that focuses on serious criminality with sentences of 12 months.
6. Leave to remain for child victims doesn't seem to be taken into account in these proposals. Completely inappropriate ECAT sets a standard for children according to the best interest of the child which should always take precedence. ECPAT believes that five years should be a minimum, with the ability to apply for indefinite leave to remain.

Child protection crisis will be deepened by this New Plan for Immigration which has been made worse by Covid-19 and any reform should put children's rights and protections first and provide a stable future.

Maria Thomas (Solicitor at Duncan Lewis Solicitors) *'From Detention to the Crowne Plaza Hotel –out of the frying pan into the fire?'*

The rhetoric of the Home Secretary in relation to third country removals is in line with the hostile environment favoured by the government. There is a strong emphasis on illegal migrants 'cheating the system' and we continue to see these allegations of those 'cheating' the NRM which is clearly not in line with what we see in practice. When the Home Office restarted removals in 2020 August it was clear that a lot of asylum seekers who were detained for removal had unexplored and unidentified trafficking claims which was particularly prevalent in Libya cohort (from sub-Saharan African countries). It has been known that most people coming from these areas travel through Libya on route to the UK and once in Libya are enslaved and exploited for months and go through horrific abuse. When someone enters the UK and says they travelled through Libya this should sound alarm bells but in March 2020 the Home Office stopped asking people what route was taken. Those in the Libya cohort have stopped being identified and the Home Office failed in its role as a First Responder to refer anyone to the NRM. Many arriving after August 2020 many detained on arrival and spent months in detention, and many were removed. These individuals were put into hotel accommodation and found it hard to secure legal representation. Maria is concerned that there are many people around the country still deprived from the assistance and support they should have been receiving. Those with positive Reasonable Grounds (RG) decision are still languishing in these hotels waiting for Home Office accommodation.

The Crowne Plaza Hotel was brought to Duncan Lewis's attention in February 2021, which is a large hotel with a capacity of 400 people within which most people report they don't feel safe and it is not conducive to any positive recovery. One of their clients AA said he was afraid to leave his room as it was so loud felt so anxious and he didn't leave his room for the whole of December.

In March Maria went to the Crowne Plaza Hotel to get a sense of what it was like - overwhelmingly a de facto detention facility surrounded by an 8-foot wall, outside is a desolate wasteland not suitable for traumatised trafficking survivors. No one can go past this wall and clients have to meet their support worker or solicitors in the pouring rain in the carparks which impacts the process of disclosing information to legal aids. All the clients report that the isolation and the restriction make them feel that they may as well be in detention and perpetuates the feeling of being controlled.

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Another client KA said 'when we leave the hotel we have to put details (what time they are going out / coming back and room number) it is like a prison, you are stuck here and we feel as if they have been forgotten.' One client said 'this makes me feel I am being controlled, and reminded me of when I was enslaved in Libya.'

Unlike safe house accommodation, there are no trained staff on site and instead only untrained personnel who fail to provide a safe welcoming space. Medical reports of clients which said that conditions of the hotel are detrimental to their recovery. The Home Office should be taking this data seriously.

The cases raised by Duncan Lewis are that the hotel has failed provide adequate accommodation for trafficking survivors. The problem arises here because the dual status of clients as asylum seeker and potential trafficking victim. If you have not claimed asylum the state will house a survivor somewhere acceptable for those who have been trafficked through the Home Office contract. But if you have claimed asylum you will be housed at the hotel. The problem is that VCC support is there to assist needs of trafficked people, but the section 95 asylum accommodation is just there to meet basic needs and prevent destitution, so the starting point is very different.

Section 95 asylum accommodation is routinely hotel accommodation when the guidance was originally signed this would be independent self-catered housing and has come under pressure from the pandemic this is a failure under ECAT. Six of their clients have been moved, and three are listed to be transferred. The system is failing those who are asylum seekers and also trafficking victims and there is a great lack of communication and there is no standardised process.

David Crook (Joint Head Detention Gatekeeper and Rule 35 Team Immigration Enforcement) '*Safeguarding in Detention*'

The Detention Gatekeeper role came about through a recommendation in 2015 on how the Home Office worked with vulnerable individuals in immigration detention. The team launched in 2016 which considers every referral of immigration and detention. Live referrals or pre-verifying individuals which is the case for foreign national offenders to give themselves a month to consider. The team always sees proposing detention as a last resort, and always think are there alternatives available? Part of the organisation is a voluntary return service which is always considered. There are clear principles of how long an individual should be held in detention before removal or initial examination.

This year small boat crossings have increased, which has raised a high level of concern but from David's team they are still looking at the same safeguarding factors. There is no figure of what a 'reasonable period' of detention looks like, and this is assessed on a case by case basis depending on behaviour of individual and immigration compliance.

Indicators of vulnerability within the Adults at Risk policy, of which there are three levels:

1. someone telling them they are vulnerable
2. They are saying they are vulnerable with supporting information
3. They are vulnerable with supporting information and that their health will decline in detention

The team is always mindful of factors of vulnerability such as pregnancy, LGBTI, PTSD, modern slavery claims).

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Rule 35 Team (rule 35 is a primary safeguard within detention to flag those who may be vulnerable) apply these principles to clients and undertake a detention review. The rule 35 process has come under criticism for how long it takes to create reports, and also the outcomes. But now under this central team that David manages, 40% of instances the outcome of these reports is a release and they meet timescales in 90% of occasions.

Jean Gould (Detention Action) *'The Indefinite Detention of Victims of Human Trafficking'*

David's speech talked about what should happen in immigration detention, and the following story will relay what does happen in reality. Taken from the Refugee Tales Project by Ally Smith Jean reads out the experiences of a VOT in detention:

D was orphaned and grew up on a slave farm in his home country. He thought he had been rescued and was told to tell people this man was his uncle and he found himself in Luton and from there he was taken to a room and told to be ready to work at 5am. D said 'they say it cost a lot to get you here, they say you will be working until you pay it back' for five years 18 hours a day. Eventually a driver takes pity on D and helps him escape. D writes to the Home Office, who come, and D is arrested and put in prison then detention for not having the right kind of passport. He is released and then he goes back to detention for another six years. They said we accept you are a VOT but we need to reconsider the case. Detention is never not there; D always knows they can put you back there.

This story is not a rare one. Theoretically VOTs shouldn't be detained but they are.

Proposals that will come into force next month without parliamentary scrutiny will include VOTs in the revised Adults at Risk policy:

- The widespread HO culture of disbelief (seen in the tone of the new immigration plan)
- Factors that are described as immigration control (credibly findings, compliance issues working illegally in the UK, criminal history which is narrowly defined)

The scales of justice are out of balance already and are poised to tip even further. On a positive side 70 MPs have signed an early day motion against this rule change which will be debated on the 28th April. No VOT should be detained for immigration purposes, the system of protection doesn't work in the current climate.

Are there other ways of looking at damage limitation? Jean's role is to lobby parliamentarians for an end of the use of indefinite detention and an introduction of a time limit with judicial oversight from early on. Indefinite detention is damaging and pragmatically it is a waste of public money, the cost of detention is eye watering particularly when you add in the compensation given to individuals who were detained unlawfully.

The amendment on detention proposed by Detention Action is a 28-day time limit, judicial oversight in the form of bail hearings after 96 hours, clear statutory criteria to constrain detention to its intended purpose – when return is feasible and lawful. Last year minister David Davis MP tabled an amendment to this effect, the House of Lords passed this and forced further debate in the Commons. There was a breadth of cross-party support and the recognition among MPs that it is the operation of the HO which is the source of delay in the immigration process, and that the UK is

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flouting the rule of law. The immigration minister after this debate said: 'We have to be clear that there is no ability to put someone in immigration detention for no reason. We have to have a lawful reason for doing so, and this has to be when there is a possibility of removal or a threat to the public. Although I accept that a very small majority are serious Foreign National Offenders.'

Detention for VOTs is always wrong and never justifiable, but the worst of it is that it is indefinite and they cannot count down to their release which is the stuff of madness.

Naeema Ahmed (Network Manager at BASNET) *'Amplifying the experiences of survivors from black minority and ethnic backgrounds; a focus on having a diverse and inclusive approach'*

No individual can live the experience of another. There is evidence that in many cases survivors only remember their experiences after a trigger many years after the events took place. Yet, some agencies refuse to believe survivors even when they have provided tangible evidence. Naeema will be focusing on the six main African countries that are in the top 20 source countries for modern slavery into the UK. The type of exploitation experienced by survivors from these countries are domestic servitude, organ harvesting and sexual exploitation. There is no age limit and the type of exploitation can change over time.

Case study – a service user within BASNET was lured into the UK from an African country on the guise of protection. Her savior turned exploiter arranged her travel and she sought asylum which was refused, starting her journey of exploitation in the UK. Her exploiter took her documents, she was threatened with being deported and reported to the police and she was forced into a sham marriage. When she complained about her treatment, she was made destitute and was abused by a male volunteer. She went to the police and was taken to detention and was put in isolation rather than finding any protection. In detention she was brutalized by officers and was not able to contact her legal representation.

The lessons that can be drawn from this case study's experience in detention; detention makes survivors more vulnerable and susceptible to self-harm. There are countless similar cases. There is little or no references to vulnerability in detention; mental health of detainees is not explored, there is systematic abuse from guards, no channels to seek redress and slow access to lawyers. In the case study she was not believed to be at risk by her exploiters and she was not believed that she was abused in the UK. This experience is not the everyday reality of people, but these are cases that need more research and we need to learn more about.

The following issues are rampant in the sector:

- Professionals not believing VOT
- Preconceived ideas of VOTs from African communities

HO policy on modern slavery and trafficking is racist and discriminatory towards ethnic minority communities. BASNET acknowledges Government efforts in funding international development programmes targeted at some drivers of modern slavery. But more needs to be done:

- We must monitor data on risks and ethnicity to understand impact in relation to prevention using an intersectional approach

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- Modern slavery training standards framework should include mandatory training on cultural intelligence, race, gender, disability, diversity, and inclusion

- We need to review and update the Modern Slavery Act 2015 to take into account the needs of potential victims of trafficking irrespective of race, nationality, age, gender and the police policy and approach to working with VOTs to make it more culturally appropriate

At BASNET we believe in promoting equality, diversity and inclusion within the anti-trafficking sector in the UK. As such BASNET have created a research panel to become collaborators in BME focused research in the sector and to become generators of ideas from a community perspective also to provide research training for members who can then go on to do their own research for the sector.

BASNET to be a knowledge hub for BME research within the trafficking sector. BASNET calls on UK GOV to stop the practice of detaining VOTs which compounds the experiences of trafficking and showcases the UK as an enabler of the trafficking sector.

Claire Porter (Senior Policy and Advocacy Officer at the Red Cross) *'Why Asylum Support Accommodation Needs Reform'*

The British Red Cross is the largest independent source of support to those seeking asylum, 30,000 people every year. Claire will be talking about their 'Far from home' report which was published today which looks at the experience of over 100 people living in asylum accommodation around the UK and tells a story of what life is like in asylum accommodation that falls far below the standards that we would expect.

At the moment asylum seekers are not able to work and have no recourse to public funds. If asylum seekers are facing immediate homelessness the Home Office can provide support in initial accommodation before they are moved to longer-term accommodation but in 2020 1/5 people being accommodated by the Home Office were living in hotels, hostels, B&Bs which was a 347% increase compared to 2019.

Key findings from the 'Far from Home' Report:

- Large mixed gender accommodation: many people felt afraid to leave their rooms while living in large mixed gender hostels
- Staff using master keys to enter survivors' rooms
- Decisions on where to accommodate people often didn't reflect individual needs
- People living in repurposed barracks felt unsafe / unwell interviewed 88 people 36% only said they had a health screening.
- Safeguarding concerns
- Families living in emergency housing without natural light for many months

Recommendations:

- The Home Office should immediately end the use of barracks as asylum accommodation and move people into safe and suitable housing in the community

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- The Government should introduce a formal, independent inspection regime for asylum support accommodation with publicly available reports
- The Home Office should work with local authorities, devolved governments, voluntary sector and others to expand community dispersal accommodation
- Carry out health and vulnerability screenings when a person enters the asylum support system

Panel discussion with speakers, chaired by Phil Brewer

Challenges in Risk Assessment Process:

David: Adult at Risk policy places an expectation on them to carry out a balancing exercise. There is a consideration around the level of risk, immigration compliance, public protection factors. It is an individual assessment dependant on the information they know about the individual. Do come under pressure when using a live referral, there is a time constraint to work quicker. Gatekeepers do pre-verification so they have good ideas on medical information and vulnerability indicators. Can suggest pre-planned removal to minimise time in detention (removal plan so when individual came to report they would have a release plan and medical plan).

Could many of the issues be caused be underfunding in immigration departments and third party providers who are not monitored?

Claire: Monitoring is something Red Cross is concerned with particularly within large scale outsourcing and sub-contracting where there is a very little oversight on the support that is provided. Staff are not trained to support complex needs of survivors.

Changes to the Victim Care Contract AOB *The Modern Slavery Unit and the Salvation Army will be in attendance to listen to the concerns raised.*

Silvia Nicolaou Garcia (Senior Associate, Simpson Millar Public Law) *'Childcare and the RNA in the new VCC'*

The new Victim Care Contract (VCC) was awarded to the Salvation Army and came into force 2021 but was not published on the Government procurement website. In 2020 alone there was 10,613 survivors referred into the NRM, 339 days was the average waiting time between referral and a reasonable grounds decision so there are thousands of individuals whose rights and entitlements are impacted by this contract so it is paramount that this VCC is made accessible.

What the problems with the current RNA:

Since the guidance came into force only support workers can request for ongoing support (not lawyers, survivors, NGOs, neither a survivor directly). Another problem is that there isn't a clear framework on the needs of VOTs. Moreover, survivors are not provided with a copy of the RNA or VCC. Finally, reconsideration requests must be made within 28 days of RNA decision - sometimes more time is needed to gather support.

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Survivors are having problems accessing childcare support:

Lone parents in the NRM are not tracked, which is a significant data gap leading to risks for this client group. In the NRM survivors receive additional financial support £39.60 per child per week but survivors not intitled to this support are asylum seekers. A court case raised that this was discriminating against both women and asylum seekers. Clients are yet to receive any of this additional financial support for children which is unlawful as their needs do not end once a CG decision is made. Without childcare survivors cannot attend therapy sessions or legal sessions which are impossible without traumatising children.

Heather Malunga (Immigration Lawyer, Immigration Advice Service) *'The Discontinuation of Counselling Services'*

Issues with amendments to the VCC:

Heather was notified that counselling services for VOTs must stop abruptly. One client tried to commit suicide after this happened. Heather contacted the Home Office to find out their position on this Heather found that there was miscommunication between SA and the Home Office and support workers who were of the opinion that counselling should be stopped pending Home Office approval. The Home Office have now clarified their position that it wasn't to be stopped but streamlined whereby counselling requests have oversight.

Previously, counselling provided on a needs basis but now before you request private counselling victims have to go to GP and get a letter this request needs to be sent to the Home Office and they have weeks to look at this request then private counselling can be approved this could take a few weeks. Victims need treatment immediately and cannot wait. There is no published policy on how support workers should request these services and how can decisions be made quickly in the absence of a GP letter. Litigation on this is ongoing,

Robyn Phillips (London Projects and Survivor Lead, HTF) *'Reasonable Grounds decisions and County Lines'*

The ICTG scheme is being rolled out in the next few weeks to 11 new sites under Barnardo's, the Home Office are running workshops for practitioners. The other update is that devolved decision-making pilot for NRMs is taking place 10 local authority sites across the country – multi agency panels making RG and CG decisions for children in their areas.

Local authorities are seeing RG and CG decisions at the same time in CCE cases. Good to clarity on why this is happening. Another area of concern is 17-year olds not receiving their RG and then single competent authority asking them to re-enter the NRM as an adult. This has an impact on section 45. There needs to be some reassurance that young people are still being assessed as children and the means are not required for their referral.

Devolved decision-making pilots will make decisions for all children apart from 17year olds who are 100 days from their birthday, in this case it will be the Home Office. Want to hear from Modern Slavery Unit on this.

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Liisa Wiseman (Project Manager, Adavu) *'Reach-In and RNA Support'*

Adavu provides post-NRM support. They have found that clients are being refused counselling whilst in NRM. Moreover, reach in service lot of confusion and seemed to be duplication.

Attendee Q&A on NRM Changes

What other ways does this lack of support impact lone individuals?

Silvia: Without financial support they aren't able to access their entitlements counselling, recreational activities, and often find without mental health support they get worse .