

13th August 2019

Dear Modern Slavery Unit,

Re MSSIG Victim Care Group Feedback on the Draft Statutory Guidance

We would like to restate our commitment to working with the government to produce high quality policy and guidance. In particular, we welcome the opportunity, as a sector, to comment on the much-needed statutory guidance (“the guidance”) on victim identification and care pursuant to the requirements of the world-leading Modern Slavery Act 2015.

The updated draft guidance is much more complete guidance since the version of April 2019. We welcome the inclusion of the Slavery and Trafficking Survivor Care Standards (“the Standards”) as a minimum standard of care within the guidance, which will promote consistency of approach across all agencies and we would ask that the link to the document is provided at each section of the Statutory Guidance for easy reference and access: [Slavery and Trafficking Survivor Care Standards \('the Standards'\)](#).

MSSIG Victim Care Group also welcome and fully support the introduction of a Modern Slavery Act Statutory Guidance Advisory Board. As per paragraph 1.6 of the guidance states, “The board has been established by the Government to ensure this Statutory Guidance is systematically reviewed and updated.” This recognises the need for consistent update and review in the context of ever-changing operations of trafficking networks and the need for consistent revision and updating the Statutory Guidance in order to meet victim’s needs. We believe that if the Statutory Advisory Board is comprised of multi-disciplinary specialists, including survivors and frontline professionals who work on a daily basis directly with victims of trafficking, it will ensure that the UK will continue to be respected as a ‘world leader’ on modern slavery. MSSIG Victim Care Group welcomes and accepts the invitation to be involved in the Advisory Board from its inception and we are happy to offer multi-disciplinary advice and review on an onward basis.

We enclose a copy of the Statutory Guidance Drafting Tracker which was provided to us. This details the comments and feedback from the members of MSSIG including the International MSSIG Group. The guidance on the identification, protection, support and care for victims underpins every aspect of the Government Strategy to tackle Modern Slavery. As such the publication of the Statutory Guidance is highly significant and deserves the most thorough consultation process possible to ensure a world-leading approach to identification and care. It is important that the structure of the document is accessible and engaging for readers at all levels, that content fully reflects the advice and input of the anti-trafficking sector stakeholders who have been consulted on this process. Clear, comprehensive and well-structured guidance will prevent time consuming and costly judicial review applications. Conversely, inconsistencies, errors and omissions in Statutory Guidance can potentially risk the lives of vulnerable survivors, undermining the Government’s dedicated strategy on Modern Slavery as a whole. For these reasons we reiterate our concerns about the review process as detailed in our letter of the 20th April 2019. These are set out below:

Summary of Concerns and Events to Date

There are widespread concerns about the approach taken in engaging the sector in obtaining feedback on this important document. Please refer to the following documents for your consideration:

- Email of Kate Roberts, Co-Chair of the MSSIG Victim Care Group dated 12th December 2018;
- Email of Anna Sereni dated 21st December 2018 from the Anti-Trafficking Monitoring Group
- Letter from ECPAT UK dated 12th April 2018,
- [Letter](#) from the UN Special Rapporteurs dated 3rd January 2019

In addition to the issue of time our letter dated 20th April 2019 fully details concerns. In particular, we wish to highlight and re-iterate the following:

1. **White Paper** – there is no White Paper accompanying the draft guidance explaining the policy approach. In particular, there is no accompanying explanation of significant aspects of the draft guidance particularly in respect of

current and significant policy changes. This raises concerns about the transparency of the process. We would strongly recommend that there should be a white paper accompanying the guidance and a formal public consultation process. Please see in particular para. 4 of our letter dated 20th April 2019 particularly in relation to risk of unfair and arbitrary approaches to reconsideration processes, draconian measures regarding revocation of positive decisions and a lack of clarity of meaning of public order given the potential devastating consequences for victims if denied support. We remain disappointed that the current draft still maintains such barriers notwithstanding concerns, and we understand litigation.

2. Roles, Responsibilities, Duties and Powers - The guidance lacks clear delineation of professional roles, responsibilities, duties and powers of all agencies taking into account both domestic law and international law and case law. This is complex which is why multi agency cross working and consultation is required. The guidance needs to clearly set out at identification/pre-NRM, during and post NRM to ensure that all agencies clearly understand their roles, responsibilities, duties, powers including (but not limited to) role in service provision thus ensuring that victims (adults and children) receive the identification, safeguarding care and support they need at all stages in the victim journey and do not slip through gaps placing them at risk of exploitation and re-exploitation.

3. Structure - The guidance needs to be accessible for a wide variety of front line practitioners and currently the structure is not easily accessible. The following would be of assistance if this document is to be accessible and used by front line professionals

- (a) A separate document or section containing the guidance specifically for the Single Competent Authority may help to make advice for other professionals clearer with clearer guidance on some aspects of definitions;
- (b) A separate document or section devoted to children to ensure that important child protection/best interests of children are not overlooked. Such sections are not easy to find in the guidance making them inaccessible.
- (c) Clear easy access diagrams of process and procedure to quickly illustrate the professional roles and responsibilities of multiple agencies/stakeholders for easy access with a more comprehensive explanation in the text. An emphasis should be on the relationship between roles and procedures to demonstrate how they should work together including referral pathways into local authorities.
- (d) Inclusion of best practice case studies to illustrate what good looks like.
- (e) Some sections need to be re-ordered. For example, the NRM process is not all contained within the NRM referral section but is piecemeal within the document.
- (f) The document needs to clearly reflect the victim journey pre-NRM, during and post NRM.
- (g) The document needs to reflect differences in legislation, guidance and processes within the devolved administrations. For instance, in Wales housing and community care is devolved and thus different domestic legislation applies in these areas.

4. Care and Support of Victims – please see comments made in our letter dated 20th April 2019. In particular, we wish to highlight:

(a) the section is very short and doesn't clearly address the victim journey pre NRM, during and post NRM including the roles, duties, responsibilities and powers of all agencies involved and how these fit together. This should reflect the application of domestic and international law and case law. This needs to be comprehensive for both adults and children.

(b) The Slavery and Trafficking Survivor Care Standards (STSCS) are referenced in the guidance and in particular are being adopted into the Victim Care Contract the Statutory Guidance should detail all aspects of very clear and comprehensive chapters in the STSCS including but not limited to chapters 4-11. Guidance for children would need to reflect these provisions but be very much adapted to the specific vulnerabilities and needs of children.

(c)The section on legal advice needs to reflect that all victims require pre-NRM advice to ensure informed consent to enter the NRM in accordance with the STSCS.

(d)The section needs to reflect in drafting ongoing NRM reforms such as the provision of safe spaces and also litigation including the recent consent judgement in the case of *NN and LP vs SSHD* whereby the Home Office conceded that their policy - which allows identified victims of trafficking to receive support for only 45 days following

a conclusive grounds decision - is unlawful and incompatible with the European Convention on Human Trafficking (ECAT).

(e) The Human Trafficking Foundation help to coordinate the London Modern Slavery Leads (LMSL). This comprises lead representatives from London Councils on modern slavery. While councils have responded to the guidance, one council raised a point for consideration stating that all adults in the NRM are potentially vulnerable and so all adults in the NRM (as children are) should be referred to adult social care services to assess whether potential victims have care needs and should be supported by a council as well as NRM contracted case workers.

5. **Definitions** – the definitions section needs to be updated to include in some areas clearer explanations to assist and support the single competent authority in making high quality decisions reducing the risks of poor decision making. In addition, there needs to be consistency in terminology across the document including within the glossary section.

In summary we reiterate our concerns in our letter dated 20th April 2019 of the short time frame for feedback and the need for a thorough and transparent consultation process to ensure many of the remaining barriers and concerns regarding the operation of the process for identifying, supporting and protecting victims of trafficking and modern slavery are remedied.

Yours sincerely,

Debbie Ariyo, AFRUCA
Kate Roberts, Anti-Slavery International (ASI)
Anna Sereni, Anti Trafficking Monitoring Group, ATMG
Rachel Mullan-Feroze, Ashiana Sheffield
Victoria Marks, ATLEU
Samsunear Ali, Bawso
Louise Gleich, Christian Action Research and Education (CARE)
Catherine Baker and Laura Duran, ECPAT UK
Rachel Witkin, Helen Bamber Foundation
Phillipa Roberts, Hope for Justice
Tamara Barnett and Rachel Smith, Human Trafficking Foundation (HTF)
Jenniffer Dew and Sarah Di Giglio, International Organization for Migration (IOM)
Justice and Care
Dr Sian Oram, Section of Women's Mental Health, King's College London
Phil Ishola, Love 146
Garry Smith, Medaille Trust
Rabiya Ravat, Migrant Help
Kathryn Baldacchino, The Red Cross
Minh Dang, Survivor Alliance UK
Ann-Marie Douglas, The Salvation Army
Red Godfrey-Sagoo, The Sophie Hayes Foundation
Kate Garbers, Unseen
Dr Rosie Riley BSc MBChB, VITA Training and Emergency Medicine Doctor

Copy sent to:

- MSSIG Victim Support task and finish group members and others who have expressed an interest to comment on the guidance
- The Independent Anti- Slavery Commissioner
- The Home Affairs Select Committee
- Special Rapporteur on the situation of human rights defenders, Special Rapporteur on contemporary forms of slavery, Special Rapporteur on trafficking in persons