



THE GOVERNMENT REPLY TO THE
TWENTY-SIXTH REPORT FROM THE
JOINT COMMITTEE ON HUMAN RIGHTS
SESSION 2005-06 HL PAPER 245, HC 1127

Human Trafficking

**Presented to Parliament by the Secretary of State
for the Home Department
by Command of Her Majesty
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Human Trafficking

The Government's consultation on the UK Action Plan

1. We welcome the Government's consultation on its National Action Plan to combat human trafficking, and urge the Government to take the responses to that consultation on board in order to promote an effective human rights approach to combat trafficking. While this report is not a formal response to the Government's consultation, many of our conclusions and recommendations mirror those submitted to the Government during that consultation. We expect the conclusions and recommendations contained in this Report to be given serious consideration by the Government when it decides the contents of that Action Plan.

The publication of a national consultation on proposals for a UK Action Plan on Tackling Human Trafficking in January this year underlined the Government's commitment to developing a comprehensive end to end strategy to counter this appalling crime.

We are firmly committed to tackling trafficking in human beings domestically and internationally and are determined that the measures we take bring the criminals responsible for it to justice, while protecting the victims of trafficking, and without undermining our ability to control our borders. Many of the issues raised by the Committee in the report reflect those we raised in our consultation document and on which we sought views from respondents. A summary of the responses received was published on the 21st June.

We are currently working on developing a final UK Action Plan on Tackling Human Trafficking which we intend to publish early in 2007 and are engaged in discussing different aspects with stakeholders, relevant experts and other government departments in order to build upon the proposals for action set out in the consultation paper. This process takes into account the comments made in response to the consultation paper and will consider those made by the Committee.

The scale and extent of the problem

2. We urge the Government to publish the research into organised crime markets currently being conducted by Home Office researchers, which may assist in providing a clearer picture of the scale and extent of human trafficking into the UK. We foresee however a probable need for further follow-up research to be conducted to scope the problem in relation to all forms of trafficking, and we urge the Government to give priority to such research in order to give a more solid basis for the development of anti-trafficking policy.

We intend to publish our research into organised crime markets early in 2007. We are also conducting research into the nature and scale of trafficking for sexual exploitation using data from the Operation Pentameter.

Additionally, the Immigration Research and Statistics Service (IRSS) are planning to conduct a literature review of the research evidence on trafficking for labour exploitation and the Child Exploitation and Online Protection Centre (CEOP) have been commissioned to scope an intelligence gathering project into the nature and extent of child trafficking into and within the UK.

We acknowledge that in order to develop our trafficking policy we need a better understanding of the nature and scale of all forms of trafficking as they present in the UK. One way that our understanding can be developed is by the commissioning of research. One of the actions to be included in the UK Action Plan, to be published, next year is to keep under review areas that require further research and to consider commissioning it as and when required. The establishment of the UKHTC will also assist in this area as one of its sub-groups will be a research group which hopes to develop, co-ordinate and improve research on trafficking.

The other way our understanding can be developed is through the proactive development, collation and sharing of intelligence. The UKHTC will become a central point for the collation of data and information on trafficking which will assist in developing our knowledge basis, and hence the platform, for the further development of policy.

In relation to child trafficking the Home Office is seeking to match fund a telephone advice line for professionals and others encountering individual cases of trafficking. An application by NSPCC, CEOP and ECPAT, in partnership with the Home Office has been submitted to a major funding charity. The service will record all trafficking cases referred and will contribute to the intelligence gathering on child trafficking.

Prevention measures in source countries

3. In light of the impending accession to the EU of Romania and Bulgaria, we urge the Government to work with these countries to inform and educate girls and women of the dangers that arise from accepting “job opportunities” without going through the proper channels.

We are working closely with the Romanian and Bulgarian authorities on the practical aspects of law enforcement, including issues relating to human trafficking. A Home Office-led working group incorporating the police, SOCA and other relevant agencies has already begun working on measures to identify and tackle any law enforcement issues that may arise, including work on the issue of awareness raising amongst potential victims of trafficking. We are also working on an awareness campaign for potential migrants from Bulgaria and Romania and will ensure that messages warning of the dangers of trafficking are included where appropriate.

4. We suggest the following measures for improvement of the Government’s actions for prevention of trafficking in source countries:

- **In relation to awareness raising programmes, it has been noted that although they address the process of trafficking, many of them do not cover the causes of trafficking, which are often extreme poverty and unemployment. In order to promote a holistic approach which addresses wider issues surrounding trafficking, these awareness-raising programmes should also aim to enhance people’s opportunities and encourage community action and education. In so doing, the Government should communicate with local authorities and community organisations in source states as far as possible, as they are better suited to assess the local needs. Further, awareness-raising should also include information on how to migrate legally to the UK so that migrants are not exploited by traffickers, and on the rights of migrant workers in the UK.**

- **We recognise that UK embassies and consulates in source states have an important role to play in preventing people from being trafficked. They should be more proactive in providing information on the dangers of trafficking so that potential victims have a better idea of what to expect. In order for staff at embassies and consulates to carry out preventive activities, appropriate training and awareness-raising should be conducted more rigorously so that they are better able to identify potential and actual victims of trafficking and prevent traffickers from exploiting them.**
- **Further, Government should provide greater technical assistance to law enforcement agencies in source and transit states so that they can detect and tackle trafficking and other organised crimes more effectively.**

We agree with the Committee that poverty and unemployment are often factors which can increase people's vulnerability to traffickers and to this end, are undertaking work in conjunction with a number of international voluntary organisations. We remain committed to the strategic aim of halving world poverty by 2015 and will increase the development budget managed by the Department of International Development (DFID) by 2013 to 0.7% of gross national income. Resources will be concentrated on the poorest countries, particularly in sub Saharan Africa and South Asia as well as working more in fragile states and making sure that wider UK policies support development. Central to the work of DFID will be a focus on governance and building capacity of public institutions for good governance in developing countries. In recognition of the importance of working with international organisations from the third sector we have just signed a new Performance Framework Agreement with the International Labour Organisation for £15 million over a period of three years. This work will incorporate forced labour as a priority within a number of programmes including the Poverty Reduction Strategies and relevant national development programmes.

In respect of trafficking issues specifically DFID contributes £6 million to the second phase of the ILO programme on reducing labour exploitation of children and women, combating trafficking in the Greater Mekong sub-region. This programme provides direct support to the socially excluded and poor and in the case of Cambodia through support to the national poverty planning process. Additionally, we have also contributed £2.5 million over three years to the third phase of the Save the Children project against trafficking and exploitation of migrant and vulnerable children, which will promote child protection from the threats associated with wide spread migration and rapid economic development in the Greater Mekong sub-region. This builds on the previous phases which focused on the development of community based initiatives against trafficking in the project areas and the promotion of children's participation at various levels.

The network of UK Embassies in source countries are all aware of the problems faced by the UK from human trafficking and have been tasked with working with their host governments and NGOs to identify the best ways of alerting potential victims to the dangers of human trafficking. A number of projects are underway, or have been completed, in countries such as Russia, Lithuania and Serbia. This work stream is at an early stage and embassy staff are also looking at ways in which trafficking flows can be disrupted through more effective intervention by source country authorities, for example, by ensuring comprehensive legislation is in place to prosecute the criminal gangs behind the exploitation, that law enforcement officials are aware of victim profiles and they have the logistical capacity to deal with victims. Embassy visa section staff do receive a module of anti-trafficking awareness raising training and we will look at ways of enhancing this, but it is also worth noting that many victims of trafficking in the UK are non-visa nationals and, as such, would not have not come into contact with visa staff at UK Embassies abroad.

In relation to legal migration routes into the UK there is extensive information on both the Work Permits and UK Visas websites. This information is also provided through our Embassies which will continue to seek out opportunities to provide assistance and develop co-operation with the appropriate authorities and law enforcement making use of the FCO Drugs and Crime project fund.

We are aware of the need for dynamic and concrete operational co-ordination between international partners in this area. The Home Secretary recently met with G6 counterparts in Stratford upon Avon to agree action in areas of mutual interest in the areas of migration, terrorism and organised crime. One of the G6 work-streams relates to human trafficking and ministers agreed to establish a joint operation to tackle the trafficking of human beings across G6 states, beginning with an experts meeting in Warsaw.

Tackling demand

5. The Government must ensure that the research it is currently conducting and its future research effort contributes to a much clearer understanding of demand for trafficked people both for sexual and labour exploitation in the UK, including the reasons why individuals and businesses in the UK continue to seek trafficked people.

We acknowledged in our consultation that understanding the demand for trafficked persons was an essential pre-requisite to undertaking more targeted demand reduction measures. We will continue to consider, through the mechanism of the Action Plan what we can do to better understand the push and pull factors for all types of trafficking and consequently, what further actions we can undertake in this area.

The UKHTC will work closely with local agencies, including specialist support agencies in the voluntary and statutory sectors, to draw together the information emerging from local mapping exercises to develop a national picture on demand and other issues in order to inform policy and practice in the UK, and in supply and transit countries.

6. The Government should disseminate information obtained through research to those responsible for combating trafficking both within and outside the UK so that they can use it as guidance to devise and implement policies to prevent people from falling into the hands of traffickers.

Research undertaken by the Home Office is disseminated to relevant practitioners and others with an interest in the subject matter and this will be the case with any forthcoming published research on human trafficking. To ensure there is a clear exchange of information and co-ordination of effort Home Office researchers have been invited to sit on the UKHTC's research sub-group. This will help the flow of research information between Government and other stakeholder organisations.

7. We commend the imaginative publicity techniques employed by Operation Pentameter to change the attitudes of men towards women and raise awareness of the phenomenon of trafficking. However, we recommend the authorities evaluate the effectiveness of those techniques. We recommend that the Government conduct further programmes and awareness raising campaigns to change the attitudes of the general public towards migrants so that their rights are protected.

Initial informal analysis indicates that the publicity techniques involved in Operation Pentameter have had an effect on the behaviour and attitudes of some of those men who use prostitutes. The evaluation of such techniques and the question of whether further awareness raising campaigns should be undertaken are both issues that are being considered in the work being undertaken on the UK Action Plan.

8. Those who employ trafficking victims should be named publicly so as to prevent potential employers and others from doing the same. The Government should also engage in a dialogue with sectors of the business community which might be at risk of employing migrants illegally.

9. The minimum wage legislation, as well as measures against illegal employment, should be rigorously enforced to reduce the demand for trafficked workers. The establishment of a single body (such as the Fair Employment Commission) to enforce worker's rights would be a desirable first step.

We agree with the Committee's conclusion that the minimum wage should be rigorously enforced. To this end we have a dedicated team within her Majesty's Revenue and Customs (HMRC) who investigate cases where it is alleged that workers are being paid less than the minimum wage. In support of this work HMRC's National Minimum Wage Helpline gives confidential help and advice on this matter and provides a mechanism through which complaints can be raised and investigated. Additionally there is also a separate helpline for those working in the agricultural sector whose pay rates are set by the Agricultural Wages Board.

Our initial view on the matter of naming and shaming employers who employ trafficked labour is that this is an idea which would require further consideration, and will be considered in the context of our attempts to make the practice less attractive whilst ensuring that people are not wrongly named.

We do not agree that there is a need for a Fair Employment Commission to enforce workers' rights as we believe the current system of allowing individuals to assert their rights through either the above mentioned mechanisms or through an Employment Tribunal provides adequate protection. This of course requires the Government to continue to make every effort to ensure vulnerable workers are aware of their rights.

10. We consider that the development of lawful and managed migration channels, which recognise the essential role that migrant labour plays in the British economy, is an essential part of a successful anti-trafficking strategy.

We operate a number of schemes for managed migration into the UK and fully recognise the essential role that migrant labour plays in the British economy. From 2007 we shall be rolling out the new points-based system the benefits of which include better identification, and attraction, of those migrants who have most to contribute to the UK; to create a more efficient, transparent, and objective application process which reduces the scope for abuse.

Prohibition of Trafficking

11. We broadly agree that the current framework to prohibit and criminalise trafficking complies with the human rights obligations to prohibit the practice.

12. We recommend that the Government should give urgent consideration to the extent to which section 2 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004 and the provisions of the Immigration, Asylum and Nationality Act 2006 concerning the employment of illegal migrants fail to address the specific circumstances of trafficking and its victims.

We acknowledge the Committee's conclusion that the current legislative framework is compliant with the human rights obligations to prohibit and criminalise human trafficking. We have introduced comprehensive legislation to criminalise trafficking and discourage those who would seek to abuse individuals in this way. We consider that taken with existing law, the legislative framework in place on trafficking meets our international obligations under both the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons and the 2002 EU Framework Decision on Combating Trafficking in Human Beings.

Under Section 2(7)(b)(iii) of the Asylum and Immigration (Treatment of Claimants) Act 2004 it is a reasonable defence to show that in the circumstances of the case it is unreasonable to expect non-compliance with the instructions or advice of a person who facilitates immigration into the UK. Victims of trafficking will often meet this test and as such will not usually be charged under Section 2. We acknowledge that there may have been incidents when victims of trafficking have been charged with offences under Section 2 and this is largely due to a lack of early identification. The Crown Prosecution Service will intervene when a victim has been inappropriately charged with an immigration offence and is also required to pre-authorise all charges based on the information provided by the investigating officer. As part of the UK Action Plan we will consider issuing guidance to clarify the position that victims should not be charged or prosecuted for offences under Section 2 which have occurred as a direct result of being a victim of trafficking.

The measures in the Immigration Asylum and Nationality Act 2006 will for the first time make knowingly employing an illegal worker an imprisonable offence. This is part of our two-pronged approach to tackle illegal migrant working the other being the introduction of a civil penalty regime for employers. We believe this approach will rightly separate out those employers who have erroneously rather than deliberately employed illegal migrant workers from those who are deliberately involved in the use and exploitation of this vulnerable group.

We further believe that the introduction of the Gangmasters Licensing Authority which is responsible for the licensing of gangmasters in the agriculture, shellfish gathering and associated processing and packaging sectors, will have the effect of reducing opportunities for the exploitation of migrant workers as it will be an offence to act as a gangmaster in the specified areas without a licence.

13. We agree with those who argued that the legislative framework on trafficking must reflect a human rights approach. To begin with, the protection of victims of trafficking should be incorporated into, and placed at the heart of, the legislative framework. This will require the Government to review immigration laws and policies currently in place in the context of their impact on the victims of trafficking. The focus should be shifted from immigration control to the prevention of exploitation of migrants and workers, and care of victims. Promotion and protection of workers' rights through enforcement of laws on slavery, working hours and the minimum wage, for instance, can also reduce incentives for employers to exploit migrants and therefore reduce the demand for trafficked people. In this regard, the Government must have due regard to its obligations under Article 4 (prohibition of slavery) of the ECHR and Articles 6 (Right to Work) and 7 (Right to Just and Favourable Conditions of Work) of the International Covenant on Economic, Social and Cultural Rights 1966.

The extent to which current legislation impacts in an unintended or adverse way on victims of trafficking is an issue that we are exploring in the development of the UK Action Plan.

We are seeking to increase cross government working to support our immigration policies and prevent the exploitation of migrant workers. To this end whilst the Home Office focus is that employers adhere to the law on prevention of illegal migrant working, other government departments such Health and Safety Executive, Departments for Work and Pensions and Trade and Industry along with Revenue and Customs engage with employers on matters of terms and conditions of employment.

As part of our efforts to improve co-operation between these authorities, we have established a joint pilot project in the West Midlands to test the ability of departments to share intelligence about the suspected exploitation of illegal workers within existing legal powers, and to establish whether they can work together more effectively to provide an appropriate enforcement response.

Investigation, prosecution and punishment of traffickers

14. We acknowledge and applaud the ongoing effort of the Government to improve investigation, and the bringing to justice of traffickers, and agree that the second arm of the Government's "twin-track" approach, the tough law enforcement approach, is now being pursued with some effectiveness.

15. We warmly welcome the establishment of the UK Human Trafficking Centre to provide further co-ordination and focus to law enforcement efforts.

16. The UK Human Trafficking Centre must ensure as a matter of urgency that its objective of developing a victim-centred approach to trafficking is articulated clearly and swiftly, that this objective remains a central one, informing all its law enforcement and other activities, and that policies are implemented consistently by the UK's different police forces and enforcement authorities. Enforcement of the law against trafficking must always make the interests and the needs of the victims a primary consideration, and their protection should be at the heart of any law enforcement measures. In our view, this is necessary to ensure that the Government fully meets its human rights obligation to investigate, prosecute, and punish traffickers fully.

17. The UK Human Trafficking Centre and all other authorities will need to address the concerns expressed by many of those who submitted evidence that there is a lack of adequate knowledge, training, co-ordination/communication and resources on trafficking among law enforcement agencies, other concerned agencies, and NGOs at local and national levels.

18. While the legislative framework to prohibit trafficking is clearly in place, we share the concerns of those who say that there have not been enough prosecutions under the existing laws on trafficking, compared to the number of victims, arrested, detained and deported. Lack of awareness and training among law enforcement agencies may be contributing factors for this. Also we recommend that the courts should be more pro-active in issuing confiscation orders to seize assets from traffickers.

We welcome the supportive statements of the Committee about both the effort to improve investigation into, and the bringing to justice of, traffickers and the establishment of the United Kingdom Human Trafficking Centre (UKHTC). A good example of the effect of the improved investigation into human trafficking is in the case of a three man gang found guilty of trafficking a Lithuanian 15 year old girl who received overall sentences of 18, 15 and 5 years respectively.

The UKHTC will continue to take forward the development of a victim centred human rights based approach to trafficking in human beings, and will, working together with other agencies, stakeholder organisations and NGOs, develop and implement, training and protocols relating to the accurate identification of trafficking victims and management of trafficking investigations. It will also develop, together with partners, appropriate victim support networks, linked to similar international initiatives, including provision for victims returning to their country of origin.

The Centre aims to establish and enhance co-ordinated, collaborative ways of working within the UK and also internationally, on the basis of shared knowledge, common interests, and mutual support in order to maximise efforts to reduce human trafficking and the harms it causes. It aims to deliver policy and training in this field, and to raise awareness of the issues related to human trafficking in order to ensure that the UK is a lead nation in respect of good practice and policy implementation.

The UKHTC has six sub groups looking at the specific areas of research, victim support, investigation, law enforcement, prevention, training and an independent advisory group. In this way the Centre aims to establish and enhance co-ordinated, collaborative ways of working within the UK and also internationally, on the basis of shared knowledge, common interests and mutual support in order to maximise the effort against this appalling crime.

In relation to the legislative framework the Crown Prosecution Service (CPS) will review, advise upon, charge and prosecute all cases of human trafficking which have been investigated and referred to them by law enforcement agencies as long as they pass the two tests in the Code for Crown prosecutors of evidential sufficiency and public interest. To this end the CPS has delivered training to prosecutors, issued guidance and raised awareness of all forms of human trafficking. We accept entirely that where further training needs are identified they should be met. Whilst there are lessons to be learned from the operations undertaken to date, we do not accept the validity of equating the number of prosecutions for trafficking offences with the number of victims, or with those arrested, detained and removed. Indeed, as part of the victim centred approach to law enforcement on this issue all those identified initially as victims of human trafficking will not be treated as immigration offenders but as victims of crime. It is however, the case that not all victims want to support a prosecution and not all traffickers are identified, located and arrested as a result of a victims' complaint.

All offences of trafficking under the new legislation are lifestyle offences and are specified as such in Schedule 2 of the Proceeds of Crime Act 2002. Accordingly, the authorities are enabled to restrain and confiscate all property of the suspect going back 6 years. To this end prosecutors provide early advice to the law enforcement agencies concerning the investigation, preservation of assets, obtaining and enforcement of confiscation orders and will make restraint and confiscation applications to the Crown Court on behalf of the police. We have issued instructions to prosecuting advocates to this effect.

19. In the light of the scale of the problem, in terms of both victims and criminals, we recommend that the Government takes steps to identify best practice in other countries where the volume of both victims rescued and criminal convictions is higher.

An integral part of the Government's strategy is work with international partners on human trafficking. The UK Government made trafficking a priority during our presidencies of the G8 and the EU. We drove forward the creation of a new EU Action Plan on trafficking which contains several provisions relating to the sharing of best practice, particularly in relation to the identification of victims. In order to increase the exchange of information on trafficking the UK have also led on the compilation and distribution of a G8 questionnaire on this issue. The questionnaire was designed to elicit information about the prosecution of trafficking offences and to share instances of best practice.

The UK also actively participates in a wide range of international meetings and conferences on trafficking issues arranged by a number of different organisations such as the Council of Europe, EU Presidency, ILO, OSCE, the UN and G6. These meetings are designed to share national experiences and facilitate the exchange of best practice.

Protection of victims

20. Despite the improvements which have been made to enable trafficking victims to be identified, we agree with those who argued that further significant progress is required so that they can reliably receive protection and co-operate with law enforcement authorities. The law enforcement agencies must work closely with local authorities, NGOs, and other members of civil society in this regard, and further development of training, especially on a multi-agency basis, is required, including for the judiciary and the CPS. We also agree that a national identification and referral system should be established in line with OSCE recommendations. We believe the Government should fund a public outreach and awareness campaign through advertising and the use of a freephone number of victims to self-refer and for those who use prostitutes to refer women whom they think may have been trafficked. Such measures would ensure that the UK was in line with the requirements of Article 10 of the Council of Europe Convention, which requires member states to establish an effective system of identification and referral and to implement training among law enforcement agencies.

Much work has been undertaken on improving the capability of the United Kingdom to accurately identify victims of trafficking. Immigration officers throughout the UK have been made aware of the online trafficking toolkit and receive regular intelligence briefings and inter agency briefings that highlight issues and trends in relation to trafficking. The Immigration Service has also disseminated a best practice guidance document developed as a result of collaboration between London-based Immigration staff and the Metropolitan Police.

The Government accepts that there is a need to further develop the United Kingdom's identification and referral procedures. As part of the work on the UK Action Plan we will assess the feasibility of developing national referral mechanisms in the future. In the interim we will be reviewing current identification guidance and referral systems to develop a more standardised and comprehensive approach. The UKHTC will play a central role in this area of work to ensure a corporate approach is adopted across all affected forces and to ensure effective co-operation with other agencies. We recognise the importance of utilising the expertise of NGOs in this area and have funded Poppy to provide the first outreach service which will work closely with front-line practitioners in the identification and support of victims.

Consideration will be given to developing the awareness campaigns rolled out as part of Operation Pentameter. We will also consider the various options for the possible development of a national helpline or free-phone number.

21. While sexual intercourse without consent is clearly an offence, we consider that men who have used the services of trafficked prostitutes should not be discouraged from reporting to the authorities their suspicions that the women concerned may have been trafficked. While we note and welcome Mr Coaker's view that those who genuinely come forward to identify trafficking victims would not be prosecuted for rape, it is clearly inconsistent for the authorities to suggest that men who use the services of a prostitute who has been trafficked will be prosecuted for rape, especially given the legal obstacles to successful prosecution, and at the same time urge such men to report such activity to the authorities or a helpline. While we understand and recognise the reasons why politicians of all parties have called for prosecution of such men for rape, it does appear that this may have been counter-productive. We would welcome further clarification of the Government's position on this question in its response to this Report.

We are determined to do all we can to tackle trafficking for the purpose of prostitution and we welcome the support of the public in doing so, including those men who pay for the sexual services of women.

We cannot grant immunity from prosecution for men who have paid for sex with women they know to be trafficked and engaging in prostitution against their will on the basis that they have reported to the police. At the core of the offence of rape is consent. The Sexual Offences Act 2003 (in section 74) defines consent by saying that “a person consents if he agrees by choice, and has the freedom and capacity to make that choice”. If the trafficked woman is engaging in prostitution under duress then she is not freely consenting. The second element to the offence is whether the defendant “reasonably” believed that the woman was freely consenting. If she said nothing and there was no other indication that she was not freely consenting to the sexual transaction, then he could argue a defence of reasonable belief.

If the trafficked woman told her client she was engaged in prostitution under duress, then the defendant could have no reasonable belief that she was freely consenting and to go ahead regardless would be rape.

We do not consider it inconsistent to encourage those paying for sexual services to report to the authorities any concerns they have about women they may have encountered who they believe may have been trafficked, or otherwise working under duress. The decision to prosecute will be taken on the merits of the individual case but will only proceed where the woman did not consent to having sex with the man and he did not reasonably believe that she did.

22. When identified, victims of trafficking should be promptly informed of their rights in the UK. Such information on rights under the ECHR and other instruments to which the UK is a party should also be disseminated as widely as possible, in co-operation with human rights organisations and other representatives of civil society, among sectors of the population which may include trafficking victims, to encourage them to report cases of human rights abuses with confidence and ease. In this respect we commend an initiative of the Home Office to distribute a document on workers’ rights, published by the TUC, to Accession 8 workers.

The leaflet published by the TUC outlining the rights of workers from the 8 Accession states was produced in English and the 8 languages of the Accession states to ensure that workers understood their rights in the UK. In addition, the Gangmasters Licensing Authority (GLA) which came into force earlier this year has also produced information leaflets on the rights of workers in the UK. These leaflets have been distributed to workers directly when inspectors from the GLA have visited working sites, to community groups, to the Citizen Advice Bureau and to police forces. The information has also been available on request and copies have been sent to some labour providers. The information is also available on line on such sites as the GLA website and the Polish Embassy website. The GLA are planning to make this information available to the A2 countries of Bulgaria and Romania to ensure that workers coming to the UK are aware of their rights.

How and in what format victims of trafficking, once identified, should be informed of their rights in the UK is one of the issues being considered under the development work on victims in the UK Action Plan.

23. In relation to child victims of trafficking, we welcome the initiatives which have been taken so far to assist in identifying them, such as Operation Paladin Child and the establishment of minor teams at Heathrow Airport. We recommend that consideration should be given to the extension of such initiatives to other major rail, air and sea ports of entry to the UK, so that the Government can properly monitor the flows of trafficked unaccompanied minors and better ensure that they are identified whenever possible on arrival in the UK.

The Government is aware of the crucial importance of frontline staff at ports of entry being fully trained to identify minors who might have been trafficked into the country.

At present, 600 (10%) of border control officers are trained in identifying children who may be at risk and are located at 26 ports of entry into the UK. Furthermore specially trained multi agency “Paladin” teams of Immigration staff, police and social workers, trained in child protection are being established at 5 major ports and asylum screening units.

The Government is aiming to train all border staff in being alert to issues around unaccompanied minors and recognising the sensitivity of managing their needs. The aim of this training is to identify and transfer any child who may have been trafficked into the comprehensive statutory network of protection and safeguarding available to all children thought to be at risk in the UK.

24. We urge the Government to address the question of protecting victims’ identities in court proceedings, through judicial training if appropriate.

25. In order to discourage media practices which may affect the safety of victims, the Press Complaints Commission should have, and use, wider powers to protect the privacy of victims, as breaches of its Code.

We recognise that the protection of victims’ identities is an important issue and should be given careful consideration in each prosecution involving trafficking offences. The decision to employ protective measures in court is rightly one for the judiciary, upon receipt of application by the responsible prosecuting advocate. All trafficked victims identified as vulnerable or intimidated are eligible for special measures to protect them and to assist them in giving evidence including screens to shield the witness from the defendant; live links to enable evidence to be given from outside court; evidence in private; and use of video for recording of pre trial interviews or cross examination. Additionally, police forces undertake a risk assessment process for witness protection and there are a number of protection mechanisms available during a trial in line with Chapter 4 of the Serious Organised Crime and Police Act 2005.

We recognise that the privacy and safety of victims is of paramount importance and that revealing the identity of victims in the media without their consent is inappropriate. The editors’ Code of Practice, breaches of which are investigated by the Press Complaints Commission, already specifies that the press must not identify victims of sexual assault (this includes victims of trafficking for sexual exploitation) or publish material likely to contribute to such identification unless there is adequate justification, that they are legally free to do so, and that the press is expected to respect the individual’s right to privacy. However, we recognise there is concern that media coverage of witness identities creates safety issues also within the country of origin as national newspapers often pick up stories from the international news networks. Where there is such a concern we have in place already, under section 46 of the Youth Justice and Criminal Evidence Act 1999, the ability to apply for reporting restrictions to be put in place to protect identities of those witnesses at risk.

26. We believe there is clearly insufficient capacity in the system to provide shelter and specialist support services for the women who need them, and we urge that capacity be expanded as a matter of priority.

27. We believe it is essential that security of funding is provided for projects such as the Poppy Project.

28. Victims of sex trafficking must have specialist support.

We welcome and agree with the Committee's conclusion that victims of trafficking for sexual exploitation require specialist support. This year we have entered into a two year funding agreement with Eaves Housing for Women to expand the services provided by Poppy. Eaves Housing have considerable experience of providing specialist support and working in the recovery of vulnerable women. The expansion of services includes the provision of ten additional "step down" places. Whilst capacity has been an issue in the past Poppy currently has bed spaces available. In addition to the 25 bed spaces and 10 step-down places the Poppy Project has an agreement with NASS to move women who apply for asylum into suitable accommodation. This helps free up crisis bed spaces whilst still ensuring that the women remain suitably supported.

As part of Operation Pentameter, forces were asked to scope other possible local service providers. As a result there are now a number of independently funded organisations who are also in a position to provide victims with accommodation. We will continue to work with the UKHTC and relevant NGOs to develop a network of service providers.

We recognise that victims of trafficking for sexual exploitation are victims of sexual violence and should have access to specialist services that can meet their needs. We will be seeking to develop guidance and minimum standards of service to help create a level of consistency. We also recognise the relevance of ensuring that policies and procedures relating to these particular victims are linked into wider initiatives around sexual violence and abuse.

29. Victims of trafficking, upon discovery, should have the opportunity to report their experiences to the police, and to ask that, where possible, steps be taken against their traffickers or exploiters.

Victims of all crimes have the opportunity to report their experiences to the police and are at the heart of the criminal justice system. The UKHTC will continue with the victim centred approach that was developed as part of Operation Pentameter. As part of the work to finalise the UK Action Plan consideration is being given to formalising the arrangements relating to women who are accepted onto the Poppy Project, giving them four weeks to consider whether they wish to co-operate with the authorities. We will also explore the feasibility of extending this arrangement to other identified victims of trafficking for sexual exploitation who are referred onto other suitable supported housing projects.

30. We consider that the question of the support available to trafficked children in legal proceedings, in dealings with other authorities, and in their daily lives, is a matter which needs to be reviewed urgently. We are not persuaded that, generally, local authorities have developed the necessary expertise to cater for the very special needs of trafficked children.

We recognise that trafficked children have special needs and that we need to develop the arrangements for their care and protection provided by Local Authorities children's Social Services under their duties prescribed by Section 20 of the 1989 Children Act. The Immigration and Nationality Directorate of the Home Office is shortly to release a consultation paper "Planning for Better Outcomes and support for Unaccompanied Asylum Seeking Children". The Home Office intends to develop working partnerships with a limited number of local authorities who already have experience of receiving UASCs and trafficked children into their care so that targeted and protective services, including access to experienced legal advisors and specialist health care can be further improved upon. The range of services provided by these specialist authorities will include safe and secure arrangements for children who may be at risk of falling prey to their traffickers.

A comprehensive information guide for young arrivals – Claiming asylum and living in the UK – which explains how young people can obtain legal representation to gain help in claiming asylum and what social services and other support they are entitled to, including advice if they believe they have been trafficked, has been published in partnership with Save the Children. The information guide is shortly to be evaluated following a trial use, before wider circulation and adoption.

31. In relation to the involvement of victims in court proceedings against their traffickers, in some cases it may be necessary to liaise with police forces in the source state to ensure protection for the witness or his or her family (although we recognize that ensuring this kind of protection will not always be easy or possible).

Where necessary, police and prosecutors will liaise with authorities in source countries to ensure the safety of a witness. Prosecutors are entitled to ask questions of the police to ascertain what protection is being afforded to victims, particularly where they have returned to their country of origin whilst awaiting the trial date.

Witness protection during the prosecution of traffickers is given high priority in many Eastern European states. In Lithuania, 13-14% of people in department's witness protection programme are victims of human trafficking. In the Czech Republic where cases are complicated by threats or bribes made to victims by organised criminal groups, a bill is being progressed to offer victims and witnesses better police protection and the possibility of changing identity.

32. In our view proposed changes to the domestic worker regime would mean that domestic workers who are trying to flee a violent employer would be less likely to do so, and less likely to approach public authorities for help or to report their abuse. We urge the Government urgently to review these proposals and to ascertain their likely negative impact on victims of trafficking.

We appreciate fully the views expressed by those who have concerns about the domestic worker regime. However, our managed migration policy is principally based on the UK's economic interest with a starting point that employers should look first to recruit from within the UK and the wider European Union workforce. We plan to phase out schemes which involve low skilled migration from outside the EU, including the provision for overseas domestic workers. However, we remain open to suggestions which will provide a robust way of identifying potentially abusive cases at the pre-entry stage and on reparative measures that could be built into the existing arrangements other than a right to change employer or settle in the UK.

33. We consider that, for the avoidance of doubt, the simplest way for the Government to meet obligations relating to the provision of compensation to trafficking victims would be to clarify the Criminal Injuries Compensation scheme rules as to the entitlement of trafficking victims to claim under the Scheme. This could be dealt with as part of the current review of the Scheme.

We note this recommendation of the Committee and will consider the provision of some guidance about this in respect of trafficking victims in the Guide to the Criminal Injuries Compensation Scheme. However we do not think it appropriate to seek to set out on the face of the Scheme itself, the types of crime that might be eligible. It is possible that victims of trafficking may be eligible for compensation under the Scheme if they meet the standard criteria of the injury being sufficiently serious to qualify for the minimum award of £1000, the claimant has been blameless in the incident giving rise to the injury, has reported the incident promptly to the investigating authorities, has co-operated in the investigation and bringing the perpetrator to justice and has applied for compensation within two years of the incident. It is always open for a victim to sue an offender for damages (compensation) in the civil courts, although we recognise that this may not be a practical option in some cases.

It is of course possible for victims to get compensation from the traffickers upon their conviction. There is an overarching judicial discretion to award compensation to victims in such cases. It is also possible for victims to receive compensation under the Proceeds of Crime Act 2002 (POCA) from their traffickers on conviction. All offences under the dedicated human trafficking legislation are lifestyle offences and as such the court must consider making a compensation award from any monies or assets seized.

In response to the Sentencing Guidelines Council (SGC) Consultation on the Sex Offences Act 2003, which concluded in July 2006, the Crown Prosecution Service recommended that the guidelines should reinforce the fact that trafficked victims can receive compensation. Sections 57 – 59 of the Act are all ‘lifestyle’ offences under the provisions of the Proceeds of Crime Act 2002. It appears only right that victims of trafficking, who are often psychologically and physically harmed, should receive some financial recompense from those who have exploited them.

34. We recommend that risk assessments be introduced in relation to removal or repatriation of trafficking victims to their countries of origin.

We agree that it is essential in any effective anti-trafficking policy to ensure that the risks of returning victims to their country of origin are very carefully considered.

Current Immigration policy is that all decisions on returns are made on a case by case basis and removal or repatriation action is only taken when it is considered both possible and safe to do so after an evaluation of their individual circumstances. In every case where a return is being considered the Immigration and Nationality Directorate and Immigration Service takes into account obligations under the European Convention on Human Rights (ECHR) and undertakes an examination of the assessment for the country to which a person is to be returned. If there is information or evidence that there is a risk to the individual removal may be postponed or cancelled.

As part of the development work on the Action Plan we will raise awareness of the possible risk of re-trafficking or future abuse in certain countries to ensure that it is considered as part of the assessment of that country.

It is recognised that those who have been trafficked for exploitation may need time to recover or reflect on whether they wish to assist the authorities. In such cases permission to remain may be granted on either a limited or permanent basis, and any proposed removal action deferred where appropriate.

Whilst it may not be possible to guarantee the safety of all victims on return we do take steps to minimise the risks of re-trafficking. Working with the International Organisation for Migration (IOM) we have established partnerships with a number of charities to offer reintegration assistance to victims who are returned to their country of origin. Voluntary returns should always be considered as the preferred option over any involuntary removal action and we will work to raise the profile of the Assisted Voluntary Returns for Irregular Migrants programme (AVVRIM).

In relation to children we recognise fully the additional issues involved. Unaccompanied children will only be removed from the UK once their family has been traced or that both adequate reception and longer term care arrangements are in place. If a minor applies for voluntary return the IOM will make arrangements with social services, Save the Children and other bodies to ensure the child is adequately cared for during return and there is an acceptable home life or relative to whom they can return.

35. The previous JCHR pressed the Government to remove its reservation to the UN Convention on the Rights of the Child in relation to immigration control, and in our view the need for this to be done is further strengthened by its potential effect in relation to child trafficking victims if their best interests are not to be compromised. In their submissions, both the NSPCC and ECPAT UK emphasised the need for specialist support services and safe houses for child victims of trafficking, and suggested that such victims should automatically have a right of residence regardless of their willingness to take part in criminal proceedings. We agree with these recommendations.

We believe that it is necessary to retain our reservation to the UN Convention on the Rights of the Child because it preserves the integrity of our immigration laws. The UK has entered other, similar reservations in respect of other human rights instruments.

We are committed to the welfare of children as evidenced by our domestic legislation. We do not believe that the reservation leads to neglect of their care and welfare. Children who have been identified as having been trafficked are accommodated by local authorities Children's Social Services under the requirements of Section 20 of the 1989 Children Act. We consider that there are sufficient checks and balances in place to ensure that children receive an adequate level of protection and care whilst they are in the United Kingdom. Any decision regarding their right to remain in the UK would not be dependent on their willingness to take part in criminal proceedings

The Immigration and Nationality Directorate of the Home Office is shortly to release a consultation paper "Planning for Better Outcomes and support for Unaccompanied Asylum Seeking Children". The Home Office intends to develop working partnerships with a limited number of local authorities who already have experience of receiving UASCs and trafficked children into their care so that targeted and protective services, including access to experienced legal advisors and specialist health care can be further improved upon. The range of services provided by these specialist authorities will include safe and secure arrangements for children who may be at risk of falling prey to their traffickers.

36. The Government should conduct more rigorous research on source countries in order to make an accurate assessment on victims' return. In relation to voluntary repatriation, as we have already suggested, the Government must work closely with appropriate authorities and NGOs in source countries to ensure that victims are able to reintegrate into their societies.

We welcome the Committee's focus on the need to work with the appropriate authorities and NGOs in source countries. We are involved in a number of bilateral projects in key source, transit and destination countries aimed at enhancing our domestic response to trafficking as well as capacity building in those countries. Through this work we are developing our contacts and knowledge of the conditions in those countries which informs an essential part of the development of our overall response to trafficking including how best to conduct returns. We work closely with NGOs such as the International Organisation for Migration which runs the AVRIM voluntary return programme that offers up to £1000 of assistance to ensure safe reintegration. We have no blanket policy on returns and all such decisions are taken on a case by case basis including only after a full examination of the circumstances. Where information indicates there is a risk to the individual, including a human rights risk, then removal may be postponed or cancelled.

37. While all elements of the Italian anti-trafficking philosophy may not be transferable to the UK context, the fundamental philosophy behind it is one which we found highly attractive and impressive. Its clear harmony with human rights principles has had a profound influence on our thinking about human trafficking policy within the UK, and we commend it as a model for our own Government in developing its strategy against human trafficking. We further urge the Government to conduct its own research into the effectiveness of the Italian approach.

We have undertaken an initial analysis on the approach adopted by the Italian authorities and are in the process of studying the approaches of other European countries in a similar position to the United Kingdom to investigate best practice. In respect of Italy, work will be undertaken to further explore both the similarities and differences in approach with the United Kingdom with the aim of seeing what aspects of the Italian approach could be effectively adopted by the UK.

38. While many of those who submitted evidence agree that the Government has started taking some significant steps, and notwithstanding assurances given to us, we consider that the current level of protection provided to trafficking victims as a whole is still far from adequate. Either through legislation or other means, effective protection of trafficking victims must be put on a far more reliable basis in order to meet the UK's human rights obligations.

39. More specifically, to improve protection of trafficking victims the Government needs to:

- **improve and develop training in the identification of victims and ensure that those who are identified as victims of trafficking are not treated as criminals or immigration offenders**
- **ensure a more comprehensive approach to the provision of basic support and assistance to victims upon their discovery**
- **place finance for victim support and accommodation on a secure footing, although its provision will extensively involve the experience, assistance and resources of NGOs**
- **put adequate procedures in place to ensure that victims of trafficking are provided with appropriate support (including interpreters and legal advice) to pursue effectively an application for residence within the UK**

- **do more to assist those who are returned to their country of origin (or voluntarily repatriated) to re-integrate into their home society without increased vulnerability, particularly to re-trafficking.**

We agree with the Committee that there is a need to improve capacity and training with regard to the identification of victims of trafficking and those identified as such should not be treated as immigration offenders. We are currently reviewing training and identification procedures with the aim of identifying key gaps and creating greater consistency in approach to dealing with victims of this horrendous crime, including the development of minimum standards of service for support services for victims of trafficking for sexual expectation.

The UKHTC, with the support of Centrex, are in the process of designing modular based training for police officers on trafficking issues which will subsequently be available to the wider law enforcement community. The training will be developed to target three groups, front line officers, investigators and senior police officers who will manage more complex investigations. The development of the training programme will be completed by the 31st March 2007, with a pilot course being delivered in January 2007.

Within the UK Immigration Service a series of measures at the local level is used to disseminate information on trafficking to all immigration officers who also have access to the best practice online toolkit. Additionally, we have published and best practice guide in dealing with unaccompanied minors and UKIS at major ports of entry have dedicated minors teams, whose members have, amongst other training, received training in trafficking in children issues. This work is further supported by a network of Airline Liaison Officers who provide carriers with training and information on trends and problems in trafficking especially children. We are also exploring how best to meet the needs of victims of trafficking for forced labour exploitation.

40. We do not accept that there is any realistic likelihood that the Council of Europe Convention's provisions relating to reflection periods and residence permits would act as a pull factor for migration into the UK.

41. We find the twin concepts of reflection periods and residence permits to be highly attractive as guarantors of the protection of the human rights of trafficking victims and of the provisions of other protection and support measures to them. In Italy, as we have noted, there is no provision for reflection periods as such, although temporary residence permits provide de facto reflection periods, and have protected victims' human rights effectively. However, especially given the safeguards contained in the Council of Europe Convention, we consider that all the evidence supports the case for the UK to adopt these provisions.

42. We understand the point made by the Government that delays in co-operation with the authorities by victims may reduce the likelihood of successful apprehension and convictions of traffickers, but the welfare of the victim must be the paramount consideration. We consider that three months would be an appropriate standard length of time for reflection periods.

43. Although we recognise that the UK is not bound by it, we recommend that the Government uses the Council Directive on Residence Permits as a model for residence permits for victims. This Directive obliges Member States of the EU to provide residence permits of six months.

44. We are firm in the belief that the UK should sign and ratify the Council of Europe Convention. We can see no convincing argument against this course of action. While it would be possible for the UK to construct a coherent human rights based approach to tackling human trafficking outside the Convention, adherence to it in concert with the other nations of the Council of Europe will in our view greatly strengthen the framework of anti-trafficking policy in the UK, notably in relation to the core matter of the protection of victims.

We note the firm views expressed by the Committee in relation to the Council of Europe Convention against Human Trafficking.

A decision on signature of the Convention is yet to be taken. We are wholly sympathetic to the objectives behind the Convention and will take into account the comments made by the Committee. We are continuing to assess the level of risk associated with some of the Convention provisions and how we might implement them safely without placing more vulnerable people at risk whilst maintaining effective immigration controls.

Regardless of the position on signature, we have already implemented a range of measures in response to trafficking in human beings and will continue to push ahead with the development of an end to end strategy in this area.



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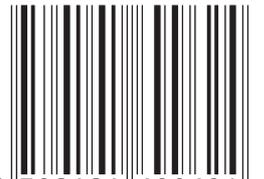
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