

Scottish Universities Insight Institute

Human Trafficking: Conceptualising definitions, responses and 'what needs to be done'

EVENT ONE: CONCEPTS AND DEFINITIONS

Briefing Paper 2: The Scottish Context

One of the key aims of this Scottish Universities Insight Institute programme is to consider the ways in which practitioners, policy makers and academics in Scotland can learn from, and contribute to learning, at an international level. This Briefing Paper sets out some of the areas in which legislation and interventions in Scotland, aimed at providing a response to the trafficking of adults and children, are distinctive from elsewhere in the United Kingdom.

Background

The countries which make up the United Kingdom operate on a devolved basis. As a result, the legal and institutional framework differs between constituent countries with varying powers of legislative implementation and administration. Devolved powers are those statutory rights granted to the Parliaments and administrations of Northern Ireland, Scotland and Wales. Reserved powers refer to the decision-making authority that rests with the UK Parliament and Government, which also holds responsibility for legislation and policy affecting England. In terms of legislation and intervention: criminal law; child protection and safeguarding are devolved matters, as are issues concerned with education and health; and the protection of, and assistance to, victims of trafficking. Border and immigration control (including the formal identification of victims of trafficking via the NRM) are dealt with by the UK government as reserved matters.

Responses to trafficking in Scotland are informed by European and UK policy, however, Scotland has traditionally had its own law enforcement, civil and criminal law, and justice system. This has resulted in separate Scottish legislation to criminalise human trafficking. The Scottish Government has direct responsibility for certain areas such as justice and prosecution of traffickers in Scotland, with the Scottish Crime and Drug Enforcement Agency (SCDEA) playing a key role in the link between local, national and international crime. The provisions relating to trafficking for the purposes of sexual exploitation are contained in the Criminal Justice (Scotland) Act 2003. Provisions on human trafficking contained in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 extend to Scotland, however these were amended and expanded by Section 46 of the Criminal Justice and Licensing (Scotland) Act 2010. Section 47 of this Act prohibits the offence of knowingly holding someone in slavery or servitude, or requiring them to perform forced or compulsory labour. Section 99 provides for the closure of premises associated with or used for the commission of human exploitation offences. The Children (Scotland) Act 1995 places a statutory duty on local authorities to safeguard and promote the welfare of children in need. As with the rest of the UK, local authorities must investigate if they have a reasonable cause to believe that a child in their area is at risk of, or suffering from, harm. Legislation in Scotland refers generally (with certain exceptions) to children as individuals under 16 years

of age which, in terms of trafficking, raises concerns about the legal and therapeutic support for 16 and 17 year olds.

Responses

In Scotland, as elsewhere in the UK there has been recognition that trafficking in human beings is an issue which spans nations and continents and requires a determined local and international response. The Scottish Crime and Drug Enforcement Agency (SCDEA) have developed anti-trafficking specialism over the years. The first strategic assessment on trafficking in humans in Scotland was carried out in 2010, when SCDEA undertook mapping and analysis of serious organised crime. SCDEA has a Human Trafficking Unit, within its Scottish Intelligence Co-ordination Unit, and there is a specialised vice and human trafficking team within Strathclyde Police. Glasgow city was a pilot area for the national child trafficking toolkit and guidance and the social work child protection team have established a database of all potential child trafficking referrals in the local authority area since 2008

There has been significant attention given to the issue of trafficking in Scotland in recent years: Amnesty International (2008); Scottish Government Action Plan for child trafficking (2009); Scottish Parliament Equal Opportunities Committee (2010) and the Equality and Human Rights Commission Enquiry (2011). The latter included an examination of the identification and treatment of victims; extent and quality of statutory and specialist services and accommodation for victims; and included research commissioned specifically to examine the experiences of victims trafficked for commercial sexual exploitation (Easton and Matthews, 2012). EHRC estimated that approximately 75 potential victims of trafficking enter Scotland each year (Equality and Human Rights Commission 2011: 23).

As in other jurisdictions, there has been limited Scottish specific empirical research. Lebov (2009) identified 79 possible victims across the country. The Scottish Children's Commissioner for Children and Young People (2011) indicated that there were at least 80 child trafficking victims in Scotland. Rigby (2011) estimated that approximately 20% of all unaccompanied children arriving in Glasgow were potential victims of trafficking and Rigby et al (2012) identified 68 children in Glasgow city with indicators of movement and exploitation suggesting they had been trafficked.

Victim care and support

Dedicated services for victims of trafficking are relatively new in Scotland and continue to develop on an ongoing basis. Similarly, policy and practice has changed significantly over the past few years. Reports on the situation in Scotland (i.e. Amnesty International, 2008) highlighted various concerns and limitations in relation to the availability of services. However, since that report was published in 2008, some of the shortcomings identified have been addressed, while new challenges have emerged (or been identified) in the provision of care and support for victims of trafficking. This highlights the continually changing and developing context as expertise is consolidated and policy and practice improves.

The Victims and Witnesses Unit of the Scottish Government's Justice Directorate has responsibility for adult victims of trafficking in human beings, while children come under the responsibility of children's social work services in local authorities. The Scottish Government has developed and published guidance for supporting vulnerable adult and child

witnesses when they give evidence and Procurators Fiscal or Defence Agents can apply to the court for special measures to be put in place.

The Scottish Government has responsibility for the care and support of adult victims of trafficking and the oversight of local authority provision for both children and adults. It funds two organisations to provide dedicated care and support for adult victims. Since 2005 Trafficking Awareness Raising Alliance (TARA) of Glasgow Community and Safety Services has provided a service for adult women trafficked for sexual exploitation. TARA is funded by the Scottish Government and Glasgow City Council and provides support to women over the age of 18, who have been recovered in Scotland, and where there are concerns that they have been trafficked for commercial sexual exploitation. Migrant Help supports male and female adult victims of labour exploitation and domestic servitude, and adult male victims of sexual exploitation. The Aberlour / Scottish Refugee Council Guardianship project provides advocacy and support for all unaccompanied asylum seeking children arriving in Scotland, among which are a number of suspected trafficking victims.

Most referrals to TARA and Migrant Help come from the central belt, particularly Glasgow which is a dispersal city for asylum seekers. Referrals to both services come from a range of agencies: for TARA the majority from the police and the Scottish Refugee Council closely followed by immigration solicitors; for Migrant Help referrals come from a range of sources mainly from the police (80-90%), or the SCDEA as well as UK Border Authority (UKBA), voluntary agencies, social services and the courts. Although Glasgow-based, TARA and Migrant Help will support victims across Scotland and have been attempting to raise awareness of their services with police forces across the country.

TARA and Migrant Help together provide a comprehensive and continuous response to police operations and the provision of victim support. Additionally identified victims of trafficking in Scotland are able to access accommodation, the equivalent of state benefits every week alongside other support they may need such as access to healthcare, interpreters, and contact with family back home, depending on individual need. These specialist agencies work alongside other key agencies such as the police, Legal Services Agency (LSA) and other non-governmental organisations (NGOs) on an ongoing basis putting forums in place to ensure any problems are addressed in a timely manner. For children social work services together with partner agencies provide immediate protection and safeguarding with social, legal, accommodation and healthcare support, although the child focussed research has indicated this can be patchy and piecemeal across Scotland (Scottish Children's Commissioner for Children and Young People (SCCYP) 2011).

References

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