



## **G R E T A**

Group of Experts on Action  
against Trafficking in Human Beings

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# **Reply from the United Kingdom to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties**

## **Third evaluation round**

Thematic focus: Access to justice and effective remedies for  
victims of trafficking in human beings

**Reply submitted on 30 June 2020**

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**Introduction – *Provided by the Council of Europe’s Group of Experts***

In accordance with Article 38, paragraph 1, of the Convention on Action against Trafficking in Human Beings (“the Convention”), GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is based.

The first round of monitoring of the Convention provided an overview of its implementation by State Parties. The second evaluation round of the Convention examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings (THB), the protection of the rights of victims of trafficking, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking.

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims’ access to justice and effective remedies, which is essential for victims’ rehabilitation and reinstatement of rights and reflects a victim-centred and human-rights based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic. Moreover, victims of trafficking, by virtue of their status as victims of human rights violations, are entitled to effective remedies under the European Convention on Human Rights. Access to justice and effective remedies must be guaranteed, in a gender- and age sensitive manner, to all victims of trafficking subject to the jurisdiction of State Parties, irrespective of their immigration status or presence on the national territory and notwithstanding their capacity or willingness to co-operate in any criminal investigation.

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, regularisation of the victim’s stay, the right to seek and enjoy asylum, and the application of the principle of non-refoulement . These preconditions, corresponding to different provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA’s previous recommendations on selected topics, through a separate country-specific part of the questionnaire, rather than including once again questions related to the same provisions in the general questionnaire for the third evaluation round.

States Parties are requested to transmit to GRETA a reply to this questionnaire within four months from the date it was sent. The reply to the questionnaire should be submitted in one of the official languages of the Council of Europe (English and French), and preferably also in the original language. Where appropriate, in order to avoid unnecessary repetition, the reply may refer to information contained in the report submitted by the national authorities on measures taken to comply with the Committee of the Parties’ recommendation concerning the implementation of the proposals made in GRETA’s second evaluation report. States Parties should provide links, copies or extracts of relevant legislation, regulations, national action plans and case law mentioned in the reply to the questionnaire, in the original language and, wherever possible, also in one of the official languages of the Council of Europe.

A variety of stakeholders and civil society representatives should be effectively consulted in the preparation of the reply to the questionnaire, to ensure that the information provided is as comprehensive as possible.

## **The United Kingdom of Great Britain and Northern Ireland's Combined Response to the Council of Europe's Group of Experts against Trafficking in Human Beings' Third Round Questionnaire.**

### **Part I - Access to justice and effective remedies**

#### **1. Right to information (Articles 12 and 15)**

**1.1 How, at what stage and by whom are presumed victims and victims of THB informed of their rights, the relevant judicial and administrative proceedings, and the legal possibilities for obtaining compensation and other remedies, in a language that they can understand? Please provide copies of any information materials developed to inform victims of THB, including any materials specifically developed for child victims, in the languages in which they exist.**

#### **United Kingdom**

Potential Victims of Modern Slavery (including Trafficking in Human Beings (THB)) (hereafter referred to as 'potential victim(s)')<sup>1</sup> are informed of their rights at various stages once identified by First Responder Organisations (FROs) - which includes Police, local authorities and some NGOs.

FROs are authorised to refer potential victims of modern slavery to the National Referral Mechanism (NRM) - the process and framework the UK uses to identify individuals who may be victims of modern slavery and connects them with appropriate support, which may be delivered through the specialist Victim Care Contract (VCC) in England and Wales, specialist support providers in Scotland and Northern Ireland, local authorities and asylum services.

Following such a referral, a trained caseworker from the Single Competent Authority (SCA - a body of the Home Office) will review their case. The SCA will decide if the individual is a victim of modern slavery (including human trafficking) – a process that relies on two decisions.

The first assessment is a 'Reasonable Grounds' (RG) decision, which determines if someone is a potential victim of modern slavery based on a threshold of 'suspects but cannot prove'. The SCA aims to make RG decisions within five working days, during which time, if support is needed, it may be provided under the VCC or separate arrangements within Scotland and Northern Ireland.

Following a positive RG decision, the individual will begin the recovery and reflection period and is entitled to support. Potential victims identified in the NRM can access accommodation, financial support, assistance in accessing mental and physical health care including counselling, and access to legal support.

Following a positive RG decision, the SCA will gather more information and evidence to make a second decision confirming their victim status. This is called a 'Conclusive Grounds' (CG) decision.

In England and Wales, a Recovery Needs Assessment (RNA) will take place for all confirmed victims with a positive CG decision. The RNA ensures that the confirmed victim's ongoing recovery needs, arising from their exploitation, are identified and supported by the VCC or other services where appropriate.

#### **England and Wales**

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<sup>1</sup> The NRM process and specialist support was initially established to deal solely with victims of human trafficking. In July 2015, the Government contract for adult victim care in England and Wales was extended to cover victims of all forms of modern slavery. Throughout this report, the term 'modern slavery' is used. The Northern Ireland Department of Justice has extended the scope of NRM support in Northern Ireland to cover all potential victims of modern slavery. From 1 April 2018 victims of a section 1 offence (human trafficking) or section 4 offence (slavery, servitude and forced or compulsory labour) recovered in Scotland are entitled to support under sections 9 and 10 of the Human Trafficking and Exploitation (Scotland) Act 2015.

## Adult Potential Victims of Modern Slavery

Adult potential victims need to give consent to FROs to enter the NRM. To give this consent, First Responders, who are individuals working in FROs, are required to explain to potential victims what the NRM is, what support is available through it and what the possible outcomes are for the individual being referred. Assistance of an appropriate interpreter will be used to ensure that adult potential victims can give informed consent.

Potential adult victims should be informed of the support available to them by the First Responder who refers them into the NRM. This is facilitated by the NRM leaflet 1 (Annex A) which can be provided at the point of referral. It lists all the support on offer including legal aid, and how to access it. The NRM leaflet 2 (Annex B) is sent out with the potential victim's Reasonable Grounds decision to remind them of the support on offer and how to access it.

Support for adult potential victims is provided through a cross-government approach, for example healthcare services will usually be provided through the National Health Service and accommodation may be provided by the asylum system where a potential victim also has an asylum claim in place.

In addition, adult potential victims referred to the NRM in England and Wales, who receive a positive Reasonable Grounds decision, can elect to receive support through the UK Government's Victim Care Contract (VCC). Through this, potential victims are allocated a support worker who helps them to access their rights and entitlements and supports them in their recovery (which can include, where relevant, the legal right to remain in the UK). The VCC supplier is required to ensure that potential victims can access this information and advice regarding their legal entitlements, which may include, but are not limited to, their rights to stay in the UK, their rights to access mainstream benefits and their judicial rights.

The supplier must also provide information to potential victims, with the aim to empower victims and encourage them to better protect themselves in the future, in order to reduce the risk of being re-trafficked or exploited.

The supplier is also required to provide assistance to adult potential victims at appropriate stages of criminal proceedings against offenders and to do the following, in a language the potential victim understands:

- Explain to the individual the relevant procedures relating to the prosecution of offenders;
- If appropriate, encourage the individual to cooperate with any police enquiries and with the wider justice system;
- Explain to the individual, where relevant, what role they will have in court proceedings; and
- Facilitate access to independent legal support for the individual and where appropriate assist the individual to apply for Legal Aid.

Chapter 2 of the Victims' Code sets out the services and entitlements that are to be provided to adult victims of crime.<sup>2</sup> Victims of the most serious crimes are eligible for enhanced entitlements. Human trafficking is included in the list of the "most serious crimes" (chapter 1.8). The enhanced entitlement includes an assessment as to the applicability of special measures at court. Details of special measures can be found in chapters 1.13 to 1.15 inclusive of the code.

The National Police Chiefs Council (NPCC) Modern Slavery portfolio has produced dedicated guidance and training for police officers to assist in the identification of, and engagement with, victims of slavery and trafficking. This includes fully explaining to victims their rights.

## Child Potential Victims of Modern Slavery

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<sup>2</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/476900/code-of-practice-for-victims-of-crime.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/476900/code-of-practice-for-victims-of-crime.PDF)

Where children are found to be potential victims of modern slavery their safety and welfare are addressed as the priority. The UK meets statutory obligations to safeguard children through duties placed on local authorities including existing measures in the Children Act 1989.<sup>3</sup> Local authorities are responsible for safeguarding and promoting the welfare of all children in their area including child victims of modern slavery. Local children's services will work in close co-operation with the police and other statutory agencies to offer potentially trafficked children the support they require. Further information of the roles and responsibilities of the Local Authority can be found in the Department for Education's 'Care of unaccompanied migrant children and child victims of modern slavery' statutory guidance.<sup>4</sup>

In addition to this ongoing statutory support, the Home Office currently provides Independent Child Trafficking Guardians (ICTGs) to child potential victims within one third of local authorities across England and Wales. As set out in Section 48 of the Modern Slavery Act 2015<sup>5</sup>, ICTGs promote the child's well-being and act in the child's best interests. ICTGs may, where appropriate, assist the child to obtain legal or other advice, assistance and representation, including, where necessary, appointing and instructing legal representatives to act on the child's behalf.

Chapter 3 of the Victims' Code<sup>6</sup> sets out, in language that is comprehensible for children, the services that are to be provided to child victims of crime. It is to be read in conjunction with the Introduction to, and Chapters 1 and 2 of the Victims' Code. Both the NPCC Modern Slavery and Gangs Portfolios have produced guidance to assist and encourage officers to utilise multi-agency strategy meetings, convened under Section 47 Children Act 1989 in order to share information with other government agencies and agree the most appropriate approach to safeguarding the child. Agencies will consider the wishes of the child and the most appropriate means of communicating information, including the rights of the child as a victim of crime.

## Scotland

The Scottish Government has funding agreements in place with Trafficking Awareness Raising Alliance (TARA) (who support adult female victims of trafficking for the purposes of commercial sexual exploitation), Migrant Help (who support all other adult victims of trafficking and exploitation) and The Anchor Service, which is part of NHS Greater Glasgow and Clyde (to provide a psychological service to all adult victims of human trafficking and exploitation identified in Scotland).<sup>7</sup>

Where potential victims are referred to Migrant Help the NRM process and victim entitlements are explained to the individual using a face to face or telephone interpreter in their primary spoken language. Migrant Help has translated client documents, assessment and induction information into the nine most common service user languages. For all other service users, this information is explained to them using a face to face interpreter. Where a service user expresses an interest in pursuing compensation, they are provided with the Criminal Injuries Compensation Scheme Leaflet for Victims of and this is explained to them using an interpreter. Migrant Help then refers them to a solicitor for further legal advice and support in relation to initiating a claim.

TARA provides women with a verbal overview, with an interpreter if required, of their general rights and entitlements during their first assessment appointment. The detail provided at this meeting will generally

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/1989/41/contents>

<sup>4</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/656429/UASC\\_Statutory\\_Guidance\\_2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/656429/UASC_Statutory_Guidance_2017.pdf)

<sup>5</sup> <http://www.legislation.gov.uk/ukpga/2015/30/section/48>

<sup>6</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/476900/code-of-practice-for-victims-of-crime.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/476900/code-of-practice-for-victims-of-crime.PDF)

<sup>7</sup> These NGOs are: the Trafficking Awareness Raising Alliance (TARA), who support adult female victims of trafficking for the purpose of commercial sexual exploitation; Migrant Help, who support all other adult victims of trafficking and exploitation; and The Anchor Service, who provide a psychological service to all adult potential victims.

be tailored for each individual woman and is dependent on the presenting needs such as the nature of their recovery, the time at which the meeting is taking place (service is 24/7), if her accommodation is safe or if she is to access our crisis accommodation, health and levels of distress. TARA provides women with a 'Recovery Book' which is available in English, Romanian, Vietnamese, Albanian and Mandarin. For other languages, TARA arranges translation as required. The TARA Service and JustRight Scotland are also funded by the Scottish Government to provide a legal surgery every week. This enables early and effective legal intervention for women early on in their recovery, allows a wider range of legal advice to be accessed beyond immigration including applying for Criminal Injuries Compensation.

The Crown Office and Procurator Fiscal Service's (COPFS) Victim Information and Advice service (VIA) provides victims of human trafficking and exploitation offences with information about their case, the criminal justice system, and appropriate support agencies, as well as applying to courts for special measures to assist victims when giving evidence.

VIA communicates with child and vulnerable witnesses via telephone, letter and in person. The COPFS website<sup>8</sup> also contains a host of information about witness' rights, the legal system and potential remedies.

The Scottish Guardianship Service support all unaccompanied trafficked children who arrive in Scotland from outside the EU. A guardian is allocated to each child and they are responsible for providing victims of THB with information about their rights, the processes that they will be involved in, compensation and other remedies and support. The guardians ensure trafficked children are represented by an experienced legal representative to ensure their rights are realised and protected. Interpreters are used during all appointments if required.

## **Northern Ireland (NI)**

Legislation sets out that victims are entitled to "appropriate information relevant to the particular circumstances of the person", "translation and interpretation services", and "assistance in obtaining legal advice or representation".<sup>9</sup>

A 'Know your Rights' brochure in various languages is given to potential victims by first responders to explain the NRM process.<sup>10,11,12</sup> The Victim Witness Care Unit is a dedicated unit of the Public Prosecution Service (PPS) NI and it ensures that victims are updated at all relevant stages of proceedings.

## **1.2 How is the obligation to provide translation and interpretation services, when appropriate, met at different stages of the legal and administrative proceedings by different agencies?**

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<sup>8</sup> <https://www.copfs.gov.uk/>

<sup>9</sup> Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, Sub-sections 18(7)(d), (e) and (f). (<http://www.legislation.gov.uk/nia/2015/2/section/18>)

<sup>10</sup> <https://www.nidirect.gov.uk/publications/information-victims-human-trafficking-different-languages>

<sup>11</sup> <https://www.nidirect.gov.uk/articles/help-and-support-victims-human-trafficking-and-slavery>

<sup>12</sup> Cantonese, Mandarin, Spanish, French, Romanian, Czech, Polish & Urdu

## United Kingdom

The UK ratified the 2010/64/EU Directive on the right to interpretation and translation in criminal proceedings which is transposed into relevant policies.<sup>13,14</sup>

At all stages of the NRM process the victims are provided with translation and interpretation services where necessary. This can include a face-to-face interpreter or a telephone interpreter. Where possible, any documents given to the victim are provided in their spoken language.

## England and Wales

Under the PACE (Police and Criminal Evidence Act 1984) Code of Practice and Ministry of Justice 'Achieving Best Evidence in Criminal Proceedings' guidance, victims who do not understand or speak English are entitled to request interpretation into a language they understand, when reporting a criminal offence; when being interviewed by the police; and when giving evidence as a witness.<sup>15,16</sup>

Police forces inform potential victims of their rights in accordance with the requirements set out in the Victims' Code, although the method by which victims are informed can differ from force to force.<sup>17</sup> Leaflets for victims also are available in a variety of different languages from the Home Office and are often used by the police. Where possible, police investigations will use officers or staff with language skills to assist with initial engagement with victims, however neither police officers or police staff will be used to translate official documents, such as witness statements, or act as interpreters in criminal justice proceedings.

The Gangmasters and Labour Abuse Authority (GLAA) inform workers of their employment rights in 18 languages and will have interpreters available on operations. The GLAA website can also assist as it translates into all languages, and its intelligence team are staffed with individuals that speak different languages.<sup>18</sup>

For victims and witnesses in criminal proceedings, the Crown Prosecution Service (CPS) uses two contracted services: 'The Big Word', which is contracted by the Ministry of Justice, and the National Register of Public Service Interpreters (NRPSI). Sign language interpretation is provided by Clarion UK. Interpreters working within the Criminal Justice System should be registered on the NRPSI, where relevant qualifications and experience is required in order to register.

An oral translation or summary of relevant information may be provided, unless doing so would prejudice the fairness of the proceedings and interpretation or translation must be made available free of charge. If victims are unhappy with a decision not to provide interpretation or translation services (for example there is not consensus on the essential nature of a translation or the service provider being unaware of the requirement to provide said services under the Victims' Code), they are entitled under the Victims Code to make a complaint to the relevant service provider. The relevant service provider must consider the request in accordance with the complaints procedure as set out in section 9 of Chapter 2, Part A (for adults) and section 9 of Chapter 3, Part A (for children and young people).

FRO and frontline translation and interpretation services for potential victims are provided through the VCC. Situations in which interpretation or translation services may be provided under the VCC include, but are not limited to needs-based assessments.

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<sup>13</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010L0064>

<sup>14</sup> <https://www.legislation.gov.uk/eudr/2010/64/introduction>

<sup>15</sup> <https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice>

<sup>16</sup> [https://www.cps.gov.uk/sites/default/files/documents/legal\\_guidance/best\\_evidence\\_in\\_criminal\\_proceedings.pdf](https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/best_evidence_in_criminal_proceedings.pdf)

<sup>17</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/476900/code-of-practice-for-victims-of-crime.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/476900/code-of-practice-for-victims-of-crime.PDF)

<sup>18</sup> <https://www.glaa.gov.uk/>



In certain situations, including when an interpreter for a rare language cannot be found from the proscribed sources, interpretation may be offered by a provider outside of the VCC.

## Scotland

Regulations came into force on 1 April 2018 setting the period of support and assistance of potential victims to be the earlier of 90 days or until such times as a Conclusive Grounds (CG) decision is reached. As part of this support potential victims can receive translation and interpretation support.<sup>19</sup>

In addition, The Crown Office and Procurator Fiscal Service (COPFS) has published 'Our Commitments to Victims and Witnesses' which commits to "... ensure you can communicate with us if your first language is not English."<sup>20</sup> This is through providing information in a language of the potential victim's choosing and ensuring that interpreters are available at trials. Police Scotland also ensure that a potential victim or witness is provided with an interpreter.

## Northern Ireland (NI)

The NI Courts and Tribunals (NICTS) has arrangements in place for interpreters across a range of court and tribunal business areas, including in THB cases.

Department of Justice (DoJ) contracted support providers seek to ensure that potential victims have understood messages received (i.e. the support provider would use a telephone interpreter to help the potential victim understand a diagnosis from a doctor). Where potential victims receive information in English, contracted support providers would also use telephone interpreting services to summarise and clarify any written materials.

For interpretation services in relation to legal aid, civil legal aid covers the cost of an interpreter. For criminal cases, this is a matter for the court to arrange (if the victim were appearing as a witness).

For children and young people, interpreting services are provided through a regional contract with the NI Health and Social Care Interpreting Service and the Independent Guardian Service and Diversity NI Ltd. If an interpreter is not available in NI, the Big Word Telephone Interpreting Service is used and/or an interpreter from England is sourced.

## 2. Legal assistance and free legal aid (Article 15)

### 2.1 How, by whom and from what moment is legal assistance provided to victims of trafficking? How is legal assistance provided to children?

#### England and Wales

Legal aid is provided in the form of civil legal services. Civil legal services are defined in section 8 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO).<sup>21</sup> It broadly includes advice, assistance and representation for certain types of legal issues, described as "in scope" of legal aid.

Civil legal services are provided by legal aid providers, who have contracts with the Lord Chancellor who is also the Secretary of State for Justice. The Legal Aid Agency (LAA)<sup>22</sup>, which is an executive agency of the Ministry of Justice, makes sure that legal aid services from those providers are available by; procuring

<sup>19</sup> The Victims and Witnesses (Scotland) Act, 2014 - <https://www.legislation.gov.uk/asp/2014/1/section/9>

<sup>20</sup> [https://www.copfs.gov.uk/images/Documents/Victims\\_and\\_Witnesses/Our%20Commitments%20to%20Victims%20and%20Prosecution%20Witnesses%20-%20Information%20Booklet%20-%20June%202015.pdf](https://www.copfs.gov.uk/images/Documents/Victims_and_Witnesses/Our%20Commitments%20to%20Victims%20and%20Prosecution%20Witnesses%20-%20Information%20Booklet%20-%20June%202015.pdf)

<sup>21</sup> <http://www.legislation.gov.uk/ukpga/2012/10/contents/enacted>

<sup>22</sup> <https://www.gov.uk/government/organisations/legal-aid-agency>



the services, monitoring the number of providers; and, managing and upholding the terms of the contracts. It also provides support to the Director of Legal Aid Casework (the Chief Executive of the LAA) in execution of his/her functions.

Section 9 of LASPO covers the civil legal services that are in scope of legal aid. To be in scope, the civil legal services need to be described in Schedule 1 of LASPO. The individual must also pass the relevant means and merits tests. Individual decisions on whether a case qualifies for legal aid are made by the Director of Legal Aid Casework (DLAC), independently of government.

With the exception of section 32 to Schedule 1 of LASPO (as explained further below), anyone, including actual or potential, adult or child, victims of trafficking can apply for legal aid in relation to any of the civil legal services that are in scope. This includes areas such as asylum, housing, some family matters or judicial review.

Where a civil legal service is not listed within Schedule 1 of LASPO, an individual can apply for Exceptional Case Funding (ECF), where failure to provide legal aid would risk breaching an individual's human rights, subject to means and merits testing. ECF funding is available whether or not you are an actual or potential victim of trafficking. ECF is detailed in section 10 LASPO.<sup>23</sup>

Additionally, section 32 of Schedule 1 of LASPO sets out further civil legal services specifically for victims of trafficking that are in scope of legal aid. The Act does not distinguish between adults and children. These are:

- An application by the individual for leave to enter or to remain in the United Kingdom, where there has been a conclusive determination that the individual is a victim of trafficking, or there are reasonable grounds to believe that the individual is a victim of trafficking;
- A claim under employment law arising in connection with the exploitation of an individual who is a victim of trafficking; and

A claim for damages arising in connection with the trafficking or exploitation of an individual who is a victim of trafficking.

Section 47 of the Modern Slavery Act 2015 (MSA 2015) inserted section 32A into LASPO to allow victims of 'slavery, servitude, and forced or compulsory labour' to apply for legal aid for the same type of cases as human trafficking victims.

Where a child has access to an Independent Child Trafficking Guardian (ICTG), the ICTG may obtain legal advice or instruct a legal representative to act on the child's behalf. This advice or representation may relate to the support and care needs of the child, any immigration or criminal proceedings the child is involved in, or circumstances which may be considered to have a detrimental impact on the child. In criminal prosecutions, victims and witnesses are not required to seek their own legal representation

## Scotland

Legal aid is operated by the Scottish Legal Aid Board (SLAB), which assesses applications submitted by solicitors (applications for legal aid for THB does not have to be tied to ongoing or historic NRM support). Legal assistance is available from private practice solicitors, law centres and solicitors employed by SLAB in the Public Defence Solicitors' Office for criminal cases and in the Civil Legal Assistance Office for civil cases.

In Scotland, a child can instruct a lawyer directly provided he or she has capacity to do so, failing which, instructions can be given by persons having parental rights and responsibilities in relation to the child,

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<sup>23</sup> <https://www.legislation.gov.uk/ukpga/2012/10/section/10>

typically parents, but in their absence, through the Children's Hearings system.<sup>24</sup> Children and young people in Scotland can access publicly funded legal assistance on the same broad range of issues that an adult can.

## **Northern Ireland (NI)**

Assistance is available to potential victims from the outset, including before an NRM referral is made.<sup>25</sup>

The Department of Justice (DoJ) contracts support providers (Migrant Help and Belfast & Lisburn Women's Aid) to signpost adult potential victims to justice, compensation, immigration and independent legal advice, legal representation and appropriate advice/information on any matter of relevance to the particular circumstances of the individual.

Guidance made available by the NI DoJ stipulates the support available for potential child victims.<sup>26</sup>

## **2.2 Do all presumed victims of THB have access to legal assistance, irrespective of immigration status or type of exploitation?**

### **England and Wales**

With the exception of section 32 as outlined in question 2.1, whether an individual is an actual or potential victim of trafficking is irrelevant to a grant of legal aid, as is immigration status. An applicant simply must be applying for legal aid for a civil legal service which is in scope of LASPO, and satisfy the relevant means and merits tests.

In relation to section 32, a victim of trafficking must have either a reasonable grounds or conclusive grounds determination to enable them to access civil legal assistance for the issues specifically set out in section 32 LASPO.<sup>27</sup> This is irrespective of their current immigration status or type of exploitation.

### **Scotland**

Legal aid is available for proceedings in the Scottish courts. Both Advice and Assistance and Legal Aid are subject to statutory tests which cover the merits of the case and the means available to the applicant. Provided the eligibility tests are met, potential victims would have access to legal assistance regardless of immigration status and exploitation type. There is no requirement to be resident in Scotland when applying for legal assistance.<sup>28</sup>

### **Northern Ireland (NI)**

Assistance in obtaining legal advice or representation is provided irrespective of immigration status. In addition, the DoJ does not hold immigration status information and DoJ's contracted support providers signpost all potential victims in the NRM to legal assistance as at 2.1 above.

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<sup>24</sup> Age of Legal Capacity (Scotland) Act 1991 (<http://www.legislation.gov.uk/ukpga/1991/50/contents>), Children (Scotland) Act 1995 (<http://www.legislation.gov.uk/ukpga/1995/36/contents>), and Children's Hearings (Scotland) Act 2011 (<http://www.legislation.gov.uk/asp/2011/1/contents>).

<sup>25</sup> Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, Sub-sections 18(7)(d), (e) and (f). (<http://www.legislation.gov.uk/nia/2015/2/enacted>)

<sup>26</sup> <http://www.hscboard.hscni.net/download/PUBLICATIONS/safeguard-vulnerable-adults/niasp-publications/Working-arrangement-for-the-welfare-and-protection-of-adult-victims-potential-victims-human-trafficking-and-modern-slavery.pdf>

<sup>27</sup> LASPO, Section 32, Schedule 1 – (<http://www.legislation.gov.uk/ukpga/2012/10/schedule/1/enacted>)

<sup>28</sup> The Legal Aid (Scotland) Act 1986 – (<http://www.legislation.gov.uk/ukpga/1986/47/contents>)

**2.3 What are the conditions for access to free legal aid for victims of THB, including children? For which types of proceedings is free legal aid available? Is free legal aid available to help victims claim compensation and execute compensation orders? Please provide the text of the relevant provisions.**

**England and Wales**

The relevant provision is Schedule 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). In order to qualify for civil legal aid an individual must be applying for legal aid for an issue listed in Schedule 1 of LASPO, and also meet the relevant means and merits test.<sup>29</sup>

The means tests are set out in the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013<sup>30</sup>. The merits tests are set out in The Civil Legal Aid (Merits Criteria) Regulations 2013.<sup>31</sup>

The means test constitutes an income and capital test. Some individuals may be required to contribute to the cost of their legal aid; the rules and thresholds of which for each type of civil legal service are set out in the legislation above and would be explained to a client by their lawyer.

Some individuals may be “passported” through the income portion of the means test if they are in receipt of certain types of support (such as some welfare benefits), and may be required to satisfy a lower capital threshold.

For applications for Exceptional Case Funding, the conditions are:

- 1) Failure to provide legal aid would result in a breach or risk of a breach of an individual’s human rights;
- 2) The relevant means test; and
- 3) The relevant merits test.

**Scotland**

To be eligible for civil legal aid there are three statutory tests: 1) proving the legal basis of the application (probable cause); 2) that it is reasonable to use public funds accordingly; 3) the applicant’s financial circumstances (in the instance of children then a parent/responsible adult’s details are taken into account)<sup>32</sup>. For child criminal legal assistance any financial assessment is based on the child’s own disposable income and disposable capital).

If it is a matter of Scots Law (including UK law that applies in Scotland, both Criminal and Civil) and could be heard in a Scottish Court, an application can be made to the Scottish Legal Aid Board<sup>33</sup> (via a solicitor) for legal aid.

**Northern Ireland (NI)**

Victims of human trafficking can access legal advice, assistance and representation on the same basis as other members of the public. This is subject to NI’s ‘means’ and ‘merits’ tests, which are tied to the means available to the potential victim and the merits of the case.

<sup>29</sup> LASPO 2012, Section 11 – (<http://www.legislation.gov.uk/ukpga/2012/10/section/11/enacted>)

<sup>30</sup> <http://www.legislation.gov.uk/uksi/2013/480/contents/made>

<sup>31</sup> The Civil Legal Aid (Merits Criteria) Regulations 2013 - <http://www.legislation.gov.uk/uksi/2013/104/contents/made>

<sup>32</sup> Regulation 11A, Civil Legal Aid (Scotland) Regulations 2002 - (<http://www.legislation.gov.uk/ssi/2002/494/made>)

<sup>33</sup> <https://www.slab.org.uk/>

Any application for civil legal aid that would otherwise be refused may be eligible for 'exceptional funding' in circumstances where a refusal to provide assistance might result in an impact on the applicant's rights under the European Convention on Human Rights (ECHR).

Representation in court under criminal legal aid is only available to a defendant; there is no separate representation in court for victims (such as victims of THB), nor access to legal aid to provide such representation for victims. However, whilst not entitled to access legal aid for representation victims can access advice and assistance on criminal matters through legal aid. Furthermore, a victim of human trafficking who is charged with an offence would be able to access criminal legal aid in the usual way as a defendant.

## **2.4 Are there lawyers specialised to provide legal aid and represent victims of THB in court? What regulations, if any, are applicable to the provision of such legal aid/representation? England and Wales**

There are a number of legal aid providers who can provide specialist civil legal services in all categories for victims of trafficking, as long as they have a contract in the relevant category of law. Victims of trafficking may require advice on a range of issues, outside those specifically provided for under section 32, Schedule 1 LASPO 2012.

### **Scotland**

There are not specialist lawyers to represent potential victims in court.

There are, however, civil society organisations that provide specialist legal advice, such as JustRight Scotland (JRS). JRS are funded by the Scottish Government and provide specialist legal advice to trafficked persons. JRS are responsible for the specialist Scottish Anti Trafficking and Exploitation Centre (SATEC)<sup>34</sup>, who provide legal advice and representation to child and adult survivors of trafficking and exploitation.

### **Northern Ireland (NI)**

Any lawyer can make an application for legal aid to support a client, including providing aid to potential victims. While some legal professionals are likely to specialise in certain types of cases, including modern slavery and human trafficking, the DoJ is not aware of specific specialisms across the profession. However, the Law Centre NI's casework includes representing victims of modern slavery to secure their rights including regularising immigration status where relevant. They also have particular expertise in regularising the immigration status of young people in the care system and care leavers.

## **2.5 How is the provision of legal assistance and free legal aid for victims of THB funded? Do victims have to pay a fee to obtain legal assistance or start a procedure, or are there other financial barriers in place? If yes, please specify the amount(s).**

### **England and Wales**

Legal aid is available through providers who have a contract with the Legal Aid Agency (LAA). In order to qualify for civil legal aid an individual must also meet the "means test".<sup>35</sup> The means test is set out in the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013.

However, certain cases are not subject to a means test. Where the means test does apply, the applicant must usually fulfil an income test and a capital test. The means test applied to this type of civil legal service

<sup>34</sup> <https://www.justrightscotland.org.uk/our-work/trafficking-and-exploitation/>

<sup>35</sup> LASPO 2012, Section 11 – (<http://www.legislation.gov.uk/ukpga/2012/10/section/11/enacted>)

entails an assessment of the individual's capital and income, as well as a calculation about whether any contribution is payable. If a client's income or capital is above a certain threshold, they may be required to make a contribution to the cost of the legal aid they receive in legal representation.

Legal aid costs may be recouped by the LAA where the outcome of the case has resulted in a gain of money or property for the victim of trafficking, to the extent that those costs are not also paid by the opponent. The LAA will assess the legal aid bill and will arrange for repayments to be made.

## **Scotland**

The Scottish Legal Aid Board (SLAB) is funded through the Scottish Government, however the budget for the Legal Aid Fund is different from many other public services in that it is uncapped. As a result, all who are eligible will receive publicly funded legal assistance.

There are no fees that must be paid in order to access legal aid. A contribution towards the cost of the case may have to be paid, the amount depending on the financial position of the applicant.

## **Northern Ireland (NI)**

Legal Aid is funded through the Legal Aid Fund. Victims do not have to pay a fee to access legal aid but may have to pay a fee if they do not qualify for legal aid. They may also be required to pay fees to the court in order to start a civil claim.<sup>36</sup>

### **3. Compensation from the perpetrators (Article 15)**

#### **3.1 What measures are in place to enable courts to award compensation to victims of THB, including children, from the perpetrators as part of criminal proceedings? What is the role of prosecutors in this respect?**

##### **England and Wales**

There are four routes by which victims are able to claim compensation from perpetrators. These are:

- The Powers of the Criminal Courts (Sentencing) Act 2000 (PCC(S)A) where the judge can award compensation on conviction.<sup>37</sup> Under PCC(S)A, courts are required to consider making a compensation order in cases involving personal injury, loss or damage, and to give reasons where no such order is made.<sup>38</sup> Compensation orders may be imposed by the criminal courts in England and Wales on conviction, as well as, or instead of, dealing with the offender in any other way (i.e. another type of sentence such as a community order or prison sentence). Courts must have sufficient evidence to make compensation orders lawfully. In practice this may include victim impact assessments and detailed psychiatric evidence for this group (or evidence of physical harm).
- Compensation or reparation awards arising from Proceeds of Crime Act 2002 (POCA) proceedings which take place after criminal trial (which is the most common route)<sup>39</sup>. Where a person is convicted of a human trafficking offence under the Modern Slavery Act 2015 (MSA 2015) the court may make a Slavery and Trafficking Reparation Order (Reparation Order), which requires a

<sup>36</sup> <https://www.justice-ni.gov.uk/publications/court-fees-01-october-2019>

<sup>37</sup> <http://www.legislation.gov.uk/ukpga/2000/6/contents>

<sup>38</sup> <http://www.legislation.gov.uk/ukpga/2000/6/contents>

<sup>39</sup> <https://www.cps.gov.uk/proceeds-crime>

convicted individual to pay compensation to their victim(s).<sup>40</sup> There also needs to be a Confiscation Order in respect of that offence for the Reparation Order to be made (as below).

- Civil route through legal action on behalf of the victim.
- For victims of forced labour or domestic servitude it may be possible to pursue a civil claim against the employer through employment tribunals.

The 2018 Independent Review of the MSA 2015 recommended that compensation should be at the forefront of the Court's mind, and reminding judges of their duties to consider reparation orders where appropriate is something the Sentencing Council should take into account when drawing up sentencing guidelines on the MSA 2015.<sup>41</sup> The final decision on implementing this recommendation will be for the Sentencing Council for England and Wales, which is independent from Government.

The Review also recommended that that all victims of modern slavery should receive appropriate compensation, not just those who give evidence in Court, and that the police should maintain contact with victims, making sure they are aware of the possibility of receiving compensation in future. The Government accepted this recommendation. The Modern Slavery Police Transformation Unit (MSPTU) has ensured that within all investigative guidance for policing, compensation and reparation are both encouraged from the early stages of a police investigation. This is inherently connected to the importance of an effective financial investigation strategy and the use of specialist financial investigators.

All the compensation processes outlined above are available to and for both adult and child potential victims.

## **Scotland**

Courts in Scotland are required to consider, where relevant, whether a compensation order is required to pay compensation to the victim – this includes human trafficking and exploitation cases.<sup>42</sup>

Compensation orders are enforced by the court.<sup>43</sup> When enforcing payment of a compensation order, the court can authorise such measures to satisfy the compensation order such as deductions from the offender's earnings or benefits.

Prosecutors do not have a role in the determination of the sentence imposed by the Court. Prosecutors advise the Court of relevant factors which the Court may take into account when determining the appropriate sentence.

## **Northern Ireland (NI)**

Compensation orders are a matter for the sentence Judge. Section 10 of Northern Ireland's Human Trafficking and Exploitation Act (2015) provides a power for the Crown Court to impose a slavery and trafficking reparation order under which an offender convicted of a slavery-like or human trafficking offence would be required to pay reparation to his or her victim.<sup>44</sup> Paragraph 1 of Schedule 2 sets out the

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<sup>40</sup> <http://www.legislation.gov.uk/ukpga/2015/30/section/9/enacted>

<sup>41</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/803406/Independent\\_review\\_of\\_the\\_Modern\\_Slavery\\_Act\\_-\\_final\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf)

<sup>42</sup> Criminal Procedure (Scotland) Act 1995, Section 249 – ([www.legislation.gov.uk/ukpga/1995/46/contents](http://www.legislation.gov.uk/ukpga/1995/46/contents))

<sup>43</sup> Ibid, Section 252.

<sup>44</sup> Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, Schedule 2 – (<http://www.legislation.gov.uk/niu/2015/2/contents>)



circumstances in which a slavery and trafficking reparation order may be made and sub-paragraph (7) places a duty on the court to consider whether to make such an order where it has the power to do so and to give reasons where it has determined not to do so.

On conviction, courts can order a defendant to pay compensation to a victim. Compensation awarded by the court may be limited by the defendants' means and any other sentence the court has imposed for the offences.

### **3.2 How is the amount of compensation calculated and are there specific criteria or models for calculating it? What types of injury/damage and costs are covered? Are there any circumstances/conditions that would lead to a reduction of the amount of compensation?**

#### **England and Wales**

The amount of compensation, that criminal courts may impose on an offender over the age of 18 in principle is unlimited by statute. However, in determining whether to make a compensation order, and in determining the amount to be paid under such an order, the court must take into account the financial circumstances of the offender. The courts have to strike a balance between seeking reparation and not imposing debts that are unrealistic or unenforceable. If an offender is under 18, then there are limits to what can be awarded for an individual offence, up to a maximum of £5000 as defined in section 131 of the PCC(S)A<sup>45</sup>.

The explanatory materials attached to sentencing guidelines for use in magistrates' courts suggest starting points for the magistrates' courts when determining amounts to be awarded by compensation order (although as mentioned in the paragraph above, the court must have regard to the means of the offender, which in practice is often the main limitation on how much compensation can be awarded). Sentencing guidelines are produced independently of Government, by the Sentencing Council for England and Wales. The explanatory materials set out how the amount of compensation that may be awarded in the magistrates' courts relates to any injury and damage that the victim has suffered.<sup>46</sup>

A compensation order can be varied or set aside on appeal by an offender. An offender can also apply to the court to review a compensation order (once the appeal right has been extinguished). As a result, the court may decide to discharge the order or reduce the amount which remains to be paid, depending on specific provisions set out in the PCC(S)A (section 133(2)-(4))<sup>47</sup>.

#### **Scotland**

Sentencing decisions are matters for the Judiciary in Scotland. The judge sets the amount to be paid, which takes account of the crime and the offenders' ability to pay.

#### **Northern Ireland (NI)**

The NI Criminal Injuries Compensation Scheme (2009) ("the Scheme") is a tariff based scheme and provides for both physical and mental injuries. An applicant may also be entitled to a loss of earnings and special expenses. To qualify for compensation, the injury must have occurred within NI. Legal fees are not met by the Scheme, however, free support and advice on applying for compensation is available from Victim Support.<sup>48</sup>

<sup>45</sup> <http://www.legislation.gov.uk/ukpga/2000/6/section/131>

<sup>46</sup> <https://www.sentencingcouncil.org.uk/the-magistrates-court-sentencing-guidelines/>

<sup>47</sup> <http://www.legislation.gov.uk/ukpga/2000/6/section/133>

<sup>48</sup> <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/compensation-tariff-scheme-legislation-2009.pdf>



Claims may be withheld or reduced in certain circumstances such as: -

- the individual has not reported the circumstances of the injury to the police and can offer no reasonable explanation for not doing so;
- the individual chooses not to fully co-operate with Compensation Services, the police or other authorities during their application;
- the individual has a criminal conviction.

However, caseworkers have discretion when considering paragraphs 14(1)(a), (b) and (c) of the Scheme and will assess each case on its own merits and will be sympathetic to victims if there is evidence that they are in fear of dealing with law enforcement authorities whether due to threats to them or to their families.

Any court order for compensation would be awarded at judicial discretion.

### **3.3 How are compensation orders/verdicts enforced? What measures are in place to guarantee and ensure effective payment of compensation?**

#### **England and Wales**

The Home Office operates an Asset Recovery Incentivisation Scheme (ARIS) by which money enforced in respect of domestic and overseas confiscation orders is shared between the agencies involved and compensation is paid in accordance with international treaties, conventions and asset sharing agreements. The Courts ensure compensation is paid to the victim first, before any other financial impositions made by the court are satisfied by the offender. Every measure will be taken by the Courts to trace those who do not pay and use a variety of means to ensure the recovery of criminal fines and financial penalties.

Large volumes of the impositions are paid in instalments either through: time to pay arrangements, where a defendant pays an agreed amount at regular intervals either weekly or monthly, deduction of benefits where an amount is deducted at source from the individuals benefits at regular intervals (generally monthly), or an attachment of earnings order, where an amount is deducted at source on a weekly/monthly basis from the defendant's earnings.

If these methods are not effective, warrants can be issued by the court instructing approved enforcement agents to seize and sell goods belonging to the offender. Upon receipt of each payment, the National Compliance and Enforcement Service (part of HM Courts & Tribunals Service) will allocate monies in accordance with the hierarchy of payment set out in the Magistrates Courts Act 1980.<sup>49</sup>

#### **Scotland**

The Scottish Courts and Tribunal Service (SCTS) is responsible for enforcing payment of Compensation Orders. Courts have the same powers of enforcement of compensation orders, as to enforce fines. As such courts can impose a sentence of imprisonment upon anyone who has not made designated payments.<sup>50</sup>

#### **Northern Ireland (NI)**

NI Courts and Tribunals will allocate payments received from a defendant firstly to any compensation awarded, before payment of any other sums imposed such as a fine or costs.

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<sup>49</sup> <http://www.legislation.gov.uk/ukpga/1980/43/contents>

<sup>50</sup> Criminal Procedure (Scotland) Act 1995-Section 219 - ([www.legislation.gov.uk/ukpga/1995/46/section/219](http://www.legislation.gov.uk/ukpga/1995/46/section/219))

### **3.4 When foreign victims of THB are removed from or choose to leave the country where the exploitation took place, what measures are in place to enable them to obtain compensation and other remedies?**

#### **England and Wales**

If the victim has left the country, a compensation order may still be made by a court; it is necessary for a victim to be identified for a compensation order to be considered lawful.

Following a conviction under the Modern Slavery Act 2015, the court could make a Reparation Order which requires the convicted individual to pay compensation to his or her victim(s).<sup>51</sup> Payments made via such an order must be offset against any compensation order made in the same proceedings.

#### **Scotland**

The Clerk of the Court is responsible for collecting compensation payments from the convicted person. The prosecutor provides them with the address of the victim so that payment may be made by the Clerk of the Court directly to the victim. Should the victim to reside out with the UK it is for the Clerk of the Court to arrange for payment.

#### **Northern Ireland (NI)**

Foreign victims are able to continue to access any appropriate remedies from their home country that had been signposted to them when in NI via NRM contracted support providers.

### **3.5 What procedures are in place to ensure effective access to compensation for victims of THB for the purpose of labour exploitation? Can such victims bring civil claims for compensation and/or recovery of unpaid wages and social contributions on the basis of tort, labour, employment or other laws? Please specify the relevant measures. Can victims of THB working in irregular employment or without a contract claim unpaid wages and other compensation and if yes, how is the amount of unpaid wages and other compensation established?**

#### **England and Wales**

In the civil justice system, claims for damages may be brought by people who have been subjected to trafficking or modern slavery. Such claims may be brought under statutory law (such as the Human Rights Act 1998<sup>52</sup>) or common law. Examples of the type of damages that might be claimed in such cases would be negligence, personal injury (including psychological damage) or non-payment of wages.

Aggravated damages will be a feature in this type of case, such as arising from assault or false imprisonment. Assault in this context extends to non-physical injuries such as indignity, humiliation and mental suffering.

In addition to claims brought in the civil courts, in some cases claims can be made to the Employment Tribunal for aspects such as underpayment or unlawful deduction of wages. The amount of compensation is calculated on loss of earnings based on the National Minimum Wage (NMW).

<sup>51</sup> <http://www.legislation.gov.uk/ukpga/2015/30/section/9/enacted>

<sup>52</sup> <http://www.legislation.gov.uk/ukpga/1998/42/contents>

## Scotland

It may be possible for a victim to bring a civil claim against an accused person or refer the case to an Employment Tribunal.

## Northern Ireland (NI)

Victims can use civil court remedies (such as small claims, civil bills or a High Court writ) or the Industrial Tribunals and Fair Employment Tribunal NI. Compensation for a loss of earnings can be made where an applicant has lost earnings or earning capacity for longer than 28 weeks as a direct consequence of the injury (no loss of earnings will be payable for the first 28 weeks of loss). The net loss of earnings is calculated on the loss of salary or profit at the time of the injury and during the period of loss, taking account of any salary which may become payable to the applicant less any social security benefits, state benefits, insurance payments and pension which have been paid during the period of loss.

### **3.6 What training is provided to build the capacity of relevant professionals, such as lawyers, law enforcement officers, prosecutors and judges, to enable victims of THB to obtain compensation and other remedies?**

## England and Wales

The Modern Slavery Police Transformation Unit (MSPTU) provides an internal toolkit containing guidance for investigators on all elements of a successful modern slavery investigation. This includes information on financial investigation and criminal injuries compensation. This can be shared on request. The Modern Slavery Specialist Investigator Course<sup>53</sup> and Modern Slavery Lead Investigator course, both created by the MSPTU, also include reference to the above within the course syllabus.

All staff in the National Compliance and Enforcement Service (NCES) receive detailed training on the enforcement process which includes an overview of the different elements an imposition can be made up of and the way in which these elements are paid out.<sup>54</sup>

Guidance to prosecutors alerts them of the need to advise on early financial investigation to support confiscation and compensation. Guidance also includes the need to apply for compensation out of any confiscation for prosecutors conducting trials, as well as in Proceeds of Crime Act 2002 guidance for prosecutors conducting proceeds of crime proceedings.

The Crown Prosecution Service (CPS) have led several training events for prosecutors, including: sixteen mandatory face to face training courses on modern slavery delivered to circa 200 Crown Prosecution Service (CPS) prosecutors in Complex Casework Units, Central Casework Divisions and overseas Criminal Justice Advisors in 2018; two joint training events with the Metropolitan Police Service and CPS on Joint Investigation Teams (JITs) for modern slavery, delivered to over 300 law enforcement officers and prosecutors across the UK; and face to face training delivered to prosecutors and comprehensive legal and policy guidance published on the non-punishment principle for victims who have been trafficked into criminal exploitation.

The 2019 Independent Review of the Modern Slavery Act 2015 also made recommendations about training on modern slavery for practitioners in the criminal justice system, specifically that Government should work with relevant organisations to ensure there is mandatory training on recognising modern slavery for all participants in the criminal justice system. The UK Government accepted this recommendation.

<sup>53</sup> <https://profdev.college.police.uk/professional-profile/modern-slavery-specialist-investigator/>

<sup>54</sup> Part of HM Courts and Tribunals Service (HMCTS) (an executive agency of the Ministry of Justice) tasked with the collection and distribution of monies that convicted residents of England & Wales have been ordered to pay by the criminal courts in England, Wales and Scotland.

The Independent Anti-Slavery Commissioner has set out her intention to encourage training in her Strategic Plan for 2019-21. The Commissioner is working with the National Police Lead on Modern Slavery and the College of Policing to seek assurance and provide scrutiny on the provision of guidance, training standards and delivery of training.

## Scotland

The Judicial Institute has provided training to judges related to dealing with the prosecution of criminal cases involving human trafficking offences. This training has taken the form of face to face seminars and the provision of online material on the Judicial Hub, our digital learning platform.

The Crown Office and Procurator Fiscal Service (COPFS), provides new prosecutors with a rigorous training programme at the specialist COPFS training facility in Glasgow, which covers a broad range of topics to equip them to become effective prosecutors. Part of that training encompasses narration of relevant factors that the Court may wish to consider when selecting the appropriate sentence.

For solicitors generally, they will attend training on criminal law and be equipped to represent clients who may be charged with any of the relevant offences.

## Northern Ireland (NI)

The Police Service Northern Ireland (PSNI) specialist Modern Slavery and Human Trafficking Unit (MSHTU) provides significant law enforcement training and awareness-raising in NI. In 2019 the MSHTU provided training to all new-to-role detectives, and to Crime Operations detectives, road policing officers, PSNI student officers, and Home Office immigration staff.

Similar to England and Wales, MSHTU NI specialist officers attend wide-ranging training opportunities nationally and internationally.<sup>55</sup>

The PSNI in conjunction with the Department of Justice and the Single Competent Authority has held training workshops for all first responders in NI.

NI judicial training materials have been updated by an expert judge on modern slavery in England and Wales and the previous UK Independent Anti-Slavery Commissioner. Training was delivered to Crown Court judges, as this is where human trafficking cases are usually held.

## 4. State compensation (Article 15)

**4.1 Do the eligibility criteria for State compensation schemes for victims of crimes exclude some victims of THB (e.g. due to irregular residence status, nationality, nature of the offence)? Does access to State compensation depend on the outcome of the criminal case and on failure to obtain compensation from the offenders?**

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<sup>55</sup> For example: Modern Slavery SIO training in Wales; National Accredited Modern Slavery Investigator Training; the National 'Train the Trainer' course; Joint Investigation Team Workshop training in London with Public Prosecution Service NI colleagues; EuroJust / EuroPol JIT seminar/conference; EU law enforcement Secure Information Exchange Network Application (SIENA) training; Digital Media Investigator (DMI) Training Mobile phone forensic examination Triage course; an EIO / ILOR Conference; the National Modern Slavery Investigators Course; and cross-border opportunities such as the An Garda Síochána Modern Slavery and Human Trafficking Peer Learning Conference Course and training from NGO 'Ruhama' regarding organised prostitution.

## England, Wales and Scotland

The Criminal Injuries Compensation Scheme (CICS) provides state-funded compensation that can be awarded as a last resort, to support victims of violent crime who cannot pursue compensation or redress from other routes. It is available on application to victims who have sustained physical or psychological injuries resulting from a crime of violence.

Under the CICS, victims of THB are eligible to make an application for state compensation if they have suffered a physical or psychological injury as a direct result of a crime of violence (as defined under Annex B of the Scheme) in Great Britain. A decision is made on the civil standard of proof – the balance of probabilities. The Scheme does not require an offender to have been convicted, as per the Council of Europe Convention on the Compensation of Victims of Violent Crimes, nor is it dependent on gaining funds/assets from the offender first. So long as the crime occurred in Great Britain (or a limited number of other places defined in the Scheme) and the individual has been conclusively identified as a victim of trafficking (through the NRM), the individual may be eligible to receive compensation under the CICS regardless of residence status or nationality (subject to other eligibility criteria).

## Northern Ireland (NI)

The NI Criminal Injuries Compensation Scheme 2009 compensates victims of violent crime that occurred within NI regardless of residence status or nationality<sup>56</sup>. The eligibility criteria do not exclude victims of modern slavery (including THB) due to location, their residency status, their nationality or the nature of the offence. The means of testing for compensation under the Scheme is based on available evidence on the balance of probabilities and is not dependant on the outcome of criminal proceedings.

Applicants must satisfy the eligibility requirements set out in paragraphs 1 -15 of the Scheme and the incident must have occurred within the jurisdiction of NI. The only exception is that, when it cannot be established whether the injury was sustained in NI or in the Republic of Ireland, the injury shall be deemed to have occurred in NI if the person was ordinarily resident there when the injury was sustained.<sup>57</sup>

## Northern Ireland (NI)

The NI Criminal Injuries Compensation Scheme (2009) ("the Scheme") is a tariff based scheme and provides for both physical and mental injuries. An applicant may also be entitled to a loss of earnings and special expenses. To qualify for compensation, the injury must have occurred within NI. Legal fees are not met by the Scheme, however, free support and advice on applying for compensation is available from Victim Support.<sup>58</sup>

Claims may be withheld or reduced in certain circumstances such as: -

- the individual has not reported the circumstances of the injury to the police and can offer no reasonable explanation for not doing so;
- the individual chooses not to fully co-operate with Compensation Services, the police or other authorities during their application;
- the individual has a criminal conviction.

However, caseworkers have discretion when considering paragraphs 14(1)(a), (b) and (c) of the Scheme and will assess each case on its own merits and will be sympathetic to victims if there is evidence that they are in fear of dealing with law enforcement authorities whether due to threats to them or to their families.

<sup>56</sup> <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/compensation-tariff-scheme-legislation-2009.pdf>

<sup>57</sup> *ibid*

<sup>58</sup> <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/compensation-tariff-scheme-legislation-2009.pdf>

Any court order for compensation would be awarded at judicial discretion.

#### **4.2 How is the amount of State compensation calculated so as to address the gravity of the harm endured by the victim?**

##### **England, Wales and Scotland**

Compensation under the CICS is not intended to fully compensate victims but is instead public recognition for the harm they have suffered. The Scheme operates on a tariff-based system which is used to calculate the value of awards in order to ensure that the award reflects the severity of the injury sustained. This tariff includes physical and psychological injuries, and injury awards may range from £1,000 for the most minor injuries to £250,000 for the most severe and long-lasting.

Dependent on the nature of their injury, loss of earnings and additional special expenses for medical equipment and similar may also be claimed from the Scheme.

The maximum overall cap for injury awards and additional payments is £500,000.

##### **Northern Ireland (NI)**

The NI Criminal Injuries Compensation Scheme (2009) is a tariff-based scheme which takes into account the gravity of the harm.<sup>59</sup>

#### **4.3 Is it possible for foreign victims of trafficking to submit claims for State compensation in your country after being returned or repatriated to their countries of origin? Please provide examples of any such cases and indicate the measures stipulating such a possibility.**

##### **England, Wales and Scotland**

To be eligible under the CICS, the crime of violence must have occurred in Great Britain. In addition, where a victim has been conclusively identified by a competent authority as a victim of modern slavery (including THB), they will satisfy the residence/nationality requirements of the CICS.

There is no requirement in the CICS that the victim must be physically present in the UK when they make their application to the Scheme. It is therefore possible for victims of modern slavery (including THB), who have been conclusively identified as such by a competent authority in Great Britain or are awaiting a formal decision from these authorities, to apply to the Scheme after they have been returned to their country of origin, provided that other eligibility criteria are met.

In order to pay an award, the Criminal Injuries Compensation Authority (CICA), which administers the CICS, must be satisfied that the applicant has taken all reasonable steps to obtain any other compensation to which they may be entitled in relation to their criminal injury. An application may be deferred until alternative avenues for compensation have been pursued by the applicant. If an applicant receives an alternative form of compensation after an award has been made by the CICA, the Scheme provides that the CICA may take steps to recover funds from the applicant up to the amount of the award paid. This is in line with all applications to the CICS.

There are no known examples of modern slavery (including THB) victims who have successfully been awarded compensation from the Scheme after being repatriated or returned to their countries of origin.

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<sup>59</sup> <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/compensation-tariff-scheme-legislation-2009.pdf>

There is, however, no requirement in the CICS that the victim must be physically present in the UK when they make their application.

### **Northern Ireland (NI)**

If the crime of violence occurred within NI, foreign victims are entitled to apply.<sup>60</sup> The eligibility criteria for compensation under the NI Criminal Injuries Compensation Scheme (2009) does not exclude victims of THB due to location, irregularity of residence, or their nationality.

#### **4.4 Are victims seeking State compensation liable for lawyers' costs and fees? Are State compensation awards subject to taxation? Does the receipt of compensation have consequences for access to social security or other benefits?**

### **England, Wales and Scotland**

Applications to the CICA do not require the assistance of a lawyer and the application process has been designed to ensure that it is accessible and simple to navigate. Applications can also be made online.<sup>61</sup>

In England and Wales, individuals experiencing particular hardship in accessing the CICS application process may be eligible for legal aid via an Exceptional Case Funding grant, administered by the Legal Aid Agency (LAA). In Scotland, the applicants may be eligible for legal aid from the Scottish Legal Aid Board.

Compensation awards made under CICS will not be subject to taxation.

The CICS provides that compensation is not payable where a victim has received payment for the same injury from another source. As such, before an award is made, the CICA must be satisfied that an applicant has taken all reasonable steps to obtain any social security benefits, insurance payments, damages or other compensation to which they may be entitled, prior to making an award. The amount of compensation offered may then be adjusted to reflect this.

### **Northern Ireland (NI)**

Costs of legal representation are not covered under the NI Scheme which states at paragraph 20(2) that costs of representation will not be met. However, applicants may avail of representation from Victim Support NI free of charge to progress their claim.

State compensation awards are not subject to taxation. The receipt of compensation in some cases, does impact on the victim's access/eligibility to receive certain means tested social security or other benefits such as Employment and Support Allowance, if the compensation breaches certain means tested limits. An exception to this is where the victim is either unable to look after their own financial and other affairs and are designated a 'patient' by a court, with any compensation being paid into the Office of Care and Protection (NI) or they decide to set up a personal injury trust; in these cases, whilst income, assets and capital must be declared, these factors may not impinge negatively on the award of the relevant benefit.

## **5. Sanctions and measures (Article 23)**

### **5.1 Please describe the legislative and other measures adopted by your country which allow to: i) confiscate or otherwise deprive perpetrators of the proceeds of criminal offences, or property of an equivalent value to those proceeds; and ii) identify, trace, freeze or seize**

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<sup>60</sup> Ibid

<sup>61</sup> <https://www.gov.uk/claim-compensation-criminal-injury>



**rapidly property which is liable to confiscation, in order to facilitate the enforcement of a later confiscation. Do these measures allow the identification, tracing and seizure of property into which the proceeds of illicit activities have been converted?**

## England and Wales

The Proceeds of Crime Act (PCA 2002) contains provisions to confiscate the proceeds of criminal offences and deprive perpetrators of the proceeds of criminal offences. For the vast majority of criminal offences, monetary restitution to the victim following a conviction is via a Compensation Order under Section 130(1)(a) & (b) Powers of Criminal Courts (Sentencing) Act 2000.

A court can award a compensation immediately following conviction or following confiscation proceedings. For the majority of low-level acquisitive offences such as shoplifting, confiscation proceedings are not necessary, however for more complex acquisitive crimes confiscation can assist and has become the *de facto* approach taken by the courts.

The purpose of confiscation proceedings under Part 2 of the Proceeds of Crime Act 2002 is to recover the financial benefit that the offender has obtained from his criminal conduct. This is referred to as the defendant's "benefit". Criminal conduct is further separated into *particular* and *general* criminal conduct. Particular criminal conduct relates to the matters directly covered at trial. General criminal conduct refers to the criminal lifestyle assumptions that can be made by a court in confiscation proceedings. It is these assumptions that allow investigators to deny offenders the full benefit of their criminal activities without the need to link every penny to a specific offence. The MSA amended Schedule 2 POCA 2002 so that slavery and trafficking were listed as "lifestyle" offences.

The Modern Slavery Act 2015 introduced Reparation Orders under Section 8. The explanatory notes to this section of the act acknowledge the existence of Compensation Orders but states

*"However, the number of compensation orders made in the last ten years in human trafficking and slavery cases is low. A specific reparation order for victims of slavery and trafficking will therefore enable courts to order a person convicted of a modern slavery offence to pay reparation to their victim or victims, in respect of the exploitation and degradation they have suffered."*

Section 8(b) Modern Slavery Act 2015 states that a Reparation Order can only be made following Confiscation Order. The amount awarded to victims under Reparation Orders cannot exceed the Confiscation Order amount<sup>1</sup>. A Confiscation Order cannot exceed the criminal benefit of a defendant. Therefore it would be unlawful for a court to make a Reparation Order that exceed the criminal benefit. As described above, there is no requirement for confiscation proceedings prior to the making of a Compensation Order under Section 130 Powers of Criminal Courts (Sentencing) Act 2000. Therefore, if a court were to be persuaded to make a Compensation Order without confiscation proceedings, it would not be limited by criminal benefit achieved by the defendant, but only by defendant's means to pay.

## Scotland

Under the Human Trafficking and Exploitation (Scotland) Act 2015, police constables and courts have powers to detain or order forfeiture of a vehicle, ship or aircraft when there has been an arrest or conviction of human trafficking.<sup>62</sup> The Proceeds of Crime Act 2002 (Section 15) allows authorities to take action against perpetrators of human trafficking and slavery, servitude and forced or compulsory labour to target their assets. This act allows for the identification, tracing and seizure of property which have been linked to criminal activities. Police Scotland work in conjunction with the Crown Office and Procurator Fiscal Service's Proceeds of Crime Unit to seize assets accordingly.

<sup>62</sup> Human Trafficking and Exploitation (Scotland) Act 2015, Sections 3, 13, 14.

## Northern Ireland (NI)

The list of offences to deprive perpetrators of the proceeds of their crime includes human trafficking, slavery, servitude and forced labour.<sup>63</sup>

**5.2 In what way do victims of THB benefit from seized and confiscated assets of perpetrators of THB? Do the confiscated assets go directly to victims, to a compensation fund or scheme for victims of trafficking or to other programmes for the assistance or support of victims of THB? Please provide information on seizures and confiscations of assets in THB cases and how they were used.**

## England and Wales

The Modern Slavery Act (MSA 2015)<sup>64</sup> allows for reparation to be paid from confiscation (Proceeds from Crime Act 2002 legislates for the confiscation of criminal benefit and reparation<sup>65</sup>). In particular section 8 allows judges to mandate a Reparation Order which compensates victims when offenders are convicted of the offences listed in Sections 1 (Slavery, Servitude, Forced Labour), 2 (Human Trafficking) or 4 (committing an offence with intent to commit trafficking) of the MSA 2015. A Reparation Order can only be granted after a Confiscation Order has been made under Part 2 of the Proceeds of Crime Act 2002.

The Confiscation proceedings seek to establish the *criminal benefit* to an offender and the assets an offender has (called the *available amount*). If a Confiscation is granted it must be the lower figure of the criminal benefit or available amount. Following this, the prosecution can request the court make a Reparation Order for all or part of the confiscated amount, to be paid to the victim(s). Each Reparation Order is case specific.

To receive compensation via the criminal justice process a victim must be listed as a witness. This means they must have provided an evidential account but does not necessarily require them to have given oral evidence.

In cases where victims have decided they do not wish to provide an evidential account, but the prosecution results in a conviction based on other evidence (often referred to as a victimless or evidence led prosecution) victims cannot access compensation via the criminal justice process. This does not preclude the court from granting a Confiscation Order to deny an offender the financial benefit of any criminality.

In these cases, any confiscated funds are distributed between the Home Office, the relevant law enforcement agency, the Crown Prosecution Service and HM Courts & Tribunals Service. Monies returned to policing in this fashion are often ring fenced and held in a fund, into which charities and community groups can bid. The exact process and name of the fund varies from force to force<sup>66</sup>.

## Scotland

There is not a direct link between confiscation of assets from convicted persons and compensation that is paid to victims. Often sentence is passed prior to the confiscation process being completed.

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<sup>63</sup> Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015; Proceeds of Crime Act (POCA) (2002).

<sup>64</sup> Modern Slavery Act 2015, Sections 7 – 11

<sup>65</sup> <http://www.legislation.gov.uk/ukpga/2002/29/contents>

<sup>66</sup> For example: <https://www.devon-cornwall.police.uk/advice/your-community/crimebeat-grants/what-is-crimebeat/>

## Northern Ireland (NI)

Reparation orders and compensation orders direct proceeds to the victim. Courts can order individuals convicted of human trafficking and slavery-like offences to pay reparation to their victims.<sup>67</sup>

Assets confiscated under the Proceeds of Crime Act 2002 (POCA) in relation to wider criminality that could potentially include modern slavery and human trafficking cases, may be directed towards a range of projects, for example under the Assets Recovery Community Scheme (ARCS). A number of projects related to human trafficking have been funded by ARCS – £58,000 was allocated to a modern slavery NGO in January 2019 for a two-year period to fund interventions to support vulnerable individuals at risk of being exploited or who fear being controlled in the labour market.

For orders under £1000 of value, law enforcement officials can recommend to the court how monies and assets seized can be directed.

### **5.3 Is it possible to use plea bargaining or some other form of settlement in cases of THB? If yes, please provide the relevant provisions. What protections are in place for victims of THB to ensure that their right of access to justice and effective remedies is not compromised by the plea bargaining or settlement in the legal process?**

#### England and Wales

When considering which offences, a defendant should be charged with, prosecutors must consider offences that both reflect the full totality of the offending and give the court the greatest possible sentencing power.

In cases where the defence is offering pleas to alternative charges, prosecutors must ensure that the proposed charge does not reduce the protection of the rights of the victim and that confiscation and forfeiture will still apply so that assets can be seized for victim compensation<sup>68</sup>.

#### Scotland

In Scotland prosecutors may decide that the public interest is best served by accepting a plea of guilt to some charges but not others, or to part of a charge but not the entirety.

The COPFS Prosecution Code makes clear that *"it will not be appropriate to accept a reduced plea for reasons of convenience or where, despite there being sufficient evidence, to do so will distort the court's assessment of the offending behaviour and of the appropriate sentence."*<sup>69</sup>

COPFS has a published complaints procedure which gives victims and witnesses the opportunity to complain if they are dis-satisfied with a decision made by a prosecutor in Scotland. Victims of crime also have the right to ask for certain decisions made by prosecutors to be reviewed.

#### Northern Ireland (NI)

No – plea bargaining is not a concept in the prosecution of cases in Northern Ireland. All cases are prosecuted in accordance with the Code for Prosecutors<sup>70</sup>.

<sup>67</sup> Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, Section 10.

<sup>68</sup> <https://www.cps.gov.uk/publication/code-crown-prosecutors>

<sup>69</sup> COPFS Prosecution Code -

[https://www.copfs.gov.uk/images/Documents/Prosecution\\_Policy\\_Guidance/Prosecution20Code20\\_Final20180412\\_1.pdf](https://www.copfs.gov.uk/images/Documents/Prosecution_Policy_Guidance/Prosecution20Code20_Final20180412_1.pdf)

<sup>70</sup> <https://www.ppsni.gov.uk/publications/code-prosecutors>

**5.4 What is the average duration of court proceedings in THB cases? In which circumstances are such cases given priority? Do you have a system to fast-track human trafficking-related prosecutions in order to improve the trial process and reduce the burden on victims and witnesses, including children? What safeguards are in place to ensure that judges deal with cases of THB without undue delay?**

Court Duration:

The Ministry of Justice publishes criminal courts statistics on an annual and quarterly basis. This includes the average number of days taken from offence to completion for Crown Court criminal cases, in England and Wales. The timeliness data is recorded across 5 key milestones which make up the:

- pre-court stage: (i) offence to charge + (ii) charge to first listing; and
- at court stage: (iii) first listing to completion at magistrates' court + (iv) sending to Crown Court to main hearing + (v) main hearing to completion.

The data can also be subdivided into different offence groups, including 'modern slavery' which is made up of the following 8 offences (as per Home Office counting rules):

- Hold person in slavery or servitude
- Require person to perform forced or compulsory labour
- Arrange or facilitate travel of another person with a view to exploitation
- Commit offence other than kidnapping or false imprisonment with intention of arranging travel with view to exploitation
- Commit offence of kidnapping or false imprisonment with intention of arranging travel with view to exploitation
- Do act prohibited by slavery and trafficking risk or prevention order
- Fail to comply with requirements to surrender passport under Modern Slavery Act 2015 (MSA 2015)
- Fail to comply with requirement to provide name and address under MSA 2015

The latest criminal courts statistics published 26 March 2020<sup>[1]</sup> provide the following key statistics in relation to average duration:

- The average number of days taken from first listing at magistrates' court to completion at Crown Court for modern slavery cases in England and Wales has been a decrease between 2018 and 2019, from 310 to 298 days. ***Please note that the average calculations for each individual quarter is from a small sample size and thus is prone to artificial inflation or deflation.***

The Ministry of Justice captures timeliness data for additional offences linked to human trafficking however, these are spread across multiple different offence groups, and cannot be isolated and added to the modern slavery offence group at this time:

<sup>[1]</sup> <https://www.gov.uk/government/statistics/criminal-court-statistics-quarterly-october-to-december-2019>

- Arranging or facilitating arrival of a person into the UK for sexual exploitation (trafficking)
- Arranging or facilitating travel of a person within the UK for sexual exploitation (trafficking)
- Arranging or facilitating departure of a person from the UK for sexual exploitation (trafficking)
- Intentionally arrange / facilitate the arrival in / entry into the UK / another country of a person with a view to their sexual exploitation
- Intentionally arrange / facilitate travel of a person within the UK / another country with a view to their sexual exploitation
- Intentionally arrange / facilitate the departure of a person from the UK / another country with a view to their sexual exploitation
- Trafficking people into the UK for the purpose of exploitation
- Trafficking people within the UK for the purpose of exploitation
- Trafficking people out of the UK for the purpose of exploitation

The Ministry of Justice does not currently publish criminal court statistics relating solely to timeliness for all offences linked to the trafficking of human beings – this is possible but would require bespoke analysis.

#### Case Priority & Safeguards Against Delay:

The Criminal Procedure Rules and Criminal Practice Directions provide a code of current practices that is binding on the courts. There is no specific direction that gives priority to trafficking cases, however, the circumstances of each case are judicially considered in line with the principles contained within the *Criminal Practice Directions 2015 Division XIII Listing (Part A)* which sets out the obligation to ensure that cases are heard in a manner which is effective to the distribution of justice, and done so efficiently.

The new Plea and Trial Preparation Hearing (PTPH) form issued by the Criminal Procedure Rules Committee in July 2019 includes specific reference to cases involving modern slavery through criminal exploitation to alert the courts and defence to consider whether the defendant is alleging a defence under section 45 of the MSA 2015.

Crown Courts operate Better Case Management (BCM) which ensures that cases are kept on track, hearing dates are observed and evidence from both prosecution and defence is served and disclosed in a timely fashion.

#### Fast-Tracking THB Prosecutions and Reducing the Burden on Victims:

To reduce the burden on child witnesses, in 2016 (and revised in 2018) a judicially-led project called the 'Young Witness Initiative', culminated in the National Police Chiefs' Council (NPCC), Crown Prosecution Service (CPS) and Her Majesty's Court & Tribunals Service (HMCTS) signing a Young Witness Protocol<sup>71</sup> to expedite cases in the courts involving witnesses under 10 years old. The protocol aims to fast-track cases where very young witnesses are involved to maximise the opportunity for them to provide evidence and minimise the stress and emotional impact. To date, there are no known modern slavery or human trafficking court cases involving persons under 10 years of age as witnesses.

Section 28 of the Youth and Criminal Evidence Act 1999 is a special measure for vulnerable and intimidated witnesses that enables a pre-trial video recording of their evidence in-chief and cross-examination to be played at trial, so the witness does not need to be present. It was commenced in three early adopter Crown Courts<sup>72</sup> during 2014 for vulnerable witnesses under 16 and those with a lack of physical, social or

<sup>71</sup> <https://www.judiciary.uk/publications/judicial-protocol-expedition-of-cases-involving-witnesses-under-10-years/>

<sup>72</sup> Leeds, Liverpool and Kingston upon Thames Crown Courts

mental capacity. This was evaluated and the commencement was extended to under 18-year olds in January 2017 in those three courts.

The UK Government Victims Strategy<sup>73</sup> published in September 2018, reaffirmed a commitment to rolling out pre-recorded cross examination, as provided for in section 28, for vulnerable witnesses in Crown Court centres in England and Wales. The Victims Strategy also committed to testing section 28 for other categories of intimidated witnesses such as victims of sexual offences and modern slavery offences in the three early adopter Crown Courts.

## **Scotland**

Section 65 of the Criminal Procedure (Scotland) Act 1995 mandates particular timescales for solemn proceedings (those before a jury) in Scotland. In cases in which an accused person is remanded in custody pending trial the trial must commence within 140 days of the day on which the accused person was committed to prison. In cases in which an accused person is granted bail pending trial the trial must commence within 12 months of the date on which the accused person was granted bail.

Section 147 of the Criminal (Procedure) (Scotland) Act 1995 mandates that in summary proceedings (those before a judge sitting without a jury) a person may not be remanded in custody for more than 40 days pending trial. Section 136 of the Criminal Procedure (Scotland) Act 1995 provides that summary proceedings, to which this provision applies, must be commenced within 12 months of the date of the alleged offence.

## **Northern Ireland (NI)**

The Northern Ireland Courts and Tribunal Service (NICTS) publishes statistics on average time to disposal but these are not disaggregated for any case type.<sup>74</sup>

Priority is given to prosecution decisions in cases involving suspects in custody or offences involving children. Listing is a judicial function.

The DoJ also leads a programme of work under the NI Executive's Programme for Government, aimed at speeding up the justice system and DoJ continues to work closely with its justice partners to deliver a number of initiatives aimed at this objective across all offence types.

## **5.5 How do you ensure that sanctions for THB offences are effective, proportionate and dissuasive?**

### **England and Wales**

Sentencing is a matter for the Court to determine. Where a sentence passed is considered unduly lenient, the prosecution can refer to the Attorney General to consider an application for leave to appeal sentencing under the Unduly Lenient Sentence Scheme (Sections 35 and 36 of the Criminal Justice Act 1988).

The independent Sentencing Council for England and Wales (SC) is currently considering sentencing guidelines for offences under the Modern Slavery Act 2015 (MSA 2015), although there are existing guidelines for trafficking for sexual exploitation. The new SC guidelines are to be published for public consultation in 2020.

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<sup>73</sup> <https://www.gov.uk/government/publications/victims-strategy>

<sup>74</sup> <https://www.justice-ni.gov.uk/publications/nicts-judicial-statistics>.

The MSA (2015) increased the maximum penalty for modern slavery offences from 14 years to life imprisonment.

## **Scotland**

In Scotland, it is the role of the prosecutor to select the appropriate forum for a prosecution. This decision is made by considering the relevant aggravating and mitigating factors present in each individual case and by making a professional judgement about the appropriate outcome should the accused person be convicted of the offence(s).

Sentencing decisions are a matter for the Judiciary. It is open to the prosecutor to lodge an appeal against sentence if the sentence is judged to be 'unduly lenient'.

## **Northern Ireland (NI)**

Human Trafficking carries a minimum sentence of 2 years and a maximum sentence of life in NI. Other sanctions in the legislation include detention and forfeiture of vehicles, ships and aircraft; Slavery and Trafficking Prevention Orders; and Slavery and Trafficking Reparation Orders. Sentencing decisions in the context of the legislation is a judicial matter.

Human trafficking offences are covered by Unduly Lenient Sentencing legislation either as indictable-only offences, or in the case of the section 4 offence under the 2015 Act, already nominated for Unduly Lenient Sentencing purposes (i.e. this means they can be referred to the Court of Appeal if it is considered that a sentence has been unduly lenient).

## **6. Ex parte and ex officio applications (Article 27)**

**6.1 What is the procedural position of a victim of THB in criminal proceedings? What steps are taken to assist victims of THB, including children, to enable their rights, interests and views to be presented and considered during the criminal proceedings against offenders? Who is entitled to assist victims of THB in court? Can victims of THB be represented by NGOs in criminal proceedings?**

### **England and Wales**

Criminal proceedings are brought on behalf of the Crown, not on behalf of the victim, and prosecutions are not dependent on a complaint by the victim. Victims may be witnesses in criminal proceedings; the Crown Prosecution Service (CPS) does not act for victims or their families. In cases where the prosecutor decides not to charge any offence as a result of a case referral from the police, there is a victim's right to review the decision.

There are several steps that can be taken to assist victims in giving evidence such as: special measures, reporting restrictions, live TV link from overseas, interpreters, ground rule hearings and intermediaries. Victims can also provide a victim personal statement to outline the impact a crime has had on them.

Section 45 of the Modern Slavery Act 2015 (MSA 2015) provides a statutory defence for victims of modern slavery who, in the case of adults were compelled to carry out criminal offences as a result of their exploitation, or for children, who committed the offence as a direct consequence of being a victim of trafficking or slavery. This includes where victims are forced or coerced to produce or sell illegal drugs. The defence does not apply to the most serious crimes, such as sexual offences or offences involving



serious violence<sup>75</sup>. Where victims have committed serious offences, the CPS must still consider whether it is the public interest to prosecute, as defined by the Code for Crown Prosecutors<sup>76</sup>.

The statutory defence was introduced under MSA 2015 to provide legislative protection from prosecution for victims of slavery and trafficking. This is intended to provide further encouragement to victims to come forward and give evidence without fear of being convicted for offences connected to their slavery or trafficking situation. Having a defence in place also allows the UK to meet international law obligations under the non-punishment provision (Article 26 – ECAT).

The CPS and MSPTU have produced detailed guidance for prosecutors<sup>77</sup> and investigators with regard to Section 45 MSA 2015. MSPTU Guidance can be shared on request.

## Scotland

The Victims and Witnesses (Scotland) Act 2014 redefined what is meant by vulnerable witness including child witnesses. The Act also improved the support available to enable vulnerable witnesses to give their best evidence and sets out the special measures available to these witnesses.

Courts are now required to consider the best interests and views of the witness in deciding whether they are vulnerable either because the quality of their evidence is likely to be diminished or they are likely to be at significant risk from harm in giving their evidence.

Victims or alleged victims of certain types of offence (including human trafficking) can specify the gender of the investigating officer who is to carry out the interview.<sup>78</sup>

Adult victims of a section 1 offence of human trafficking under the Human Trafficking and Exploitation (Scotland) Act 2015 are automatically entitled to the use of certain special measures known as standard special measures (such as use of a live television link, a screen (to avoid the witness seeing the accused), and a supporter.

The Vulnerable Witness (Criminal Evidence) (Scotland) Act 2019 creates a new rule for child witnesses under 18 to ensure that, where they are due to give evidence in the most serious cases, (including human trafficking and slavery, servitude and forced and compulsory labour), they will be allowed to have it pre-recorded in advance of the trial. The Act includes powers to extend the rule to adult witnesses deemed to be vulnerable.

The COPFS Prosecution Code<sup>79</sup> sets out the role of the prosecution service and the factors that prosecutors should take into account when making decisions. This document enshrines the following as factors to which prosecutors should have regard when determining the appropriate action to be taken in the public interest:

- The impact of the offence on the victim and other witnesses
- The age and personal circumstances of the victim and other witnesses
- The attitude of the victim

All cases involving THB are referred to the COPFS Victim Information and Advice service (VIA). VIA is a dedicated department within COPFS whose responsibilities include: providing child and vulnerable

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<sup>75</sup> <http://www.legislation.gov.uk/ukpga/2015/30/schedule/4>

<sup>76</sup> <https://www.cps.gov.uk/publication/code-crown-prosecutors>

<sup>77</sup> <https://www.cps.gov.uk/legal-guidance/human-trafficking-smuggling-and-slavery>

<sup>78</sup> Victims and Witnesses (Scotland) Act 2014, Section 8

<sup>79</sup> COPFS Prosecution Code

[https://www.copfs.gov.uk/images/Documents/Prosecution\\_Policy\\_Guidance/Prosecution20Code20\\_Final20180412\\_1.pdf](https://www.copfs.gov.uk/images/Documents/Prosecution_Policy_Guidance/Prosecution20Code20_Final20180412_1.pdf)

witnesses with information about their case and the criminal justice system; and referring child and vulnerable witnesses to appropriate support agencies.

A representative from an NGO can act as a supporter who will sit with a potential victim whilst giving evidence in a court. Supporters can also be family members or representatives from the social work department. The supporter cannot represent (or speak on behalf of) a potential victim (like an advocate would be able to), nor help give, interfere with, or influence the victim's evidence in any way. They can, however, be present. The potential victim can say who they would like as a supporter, but the final decision will be made by the court.

## **Northern Ireland (NI)**

Responses to questions 1.1 and 1.2 set out Northern Ireland's response to this question. In addition, the Public Prosecution Service (PPS) NI Victim and Witness Policy explains the standards of service that victims and witnesses can expect.<sup>80</sup> The Victim Charter sets out the entitlements and services that victims of crime in NI victims can expect to receive from a range of service providers, including the PPS.<sup>81</sup>

The PPS has a designated Victim Witness Care Unit to provide advice on the following areas: attending Court, help for vulnerable or intimidated witnesses, legal terms explained and witness expenses.<sup>82</sup>

All necessary interviews with child victims and potential victims of human trafficking must be conducted in compliance with the requirements of the 'Joint Protocol' and 'Achieving Best Evidence' and children and young people who have been victims of human trafficking should be offered bespoke support as vulnerable witnesses and provided support to enable them to give their evidence effectively.

There is a statutory defence for victims of human trafficking and modern slavery offences who have been compelled to commit certain offences.<sup>83</sup> The defence does not apply in respect of more serious offences.

Victims of human trafficking and modern slavery are entitled to apply for special measures in court. Child victims who agree to testify shall be accorded special protection measures to ensure their safety and that of their family members. Reference should be made to a child witness's potential need of international protection and possible resettlement due to the risk of retaliation from traffickers against whom he or she has provided evidence.<sup>84</sup>

NGOs cannot specifically represent victims in court. However, they can support the victim through the court process, such as via statutory means as an Independent Guardian (who has a role to ascertain and communicate the views of the child and to instruct the appointed legal representative).

## **6.2 If the authorities fail to discharge their obligation to effectively investigate and prosecute suspected cases of trafficking, what possibilities for redress exist for victims of THB and their families? To what extent have victims of trafficking, including children, access to complaint mechanisms, such as Ombudsman institutions and other national human rights institutions?**

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<sup>80</sup> <https://www.ppsni.gov.uk/victim-and-witness-information>

<sup>81</sup> <https://www.justice-ni.gov.uk/publications/victim-charter>

<https://www.ppsni.gov.uk/attending-court><sup>82</sup>

<sup>83</sup> Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, Section 22.

<sup>84</sup> Ibid, Section 24

## England and Wales

Complaints, defined in law as 'as any expression of dissatisfaction with a police force that is expressed by or on behalf of a member of the public' can be made directly to the force in question. The most serious complaints (i.e. if police actions result in a member of the public being seriously injured or dying) must be referred to the Independent Office for Police Conduct (IOPC).<sup>85</sup> Forces can also refer incidents if they have concerns (for instance, about the conduct of their officers or staff).

The police have a duty to investigate THB under ECHR Articles 2 (right to life), 3 (right to be free of torture); 4 (right to not be held in slavery or servitude), 5 (right to liberty and security) and 14 (right to an effective remedy) which impose an obligation on the State to investigate suspected breaches of these obligations. Failure to investigate can give rise to civil remedy; there is case law in England and Wales to support this.

In cases where the prosecutor decides not to charge any offence as a result of a case referral from the police, there is a victim's right to review the decision. A potential victim can apply to the CPS to seek a review of a prosecutor's decision not to bring charges or to terminate proceedings.

Victims of crime in England and Wales can bring a private prosecution<sup>86</sup>. A private prosecution is a prosecution started by a private individual, or entity who/which is not acting on behalf of the police or other prosecuting authority. A 'prosecuting authority' includes, but is not limited to, an entity which has a statutory power to prosecute.

## Scotland

Complaints about the quality of service received from Police Scotland can be made to Police Scotland in person at a police station, online, by telephone or in writing. If victims of THB are not satisfied with how their complaint was dealt, they can contact the Police Investigations and Review Commissioner (PIRC) within 3 months of the date on which the police sent their findings about the complaint.<sup>87</sup> The PIRC is independent of the police, and Citizens Advice are able to help victims of THB with complaints<sup>88</sup>.

Complaints about the work of the Crown Office and Procurator Fiscal Service (COPFS) can also be made.<sup>89</sup> If victims of THB are dissatisfied with how COPFS handle their complaint they are entitled to raise it with the Scottish Public Services Ombudsman (SPSO). The SPSO is independent, free and confidential. In terms of section 4 of the Victims and Witnesses (Scotland) Act 2014, victims of crime have the right to ask for a decision by a prosecutor not to prosecute to be reviewed.

## Northern Ireland (NI)

The Public Prosecution Service (PPS) NI handles complaints. The Independent Assessor of Complaints (IAC) can review a complaint where the complainant is not satisfied with the way in which the PPS dealt with the matter. The Independent Assessor operates with full independence from the PPS.

The Police Ombudsman's Office provides independent, impartial investigation of complaints about the police in Northern Ireland.<sup>90</sup>

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<sup>85</sup> <https://www.policeconduct.gov.uk/complaints-and-appeals/make-complaint>

<sup>86</sup> <https://www.cps.gov.uk/legal-guidance/private-prosecutions>

<sup>87</sup> <https://pirc.scot/complaint-handling-reviews/applying-for-a-complaint-handling-review/>

<sup>88</sup> Further Information on the (Scottish) Police Complaints Process - <https://www.mygov.scot/police-complaints/>

<sup>89</sup> COPFS Complaints Process - <https://www.copfs.gov.uk/about-us/comments-complaints>

<sup>90</sup> <https://www.policeombudsman.org/About-Us>

Provisions are made to appoint an “independent guardian” (IG) to assist, represent and support any separated child/young person who comes to attention of an authority in NI and any trafficked child in NI in respect of whom no-one is exercising parental responsibility.<sup>91</sup> This IG must at all times act in the best interests of the child and where there is a failure to discharge obligations effectively, and in a timely manner, the IG holds a mandate to challenge the relevant organisation and furthermore to pursue appropriate recourse.

### **6.3 What reporting and complaint mechanisms are in place for victims of trafficking who are in an irregular migration situation and/or in detention?**

#### **United Kingdom**

Asylum and immigration powers are not devolved and are implemented as per the information below. The Home Office Detention Engagement Team staff based in immigration removal centres are all First Responders and will seek to refer those with indicators of modern slavery to the National Referral Mechanism (NRM).

There is a comprehensive complaints system for detainees who feel that they have not been treated in accordance with established standards. Complaints from those who are detained are investigated in accordance with published guidance; Detention Services Order 03/2015 Handling Complaints.<sup>92</sup>

Detainees who submit complaints are not disadvantaged in any way in relation to their treatment while in detention, or in relation to the outcome of their immigration case. Detainees who are not satisfied with the way in which their complaint has been handled may ask for it to be reviewed by the independent Prisons and Probation Ombudsman.

### **6.4 Can victims of THB bring claims against the State or its officials for: i) direct involvement in THB; ii) failure to prevent THB or protect them from THB? Have there been cases where State agents or persons acting on behalf, or at the direction, of the State were found responsible for engagement in THB and/or failure to prevent it or protect victims from THB by third parties? Please provide information on any prosecutions against diplomatic and consular staff for alleged involvement in THB.**

#### **England and Wales**

##### **i) Direct Involvement in THB**

The laws of the UK apply for all citizens, this includes ‘state officials’. As such state officials can be prosecuted for criminal offences, including those under the Modern Slavery Act 2015 (MSA 2015). The UK Government is aware of one such case involving a Special Constable of the Metropolitan Police. This is discussed further in our answer to question 11.5

There have been no prosecutions against diplomatic or consular staff for their alleged involvement in THB (none have been investigated and referred to the Crown Prosecution Service (CPS)).

##### **ii) Failure to Prevent or Protect from THB**

Victims can take civil action against the police and/or State officials for failing to investigate their claims or provide protection from THB in accordance with common law and under European Court of Human

<sup>91</sup> Ibid, Section 21

<sup>92</sup> [www.gov.uk/government/publications/handling-complaints-in-immigration-removal-centres](http://www.gov.uk/government/publications/handling-complaints-in-immigration-removal-centres)

Rights (ECHR) Articles 2, 3, 4, 5 and 14 which impose an obligation on the State to investigate suspected breaches of these State obligations.

If a victim of any crime feels that their crime has been investigated poorly by the police they can make a complaint to the police force in question. If the victim is not satisfied, they can make a complaint to the Independent Office for Police Conduct (IOPC).

Following a public consultation, the UK Government committed to introducing a new system of policing super-complaints designed to complement wider reforms to the individual complaints system. The Policing and Crime Act 2017 introduced this new system which the Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) manage. The system covers all 43 police forces in England and Wales, as well as the NCA, British Transport Police, Civil Nuclear Constabulary and the Ministry of Defence Police.

This system allows organisations designated by the Home Office to raise issues or concerns on behalf of the public about a feature of policing in England and Wales, which is or appears to be, significantly harming the interests of the public.

The system is designed to capture systemic issues in policing, rather than complaints about individual forces or officers. Super-complaints will not typically be force specific and will not be included.

There are cases where the State has been found to be in breach of its Article 4 obligations – for example *R (TDT) v Secretary of State for the Home Department* [2018] EWCA Civ 1395. There is not a comprehensive list readily available to provide information about prosecutions. Criminal prosecution cases of diplomatic and consular staff risk being hindered by the principle of diplomatic immunity. According to the principle of diplomatic immunity, diplomats cannot be prosecuted under the law of the country in which they live. However, the protection offered is not absolute.

Decisions made by public bodies may be subject to judicial review. Judicial reviews are challenges through the courts, reviewing the lawfulness of a decision or action made by a public body. Decisions made in the name of the Secretary of State for the Home Department, for example negative Reasonable Grounds and Conclusive Grounds decisions made by the Single Competent Authority, can accordingly be challenged where an individual believes that decision was made unlawfully and that as a result the State failed to meet its obligations to identify and support victims of modern slavery.

## **Scotland**

Where the person who has committed the offence of human trafficking is a public official and did so while acting as a public official or purporting to act as a public official, courts are required to take that into account in sentencing and explain what part that consideration played in sentencing.<sup>93</sup> It allows the court to increase the sentence it would have given in respect of the human trafficking and requires the conviction to be recorded in a way which highlights the fact that it was committed by a public official.

## **Northern Ireland (NI)**

Where an offence was committed by a public official in relation to the performance of his or her duties, then this is to be treated as an aggravating factor for the purposes of sentencing.<sup>94</sup> The Department of Justice is not aware of any cases and has not received any information from NGOs working with trafficked victims in NI. The Public Prosecution Service NI has advised that no such cases have been known.

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<sup>93</sup> Human Trafficking and Exploitation (Scotland) Act 2015, Section 7.

<sup>94</sup> *Ibid*, section 6.

## **6.5 What steps have been taken to strengthen and maintain the capacity of prosecutors to effectively prosecute trafficking cases?**

### **England and Wales**

There have been a number of training events across the UK, including:

- Sixteen mandatory face to face training courses on modern slavery delivered to circa 200 Crown Prosecution Service (CPS) prosecutors in Complex Casework Units, Central Casework Divisions and overseas Criminal Justice Advisors in 2018. This had a focus on early investigative advice; joint working with police to build a robust case; legislation and supporting vulnerable victims. This is continued through delivery of training at local level, depending on business requirements.
- Two joint training events with the Metropolitan Police Service and CPS on modern slavery joint intelligence taskforces, delivered to over 300 law enforcement officers and prosecutors across the UK.
- In Wales, a three-day Joint Law Enforcement and Crown Prosecution Service Course attended by Law Enforcement Senior Investigating Officers and Crown Prosecutors and Crown Advocates.

The CPS also regularly publishes comprehensive legal and policy guidance for prosecutors on the CPS intranet, which reflects current case law, policy and legislation.

The CPS also sits on the Prosecutions Oversight Group, which was set up by the MSPTU to bring together law enforcement agencies to work together to identify actions to strengthen and improve modern slavery investigations and prosecutions.

Further training and guidance is being considered on the use of EU powers, tools and measures depending on UK position on departure from the EU.

### **Scotland**

The Lord Advocate has appointed a National Lead Prosecutor for human trafficking and exploitation. The National Lead Prosecutor is a highly experienced High Court prosecutor who is also the head of the National Sexual Crimes Unit within COPFS. She is supported by nine local lead prosecutors whose role is to provide hands-on assistance and expertise to frontline prosecutors dealing with cases involving trafficking and exploitation.

Prosecutors have at their disposal a broad suite of guidance regarding every aspect of prosecution of trafficking and exploitation offences. In 2019, COPFS published two E-Learning modules which provide prosecutors with detailed training regarding the prosecution of perpetrators and the identification of victims of trafficking and exploitation offences.

### **Northern Ireland (NI)**

PPS NI has two designated specialist lawyers for cases involving human trafficking, slavery and forced labour cases. The designated specialist lawyers attend the NI Organised Crime Task Force sub-group on modern slavery and human trafficking which is chaired by a senior Police Officer, facilitated by Department of Justice and attended by all relevant statutory stakeholders.

## **7. Non-punishment provision (Article 26)**

**7.1 Please indicate what measures are taken to ensure that victims of THB, including children, are not punished for their involvement in unlawful activities (criminal, civil, administrative**

**offences), to the extent they were compelled to do so, providing any concrete examples of their implementation.**

## **England and Wales**

There are 3 ways in which the non-punishment provision can apply for someone identified as a victim of trafficking:

Common law defence of duress: in circumstances where there is evidence of threats of death or grievous bodily harm which was of such gravity as to cause a reasonable person to act in the same way as the defendant has acted.

Section 45 of the Modern Slavery Act 2015 (MSA 2015): created a statutory defence for victims who commit certain offences when they are compelled to do so and the compulsion is attributable to slavery or to relevant exploitation (in the case of adults) or when they commit them as a direct consequence of being a victim of slavery/exploitation (in the case of children). Both adults and children are subject to the 'reasonable person test'; that is "A reasonable person in the same situation as the person and having the person's relevant characteristics would have no realistic alternative to doing that act".

The Government is aware of concerns from the CPS and the police that the defence is open to abuse from opportunistic criminals who are not victims to escape justice for their crimes. That is why we asked the Independent Review of the MSA 2015 to examine how the statutory defence was working in practice. The review found that the defence strikes the correct balance between protecting genuine victims and preventing misuse from opportunistic criminals. We committed to keep the operation of the defence under review and we are working closely with the CPS and law enforcement agencies to assess how the defence is being used in practice, at all stages of the criminal justice system..

Crown Prosecution Service (CPS) policy on the public interest in prosecuting (i.e. prosecutorial discretion): Where there is no clear evidence of duress and no clear evidence of a section 45 defence or where section 45 does not apply, prosecutors should consider all the circumstances of the case, including the seriousness of the offence and any direct or indirect compulsion, and apply prosecutorial discretion in whether it remains in the public interest to prosecute.

As part of the provision of Independent Child Trafficking Guardians (ICTGs), the Home Office has recently introduced the role of expert ICTG Regional Practice Coordinators (RPCs). ICTG RPCs work with the professionals who are already supporting child trafficking victims to help them to understand the child's needs. The RPC role includes raising awareness about the non-punishment principle and the section 45 defence for children who commit offences in the course, or as a consequence of, being trafficked. This aims to ensure that all professionals involved understand the non-punishment principle and will help to ensure that consideration is given to these factors in relation to any decision making relating to the child. Further guidance has been produced by the MSPTU alongside the CPS.

## **Scotland**

Section 8 of the Human Trafficking and Exploitation (Scotland) Act 2015 required the Lord Advocate to publish instructions to prosecutors regarding the non-prosecution of victims of human trafficking and exploitation. Those instructions were published in May 2016 and continue to be applied by prosecutors as relevant cases arise.

Prosecutors must report all cases in which there are reasonable grounds to believe that the accused person may be a victim of trafficking to the National Lead Prosecutor who is responsible for taking all decisions regarding non-prosecution of victims. This ensures expertise and consistency in the decision-making process. Prosecutors take cognisance of information from a broad range of sources, including police



officers, support agencies and defence solicitors, when considering whether an accused person may be a victim of trafficking.

### **Northern Ireland (NI)**

There is a statutory defence for victims<sup>95</sup> who have been compelled to commit certain offences where the compulsion was attributable to slavery or exploitation. A victim who is a child would be able to use the defence.

## **7.2 Can persons who have breached national laws in the course, or as a consequence, of being trafficked have access to remedies for victims of trafficking, including State compensation?**

### **England, Wales and Scotland**

The CICS provides that compensation is not payable to applicants who, at the date of their application, have an unspent criminal conviction which resulted in a community order, custodial sentence or equivalent. However, where the penalty imposed for the offence was not a community order or custodial sentence, account may be taken of the reasons for criminal behaviour when considering if an award should be reduced or refused. If a conviction is spent at the time an application is made, it will have no impact on the compensation claim.

Compensation via other routes, such as through Slavery and Trafficking Reparation Orders or Compensation orders, is available to victims who have a criminal conviction as a result of their trafficking.

The introduction of Section 45 MSA 2015 is aimed at preventing victims of trafficking and slavery being prosecuted, which should mean any compensation claim is not encumbered by a linked conviction. Following the introduction of the MSA in 2015, England and Wales Court of Appeal have allowed a number of appeals against conviction which predated the MSA 2015, for example *R v Joseph & others* [2017] EWCA Crim 36<sup>96</sup>.

### **Scotland**

Persons who have breached national laws in the course of being trafficked have potential protection available in terms of the Lord Advocate's Instructions on non-prosecution of victims of trafficking and exploitation.

The Lord Advocate's Instructions ensure that there is a presumption against prosecution for victims of trafficking, slavery, servitude or forced or compulsory labour in relation to offences committed as a consequence thereof. The Lord Advocate's Instructions set out different tests for persons aged above and below 18 years.

### **Northern Ireland (NI)**

Each claim for compensation is assessed on its own merits. An applicant with a criminal record may still apply for state compensation for injuries.

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<sup>95</sup> Section 22 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015

<sup>96</sup> <http://www.bailii.org/ew/cases/EWCA/Crim/2017/36.html>

## **8. Protection of victims and witnesses (Articles 28 and 30)**

### **8.1 How are victims of THB protected in practice against potential retaliation or intimidation before, during and after legal proceedings? How is the assessment of the needs for protection performed and who recommends the application of the protection measures? Who is responsible of the implementation of the protection measures?**

#### **England and Wales**

Adult potential victims receiving support through the Victim Care Contract (VCC) are entitled to an initial needs based assessment, which the VCC supplier is mandated to undertake within three hours of referral. The purpose of this assessment is to ascertain the immediate welfare needs of the victim (and any dependants) and to determine whether the victim (and their dependants) need to be accommodated.

The VCC supplier has a network of safehouses that can be used to accommodate victims (and any dependents) if accommodation is required. This includes the provision to move victims away from the area of their exploitation, if this is required to ensure their safety. The supplier must have security provisions in place including entry controls and secure locks, procedures for effectively intercepting and dealing with intruders and ensuring that external visitors without a pre-arranged appointment are not allowed in the accommodation.

When victims are engaged in legal proceedings, the police undertake risk assessments, alongside the prosecutor, to determine the type of protection that should be applied for at pre-charge stage. During criminal proceedings, the Youth Justice and Criminal Evidence Act 1999 sets out the range of special measures available to witnesses who are deemed to be intimidated. In addition, reporting restrictions and withholding the name of a witness or anonymity can be applied for. Only in cases where the risk to a witness is so great that they may need to relocate or change their identity, will witness protection schemes apply. The prosecutor will apply to the court for the relevant provisions to protect or support the witness.

Where threats have been made to the witness or their family, consideration can be given to charging offences of witness intimidation or perverting the course of justice.

#### **Scotland**

Police Scotland afford rights to each victim according to their needs (which includes providing information to them in a language that they understand).<sup>97</sup> This ensures that a victim or witness is able to obtain information about the investigation or proceedings; that the safety of a victim or witness is ensured; that they have access to appropriate support; and in so far as it would be appropriate to do so, they are able to participate effectively in the investigation and proceedings.

Special measures to assist child and vulnerable witnesses to give evidence are detailed in section 271 of the Criminal Procedure (Scotland) Act 1995. Witnesses may, for example, give evidence using a live television link from a remote location or have their evidence recorded by a Commissioner in advance, both of which remove the need for the witness to attend the court building to give evidence during a trial. The Victim Information & Advice service, a department of the Crown Office and Procurator Fiscal Service, is responsible for making applications to the Court for these measures.

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<sup>97</sup> Victims and Witnesses (Scotland) Act 2014

## Northern Ireland (NI)

The Department of Justice (DoJ) has powers to provide assistance and support to a person even where they have left NI. The underlying policy recognises that there may be occasions where an individual may need to be relocated to another UK jurisdiction for protection purposes.<sup>98</sup>

Protection is granted via DoJ contracted support providers. Bail conditions can be put in place to further protect the victim from any harassment or intimidation in addition to special measures during the court proceedings, such as screened areas in the courtroom, ability to provide evidence via video link etc.

During legal proceedings the PPS NI can apply to the court for special measures for eligible victims. These are statutory provisions to protect victims during the course of giving evidence.

## 8.2 How do you ensure that victims are provided with realistic and practical information about the progress of the case and whether the perpetrator has been detained or released?

### England and Wales

Prior to charging, victims are entitled to be informed by the police of the following information and to have the reasons explained to them within 5 working days of a suspect being:

- arrested;
- interviewed under caution;
- released without charge; or
- released on police bail, or if police bail conditions are changed or cancelled.

Victim of the most serious crimes, and those persistently targeted or vulnerable or intimidated are entitled to receive this information within one working day.

In serious cases, including slavery and trafficking, police will often develop detailed victim contact plans involving other support agencies where appropriate. Detailed guidance on making and maintaining contact with victims has been produced by the MSPTU.

The Witness Care Unit (WCU) in a police force manages the care of victims and witnesses from the point of charge through to the conclusion of a case.

The WCU will allocate a dedicated witness care officer to each witness who will act as the single point of contact and will keep witnesses informed of the case's progress. The officer will contact the witness if the defendant(s) have pleaded not guilty to discuss what support and assistance that may be required for the witness to attend court. This includes the need for special measures.

Victim Liaison Units (VLUs) provide a dedicated service to victims in cases where the Crown Prosecution Service (CPS) decides not to prosecute or to discontinue or substantially alter a charge. The CPS commitments under the Victim Communication and Liaison (VCL) scheme are reflected in the revised Victims' Code which came in to effect on 16 November 2015.<sup>99</sup> This implements relevant provisions of EU Directive 2012/29/EU, establishing minimum standards on the rights, support and protection of victims of crime (the EU Victims' Directive).

Under the Victims' Code, victims are entitled to:

<sup>98</sup> Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, Section 18(8).

<sup>99</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/470212/code-of-practice-for-victims-of-crime.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/470212/code-of-practice-for-victims-of-crime.PDF)

- Be informed of the outcome of any bail hearing (any relevant bail conditions and any relevant changes to these bail conditions) with reasons.
- Be informed that The Domestic Violence, Crime and Victims Act 2004 (Section 35-45)<sup>100</sup> provides for a 'Victim Contact Scheme' (VCS) by which victims of specified categories of offender with sentences of 12 months or more are entitled to make representations and receive information about an offender's release from detention.<sup>101</sup> The Government also includes victims who do not qualify for the statutory scheme (which assigns a liaison officer to victims of violent or sexual crimes where the offender is sentenced to 12 months in prison or more) on a discretionary basis and ensures they also receive relevant information about an offender's release.

When an offender is released on licence, they are managed by probation and licence conditions will be imposed to manage risk. Victim specific licence conditions can be imposed where there is any risk to the victim, for example, exclusion zones (which can be monitored by GPS tag) or non-contact conditions. Probation would alert victims and police of any potential threats the offender poses in relation to the victim. The VCS team would have an opportunity to feed into licence conditions. Stringent conditions will be imposed where necessary.

There is a statutory requirement for interagency management and exchange of information regarding offenders who have committed serious offences under a Multi-Agency Public Protection Arrangements (MAPPA, section 325 of the Criminal Justice Act 2003) The two main authorities in MAPPA are probation and the police. Any offender who is a danger or risk to others will be managed robustly whatever length of sentence the offender is serving and public protection measures and warnings to victims will apply regardless of whether the victim is in the contact scheme.

## **Scotland**

All cases involving THB are referred to the Crown Office and Procurator Fiscal Service (COPFS) Victim Information and Advice service (VIA). VIA's role is to provide victims and witness of crime with information about their case and about the criminal justice system more widely; to refer them to appropriate support agencies; canvass views on their involvement in the criminal justice process; and to apply for special measures to assist the witness when giving evidence in Court.

## **Northern Ireland (NI)**

Every case is allocated a designated case worker from the PPS Victim Witness Care Unit. This case worker is responsible for providing practical information to victims during the course of a prosecution. The response at 6.2 on Independent Guardians is also relevant here.

## **8.3 How do you ensure respect for the victims' right to safety, privacy and confidentiality during court proceedings?**

### **England and Wales**

A victim's rights are protected via a risk assessment undertaken by the police and discussed with the prosecutor about the type of protection that should be applied for at pre-charge stage.

During criminal proceedings, the Youth Justice and Criminal Evidence Act 1999 sets out the range of special measures available to witnesses who are deemed to be intimidated. Special Measures include the use of screens, live link, pre-recorded evidence in chief and cross examination as well as giving evidence

<sup>100</sup> <http://www.legislation.gov.uk/ukpga/2004/28/part/3>

<sup>101</sup> <http://www.legislation.gov.uk/ukpga/2004/28/part/3/chapter/2>

in private by excluding members of the public from court. In addition, reporting restrictions and withholding the name of a witness or anonymity can be applied for.

The prosecutor will apply to the court for the relevant provisions to protect or support the witness but the court is responsible for granting the application.

## Scotland

Police Scotland afford victims' rights according to the Victims and Witnesses (Scotland) Act 2014 and each victim is treated according to their needs (as per question 8.1). Details of other measures available during court proceedings are set out in answer to question 6.1.

Special measures to assist child and vulnerable witnesses to give evidence are detailed in section 271 of the Criminal Procedure (Scotland) Act 1995. Witnesses may, for example, give evidence: using a screen, with the assistance of a support person; via a live television link from a remote location; to a Commissioner in advance; or in a closed court. Victims of offences in terms of section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015 are automatically entitled to the use of standard special measures when giving evidence.

## Northern Ireland (NI)

Special Measures<sup>102</sup> have been put in place, to ensure the comfort, privacy and safety of all victims and witnesses during court proceedings, if required.

Under the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act 2015, there is automatic eligibility to apply for special measures for victims of THB. If the Court agrees they are entitled to the use of screens /the use of live TV link /giving evidence in private /the removal of wigs and gowns/the use of video recorded interviews as evidence in chief (Achieving Best Evidence Interviews)/video-recorded cross examination.

## **8.4 In how many cases were witness protection measures used for the protection of victims and witnesses of THB, including children? If witness protection measures/programmes are not applied to victims of trafficking, what are the reasons?**

## United Kingdom

Witness Protection, as defined within the Serious Organised Crime and Police Act 2005, is generally directed to those persons who have provided crucial evidence and against whom there is a substantial threat. This is managed by the UK Protected Persons Service (UKPPS) - a network of regional police units, led by the National Crime Agency (NCA).<sup>103</sup> The UKPPS provides protection to people judged to be at risk of serious harm.

UKPPS protection is usually bespoke and dependent on the level of threat to the individual in question, however it would usually involve removing people from the area of threat to a new, safe location. Regional protected persons units will then work with the individual to keep this location discreet and rebuild lives in the new area.

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<sup>102</sup> <https://www.nidirect.gov.uk/articles/witness-services-and-special-court-measures>

<sup>103</sup> <https://www.nationalcrimeagency.gov.uk/what-we-do/how-we-work/providing-specialist-capabilities-for-law-enforcement/protected-persons>

The Metropolitan Police, Police Scotland and Police Service of NI retain their own units, which are aligned to the UKPPS.

The Modern Slavery Police Transformation Unit (MSPTU) and the CPS do not maintain any central records of numbers of cases in which witness protection measures were employed or referred to the UKPPS. Due to operational security procedures, the NCA does not comment on under which circumstances witness protection measures are applied to trafficking cases.

## **8.5 When victim protection is provided by NGOs, how are NGOs resourced and supported to perform this function and how do the police and the prosecution co-operate with NGOs?**

### **England and Wales**

In England and Wales, support for adult potential victims is provided through the Victim Care Contract (VCC). The VCC is funded and managed by the Home Office. The current contract is held by The Salvation Army who deliver the services through a network of 11 sub-contractors. All of these organisations are NGOs.

The Salvation Army is obligated to cooperate with the police and judicial service in order to assist in the prosecution of potential offenders particularly when requests for information are made, while ensuring that Data Protection laws are adhered to.

### **Scotland**

In Scotland, adult victim support (following an NRM referral) is provided by Government-funded NGOs, TARA and Migrant Help. This is outlined further in our response to 1.1. It is part of VIA's role to refer vulnerable victims and witnesses to relevant NGOs where doing so is likely to be of assistance. This is information that would be gleaned during the ongoing contact process during the life of a case.

### **Northern Ireland (NI)**

NGOs in NI are resourced via a combination of public and privately raised funding. DoJ-contracted support providers are funded to carry out specific support functions under Section 18 of the Northern Ireland's Human Trafficking and Exploitation Act (2015).<sup>104</sup>

The Police Service Northern Ireland have a close working relationship with NGOs who provide a number of services to safeguard victims and help them to engage in the investigation. The Police Crime Prevention Officer will visit the victim to provide advice and detail services under Victim Support NI. The PPS NI also works closely with Victim Support NI.

## **8.6 How do you ensure that child victims of THB are treated in a child-sensitive way and are provided with protection before, during and after judicial proceedings in accordance with the Council of Europe Guidelines on Child Friendly Justice? Are interviews with children conducted in specially designated and adapted spaces by professionals trained to interview children? What measures are taken in order to ensure a limited number of interviews?**

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<sup>104</sup> <https://www.legislation.gov.uk/nia/2015/2/section/18>

## England and Wales

Child victims are protected by the Youth Justice and Criminal Evidence Act 1999.<sup>105</sup> This sets out the range of special measures applicable to vulnerable and intimidated witnesses, for which there is automatic entitlement for children (see also response 8.1).

All children will provide their evidence in chief via Achieving Best Evidence (ABE) pre-recorded video evidence and, where applicable, pre-recorded cross-examination.

## Scotland

The Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019<sup>106</sup> has mandated that the evidence of child witnesses in many solemn cases (serious criminal cases before a judge and jury) is recorded in advance of the trial. Child-friendly facilities are being created by SCTS to facilitate taking evidence from child witnesses.

Child victims are supported via established child protection procedures between Police, Health, Social-Care, and if relevant, education professionals. Child victims are interviewed by specially trained officers, who have completed Joint Investigative Interview Training (JIIT), and interviews are, where possible, undertaken by those trained officers and social workers. To eliminate numerous re-interviews of child victims, an Inter-agency Referral discussion (IRD) takes place between all agencies concerned. An IRD is the first stage in the process of joint information sharing, assessment and decision-making about a child whose well-being and safety is potentially at risk. This discussion can involve social work services, police, health services and other key services as appropriate.

## Northern Ireland (NI)

Social Services are engaged in the first instance and child advocates appointed. Interviews are carried out by specially trained Police Service Northern Ireland (PSNI) officers either in care suites or specifically adapted spaces. Interviews with children are conducted in accordance with the joint protocol arrangements between Social Services and PSNI. PSNI Modern Slavery Human Trafficking (MSHTU) officers act as a dedicated point of contact for every child investigation.

## 9. Specialised authorities and co-ordinating bodies (Article 29)

### 9.1 What budget, staff and resources, including technical means, are put at the disposal of law enforcement bodies specialised in combating and investigating THB?

#### England and Wales

The Home Office has funded the Modern Slavery Police Transformation Unit (MSPTU) to develop intelligence, identify best practice and share information to ensure that police forces and law enforcement agencies are equipped to consistently respond to modern slavery and human trafficking.<sup>107</sup><sup>108</sup> The Home Office allocated £11.4 million to the MSPTU between November 2016 and April 2020.

It is for the office of the Chief Constable to decide how resources are deployed and how best to manage their communications with the public. Over the past 3 years, through the work of the MSPTU, most UK

<sup>105</sup> <http://www.legislation.gov.uk/ukpga/1999/23/contents>

<sup>106</sup> <http://www.legislation.gov.uk/asp/2019/8/enacted>

<sup>107</sup> <https://policingslavery.co.uk/>

<sup>108</sup> [https://www.npcc.police.uk/Publication/MSPTP\\_Annual\\_Report\\_to\\_310318.pdf](https://www.npcc.police.uk/Publication/MSPTP_Annual_Report_to_310318.pdf)  
<https://www.npcc.police.uk/Publication/2019/Modern%20Slavery%20Annual%20Report.pdf>

police forces have taken steps to create dedicated units, triage functions and experts to aide their local response to THB. The MSPTU are currently mapping all 43 force models and will publish a report detailing the findings by early 2020, showcasing the 'best in class'.

There is no additional budget allocated to the Crown Prosecution Service (CPS) beyond the standard budgets for the prosecution of THB cases. The CPS is a demand-led organisation.

In 2016, Police and Crime Commissioner (PCC) Mark Burns-Williamson launched the National Anti-Trafficking and Modern Slavery Network (NATMSN) at the Home Office with the support of the National Police Chief's Council (NPCC) and the Independent Anti-Slavery Commissioner (IASC). This network brings together all PCCs and many wider stakeholders to improve the collaborative national response to MSHT at a strategic level.

Through the NATMSN, PCCs have influenced and agreed the development of the Modern Slavery Police Transformation Programme (MSPTP) deliverables which are aimed to increase engagement and strengthen partnerships including achieving improved access to justice and effective remedies for victims of trafficking. This is monitored by the MSPTP Strategic Oversight Board.

### 1. PCC Small Grants for Events

Four separate rounds of small grants funding were made available to PCCs to enable them to work collaboratively with their forces, regional coordinators and partners to deliver innovative activity to raise awareness amongst those in their communities who would be vulnerable to exploitation and abuse. Over 120 partnership activities were delivered across England and Wales.

### 2. National best practice events

A national partnership event delivered in September 2019 brought together strategic partners focussed on protecting children from all forms of exploitation. The event hosted over 230 delegates including police and crime commissioner offices, policing and law enforcement agencies, government departments, local authorities, health, education, third sector organisations, anti-slavery partnerships and academia.

The event covered five key themes:

1. Understanding the scale of child criminal exploitation in the UK
2. Developing best practice and innovation
3. How to strengthen networks to respond effectively
4. Understanding the complexities of tackling child criminal exploitation
5. An appropriate victim focussed response

Speakers at the event included the Office of the Children's Commissioner for England, The Children's Society, Barnardo's, Home Office, St Giles Trust, ECPAT, the Human Trafficking Foundation and the Crown Prosecution Service.

### 3. PCC Scrutiny Toolkit

A comprehensive toolkit for PCCs has been published to help support their response to modern slavery and human trafficking. This toolkit goes into detail about how PCCs can work in partnership locally to improve support for victims, access effective remedies and provide case studies of best practice. The toolkit was rolled out across England and Wales supported by the delivery of nine regional workshops for PCCs and regional coordinators.

## **Scotland**

In Scotland, the National Human Trafficking Unit provides investigative and intelligence development support across Scotland and supports a network of Human Trafficking Champions in each local policing division.



Oversight of the unit is currently provided by a Detective Superintendent and Detective Chief Inspector. The unit is led by a Detective Inspector, with 2 Detective Sergeants and four Detective Constables. One of the Detective Sergeant's post is to deliver policy and partnership development

The Crown Office and Procurator Fiscal Service has appointed a National Lead Prosecutor and nine local lead prosecutors for human trafficking and exploitation.

## **Northern Ireland (NI)**

The Police Service Northern Ireland (PSNI) has a dedicated Modern Slavery and Human Trafficking Unit (MSHTU) to combat and investigate THB. When required, assistance is received from specialist units such as PSNI Economic Crime Unit, police analyst, intelligence officers and partner agencies such as the National Crime Agency, HMRC others within the NI Organised Crime Task Force sub group on human trafficking.

### **9.2 If your country has specialised units for financial investigations, financial intelligence units and asset and recovery units, please describe whether and how are they used in investigating and prosecuting THB cases. Which special investigation techniques do these units use? Which public and/or private bodies do these specialised financial investigation units co-operate with in relation to THB cases?**

#### **England, Scotland and Wales**

The UK Financial Intelligence Unit (UKFIU), which also operates as the UK's Asset Recovery Office, collaborates across UK policing and law enforcement agencies in relation to THB. The UKFIU facilitates the transmission of financial intelligence, including Subject Access Request derived material, to and from overseas jurisdictions who are part of the EGMONT group.

The EGMONT Group is a united body of 164 Financial Intelligence Units (FIUs) which provides a platform for the secure exchange of expertise and intelligence. This can provide the necessary justification for THB investigations to take further action, through an application for an International Letter of Request or Joint Investigation Team.

UK policing, along with many UK law enforcement agencies, have access to Financial Investigators (FIs) through bespoke internal units. These FIs are the experts needed to progress a successful financial investigation. There is a growing awareness among UK law enforcement that a successful THB operation should have an FI involved. When utilised, FIs are able to identify, restrain and confiscate proceeds of crime and seek compensation/reparation for THB victims through the available legislation within the Modern Slavery Act (2015).

Increasingly UK policing and law enforcement agencies are utilising the Joint Money Laundering Intelligence Taskforce (JMLIT) to assist THB investigations. The JMLIT is a public/private sector collaborative group in which financial institutions and law enforcement can share tactical information relating to THB investigations. The JMLIT has coverage of over 95% of the UK's high-street banking institutions and results from the JMLIT have directly assisted THB investigations.

The CPS Proceeds of Crime Unit is responsible for securing restraint orders, confiscation orders, , civil recovery and reaching asset sharing agreements with counterparts overseas. The CPS also has a number of overseas Criminal Justice Advisors (CJAs) whose primary focus is on asset recovery from that country.

## **Scotland**

The Crown Office and Procurator Fiscal Service has a dedicated Proceeds of Crime Unit and a dedicated Civil Recovery Unit who are responsible for recovering financial assets. All cases involving human trafficking and exploitation are referred for assessment by frontline prosecutors.

## **Northern Ireland (NI)**

There is a financial strategy in place for every THB investigation and assistance may be requested from Financial Investigators (FIs) and the Economic Crime Unit. Assistance may also be sought from NCA with regards to obtaining Suspicious Activity Reports (SARs) or entering into a Joint Money Laundering Intelligence Taskforce (JMLIT) agreement. Legislation is enforced at every opportunity, for example confiscation and restraint orders for suspects' assets.

## **10. International co-operation (Article 32)**

**10.1 How does your country co-operate with other countries to enable victims of THB to realise their right to redress and compensation, including recovery and transfer of unpaid wages after they leave the country in which the exploitation occurred?**

## **United Kingdom**

In line with the Council of Europe Convention on the Compensation of Victims of Violent Crimes and Directive 2004/80/EC, the UK works with EU member states to ensure victims of violent crime are able to apply for state compensation in the country where the crime occurred.

## **England, Wales and Scotland**

There is no requirement in the GB-wide Criminal Injuries Compensation Scheme that the victim must be physically present in the UK when they make their application for compensation.

## **Northern Ireland (NI)**

Following an Industrial or Fair Employment Tribunal, it is the responsibility of relevant parties to make or secure payment. However, DoJ contracted support providers can remain in contact with victims of THB and relevant authorities in the victim's home country to provide ongoing signposting/interpretation.

The Police Service Northern Ireland has, and continues to, participate in Joint Investigation Teams (JITs) (JITs agreements are between two or more European Member States and/or other parties). The purpose of a JIT is to facilitate investigations and any related prosecutions and ancillary proceedings (including restraint and confiscation of the proceeds of crime) that arise from those investigations in Northern Ireland and other member state.

**10.2 Has your country co-operated with other countries in the investigation and prosecution of THB cases through financial investigations and/or Joint Investigation Teams? Please provide statistics on such cases and examples from practice.**

## **England and Wales**

As of December 2019, England and Wales was participating in 24 live JITs on THB with 7 EU member states. JIT agreements will always include financial investigations.

In addition to formal joint investigations, the National Crime Agency (NCA) International Liaison Officer network facilitates sharing of intelligence on behalf of UK law enforcement with a range of international partners. An example of this is Operation Fort, one of the largest modern slavery cases ever brought to trial in Europe. Following a complex and lengthy investigation led by West Midlands Police, a criminal gang responsible for trafficking over 400 potential victims from Poland to the UK for forced labour was brought to justice and the victims safeguarded. The NCA International Network supported West Midlands Police with the exchange of intelligence and liaison with Polish authorities.

The NCA also leads projects overseas that assist the investigation of THB offences in the UK and other European countries. For example, the Joint Border Task Force (JBTF) in Nigeria comprises Officers from the (Nigerian) National Agency for the Prohibition of Trafficking in Persons who are mentored by NCA, Immigration Enforcement, Border Force and the Crown Prosecution Service (CPS). The JBTF have also provides assistance to European law enforcement partners in relation to THB investigations.

## **Scotland**

The Crown Office and Procurator Fiscal Service (COPFS) has successfully concluded the prosecution of 2 JITs in 2019. Both trials took place outside of Scotland (in Slovakia and Romania). The JIT was essential to ensure the investigations proceeded. COPFS is presently running a JIT with Romania on a separate THB investigation.

Police Scotland have been involved in seven human trafficking related JITs with European Colleagues. As some of these JITS are ongoing, it would be inappropriate to comment further.

## **Northern Ireland (NI)**

In 2018 the PPS NI co-operated with the Republic of Ireland and Romania in relation to a JIT to investigate THB.

Police Service Northern Ireland has sought intelligence assistance from agencies such as Europol, Interpol and from International Liaison Officers. The PSNI Modern Slavery Human Trafficking Unit has taken part in four JITs with countries including Romania, Sweden, Lithuania and also within the UK, with Scotland.

## **10.3 How many mutual legal assistance requests and/or European Investigation Order have you made in THB cases and what was their outcome?**

### **England and Wales**

The CPS will issue a request for a European Investigation Order (EIO) (or in cases where this does not apply, a Mutual Legal Assistance (MLA) request). EIOs are sent by the prosecutor to the relevant judicial authority.

The UK Government is not able to disclose the number of such requests made as the number is not centrally collected or collated.

### **Scotland**

EIOs would be raised with the Crown Office and Procurator Fiscal Service (COPFS). The number of requests is not centrally collected or collated.

## **Northern Ireland (NI)**

The NI Courts and Tribunals (NICTS) holds details for those EIOs granted by the courts in NI but not details of whether these relate to THB cases.

### **10.4 What forms of international co-operation have proven to be particularly helpful in upholding the rights of victims of trafficking, including children, and prosecuting alleged traffickers?**

#### **United Kingdom**

There are multiple forms of international cooperation including JITs, EIOs, extradition, European Arrest Warrant (EAW), Mutual Legal Assistance (MLA), Mutual Recognition of freezing and confiscation orders, Mutual recognition of court orders, European Criminal Records (ECRIS), Secure Information Exchange Network Application (SIENA) and Schengen Information System (SIS, SIS II). These have proven helpful in upholding the rights of victims and the prosecution of offenders.

### **10.5 What international co-operation measures are in place to ensure protection and assistance to victims on return from your country to their countries of origin following their participation in criminal proceedings?**

#### **United Kingdom**

The UK supports victims to return to their country of origin. As such, victims are provided with objective information (including legal advice) about the return process, the assistance available and the local context of the country they are returning to, including general or specific risks they may face.

Support providers should refer to and work with Assisted Voluntary Returns and Reintegration (AVRR) providers to identify, assess and manage risks before facilitating the return process. As the majority of risk factors are based around the situation in the place of return, coordination with in-country offices or partners is essential to ensure that there is sufficient knowledge available.

Home Office Immigration Enforcement does provide bespoke support via the Voluntary Returns Scheme (VRS) Additional Assistance programme to certified victims of trafficking. This is either cash assistance or in-kind assistance depending upon which country the individual is returning to.

Some EU member states provide similar packages of support. A pilot concept joint cooperation initiative is currently being progressed via the European Return & Reintegration Network (ERRIN).

#### **Scotland**

Police Scotland work with law enforcement agencies around the world and regularly share information via Europol, Interpol and via Police Scotland's international Unit (who work daily with international law enforcement to share, record and disseminate intelligence) to assist with the safeguarding and protection of individuals on their return.

## Northern Ireland (NI)

The Police Service Northern Ireland (PSNI) work with local NGOs who have partner NGOs overseas. NCA ILO officers are also available to supply assistance.

DoJ-contracted support providers will liaise with PSNI and, where appropriate, with NGOs in the country of origin, to make arrangements for safe repatriation, including ensuring that victims are escorted to the plane and met on landing in their home country.

DoJ, PSNI and the Health and Social Care Board jointly published operational guidance for front-line staff to provide information on modern slavery and human trafficking and to set out the appropriate arrangements for identifying and supporting adult victims or potential victims of human trafficking and modern slavery. Further details on safeguarding of victims returning to their country of origin is provided at Section 9 of the Adult Working Arrangements<sup>109</sup>.

### **10.6 What international co-operation measures are in place to protect and assist victims of THB for the purpose of sexual exploitation through online streaming where the perpetrator is a national or habitual resident of your country and elements of the crime have occurred in your country's jurisdiction?**

#### United Kingdom

In April 2019, the UK Government published an Online Harms White Paper that sets out plans for tackling online harms and keeping children safe online, including from child sexual exploitation.<sup>110</sup> The White Paper sets out our plans for world-leading legislation to make the UK the safest place in the world to be online and hold companies to account for tackling a wide range of online harms. In February 2020, the UK Government further announced that it is inclined to appoint Ofcom (the existing UK communications watchdog) as the online harms regulator.

The WePROTECT Global Alliance (WPGA) is a global movement driven and funded by the UK Government and forms a key element of our international response to this crime. The WPGA brings together the influence, expertise and resources required to transform how online child sexual exploitation is dealt with worldwide.

A significant amount of 'pay per view' live streaming of abuse, watched in the UK, takes place in various countries, including the Philippines. In recent cases, the National Crime Agency (NCA) has identified that this threat crosscuts with modern slavery, where multiple children are commercially exploited by crime groups. Some viewers of live streaming will also seek to travel to the Philippines to commit contact abuse themselves.

In response to an enhanced threat picture, the NCA permanently created an office in Manila in October 2018, replacing the previous coverage of the Philippines from Thailand. The primary purpose is to further bolster the response to live streaming and sextortion (sextortion is a type of blackmail<sup>111</sup>) and to the

<sup>109</sup> <https://www.justice-ni.gov.uk/publications/adult-working-arrangements-2018>

<sup>110</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/793360/Online\\_Harms\\_White\\_Paper.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793360/Online_Harms_White_Paper.pdf)

<sup>111</sup> Blackmail is defined in the Theft Act 1968 as- A person is guilty of blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with menaces; and for this purpose a demand with menaces is unwarranted unless the person making it does so in the belief—  
(a) that he has reasonable grounds for making the demand; and  
(b) that the use of the menaces is a proper means of reinforcing the demand.

presence of UK transnational child sex offenders (TCSOs) in country, as well as to assist with capacity and capability building where necessary. The Director General of the NCA signed a human rights compliant MoU with the head of Philippine National Police (PNP) in November 2018.

### **Scotland**

Internet services and their regulation is a reserved issue.

Police Scotland work with law enforcement agencies around the world and regularly share information via Europol, Interpol and via Police Scotland's international Unit (who work daily with international law enforcement to share, record and disseminate intelligence).

### **Northern Ireland (NI)**

Internet services and their regulation is a reserved issue.

Section 2 of the NI HT Act allows for the prosecution of an offender where the perpetrator is a UK national or a person who at the time of the offence was habitually resident in NI, regardless of where the arranging or facilitating of the exploitation takes place, or where the travel takes place.

Where possible, special measures can be applied for to allow a victim to give their evidence via a live link with another country (section 24 of the NI HT Act refers).

## **11. Cross-cutting questions**

### **11.1 What steps are taken to ensure that victims of THB have equal access to justice and effective remedies, irrespective of their immigration status and the form of exploitation?**

#### **England and Wales**

All victims of THB have equal access to criminal justice, regardless of their immigration status and form of exploitation. The CPS will review and advise on all cases referred to it by law enforcement and if it meets the tests in the Code for Crown Prosecutors, will prosecute.

#### **Scotland**

As set out at 1.1, support providers in Scotland ensure all victims in their care have access to legal advice in a language they understand.

Police Scotland afford victims rights according to the Victims and Witnesses (Scotland) Act 2014 and each victim is treated according to their needs (which includes providing information to them in a language that they understand). Further information on the principles of the Act can be found at 8.1.

#### **Northern Ireland (NI)**

The contracted support providers have confirmed that all potential victims who enter their support are referred to, and able to access, legal assistance.

In terms of compensation, an applicant's immigration status and form of exploitation would not be relevant for the purpose of a claim or award for compensation under the current Scheme in NI.

If a claimant and/or employer has an address in NI, that is sufficient for a claim to be lodged in NI.

## **11.2 What steps are taken to ensure that criminal, civil, labour and administrative proceedings concerning victims of THB are gender-sensitive?**

### **England and Wales**

The Crown Prosecution Service (CPS) Violence Against Women & Girls (VAWG) Strategy 2017-2020 groups together offences that are committed primarily, but not exclusively, by men against women, with female victims being disproportionately represented. This includes THB. The strategy provides a framework outlining the approach taken to these crimes in line with our Public Sector Equality Duty, international treaties and conventions and the Government's strategy. Common themes of VAWG include exploitation, coercion, control and abuse. However, it is recognised that these offences can be targeted at all victims, regardless of gender.

### **Scotland**

The Victims and Witnesses (Scotland) Act 2014 makes provision to improve and increase rights and support for victims and witnesses.

Key provisions relevant to this question include:

- giving a victim of certain offences the right to specify the gender of the investigating officer;
- for certain medical examinations, giving the victim the right to specify the gender of the medical examiner.

### **Northern Ireland (NI)**

At each stage of the interview process, consideration is given to the sensitivity of the issues in question and a female or male interviewer is assigned accordingly. This also applies to safeguarding visits, transportation of victims and victim liaison /aftercare.

For compensation, if a referral to a Consultant for mental injury is required, an option exists for an applicant to be seen by a professional of their preferred gender type.

Under section 18(6) of the NI HT Act, assistance and support under s18 must be offered from a person who is the same gender as the person receiving it.

## **11.3 What steps are taken to ensure that procedures for obtaining access to justice and remedies are child-sensitive, readily accessible to children and their representatives, and give weight to the child's views?**

### **England and Wales**

Where relevant, the child trafficking victim may retain support of an Independent Child Trafficking Guardian (ICTG) for as long as they are a defendant or witness in a case that is being taken through the criminal justice system. The support of the ICTG Service will remain until the conclusion of the case or until the child reaches 18 years of age whichever is sooner. The role of the ICTG is to provide independent support to the child, and to advocate on their behalf, they are in place across one third of local authority areas.

The Crown Prosecution Service (CPS) has published guidance<sup>112</sup> to prosecutors outlining the measures that can be taken to help safeguard children in the course of criminal proceedings, ensuring the following principles are observed: Expedition, Sensitivity and Fairness. Guidance includes access to special measures, safeguarding, making decisions and the court process.

<sup>112</sup> <https://www.cps.gov.uk/legal-guidance/safeguarding-children-victims-and-witnesses>

The Civil Procedure Rules (Part 21)<sup>113</sup> contain special measures for civil court proceedings involving children or protected parties. Children must have a litigation friend to conduct proceedings on their behalf, unless the court makes an order enabling the child to conduct them (although this can be reversed). The rules provide for case management by judges enabling the process to be sensitive to the needs of children or protected parties in court (e.g. potential for use of video evidence). The Ministry of Justice is currently working with the Civil Justice Council on reforms to improve facilities for children and protected parties in the civil courts.

## Scotland

The Victims and Witnesses (Scotland) Act 2014 also ensures that child victims are protected by established child protection procedures, working in conjunction with other specialist organisation such as Victim Information and Advice (VIA), and Social Services to ensure they are fully aware of their rights and understand the criminal justice process.<sup>114</sup>

The Vulnerable Witness (Criminal Evidence) (Scotland) Act 2019 creates a new rule for child witnesses under 18 to ensure that, where they are due to give evidence in the most serious cases (including human trafficking and slavery, servitude and forced and compulsory labour), they will be allowed to have it pre-recorded in advance of the trial.

## Northern Ireland (NI)

The provision of an Independent Guardian (IG) for all separated children provides a significant additional safeguard and protection for children. Their responsibilities are set out at the response to question 6.2.

Applications can be made for criminal injury compensation on behalf of children. Compensation Services have access to a Consultant Psychiatrist specialising in preparing children's reports if a report is necessary.

### **11.4 What steps are taken to ensure that private entities take steps to prevent and eradicate trafficking from their business or supply chains and to support the rehabilitation and recovery of victims? What options exist for victims of trafficking to access effective remedies from businesses implicated in human trafficking?**

## United Kingdom

The Gangmasters and Labour Abuse Authority (GLAA) works in partnership with the police and NCA to prevent, detect and investigate worker exploitation across the economy. In addition to licensing businesses who provide workers to the fresh produce supply chain and horticulture industry across the UK, the GLAA also has the power to investigate reports of worker exploitation across the economy in England and Wales. Although its wider investigative powers only extend to England and Wales, the GLAA's preventative work is not similarly constrained. Its intelligence assessments identify the extent of exploitation within its knowledge to identify high risk industries at risk of infiltration by exploiters. It then works with those sectors to raise their awareness of how to spot forced labour, what action to take, and preventative due diligence. It has historically worked with food supply chain businesses, but its preventative work has been particularly focused on Construction, Textiles, Hotels and Hospitality, and car washes. It has also initiated work through education and faith groups to assist in penetrating migrant communities to increase their confidence to report exploitation to the GLAA. The GLAA is also a First Responder organisation and can refer potential victims directly into the National Referral Mechanism.

<sup>113</sup> <https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part21>

<sup>114</sup> <http://www.legislation.gov.uk/asp/2014/1/contents>



Under Section 54 (Transparency in Supply Chains etc.) of the Modern Slavery Act 2015 (MSA 2015), commercial organisations which carry on a business, or part of a business, in the UK, supply goods or services and have an annual turnover of £36m or more are required to publish an annual statement setting out the steps they have taken to ensure that modern slavery is not taking place in their operations or supply chains. The Home Office has written twice to the CEOs of businesses identified as being in scope of the legislation, with clear information about how to meet their obligations. The Home Office is currently analysing the result of an audit of compliance.

On 11 June 2019, the Rt. Hon. Theresa May announced that the Government would develop a central online reporting service for statements published under the Act, to make it easier for consumers, NGOs and investors to scrutinise the action that businesses are taking. The Home Office has appointed a supplier to start designing and developing the new service and is currently focussed on understanding the needs of users including businesses and others.

The Independent Anti-Slavery Commissioner (IASC) is holding the government to account for their promise to audit businesses who are expected to complete a transparency in supply chain statement and is pressing for publication of the audit. The Government's statutory guidance on transparency in supply chains<sup>115</sup> includes guidance for companies about responding to an incident of modern slavery and provides further detail on carrying out human rights due diligence in line with the UN Guiding Principles on Business and Human Rights.

Following an Independent Review of the MSA 2015, the Government has consulted on proposals to strengthen the transparency in supply chains provisions of the MSA 2015 and is currently considering the responses to this consultation. The Government has also established the Business Against Slavery Forum to accelerate progress in tackling modern slavery. Members of the Forum are leading initiatives to support the rehabilitation and recovery of victims for example through pathways to employment.

The Government has an important role in providing guidance for commercial and procurement staff. The Cabinet Office, Home Office and Crown Commercial Service have designed a number of tools and guidance documents for public sector buyers<sup>116</sup>. The IASC will ensure scrutiny of what has been published and assess its effectiveness.

In one situation, the IASC contacted CEOs of companies where the specific company's supply chain had been identified as involved in modern slavery offences. She received a positive response and will contact CEOs of companies in future in any appropriate cases. The IASC will also support better use of data and research to identify and implement evidence-based solutions for businesses. There are encouraging signs that businesses are taking steps to reduce slave labour in their products and services, including some evidence that investors are asking more questions about the risks of modern slavery and labour rights abuses in businesses and their supply chains. Several organisations are also promoting activity based upon the UN Guiding Principles and the IASC will encourage good practice in this area.

## **Scotland**

The Transparency in Supply Chains provisions in the MSA 2015 extend to Scotland.

The Scottish Government published practical guidance to help businesses identify and prevent human trafficking and exploitation across their operations in October 2018.

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<sup>115</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/649906/Transparency\\_in\\_Supply\\_Chains\\_A\\_Practical\\_Guide\\_2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/649906/Transparency_in_Supply_Chains_A_Practical_Guide_2017.pdf)

<sup>116</sup> <https://www.gov.uk/government/news/new-measures-announced-to-make-sure-government-supply-chains-are-free-from-modern-slavery>

## **Northern Ireland (NI)**

The Transparency in Supply Chains provisions in the MSA 2015 extend to NI.

The DoJ has hosted specific training for public sector procurement leads and engagement events to highlight the issue of transparency in supply chains and to promote best practice. DoJ also placed a number of human trafficking media articles in one of NI's main daily newspapers, with a focus on the agri-food sector (one of the largest sectors in NI dealing with small to large businesses).

Section 2 of the NI HT Act includes, as potential offenders, bodies incorporated under the law of a part of the UK. Such bodies are therefore subject to any of the other provisions about offences, compensation and reparation etc, outlined in the Act.

**11.5 What legal, policy and practical measures are taken in your country to prevent and detect situations where corruption facilitates human trafficking and infringes the right of victims of THB of access to justice and effective remedies? Please provide information on any known or proven cases of corruption or related misconduct of public officials in THB cases and any sanctions issued.**

## **England and Wales**

Relevant information can be found at question 6.4. We are aware of one such case - in 2019 a former special police constable and his wife were convicted of offences of trafficking victims from Hungary into the UK for the purposes of sexual exploitation and for controlling the prostitution of women. The defendant was a serving special constable for the Metropolitan Police Service whilst committing these offences.

## **Scotland**

Relevant information can be found at question 6.4.

## **Northern Ireland (NI)**

In NI statutory authorities are subject to many layers of scrutiny including internal audits and political scrutiny. Robust scrutiny of both politicians and government occurs through local media channels in NI. There have been no known cases of corruption or related misconduct of public officials in THB cases in NI. Further relevant information can be found at question 6.4.

## Part II – Country-specific follow-up questions

### 12. Please provide information on new developments in your country since GRETA's second evaluation report concerning:

**[12.1] 'emerging trends of trafficking in human beings (new forms of exploitation, new recruitment methods, vulnerable groups, gender-specific aspects of trafficking, child trafficking)'**

#### United Kingdom

The UK Annual Reports on Modern Slavery from 2015 to 2019 set out the progress the UK has made each year to tackle modern slavery and human trafficking.<sup>117</sup>

Since GRETA's second evaluation report (in 2015)<sup>118</sup>, there has been an increase in the number of potential victims of modern slavery referred to the National Referral Mechanism (NRM), the UK's identification and support mechanism for potential victims of modern slavery. In 2018, 6,985 potential victims were referred to the NRM, an increase of 36% since 2017 (5,138 referrals). NRM statistics are published quarterly and are available online.<sup>119</sup> These statistics cover up to September 2019 (Q3).

There has been an increase in UK nationals identified as potential victims of modern slavery in the UK. In 2015, UK nationals were reported as the fifth most common nationality referred to the NRM, whereas in 2018 UK nationals were the most common potential victim nationality referred. There is further detail on the volumes of NRM referrals in the UK Government's Modern Slavery Annual Report, most recently published in October 2019, and in Part 3 of this response.<sup>120</sup>

Between 2015 and 2018 there has been an increase in the identification of labour exploitation. For those exploited as minors, this is thought to be driven by an increase in the identification of 'county lines' cases. 'County lines' is used to describe drug gangs in large cities expanding their reach to small towns. In many cases, vulnerable individuals are exploited to transport substances, and mobile phone 'lines' are used to communicate drug orders.<sup>121</sup>

The below table highlights the trends in types of exploitation over this time period.

Reported Exploitation type	2015	2016	2017	2018
Domestic Servitude	438	433	480	509
Labour Exploitation	1,255	1,605	2,386	3,991
Organ Harvesting	5	0	3	6
Sexual Exploitation	1,113	1,326	1,745	1,925
Unknown Exploitation	451	441	524	554
<b>TOTAL</b>	<b>3262</b>	<b>3805</b>	<b>5138</b>	<b>6985</b>

<sup>117</sup> <https://www.gov.uk/government/publications/2019-uk-annual-report-on-modern-slavery>;  
<https://www.gov.uk/government/publications/2018-uk-annual-report-on-modern-slavery>;  
<https://www.gov.uk/government/publications/2017-uk-annual-report-on-modern-slavery>;  
<https://www.gov.uk/government/publications/report-of-the-inter-departmental-ministerial-group-on-modern-slavery-2016>;  
<https://www.gov.uk/government/publications/report-of-the-inter-departmental-ministerial-group-on-modern-slavery-2015>

<sup>118</sup> [https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900\\_0016806abdc](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900_0016806abdc)

<sup>119</sup> Recent NRM (National Referral Mechanism) Statistics - <https://www.gov.uk/government/collections/national-referral-mechanism-statistics>

<sup>120</sup> <https://www.gov.uk/government/publications/2019-uk-annual-report-on-modern-slavery>

<sup>121</sup> <https://www.nationalcrimeagency.gov.uk/what-we-do/crime-threats/drug-trafficking/county-lines>

## **[12.2] 'the legislation and regulations relevant to action against THB (e.g. criminalisation of THB, identification and assistance of victims of THB, recovery and reflection period, residence permit, supply chains, public procurement)'**

### **England and Wales**

#### **Victim identification and support**

In October 2017, the Government announced an ambitious package of reforms to the NRM focused around four key objectives:

- quicker and more certain decision-making that stakeholders and victims have confidence in;
- improved support for adult victims before, during and after the NRM;
- improved identification of victims; and
- improved support to child victims of modern slavery, who are supported outside the NRM.

To deliver these reforms, the Government has created a single, expert case-working unit, the Single Competent Authority, to improve decision making and provide high quality, timely decisions for all potential victims regardless of their nationality across the UK. It has also introduced independent panels of experts to review all negative Conclusive Grounds decisions, adding significantly to the scrutiny such cases already receive.

To improve support for victims the Government has have introduced a new needs-based system of adult support. The Government has continued to provide specialist support to adult victims of modern slavery through the Victim Care Contract (VCC). We are also re-tendering the Victim Care Contract for available support to adult victims and are publishing statutory guidance which will set out for the first time the full range of support available to victims.

To improve the identification of victims we are reviewing the role of First Responders to determine which organisations are best placed to identify victims and how staff at these organisations should be trained. The digital referral form, launched in August 2019, makes it easier for those on the front line to refer victims into support by providing a single point for referrals across the UK. In January 2020 we launched the digital case-working element of the system. The system will enable better data collection and analysis, to inform future modern slavery strategy, aid targeted law enforcement activity and identify patterns of exploitation.

To improve support for child victims the Government has expanded Independent Child Trafficking Guardians (ICTGs) to one third of local authorities in England and Wales to make sure trafficked children have a voice and someone to advocate for them on their behalf.

#### **Supply chains**

Due to the landmark 'Transparency in Supply Chains' provision in the Modern Slavery Act 2015, thousands of transparency statements have been published and businesses are now more focused on this issue than ever before.<sup>122</sup>

Following an Independent Review of the Modern Slavery Act in 2019, the UK Government committed to create an online central reporting service for businesses' modern slavery statements, to make it easier for consumers, NGOs and investors to scrutinise the action that businesses are taking to prevent modern slavery in their supply chains. The Home Office has appointed a supplier to start designing and developing the new service.

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<sup>122</sup> <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>

In July 2019, the UK Government launched a public consultation to gather views from stakeholders on proposed measures to strengthen our transparency in supply chains legislation.

This consultation ran from 9 July to 17 September 2019. The Government is currently analysing responses and will respond in due course.

## Public procurement

The UK Government is preparing to publish a modern slavery statement in 2020 setting out the steps we are taking to identify and prevent modern slavery in central Government supply chains. From 2021 onwards, individual Ministerial departments will publish individual annual statements.

In 2019, the UK Government launched resources to support public sector organisations identify and mitigate modern slavery risks in their supply chains. This included:

- The Modern Slavery Assessment Tool, a free tool that helps public bodies work closely with their suppliers to introduce robust modern slavery due diligence.
- A Procurement Policy Note (PPN) and guidance published by the Cabinet Office, which sets out how UK Government departments must take action to ensure modern slavery risks are identified and managed in Government supply chains.
- E-learning on Ethical Procurement and Supply that provides introductory training on modern slavery and other ethical procurement issues.

The Government has worked with international partners to strengthen and harmonise international approaches to eradicating modern slavery from the global economy. The UK jointly launched the *'Principles to Guide Government Action to Combat Human Trafficking in Global Supply Chains'*<sup>123</sup> with the US, Canada, Australia and New Zealand at the UN General Assembly in September 2018. The UK is working with other countries that endorsed these Principles to coordinate efforts on implementation and held an international conference in 2019 on modern slavery and public procurement to galvanise action.<sup>124</sup>

In addition, on 9 March 2017, the Welsh Government launched its 'Ethical Employment in Supply Chains – Code of Practice', which is aimed at the Public Sector and also covers the Private and Third Sectors.

## Independent Review of the Modern Slavery Act and UK Government Response

In July 2018, the Government commissioned an Independent Review of the Modern Slavery Act 2015 (MSA 2015) which was undertaken by Parliamentarians Frank Field, Rt. Hon. Maria Miller MP and Baroness Butler-Sloss. The aim of the Review was to identify what can be improved in the implementation of the Act and whether specific areas of the legislation need to be strengthened.

The final Review report was laid in Parliament in May 2019. It made 80 recommendations across four themes:

- The Independent Anti-Slavery Commissioner;
- Transparency in Supply Chains;
- Independent Child Trafficking Guardians (formerly Independent Child Trafficking Advocates);
- Legal application of the Modern Slavery Act.

The Government's response to the Independent Review was published on 9 July 2019. The Government accepted or partially accepted the majority of the Review's recommendations<sup>125</sup>.

<sup>123</sup> <https://www.gov.uk/government/news/uk-agrees-principles-for-tackling-modern-slavery-in-supply-chains>

<sup>124</sup> <https://www.ethicaltrade.org/resources/public-sector-supply-chain-conference-report>

<sup>125</sup> <https://www.gov.uk/government/collections/independent-review-of-the-modern-slavery-act>;

<https://www.gov.uk/government/publications/government-response-to-the-independent-review-of-the-modern-slavery-act>

## Scotland

The Scottish Parliament passed the Human Trafficking and Exploitation (Scotland) Act (2015)<sup>126</sup> to consolidate and strengthen existing criminal law against human trafficking. The Act establishes a single offence of 'Human Trafficking' to cover all types of exploitation and trafficking in human beings and came into force on 31 May 2016.

The Scottish Government's first Trafficking and Exploitation Strategy was published in May 2017.<sup>127</sup> The development of the Strategy was undertaken in partnership with a range of interests, including listening to victims themselves. The Strategy sets a clear vision to eliminate human and trafficking and exploitation. In October 2018 the Scottish Government published guidance for businesses on how to identify and prevent human trafficking and exploitation across their operations.<sup>128</sup> This guidance will assist organisations in meeting their responsibilities under section 54 of the Modern Slavery Act 2015.

## Northern Ireland (NI)

While there has been no NI Executive in place to progress legislation for the past three years, a number of these areas are under policy consideration.

**[12.3] 'the institutional and policy framework for action against THB (bodies responsible for coordinating national action against THB, entities specialised in the fight against THB, national rapporteur or equivalent mechanism, involvement of civil society, public-private partnerships)'**

## England, Scotland & Wales

This question has been answered together with the response to the question immediately below.

## Northern Ireland (NI)

NI's Department of Justice (DoJ) coordinates cross-sectoral input to an annual NI modern slavery strategy. The Northern Ireland Modern Slavery Strategy 2019-2020 is published online.<sup>129</sup>

**[12.4] 'the current national strategy and/or action plan for combating trafficking in human beings (objectives and main activities, bodies responsible for its implementation, budget, monitoring and evaluation of results)'**  
**England and Wales**

The UK's Government response to modern slavery is structured around the 'four Ps' framework used in the Modern Slavery Strategy (2014).<sup>130</sup>

Pursue: Prosecuting and disrupting individuals and groups responsible for modern slavery.

Prevent: Preventing people from engaging in modern slavery, either as victims or offenders.

<sup>126</sup> <http://www.legislation.gov.uk/asp/2015/12/contents/enacted>

<sup>127</sup> The Scottish Government's First Trafficking and Exploitation Strategy - <https://www.gov.scot/publications/trafficking-exploitation-strategy/>

The Scottish Government's Annual Progress Reports on Human Trafficking - <https://www.gov.scot/publications/human-trafficking-exploitation-strategy-first-annual-progress-report/>  
<https://www.gov.scot/publications/trafficking-exploitation-strategy-second-annual-progress-report/>

<sup>128</sup> The Scottish Government's Guide to Businesses on Modern Slavery and Human Trafficking - <https://www.gov.scot/publications/slavery-human-trafficking-guidance-businesses-scotland/pages/2/>

<sup>129</sup> <https://www.justice-ni.gov.uk/publications/northern-ireland-modern-slavery-strategy-2019-2020>

<sup>130</sup> <https://www.gov.uk/government/publications/modern-slavery-strategy>

**Protect:** Strengthening safeguards against modern slavery by protecting vulnerable people from exploitation and increasing awareness of and resilience against this crime.

**Prepare:** Reducing the harm caused by modern slavery through improved victim identification and enhanced support.

The Strategy also commits the Government to combat modern slavery and human trafficking internationally, both bilaterally and through multi-lateral forums.

In 2018, the Government published a new Serious and Organised Crime strategy which includes modern slavery and complements the 2014 Modern Slavery Strategy.<sup>131</sup>

In 2019, Dame Sara Thornton was appointed as the new Independent Anti-Slavery Commissioner (IASC). The IASC plays an instrumental role in giving independent advice on modern slavery issues and how they should be tackled across the UK. Also, in 2019, Jennifer Townson was appointed as the first Migration and Modern Slavery International Envoy and represents HMG internationally in a range of bilateral and multilateral meetings, pressing for progress against international commitments and encouraging coordination of UK interventions.

Government departments continue to work cohesively and have established strong relationships with other Governments, law enforcement agencies and civil society to improve understanding of the modern slavery context. Steps have also been taken to increase law enforcement cooperation through the introduction of the Modern Slavery Police Transformation Unit and The National County Lines Coordination Centre<sup>132</sup>. The Government also continued to engage with stakeholders through the core Modern Slavery Strategy and Implementation Group, (MSSIG) which brings together the Home Office and stakeholders. This core Group is supported by six thematic sub-groups covering different strands of the modern slavery strategy, including Law Enforcement, Prevent, Protect, Prepare, International and Children.

To drive progress and collaboration at an international level, the former Prime Minister Theresa May, in September 2017, convened a group of world leaders at a modern slavery side event during the 72<sup>nd</sup> Session of the UN General Assembly to endorse the Call to Action to End Forced Labour, Modern Slavery and Human Trafficking, a political declaration on a set of common principles to use as the basis for country strategies and international action to meet SDG 8.7. To date over 90 countries have endorsed the Call to Action, with more showing interest. Through our bilateral engagement and diplomatic networks, we have strived to raise standards globally.

In addition, the UK Government has engaged with source countries from which a high number of vulnerable people are trafficked into the UK. This includes investing the Home Office's £33.5 million Modern Slavery Fund (MSF) as part of the United Kingdom's £200m Official Development Assistance (ODA) commitment to fight modern slavery globally. UK Aid funded programmes work to reduce vulnerability to exploitation, address the permissive environments that allow modern slavery to thrive and support businesses to employ innovative approaches to eradicate exploitation in their supply chains.

## **Scotland**

The Scottish Government's first Trafficking and Exploitation Strategy was published in May 2017.<sup>133</sup> The development of the Strategy was undertaken in partnership with a range of interests, including listening to victims themselves. The Strategy sets a clear vision to eliminate human and trafficking and exploitation.

<sup>131</sup> <https://www.gov.uk/government/publications/serious-organised-crime-strategy>

<sup>132</sup> The National County Lines Coordination Centre - <https://www.gov.uk/government/news/national-county-lines-coordination-centre-to-crack-down-on-drug-gangs>

<sup>133</sup> The Scottish Government's First Trafficking and Exploitation Strategy - <https://www.gov.scot/publications/trafficking-exploitation-strategy/>

The Scottish Government's Annual Progress Reports on Human Trafficking - <https://www.gov.scot/publications/human-trafficking-exploitation-strategy-first-annual-progress-report/>  
<https://www.gov.scot/publications/trafficking-exploitation-strategy-second-annual-progress-report/>



The Strategy sets out three Action Areas that will focus work towards the vision:

- Identify victims and support them to safety and recovery;
- Identify perpetrators and disrupt their activity; and
- Address the conditions, both local and global, that foster trafficking and exploitation.

A further strand of work brings together the specific elements of the three action areas which relate to children who are, or may be, victims of human trafficking and exploitation.

Each Action Area has formed an implementation group with membership ranging across Government, law enforcement, victim support, local authorities, business, Scottish Trades Union Congress, NGOs and academia.

The Human Trafficking and Exploitation (Scotland) Act 2015 also requires that on a rolling three-year basis, the Strategy should be reviewed, a report on the review should be published, and if necessary the Strategy may be revised. A review of the Strategy launched on 18 October 2019 and a report on the review will be published by 30 May 2020.

### **Northern Ireland (NI)**

The Department of Justice (DoJ) published the multi-agency Modern Slavery Strategy 2019 – 2020 in April 2019 in accordance with section 12 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, covering a wide range of actions to address modern slavery and human trafficking. Work continues on delivering a new strategic approach to training and awareness for statutory bodies across NI on how to identify victims.

Implementation and monitoring of the strategy are being taken forward through the DoJ and statutory partners' sub-group on modern slavery and human trafficking. An end of year report will be produced. The Police Service of Northern Ireland has its own control strategy to cover its areas of responsibility under the NI Modern Slavery Strategy.

### **[12.5] 'Recent case law concerning THB for different forms of exploitation.'**

#### **England and Wales**

R v MK, R v Gega [2018] EWCA Crim 667 – the burden of proof for statutory defence (criminal exploitation)

R v KWA [2018] EWCA Crim 1432 - what amounts to exploitation of a youth

R v EK [2018] EWCA Crim 2961 – the value of experts

R v D [2018] EWCA Crim 2995 – case management and the NRM

R v GS [2018] EWCA Crim 1824 – Public interest to prosecute

R v Josephine Iyamu [2018] EWCA Crim 2166 (ULS)

R v Dawid Zielinski [2017] EWCA Crim 758 (ULS)

K and AM v SSHD [2018]- on the level of financial support provided to victims

R vs NN and LP [2019] - needs based system for victim recovery and reflection

R vs DS [2020] – NRM decision making reconsiderations

R vs EM [2018]– on the requirement for specialist support for victims

R vs PK(Ghana) [2015] - on the provision of leave to remain for victims

R vs JP and BS [2019] - on the provision of leave to remain for victims

R vs TDT [2018] – on safeguarding for victims

K and AM v SSHD [2018] – on the level of financial support provided to victims

NN and LP v SSHD [2019] – needs-based system for victim recovery and reflection

DS v SSHD [2019] – NRM decision-making reconsiderations

EM v SSHD [2018] – on the requirement for specialist support for victims

PK(Ghana) v SSHD [2015] – on the provision of leave to remain for victims

JP and BS v SSHD [2019] – on the provision of leave to remain for victims

TDT v SSHD [2018] – on safeguarding for victims

## **Scotland**

There is no Scottish caselaw to note.

## **Northern Ireland (NI)**

Given the small number of cases in NI, case law is developing.

### **13. Please provide information on measures taken in your country in respect to the following recommendations made in GRETA's second evaluation report:**

The recommendations made in GRETA's second evaluation report were for the UK to:

***[13.1] 'make further efforts to ensure that all victims of trafficking are provided with adequate support and assistance, according to their individual needs, beyond the 45-day period covered by the NRM, with a view to facilitating their reintegration and recovery as well as guaranteeing their protection'***

## **England & Wales**

In England and Wales, from February 2019 the Government increased support for confirmed victims to a minimum of 90 days through the Victim Care Contract (VCC) or other services.

In September 2019, we introduced a Recovery Needs Assessment (RNA) for confirmed victims to ensure that any ongoing recovery needs arising from their modern slavery experiences are identified and supported through the VCC or other services.<sup>134</sup> The RNA allows the VCC support package to be tailored to the individual victim's recovery needs. The aim of the RNA is to establish longer-term stability by helping confirmed victims transition out of VCC support and back into a community. Where this is not possible, VCC services will continue to meet the victim's identified recovery needs. All confirmed victims will continue to be able to receive a minimum of 90 days VCC support.

<sup>134</sup> <https://www.gov.uk/government/publications/recovery-needs-assessment-rna-process-guidance>

This needs-based approach will reduce the risk of confirmed victims being re-trafficked or becoming destitute. It builds on the six local authority pilot projects which were established as part of the reform of the National Referral Mechanism (NRM) to test best practice in supporting victims to transition out of central Government-funded care. These commitments reflect the Government's determination to ensure victims have the support they need to begin rebuilding their lives.

In 2019, the Government successfully expanded the ICTG service, which provides independent support and advice to trafficked children, to one third of local authorities.

## Scotland

Regulations came into force in April 2018 setting the period of support for victims to be the earlier of 90 days or until such times as a Conclusive Grounds (CG) decision is reached (by the Single Competent Authority). Support and assistance may be provided under this regulation in connection with (but is not limited to): accommodation; day to day living support; medical advice and treatment (including psychological assessment and treatment); language translation and interpretation; counselling; legal advice; information about other services available to the adult, and repatriation.

## Northern Ireland (NI)

Section 18(9) of the Human Trafficking and Exploitation Act (Northern Ireland) 2015 provides a further discretionary power for Department of Justice (DoJ) to extend support and assistance beyond the standard 45-day recovery and reflection day in cases where DoJ considers it necessary to do so. Support under section 18 is not intended to be permanent and, as such, support providers work with individuals referred to them, from the point of entry to the service, to identify longer-term stable plans for when they exit support. Individual needs and plans are assessed and developed on a case by case basis.

An individual may ask to be repatriated, in which case support providers will liaise with the Police and, where appropriate, with NGOs in the country of origin, to make arrangements for safe repatriation.

Where appropriate, NI contracted support providers will also put in place arrangements for individuals exiting support to access ongoing non-statutory support or contact with other NGOs. DoJ works closely with a number of NGOs who provide ongoing support for individuals either beyond the statutory support (provided by DoJ whilst potential victims are within the NRM process) or for those individuals who do not wish to avail of the statutory provision.

### ***[13.2] 'take steps to improve the identification and protection of child victims of trafficking, in accordance with the best interests of the child, and in particular to:'***

#### ***[13.2.1] 'address the problem of children going missing from local authority care, by providing suitable safe accommodation and adequately trained supervisors or foster parents;'***

## England and Wales

Child protection procedures, as set out in the statutory safeguarding guidance 'Working Together to Safeguard Children' (2018), must be followed if modern slavery or child trafficking is suspected, including when accommodation is provided.<sup>135</sup> In addition there is statutory guidance on what to do when children go missing from statutory care in England and Wales.<sup>136</sup><sup>137</sup>

<sup>135</sup> <https://www.gov.uk/Government/publications/working-together-to-safeguard-children--2>

<sup>136</sup> <https://www.gov.uk/government/publications/children-who-run-away-or-go-missing-from-home-or-care>

<sup>137</sup> <https://safeguarding.wales/>

This guidance sets out how agencies, organisations and practitioners should work together in fulfilling their responsibility to safeguard children, including taking a child-centred and co-ordinated approach to safeguarding. Additionally, guidance was published in November 2017 and sets out specific actions to protect these vulnerable children and young people from harm and exploitation, including protecting them from the risk of being onward trafficked.<sup>138</sup>

The Safeguarding Strategy - unaccompanied asylum seeking and refugee children<sup>139</sup> published at the same time (November 2017) committed to delivering 1,000 training places to foster carers and support workers. The training which has been delivered by the Refugee Council and ECPAT UK also helped carers to identify the risks of trafficking and to access the right, timely help to protect and support these children.

Updated statutory guidance for local authorities ('Care of unaccompanied children and child victims of modern slavery') reinforces the statutory safeguarding duties on local authorities. It also emphasises that child potential victims may require specialist support.<sup>140</sup>

Wales has collated and set out all safeguarding policies on one website which is accessible in many formats and outlines what safeguarding steps should be taken when a child goes missing from local authority care.<sup>141</sup>

## Scotland

The support and safeguarding arrangements around unaccompanied asylum seeking children (UASC) set out in our 2017 response continues to apply and there remains a low incidence of missing UASC. In addition, each of Scotland's 32 local authorities are covered by a Police Scotland divisional missing persons co-ordinator and missing persons multi-agency partnership groups have been developed in 28 local authorities. A Looked After Children pilot protocol has been evaluated and revised for final approval and national roll-out. The protocol aims to develop understanding, improve risk assessment and build communication between care homes and Police Scotland to safeguard children in care.

## Northern Ireland (NI)

Protocols on missing children from care or at home are currently being reviewed. Internal guidance is being progressed to ensure that there is close cooperative working between police and Health and Social Care Trust and Social Services in respect of all separated children referred to Social Services. Police are involved in all risk assessments of a child/young person who is the victim/potential victim of human trafficking and/or modern slavery, and all refreshed risk assessments.

In Northern Ireland a regional recruitment strategy is currently being progressed to recruit and train foster carers specifically for separated children, including victims of trafficking. Following initial reception and assessment within the current residential unit a number of children have been successfully placed with foster carers.

**[13.2.2] 'improve the exchange of information on missing unaccompanied children between police forces and local authorities;'**

## England (and Wales)

<sup>138</sup> [https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment\\_data/file/656425/UASC\\_Safeguarding\\_Strategy\\_2017.pdf](https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment_data/file/656425/UASC_Safeguarding_Strategy_2017.pdf)

<sup>139</sup> [https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment\\_data/file/656425/UASC\\_Safeguarding\\_Strategy\\_2017.pdf](https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment_data/file/656425/UASC_Safeguarding_Strategy_2017.pdf)

<sup>140</sup> [https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment\\_data/file/656425/UASC\\_Safeguarding\\_Strategy\\_2017.pdf](https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment_data/file/656425/UASC_Safeguarding_Strategy_2017.pdf)

<sup>141</sup> <https://safeguarding.wales/>

The Department for Education (DfE)'s statutory guidance on children who go missing states that missing children who are unaccompanied migrants or asylum-seeking children could be potential victims of modern slavery (including THB) and that there needs to be good multi-agency working and sharing of information including with the police from relevant departments.<sup>142</sup>

Steps taken to improve this guidance includes:

- In 2018 the Government updated its guidance 'Working Together to Safeguard Children' ("WT") to reflect amendments to the Children Act (2004) made by the Children and Social Work Act (2017).<sup>143</sup> Please note that this guidance applies only in England. These amendments strengthened statutory relationships by placing new duties on key agencies in local areas. Specifically, the police, clinical commissioning groups (i.e. health) and the local authority are under a duty to make arrangements to work together, and with other partners locally, to safeguard and promote the welfare of all children in their area.
- WT also clarifies that practitioners must have due regard to the relevant data protection principles which allow them to share personal information (to safeguard children), as provided for in the Data Protection Act 2018 and the General Data Protection Regulation (GDPR).
- The Government's 'Safeguarding Strategy: Unaccompanied asylum seeking and refugee children' (2017)<sup>144</sup>, included a commitment to pilot a standardised process when the police first encounter an unaccompanied child. This is to inform effective practice in preventing children from going missing.
- The police, working with partners such as children's social services, complete an initial welfare assessment ensuring that risks to the child are identified early and effective measures put in place. It sees a move away from "arresting" children and taking them into custody and towards carrying out the initial welfare assessment in a suitable setting. These measures help build trust between the child and the UK authorities, reducing the likelihood of them running away. National rollout of this initiative has commenced.

Whilst immigration and asylum are reserved matters for the UK Government, child protection and children's social care is mainly devolved. The actions in the strategy mentioned above relate to asylum and immigration therefore apply to the UK (excluding the Overseas Territories and Crown Dependencies), whilst actions related to children's social care relate to England only. In Wales, authorities will instead follow the 'All Wales Safeguarding Procedures 2019'<sup>145</sup> on these matters.

## Scotland

Please see the response to 13.2.1.

## Northern Ireland (NI)

A quarterly review of information takes place between the Police Modern Slavery Human Trafficking Unit (MSHTU) and the Department of Health for all children who have entered the NRM in the previous quarter.

<sup>142</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/307867/Statutory\\_Guidance\\_-\\_Missing\\_from\\_care\\_3\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/307867/Statutory_Guidance_-_Missing_from_care_3_.pdf)

<sup>143</sup> [https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment\\_data/file/779401/Working\\_Together\\_to\\_Safeguard-Children.pdf](https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf)

<sup>144</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/656425/UASC\\_Safeguarding\\_Strategy\\_2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/656425/UASC_Safeguarding_Strategy_2017.pdf)

<sup>145</sup> [https://socialcare.wales/cms\\_assets/hub-downloads/Wales-Safeguarding-Procedures-Frequently-asked-questions.pdf](https://socialcare.wales/cms_assets/hub-downloads/Wales-Safeguarding-Procedures-Frequently-asked-questions.pdf)

This information exchange ensures no children are missed and that they are getting the support they are entitled to.

**[13.2.3] ‘ensure that child victims who may be at risk of re-trafficking can be accommodated in another local authority area, to ensure effective protection from such risk;’**

### **England (and Wales)**

The DfE published guidance in 2017 that makes clear that responsible local authorities have due regard to ensure that the child is not at risk of being re-trafficked – and that in some instances moving to another local authority might be appropriate.<sup>146</sup>

The benefits of each placement will depend on the needs of the child; whether or not they have been trafficked; their experience during their journey to the UK; their culture, age, sex, and their personality; their sense of personal autonomy and ability to live independently; and their sense of safety and ideas on what will make them feel safe.”

Wales has collated and set out all safeguarding policies on one website which is accessible in many formats. The website outlines what safeguarding steps should be taken to ensure that children are not re-trafficked.<sup>147</sup>

### **Scotland**

Please see the response to 13.2.1.

### **Northern Ireland (NI)**

Where this is an issue, care planning and child protection and safeguarding arrangements for looked after children require that due consideration is given to all measures that would ensure effective safeguarding of a child victim who is at risk of re-trafficking.

**[13.2.4] ‘train all professionals working with child victims of trafficking to recognise and respond appropriately to their individual needs and the best interests of the child;’**

### **England and Wales**

Guidance for England published in 2017 states that social workers, personal advisers and their managers (and healthcare and education professionals assessing those aspects of the care plan) should understand how the child’s experiences, vulnerabilities and immigration status may impact on them and also on their assessment, care planning and delivery, and planning for their transition to adulthood.<sup>148</sup> In addition, care plans have to state the reason for believing the child is a potential victim and how their needs will be met. Wales has published guidance to ensure that the individual needs and interests of children is paramount and sets out the steps to achieve this through their ‘Safeguarding App’.<sup>149</sup>

Furthermore, Independent Child Trafficking Guardians (ICTGs) advocate on behalf of the child to ensure their best interests are reflected in the decision-making processes undertaken by the public authorities who are involved in the child’s care. The ICTG’s advocacy and involvement throughout the decision-making process is intended to ensure the child is protected from further harm, prevent re-trafficking, going missing

<sup>146</sup> ibid

<sup>147</sup> <https://safeguarding.wales/chi/c6/c6.p3.html?highlight=trafficking>

<sup>148</sup> <https://www.gov.uk/government/publications/care-of-unaccompanied-and-trafficked-children>

<sup>149</sup> <https://safeguarding.wales/chi/c6/c6.p3.html?highlight=trafficking>

from care and promote the child's recovery. ICTG's have currently been rolled out to one third of local authorities in England and Wales.

### **Scotland**

Child Protection Committees lead on the development and delivery of multi-agency training in relation to child trafficking. In 2019 this resulted in a series of workshops to help practitioners explore the links between child sexual exploitation and abuse, and human trafficking, with more planned in 2020.

### **Northern Ireland (NI)**

There is a quarterly meeting with regional practitioners to promote training practitioners and managers who work directly with or encounter this cohort of vulnerable children. There is ongoing training in each health and social care trust in relation to safeguarding and child protection.

Social worker First Responders attended training covering child victims of modern slavery and human trafficking in 2018 and 2019.

***[13.2.5] 'ensure that possible victims of trafficking are assigned a legal guardian, as expeditiously as possible, to ensure that the best interests of the child are effectively protected (Article 10(4) of the Convention);'***

### **England and Wales**

If a trafficked child becomes looked after, they will be entitled to the same level of support and care as all looked after children. Local children's services will work in close co-operation with the police and other statutory agencies to offer potentially trafficked children the protection and support they require. This will include a social worker who will assess his or her needs and draw up a care plan which sets out how the authority intends to respond to the full range of the child's needs. This includes ensuring the child has all the necessary legal guardianship and other support they need, including access to health, education and appropriate and safe accommodation.

Section 48 of the Modern Slavery Act 2015 provides provision for Independent Child Trafficking Guardians (ICTGs), renamed in July 2019 from Independent Child Trafficking Advocates. ICTGs are an independent source of advice for all trafficked children and somebody who can speak up on their behalf. The purpose of an ICTG is to advocate on behalf of the child to ensure their best interests are reflected in the decision-making processes undertaken by the public authorities who are involved in the child's care. The ICTG's advocacy and involvement throughout the decision-making process is intended to ensure the child is protected from further harm, prevent re-trafficking, going missing from care and promote the child's recovery. ICTGs have currently been rolled out to one third of local authorities in England and Wales (including all of Wales, where the service is operated by Barnardo's Cymru, and was launched on 30 January 2017).

The Home Office continues to conduct robust assessments of the ICTG service and is currently trialling a revised model of ICTG provision following the findings from the interim assessment of the first year of service of the Early Adopter Sites. The revised model continues to provide one-to-one support for children who lack a figure of parental responsibility for them in the UK and introduces an expert ICTG regional practice co-ordinator whose role will be to focus on children who do have a figure of parental responsibility for them in the UK. The ICTG regional practice co-ordinator works with statutory bodies including the police, social workers and the Criminal Justice System to foster effective multi-agency working to safeguard these vulnerable children.



The most recent evaluation of ICTGs in early adopter sites, conducted by the Home Office in partnership with the University of Bedfordshire, was published in July 2019.<sup>150</sup> An evaluation of the new model, with a particular focus on the role of the regional practice coordinator, is currently under way.

ICTGs were considered as part of the Independent Review of the Modern Slavery Act 2015 conducted by Frank Field, Maria Miller MP and Baroness Butler-Sloss. The review considered section 48 of the Act and how to ensure the right support for child victims is provided given the changing profile of child victims. The Government welcomes the findings of the Independent Review and published its response in July 2019.<sup>151</sup> The review reports are also available on its own dedicated website at: [www.independentmsareview.co.uk](http://www.independentmsareview.co.uk).

## Scotland

Section 11 of the Human Trafficking and Exploitation (Scotland) Act 2015 places a duty on Scottish Ministers to provide an independent guardian for unaccompanied asylum seeking children, where there is reason to believe they might have been or at risk of being trafficked, and for whom no-one in the UK has parental rights and responsibilities. This will put the role of the guardian on statutory footing with other support services. The consultation on the roles and responsibilities of the independent child trafficking guardian closed in November 2019. Following the consultation and tendering processes, it is anticipated that the new service will be implemented in 2021. In the meantime, the Scottish Guardianship Service will continue to provide a guardian to trafficked and unaccompanied children in the meantime.

## Northern Ireland (NI)

For any child victim or potential victim of trafficking immediate consideration is given to responsibility and safeguarding. Emergency Protection Order (EPO) or Police Protection Order (PPO) may be sought immediately if there are concerns of trafficking. At multi-agency planning full consideration is given to the legal status of the child and where appropriate application is made to the court for a Care Order.

Parallel to this and within 48 hours of arrival an Independent Guardian is appointed to the child. Independent Guardians play a similar role to ICTGs in England and Wales. For more information please click [here](#).<sup>152</sup>

If emergency protection or care order proceedings are initiated, a guardian ad-litem will normally be appointed by the court. The guardian ad-litem will consult with the Independent Guardian and the child's social worker to agree appropriate legal advice for the child.

### ***[13.2.6] 'ensure full compliance with Article 10(3) of the Convention concerning age assessment and provision of special protection measures.'***

## England and Wales

The Home Office's overall approach is designed to give the benefit of the doubt to those claiming to be children, except in certain limited circumstances where it is clear that the individual is an adult.

Home Office policy, which applies across the UK, is to carry out an initial assessment based on physical appearance and demeanour. Our interim approach - pending the outcome of ongoing litigation - is to only treat a claimant as an adult upon their initial encounter with the Home Office, if their physical appearance and demeanour very strongly suggests that they are 25 years of age or older. Where doubts about an individual's age do not satisfy the 'over 25 years of age' threshold, they will be given the benefit of the

<sup>150</sup> <https://www.gov.uk/government/publications/an-evaluation-of-independent-child-trafficking-guardians-early-adopter-sites-final-report>

<sup>151</sup> [www.gov.uk/government/collections/independent-review-of-the-modern-slavery-act](http://www.gov.uk/government/collections/independent-review-of-the-modern-slavery-act)

<sup>152</sup> <http://www.legislation.gov.uk/ni/2015/2/contents> (Section 21 (7))

doubt by the Home Office and referred to the relevant local authority to conduct what is known as a “Merton compliant” social work-led age assessment, which must adhere to procedures set out by the courts; the individual will be treated as a child while this is completed.

In the context of potential victims of modern slavery, this approach is enshrined in section 51 of the Modern Slavery Act (2015), whereby a person is assumed to be under the age of 18 and in receipt of relevant support, until the age is otherwise confirmed or disputed as above.

Local authorities have a statutory obligation to provide accommodation for unaccompanied asylum-seeking children (up to age 18) who present in their area.<sup>153</sup> This means that they become “looked after children” and should be safeguarded and have their welfare promoted in the same way as any other looked after child. The responsible local authority will be the corporate parent for the child. As per the above, statutory guidance requires local authorities to have regard, and respond to the needs of the child as a victim or potential victim of trafficking.

## Scotland

Section 12 of the Human Trafficking and Exploitation (Scotland) Act 2015 relates to presumption of age, and ensures that where a victim's age is uncertain but where there are reasonable grounds to believe that the person may be a child and potentially a victim of trafficking, the person will be presumed to be a child for the purpose of receiving immediate age-appropriate support and services.

The Scottish Government published refreshed age-assessment guidance in March 2018 to reflect these changes and will be holding a series of workshops in early 2020 with practitioners to assist with the implementation of the guidance.

## Northern Ireland (NI)

Paragraphs 7.49 – 7.56 of the Working Arrangements for the Welfare and Safeguarding of Child Victims and Potential Child Victims of Human Trafficking and Modern Slavery 2018, set out the requirements in NI relating to age assessment.<sup>154</sup>

### [13.3] ‘take appropriate measures to:’

**[13.3.1] ‘enshrine in the law applicable in England and Wales, Scotland and Northern Ireland the right to a recovery and reflection period as defined in Article 13 of the Convention;’**

## England and Wales

The UK Government has committed to putting the National Referral Mechanism (NRM) on a statutory footing and published statutory guidance<sup>155</sup> in March 2020 to ensure that victims are provided with the support they need to begin rebuilding their lives. By setting out the support that will normally be provided to victims, and how it is accessed, we will provide a clear framework of support.

The UK Government increased support for victims in 2019 by extending the period support provided for confirmed victims through the Government-funded Victim Care Contract (VCC), the national support service in England and Wales, to a minimum of 90 days.

<sup>153</sup> Section 20 of the Children Act 1989

<sup>154</sup> <https://www.health-ni.gov.uk/publications/protecting-unaccompanied-children-and-child-victims-human-trafficking-and-modern-slavery>.

<sup>155</sup> <https://www.gov.uk/government/publications/modern-slavery-how-to-identify-and-support-victims>

In September 2019 we introduced a Recovery Needs Assessment (RNA) for confirmed adult victims to ensure that any ongoing recovery needs arising from their modern slavery experiences are identified and supported through the VCC or other services

## Scotland

Regulations came into force in April 2018 setting the period of support for victims, in part to allow recovery and reflection, to be the earlier of 90 days or until such times as a Conclusive Grounds (CG) decision is determined (by the Single Competent Authority).

## Northern Ireland (NI)

The right to recovery and reflection is enshrined in section 18 of the Northern Ireland Human Trafficking Act (2015). Section 18 of this Act makes statutory provision in respect of the assistance and support that DoJ is required to make available to adult potential victims whose cases are being assessed through the NRM. Support under s18 is made available from the point at which a referral to the NRM is made or is about to be made; and is provided until a conclusive determination is made through the NRM as to whether or not they are a victim of modern slavery, or for a recovery and reflection period of at least 45 days, where that is longer.

***[13.3.2] 'ensure that all possible victims of trafficking, including children, are offered all the measures of protection and assistance stated in Article 12, paragraphs 1 and 2, of the Convention during the recovery and reflection period.'***

## England and Wales

Adult victims of modern slavery are supported through a range of services provided across Government and by specialist services offered through the Victim Care Contract. Government is publishing statutory guidance under section 49(1) of the Modern Slavery Act 2015. This guidance will cover victim identification, arrangements for determining whether someone is a victim of modern slavery, and the support available to victims. Publishing this guidance will provide clarity to victims, public bodies and specialist support providers around the rights and entitlements of victims of modern slavery.

Where children are found to be victims of modern slavery their safety and welfare are addressed as the priority. Child victims of modern slavery are supported by local authorities under existing statutory child protection arrangements. In addition, Section 48 of the Modern Slavery Act 2015, makes provisions for Independent Child Trafficking Guardians (ICTGs). This service provides an ICTG direct worker whose role is to provide one-to-one support for children who lack a figure of parental responsibility for them in the UK and an expert ICTG regional practice co-ordinator whose role is to focus on children who do have a figure of parental responsibility for them in the UK.

The *'Working Together to Safeguard Children'* (DfE, 2018) statutory safeguarding guidance was revised in 2018 and sets out the new system of multi-agency safeguarding arrangements in England, established by the Children and Social Work Act 2017. Under the new legislation, three safeguarding partners (local authorities, chief officers of police, and clinical commissioning groups) must make arrangements to work together with relevant agencies (as they consider appropriate) to safeguard and protect the welfare of children in the area. These three local safeguarding partners have a shared duty to work together to safeguard and promote the welfare of children including possible child victims of trafficking.

## Scotland

Please see answers to 1.1, 13.2.1 and 13.2.5.

## Northern Ireland (NI)

NI's Department of Justice (DoJ) contracts adult service providers to provide these measures. For children, details of how these measures are met are within the regional guidance on Working Arrangements for the Welfare and Safeguarding of Child Victims and Potential Child Victims of Human Trafficking and Modern Slavery 2018.

### **[13.4] 'facilitate and guarantee access to compensation for victims of THB, and in particular to:'**

**[13.4.1] 'ensure that victims of trafficking are systematically informed in a language they understand of the available avenues to seek compensation and the procedures to be followed;'**

## United Kingdom

Please see answer 1.1 for details of the support made available to ensure information is made available in a language that potential victims understand.

**[13.4.2] 'enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;'**

## England and Wales

Since GRETA's second evaluation report, the Ministry of Justice and the Legal Aid Agency have completed a review into arrangements for advice and assistance ('legal help') for trafficking and modern slavery compensation claims. The review concluded that based on the evidence submitted, the likely demand for legal help in compensation cases was not being met and identified a number of contributory factors.<sup>156</sup>

As a result of the review, in the 2018 tender for civil legal aid contracts, the Legal Aid Agency (LAA) invited providers to indicate whether they would like to increase the number of 'legal help' miscellaneous cases that they could undertake from 5 to a maximum of 25, with a maximum of 20 of these miscellaneous cases to be used exclusively for compensation claims. Providers could further increase their allocation of cases exclusively for compensation claims from 20 to a maximum of 100 by providing a business case detailing the provider's knowledge and experience in delivering compensation claims and how the provider would access clients. These more flexible contracts started in September 2018 with a number of providers opting for a greater allocation of cases to use for compensation claims. Should a provider find that they use all their compensation cases allocation, they can increase their allocation themselves by 50%, then can apply to the LAA for a further increase.

There is no limit on the number of civil representation cases that a provider can undertake. As a result, potential victims now have greater access to providers who can undertake their compensation cases. The Ministry of Justice and the Legal Aid Agency will continue to offer providers an increased allocation of cases to be used for compensation claims.

<sup>156</sup>[https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment\\_data/file/577351/tmscc-review.pdf](https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment_data/file/577351/tmscc-review.pdf)

## Scotland

### Migrant Help

Where a service user expresses an interest in pursuing compensation, they are provided with the Criminal Injuries Compensation Scheme Leaflet for Victims of Trafficking and this is explained to them using an interpreter. Migrant Help then refers them to a solicitor for further legal advice and support in relation to initiating a claim. Where a service user is referred to Migrant Help and not already engaged with legal representation, the advisor assisting the client makes a referral to an appropriate legal advice service/solicitor within 24 hours of completing the assessment.

### TARA

TARA provide women with a 'Recovery Book' which is available in English, Romanian, Vietnamese, Albanian and Mandarin. For other languages, TARA arrange translation as required. This provides a simple overview of women's rights, including criminal injuries compensation, that they can reflect on as required and clearly embeds their rights into their individual recovery plans. The TARA Service and JustRight Scotland are also funded by the Scottish Government to provide a legal surgery every week. This allows a wider range of legal advice to be accessed beyond immigration including applying for Criminal Injuries Compensation, and can ensure that women can access long term advice when they are no longer in receipt of specialised support.

See also answers to Q2.

## Northern Ireland (NI)

Victims of human trafficking continue to be able to access advice, assistance and representation on the same basis as other members of the public. Subject to NI's 'means' and 'merits' tests, which are tied to the means available to the potential victim and the merits of the case.

Legal aid is funded through the Legal Aid Fund. Victims do not have to pay a fee to access legal aid but may have to pay a fee to obtain legal assistance from a lawyer if they do not qualify for legal aid.

### ***[13.4.3] 'secure criminal assets as early as possible in trafficking investigations to make confiscation orders effective;'***

## England and Wales

The Independent Review of the Modern Slavery Act in 2018 considered the effectiveness of law enforcement identification and seizure of illicit profits generated through modern slavery and recommended swift and thorough financial investigation in every modern slavery investigation. The Government has accepted this recommendation.

This review also recommended that law enforcement bodies make better use of the powers available to them, including powers to freeze suspects' assets early in investigations, where appropriate. The Government accepted this recommendation and agreed that more needs to be done to ensure that financial investigations are commenced at the earliest opportunity. The Government will continue to work with law enforcement bodies to monitor progress against these recommendations.

A number of guidance products produced by the Modern Slavery Police Transformation Unit (such as the April 2018 Labour and Sexual Exploitation Investigation toolkits) encourage law enforcement officers to use these powers to freeze assets. Although the deployment of these powers is an operational decision, the Government continues to work closely with law enforcement to promote the active early use of financial investigatory powers within modern slavery investigations.

## Scotland

Part 3 of the Human Trafficking and Exploitation (Scotland) Act (2015) contains powers for police constables and courts to detain or order forfeiture of a vehicle, ship or aircraft when there has been an arrest or conviction of human trafficking (section 13 and 14). It also classifies offences of human trafficking and slavery, servitude and forced or compulsory labour as "lifestyle offences", under the Proceeds of Crime Act 2002 (section 15). This allows further action to be taken against perpetrators to target their assets.

All case involving offences in terms of the Human Trafficking and Exploitation (Scotland) Act 2015 that are reported to the Crown Office and Procurator Fiscal Service (COPFS) and in which criminal proceedings are raised are referred to the dedicated COPFS Proceeds of Crime Unit to assess whether recovery of financial assets is appropriate.

## Northern Ireland (NI)

There has been no change since the last evaluation: Financial Investigators and Financial Intelligence Officers will put restraint orders in place at the earliest possible stage to ensure that confiscation orders are effective.

**[13.4.4] 'instruct prosecutors to request reparation orders to the greatest possible extent, including in cases where the defendant has limited earning capacity and no assets'**

## England and Wales

The Independent Review of the Modern Slavery Act in 2018 considered the compensation awarded to victims of modern slavery. It recommended that this compensation should be at the forefront of the Court's mind, and that the Act's sentencing guidelines should be updated to remind judges of their duties to consider reparation orders where appropriate. The final decision on implementing this recommendation will be for the Sentencing Council, which is independent from Government. In terms of timelines, the Sentencing Council is intending to consult in 2020 on guidelines for offences committed under the Act. If accepted by the Council, the time from consultation to implementation could be between 12 to 18 months.

The Review recommended that all victims of modern slavery should receive appropriate compensation, not just those who give evidence in Court, and that the police should maintain contact with victims, making sure they are aware of the possibility of receiving compensation in future, which the Government accepted. While the Court's power to make slavery and trafficking reparation orders compensating victims does not stipulate that victims must give evidence, the availability of compensation under the Act needs to be more widely known and more easily accessible. It is also dependent upon conviction for offences under the Modern Slavery Act 2015 only and following proceeds of crime proceedings, which relies on assets being identified and confiscated. In practical terms, compensation could only be made available to those victims who had been proven throughout the trial or on the basis of a defendant's plea, to be victims. There are other legal routes to compensation outside of the Act.

In implementing this recommendation, the Government will seek to address concerns that an increased focus on compensation may be used by the defence to discredit witnesses, and that it may be seen as an incentive for individuals to claim spuriously that they have been victims of modern slavery.

## Scotland

Section 249 of the Criminal Procedure (Scotland) Act 1995 (the 1995 Act) requires a court in Scotland to consider in all relevant cases whether to make a compensation order requiring the offender to pay compensation to the victim. This includes cases with a human trafficking background. The court will

consider a number of factors, including any relevant information provided by the prosecutor, when determining the amount of compensation. This has not been altered since the last GRETA inspection.

### **Northern Ireland (NI)**

Under Schedule 2 of the Human Trafficking and Exploitation Act (Northern Ireland) 2015, where a court has power to make a slavery and trafficking reparation order, it must consider whether to make such an order and if it does not make an order it must give the reasons.

**[13.4.5] 'ensure that all victims of human trafficking are eligible for compensation from the Criminal Injuries Compensation Authority, regardless of the nature of the means used, and that the amount of compensation from the Northern Ireland Criminal Injuries Compensation Authority is not made dependent on the victim's co-operation with the authorities or prior convictions;'**

### **England, Scotland and Wales**

Under the terms of the Criminal Injuries Compensation Scheme (CICS), there is no right to automatic compensation. Applicants must meet the eligibility criteria set out in the Scheme. In particular, applicants must have been a victim of a 'crime of violence' as defined in Annex B to the Scheme. For the purposes of the Scheme, trafficking is not, in itself, a 'crime of violence'. However, victims of trafficking who are also victims of a 'crime of violence' may be eligible to receive an award of compensation if they meet the other eligibility criteria in the CICS.<sup>157</sup>

In Scotland, regulations came into force in April 2018 setting the period of support for victims to be the earlier of 90 days or until such times as a Conclusive Grounds (CG) decision is determined (by the Single Competent Authority).

A core requirement of the CICS is that all victims must report the crime of violence to the police as soon as reasonably practicable. The Criminal Injuries Compensation Authority's internal guidance, for use by caseworkers when assessing compensation claims, has been updated to include reference to the 90-day reflection and recovery period victims of trafficking are legally entitled to, within the context of police reporting

### **Northern Ireland (NI)**

Responses to 3.2 and 4.1 refer. Caseworkers have discretion when considering paragraphs 14(1)(a), (b) and (c) of the Scheme and will assess each case on its own merits and will be sympathetic to victims if there is evidence that they are in fear of dealing with law enforcement authorities whether due to threats to them or to their families.

**[13.4.6] 'remove the fee to initiate employment proceedings for victims of trafficking as well as the requirement to enter into mediation before initiating employment proceedings for victims of trafficking;'**

<sup>157</sup> [https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment\\_data/file/808343/criminal-injuries-compensation-scheme-2012.pdf](https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment_data/file/808343/criminal-injuries-compensation-scheme-2012.pdf)

## England, Wales and Scotland

Since July 2017 no fees have been charged in the Employment Tribunal or the Employment Appeals Tribunal in England, Wales and Scotland. Most potential employment tribunal claimants are required to notify the Arbitration and Conciliation Advisory Service (ACAS) of their intent to bring a claim. ACAS can then offer optional, free conciliation services to try and resolve the dispute without need for it to go to an employment tribunal.

There is no requirement for a claimant to enter into mediation before initiating employment proceedings. Conciliation services are available to all potential claimants and are optional with no obligation for a potential claimant to make use of the service.

Court and tribunals fees are necessary to fund the wider costs of the courts system, but no one should be denied access to justice because they cannot afford a court or tribunal fee. Those who feel they cannot afford a fee may apply to our fee remissions scheme: Help with Fees. This considers several factors including the applicant's income, savings, the size of the fee and whether they are receiving any benefits. Successful applicants may receive a partial or total remission. Additionally, the applicant may ask court staff to exercise the Lord Chancellor's exceptional power to remit fees.

## Northern Ireland (NI)

The Office of Industrial Tribunals and Fair Employment Tribunals does not charge a fee to initiate tribunal proceedings.

There is no requirement to enter into mediation. The Department for the Economy will be introducing Early Conciliation in 2020 which will require a prospective tribunal claimant to first contact the Labour Relations Agency. The Agency will offer to attempt conciliation if the prospective claimant wishes. If the prospective claimant wishes to proceed directly to tribunal, the Agency will issue a certificate which the prospective claimant will require prior to submitting a tribunal claim.

***[13.4.7] 'ensure that victims of trafficking who are irregular migrants are not prevented from seeking unpaid salaries before employment tribunals by reason of their immigration status.'***

## United Kingdom

Workers who believe that unlawful deductions have been made from their wages may complain to an employment tribunal. Non-payment of wages is also likely to constitute a breach of contract and employees may be entitled to make a breach of contract claim through the civil courts or, if the employment has ended, the employment tribunals (ET). In most cases, it is not possible for someone working illegally to enforce their contract terms as the contract itself would be illegal. However, this is not an absolute bar to enforcing unpaid wages. It may depend on the facts of the individual case. Where the worker has been forced to work against their will, this would potentially bring into scope other types of action, in particular in criminal and tort law.

***[13.4.8] 'ensure that the best interests of the child are effectively respected, protected and fulfilled, including through pre-removal risk and security assessments, in particular for unaccompanied children, by specialised bodies, working with relevant partners in countries of return; such assessments should also ensure effective enjoyment of the child's right to education and measures to secure adequate care or receipt by the family or appropriate care structures in countries of return (Article 16, paragraph 5) of the Convention).'***



## England and Wales

In some cases, it will be in the best interests of the child to return to their home country. Whilst a child should never be forcibly returned, a child can return voluntarily within the Recovery Period where this is in the best interests of the child.

When assisting the voluntary return of children, all actions have to be guided by the protection of the rights of the child, as set out in the Convention on the Rights of the Child (CRC) and by a local authority's duty towards the child under the Children Act 1989. Where the child has an ICTG, their views should be sought with regards to any potential return being in the best interests of the child and any potential risk of re-trafficking.

## Scotland

The Children (Scotland) Act 1995 ensures that the best interests of the child are of paramount importance in this context. This has not changed since the last GRETA inspection.

## Northern Ireland (NI)

Section 9 of the Working Arrangements for the Welfare and Safeguarding of Child Victims and Potential Child Victims of Human Trafficking and Modern Slavery 2018, sets out the requirements to be adhered to in relation to repatriation, reunification and safe returns. It notes that decisions in relation to the immigration status and/or asylum claim of a child victim or potential child victim of human trafficking or modern slavery should always remain 'child-focussed' and considerate of the child's / young person's UNCRC rights.

The assessment of appropriateness of repatriation or reunification and safe return to the country of origin must always involve the Police.

**[13.4.9] 'Requests the Government of the United Kingdom to report to the Committee of the Parties on the measures taken to improve the implementation of the Convention in the above-mentioned areas by 4 November 2017.'**

The UK Government responded to the Committee as requested in November 2017 <sup>158</sup>.

**[13.4.10] 'Recommends that the Government of the United Kingdom takes measures to implement the further conclusions of GRETA's second evaluation report.'**

The UK Government has taken the requested measures<sup>159</sup>.

**[13.4.11] 'Invites the Government of the United Kingdom to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.'**

The UK Government is grateful to GRETA for their engagement on eradicating the continuing evil of trafficking in human beings and for working with the UK and other countries to fully implement the Convention. The UK Government welcomes continued dialogue and engagement with both GRETA and the Committee of the Parties.

<sup>158</sup> <https://rm.coe.int/cp-2017-33-rr2-gbr-en/16807647ce>

<sup>159</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806abcdc>

## Part III - Statistics on THB

### 14. Please provide the following statistics, per year starting with 2015, where available disaggregated as indicated below:

- **Number of presumed victims and identified victims of THB in the sense of having been recognised by a state institution or mandated NGO as bearers of rights to services provided for by the Convention (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them).**

Please note that the reporting below is from England, Wales, Northern Ireland and Scotland. As such reporting systems are different and data is, in places, displayed differently.

### United Kingdom

#### Background

The majority of potential victims referred into the National Referral Mechanism (NRM) in 2018 received a positive Reasonable Grounds decision (5,520; 79%) and therefore received NRM support. For further information on how this support is given across the UK, please see question 1.1 from Part 1.

There are a number of organisations who are formally designated as 'First Responder Organisations' and can therefore refer potential victims of modern slavery into the National Referral Mechanism. This includes specialist Non-Governmental Organisations (NGOs) and public bodies such as the National Crime Agency and the police, the Home Office, the Gangmasters and Labour Abuse Authority (GLAA) and local authorities. A large proportion of NRM referrals in 2018 were made by Home Office UKVI (2,096; 30%), predominantly as part of an asylum claim, and the police and National Crime Agency (2,097; 30%).

Gender	Number of NRM referrals			
	2015	2016	2017	2018
Female	1,744	1,936	2,451	2,724
Male	1,516	1,864	2,684	4,257
Transgender	2	5	3	4

Age group at exploitation	2015	2016	2017	2018
Adult	2,285	2,526	3,022	3,857
Minor	977	1,279	2,116	3,128

Exploitation type	2015	2016	2017	2018
Domestic Servitude	438	433	480	509
Labour Exploitation	1,255	1,605	2,386	3,991
Organ Harvesting	5	0	3	6
Sexual Exploitation	1,113	1,326	1,745	1,925
Unknown Exploitation	451	441	524	554

Country of Nationality	2015	2016	2017	2018
Afghanistan	48	83	79	76
Albania	598	698	774	946
Algeria	4	6	6	14
Angola	17	7	5	8

Antigua and Barbuda	0	0	1	0
Argentina	0	0	1	1
Armenia	0	1	0	1
Australia	1	1	0	1
Bahamas	0	1	0	1
Bangladesh	44	54	57	81
Barbados	0	1	0	1
Belarus	0	1	1	0
Belgium	1	0	3	5
Benin	2	1	1	4
Bhutan	1	0	0	1
Bolivia	2	0	0	0
Bosnia and Herzegovina	1	1	0	0
Botswana	4	3	3	7
Brazil	2	8	8	13
Bulgaria	44	21	28	27
Burkina Faso	1	0	2	1
Burma / Myanmar	19	13	12	13
Burundi	2	1	3	1
Cambodia	1	1	0	0
Cameroon	18	17	23	16
Canada	0	2	0	1
Cape Verde	0	0	0	1
Central African Republic	0	0	0	1
Chad	1	0	1	5
Chile	0	0	1	0
China	100	243	293	451
Colombia	0	0	0	1
Congo, Republic of the	0	1	0	0
Croatia	0	0	3	1
Cuba	2	1	0	0
Cyprus	0	0	1	0
Czech Republic	43	37	30	41
Democratic Republic of the Congo	21	22	31	28
Denmark	0	1	0	3
Djibouti	0	0	1	0
Dominican Republic	0	1	2	0
East Timor	0	4	0	0
Ecuador	0	0	1	2
Egypt	10	19	14	21
El Salvador	0	0	1	3
Eritrea	138	109	189	302
Ethiopia	61	41	84	118
Fiji	0	0	0	1
Finland	0	0	0	1
France	1	3	0	8
Gambia	6	13	10	15
Georgia	2	1	1	2
Germany	0	3	8	1

Ghana	35	44	45	47
Greece	0	1	2	5
Grenada	2	2	1	1
Guatemala	1	0	2	1
Guinea	10	6	10	8
Guinea Bissau	0	0	2	0
Guyana	0	1	0	0
Honduras	0	0	1	2
Hong Kong	0	2	0	0
Hungary	34	36	47	33
India	72	100	140	196
Indonesia	4	3	2	8
Iran	24	60	64	81
Iraq	15	39	72	94
Ireland - Republic of	0	3	2	3
Israel	1	0	1	0
Italy	0	2	4	13
Ivory Coast	5	10	13	3
Jamaica	8	14	22	30
Japan	0	0	1	1
Jordan	0	2	0	1
Kazakhstan	0	0	1	0
Kenya	14	17	28	27
Kosovo	2	5	5	0
Kuwait	1	2	4	7
Kyrgyzstan	1	0	0	0
Latvia	13	21	34	19
Lebanon	1	2	2	1
Lesotho	0	0	0	1
Liberia	0	2	2	1
Libya	4	0	4	3
Lithuania	46	38	36	66
Macedonia	0	2	0	0
Malawi	12	11	13	8
Malaysia	6	5	17	16
Maldives	1	0	0	0
Mali	2	0	2	2
Mauritania	1	1	0	1
Mauritius	0	3	9	9
Mexico	0	1	3	0
Moldova	0	1	0	1
Mongolia	1	3	2	7
Montserrat	0	0	0	1
Morocco	8	6	9	21
Mozambique	0	1	0	1
Namibia	5	4	13	32
Nepal	5	3	7	6
Netherlands	4	3	5	10
Netherlands Antilles	1	0	0	0

New Zealand	1	0	1	1
Nicaragua	1	0	0	0
Niger	0	1	0	0
Nigeria	257	243	264	208
North Korea	5	5	4	3
Norway	0	0	1	2
Not Known	4	3	1	3
Oman	0	0	0	1
Pakistan	58	70	98	134
Occupied Palestinian Territories	1	0	1	3
Panama	0	0	0	1
Paraguay	0	0	0	1
Peru	0	0	0	2
Philippines	28	45	54	62
Poland	160	163	102	121
Portugal	10	3	10	15
Romania	192	202	259	427
Russia	0	3	1	5
Rwanda	0	2	0	1
Sao Tome & Principe	0	1	0	0
Saudi Arabia	0	0	0	3
Senegal	2	7	6	2
Serbia	2	0	1	1
Seychelles	1	0	0	0
Sierra Leone	20	9	7	15
Singapore	0	0	0	1
Slovakia	88	73	64	48
Somalia	21	38	32	59
South Africa	7	10	8	26
South Korea	1	1	1	1
Spain	5	2	2	8
Sri Lanka	18	7	10	29
St Kitts & Nevis	1	0	2	1
St Lucia	1	3	2	4
St Vincent & Grenadines	0	1	1	1
Stateless	0	1	0	1
Sudan	83	79	237	360
Swaziland	3	0	1	1
Sweden	0	0	2	3
Syria	6	16	15	12
Taiwan	0	3	1	1
Tajikistan	1	0	0	0
Tanzania	2	5	3	3
Thailand	16	23	13	20
Tibet	0	0	1	0
Timor – Leste	3	0	0	1
Togo	0	1	4	0
Trinidad & Tobago	1	3	4	2
Tunisia	1	3	4	1

Turkey	6	4	1	4
Uganda	26	21	20	13
Ukraine	3	4	5	6
United Arab Emirates	0	0	0	1
United Kingdom	191	326	819	1,625
United States of America	5	6	2	3
Uzbekistan	0	0	2	0
Venezuela	0	0	1	0
Vietnam	473	516	736	699
Yemen	2	0	2	3
Zambia	4	7	0	6
Zimbabwe	18	19	28	39

First responder type	2015	2016	2017	2018
Government Agency	1,634	1,938	2,265	2,794
Local Authority	306	418	788	1,334
NGO/Third Sector	562	536	704	776
Police	760	913	1,381	2,081

First responder type	First Responder Organisation	2015	2016	2017	2018
<b>Government Agency</b>	<b>Total for Government agencies per year</b>	1,634	1,938	2,265	2,794
	Gangmasters and Labour Abuse Authority	7	0	22	33
	Home Office Immigration Enforcement	116	376	272	511
	National Crime Agency	4	5	8	15
	UKBA (UK Border Agency – now absorbed into Border Force and UK Visas and Immigration)	385	0	0	0
	UK Border Force	110	110	140	138
	UK Visas and Immigration	1,012	1,447	1,823	2,097
<b>Local Authority</b>	Local Authorities	306	418	788	1,334
<b>NGO/Third Sector</b>	<b>Total for NGO/ Third Sector per year</b>	562	536	704	776
	Ashiana	0	1	0	0
	Barnardos	35	18	91	78
	BAWSO	15	22	23	16
	Bradford District NHS Trust	0	1	0	0
	Front line worker	0	3	0	0
	Hope for Justice	3	34	0	0
	Kalayaan	23	25	32	39
	Medaille Trust	5	1	7	4
	Migrant Help	26	34	117	211
	Migrant Legal project	0	1	0	0
	New Pathways	19	6	3	1
	NSPCC (CTAC)	5	7	1	8
	Poppy Project	29	0	0	0
	Refugee Council	16	1	1	2
Revive	0	0	0	1	

	Salvation Army	373	366	414	394
	TARA	10	12	11	19
	Unseen UK	3	4	4	3
<b>Police</b>	<b>Total for the Police per year</b>	<b>760</b>	<b>913</b>	<b>1,381</b>	<b>2,081</b>
	Avon & Somerset Constabulary	9	14	26	40
	Bedfordshire Police	9	5	5	18
	Belfast Harbour Police	0	0	0	1
	British Transport Police	5	10	17	31
	Cambridgeshire Constabulary	29	13	25	18
	Cheshire Constabulary	1	8	9	28
	City of London Police	0	2	6	3
	Cleveland Police	11	4	21	16
	Cumbria Constabulary	0	7	14	13
	Derbyshire Constabulary	14	13	37	32
	Devon & Cornwall Police	11	22	22	54
	Dorset Police	0	2	7	9
	Durham Constabulary	6	0	14	23
	Dyfed-Powys Police	3	2	1	9
	Essex Police	16	20	73	113
	Gloucestershire Constabulary	0	5	16	41
	Greater Manchester Police	89	84	59	85
	Gwent Police	3	3	3	37
	Hampshire Constabulary	8	7	32	46
	Hertfordshire Constabulary	5	11	25	17
	Humberside Police	6	3	12	28
	Kent Police	19	23	35	70
	Lancashire Constabulary	8	4	14	55
	Leicestershire Police	4	6	14	10
	Lincolnshire Police	7	1	11	11
	Merseyside Police	25	22	47	109
	Metropolitan Police Service	89	93	177	260
	Norfolk Constabulary	10	16	26	21
	North Wales Police	0	11	21	24
	North Yorkshire Police	3	7	7	29
	Northamptonshire Police	5	20	12	25
	Northumbria Police	25	52	29	48
	Nottinghamshire Police	12	9	24	31
	Police Scotland	47	41	60	65
	Police Service of Northern Ireland	37	15	17	19
	South Wales Police	9	10	29	20
	South Yorkshire Police	8	44	37	40
	Staffordshire Police	4	16	13	24
	Suffolk Constabulary	6	8	16	30
	Surrey Police	7	28	51	42
	Sussex Police	6	11	32	47
	Thames Valley Police	23	32	76	139
	Warwickshire Police	1	9	8	11
	West Mercia Police	2	20	22	21
	West Midlands Police	84	99	85	116

	West Yorkshire Police	80	76	80	121
	Wiltshire Police	14	5	14	31

- **Number of victims of THB identified as part of the asylum procedure (disaggregated by sex, age, nationality, form of exploitation).**

### United Kingdom

The Asylum procedure in the United Kingdom is managed by United Kingdom Visas and Immigration (UKVI), a part of the Home Office. As a First Responder Organisation staff at UKVI are trained to identify victims and refer them into the NRM. The number of potential victims of trafficking identified during the asylum procedure is set out below.

Gender Breakdown	Potential victims referred into NRM by UKVI			
	2015	2016	2017	2018
Female	576	792	890	892
Male	435	654	933	1,203
Transgender	1	1	0	2

Age Profile Breakdown	Potential victims referred into NRM by UKVI			
	2015	2016	2017	2018
Adult	755	1,044	1,251	1,417
Minor	257	403	572	680

Presented Country of Origin Breakdown	Potential victims referred into NRM by UKVI			
	2015	2016	2017	2018
Afghanistan	11	30	39	26
Albania	375	519	513	585
Algeria	2	1	2	4
Angola	10	4	3	3
Australia	0	1	0	0
Bahamas	0	1	0	1
Bangladesh	18	31	46	46
Belarus	0	0	1	0
Benin	1	0	1	2
Bhutan	0	0	0	1
Bolivia	2	0	0	0
Botswana	4	1	1	3
Brazil	2	4	2	5
Burkina Faso	0	0	0	1
Burma / Myanmar	16	12	11	12
Burundi	2	1	3	1
Cameroon	6	10	16	9
Cape Verde	0	0	0	1
Central African Republic	0	0	0	1
Chad	0	0	0	2
China	31	67	102	142
Democratic Republic of the Congo	10	11	10	14
Denmark	0	1	0	0
Djibouti	0	0	1	0



Dominican Republic	0	0	1	0
Ecuador	0	0	0	1
Egypt	2	8	9	12
El Salvador	0	0	1	3
Eritrea	90	83	143	187
Ethiopia	38	28	55	64
Gambia	2	11	7	3
Georgia	1	0	0	0
Germany	0	1	0	0
Ghana	9	16	19	21
Grenada	0	2	0	1
Guatemala	1	0	1	1
Guinea	3	3	3	2
Honduras	0	0	0	1
Hong Kong	0	1	0	0
Hungary	0	0	1	0
India	28	50	58	61
Indonesia	0	0	0	1
Iran	6	21	30	33
Iraq	3	17	35	34
Ivory Coast	0	6	7	0
Jamaica	2	8	10	14
Japan	0	0	0	1
Jordan	0	2	0	0
Kazakhstan	0	0	1	0
Kenya	5	6	13	14
Kosovo	1	3	3	0
Kuwait	0	0	3	2
Lebanon	1	1	1	1
Lesotho	0	0	0	1
Liberia	0	0	0	1
Libya	0	0	1	1
Lithuania	1	1	1	1
Macedonia	0	1	0	0
Malawi	4	7	8	5
Malaysia	1	3	10	7
Mali	1	0	0	2
Mauritania	1	1	0	1
Mauritius	0	1	3	5
Mexico	0	0	2	0
Mongolia	1	3	1	3
Morocco	2	3	2	4
Mozambique	0	1	0	0
Namibia	0	1	3	11
Nepal	0	0	7	2
New Zealand	1	0	0	0
Niger	0	1	0	0
Nigeria	63	113	130	91
North Korea	4	2	3	2

Not Known	0	0	1	1
Pakistan	18	40	47	64
Palestinian Authority	0	0	0	1
Panama	0	0	0	1
Philippines	1	11	12	14
Poland	3	2	1	2
Portugal	1	0	0	0
Romania	3	0	1	1
Russia	0	1	0	4
Rwanda	0	1	0	1
Saudi Arabia	0	0	0	2
Senegal	0	3	4	2
Serbia	0	0	1	0
Sierra Leone	6	4	5	9
Singapore	0	0	0	1
Slovakia	0	0	1	0
Somalia	11	24	16	26
South Africa	4	5	2	9
South Korea	0	0	1	0
Sri Lanka	8	2	4	17
St Kitts & Nevis	1	0	0	0
St Lucia	0	0	2	1
St Vincent & Grenadines	0	1	0	0
Stateless	0	0	0	1
Sudan	62	62	156	235
Swaziland	2	0	0	1
Sweden	0	0	0	1
Syria	0	3	5	7
Tajikistan	1	0	0	0
Tanzania	2	4	2	3
Thailand	3	9	2	7
Tibet	0	0	1	0
Trinidad & Tobago	1	2	2	1
Tunisia	0	3	3	1
Turkey	2	1	0	2
Uganda	6	13	12	10
Ukraine	0	3	3	0
United Arab Emirates	0	0	0	1
United Kingdom	0	0	0	1
United States of America	0	2	0	2
Uzbekistan	0	0	1	0
Venezuela	0	0	1	0
Vietnam	107	137	197	187
Yemen	2	0	1	1
Zambia	0	5	0	6
Zimbabwe	7	10	16	21

Questionnaire

Type of Exploitation Breakdown	Potential victims referred into NRM by UKVI			
	2015	2016	2017	2018
Domestic Servitude	173	192	211	209
Labour Exploitation	353	573	833	1,052
Organ Harvesting	4	0	1	2
Sexual Exploitation	407	586	665	719
Unknown Exploitation	75	96	113	115

- **Number of victims of THB who received assistance (disaggregated by sex, age, nationality, form of exploitation, internal or transnational trafficking).**

## England and Wales

Data on the number of victims of THB who have received assistance in England and Wales is not routinely published.

## Scotland

### TARA

The tables below provide the requested information for women supported by the NGO TARA, who support women trafficked for the purposes of commercial sexual exploitation. TARA do not centrally collate other secondary exploitations or centrally collate internal or transnational trafficking.

Nationality	2015/2016	2016/2017	2017/2018	2018/2019
Nigerian	6	5	3	8
Namibian	0	0	3	4
Brazilian	1	0	0	0
Romanian	6	2	7	0
Albanian	3	13	2	10
Botswanan	0	0	0	0
Turkish	0	0	0	0
Iraqi	0	0	0	0
Kenyan	1	1	1	2
Chinese	5	4	3	3
Chinese/UK	0	0	0	1
Polish	2	0	0	0
Slovakian	1	0	0	0
Columbian/Spanish	1	0	0	0
Vietnamese	3	11	9	12
Somali	0	0	2	0
Jamaican	1	0	0	0
Somalian	1	0	0	0
Cameroonian	1	0	0	1
Cuban	1	0	0	0
Thai	0	1	1	1
Malaysian	0	0	0	1
Hungarian	0	0	0	1
Malian	0	1	0	0
Gambian	0	1	0	0
<b>Total</b>	<b>33</b>	<b>39</b>	<b>31</b>	<b>44</b>

Year	Age range
2015/2016	7 women 18-25 yrs
	23 women 26-50 yrs

	3 women 50+ yrs
2016/2017	16 women 18-25 yrs
	22 women 26-50 yrs
	1 woman 50+ yrs
2017/2018	16 women 18-25 yrs
	13 women 26 to 30 yrs
	2 women 50+
2018/2019	14 women 18-25 yrs
	29 women 26 to 50 yrs
	1 woman 50+

### Migrant Help

The tables below provide the requested information for all other adults, supported by the NGO Migrant Help. Migrant Help do not collate other secondary exploitations or information on internal or transnational trafficking.

	2016/2017	2017/2018	2018/2019
<b>Number of victims of THB who received assistance</b>	102	167	Total 215:
<b>Nationality</b>	Albanian 1	Albanian 1	Albanian 5
	Chinese 19	Algerian 1	Algerian 1
	Egyptian 1	Chinese 30	Chinese 38
	Filipino 2	Egyptian 3	Colombian 1
	Indian 3	Filipino 1	Congolese 2
	Iraqi 1	Indian 5	Egyptian 4
	Latvian 4	Iraqi 1	Eritrean 3
	Nigerian 2	Latvian 2	Ethiopian 1
	Pakistani 1	Moroccan 2	Filipino 2
	Romanian 1	Namibian 2	Ghanaian 1
	Sudanese 2	Nigerian 7	Indian 7
	Syrian 1	Pakistani 8	Indonesian 1
	Vietnamese 55	Polish 1	Iraqi 2
	Zimbabwean 1	Romanian 2	Latvian 1
	Ethiopian 3	Slovakian 2	Moroccan 1
	Eritrean 1	South African 2	Namibian 1
	Ghanaian 3	Sudanese 6	Nigerian 6
	Unknown 1	Syrian 2	Pakistani 9
		Vietnamese 60	Panamanian 1
		Korean 3	Polish 6
		British 5	Romanian 9
		Zimbabwean 1	Sierra Leonean 1
		Ugandan 1	Slovakian 1
		Hungarian 1	South African 1
		Not known 18	Sri Lankan 2
			Sudanese 20
			Syrian 4
			Ugandan 1
			Vietnamese 83
<b>Gender</b>	Male: 76	Male: 125	Male 172

Year	Male	Female	Total
01/04/2015 - 31/03/2016	27	22	49
01/04/2016 - 31/03/2017	4	16	20
01/04/2017 - 31/03/2018	10	17	27
01/04/2018 - 31 /03/2019	15	16	31
Totals	56	71	127
	Female: 25	Female: 42	Female 43
	Unknown: 1		
<b>Age groups</b>	18-35: 64	18-35: 124	18-35: 145
	36-50: 18	36-50: 32	36-50: 50
	50+: 7	50+: 6	50+: 11
	Children: 13	Children: 5	Children: 5
			Unknown: 4
<b>Types of exploitation identified</b>	Adult – Labour Exploitation: 71	Adult – Labour Exploitation 115	Adult – Labour Exploitation 124
	Adult – Domestic Servitude 10	Adult – Domestic Servitude 20	Adult – Domestic Servitude 15
	Adult – Sexual exploitation 1	Adult – FGM 3	Adult – Sexual exploitation 6
	Adult – VCE (Victim of Criminal Exploitation) 3	Adult – VCE 1	Adult – VCE 9
	Not known: 4	Adult – Sexual exploitation - 6	Unknown – 56
	Child – (dependent of adult) 13	Not known – 17	Child – (dependent of adult) 5
		Child – (dependent of adult) 5	

## Northern Ireland (NI)

Adult potential victims receive assistance under the DoJ support contract. The support service also provides for children who have been recovered with their parents who are potential victims, albeit the children are not necessarily potential victims. During the period from 2015/16 to 2018/19 the support contractors have supported 22 children. Where a child has been a victim of modern slavery and human trafficking, a referral is made by Police Service Northern Ireland (PSNI) to the relevant Health and Social Care Trust.

- **Number of child victims of THB who were appointed legal guardians.**

## England and Wales

Data on guardians appointed to children is not collected or recorded by the DfE.

## Scotland

Year	Number
2015	60
2016	78
2017	60
2018	81

NB: the statistics above are for calendar years (1 January – 31 December).

## Northern Ireland (NI)

All child victims and potential victims of human trafficking, on arrival in NI are appointed an Independent Guardian. This service commenced April 2018 and there have been 28 NRM referrals for children.

## Number of victims of THB granted a recovery and reflection period (disaggregated by sex, age, nationality, form of exploitation).

### United Kingdom

Potential victims who get a positive Reasonable Grounds decision in the NRM receive a recovery and reflection period, during which they are able to access support including accommodation, financial support, assistance in accessing health care including counselling, and access to legal support.

Article 13(3) of ECAT allows for the recovery and reflection period not to be observed where public order grounds prevent it or where it is found that victim status was claimed improperly.

- **Number of victims of THB granted a residence permit, with an indication of the type of the permit and its duration (disaggregated by sex, age, nationality, form of exploitation).**

### United Kingdom

This information is not centrally collected or recorded.

- **Number of persons given refugee status or subsidiary/complementary protection on the grounds of being victims of THB (disaggregated by sex, age, nationality, form of exploitation).**

## United Kingdom

Available database systems do not disaggregate this data.

- **Number of victims of THB who claimed compensation, who were granted compensation and who effectively received compensation (disaggregated by sex, age, nationality, form of exploitation, with an indication of whether the compensation was provided by the perpetrator or the State, and the amount awarded).**

### England, Wales and Scotland

This information is not centrally collected or collated.

The GB wide state-funded Criminal Injuries Compensation Scheme (CICS) awards compensation in respect of physical or mental injuries sustained as a direct result of a 'crime of violence', as defined by Annex B of the CICS. The crime of trafficking is not in itself defined as a 'crime of violence' and there is no requirement under the CICS for the Criminal Injuries Compensation Authority (CICA) that administers it to confirm whether an applicant is a victim of trafficking except in a very small number of cases. For that reason, the CICA does not hold comprehensive data concerning the number of applicants to the Scheme who are victims of human trafficking.

### Northern Ireland (NI)

Year	Applications for state compensation	No. Granted compensation	Gender	Age at date of application*	Nationality	Form of exploitation
2015	5	0	Male	25-45	Romanian	Labour Exploitation
2016	1	0	Male	25 - 35	Lithuanian	Labour Exploitation
2017	1	0	Female	35 - 45	Slovakian	Labour Exploitation
2018	0	0	n/a	n/a	n/a	n/a
2019 to date	2	2 pending – at First Decision Casework stage	Female	30 - 40	Romanian/ Nigerian	Sexual Exploitation

As the figures are small, the possibility of identification of victims has been taken into account and age figures have been provided within a ten-year range. The average age (at date of application) for applications detailed was 33.

- **Number of victims of THB who received another form of financial support from the State, with the indication of the amount received.**

### England and Wales

Information on victims who received another form of financial support from the State is not collected or recorded centrally.

## Scotland

Information on victims who received another form of financial support from the State is not collected or recorded centrally.

## Northern Ireland (NI)

Information on victims who received another form of financial support from the State is not collected or recorded centrally. The number of victims of THB who received assistance, is the only information available.

- **Number of victims of THB who received free legal aid.**

## England and Wales

The Ministry of Justice and the Legal Aid Agency are unable to provide the numbers of victims of trafficking who have received 'free' legal aid for 'legal help' in all other categories of law, for example, asylum, immigration or housing. This is because for all other categories of law, whether an individual is a victim of trafficking is not relevant to the eligibility criteria for a grant of legal aid funding, and so this information is not required, captured or recorded.

The table below shows grants to victims of trafficking or modern slavery under section 32 and section 32A of Schedule 1 of LASPO. The data cannot be disaggregated.

The table below for advice and assistance ('legal help') shows the number of cases where legal aid has been granted for claims of compensation or related to employment law for victims of modern slavery or trafficking per financial year.

CATEGORY OF LAW	MATTER DESCRIPTION	FY 14/15	FY 15/16	FY 16/17	FY 17/18	FY 18/19	Grand Total
<b>MISCELLANEOUS</b>	Civil Court damages claims for victims of trafficking	3	3	4	6	13	29
	Employment Tribunal cases for victims of trafficking	1	4	6	6	3	20
<b>MISCELLANEOUS TOTAL</b>		<b>4</b>	<b>7</b>	<b>10</b>	<b>12</b>	<b>16</b>	<b>49</b>

## Scotland

This information is not centrally collected or collated.

## Northern Ireland (NI)

The table details the volume (number) of acts of assistance for each calendar year 2015 to 2019 up to 19/12/19. The information provided relates to how solicitors in their application described the advice sought. There may be other acts of assistance which have been provided but described in a different manner and so are not included.



## NI - acts of assistance for THB, 2015-2019

- **Number of victims of THB who were returned or repatriated to/from your country (disaggregated by sex, age, country of destination, form of exploitation).**

### England and Wales

Table 1 - Total number of individuals subject to an Enforced or Voluntary return between 01/01/2015 and 30/09/2019, who previously received a positive Conclusive Grounds decision, broken down by age.

	2015	2016	2017	2018	2019 to 19/12/19
Advice and Assistance	12	20	9	5	31
Age	2015	2016	2017	2018	2019
Under 16	0	0	0	0	0
16-17	0	0	0	0	0
18-24	5	3	4	5	3
25-34	8	6	9	5	6
35-44	0	2	4	6	2
45-54	0	0	2	5	2
55-59	0	1	1	0	0
60-64	0	1	0	1	0
65+	0	0	0	0	0
<b>Total</b>	<b>13</b>	<b>13</b>	<b>20</b>	<b>22</b>	<b>13</b>

Table 2 - Total number of individuals subject to an Enforced or Voluntary return between 01/01/2015 and 30/09/2019, who previously received a positive Conclusive Grounds decision, broken down by gender

Gender	2015	2016	2017	2018	2019	Total
Female	8	7	10	8	3	36
Male	5	6	10	14	10	45
<b>Total</b>	<b>13</b>	<b>13</b>	<b>20</b>	<b>22</b>	<b>13</b>	<b>81</b>

Table 3 - Total number of individuals subject to an Enforced or Voluntary return between 01/01/2015 and 30/09/2019, who previously received a positive Conclusive Grounds decision, broken down by Nationality

Country of Nationality	2015	2016	2017	2018	2019	Total
Afghanistan	0	0	0	0	1	1
Albania	2	4	2	3	3	14
Bangladesh	0	0	1	1	0	2
China	0	1	0	2	2	5
Czech Republic	0	1	0	1	1	3
Gambia	0	1	0	0	0	1

Ghana	0	0	0	1	0	1
India	1	0	0	1	0	2
Indonesia	0	1	2	0	0	3
Latvia	0	1	1	0	0	2
Lithuania	0	0	1	0	0	1
Mongolia	1	0	0	0	0	1
Nigeria	2	0	1	3	0	6
Pakistan	0	0	1	0	0	1
Philippines	1	1	4	2	0	8
Poland	0	0	0	2	1	3
Portugal	0	0	0	1	0	1
Romania	1	0	3	0	0	4
Rwanda	1	0	0	0	0	1
Slovakia	0	0	2	0	1	3
Sri Lanka	1	0	0	1	0	2
Thailand	0	0	0	1	2	3
Uganda	0	1	0	0	0	1
Vietnam	3	2	2	3	2	12
<b>Grand Total</b>	<b>13</b>	<b>13</b>	<b>20</b>	<b>22</b>	<b>13</b>	<b>81</b>

**Notes:**

These figures have been taken from a live operational database. As such, numbers may change as information on that system is updated.

Data is restricted to 30/09/2019 in line with published statistics.

**Scotland**

Year	Nationality	Relocation	Age range
2015/2016	5 Romanian	5 Romania	18-25 - 2
	2 Polish	1 England	26-50 - 5
	1 Spanish	1 Poland	50+ - 1
		1 Spain	
2016/2017	1 Vietnamese	England	18-25 - 1
2017/2018	6 Romanian	3 Romania	18-25 - 5
	2 Chinese	4 England	26-50 - 1
		1 Italy	50+ - 2
	1 Slovak	1 Slovakia	Not available - 1
2018/2019	3 Romanian	3 Romania	18-25 - 0
	1 Malaysian	1 Malaysia	26-50 - 3
	1 Hungarian	1 Hungarian	50+ - 0
	1 Sudanese	1 Sudan	Not available - 3

## Northern Ireland (NI)

Year	Country of Origin (destination)	No of individuals	Male	Female
2015/16	Bulgaria, Hungary, Lithuania, Romania	16	13	3
2016/17	Lithuania, Romania	3	1	2
2017/18	Czech Republic, Lithuania, Romania	9	6	3
2018/19	Romania	3	1	2

- **Number of investigations into THB cases (disaggregated by type of exploitation, with an indication of the number of victims concerned).**

## United Kingdom

As of November 2019, there were 1,673 investigations across UK law enforcement into THB. The breakdown by type of exploitation is set out below:

Sexual Exploitation	Labour Exploitation	Criminal Exploitation	Domestic Servitude	Forced Marriage	Unknown/Other	TOTAL
577	460	469	59	4	104	1,673

## England and Wales

### Recorded Modern Slavery Crime.

This does not disaggregate for type of exploitation. The crime recording rule does however indicate victim numbers, as the rule is 'one victim, one crime'.

2015/16	2016/17	2017/18	2018/19
943	2,324	3,411	5,118

### Modern Slavery Police Transformation Unit (MSPTU)

The MSPTU holds a database of all 'live' police operations since December 2016. This includes 5,435 operations to date. The data set is indicative. The MSPTU's definition of operations is:

- Current investigations focussing directly on Modern Slavery offences;
- Current investigations focussing on other areas of crime, but where Modern Slavery is also suspected to play a significant part of the criminality;
- Instances where well-graded and recent intelligence suggests Modern Slavery is occurring, and there is enough to justify further development, enquiry or investigation.

MSPTU - Live and Closed investigations (December 2016 to October 2019)	
Type of Exploitation	Count
Sexual	1,772
Labour	1,602
Criminal	1,443

Unknown	251
Domestic Servitude	235
Other	114
Forced Sham Marriage	23
Organ Harvesting	1
	5,441

### Scotland

Police Scotland does not disclose this type of data due to sensitivities of ongoing operations.

### Northern Ireland (NI)

The number of active investigations ongoing by the Police Service Northern Ireland (PSNI) changes on a monthly basis.

INCIDENT TYPE	No.
Labour Exploitation Reactive	1
Labour Exploitation Proactive	1
Sexual Exploitation Reactive	2
Sexual Exploitation Proactive	6
Domestic Servitude Reactive	1
<b>Total</b>	<b>11</b>

### Modern Slavery Human Trafficking Unit (MSHTU).

Number of investigations with disaggregated nationalities in current live investigations by PSNI

Primary Type of Slavery (grouped by MSHTU operation)	Victim Nationalities	Victim(s) Gender
'Crime' (criminal acts, drugs etc.)	3 x Chinese	3 x male
	1 x Vietnamese	female
	2 x Lithuanian	2 x male
	1 German	female
Domestic Servitude	1 Nigerian	female
Domestic Servitude	2 x Somalian	2 x female
Labour	3 x Ghanaian	3 x male

	3 x Ethiopian	2 x male and 1 female
		4 x male and 1 female
	5 x Somalian	1 x male
		2 x male
	1 x Bulgarian	Male and female
	2 x Chinese	
	Romanian / Brazilian / Taiwanese	
		3 x male
	3 x Eritrean	1 x male
	1 x Albanian	
Other	2 x Eritrean	1 x male and 1 x female
		1 x female
	1 x Lithuanian	1 x female
	1 x Chinese	1 x female
	1 x Iranian	
Sexual	Chinese / Romanian	Female
	Romanian	
	Romanian	Female
	Romanian	Female
	Chinese	Female
	Romanian	UNKNOWN
	Northern Irish	UNKNOWN
	Romanian	Female
		UNKNOWN
Sexual	1 x Albanian	1 x female
	6 x British	5 x female
	1 x Irish	1 x female
	1 x Nigerian	1 x female
	1 x Romanian	1 x female
	1 x Iraqi	1 x female
	1 x Chinese	1 x female
	1 x Eritrean	1 x female
	1 x Zimbabwean	1 x female
Unknown	1 x German	Unknown
	Unknown x Romanian	

Number of additional live MSHTU NRM investigations

39

- **Number of prosecutions in THB cases (disaggregated by type of exploitation, with an indication of the number of victims and defendants concerned).**

### England and Wales

COMPLETED PROSECUTIONS BY OUTCOME \*the data in the table below relates to *flagged defendants*

	2015-16		2016-17		2017-18		2018-19	
	Vol	%	Vol	%	Vol	%	Vol	%
Convictions	192	65.1%	181	61.4%	185	65.1%	219	68.0%
Unsuccessful	103	34.9%	114	38.6%	99	34.9%	103	32.0%
<b>Total</b>	<b>295</b>		<b>295</b>		<b>284</b>		<b>322</b>	

Number of victims as below. We are unable to provide information on the number of defendants. We are also unable to provide the breakdown by exploitation type.

Year ending	15	16	17	18	19
No. Victims & Witnesses	656	1358	1053	1111	946
Count Case	69	136	115	100	82
Victims & Witnesses per Case	9.5	10	9.2	11.1	11.5

### Scotland

	Number of cases indicted including human trafficking offences	Number of accused persons indicted for human trafficking offences	Type of exploitation (cases)
2016	0	0	0
2017	4	9	2 sexual, 2 labour
2018	5	6	3 sexual, 2 labour
2019	1	1	1 sexual

The years listed above denote the year in which the case was reported to COPFS by Police Scotland regardless of the year when the prosecution was instigated.

### Northern Ireland (NI)

Number of persons prosecuted for trafficking in persons in NI, 2015 to 2018\* (based on Most Serious Decision Issued Date).

	2015	2016	2017	2018	
Human trafficking for sexual exploitation	0	3	3	5	
Human trafficking for non-sexual exploitation	-	-	0	0	
Offence yet to be clarified	0	0	0	0	

\* '-' refers to a count less than 3.

Please note that previously published statistics have been revised upon review by Public Prosecution Service in August 2019.

- **Number of convicted perpetrators of THB (disaggregated by sex, age, nationality, form of exploitation).**

### England and Wales

Number of individuals convicted of slavery and trafficking offences from year ending December 2015 to year ending December 2018

Offence type	Number of offences			
	2015	2016	2017	2018
<b>Convictions</b>				
Slavery, servitude and forced labour	9	12	10	3
Human trafficking for sexual exploitation	14	31	7	5
Human trafficking for non-sexual exploitation	8	12	9	0
Offences under the Modern Slavery Act	0	0	22	12
<b>Total (all slavery and trafficking offences)</b>	<b>31</b>	<b>55</b>	<b>48</b>	<b>20</b>

This data relates to persons for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe. This applies to all tables in this section.

Number of individuals convicted of slavery and trafficking offences by sex from year ending December 2015 to year ending December 2018

Offence type	Number of offences			
	2015	2016	2017	2018
<b>Convictions</b>				
<b>Slavery, servitude and forced labour</b>	<b>9</b>	<b>12</b>	<b>10</b>	<b>3</b>
Male	6	11	9	2
Female	3	1	1	1
Not known	0	0	0	0
<b>Human trafficking for sexual exploitation</b>	<b>14</b>	<b>31</b>	<b>7</b>	<b>5</b>
Male	10	19	6	4
Female	4	12	1	1
Not known	0	0	0	0
<b>Human trafficking for non-sexual exploitation</b>	<b>8</b>	<b>12</b>	<b>9</b>	<b>0</b>
Male	7	7	6	0
Female	1	5	3	0
Not known	0	0	0	0
<b>Offences under the Modern Slavery Act</b>	<b>0</b>	<b>0</b>	<b>22</b>	<b>12</b>
Male	0	0	19	9
Female	0	0	3	3
Not known	0	0	0	0
<b>Total (all slavery and trafficking offences)</b>	<b>31</b>	<b>55</b>	<b>48</b>	<b>20</b>

Number of individuals convicted of slavery and trafficking offences by age group from year ending December 2015 to year ending December 2018

Offence type	Number of offences			
	2015	2016	2017	2018
<b>Convictions</b>				
<b>Slavery, servitude and forced labour</b>	<b>9</b>	<b>12</b>	<b>10</b>	<b>3</b>
Juveniles	0	0	0	1
Young adults	0	0	2	0
Adults	9	12	8	2
<b>Human trafficking for sexual exploitation</b>	<b>14</b>	<b>31</b>	<b>7</b>	<b>5</b>
Juveniles	0	0	0	0
Young adults	0	1	1	
Adults	14	30	6	5
<b>Human trafficking for non-sexual exploitation</b>	<b>8</b>	<b>12</b>	<b>9</b>	<b>0</b>
Juveniles	0	0	0	0
Young adults	0	0	0	0
Adults	8	12	9	0
<b>Offences under the Modern Slavery Act</b>	<b>0</b>	<b>0</b>	<b>22</b>	<b>12</b>
Juveniles	0	0	0	0
Young adults	0	0	1	0
Adults	0	0	21	12
<b>Total (all slavery and trafficking offences)</b>	<b>31</b>	<b>55</b>	<b>48</b>	<b>20</b>

## Scotland

	Number of perpetrators convicted	Sex of perpetrators	Nationality of perpetrators	Form of exploitation (perpetrators)
2016	0	0	0	0
2017	7	6 male, 1 female	3 British, 3 Slovakian, 1 Nepalese	2 labour, 5 sexual
2018	1	1 male	1 Romanian	1 labour
2019	1	1 female	1 Chinese	1 sexual

The years listed above denote the year in which the case was reported to COPFS by Police Scotland regardless of the year in which the accused was convicted.

## Northern Ireland (NI)

Number of persons convicted for trafficking in persons in NI, 2015 to 2018.

	2015	2016	2017	2018
Human trafficking for sexual exploitation	0	2	0	2
Human trafficking for non-sexual exploitation	0	2	0	0
Offence yet to be clarified	0	0	0	2



Please note that previously published statistics have been revised upon review by Public Prosecution Service in August 2019.

Two individuals were convicted for controlling prostitution for gain, but not the Human Trafficking offence.

- **Number of convictions for THB, with an indication of the form of exploitation, whether the victim was adult or child, the type and duration of the penalties, and whether they were effectively enforced or suspended.**

## England and Wales

Sentencing of individuals convicted of all slavery and trafficking offences from year ending December 2015 to year ending December 2018.

England and Wales	Individuals			
All slavery and trafficking offences				
	2015	2016	2017	2018
<b>Total Sentenced</b>	<b>30</b>	<b>55</b>	<b>48</b>	<b>20</b>
Fine	0	0	1	1
Community sentence	0	0	1	1
Suspended sentence	3	2	0	0
Otherwise dealt with	3	0	1	0
Compensation	0	0	0	0
<b>Immediate custody</b>	<b>24</b>	<b>53</b>	<b>45</b>	<b>18</b>
Custody - Up to and including 1 month	0	0	0	0
Custody - Over 1 month and up to and including 2 months	0	0	0	0
Custody - Over 2 months and up to and including 3 months	0	0	0	0
Custody - Over 3 months and less than 6 months	0	0	0	0
Custody - 6 months	0	0	1	0
Custody - Over 6 months and up to and including 9 months	1	0	2	0
Custody - Over 9 months and less than 12 months	0	0	0	0
Custody - 12 months	0	0	1	0
Custody - Over 12 months and up to and including 18 months	1	0	2	1
Custody - Over 18 months and up to and including 2 years	3	7	2	1
Custody - Over 2 years and up to and including 3 years	6	16	5	0
Custody - Over 3 years and less than 4 years	2	4	4	0
Custody - 4 years	2	8	3	2
Custody - Over 4 years and up to and including 5 years	3	5	4	3
Custody - Over 5 years and up to and including 7 years	6	8	14	5
Custody - Over 7 years and up to and including 10 years	0	4	4	5
Custody - Over 10 years and less than life	0	1	3	1
Custody - Indeterminate sentence	0	0	0	0
Custody - Life	0	0	0	0

Information on convictions with an indication of the form of exploitation, whether the victim was adult or child, and if the conviction was effectively enforced or suspended, is not available.

**Scotland**

	Number of perpetrators convicted	Number of perpetrators sentenced to imprisonment	Number of perpetrators sentenced to Community Payback Order	Number of perpetrators sentenced to Compensation Order
2016	0	0	0	0
2017	7	6	1	0
2018	1	0	1	1
2019	1	1	0	0

**Northern Ireland (NI)**

	2015	2016	2017	2018
Human trafficking for sexual exploitation	0	2	0	2
Human trafficking for non-sexual exploitation	0	2	0	0
Offence yet to be clarified	0	0	0	2

The number of perpetrators convicted and the number of convictions are the same.

➤ **Number of judgments in THB cases resulting in the confiscation of assets.**

**England and Wales**

Order Type	2013/14		2014/15		2015/16	
	Volume	Value	Volume	Value	Volume	Value
Restraint Orders	14	£1,500,000.00	9	£2,025,000.00	10	£2,725,000.00
Cash Forfeitures	5	£16,871.07	5	£24,035.82	26	£193,153.45
Confiscation Orders	22	£593,415.43	18	£1,113,038.77	16	£511,196.48
TOTAL	41	£2,110,286.50	32	£3,162,074.59	52	£3,429,349.93

Order Type	2016/17		2017/18		2018/19	
	Volume	Value	Volume	Value	Volume	Value
Restraint Orders	14	£1,650,000.00	26	£6,975,000.00	16	£2,600,000.00
Cash Forfeitures	24	£175,340.90	17	£155,034.11	22	£154,720.79
Confiscation Orders	23	£1,387,717.47	31	£836,424.69	54	£1,901,458.90
TOTAL	61	£3,213,058.37	74	£7,966,458.80	92	£4,656,179.69

**Scotland**

There has been one THB case resulting in Orders being made against two individuals. Orders totalling £104,209 were made, of which £13, 533 will be paid to victims as compensation with the rest being allocated to the CashBack for Communities programme.

**Northern Ireland (NI)**

There have been two THB cases resulting in the confiscation of assets: Operation Pyritic and Operation Fog when monies were successfully seized and recovered as criminal property through the courts. As a result of Operation Fog monies and vehicles were seized and forfeited from suspects. Monies were given to a local Human Trafficking charity. The vehicles were given to the Youth Justice Agency to assist young people seeking a path out of crime.

- **Number of convictions of legal entities for THB.**

**United Kingdom**

No convictions of legal entities have been recorded.