

BRIEFING

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THE UK'S RESPONSE TO HUMAN TRAFFICKING
FIT FOR PURPOSE?

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INTRODUCTION

With the London 2012 Olympic and Paralympic Games fast approaching, it is timely to consider some of the issues that might lurk on the dark side of these prestigious events. In recent years, there has been a growing concern about a potential link between major sporting events and an increase in human trafficking for the purposes of forced labour and prostitution (London Councils 2011).

In fact, there is very little reliable evidence on the impact that large-scale international sporting events have on human trafficking (because of its underground and criminal nature). Nevertheless, at the very least, it is clear that events like the Olympics provide an opportunity for host countries to reassess their wider anti-trafficking strategies.

Countries hosting major international sporting events have started to take the threat of trafficking seriously and to put in place measures designed to reduce the likelihood of people being trafficked as a result of the event. The 2004 Athens Olympics saw the first serious action around the issue, followed by a series of campaigns in advance of the 2006 FIFA World Cup in Germany (IOM 2006), the 2010 Vancouver Winter Olympics and FIFA World Cup in South Africa in the same year (London Councils 2011). The UK has learnt from this collective experience and a number of preventative measures have already been put in place to manage any potential upsurge in trafficking around London 2012.

The aims of this short briefing paper are threefold:

- to provide a short overview of the available evidence about the scale of human trafficking in the UK
- to review the general UK policy response to trafficking and the more specific measures designed for London 2012
- to examine areas within the current UK strategy that could be improved, with reference to international good practice.

This briefing paper will be followed by a more in-depth case study investigating trafficking from Nigeria to the UK, to be published in summer 2012. This case study, which is based on new quantitative and qualitative research in both countries, will provide a comprehensive account of the scale and nature of trafficking between Nigeria and the UK, and of the challenges faced in both countries in addressing it.

What is ‘trafficking’?

Trafficking is a relatively recent term and has been defined in different ways. The United Nations’ definition of trafficking has widespread international support and has been endorsed by 117 signatories, including the UK. The definition is contained in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime, also called the ‘Palermo protocol’. This defines trafficking as:

‘The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of apposition of vulnerability or of the giving or receiving or payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.’

UNHCR 2000

Trafficking is therefore defined as a situation that fulfils three main criteria: movement (international or internal), exploitation and coercion. This understanding makes explicit the importance not only of the migration aspect of trafficking (which is often the focus of policy debates in the UK) but also of coercion (whether through force or deception) and of exploitation through sometimes dirty, difficult and dangerous work for no or low pay. The common forms of exploitation include forced prostitution or other sexual activity; forced or bonded labour in the construction, catering, agriculture or hospitality sectors; and exploitation of children for benefit fraud or other criminal activity, though this list is not exhaustive.

Methods of recruitment, transport routes, forms of coercion and the sectors in which trafficked people are exploited continue to evolve as the more traditional and recognised forms of trafficking draw increased attention from governments, law enforcement agents and civil society.

While much is made of a trafficked person's movement (usually into a country illegally), the exploitation or intention to exploit by force, fraud or coercion can often be overlooked. Nevertheless, it is this latter component that lies at the core of understanding what trafficking is. This intention differentiates trafficking from people-smuggling. Smuggling draws financial (or other) benefit to the smuggler through the facilitation of unlawful border-crossing by an individual or group of people. By contrast, the financial benefit to the trafficker lies in the commodification or subsequent exploitation of the person or people being moved. While a trafficker may facilitate a person's unlawful entry into a country, their relationship does not end upon arrival: either the trafficker sells the trafficked person to a third party or profits from that person's exploitation themselves.

Trafficking in the UK is often discussed purely in terms of international migration, but trafficking can also involve movement within a country. A recent UK example is provided by the conviction of six men in Rochdale for the trafficking within Britain of British girls for sexual exploitation (see BBC 2012a). Trafficking is also often understood primarily in relation to sex work, but it can also occur for a range of exploitative activities, including domestic servitude and forced labour. A report by the United Nations Office on Drugs and Crime (UNODC 2009) found that sexual exploitation was the most common form of human trafficking (79 per cent) with trafficking for forced labour the second-most common form (18 per cent). However, trafficking for forced labour is likely to be underestimated because it is less frequently detected and reported than trafficking for sexual exploitation (ibid). Trafficking is also often associated in the public debate with the work of organised criminal gangs. But recent convictions for trafficking in the UK demonstrate that traffickers can operate alone, trafficking just one person to exploit (Kalayaan 2011).

1. TRAFFICKING IN THE UK

What is the scale of trafficking to the UK?

Quantifying the scale of trafficking to the UK is a significant challenge. Official data is limited by the challenges of identifying victims of trafficking. In order for a person to be identified as a victim they must come into contact with somebody able to recognise the indicators of trafficking, feel able to disclose their experiences, and be found to be credible. Trafficking is a hidden crime and myths about it still exist, often impeding identification (ATMG 2010, 2012). On the other hand, some individuals may have incentives to report themselves as victims of trafficking when they are not, which means that official agencies reasonably argue that they must exercise caution in identifying instances of trafficking. As a result, estimates of the number of people trafficked to the UK have unsurprisingly varied widely, from a few hundreds to tens of thousands (see Home Office 2009, ACPO 2010, Davies 2009).

In this context, arguably the most reliable figures on the scale and character of trafficking to the UK can be gathered from referrals to the national referral mechanism (NRM), which is part of the Serious Organised Crime Agency (SOCA).¹ The NRM is a decision-making device, operational since 2009, whereby people identified as possible victims of trafficking can be referred to a 'competent authority' to judge their case and their eligibility for care and support. Although NRM estimates are the most comprehensive dataset of known and suspected trafficked people held by UK authorities, they still provide only a limited picture of trafficking and are, in all likelihood, a significant underestimate: by definition they record only those victims who are identified and referred to the authorities. However, NRM data can nevertheless provide useful information about the nature of trafficking to the UK.

From 1 April 2009 (when the NRM was established) to 30 June 2011, there were 1,664 referrals to the NRM of people suspected of having been trafficked. Of these, 565 were subsequently formally recognised as 'victims of trafficking'. Over two-thirds of referrals were women. Children made up 438 (26 per cent) of all referrals and of those 160 were formally recognised as trafficked.

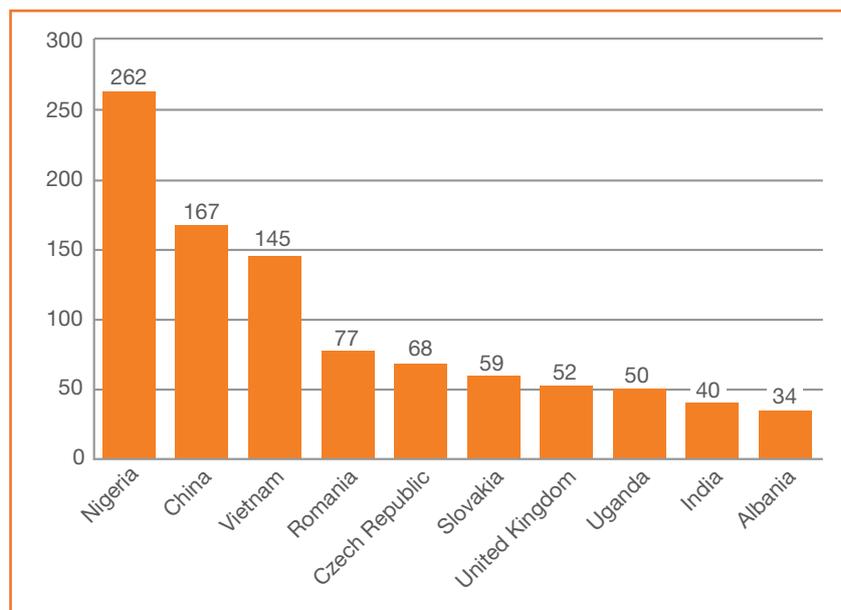
While the UK is usually considered solely as a destination country, NRM data and recent prosecutions also confirm that the UK should be categorised as a source and transit country. Sixty UK nationals were referred to the NRM between April 2009 and June 2011, which indicates the occurrence of internal trafficking activity. The UK is also a transit country for trafficking. In July 2011, a British court prosecuted a Nigerian man (Anthony Harrison) for trafficking two Nigerian girls out of the UK for sexual exploitation (BBC 2011a).

Individuals referred to the NRM between April 2009 and March 2011 came from a total of 88 countries (see figure 1 for details of the top 10 countries). 63 per cent of the referrals came from outside the EU.² Nigeria (262), China (167) and Vietnam (145) stand out – these three countries account for 39 per cent of all referrals.

1 For more information, see <http://www.soca.gov.uk/about-soca/about-the-ukhtc/national-referral-mechanism>

2 The top EU countries included the UK, Slovakia, Romania and Lithuania.

Figure 1
Top 10 nations, most referrals to the NRM
(total referrals, April 2009–March 2011)



Source: SOCA³

Trafficking for sexual exploitation

In the UK, the Home Office has made some attempts at estimating a figure for the incidence of trafficking for sexual exploitation, and concludes that at any one time there are up to 4,000 victims of trafficking for such purposes in the UK (Home Office 2009). In 2010, the Association of Chief Police officers (ACPO 2010) estimated that 30,000 women were involved in off-street prostitution in England and Wales, and that 17,000 of these would be migrants. The ACPO report suggested that of these 17,000 migrant women, 2,600 were trafficked, while a further 9,600 would be 'vulnerable migrants' who may have been trafficked (ibid). Even this seems likely to have underestimated the problem – the study focused less on brothels advertised through informal networks, and these are locations where many trafficked people could be working. The Metropolitan police acknowledged in 2009 that there would be victims of trafficking in a 'significant' proportion of London brothels (HCHAC 2009).

The ACPO report also suggests that the proportion of off-street prostitutes who are migrants is especially high in London – 96.4 per cent, compared to 31.5 per cent in Yorkshire and the Humber, for example (ACPO 2010) – while the proportion of migrants in 'on-street' prostitution is expected to be much lower. It also emphasises the fact that women trafficked into prostitution face a wide variety of circumstances, with some women working 'independently' while others are subject to kidnap and rape (ibid).

Trafficking for domestic servitude and forced labour

It is more difficult to obtain figures for people trafficked into domestic servitude and forced labour. This labour exploitation is divided into a legal sector – including catering, construction and agricultural work – and an illegal one, which includes drug production, fraud, theft and selling counterfeit goods. A large number of victims of trafficking for domestic servitude or other forms of forced labour often end up working in sectors that are not in themselves illegal, and may work alone or in small groups in residential

³ <http://www.soca.gov.uk/about-soca/about-the-ukhtc/national-referral-mechanism/statistics>

properties or in other closed environments. Victims may have limited contact with those outside of their trafficking network and are less likely than victims of trafficking for sexual exploitation to come to the attention of the UK authorities or to be aware of any support and service available.

The best available data on trafficking for domestic servitude comes from NGOs working with trafficked people. One specialist NGO, Kalayaan,⁴ identified 157 trafficked migrant domestic workers between May 2008 and the end of 2010, a period that included Operation Tolerance⁵ and the introduction of the NRM in April 2009. Of these 157 people, 102 refused to be referred to the NRM, a result which demonstrates the limitations of official data.

NGO work also reveals some disturbing trends about the experiences of domestic workers in general. Kalayaan found that about half of the workers who registered with them between January 2008 and December 2010 were subject to psychological abuse from their employer, while close to 20 per cent experienced physical abuse. Approximately 5 per cent of workers also reported being sexually abused or harassed by their employer, although the true figure is likely to be higher, since many prefer not to report such experiences. In the same period, 65 per cent of workers registered with Kalayaan described working seven days a week with no day off or significant rest period, and 57 per cent stated that they received a wage of £50 a week or less. Nearly 60 per cent of respondents were not allowed to go out unaccompanied and 64 per cent had their passport withheld.

Data on those people subjected to forced labour in other employment sectors is even more limited. The Gangmasters Licensing Authority (GLA)⁶ has uncovered examples of migrants as well as non-migrants who have been coerced into exploitative working conditions.⁷ However, there is no clear reporting of the number of trafficking victims in the industries in its sphere of activity, as its regulatory efforts are directed at employers and not workers. In other words, the GLA knows how many employers' licences it retracted but not how many workers were affected nor what percentage of those workers were victims of trafficking. Anderson and Rogaly (2005) identified a number of examples of migrants who had been trafficked into exploitative working conditions in the UK. However, many of these were not formally identified as 'victims of trafficking', despite appearing to fit this definition.

Child trafficking

Children are known to be trafficked to the UK for a range of reasons, including for sexual exploitation, domestic servitude, cannabis cultivation, forced criminal activities and benefit fraud. As with adults, estimates of the number of children trafficked to and within the UK vary. As noted above, 26 per cent of possible victims of trafficking referred to the NRM were children. The Children's Commissioner for England has estimated that up to 10,000 children may be being sexually exploited in the UK.⁸

4 Kalayaan provides advice, advocacy and support services to migrant domestic workers in the UK.

5 In 2008, in anticipation of the ratification and implementation of the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT), the UK Border Agency launched Operation Tolerance in partnership with the UKHTC, law enforcement and civil society groups throughout the UK. The operation ran from May to December 2008. The operation was a pilot project investigating the prevalence of trafficking for labour exploitation.

6 See subsection 3.4 for more on the GLA.

7 See <http://www.eurofound.europa.eu/areas/labourmarket/tackling/cases/uk003.htm>

8 See <http://www.childrenscommissioner.gov.uk/info/csegg1>.

ECPAT⁹ found that, in 2007, 60 per cent of children suspected of being victims of trafficking had subsequently gone missing from local authority care. The Child Exploitation and Online Protection centre (CEOP) identified around 325 possible victims over a 12-month period from March 2009 to February 2010 and considered that there was a strong probability of trafficking in 53 per cent of the cases. More recent data suggests that, over the period 1 January to 15 September 2011, 202 children were identified as trafficked into and within the UK (CEOP 2011). This figure includes referrals made to the NRM and referrals received by the Child Trafficking Advice and Information Line (CTAIL), operated by the NSPCC.¹⁰ It is worth emphasising that the data used is a 'snapshot in time' and some NRM decisions are yet to be made regarding the status of these possible victims of trafficking. Consequently, these figures will be subject to revision in future assessments (ibid).

9 A campaigning organisation for the ending of child prostitution, child pornography and the trafficking of children for sexual purposes, originally End Child Prostitution in Asian Tourism.

10 Previously the National Society of Prevention of Cruelty to Children.

2. UK POLICY RESPONSES TO TRAFFICKING

The UK is signatory to a number of international agreements on trafficking. The UK signed the UN Declaration on Trafficking in Persons in 2003, ratified the European Council Convention on Trafficking in 2008 and applied to opt in to the European Directive on Trafficking in 2011. The UK is signatory to a number of other more general conventions that also bear on its response to trafficking, for example the Convention on the Elimination of Discrimination Against Women. As a member of the Council of Europe and signatory to the European Convention on Human Rights, the UK is also bound by the provisions of the European Court of Human Rights as it relates to cases of trafficking.¹¹

As a result, in part, of the requirements that accrue from these instruments, the UK and its devolved nations have developed a legal and policy framework to respond to trafficking. Trafficking for sexual exploitation was first made an offence in England, Wales and Northern Ireland through the Sexual Offences Act 2003. The Asylum and Immigration Act 2004 addressed the offence of ‘trafficking for exploitation’, which covers non-sexual types of exploitation. The definition of exploitation within the trafficking context was further expanded to include benefit fraud through the Borders Citizenship and Immigration Act 2009. In Scotland, trafficking is prohibited through the Criminal Justice (Scotland) Act 2003. In addition, section 14 of the Policing and Crime Act 2009 criminalises sex with someone who has been coerced into prostitution (including via trafficking).

Beyond legislation to criminalise trafficking, various initiatives have been developed by government and civil society to prevent trafficking, protect victims and facilitate the prosecution of offenders. These include:

- measures to raise awareness of how to seek help among people who may have been trafficked and communities that come into contact with them, such as the poster campaign run by the Metropolitan police and STOP the Traffik (BBC 2011b)
- schemes to raise awareness of the issue among the public and frontline workers, such as police and social workers¹²
- work to address likely environments for exploitation, such as unregulated work sectors, for example through the introduction of the Gangmasters Licensing Authority¹³
- the implementation of a formal process of identification (via the NRM, as discussed above)
- the provision of funding for a package of accommodation-based support.

The UK has also developed specific work to respond to any increased threat of trafficking around particular flash points, most notably the London 2012 Olympics.¹⁴

The Coalition government opted in to a new EU directive on trafficking in 2011 (despite some initial reticence). Following this, it announced a new strategy to combat human trafficking (Home Office 2011) focusing on:

- strengthening work with countries where criminal gangs are based
- improving the coordination of policing efforts in the UK to tackle trafficking
- using the new National Crime Agency, with its border-policing responsibilities, to improve security and provide a stronger deterrent at the border
- working with professionals to improve help for victims of trafficking.

11 For cases in the European Court of Human Rights, see <http://www.atlep.org.uk/research-and-resources/immigration-law-practice/caselaw/echr-cases/>

12 See http://www.eaves4women.co.uk/Lilith_Research_And_Development/Conferences_And_Training.php

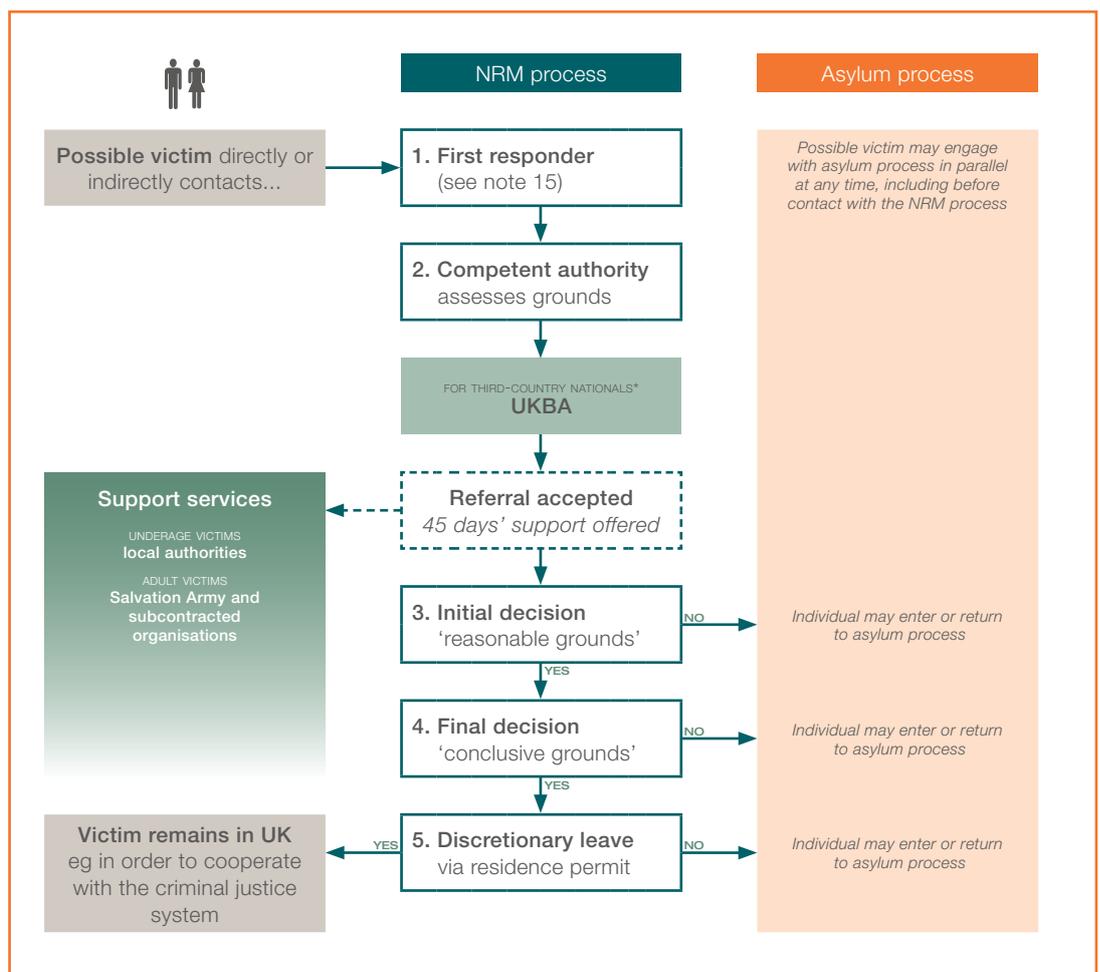
13 See <http://www.eurofound.europa.eu/areas/labourmarket/tackling/cases/uk003.htm>

14 See <http://www.london.gov.uk/priorities/crime-community-safety/tackling-priority-crimes/violence-against-women/trafficking-prosti/network>

Agencies and actors

In order to fulfil its obligations under the European Council Convention on Trafficking, and to formalise the process of identifying people who have been trafficked to the UK, the previous Labour government introduced the NRM. Anyone who is referred to the NRM by one of the designated 'first responders'¹⁵ and who is believed by a 'competent authorities' to have reasonable grounds for a claim to having been trafficked is entitled to a 45-day 'reflection and recovery' period. During this time they can access services such as housing and medical care. Decisions as to who is a victim of trafficking are then made by the designated competent authorities. In the UK, these authorities are the UK Human Trafficking Centre (UKHTC) and the UK Border Agency (UKBA), the latter for those suspected victims of trafficking who have a current immigration application (see figure 2 for a summary of NRM processes).

Figure 2
Processes within the NRM: main trafficking identification steps used for a referred third-country national



Source: SOCA, Asylum Aid 2010, UKBA

* The identification process for an EU/EEA/British national is different to that for third-country nationals. UKBA has no involvement in the assessment of their case and the subsequent support they might receive.

15 First responders include: SOCA and UKHTC, local authorities, UKBA, POPPY Project, TARA Project (Scotland), Migrant Helpline, Kalayaan, Medaille Trust, Salvation Army, Gangmasters Licensing Authority, UK police forces, NSPCC/CTAIL, local authority children's services, Barnardo's, and the Northern Ireland Department of Health, Social Services and Public Safety.

The Child Exploitation and Online Protection centre (CEOP) is responsible for ending the sexual abuse of children, including trafficked children. The UKHTC and CEOP are now part of the Serious and Organised Crime Agency (SOCA). Other specialist agencies include SCD9, a small specialist human trafficking division within the Metropolitan police that investigates and prosecutes trafficking within London.

The interdepartmental ministerial group on human trafficking is tasked with overseeing the implementation of the government's strategy, coordinating actions and monitoring UK policy on human trafficking, and has also been proposed as fulfilling the primary responsibilities of an equivalent mechanism to a national rapporteur.¹⁶ The group brings together ministers from various government departments, including the Home Office, Department of Health, Department for International Development and Foreign and Commonwealth Office. This group also has representation from the Scottish parliament and the Wales and Northern Ireland assemblies. However, the true effectiveness of the group is called into question by the fact that it has only met twice since it was formed in May 2010.

Beyond responses from government, the UK has a developed NGO sector specialising in preventing trafficking, supporting child and adult victims and campaigning, including organisations such as STOP the Traffik, Eaves and ECPAT. Links between specialist units and people who may encounter victims of trafficking are facilitated through a range of telephone hotlines. The NSPCC runs CTAIL, providing referrals and advice for people who suspect an incident of child trafficking. Law enforcement agencies can get advice from the UKHTC. Members of the public or other frontline workers who suspect someone is an adult victim of trafficking can call one of several hotlines. These are run by the Metropolitan police, the Salvation Army and Crimestoppers, among others.

Support is offered to adults who are referred to the NRM under tender through funding provided by the Ministry of Justice. In 2003, the Home Office announced a pilot scheme to provide accommodation for women who are the victims of sex trafficking; this continued beyond the pilot stage and was run for eight years by the POPPY Project (run by Eaves). Government support was broadened to cover those trafficked to the UK for forced labour, including for domestic servitude. Support for male victims of trafficking was provided by Migrant Helpline. In 2011, the tender to provide support transferred to the Salvation Army and a number of subcontracted organisations.

¹⁶ See subsection 3.3 for more on the role of a rapporteur.

3. CHALLENGES FOR UK POLICY AND LESSONS FROM INTERNATIONAL BEST PRACTICE

The UK's response to trafficking has developed rapidly and produced multiple examples of innovative practice and partnership working between diverse groups. Policy responses have come a long way from the days of ad hoc police raids and the provision of support solely through charitable-funded voluntary sector agencies. Now the UK has, in the UKHTC, a dedicated agency tasked with coordinating the British response. There have been successes where, through tenacious multi-agency working, vulnerable people have been safeguarded and perpetrators prosecuted. The launch of a new strategy in 2011, alongside the UK opt-in to the EU directive, marks an opportunity for the UK to put its learning into practice and respond to the issue effectively. The 2012 Olympics have also provided a focal point for efforts to improve the UK's policy response.

It is also clear from the UK's latest anti-trafficking strategy that the government is committed to an approach that speaks at least in part to the accepted good practice of the UN Palermo protocol, based on the 'three Ps': prevention, prosecution and protection.¹⁷ The strategy is also noteworthy for appreciating the imperative of addressing trafficking holistically, from 'end to end' through prevention and through work across government departments to address trafficking at the local, national and international levels.

However, as this short review will demonstrate, the UK continues to face significant challenges in responding to trafficking. While the government has expressed a commitment to addressing trafficking comprehensively, its approach to the issue and policy responses to date still fall short of international best practice.

Drawing on international examples, this section will look at four key challenges for the UK and draw on international best practice to suggest areas for improvements to policy and practice. More detailed policy recommendations will be made in a case study report based on new research in Nigeria and UK, which will be published in summer 2012.

3.1 Identifying victims

One vital component of a country's response to trafficking is a mechanism that ensures that people who are the victims of human trafficking are effectively identified as such. This is important in ensuring that victims' human rights are protected, through the provision of support services and appropriate immigration decisions where relevant – for the individuals concerned, much depends on the decision whether or not to formally identify them as a victim of trafficking. It is also critical in order to build an accurate intelligence picture of trafficking, capable of forming the basis for appropriate preventative measures. Without adequate engagement and data collection, prevention efforts will be partial and at risk of failure. It is also crucial to securing the criminal prosecution of traffickers and exploiters, thus preventing further trafficking by these individuals and acting as a deterrent to others.

By its nature, trafficking is concealed from the authorities, but even when possible victims do come to their attention the process of identifying a victim of trafficking is often very challenging. Disclosure is rarely straightforward and often incomplete (Chandran 2011) for a number of reasons, including fear of retribution by traffickers or those involved in exploitation and the impact of trauma on memory (Korsinski 2011). Identification of victims is further complicated by the fact that many trafficked people face multiple exploitative situations, of which only some may reflect trafficking specifically. There are significant 'grey areas' to be navigated.

17 A fourth 'P' – partnerships – has since been added to this good practice schema – see <http://www.state.gov/j/tip/4p/partner/index.htm>

The definition of trafficking is clearly set out in a number of international documents. However, there are no common definitions of key component concepts, such as ‘recruitment’, ‘deception’ and ‘coercion’. Because of this, correct identification of trafficking victims necessarily relies on a careful and open-minded understanding of how such a person’s lived experience may relate to these terms, particularly where information is scarce – trafficked people may have limited information about their traffickers, the routes they took and the time they spent in different situations.

The creation of the NRM has brought a welcome focus to decision-making and the identification of trafficking victims, but the operation and decisions of the NRM remain controversial.

Research by the Anti-Trafficking Monitoring Group (2010) found significant differences between groups in the rates of identification as victims of trafficking. The great majority – 76 per cent – of UK citizens referred were identified as having been trafficked, while the rate for nationals from countries outside the EU was only 11.9 per cent. The research concluded that:

‘The different rates of positive identification should not be interpreted as evidence per se of discrimination against people originating outside the EU. However, the difference in success is startling. This research suggests the UK is creating a “hierarchy” of victims, and allows, intentionally or not, discrimination against certain categories of victims, such as those coming from particular countries or regions.’

ibid

There is also some suggestion that the NRM may be taking too-narrow a view of the definition of trafficking and that this may impede victim identification (ibid).

There may of course be good reasons for the different rates of identification between groups – for example, non-EU nationals may have stronger incentives to fabricate or exaggerate trafficking claims if their immigration status is in doubt – and the definition of trafficking may always be contested, given the kind of ‘grey areas’ discussed above. Nevertheless, the decision-making record of the NRM would at the very least bear closer examination and review.

The workers within the NRM system who must identify whether or not a person is trafficked are usually immigration officials, not police, trafficking or safeguarding specialists. The UKBA is the authority mandated to make decisions about the trafficking status of people who are under immigration control, which includes almost all non-EU nationals, who make up the majority of NRM referrals. A decision under the NRM can have a significant impact on an asylum claim or other immigration decisions. This potentially creates a very real conflict of interest for UKBA, an organisation also tasked with immigration control.

‘Competent authority’ decision-makers are provided with some training and guidance, but arguably more is needed in light of the complex issues which surround trafficking. The lack of child specialists in the NRM system is a specific problem: children not only experience trafficking differently, they also present particular challenges in terms of disclosure.

The pressures on individual decision-makers are made more pointed by the fact that structures for wider collaboration around decisions are limited, despite this being one

of the requirements of the Council of Europe Convention. Moreover, there are limited mechanisms to ensure that trafficked people can draw on the support of trafficking experts such as lawyers or advocates when referrals are made.

Given the controversial and complex nature of identification decisions, it is surprising that there is only limited scope for reconsideration of decisions. The NRM provides no formal avenue of appeal. Rather, a trafficked person wishing to dispute their initial decision is reliant either on the willingness and capacity of the competent authority to reconsider their initial decision or on some opportunity being provided to discuss their case with a lawyer or advocate able to identify and raise concerns. Beyond this, those wishing to appeal are forced to resort to extreme and costly options, such as appeal to the high court through judicial review.

Despite these challenges, the UK is in fact ahead of many other EU member states with respect to the identification of trafficking victims. There are, however, good practice examples that could provide the basis for an improved victim identification decision-making process in the UK.

Netherlands – the Dutch identification process

In the Netherlands, there has been an increase in training for possible ‘first responders’, such as police and labour inspectors. These officers generally get extensive training in interviewing possible victims of human trafficking and as competent authorities they conduct interviews (NRTHB 2010). One important advantage of this approach is that, generally, the police do not focus on a possible victim’s immigration status, as a border agency might do, and are more likely to be interested primarily in discovering the crime of trafficking.

Another advantage of the Dutch identification process is that the threshold for referral of the possible victims to the competent institutions is lower – not all characteristics in the definition of trafficking have to be perceived. Therefore, even non-obvious trafficking cases have the potential to be uncovered. This means that the identification process is gradual, which allows for support of the victim from an early stage. The disadvantage of this system is that first responders might receive an overflow of cases that is time-consuming and expensive to assess.

3.2 Balancing immigration management and victim protection

In responding to trafficking, governments must achieve a balance between their legitimate desire to manage immigration on one hand and, on the other, their obligations to protect and support victims of trafficking and to reduce or prevent trafficking from occurring. It cannot be the case that any claim of trafficking leads to a favourable immigration or asylum decision, but neither should a desire to reduce or control immigration lead governments to neglect the rights of possible trafficking victims.

The immigration aspect of trafficking is prominent in the structure of UK trafficking policy. The trafficking portfolio sits with the minister for immigration and most of the relevant agencies are attached to the Home Office – as discussed above, most trafficking decisions with respect to non-EU nationals are taken by UKBA. This focus on trafficking policy within the immigration context has been strengthened in the 2011 government trafficking strategy: four pages of this strategy are dedicated to ‘action at the border’, compared with three

on victim protection. The strategy puts an emphasis on addressing trafficking ‘upstream’, through working in countries that trafficked people come from or transit through. Many of the measures presented as ‘upstream’ are then focused on addressing the migration aspects of trafficking (such as training embassy staff to identify visa applications that may be trafficking-related), rather than on addressing the conditions and factors that may make some groups or individuals vulnerable to trafficking in the first place.

Action at the border must of course be part of any anti-trafficking strategy, but the impact of border measures is necessarily limited. Many victims are unaware of the exploitation they face at the point they enter the UK. Many people who are trafficked to the UK enter the country legally, whether through exercise of their EU treaty rights or on a tourist or work visa. Research has demonstrated that a response that emphasises restricting immigration can increase migrants’ vulnerability and facilitate abuse (Dwyer et al 2011).

There is also a risk that an immigration-led approach to trafficking de-emphasises internal trafficking. UK nationals were the seventh-largest national group in referrals to the NRM in its first two years of operation. CEOP’s latest strategic threat assessment of child trafficking in the UK in 2011 found that ‘internal trafficking of UK nationals is a growing form of trafficking’ (CEOP 2011). Internal trafficking is acknowledged in the government’s strategy, but the strategy then emphasises the action that can be taken on the border, and argues that ‘all trafficked people have to cross the UK border’.

An immigration-led policy also creates a risk that immigration control and trafficking decision-making processes are conflated. Processes for interviewing trafficked people about their claim differ across UKBA regional offices but many collect information about an individual’s trafficking and asylum claims (in the event that both claims have been made) in the same interview. As a result, interviewers are required to be highly skilled at collecting, recording and assessing information presented in one sitting in order to make two very different decisions – one focused on whether a person’s life is in danger in their country of origin, in the case of an application for asylum, the other determining whether somebody has been the victim of a crime in the course of their migration to or stay in the UK.

Analysis of 390 NRM case files by the Anti-Trafficking Monitoring Group concluded that ‘the system appears to be putting more emphasis on the immigration status of the presumed trafficked person rather than the alleged crime committed against them’ (ATMG 2010). The analysis also found decisions being ‘copied and pasted’ between decisions for asylum and decisions for trafficking status. While it is clearly legitimate for the government to consider the immigration status of possible trafficking victims, the two decisions must be kept separate. In the UK system these structures are so closely intertwined that there is a real danger of the two decisions becoming interrelated.

For victims of trafficking with irregular immigration status in the UK, only very limited routes to regularise their stay, whether for a short or long time, are available. The main route for victims of trafficking to regularise their immigration status is via the asylum system. However, there are a number of international examples of alternative approaches that are worth noting. The provision of some kind of residency permit, for example, can be an important protection tool for foreign nationals who are possible victims of trafficking. This approach, by not using the asylum route, has the advantage of distinguishing victims of trafficking (who face dangers in the UK) from asylum-seekers (who face danger in their country of origin). Creating a different category in the migration statistics for victims of human trafficking who are allowed to remain in the UK would also help to communicate

the issue to the public, given asylum numbers have frequently been a source of public and political concern in the past, and could remove possible victims of trafficking from the immigration ‘numbers game’.

Any special immigration category for victims of trafficking would need to be based on a rigorous and effective assessment and decision-making process (see above) in order to prevent it becoming (or being seen to become) an easy ‘back door’ route that might be abused by irregular migrants.

United States – the special ‘T-visa’

The United States’ Victims of Trafficking Protection Act 2000 introduced a special route to temporary and permanent residency in an attempt to ensure more protection for trafficking victims. The ‘T-visa’ allows the victim to remain in the US on a ‘non-immigrant’¹⁸ basis: usually, as in the case of a visitor’s visa, this non-immigrant status is given only as a temporary measure, with no view to permanent residency. However, in the case of a T-visa, the holder may acquire permanent residency status after three years, and certain T-visa holders may apply for non-immigrant status for their family as well. The residency right is conditional on cooperation with law enforcement agencies (the victim must have ‘complied with any reasonable request for assistance in the investigation or prosecution’) and on an assessment that the victim ‘would suffer extreme hardship involving unusual and severe harm upon removal’.

Netherlands – conditional residency right and legal protection

Dutch legislation contains a similar provision for victims of trafficking, who are temporarily permitted to stay in Netherlands on the condition of cooperation with the authorities that conduct investigation and prosecution activities. The last report of the National Rapporteur on Trafficking in Human Beings admits that this regulation (the so-called ‘B9 regulation’) is primarily a tool for pursuing prosecutions rather than for victim protection, but it also offers legal assistance, protection and information regarding social security (NRTHB 2010). More importantly, the victim is given a reflection period, access to free accommodation and the possibility of working or training.

3.3 Oversight and scrutiny

A successful policy approach to tackling trafficking needs to be multifaceted. The UK’s response to trafficking, though at times innovative, still lacks a degree of coordination. Policy measures not directly targeted at trafficking can nonetheless have a significant effect on vulnerable people. For example, the original proposals in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to remove trafficking from the scope of legal aid would have prevented victims of trafficking from accessing legal support during an immigration decision-making process or from prosecuting taking an employer to an employment tribunal. The decision to scrap the domestic worker’s visa and replace

¹⁸ ‘Non-immigrant’ is a legal term used in this legislation to clearly show that the T-visa is envisaged as a temporary measure of protection for the victim and their family. Nevertheless, this does not preclude the possibility of residence at a later stage.

it with a route entitling domestic workers to stay for six months only, and with no right to change employers, greatly increases the risk of trafficking and exploitation. As these examples illustrate, critical oversight is needed to ensure that trafficking policy is joined up across government and that unintended consequences do not threaten the UK's response to the problem.

The appointment of an independent agency or 'rapporteur' tasked with scrutinising a country's anti-trafficking work is a recommendation of both the Council of Europe convention on trafficking and the European directive. This rapporteur should be independent of government and be tasked to work with state and non-state actors to ensure that the UK is able to be compliant with its international requirements and make best use of its resources to fight trafficking. A number of countries have appointed rapporteurs, with some success.

As outlined in chapter 2, the UK has a number of agencies working on trafficking; however, as currently constituted, none can fulfil this independent role. The UKHTC's position within SOCA brings advantages in terms of data-sharing and joined up working (European Commission 2012). However, its status within a government agency naturally hinders its ability to critique government policy. Other agencies that may fulfil some part of this independent role are limited by their ties to government as well as by issues of scope and capacity. The existing interdepartmental working group on trafficking has a key role in delivering coordinated policy. However, it cannot provide a useful arena for public and independent scrutiny, nor the leadership and direction needed to drive action.

Netherlands – the National Rapporteur on Trafficking in Human Beings

This independent agency has been in operation since 2000.¹⁹ The responsibilities of the rapporteur include analysing human trafficking trends (nature, scale and effects), collecting data from stakeholders, and making policy recommendations to the government (which are made available to the public). The government responds to the rapporteur's recommendations in parliament. Additionally, the rapporteur has an established international role (NRTHB 2010). These provisions to promote the flow of information on trafficking among institutions and stakeholders in the Netherlands are a good example of how to keep anti-trafficking policy in the spotlight.

3.4. Addressing demand

Addressing the demand for exploitation is a crucial component of addressing trafficking, but this is a complex challenge that cuts across both legal and illegal sectors of the economy and must necessarily involve a wide range of government agencies and stakeholders.

In the UK, the demand that underpins exploitative labour practices and trafficking for forced labour in regulated and unregulated markets, as well as in illegal sectors, is yet to be fully understood or addressed. Both government and the voluntary sector have made some efforts to addressing demand for trafficking to the UK, particular with respect to sex work. This includes campaigns targeted at people who may use prostitutes, criminalising paying for sex with people coerced into prostitution, and the regulation of sectors felt to be at risk of exploitative labour, such as domestic work. However, the impact of these measures so far seems to be limited. For example, despite legislation criminalising

¹⁹ See <http://english.bnrm.nl/>.

payment for sex with someone who has been coerced (section 14 of the Policing and Crime Act 2009) there have been very few prosecutions to date.

Trafficking for sexual exploitation tends to maintain a higher profile than other types of exploitation and, as a result, work expressly to address demand for other forms of exploitation (including both in illegal sectors, such as drug production and counterfeit goods, and legal sectors, such as care and domestic work) is less developed. In fact, in some sectors successful policies addressing demand for exploitation have recently been reversed, such as the scrapping of the domestic worker's visa that enabled domestic workers to switch employers and move on to fair and sustainable work – this change threatens to make this sector far more open to abuse, exploitation and trafficking.

Where action has taken place, efforts have sometimes had negative consequences for trafficked people, causing them to distance themselves from the authorities who should be able to provide support. Enforcement work by the Gangmasters Licensing Authority (GLA) has seen illegal immigrants reported to the UKBA, which reduces the likelihood of trafficked workers reporting examples of exploitation (Oxfam 2009). In London, enforcement work in brothels around Olympic host boroughs has been criticised for a response that emphasises criminalising sex workers, which leaves this group (likely to include trafficked people) more vulnerable to crime and violence (BBC 2012b).

The GLA was established in 2005 to regulate a number of industries where there was felt to be particular risk of exploitative labour, and is frequently cited as an effective mechanism for preventing exploitation in some sectors where vulnerable migrants are known to work. Despite this, the GLA's enforcement powers have never been extended beyond the small number of sectors in which it originally worked: agriculture, horticulture and the shellfish industry. Workers in other sectors known to be vulnerable to exploitation, such as construction, domestic work, hospitality and care, do not come under the same oversight or recourse and so remain vulnerable (Oxfam 2009). As well as failing to address exploitation in these areas, this partial regulatory regime has led some gangmasters to switch their operations into sectors beyond the remit of the GLA.

California, US – the Transparency in Supply Chains Act 2010

This legislation requires retailers and manufacturers who are 'doing business' in California to post a disclosure on their website concerning their efforts to combat human trafficking and forced labour within their supply chains. While opinion is divided on how to encourage corporations to be more socially responsible – from outside through legislation or by encouraging a culture change from within – this is an interesting development to keep an eye on. Given how recently the act was passed, we are yet to see its effectiveness or impact in practice (ATMG 2012).

Similarly, recognised models of workplace inspections linked to anti-trafficking measures which are present in other European countries, such as the Netherlands and Belgium, where proactive inspection plays a major role in prevention and protection, should be used to inform UK policy.

4. LONDON 2012: AN OPPORTUNITY FOR THE UK TO IMPROVE RESPONSES TO TRAFFICKING

Countries hosting major international sporting events have started to take the threat of trafficking seriously and to put in place measures designed to reduce the likelihood of people being trafficked as a result of the event. The 2004 Athens Olympics saw the first serious action around the issue, followed by a series of campaigns in advance of the 2006 FIFA World Cup in Germany (IOM 2006), the 2010 Vancouver Winter Olympics and the FIFA World Cup held in South Africa in the same year (London Councils 2011). The UK has learnt from this collective experience and a number of preventative measures have already been put in place to manage any potential upsurge in trafficking around London 2012.

Stakeholders interviewed for a London Councils report (2011) identified a number of areas where there is a risk that the Olympic and Paralympic Games may have an impact on trafficking. Stakeholders felt there was a particular threat of an upsurge in children being trafficked to beg or to work as pickpockets, in response to the greater volume of visitors expected. The same report also identified that the upsurge in work available before and around the Olympics across multiple sectors (such as construction and catering) and the need for a workforce that is flexible and able to respond to tight deadlines may drive demand for trafficked labour. Another identified risk was that traffickers might exploit the opportunity to bring people into the country in greater numbers at a time when international borders will have to cope with an influx of visitors (The Future Group 2007 cited in London Councils 2011).²⁰

It is difficult to assess the impact of the Olympics on the scale and character of trafficking at this moment in time. However, there have been reports that suggest that there may have been some instances of trafficking associated with the event. There have been recent media reports of 'a huge surge in the number of eastern European migrants arriving in London before the Olympics', including evidence that 'organised crime gangs are trafficking mostly Romanian nationals into the capital and setting them to work exploiting tourists and visitors'. Some of these cases may involve trafficking as understood using by the three-part definition, that is, movement by coercion for the purposes of exploitation. For example, one case highlighted by the media has involved a woman arrested for begging using three children, which shows possible indicators of child trafficking (Evening Standard 2012).

Policy responses

While the links between sporting events and an increase in trafficking are not particularly clear or well understood, events like the Olympics can provide the political and public impetus for the implementation and funding of much-needed measures to prevent, identify and deal with trafficking.

In the UK, a response around the games has been formed through a partnership of governmental and non-governmental agencies. The Human Trafficking and London 2012 network²¹ has been established for 'the purpose of avoiding any possible increase in trafficking and prostitution in the run-up to the London 2012 Games'. It is coordinated by the Greater London Authority and other members include the Mayor's Office for Policing and Crime, Metropolitan police service, London Safeguarding Children Board, Home Office, Ministry of Justice, Eaves, Anti-Slavery International, Stop the Traffik and the Salvation Army.

20 This is a concern thrown into sharp relief by recent controversies about border control.

21 See <http://www.london.gov.uk/priorities/crime-community-safety/tackling-priority-crimes/violence-against-women/trafficking-prosti/network>

The network aims to ‘build on lessons learnt from previous sporting events and work with all the relevant agencies to avoid duplication, identify gaps and emerging issues and work together to tackle them’. It does this through a number of workstreams, including initiatives to:

- address demand for trafficking
- ensure that trafficked people know how they can seek and access support
- ensure that those who may come across trafficking are able to respond
- raise awareness of the dangers of trafficking in source countries
- improve support in the criminal justice sector for victims and witnesses of trafficking, sexual exploitation, forced labour and other related forms of criminality.

Some of the actions that have been agreed to date would have been developed as part of a wider programme of responses not related specifically to the Olympics – however, others represent a specific response to the event. For example, information for athletes and training for ‘games ambassadors’ includes information on human trafficking, the laws in the UK, indicators of trafficking, and how to seek support.

Following previous action around sporting events, several reports have been published that make specific recommendations on the development of effective and appropriate action in this context. The key recommendations are:

- Awareness campaigns should form part of a sustainable and long-term strategy to raise awareness about trafficking beyond the sporting event (Future Group 2007, IOM 2006, London Councils 2011).
- Campaigns should be coordinated between groups to ensure the greatest possible impact and to avoid misleading campaign narratives (IOM 2006).
- An evidence-based approach should be used when adopting anti-trafficking measures (Future Group 2007) and campaigns should be developed with input from affected communities, including trafficked persons, migrant workers, unions and relevant labour sectors, sex workers and others (GAATW 2009).
- Efforts to address trafficking should be holistic (SIWSAG 2009). Efforts should address demand as well as raise awareness among the public about trafficking (London Councils 2011) and prevent trafficking at source through work in countries of origin and transit to raise awareness among potential victims of the dangers of trafficking (Future Group 2007, London Councils 2011).

At this stage, it is difficult to assess how the London 2012 response measures up against these criteria. However, it is clear that through the programme of work developed the UK authorities are taking the risks posed by the games seriously and are taking up some of the opportunities to push ahead in some areas of trafficking response that the Olympics offer. By convening an open network, the risk of multiple uncoordinated campaigns being developed has been reduced. The network also provides a level of scrutiny that should improve responses.

A real strength of the UK’s trafficking strategy around the Olympics is its strong focus on legacy. One of the key features of the network’s activities is to ‘improve knowledge and learning which can contribute towards the wider Olympic legacy and anti-trafficking measures nationally’. Work to cement this within the Olympic movement includes production of a report that evaluates the project and makes suggestions for future Olympic host countries alongside work to ‘lobby for anti-trafficking measures to be included in the IOC bidding process’.

Responses developed around the London 2012 Olympics present a number of opportunities to create a lasting legacy in the UK in terms of general anti-trafficking policies and actions. Specific projects, such as the development of training packages or the appointment of a specific point of coordination for child trafficking within each local authority, could act as pilots for future policy. The processes that have been created to take this work forward, such as the creation of the cooperative network, could also form a lasting legacy. With the right follow-up, the Olympics could spur the UK to address the outstanding issues identified in this paper and in other research.

CONCLUSION

Tackling human trafficking remains a huge challenge for governments around the world. In the UK, there have been a number of positive developments, and the London 2012 Olympic and Paralympic Games provide an opportunity for further action.

However, the UK response to trafficking remains weak in a number of key aspects. The government's largely immigration-led approach makes victim identification and protection less effective, and has tended to shift emphasis away from measures that could tackle the demand for exploitation that ultimately drives trafficking. A focus on border control and immigration also means that internal trafficking has too often been ignored – even if the government was successful in stopping all immigration, the problems of demand and vulnerability would remain. Trafficking, whether international or not, can only be tackled by understanding and working to address the vulnerabilities that force people into exploitation.

The examples of international good practice outlined in this briefing provide some starting points for considering what the UK could do differently to take a truly end-to-end approach to stopping human trafficking. Whether measures act within the UK or overseas, the UK response must extend beyond the border. IPPR, working with partners, will present a full set of policy recommendations in a more detailed report based on research with people who have been trafficked to the UK from Nigeria, to be published in summer 2012.

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