



Human trafficking: UK responses

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Human trafficking is a subject of growing concern, both internationally and domestically. There are some difficulties of definition, as various different terms are used inconsistently, and it is also very difficult to get a clear idea of the numbers of people involved in human trafficking. Despite this, there have been various international agreements, studies and campaigns to address the problem. Various legislative and other policies have been put in place, including new trafficking offences and the creation of a UK Human Trafficking Centre.

The Government announced in August 2013 that it would introduce a Modern Slavery Bill, to be published this year in draft form for pre-legislative scrutiny. The bill will consolidate into one act the offences used to prosecute slave drivers, introduce Trafficking Prevention Orders to restrict the activity and movement of convicted traffickers and provide for a new Anti-Slavery Commissioner to hold law enforcement and other organisations to account. The draft Bill was published as part of a white paper on 16 December 2013 and is discussed separately in Library Standard Note 6792 *Draft Modern Slavery Bill*.

This note looks at the UK's responses to human trafficking, including the Government's strategy against trafficking and implementation of the Council of Europe Convention against trafficking and a related Directive.

[Library Standard Note SN/HA/3753](#) looks at the international responses to trafficking.

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1 Definition

Article 3 of the 2004 *Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* set out the following definition of trafficking:

- (a) "Trafficking in persons" shall mean 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 a position of vulnerability or of the giving or receiving of 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;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) "Child" shall mean any person under eighteen years of age.

This definition has since been adopted in the *Council of Europe's Convention on Action Against Trafficking in Human Beings* and is also cited by the Government in its 2011 publication *Human Trafficking: The Government's Strategy*.

The UK Human Trafficking Centre, part of the Organised Crime Command in the National Crime Agency, gives the following definition:

Human trafficking is the movement of a person from one place to another into conditions of exploitation, using deception, coercion, the abuse of power or the abuse of someone's vulnerability. It is possible to be a victim of trafficking even if your consent has been given to being moved. Although human trafficking often involves an international cross-border element, it is also possible to be a victim of human trafficking within your own country.

There are three main elements:

- The movement – recruitment, transportation, transfer, harbouring or receipt of people
- The control – threat, use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or the giving of payments or benefits to a person in control of the victim
- The purpose – exploitation of a person, which includes prostitution and other sexual exploitation, forced labour, slavery or similar practices, and the removal of organs

Children cannot give consent to being moved, therefore the coercion or deception elements do not have to be present.¹

¹ National Crime Agency website, *Human Trafficking* [accessed 22 November 2013]

2 UK statistics

Due to its illegal and hidden nature, there are no robust statistics on the number of people – adults or children – trafficked to or within the UK for the purposes of labour or sexual exploitation. Regarding modern slavery in the UK, in March 2013 the Centre for Social Justice Slavery Working Group said:

Our research shows that a large proportion of cases are never recognised or reported, and do not appear in any statistics or measures of the size of the problem. There is no consistent grip on the numbers; agencies charged with such responsibility are groping in the dark for a sense of scale.²

However, various estimates do exist.

In its Regulatory Impact Assessment for ratification of the *Council of Europe Convention on Action against Trafficking in Human Beings*, published in 2008, the Home Office estimated that there were approximately 4,000 victims of trafficking for sexual exploitation in the UK at any one time.³

During 2008 and 2009 the Home Affairs Committee conducted an inquiry into human trafficking in the UK. Its report, published in May 2009, highlighted the lack of accurate statistical information and estimated that there are at least 5,000 trafficking victims in the UK.⁴

In August 2010, the Association of Chief Police Officers (ACPO) published a report that suggested that 17,000 of the estimated 30,000 women involved in off-street prostitution in England and Wales were migrants. Of these women, 2,600 were deemed to have been trafficked and a further 9,200 were deemed vulnerable migrants who might be further victims of trafficking. Most of those trafficked (2,200) were from Asia, primarily China.⁵ However, some organisations, for example Amnesty International and the women's charity Eaves, have argued that this figure is an underestimate, possibly due to an "overly prescriptive" definition of trafficking.⁶

Statistics derived from victim referrals to the National Referral Mechanism (see section 5.1 of this note) were set out in *Human Trafficking: the Government's Strategy*:

...the UK's human trafficking victim identification and support framework, the National Referral Mechanism (NRM), recorded 1,254 potential victims of trafficking in the UK referred from 1 April 2009 to 31 December 2010, broken down as follows:

Exploitation type	Number of referrals	
	Child	Adult
Sexual Exploitation	99	438
Labour Exploitation	98	267
Domestic Servitude	44	175

² Centre for Social Justice, *It happens here: Equipping the United Kingdom to fight modern slavery*, March 2013, p16

³ Home Office, *Regulatory Impact Assessment of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings*, 6 October 2008

⁴ Home Affairs Committee, *The Trade in Human Beings: Human Trafficking in the UK*, 6 May 2009, HC23-I 2008-09, para 28

⁵ ACPO, *Setting the Record*, August 2010

⁶ "2,600 prostitutes were 'trafficked into UK'", *BBC News website*, 18 August 2010

Unspecified Exploitation	81	52
Totals	322	932
No of Prosecutions – 2010/11	116*	

* Number of prosecutions recorded by the Crown Prosecution Service⁷

The [Second Report of the Inter-Departmental Ministerial Group on Human Trafficking](#), published in October 2013, gave the following summary of the group’s assessment of the scale of the problem of human trafficking in the UK:

In 2012, 1,186 potential victims of human trafficking were referred to the National Referral Mechanism (NRM), a 25% increase on the number of referrals in 2011. Of these, 786 were females and 400 were males; 815 were adults and 371 were children. The source countries for the greatest number of potential victims referred into the NRM were Nigeria, Vietnam, Albania, Romania and China. Amongst adult referrals, sexual exploitation remained the most common form of abuse identified through the NRM, although reporting of labour trafficking and other forms of criminal exploitation continued to rise. For child victims, both sexual exploitation and forced labour featured prominently. The UK Human Trafficking Centre (UKHTC) Strategic Assessment for 2012 estimated that there are up to 2,255 possible victims of human trafficking in the UK.⁸

3 Trafficking offences

Until 2003 there were no specific trafficking offences in the UK. Other offences such as facilitation of illegal entry, kidnap, false imprisonment and living off immoral earnings had to be applied instead. However, a number of specific offences have now been introduced. For a review of the operation of current anti-trafficking legislation, please see HM Government, [Report on the Internal Review of Human Trafficking Legislation](#), May 2012.

3.1 Trafficking for sexual exploitation

On 10 February 2003 a new set of offences of “trafficking in prostitution” came into force.⁹ These offences, under section 145 of the *Nationality, Immigration and Asylum Act 2002*, were simply a stop-gap measure, and were soon replaced by broader offences of “trafficking for sexual exploitation” created by sections 57-60 of the *Sexual Offences Act 2003* which came into force on 1 May 2004.¹⁰ The wording of the replacement offences is similar to that in the 2002 Act; they prohibit trafficking into, within or out of the UK for sexual exploitation and attract a maximum sentence of 14 years’ imprisonment. Some examples of how the new offences might work were given in the Explanatory Notes to the 2003 Act.¹¹ These offences do not apply to Scotland, but section 22 of the *Criminal Justice (Scotland) Act 2003* created a similar offence in Scotland of trafficking for the purposes of prostitution.

Unusually, these offences cover not only anything done in the UK by anyone regardless of their nationality, but also anything done outside the UK by a British person or company.¹²

⁷ HM Government, [Human Trafficking: the Government’s Strategy](#), 2011, p6

⁸ [Second report of the Inter-Departmental Ministerial Group on Human Trafficking](#), Cm 8731, October 2013,p7

⁹ *The Nationality, Immigration and Asylum Act 2002 (Commencement No. 2) Order 2003*, SI 2003/1

¹⁰ *Sexual Offences Act 2003 (Commencement) Order 2004*, SI 2004/874

¹¹ [Explanatory Notes to the Sexual Offences Act 2003](#), paras 104-113

¹² s60 of the 2003 Act

Section 31 of the *UK Borders Act 2007*, which came into force on 31 January 2008,¹³ widened the extra-territorial range of the trafficking offences yet further by:

...ensuring that facilitating the arrival or entry into the UK of a person for the purposes of exploitation, regardless of where the facilitation took place and irrespective of the nationality of the facilitator, are now caught by the offences.¹⁴

3.2 Trafficking for labour or other exploitation

Section 4 of the *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004* introduced new offences of trafficking for labour and other exploitation including organ removal or benefit fraud. It is couched in similar terms to the sexual trafficking offences, and covers trafficking to, within or out of the UK for the purposes of forced labour or other exploitation. Like the other trafficking offences it attracts a maximum penalty (on conviction on indictment) of 14 years' imprisonment and/or a fine. Following a Sewel motion debated by the Scottish Parliament on 12 February 2004, the new offence applies in Scotland as well as England, Wales and Northern Ireland.¹⁵ It came into force on 1 December 2004.¹⁶

Again the offence can be committed outside the UK (by both British and non-British nationals).¹⁷

This offence remains separate from the offence of trafficking for sexual exploitation in the *Sexual Offences Act 2003*. While there are some minor differences, the two offences are broadly similar (and have identical penalties). The two offences together meet the minimum requirements of Article 3 of the *Palermo Protocol* (referred to in section 1 of this note):

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.

3.3 Sex with a coerced, deceived or threatened person

During 2008 the Home Office conducted a six month review into tackling prostitution. The outcome of the review was published in November 2008; it included a recommendation that paying for sex with someone who is being controlled for someone else's gain (i.e. a pimp or a trafficker) should be criminalised.¹⁸ The then Government took this recommendation forward in the *Policing and Crime Bill*, which had its first reading on 18 December 2008. As introduced, the Bill proposed a new strict liability offence of paying for the sexual services of a prostitute who was being "controlled for gain".¹⁹ There was lengthy debate on the meaning of "controlled for gain", and concerns were expressed that the term could apply in wider circumstances than those the new offence aimed to cover. On Report, a Government amendment replaced the reference to a prostitute being "controlled for gain" with a condition that:

a third person (C) has used force, deception or threats of a kind likely to induce or encourage B to provide the sexual services for which A has made or promised

¹³ *UK Borders Act 2007 (Commencement No.1 and Transitional Provisions) Order 2008, SI 2008/99*

¹⁴ [Explanatory Notes to the UK Borders Act 2007](#), para 101

¹⁵ Motion S2M-838, Scottish Parliament Official Report 12 Feb 2004 col 5817-28

¹⁶ SSI 2004/494, art 2 (Scotland) and SI 2004/2999, art 2, Schedule (England, Wales and Northern Ireland).

¹⁷ section 5 of the 2004 Act and section 31 of the *UK Borders Act 2007*

¹⁸ Home Office, [Tackling the demand for prostitution: a review](#), December 2008

¹⁹ Further details of the proposed offence, and some of the responses to it, are set out in Library Research Papers 09/04 [Policing and Crime Bill](#) and 09/39 [Policing and Crime Bill: Committee Stage Report](#)

payment, and C acted for or in the expectation of gain for C or another person (apart from A or B).

During the Bill's Lords committee stage, another government amendment made further changes to the language of the Bill, replacing the reference to the use of "force, deception or threats" with a reference to the use of "exploitative conduct of a kind likely to induce or encourage the prostitute to provide sexual services for which the sex buyer has made or promised payment".²⁰ The change was intended to ensure that the new offence would cover psychological coercion (for example threatening to report the sex worker to the immigration authorities) as well as physical coercion.

The offence is now set out in section 53A of the *Sexual Offences Act 2003* (as inserted by section 14 of the *Policing and Crime Act 2009*):

The new section creates a strict liability offence which is committed if someone pays or promises payment for the sexual services of a prostitute who has been subject to exploitative conduct of a kind likely to induce or encourage the provision of sexual services for which the payer has made or promised payment. The person responsible for the exploitative conduct must have been acting for or in the expectation of gain for himself or herself or another person, other than the payer or the prostitute.

Subsection (2) of the new section provides that it does not matter where in the world the sexual services are to be provided. An offence is committed regardless of whether the person paying or promising payment for sexual services knows or ought to know or be aware that the prostitute has been subject to exploitative conduct. In other words the offence is one of strict liability and no mental element is required in respect of the offender's knowledge that the prostitute was forced, threatened, coerced or deceived.²¹

The maximum penalty for this offence is a fine of £1,000. The offence came into force on 1 April 2010.²²

3.4 Servitude or forced labour

During the Lords stages of the Coroners and Justice Bill in 2009, Baroness Young of Hornsey tabled new clauses aimed at criminalising servitude and forced labour.²³ The clauses had been drafted by Liberty and Anti-Slavery International. A legal opinion on the new clauses, issued by the former Director of Public Prosecutions Ken MacDonald QC and Helen Mountfield of Matrix Chambers, said:

In our view, the existing criminal law offences pertaining to trafficking, the slave trade, false imprisonment and kidnapping are not apt to cover all offences of servitude. In order for the United Kingdom to comply with its obligations under Article 4 ECHR and the ILO, clear, dissuasive and directly applicable statutory criminal offences of forced labour and servitude are needed which penalise and permit effective prosecution of those who subject others to abuse and oppression. Without them, the United Kingdom is vulnerable to successful challenges in the European Court of Human Rights. We are aware of two such challenges in the pipeline.²⁴

²⁰ See [Library Standard Note SN/HA/5219 Policing and Crime Bill: Lords amendments](#) for further details

²¹ [Explanatory notes to the Policing and Crime Act 2009, paras 71 to 72](#)

²² *Policing and Crime Act 2009 (Commencement No. 4) Order 2010, SI 2010/507*

²³ See [Library Standard Note SN/HA/5211 Coroners and Justice Bill: Lords amendments](#) for further details

²⁴ Ken MacDonald QC and Helen Mountfield, Matrix Chambers, *In the matter of Article 4 of the European Convention on Human Rights and whether an offence of servitude or forced labour is required to give effect to it and an amendment to the Coroners and Justice Bill*, 8 July 2009, para 3

The then Government’s initial position was that the existing criminal law set out adequate protection and penalties in respect of such activities. However, having considered the matter further, it subsequently introduced amendments of its own:

...we accept that improvements could be made to the current law through an additional offence in this area. That said, and as the amendments before us make clear, this is a complex subject. This would be an important offence that was subject to serious penalties, and it is important that it should be as clear as circumstances permit. (...)

We think that a slightly different approach is preferable—an approach that seeks to achieve the same aim but that relies for its core substance on Article 4, on the prohibition of slavery and forced labour, of the European Convention on Human Rights. This approach is used for the offence of trafficking for such purposes. Our proposed formulation would follow this approach but without the requirement that the person has been trafficked.²⁵

The offences are now set out in section 71 of the *Coroners and Justice Act 2009*, subsection (1) of which provides:

- (1) A person (D) commits an offence if—
 - (a) D holds another person in slavery or servitude and the circumstances are such that D knows or ought to know that the person is so held, or
 - (b) D requires another person to perform forced or compulsory labour and the circumstances are such that D knows or ought to know that the person is being required to perform such labour.

The maximum penalty (on conviction on indictment) is 14 years’ imprisonment and/or a fine. The offences came into force on 6 April 2010.²⁶

4 Convictions and sentencing

Details of the number of convictions for trafficking offences between 2005 and 2011 were set out in response to a written parliamentary question in July 2012:

<i>Defendants found guilty at all courts for human trafficking offences, England and Wales, 2005-2011</i> ⁽¹⁾⁽²⁾							
Offence	2005	2006	2007	2008	2009	2010	2011
Trafficking for sexual exploitation ⁽³⁾	12	15	15	24	23	10	8
Trafficking for exploitation ⁽⁴⁾	-	6	8	-	2	6	-
Total	12	21	23	24	25	16	8

(1) The figures given in the table on court proceedings relate 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.

²⁵ [HL Deb 28 October 2009 c1182](#)

²⁶ *Coroners and Justice Act 2009 (Commencement No 4, Transitional and Saving Provisions) Order 2010, SI 2010/816*

(2) Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

(3) Includes offences under the Sexual Offences Act 2003, Sections 57, 58 and 59.

(4) Includes offences under the Asylum and Immigration (Treatment of Claimants) Act 2004, Section 4.

Source: Justice Statistics Analytical Services - Ministry of Justice.²⁷

A written answer of 14 January 2009 set out the average sentence for people convicted of trafficking offences:

Mr. Grieve: To ask the Secretary of State for the Home Department what the average sentence was for those convicted of human trafficking offences over the last five years. [243300]

Jacqui Smith: The sentences imposed by the courts on those convicted of human trafficking ranges from suspended sentences to 14 years imprisonment.

The average length of sentence however for the offence of human trafficking is 4.69 years although it should be noted in many cases those convicted are serving longer terms of imprisonment as result of convictions for other related offences such as rape, inciting prostitution or immigration related offences.²⁸

5 Support for victims

It is increasingly being realised that anti-trafficking strategy needs to look not only at traffickers but also at the trafficked. Victims of trafficking may be in a vulnerable position and require support and assistance, not least to help them provide information to the police about their traffickers and to prevent them being re-trafficked themselves.

5.1 The National Referral Mechanism

As part of its obligations under the *Council of Europe Convention on Action against Trafficking in Human Beings* (see section 11 of this note), the previous Government introduced a “national referral mechanism” (NRM) to help identify victims of trafficking. Anyone who the relevant authorities have “reasonable grounds” to believe has been trafficked is entitled to a 45 day reflection and recovery period, during which they can access services such as those provided by the Salvation Army (see following section of this note). Details of how the NRM process works are set out on the website of the National Crime Agency (NCA): see [National Referral Mechanism](#) [accessed 22 November 2013].

Statistics on the number of victims referred to the authorities via the NRM are also published on the [NCA website](#) and the archived [Serious and Organised Crime Agency website](#).

Some organisations have criticised the NRM for the emphasis that it places on a person’s immigration status. One report has even gone so far as to describe the NRM as “not fit for

²⁷ [HL Deb 25 July 2012 cWA165](#)

²⁸ [HC Deb 14 Jan 2009 c800W](#)

purpose”.²⁹ In 2010 the then immigration minister Damian Green said that the Government was committed to identifying and protecting victims and would “look very carefully at the individual criticisms of the system set up in 2009, and act where necessary”.³⁰

5.2 The Poppy Project and the Salvation Army

On 10 March 2003 the Home Office announced a pilot scheme to provide accommodation for female trafficking victims, which it was hoped would result in the police obtaining more information on the traffickers who brought them to the UK:

From today, safe accommodation and a range of services will be provided to support female victims of human trafficking through a non-governmental organisation. A six-month pilot scheme located in London will cater for approximately 25 women, on a rolling basis, who meet the criteria for access to the services, including a willingness to come forward and co-operate with the authorities in the combating of international organised crime that could lead to prosecutions of criminals.³¹

This scheme, known as the Poppy Project, currently has 9 bed spaces for female trafficking victims and also provides an outreach service to women who do not need accommodation.³²

During Operation Pentameter 2 (see section 7.4 of this note) the Poppy Project received £1.3 million of additional government funding to help with capacity building. This resulted in service level agreements being put in place with 17 women’s refuges across the country.³³

On 24 March 2009 the Home Office announced that it would be investing a further £3.7 million over the next two years into the Poppy Project, which would be used for initiatives such as an expansion of supported accommodation and an increase in advocacy workers.³⁴

In December 2010, the Ministry of Justice issued a tender for a contract to deliver support services to adult trafficking victims in England and Wales. Providers were invited to bid for funding to

Deliver effective coordination and monitoring of the provision of support services to secure efficiency and flexibility of service according to demand and victim need and to deliver equal access to support services for all adult victims of human trafficking, regardless of their particular equality and diversity background, or type of exploitation suffered.³⁵

In April 2011, the press reported that the contract had been awarded to the Salvation Army.³⁶ The Salvation Army’s website says that its service:

...is designed to preserve the dignity of victims, protect and care for them in safe accommodation, and provide access to confidential client-based support services including

²⁹ The Anti Trafficking Monitoring Group, *Wrong Kind of Victim?*, June 2010, p9. See also Amnesty International press release, *UK: Anti-trafficking measures 'not fit for purpose' and breach international law - new report*, 16 June 2010

³⁰ Home Office press release, *Combatting trafficking a key priority*, 16 June 2010

³¹ [HC Deb 10 March 2003 c3WS](#)

³² Eaves website, *The Poppy Project: Our Services* [accessed 22 November 2013]

³³ [HL Deb 25 June 2008 c256-7WA](#)

³⁴ [HC Deb 24 March 2009 cc11-12WS](#)

³⁵ BusinessLink website, *Contracts Finder: view contracts – adult human trafficking* [accessed 18 November 2013]

³⁶ “Sex trafficking charity loses out to Salvation Army over £6m contract”, *Guardian*, 11 April 2011 and “Poppy Project funding redirected to Salvation Army”, *Guardian*, 9 May 2011

- Legal Advice
- Health Care
- Counselling
- Educational Opportunities³⁷

The Ministry of Justice and the Salvation Army made the following comments on the contract award:

Justice minister, Crispin Blunt, said:

'This funding will allow the Salvation Army to work together with counter trafficking agencies and specialist support organisations to provide an escape route for these men and women.'

Major Anne Read, The Salvation Army's Anti-Human Trafficking Response Co-ordinator for the UK and the Republic of Ireland, said: 'For many years we have worked with and campaigned for these vulnerable victims, working with government, police and other agencies to help victims of human trafficking.'

'We are also partners on many of the groups which exist to ensure this issue is kept on the public agenda.'

Mai, a female victim of trafficking from Thailand who has been helped by The Salvation Army's services, said:

'I was forced to work 24/7 as a prostitute and to take drugs - things I didn't want to do.'

'The Salvation Army supported me financially, emotionally and physically, getting me the medical attention I required after the trauma I had endured.'

The Salvation Army, which already runs safe housing for victims of trafficking, will use the government funding to provide approximately 25 per cent of support services and commission the remaining support from experienced, specialist groups - ensuring victims get the best available help.³⁸

The Poppy Project criticised the decision, saying that it had focused on cost rather than quality of provision.³⁹ The then justice minister Crispin Blunt said:

As the Minister who announced the result of the competition this morning, I want to make it clear that although the Salvation Army, which won the contract, will expect to administer directly about 25% of the funds made available by the Ministry of Justice, 75%—£1.5 million a year—will remain available to organisations such as POPPY so that they can provide the services that they have provided in the past. Although the Salvation Army has taken over the leading role, it will not do all the work itself, and we will need to use the expertise of organisations such as POPPY.⁴⁰

³⁷ Salvation Army website, [Human trafficking victims](#) [accessed 18 November 2013]

³⁸ Ministry of Justice news release, [£2m a year for human trafficking victims](#), 9 May 2011

³⁹ Poppy Project press release, [Government awards trafficking contract to 'prayer and fasting' organisation](#), 12 April 2011

⁴⁰ [HC Deb 9 May 2011 c982](#)

The then immigration minister Damian Green said that he hoped the new system of using a prime contractor would help make provision less “London-centric”.⁴¹

Further details of the tender process were provided in response to a parliamentary question in the Lords:

Asked by **Lord Lester of Herne Hill**

To ask Her Majesty's Government on what grounds it was decided not to award the contract for support to trafficked women to the Poppy Project.[HL8714]

The Minister of State, Ministry of Justice (Lord McNally): The Government's decision follows a rigorous procurement process. A competitive tender was launched in December 2010 and included an open dialogue with six interested organisations. A detailed specification, informed by the dialogue stage of the process, was published in March. Six organisations, including Eaves Housing, which runs the Poppy Project, submitted bids.

Bids were assessed by a panel comprising officials from the Home Office, the Ministry of Justice, the UK Human Trafficking Centre and the UK Border Agency. The panel considered how bidders had: addressed the tender specification; demonstrated experience of having provided specialist support to vulnerable victims; and demonstrated the capacity to contract with a range of specialist providers, so as to guarantee the provision of support sensitive to the particular needs of individual victims, including gender specific services and services for victims with disabilities or mental health needs.

All unsuccessful bidders received detailed feedback explaining the panel's decision and were given the opportunity to attend debrief sessions. The debrief information is commercially confidential to the unsuccessful bidders.⁴²

6 Child victims

6.1 Support services

There are no specific support services for child victims of trafficking. They will in some circumstances be supported by local authorities under general provisions of the *Children Act 1989*, which states that local authorities have a duty to safeguard and promote the welfare of children who are in need by providing a range and level of services appropriate to those needs or arranging for their provision by other agencies.

In its 2009 report on human trafficking, the Home Affairs Committee recommended that:

- the Government should carry out a specific nationwide study into the number of possible child trafficking victims going missing from care and how this number could be reduced; and
- each local authority should appoint a specified person to supervise the care of each child, which the Committee considered could lead to better co-ordination and possibly the provision of extra services for those in need of hard-to-access support.⁴³

⁴¹ [HC Deb 9 May 2011 c994](#)

⁴² [HL Deb 19 May 2011 ccWA201-2](#)

⁴³ Home Affairs Committee, *The Trade in Human Beings: Human Trafficking in the UK*, 6 May 2009, HC23-I 2008-09, paras 153-154

Further details on local authority care for trafficked children were set out in response to a parliamentary question in January 2013:

Michael Connarty: To ask the Secretary of State for Education if he will review the system of placing child victims of trafficking in local authority care. [138422]

Mr Timpson: Lone migrant children, including those that may have been trafficked, come into care, and then receive the full range of support and care that all looked after children are entitled to. Local authorities must allocate each child a social worker to 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 they have the necessary legal and other support they need, including access to health, education and appropriate and safe accommodation, whether through a foster care arrangement, children's home, or supported accommodation. They also have an Independent Reviewing Officer to oversee their care arrangements, as well as access to an advocate and an independent visitor.

Some local authorities are very effective in supporting these vulnerable young people, and others less so. We want all local authorities to come up to the standard of the best. The Government, with support from the Office of the Children's Commissioner, has commissioned a piece of work to examine the practical care arrangements for looked after children who have or may have been trafficked. This will identify good practice as well as issues to be considered.⁴⁴

The commissioned work referred to in the above PQ has now been published: see Refugee Council and the Children's Society, [Still at Risk: A review of support for trafficked children](#), September 2013.

In May 2009, the Guardian newspaper published details of a leaked internal report from the UK Border Agency, which suggested that a care home near Heathrow airport was being used by traffickers as a "clearing house" for trafficked children:

The intelligence report from the Border and Immigration Agency, obtained by the Guardian, shows how a 59-bed local authority block has been used as a clearing house for a trade in children that stretches across four continents.

At least 77 Chinese children have gone missing since March 2006 from the home, operated by the London borough of Hillingdon.

Only four have been found. Two girls returned after a year of exploitation in brothels in the Midlands. One was pregnant while the other had been surgically fitted with a contraceptive device in her arm. Others are coerced with physical threats to work as street-sellers of counterfeit goods. It is thought that many work in cannabis farms.

(...)

The report, by the immigration agency's national intelligence unit, was passed to the Guardian by a source concerned that too little action was being taken to tackle the problem. It says Chinese children arrive alone on flights to Heathrow before they are picked up by border officials and taken into local authority care. In two thirds of cases, they disappear quickly – most within a week and many within 24 hours. Many flee

⁴⁴ [HC Deb 22 January 2013 c194W](#)

during fire drills and 10 have jumped out of windows. Others simply walk out of the front door into waiting cars.⁴⁵

In June 2012, the APPG for Runaway and Missing Children and Adults and the APPG for Looked After Children and Care Leavers published their findings from a joint inquiry into children who go missing from care.⁴⁶ This drew the following conclusions in relation to trafficked children in local authority care:

Trafficked children from abroad are particularly being let down and their needs ignored because the authorities view child trafficking as an immigration control issue. Hundreds of them disappear from care every year, many within 48 hours and often before being registered with children's services. The majority of these children are never found again.⁴⁷

The report recommended that the best way to help trafficked children would be to accommodate them in specialist foster care rather than in B&Bs, hostels and supported lodgings.⁴⁸ It suggested that a pilot scheme run by Department for Education and Barnardo's to train more foster carers to support trafficked children and/or sexually exploited children should be rolled out nationally.⁴⁹

The report also recommended that a legal advocate with parental responsibility should be appointed for all unaccompanied migrant children, in order to support them through complex welfare, legal, asylum and immigration processes, and to take decisions based on their best interests.⁵⁰

In November 2011, Home Affairs minister Lord Henley made the following comments on calls to introduce a guardian for child trafficking victims:

...local authorities have a statutory duty to ensure that they safeguard and promote the welfare of all children, regardless of their immigration status or nationality. We believe that this responsibility should remain with the local authorities, which co-ordinate the arrangements for each child to ensure that they are safe and to promote their welfare. Local authorities obviously have comprehensive systems in place to do this. Adding a "guardian" to this framework risks creating yet another level of complexity to these arrangements, which are already strong and ensure the best interests of the child. Even worse, it risks creating confusion for children if plans for their care are not effectively co-ordinated.⁵¹

The Government's current policy on child trafficking victims is set out in chapter 7 of *Human Trafficking: The Government's Strategy* (2011) and in the practice guidance *Safeguarding children who may have been trafficked* (October 2011).

⁴⁵ "Revealed: 77 trafficked Chinese children lost by home", *Guardian*, 5 May 2009. See also "People trafficking: a phone call, a car door opens - and another child vanishes", *Guardian*, 5 May 2009 and "Brown pledges to investigate trafficking of children through Heathrow care home", *Guardian*, 6 May 2009.

⁴⁶ APPG for Runaway and Missing Children and Adults and APPG for Looked After Children and Care Leavers, *Report from the joint inquiry into children who go missing from care*, June 2012

⁴⁷ Ibid, p10

⁴⁸ Ibid, pp17-18

⁴⁹ For details of the scheme, please see Barnardo's website, *Fostering: What is Fostering? Types of foster placements – child sexual exploitation and trafficking* [accessed 18 November 2013], HC Deb 23 May 2011 c450W, HC Deb 5 February 2013 cc151-2W and "Sexually exploited children are at further risk in care, says Barnardo's", *Guardian*, 6 June 2012

⁵⁰ APPG for Runaway and Missing Children and Adults and APPG for Looked After Children and Care Leavers, *Report from the joint inquiry into children who go missing from care*, June 2012, p19

⁵¹ HL Deb 25 November 2011 c1282

6.2 Statistics

In 2007 the Home Office commissioned the Child Exploitation Online Protection Centre (CEOP) to analyse the potential number of children who had been trafficked.⁵² CEOP's analysis was published in June 2007.⁵³ It found 330 children fitting the child-trafficking profile, 85% of whom (276 children) were found to be between the ages of 15 and 17. 24 children were found to be between 13 and 14 years of age, and 14 children were documented as 12 and under, the youngest being a 9-month-old baby. Nearly half the children identified were boys, but for most of these boys the type of exploitation involved was not clear. The study cautioned that it should not be used to estimate the total number of children who have been trafficked into and within the UK, but only as a scoping exercise.

In 2009 CEOP published a Strategic Threat Assessment, which built on the work of the 2007 scoping exercise.⁵⁴ It identified 324 children as being potential victims of trafficking or exploitation from data supplied covering the 12 month period from 1 March 2007 to 29 February 2008. A grading system was used to show the likelihood that each child was trafficked, with 159 graded at level four (high) and 12 at level five (very high). Victims were identified as originating from a total of 52 separate countries, the most common being China, the UK,⁵⁵ Afghanistan, Nigeria, Romania and Vietnam.

Further updates were provided in 2010, CEOP identified 287 children as potentially trafficked in the 12 month period from March 2009 to February 2010, and in 2011, when 202 children were identified as trafficked into and within the UK over the period 1 January 2011 to 15 September 2011.⁵⁶

Since 1 July 2011 CEOP has had lead responsibility for missing children (trafficked or otherwise). Its approach to the problem is set out in its [Scoping Report on Missing and Abducted Children](#) (2011).

7 Law enforcement

7.1 Reflex

Reflex was established by the then Government in 2001, in response to the deaths of 58 immigrants in a lorry found at Dover to bring together all the relevant agencies to gather information on organised immigration crime and to plan responses to it:

We have established Reflex as a multi-agency response to organised immigration crime into the UK, including Northern Ireland. Reflex is led by the National Crime Squad and engages all the key agencies involved in combating organised immigration crime, including police, immigration services, security and intelligence agencies and the Foreign and Commonwealth Office (FCO), in building up intelligence and planning operations against the traffickers.⁵⁷

⁵² [HC Deb 13 July 2006 c2028W](#)

⁵³ CEOP, [A scoping project on child trafficking in the UK](#), June 2007

⁵⁴ CEOP, [Strategic Threat Assessment: Child Trafficking in the UK](#), April 2009

⁵⁵ The internal movement of UK children for sexual and labour exploitation has only recently been labelled as "trafficking"; however, CEOP suggests it has been going on for many years under labels such as "child prostitution" and "grooming for sexual exploitation" (pp36-40 of the Strategic Threat Assessment provide a more detailed overview of internal trafficking).

⁵⁶ CEOP, [Strategic Threat Assessment – Child Trafficking in the UK](#), 2010 and [Child Trafficking Update](#), October 2011

⁵⁷ [HC Deb 26 November 2002 c248W](#)

One of its three key objectives was to target the immigration aspects of people trafficking. It worked with source and transit countries to share intelligence and arrest suspected traffickers:

At the beginning of 2002 the UK and Romania agreed to establish a central intelligence unit, which was set up in April 2002. During its first year of operational activity 105 criminal groups were identified, 48 were disrupted and 90 individuals were arrested in relation to immigration or trafficking offences. We are rolling out this sort of approach with other countries, including the Czech Republic.⁵⁸

Alongside this development of overseas alliances, the then Home Office Minister Des Browne identified another key component of the Reflex strategy as “the expansion of an international network of Immigration Liaison Officers in countries that are considered to contain key nexus points for transit to the UK”.⁵⁹

7.2 Europol

Europol has a Liaison Officers’ network to help operational co-operation between the law enforcement authorities of its Member States. It publishes an annual fact sheet on trafficking in the EU, the most recent edition of which highlighted the following potential “emerging and future issues”:

- There are indications that use of the Internet increasingly facilitates the transnational marketing of sex workers, in cooperation with specialist web hosts and administrators. It is anticipated that this trend will increase, as will the number of women sexually exploited in less visible, online environments.
- Any further migrant flows from North African and Middle Eastern countries subject to political instability are likely to provide criminal groups with further opportunities for exploitation.
- The practice of trafficking for the commission of welfare benefit fraud is likely to expand because of its large profits (single trafficking groups can generate as much as 125,000 euros per month) and low levels of perceived risk of detection.
- As passenger air fares increase in line with rising oil prices, it is natural that traffickers will reflect this in the cost to victims in terms of transport fees and subsequent exploitation. It may also lead in some cases to a shift towards lower cost overland and sea travel.⁶⁰

7.3 Operation Pentameter

Operation Pentameter was a national joint venture which developed from, and was funded through, the Reflex initiative. It was the first co-ordinated effort to tackle human trafficking on a national scale. Launched on 21 February 2006, Operation Pentameter involved every police force in England, Scotland, Wales, Ireland and the Channel Islands, as well as the United Kingdom Immigration Service, the Serious and Organised Crime Agency, the Crown Prosecution Service and several non-governmental organisations such as the Poppy Project. Its aims included:

- Raising national awareness of the issue of trafficking

⁵⁸ [HL Deb 29 November 2004 c263](#)

⁵⁹ [HC Deb 17 November 2004 c1596W](#)

⁶⁰ Europol, *Trafficking in Human Beings in the European Union*, FILE NO: 2565-84, September 2011

- Identifying the scale of the problem
- Improving national and local intelligence about the organised criminal groups involved
- Recovery of victims and reduction of harm
- Asset recovery
- Making the UK a hostile environment for those involved in trafficking for the purposes of sexual exploitation⁶¹

It had a three-month operational phase which resulted in 84 women being identified as victims of trafficking. A total of 232 people were arrested and 134 were charged with a variety of offences.⁶²

7.4 Pentameter 2

Pentameter 2 was launched on 3 October 2007. The Association of Chief Police Officers described it as a “victim focused operation” with the strategic aim of delivering objectives within the UK Action Plan on Tackling Human Trafficking.

The results of Pentameter 2 were announced on 2 July 2008:

Pentameter 2 results show:

- **167** victims identified
- **528** criminals arrested
- **822** premises visited
- **6,400** police intelligence reports gathered
- more than **£500,000** worth of cash has been recovered from those criminals arrested and court orders are in place to restrain further criminal assets running into several millions of pounds
- Of those recovered **13** of the victims were children with the youngest aged just 14 years old.

(...)

Of the 822 premises that were visited, 157 were massage parlours and saunas and 582 residential properties; evidencing the covert nature of the crime. The majority of victims recovered originated from China, SE Asia and Eastern Europe. During the operation 5 victims (three of which were children) who had been trafficked for forced labour were recovered.⁶³

The intelligence gathered during Pentameter 2 was fed into UKHTC workstreams (see following section of this note) and was also used to undertake targeted activity with local partnerships and delivery agents including local authorities, crime and disorder reduction partnerships and local criminal justice boards.

⁶¹ Gloucestershire Constabulary, *Pentameter: operational overview*, July 2006, p1

⁶² Ibid

⁶³ ACPO press release, *Major police probe into trafficking leads to 528 arrests*, 2 July 2008

8 The United Kingdom Human Trafficking Centre (UKHTC)

Speaking at the closing conference for the Operation Pentameter campaign on 21 June 2006, the then Home Office minister Vernon Coaker announced that the Government would be establishing a dedicated, police-led unit to build on the work of Operation Pentameter in dealing with human trafficking. The new centre, the United Kingdom Human Trafficking Centre (UKHTC), was launched on 3 October 2006 as a multi-agency organisation staffed by (among others) police and officers from Serious and Organised Crime Agency SOCA, the UK Border Agency (UKBA) and the Crown Prosecution Service.

An overview of the UKHTC's role was set out in the Home Affairs Committee's report on Human Trafficking:

The UKHTC brings together staff and officers from the police, UKBA, Crown Prosecution Service, Serious Organised Crime Agency and social services. According to the Home Office: "The UKHTC provides a central point for the development of expertise and the strategic and operational coordination in respect of all forms of trafficking of human beings....[It] offers law enforcement a 24/7 support line for tactical, immigration, victim and legal advice and has sought to raise awareness amongst police forces about human trafficking in a number of ways". One of the UKHTC's tasks has been to improve knowledge of the scale and nature of human trafficking. In its written evidence to us, the Home Office describes the UKHTC as "the central repository of all data and intelligence on human trafficking." Another function is increasing public awareness of trafficking, in the hope of identifying and rescuing more victims. It recently ran a 'Blue Blindfold' campaign, including posters on public transport and television advertisements, which had the slogan 'Don't close your eyes to human trafficking'. As far as its operational work is concerned, the UKHTC is organised into five core working groups in the areas of victim care, prevention, research, learning and development and operations and intelligence.⁶⁴

The United Kingdom Human Trafficking Centre is now part of the NCA (which has replaced the Serious Organised Crime Agency):

The UKHTC is part of the Organised Crime Command in the NCA. It works in a coordinated way within the UK and internationally. Our work to combat human trafficking involves a wide range of partners and stakeholders. We protect the public, target the traffickers and reduce the harm caused by human trafficking.

The UKHTC's partners include police forces, the Home Office and other government departments, the UK Border Force, the Gangmasters Licensing Authority, international agencies, non-governmental organisations (NGOs) and many charitable and voluntary expert groups.⁶⁵

Further information on the law enforcement response to human trafficking is contained in the [Serious and Organised Crime Strategy](#) published by the Home Office in October 2013.⁶⁶

⁶⁴ Home Affairs Committee, [The Trade in Human Beings: Human Trafficking in the UK](#), 6 May 2009, HC23-I 2008-09, para 11

⁶⁵ National Crime Agency, [UK Human Trafficking Centre](#) [accessed 22 November 2013]

⁶⁶ HM Government, [Serious and Organised Crime Strategy](#), Cm 8715, October 2013

9 Government policy

9.1 The Labour Government's action plan

In January 2006 the Home Office and Scottish Executive Published *Tackling Human Trafficking – Consultation on Proposals for a UK Action Plan*.⁶⁷ They proposed an action plan covering the broad areas of prevention, investigation, law enforcement, prosecution and providing protection and assistance to victims.⁶⁸ Responses to the consultation were requested by 5 April 2006, and the Home Office published a summary of responses in June 2006.⁶⁹

Following the consultation period, the *UK Action Plan on Tackling Human Trafficking* was published in March 2007.⁷⁰ The then Home Secretary's preface to the March 2007 plan said that it was intended to be a 'living document' which would be updated regularly. In keeping with this approach, revised plans containing updates on each of the main areas of the plan together with a number of new actions were issued in July 2008⁷¹ and again in October 2009.⁷²

The plan recognised the need to look beyond trafficking for sexual exploitation to other forms of trafficking such as child trafficking, trafficking for forced labour and trafficking within the UK. Particular areas to address included: making human trafficking part of "core" police business; detecting and identifying victims; providing more support and rights for all adult victims (not just those trafficked for sexual exploitation); and specific measures to safeguard and protect child victims.

Key new measures in the July 2008 update included introducing a 45 day minimum reflection and recovery period for all identified victims of trafficking, implementing temporary residence permits for victims of trafficking for a renewable period of 1 year, setting up a national referral mechanism to identify victims of trafficking, evaluating the results of Pentameter 2 and using the intelligence to undertake targeted activity with local partnerships.

The October 2009 update introduced ten further new measures, with a particular focus on monitoring and evaluating the new national referral mechanism, updating and expanding the online practitioners' toolkit, assessing the scope of labour trafficking and preparing for the possible threat of trafficking around the staging of the 2012 Olympic Games.

9.2 The current Government's strategy

On 19 July 2011 the Government published *Human Trafficking: The Government's Strategy*. The then immigration minister Damien Green said:

Victim care arrangements remain central to the Government's approach to combating trafficking. Adult victim care arrangements will be strengthened, with support offered by a greater range of specialist care providers. This will ensure that victims have access to the care they need, tailored to their particular circumstances and in line with our

⁶⁷ Home Office / Scottish Executive, *Tackling Human Trafficking – Consultation on Proposals for a UK Action Plan*, January 2006

⁶⁸ *ibid.* p3-4

⁶⁹ Home Office / Scottish Executive, *Tackling Human Trafficking – Summary of responses to the Consultation on Proposals for a UK Action Plan*, June 2006

⁷⁰ Home Office/Scottish Executive, *UK action plan on tackling human trafficking*, March 2007

⁷¹ Home Office/Scottish Executive, *Update to UK action plan on tackling human trafficking*, July 2008 [no longer available online]

⁷² Home Office/Scottish Executive, *Update to the UK Action Plan on Tackling Human Trafficking*, October 2009

international commitments. We will also ensure that children remain a focus of our efforts as we look to combat those traffickers who exploit vulnerable children.

A renewed focus on preventing human trafficking is required. The UK is already a world leader in the fight against trafficking but we recognise more can be done with international partners to reduce the threat from overseas. The strategy recognises the importance of working with source and transit countries to target and disrupt the work of traffickers and prevent more vulnerable men, women and children from becoming trafficking victims. A key aspect of our approach will be better intelligence gathering and sharing and, from 2013 the National Crime Agency will play a vital role in spearheading our fight against organised criminal groups who are engaged in human trafficking.

The strategy also sets out our aim to better co-ordinate our border and policing law enforcement efforts to prevent traffickers from entering the UK. We will use intelligence to target those convicted or suspected of trafficking at the border as well as developing risk-based indicators to facilitate the systematic targeting of high risk passengers.

We will also ensure we monitor intelligence in relation to key events such as the Olympics and Paralympics to respond quickly and appropriately to any potential increased risk of trafficking.⁷³

Key objectives set out in Annex A to the strategy include working with the private sector to strengthen the overall approach to trafficking, working to implement the *EU Directive on Human Trafficking* (see section 11 of this note) by April 2013, raising the quality of decision-making under the NRM, working more closely with other countries and the airline industry, improving UKBA guidance and procedures and (in conjunction with CEOP) tackling the issue of trafficked children who go missing from local authority care.

The Modern Slavery Draft Bill

The Home Secretary, Theresa May, announced in August 2013 that the Government would introduce a Modern Slavery Bill.⁷⁴ The draft Bill was published on 16 December 2013 for pre-legislative scrutiny by a joint committee of both Houses. The draft Bill is discussed in detail in Library Standard Note *Draft Modern Slavery Bill*. **NUMBER**

A consultation was launched in October 2013 to feed into the draft bill. A Home Office press release stated:

Home Secretary Theresa May has asked Frank Field MP, in his role as vice-chair of the Human Trafficking Foundation and as a member of the Advisory Council to the Centre for Social Justice, to lead an urgent public debate about practical and effective ways of ending modern slavery in the UK.⁷⁵

Evidence sessions were hosted by the Centre for Social Justice over the following months, and Frank Field's report was published on 16 December 2013 [Establishing Britain as a world leader in the fight against modern slavery: Report of the Modern Slavery Bill Evidence Review](#).

On the same date, [written ministerial statements](#) were made in both Houses. In the Commons, the Home Secretary commented:

⁷³ [HC Deb 19 July 2011 c107WS](#)

⁷⁴ See, for example, "[Theresa May pledges modern-day slavery crackdown](#)", *BBC News*, 25 August 2013

⁷⁵ Home Office press release, [Home Secretary begins evidence sessions on modern slavery](#), 11 October 2013

The bill will simplify legislation, toughen sentences for slave drivers, and enable the courts to restrict activity where individuals may be at risk. This will mean that more traffickers are pursued, disrupted and brought to justice. The bill will also create an anti-slavery commissioner who will galvanise law enforcement's efforts to tackle modern slavery.⁷⁶

The Home Secretary is planning to introduce the bill, following pre-legislative scrutiny, in May 2014 at the beginning of the last parliamentary session before the planned May 2015 election.

The introduction of a modern slavery act was one of the recommendations included in the Centre for Social Justice Slavery Working Group report in March 2013 *It happens here: Equipping the United Kingdom to fight modern slavery*. The report stated:

We recommend the passing of a single Modern Slavery Act. This will enable law enforcement agencies to see the law more clearly, and not have to reference immigration law for the appropriate offence if they wish to prosecute for trafficking for non-sexual exploitation. The Modern Slavery Act should also include a mandatory duty to investigate all possible cases of potential modern slavery, and a statement of non-prosecution of victims who had no choice but to commit a criminal offence whilst they were enslaved. The symbolic statement of such an Act would reinforce the UK Government's intention to be at the forefront of the fight against modern slavery, reflecting the serious criminality of trafficking for any form of exploitation and demonstrating that modern slavery will not be tolerated in contemporary British society.⁷⁷

10 The Inter-Departmental Ministerial Group on Human Trafficking

The *EU Directive on preventing and combating trafficking in human beings and protecting its victims* (see following section of this note) requires countries that have signed up to it to put in place a "national rapporteur" to monitor the implementation of anti-trafficking measures and to advise the Government on trafficking issues. In this country, the national rapporteur role is fulfilled by the Inter-Departmental Ministerial Group on Human Trafficking. The group, currently chaired by immigration minister Mark Harper, includes ministers from the Home Office, the Ministry of Justice, the Department for Education, the Department of Health and the Foreign and Commonwealth Office, as well as representatives from the Scottish Government, the Northern Ireland Executive and the Welsh Government. Mr Harper has stated that

...the IDMG is best placed to [act as national rapporteur] as it has a unique and strategically important role to play in the fight against human trafficking. It has a remit to oversee and coordinate anti-trafficking efforts across the UK and can effect important and necessary change at the right level.⁷⁸

Some, however, have called for the introduction of a new national rapporteur that is independent of Government. For example, speaking in a Westminster Hall debate on trafficking, Peter Bone, the co-chair of the APPG on Human Trafficking, said:

⁷⁶ HC Deb 16 December 2013 c82WS

⁷⁷ Centre for Social Justice, *It happens here: Equipping the United Kingdom to fight modern slavery*, March 2013, p13

⁷⁸ Inter-Departmental Ministerial Group on Human Trafficking, *First annual report of the Inter-Departmental Ministerial Group on Human Trafficking*, Cm 8421, October 2012, p1

Under the EU directive, a national rapporteur is recommended to report independently on the Government's action against human trafficking and be the overarching body for collecting intelligence. In my view, setting up a national rapporteur could reduce the cost within Departments. An independent rapporteur might also be more approachable by non-governmental organisations that might be sceptical of a Government-led organisation, which would lead to greater data sharing and a better picture of the real number of trafficking victims.

Other European countries have appointed a national rapporteur. The rapporteur for the Netherlands is a former judge, and the Finnish rapporteur is a former Member of the Finnish Parliament. They do an excellent job in scrutinising their respective Governments' action against human trafficking, as well as acting as a liaison with NGOs. The problem is that our Government have read the small print in the EU directive saying that countries can have an equivalent to the national rapporteur, which is what the interdepartmental ministerial group is.

The group did not start as a great success. In the first 18 months, it met twice, and two thirds of the Ministers gave their apologies. I know the Minister will say that that has been dealt with, the group has published its annual report and it is doing its best, but I still do not see how a group of Ministers can independently scrutinise what the Government are doing. That is also the view of the all-party parliamentary group. Of course, we will wait to see whether the interdepartmental ministerial group is successful, but we have a big question mark over that.⁷⁹

In response, the Home Office junior minister Mark Harper said:

When I was given the job and told that I was chairing the group, I thought about the arguments for an independent rapporteur and the effectiveness of a group of Ministers. A ministerial group is also effective in ensuring that action is taken, which was my prime reason for being in favour of it. If we want to get things done, whether requiring legislation or otherwise, it is important to have Ministers from across Government working with our colleagues in the other parts of the UK, particularly on an issue that several Members described as one that the Prime Minister takes seriously. If we cannot make things happen, no one in Government can.

I did not understand the criticism from several people about the group not being able to get information from within Government. We are all Ministers in the Government, and if we want to get information from Departments we do not need a statutory basis to do so because we are able to get it. Having thought about it, I genuinely believe that having a group of Ministers is effective in delivering change and making things happen in practice.⁸⁰

The Group published its first annual assessment of human trafficking in the UK in October 2012: see [First annual report of the Inter-Departmental Ministerial Group on Human Trafficking](#), Cm 8421. The [Second Report of the Inter-Departmental Ministerial Group on Human Trafficking](#), Cm 8731, was published in October 2013.

11 The Council of Europe Convention and the EU Directive

The *Council of Europe Convention on Action against Trafficking in Human Beings* (the Convention) was adopted on 3 May 2005.⁸¹ The full text of the convention and an explanatory report is available on the [Council of Europe website](#). It came into force on

⁷⁹ [HC Deb 20 December 2012 cc311-2WH](#)

⁸⁰ [HC Deb 20 December 2012 c348WH](#)

⁸¹ Council of Europe Treaty Series - No. 197

1 February 2008. As at 12 November 2013 the Convention had been signed by 43 countries and ratified by 40.⁸²

For a long time it was not clear whether the UK would sign and ratify the Convention, despite having been involved in drafting it. However, following an announcement by the then Prime Minister Tony Blair on 22 January 2007, the Convention was signed on 23 March 2007. On 14 January 2008 the Home Office declared the Government's intention to ratify the Convention by the end of 2008, having made "the necessary legislative and procedural changes". A press notice identified progress already made towards ratification:

Significant progress has been made towards ratification. This includes the agreement of a provisional implementation plan by the Inter-departmental Ministerial Group on Trafficking in July, the development of models of victim support and the piloting of a victim identification process under the police-led, multi-agency anti-trafficking operation, Pentameter 2. The Home Office also hosted, with the Council of Europe, a conference in London designed to share experience of implementing the Convention.⁸³

On 2 July 2008 the Home Office announced that, in order to comply with its forthcoming obligations under the Convention, it would be introducing an automatic 45 day reflection period for victims of trafficking followed in many cases by a further new one year temporary residency permit.⁸⁴ The July 2008 update to the *UK Action Plan on Tackling Human Trafficking* indicated that the automatic reflection period and the new temporary residence permit would be implemented by April 2009 and reviewed in April 2010 to assess their impact.⁸⁵

The UK ratified the Convention on 17 December 2008. Announcing the ratification, the then Home Secretary said:

'Ratifying this convention helps us build on the existing measures in place in the UK aimed at turning the tables on traffickers and providing victims with protection, support and a voice in the criminal justice system.

'The ratification is a major milestone in our long term strategy to combat trafficking, as outlined in the UK trafficking action plan. This includes our plans to double funding for the UK Human Trafficking Centre next year to £1.7m.⁸⁶

The Convention took effect in the UK on 1 April 2009.⁸⁷

In March 2010, the European Commission issued a proposal for a new anti-trafficking directive. The proposed new directive would build on the Convention in the following ways:

What is new in the proposal for a Directive?

⁸² The countries that have ratified are Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia & Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, Finland, France, Georgia, Germany, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the Former Yugoslav Republic of Macedonia, Ukraine and the UK

⁸³ Home Office press release, *Home Secretary Moves to Ratify the Council Of Europe Convention Against Trafficking in 2008*, 14 January 2008

⁸⁴ Home Office press release, *Major police probe into trafficking leads to 528 arrests*, 2 July 2008

⁸⁵ Home Office/Scottish Executive, *Update to UK action plan on tackling human trafficking*, July 2008, pp55-56

⁸⁶ Home Office press release, *Government ratifies European convention against human trafficking*, 17 December 2008

⁸⁷ Home Office press release, *UK fight against human trafficking*, 1 April 2009

The proposal builds upon the 2000 United Nations Protocol on trafficking in persons, especially women and children, and the 2005 Council of Europe Convention on action against trafficking in human beings and brings added value. It follows up on a 2009 Commission proposal which was being negotiated but lapsed with the entry into force of the Lisbon Treaty.

The new Directive covers action on different fronts:

CRIMINAL LAW PROVISIONS, including a common definition of the crime, aggravating circumstances and higher penalties, as well as non-punishment of the victims for unlawful activities such as the use of false documents in which they have been involved for being subjected to by traffickers.

PROSECUTION OF OFFENDERS, including extraterritorial jurisdiction (the possibility to prosecute EU nationals for crimes committed in other countries), use of investigative tools typical for organised crime cases such as phone tapping and tracing proceeds of crime.

VICTIMS' RIGHTS IN CRIMINAL PROCEEDINGS, including specific treatment for particularly vulnerable victims aimed at preventing secondary victimisation (no visual contact with the defendant, no questioning on private life, no unnecessary repetition of the testimony, etc.), police protection of victims, legal counselling also aimed to enable victims to claim compensation; special protective measures are envisaged for children such as holding interviews in a friendly environment.

VICTIMS' SUPPORT, including national mechanisms for early identification and assistance to victims, based on cooperation between law enforcement and civil society organisations, providing victims with shelters, medical and psychological assistance, information, interpretation services. A victim shall be treated as such as soon as there is an indication that she/he has been trafficked, and will be provided with assistance before, during and after criminal proceedings.

PREVENTION, including measures aimed at discouraging the demand that fosters trafficking, i.e. employers hiring trafficked persons and clients buying sexual services from victims of trafficking, training for officials likely to come into contact with victims, and of potential victims to warn them about the risks of falling prey to traffickers.

MONITORING, providing for the establishment of National Rapporteurs or equivalent mechanisms, which should be independent bodies, in charge of monitoring the implementation of the measures foreseen by the Framework Decision. Such bodies should have further tasks including giving advice and addressing recommendations to governments.⁸⁸

In August 2010, the Government indicated that it would not at that stage be opting in to the proposed directive on the grounds that most of its provisions were already in place in the UK:

The UK already complies with much of the draft EU directive, which is proceeding through the European parliament.

No benefits for the UK

⁸⁸ Europa press release MEMO/10/108, [Proposal for a Directive on preventing and combating trafficking in human beings and protecting victims, repealing Framework Decision 2002/629/JHA](#), 29 March 2010. See European Commission, COM(2010)95 final, 2010/0065 (COD), [Proposal for a Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA](#), 29 March 2010 for the full text of the proposal.

A Home Office spokesperson said: 'While the draft directive will help improve the way other EU states combat trafficking, it will make very little difference to the way the UK tackles the problem as there are no further operational co-operation measures which we will benefit from.

'Opting in now would also require us to make mandatory the provisions which are currently discretionary in UK law. These steps would reduce the scope for professional discretion and flexibility and might divert already limited resources.

'The government will review the UK's position once the directive has been agreed, and will continue to work constructively with European partners on matters of mutual interest.

'By not opting in now but reviewing our position when the directive is agreed, we can choose to benefit from being part of a directive that is helpful, but avoid being bound by measures that are against our interests.'⁸⁹

The Government's "wait and see" position was reiterated by the Prime Minister in September 2010 and by the Foreign Secretary in December 2010.⁹⁰

The final text of the Directive was adopted by the Council of Ministers on 21 March 2011, and was subsequently issued as [Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA](#).

On 22 March 2011, the Government announced that it would (subject to parliamentary scrutiny) be applying to opt in to the Directive. Home Office minister Damian Green said:

In June, the Government took the decision not to opt in at the outset to the proposal for a directive to combat human trafficking but undertook to review the position when there was a finalised text. We have now carefully considered the finalised text. The main risk associated with the text has now been overcome: by waiting to apply to opt in, we have a text that has been finalised and we have avoided being bound by measures that are against the UK's interests.

The new text still does not contain any measures that would significantly change the way the UK fights trafficking. However, the UK has always been a world leader in fighting trafficking and has a strong international reputation in this field. Applying to opt in to the directive would continue to send a powerful message to traffickers that the UK is not a soft touch, and that we are supportive of international efforts to tackle this crime.⁹¹

The Government indicated that it would implement the Directive's requirements within two years of opting into it.⁹²

In April 2011, the European Scrutiny Committee published a report into the Directive that looked at the measures the Government considered it would need to take in order to

⁸⁹ Home Office press release, [Home Office defends position on human trafficking](#), 31 August 2010

⁹⁰ [HC Deb 15 September 2010 cc873-874](#) and [HC Deb 14 December 2010 c809](#)

⁹¹ [HC Deb 22 March 2011 c52WS](#)

⁹² [HC Deb 29 June 2011 c862W](#)

comply.⁹³ Damian Green had indicated that primary legislation would be required in order to comply with articles 2 and 10 of the Directive:

- to comply with article 2, the existing offence of trafficking for the purposes of labour or other exploitation under the *Asylum and Immigration (Treatment of Claimants etc) Act 2004* would need to be extended to cover trafficking that takes place entirely within the UK, as well as trafficking into or out of the UK; and
- to comply with article 10(1), the territorial extent of the current trafficking offences set out in the *Sexual Offences Act 2003* and the *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004* would need to be extended to cover trafficking by a UK national where the UK was not the country of arrival, entry, travel or departure.

The Government used the [Protection of Freedoms Bill](#) to legislate for these changes, and introduced new clauses to this effect during the Bill's Lords Committee Stage. Home Office minister Lord Henley said:

The first new clause relates to trafficking offences for the purpose of sexual exploitation. Under Sections 57 to 59 of the Sexual Offences Act 2003, it is already an offence to traffic a person into, within or out of the United Kingdom for the purposes of sexual exploitation. In the interests of clarity, Amendment 152B proceeds by consolidating these existing trafficking offences into new Section 59A and also adding the necessary additional provisions to ensure extra-territorial application of the offences where a UK national commits a trafficking offence anywhere in the world.

The new clause introduced by Amendment 152C, which relates to trafficking offences for the purpose of labour or other exploitation, follows the same approach as Amendment 152B. In addition, Amendment 152C fulfils another requirement of the directive. At the moment, it is not an offence to traffic someone from Manchester to London, for example, for the purposes of forcing them into slavery, unless the victim has previously been trafficked into the UK. This amendment removes this requirement. This brings labour-trafficking offences into line with sex-trafficking offences, ensures our offences comply with the requirements of the directive and provides better protection against trafficking. The other amendments in this group make consequential amendments to other enactments as well as to the extent clauses and the Long Title.

These provisions will apply to England and Wales only. We have been advised by the Scottish Government that, following the enactment of provisions in the Criminal Justice and Licensing (Scotland) Act 2010, the criminal law in Scotland already satisfies the criminal law requirements of the directive. The Northern Ireland Administration intend to bring forward separate legislation in the Northern Ireland Assembly to achieve a similar effect.

The Government are committed to implementing the rest of the EU directive on human trafficking. These amendments deal with those points of the directive that require primary legislation. The rest we will implement through secondary legislation or by other appropriate means.⁹⁴

The amendments were added to the Bill without division and have since been enacted as [sections 109 and 110 of the Protection of Freedoms Act 2012](#) (see the related [Explanatory](#)

⁹³ European Scrutiny Committee, [24th Report of Session 2010-11](#), HC 428-xxii, April 2011, chapter 3. The report was debated in the Commons in May 2011: see [HC Deb 9 May 2011 cc977-997](#)

⁹⁴ [HL Deb 12 January 2012 ccGC61-2](#)

[Notes](#) for full details). The 2012 Act received Royal Assent on 1 May 2012 and sections 109 and 110 were commenced from 6 April 2013.⁹⁵

During the Lords Committee debate on the new provisions, Lord McColl of Dulwich expressed concern that a number of other legal changes were required above and beyond those that the amendments covered. He therefore asked the minister to outline in more detail the areas where the Government would be introducing secondary legislation and other measures in order to achieve compliance. In the written response from Lord Henley, he indicated that the Government considered secondary legislation might be required in relation to the following matters:

- Article 9 (investigation and prosecution), where we are already compliant in practice to enable access to ‘effective investigative tools’ but where we may need to transpose into legislation.
- Article 11 (assistance and support for victims), where we already comply in practice through the National Referral Mechanism and victim care model introduced in July 2011 as part of the Government’s Human Trafficking Strategy but are considering whether more is required.
- Article 12(4), to ensure that victims of human trafficking are *automatically* eligible for special measures during court proceedings. Under the current regime in the Youth Justice and Criminal Evidence Act 1999, children and victims of sex offences are automatically eligible. Victims of human trafficking who are not children or victims of sex offences are only eligible “if the court is satisfied that the quality of evidence given by the witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with testifying in the proceedings”. We are considering whether this is adequate implementation.
- Also on Article 12, in relation to police investigations, we are exploring whether we need to make changes to CPS guidance or introduce Court Rules or secondary legislation to fully implement these obligations.
- Article 15 (protection of child victims etc): Victims are not party to prosecutions, so will not require a representative in this context. Currently, the provision of a supporter (representative) for child witnesses during investigations is already included in best practice guidance but not enshrined in legislation and we may seek to address this.⁹⁶

⁹⁵ *Protection of Freedoms Act 2012 (Commencement No. 5 and Saving and Transitional Provision) Order 2013/470*

⁹⁶ [Letter from Lord Henley to Lord McColl of Dulwich re Protection of Freedoms Bill: Human Trafficking](#), 1 February 2012, DEP2012-0194