



HOUSE OF LORDS

Library Note

Question for Short Debate on 2 February: Human Trafficking

This Library Note provides background reading for the question for short debate to be held on Thursday 2 February:

“To ask Her Majesty’s Government what is their assessment of trafficking of adults and children into and within the United Kingdom”

It provides definitions and statistics on human trafficking both globally and in the UK, and outlines domestic and international policy to combat the problem.

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1. Introduction

In November 2010 the United Nations Trust Fund for Victims of Trafficking was launched in New York. Ban Ki-Moon, the UN Secretary-General, spoke to mark the start of the fund. In his opening remarks he outlined the spread of trafficking and its impact on its victims:

We are *here* because trafficking is *everywhere*. No part of our planet is immune. Almost every country is affected by this crime, whether as a place of origin, transit or destination for victims. Traffickers respect no geographic borders or moral boundaries. The women, children and men they exploit are often taken far from their homes, sometimes halfway around the world. Many victims end up stranded, friendless, trapped in modern day slavery. They may not ask for help because they are isolated or cannot speak the local language. Or they may be seized by fear—fear that they will be treated as criminals even though they have been forced to engage in criminal acts. That is why it is so important that Member States are taking a united stand to end trafficking in persons.

(UNODC website, '[Remarks at Launch of United Nations Trust Fund for Victims of Trafficking](#)', 4 November 2010)

This Library Note provides an update of House of Lords Library Note, *Debate on 14 October 2010: Human Trafficking* (8 October 2010, LLN [2010/022](#)). The debate in the House of Lords can be read at HL *Hansard*, 14 October 2010, cols [594–622](#). The Note sets out the definition of human trafficking and the activities trafficking includes. It provides figures to indicate the scale of the crime, both globally and in the UK. The Note then considers the UK's response to human trafficking, providing a summary of legislation and the current Government's anti-trafficking strategy. It concludes with some of the reactions to that strategy and provides summaries of recent reports about the UK's anti-trafficking policies.

2. Definitions

2.1 Human trafficking

The most widely used definition of human trafficking is found in article 3, paragraph (a) of the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons* (2000). This was adopted by the UN at Palermo, Italy and is often referred to as the Palermo Protocol. Here human trafficking is defined 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 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.

(UNODC website, '[What is Human Trafficking?](#)' accessed 23 January 2012)

The UN definition covers a broad range of conduct. The US State Department also includes child soldiers as “a manifestation of human trafficking when it involves the unlawful recruitment or use of children—through force, fraud, or coercion—as combatants or for labour or sexual exploitation by armed forces. Perpetrators may be

government forces, paramilitary organizations, or rebel groups. Many children are forcibly abducted to be used as combatants” (US State Department, *Trafficking in Persons Report*, June 2011, [page 9](#)).

Human trafficking has three constituent parts: the act, the means and the purpose. Although human trafficking may be perceived as operating on a large commercial scale, often it can be committed by a single person who already knows the victim. Indeed the Crown Prosecution Service (CPS) has said that the means used by a sole perpetrator are often subtle:

For example, victims may have an emotional attachment to their trafficker and may be psychologically bullied or coerced into a situation of exploitation. Or they may be totally dependent on those who are victimising them.

(CPS, *Public consultation on the CPS Public Policy Statement on Prosecuting cases of Human Trafficking*, July 2010, [page 4](#))

2.2 Smuggling

The CPS makes a clear distinction between human trafficking and smuggling. Both are crimes but the difference is that the latter is perceived to take place with the consent of the person being smuggled. CPS guidance suggests there are a number of factors that can help distinguish the two:

- Smuggling is characterised by illegal entry only and international movement only, either secretly or by deception (whether for profit or otherwise);
- Smuggling is a voluntary act and there is no further exploitation by the smugglers once they reach their destination;
- There is normally little coercion/violence involved or required from those assisting in the smuggling.

The CPS define smuggling “as the facilitation of entry to the UK either secretly or by deception (whether for profit or otherwise). The immigrants concerned are normally complicit in the offence so that they can remain in the UK illegally”. It is noted however that in some cases “the distinction between a smuggled and trafficked person will be blurred and both definitions could easily be applied”. Equally, a person could start their journey being smuggled and then trafficked on arrival (CPS, ‘[Legal Guidance: Human Trafficking and Smuggling](#)’, accessed 18 January 2012).

2.3 What is not trafficking in persons?

The US State Department issues an annual report that examines progress made around the world in addressing human trafficking. The 2010 *Trafficking in Persons Report* (June 2010) listed four activities that the US State Department do not define as human trafficking:

- **Illegal adoptions:** The kidnapping or unlawful buying/selling of an infant or child for the purpose of offering that child for adoption represents a serious criminal offense, but it is not a form of human trafficking, as it does not necessarily involve the use of force, fraud, or coercion to compel services from a person. As stated in the travaux préparatoires of the

Palermo Protocol, only “where illegal adoption amounts to a practice similar to slavery... it will also fall within the scope of the Protocol”.

- **The trade in human organs:** The trade in human organs—such as kidneys—is not in itself a form of human trafficking. The international trade in organs is substantial and demand appears to be growing. Some victims in developing countries are exploited as their kidneys are purchased for low prices. Such practices are prohibited under the Palermo Protocol, for example when traffickers use coercive means, such as force or threats of force to secure the removal of the victim’s organs.
- **Child pornography:** Sex trafficking of children can involve several different forms of exploitation, including the production of child pornography. However, the production of sexual images representing children—which increasingly includes drawings and computer-generated images—is not sex trafficking unless a child is actually induced to perform a commercial sex act for the purpose of producing the pornography. Distribution and possession of child pornography, while often criminally prohibited, are not acts of human trafficking.
- **Prostitution:** Prostitution by willing adults is not human trafficking regardless of whether it is legalized, decriminalized, or criminalized. However, pursuant to the TVPRA [Trafficking Victims Protection Reauthorization Act] of 2008, the definitions of human trafficking under U.S. law are not construed to treat prostitution as a valid form of employment. The TIP [Trafficking in Persons] Report evaluates the efforts of countries with legalized prostitution to reduce the demand for commercial sex acts as part of its assessment of the countries’ serious and sustained efforts to eliminate severe forms of trafficking in persons.

(US State Department, *Trafficking in Persons Report*, June 2010, [page 9](#))

3. Scale of human trafficking

3.1 Global

Accurately estimating the number of humans trafficked globally is difficult, largely because of its hidden nature. However, in 2010 the US State Department offered this snapshot of its estimated scale:

- Adults and children in forced labour, bonded labour, and forced prostitution around the world: 12.3 million
- Successful trafficking prosecutions in 2009: 4,166
- Successful prosecutions related to forced labour: 335
- Victims identified: 49,105
- Ratio of convicted offenders to victims identified, as a percentage: 8.5
- Ratio of victims identified to estimated victims, as a percentage: 0.4

- Countries that have yet to convict a trafficker under laws in compliance with the Palermo Protocol: 62
- Countries without laws, policies, or regulations to prevent victims' deportation: 104
- Prevalence of trafficking victims in the world: 1.8 per 1,000 inhabitants
- Prevalence of trafficking victims in Asia and the Pacific: 3 per 1,000 inhabitants

(US State Department, *Trafficking in Persons Report*, June 2010, [page 7](#))

The United Nations International Labour Organisation (ILO) estimated that of the 12.3 million forced into labour 2.4 million are trafficked. They also noted that it is generally assumed the majority of victims are trafficked for commercial sexual exploitation. However, they found that while 43 percent were trafficked for sexual exploitation, 32 percent of all victims were trafficked into labour exploitation and 25 percent for a mixture of both (ILO, *ILO Action against Trafficking in Human Beings*, 2008, [page 3](#)).

The data available also gives an indication of the profile of trafficking victims. In terms of gender and age, the ILO found: "Women and girls make up the overwhelming majority of those trafficked for the purpose of sexual exploitation (98 percent)" (*ibid*, page 3). It has been suggested that as many as 1.2 million children are trafficked every year (UNICEF website, '[Child protection from violence, exploitation and abuse](#)', accessed 23 January 2012).

Criminal justice data gives a different insight into the scale of the issue. Following the Palermo Protocol coming into effect in 2003, a United Nations Office on Drugs and Crime (UNODC) report found 91 countries (57 percent of the reporting countries) reported "at least one human trafficking prosecution and 73 countries reported at least one conviction. A core of 47 countries reported making at least 10 convictions per year, with 15 making at least five times this number" (UNODC, *Global Report on Trafficking in Persons*, February 2009, [page 8](#)).

International organisations have called for more harmony between countries in data collection. The ILO has said the biggest challenge "is to generate reliable national statistics... This is important because the numbers of prosecuted trafficking cases and identified victims remain low while country estimates contain high margins of error" (ILO, *ILO Action Against Trafficking in Human Beings*, 2008, [page 4](#)). UNODC noted the inconsistency in data collection: "Too often, even similarly situated countries with compatible legal systems are counting different things. There is also a need to encourage Member States to collect more and better information on the state of human trafficking in their countries. Some countries could cite the number of victims or offenders, for example, but had no data on the gender, age or citizenship of these people" (UNODC, *Global Report on Trafficking in Persons*, February 2009, [page 11](#)).

3.2 United Kingdom

The availability of data on the scale of trafficking in the UK is also limited. In its strategy paper the Government agreed that the “hidden nature of trafficking makes it difficult to gain an accurate picture of its true scale and nature”. The paper stated:

Historically, most adult victims identified were women trafficked for sexual exploitation. However, recent trends suggest that trafficking for labour exploitation could become more prevalent than other forms of trafficking.

Child trafficking victims are brought to the UK for many purposes, including sexual exploitation, domestic servitude, benefit fraud, cannabis farming, street begging, theft and shoplifting.

The greatest numbers of adult victims come to the UK from China, South East Asia, and Eastern Europe; child victims are trafficked in the greatest numbers from Vietnam, Nigeria, China and Eastern Europe. However, this is a truly international crime, with potential victims from over 80 different countries referred to the National Referral Mechanism (NRM) since its inception and 47 different countries identified as sources of child trafficking to the UK by CEOP [Child Exploitation and Online Protection Centre].

(Home Office, *Human Trafficking: The Government’s Strategy*, 19 July 2011, page 5, [paras 3–6](#))

The strategy paper referred to figures from the Child Exploitation and Online Protection Centre that suggest there are “on average around 300 child trafficking victims in the UK per annum with 322 potential child victims referred to the NRM between 1 April 2009 and 31 December 2010” (*ibid*, page 6, [para 6](#)). It added that statistics from 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. The table below provides further details:

Exploitation Type	Number of Adults referred	Number of Children referred
Sexual Exploitation	99	438
Labour Exploitation	98	267
Domestic Exploitation	44	175
Unspecified Exploitation	81	52
Totals	322	932

3.2.1 House of Commons Home Affairs Select Committee report (June 2009)

In 2008–09 the House of Commons Home Affairs Select Committee conducted an inquiry into the UK trade in humans. The Committee found that neither the non-governmental organisations (NGOs) nor the Government agencies they asked were willing “even to guess” the total number of trafficking victims in the UK. The Poppy Project suggested that data collection was limited because the illegality of trafficking made it hard to detect, victims were often too afraid to speak up and key agencies failed to co-operate effectively. The Committee admitted in their report:

The nearest we came to an overall total was when we added up the result of these studies and suggested to Anti-Slavery International that they implied that

there were more than 5000 victims in the UK; Anti-Slavery International concurred.

(House of Commons Home Affairs Select Committee, *The Trade in Human Beings: Human Trafficking in the UK*, 14 May 2009, HC 23–I of session 2008–09, page 14, [para 28](#))

To put these figures into context, the Committee were told that the European Commission estimated between 100,000 and 800,000 people are trafficked into the EU every year (ibid).

Other data illustrate the scale of the problem. The Committee referred to research found in the Government's *UK Action Plan on Human Trafficking* that estimated "that the size of the UK market for human trafficking for sexual exploitation was up to £275 million in 2003". The research also estimated that in 2003 "there were up to 4,000 women in the UK that had been trafficked for sexual exploitation. The total economic and social cost of human trafficking for sexual exploitation in the UK was estimated to be up to £1 billion in 2003" (ibid, page 20).

3.2.2 ACPO (2010)

In August 2010, the Association of Chief Police Officers (ACPO) released research that found around 17,000 of 30,000 women involved in off-street prostitution were migrants. Of this figure 2,600 women were deemed to have been trafficked, largely from Asia (ACPO, [Project Acumen: Setting the Record](#), 18 August 2010).

3.2.3 Prosecutions

The available criminal justice data also provide a snapshot of the prevalence of trafficking in the UK. In a written answer, Dominic Grieve, the Attorney General, gave the number of prosecutions that had been brought on charges under sections 57, 58 and 59 of the Sexual Offences Act 2003, alleging trafficking for the purposes of sexual exploitation and section 4 of the Asylum and Immigration (Treatment of Claimants) Act 2004, alleging trafficking for other exploitative purposes. These are set out in the table below, which show the volume of offences, not defendants, prosecuted by the CPS:

Year	Number of Prosecutions
2006/07	40
2007/08	90
2008/09	124
2009/10	121
2010/11	116

(HC *Hansard*, 21 Jun 2011, col [131W](#))

In a letter to Lord Elystan-Morgan in 2010, Baroness Neville-Jones, the then Home Office Minister, gave CPS statistics that showed the number of convictions: 18 in 2007, 38 in 2008 and 35 in 2009 ('Letter from Baroness Neville-Jones to Lord Elystan-Morgan', 25 August 2010, [DEP 2010-1658](#)). The Government have also said that, between 2006 and 2010, 109 people were sentenced for human trafficking offences. The average determinate custodial sentence length for these offences was 50 months: for trafficking for sexual exploitation it was 50 months; in the case of trafficking for forced labour it was 51 months, and in the case of drug trafficking it was 73.5 months (HC *Hansard*, 13 September 2011, col [887](#)).

The UNODC website hosts a [Human Trafficking Case Law Database](#), which provides information of trafficking court cases in the UK.

4. International approaches to tackling human trafficking

4.1 UNODC: The 3 ‘Ps’

The UNODC approach to addressing human trafficking is three-pronged: prevention of trafficking in persons, protection of victims of human trafficking and prosecution of trafficking offenders. To prevent trafficking taking place, the UN works to address the problems inherent in vulnerable communities and conflict zones that give rise to trafficking. In protecting victims the UN provides tools to help countries enhance the identification, referral and reintegration of individuals affected by trafficking. In improving countries’ prosecution capabilities, UNODC also works “on strengthening national criminal justice systems. UNODC’s goal is to see a greater number of convictions achieved globally. This means not only that human trafficking must be a criminal offence in the country where an act of trafficking is detected, but also that the law must be enforced” (UNODC website, ‘[Prosecuting human traffickers](#)’, accessed 23 January 2012).

UNODC has stressed the importance of improved transnational information sharing: “Today, the Member States lack the ability to say with any precision how many victims of human trafficking there are, where they come from or where they are going. The various estimates that have been made have been highly controversial. Since the magnitude of the problem or where it is most acute cannot be stated, changes cannot be tracked over time, and interventions cannot be evaluated for their impact. Tackling transnational trafficking in human beings requires an ongoing exchange of data” (UNODC, *Global Report on Trafficking in Persons*, February 2009, [page 69](#)).

4.2 US State Department: The 3 ‘Ds’

In its 2010 *Trafficking In Persons Report*, the US State Department warned that the paradigm of prevention, protection and prosecution now had “a competing, more unfortunate, paradigm [that] seems to persist in impeding greater anti-trafficking progress: the “3D” phenomenon of detention, deportation and disempowerment”. The report explained that:

The use of this approach in detaining and deporting trafficking victims is most often the outgrowth of immigration policies or archaic laws that have yet to fully appreciate the phenomenon of modern slavery. However, some of the manifestations of this response are new, appearing only in the last few years and affecting many more women than men.

In such a response, governments may act out of self interest in ridding themselves of potential burdens. Or they may act in what they claim is the best interest of foreign victims. This usually includes detaining the victims for a short period of time and then deporting them to their country of origin without offering them credible opportunities to seek legal redress (including civil restitution), adequate psychological repair, longer term residency and work, or relocation to a third country. Attempts to hold identified trafficking victims in detention-based facilities governments describe as “shelters”—no matter how comfortable and safe they may be—disempower victims at a critical time when they need a restored sense of individual freedom. Detention models undercut any rapport service providers or investigators might build with victims. Research and law enforcement practice indicates that initial trauma lasts for months and that victims

can only give a partial account of their experiences in the early stages of an investigation; a response based on detention and repatriation—even if initial statements have been reduced to video or affidavit—likely prevent law enforcement from arriving at critical facts.

Sending victims back to their countries of origin without informing them of a full range of options not only exposes them to possible trauma associated with being identified as a trafficking victim, but it also risks returning them to the same condition and exposing them to the same or even more enhanced pressures that contributed to their initial trafficking experience, thus raising the prospects for their re-trafficking. Furthermore, when a country jails and repatriates victims without screening or protection, NGOs are deterred from bringing their clients to the government's attention.

(US State Department, [Trafficking In Persons Report: Policy Priorities](#), 2010)

5. UK approach to tackling human trafficking

5.1 Anti-trafficking legislation

Since 2003 there have been specific anti-trafficking laws in force in the UK. The main criminal legislation used to bring human trafficking prosecutions is outlined below:

- **Sexual Offences Act 2003**
Sections 57, 58 and 59 create three offences of trafficking for the purposes of sexual exploitation. The offences cover trafficking another person into the UK (section 57), trafficking within the UK (section 58) and trafficking out of the UK (section 59) with the intention of committing a relevant sexual offence on that person. A relevant sexual offence is any offence under Part 1 of the Sexual Offences Act 2003 which includes rape, prostitution and sexual abuse. These offences apply equally to women and men. It also includes all child sex offences which are covered in more detail in the section Child Victims.
- **Asylum and Immigration (Treatment of Claimants) Act 2004**
Section 4 creates offences of trafficking another person into, within and out of the UK for non-sexual exploitation. This includes domestic servitude or forced labour, human organ donation or forcing or enabling another person to acquire a benefit. This can mean a state benefit, for example a child benefit, or any advantage derived by the trafficker, which could include financial gain or profit.
- **Immigration Act 1971**
Section 25 creates an offence of assisting unlawful immigration to a member state (known as 'facilitation'). It is a breach of immigration law by a non-EU citizen (including a breach of another Member State's immigration law). We will use this offence when someone has been smuggled into the UK, or where we cannot prove the nature of the exploitation (for example in cases of pro-active investigations where a victim has not yet been subject to exploitation) or when someone may have been trafficked into the UK before 2004 when human trafficking laws came into force.

(CPS, *Public consultation on the CPS Public Policy Statement on Prosecuting cases of Human Trafficking*, July 2010, [pages 10–11](#))

The CPS is also able to disrupt traffickers' activity by seizing them of their assets, for example through recovery of assets under the Proceeds of Crime Act 2002.

5.1.1 Legislative developments: EU directive

In October 2008, the European Commission issued a working document evaluating the implementation of anti-trafficking policy in the EU. The Commission found that the number of criminal proceedings and victims supported were “not high enough” across the EU. Following this a new directive was proposed by the Commission (EUROPA press release, [‘Proposal for a directive on preventing and combating trafficking in human beings and protecting victims, repealing Framework Decision 2002/629/JHA’](#), 29 March 2010).

Initially the Government—which had changed following the general election in May 2010—announced that the UK would not opt-in to the new directive. A Home Office press release stated: “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” (Home Office press release, [‘Home Office defends position on human trafficking’](#), 31 August 2010).

In reaction to this announcement the Archbishop of York described himself as “stunned”, saying that “what we need are tough cross-border solutions to international problems. We need to join with our European brothers and sisters and put an end to this evil trade” (John Sentamu, [‘We must have a united front to defeat the evil traffickers who trade in slavery and sex’](#), *Yorkshire Post*, 6 September 2010). Klara Skrivankova, of Anti-Slavery International, said: “Despite significant positive steps, the Government cannot become complacent and say that the UK is already doing enough. Without international cooperation the Government will lose the battle with the traffickers. By choosing not to opt in to the directive the Government is failing in its efforts to combat this transnational crime” (BBC News website, [‘Charities say government fails trafficking victims’](#), 4 August 2010).

The Government have since decided to opt-in to the directive. In March 2011, Teresa May, the Home Secretary, wrote to parliamentary scrutiny committees seeking their views on the Government signing up to the proposals. Following a report by the House of Commons European Scrutiny Committee ([‘Twenty-fourth Report of Session 2010–11’](#), 7 April 2011, HC 428-xxii), the issue was debated on the floor of the House of Commons in May 2011. Damien Green, the Home Office Minister, explained the decision:

As the House will be aware, we chose not to opt in to the directive when it was initially put on the table last summer, because the draft text had to go through an extensive period of negotiation between the European Council and the European Parliament. We wanted to be absolutely sure that the text would not change during those negotiations in a way that would be detrimental to the integrity of the UK’s criminal justice system. We wanted to consider a final text that had no risks attached and would not fundamentally change the UK’s already strong position in the fight against human trafficking.

... We have examined in great detail the final text and its impacts on the UK, and have concluded that applying to opt in would benefit the UK as well as—most importantly—the victims of trafficking. Applying to opt in to the directive will

maintain our position and will continue to send a signal to traffickers that the UK is very serious about tackling trafficking.

(HC *Hansard*, 9 May 2011, col [978](#))

Mr Green then described some of the actions the Government would need to do to implement the directive:

The UK already complies with the majority of its measures. We have said from the outset that opting in to the directive will require us to make some legislative changes to ensure full compliance, and we are ready to do that. This will include widening extra-territorial jurisdiction. The directive requires us to establish extra-territorial jurisdiction when the offender is a UK national. It also gives us discretion about whether to establish jurisdiction over cases in which the offender is an habitual resident.

(*ibid*)

From October 2011 the directive applied to the UK (European Commission press release, '[Directive 2011/36/EU applied to United Kingdom](#)', 14 October 2011). Prior to this the Government had found that there were disparities in the UK's anti-trafficking legislation:

By 31 December 2011 we will review whether the current legislation supports the effective prosecution of traffickers. Trafficking for labour exploitation is prosecuted under S. 4(2) of the Asylum & Immigration Act 2004, while trafficking for sexual exploitation is prosecuted under the Sexual Offences Act 2003. While there have been successful prosecutions under both, there are some disparities which make the legislative framework less straightforward than it could be for prosecutors. In addition, the different levels of proof required mean that it is more difficult to prosecute for labour exploitation.

(Home Office, *Human Trafficking: The Government's Strategy*, 19 July 2011, page 23, [para 93](#))

In January 2012 the Government introduced amendments to the Protection of Freedoms Bill [HL Bill 99] in response to their findings. During committee stage on the Bill in the House of Lords, Lord Henley, the Home Office Minister, told Peers:

There are two areas where our criminal law on human trafficking currently falls short of the requirements imposed on member states by the directive: namely, the requirement to establish extra-territorial jurisdiction where the trafficker is a UK national and commits a human trafficking offence anywhere in the world; and the requirement to criminalise labour trafficking within the United Kingdom. Amendments 152B and 152C insert two new clauses into the Bill that will broaden the current human trafficking offences by extending extra-territorial jurisdiction over UK nationals and criminalising labour trafficking that takes place entirely within the UK.

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.

(HL *Hansard*, 12 January 2012, cols [GC61–2](#))

5.2 Human trafficking: the Government's strategy (2011)

In July 2011 the Government published *Human Trafficking: The Government's Strategy*. The strategy focussed on four areas:

- Improved victim care arrangements
- Enhanced ability to act early, before the harm has reached the UK
- Smarter multi-agency action at the border
- Better coordination of our law enforcement efforts within the UK

(Home Office, *Human Trafficking: The Government's Strategy*, page 7, [para 13](#))

This followed the [UK Action Plan on Tackling Human Trafficking](#) published by the previous Government in 2007 ([updated 2009](#)).

In a written statement Damien Green, the Home Office Minister, set out the Government's strategy:

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 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.

(HC *Hansard*, 19 July 2011, col [107WS](#))

The strategy paper refers to the UK's obligations as a signatory of the Council of Europe Convention on Action Against Trafficking in Human Beings (ECAT). ECAT was signed by the UK in 2007. The Convention is summarised on the Council of Europe website:

The Convention is a comprehensive treaty mainly focussed on the protection of victims of trafficking and the safeguard of their rights. It also aims at preventing trafficking as well as prosecuting traffickers.

The Convention applies to all forms of trafficking; whether national or transnational, whether or not related to organised crime. It applies whoever the victim: women, men or children and whatever the form of exploitation: sexual exploitation, forced labour or services, etc.

The Convention provides for the setting up of an independent monitoring mechanism guaranteeing parties' compliance with its provisions.

(Council of Europe website, '[Summary of the Convention](#)', accessed 20 January 2012)

5.2.1 Reaction to Government strategy

Christian social policy charity CARE welcomed the strategy. Dan Boucher, its Director of Parliamentary Affairs, said the charity was pleased the strategy highlighted the importance of tackling demand. Lydia Bowden, CARE's Human Trafficking Policy Officer, added:

We very much hope that the publication of the long-awaited Human Trafficking strategy will help Britain concentrate on the reality of trafficking in the UK. Although we are glad that the strategy makes reference to victim care, we are

disappointed that only two out of twenty four pages address the need for improved care and protection of victims. That we have not been getting it right in the recent past is well illustrated not least by the extraordinary fact that, according to the Government's own figures, from 2007 to 2010, over 300 rescued trafficked children in local authority care were lost. This appalling number is indicative of the enormous burden of responsibility Britain has in taking steps to combat human trafficking.

(CARE press release, [‘CARE Responds to Government's Long-Awaited Human Trafficking Strategy Released Today’](#), 19 July 2011)

Nigel Edward-Few, Jubilee Action's Chief Executive, also welcomed the strategy but said he was disappointed the strategy did not say "more as to how Britain, which has taken a lead on other important issues such as the achievement of the MDGs [millennium development goals] through a global response, is taking, or could take, such a lead on the world-wide issue of trafficking". He added that:

Regrettably, it seems that the document is very parochial, almost entirely concerned as it is with the impact of trafficking to, and in, the UK. Given that, while this is deplorable, the numbers are relatively small; there were only just over 1000 such cases in an 18 month period here in the UK, of which less than 10 percent ended in a prosecution.

(Jubilee Action, [‘Human Trafficking: New Strategy’](#), 25 July 2011)

Anthony Steen, the former Conservative MP and current chair of the Human Trafficking Foundation, said he regretted the strategy's immigration-centred approach. He said: "It should be about being hostile to traffickers, being compassionate and caring to victims, a human rights approach as opposed to an immigration issue" (*Guardian*, [‘New trafficking laws ‘will not care for slavery victims’](#)”, 2 July 2011).

This sentiment was shared by Anti-Slavery International, Stop the Traffik and ECPAT UK (End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes). In a joint statement they expressed worry "that the new strategy does not contain the necessary details to offer effective protection for trafficked people". The statement quoted Dr Aidan McQuade, Director of Anti-Slavery International, saying that "while well intentioned" the "strategy is too narrowly focused". He said:

There is some proposed action for countries of origin, which is welcome but insufficient. Much more concerted effort needs to be made to eradicate the factors of discrimination and social exclusion that render so many people vulnerable to trafficking.

Within the UK the cornerstone of any anti-trafficking strategy should be to make trafficking a low-profit, high-risk crime. We need to ensure that it is traffickers not their victims who are punished. As practised until now UK policy has resulted in victims being arrested and deported, rather than protected and given the opportunity to support police with their investigations.

The Government must also recognise that many people who are trafficked to the UK enter the country legally. With the Olympics only a year away, which will increase the number of people visiting on tourist visas, the focus on border

control in this strategy will not do anything to help people trafficked with such visas.

(Anti-Slavery International press release, '[Focus of government's new trafficking strategy will not help victims, say charities](#)', 19 July 2011)

Christine Beddoe, Director of ECPAT UK, focussed her comments on the strategy's provisions for children. She argued:

The strategy is no more than a Ministerial statement; it does not contain any commitment to funding or to how it will provide the essential, special protection measures needed to safeguard children who may be trafficked, specifically safe accommodation and guardianship. Nowhere in the strategy does it refer to the additional measures needed to protect children from being trafficked out of the UK, an increasing area of concern with the UK as a known transit country. Children will remain in the shadows unless we have a dedicated child trafficking action plan.

(ibid)

5.3 Anti-trafficking policy framework

5.3.1 Inter-Departmental Ministerial Group on Human Trafficking (IDMG)

In 2005 the Inter-Departmental Ministerial Group on Human Trafficking (IDMG) was established. The group provide:

Strategic oversight of all trafficking issues and directs UK policy on human trafficking, including any issues in relation to the National Referral Mechanism. Information and reports on its progress are fed back into the group. The group are able to discuss, analyse and, where necessary, make decisions regarding issues that arise from the any part of the UK's overall strategy including the functioning of the National Referral Mechanism.

Additionally, a Non-Governmental Organisation Stakeholder Group was established in 2006 co-chaired by the Attorney General and the Minister for Policing and Crime Reduction. This forum provides the NGO sector with the opportunity to comment on progress on the National Action Plan and implementation of the Council of Europe Convention on Trafficking.

(European Commission, Fight Against Trafficking in Human Beings: '[National Info Pages: United Kingdom](#)', 19 December 2011)

The UK currently has no national rapporteur, as the IDMG carries out that role. Lord Henley, the Home Office Minister, told the House of Lords last year that "the idea of a national rapporteur has generated a great deal of interest". However, the Government "believe that with our group, even with its fairly inelegant name, we have an equivalent mechanism in place, and that its remit, which includes the assessment of trends in human trafficking, will be sufficient to comply with the EU directive" (HL *Hansard*, 25 November 2011, col [1282](#)).

5.3.2 United Kingdom Human Trafficking Centre (UKHTC)

The UKHTC was established in 2006 as a multi-agency organisation tasked with providing the development of expertise and the strategic and operational coordination in

respect of all forms of trafficking of human beings. The UKHTC “works very closely with law enforcement agencies throughout the country and with non-governmental organisations as well as with the Home Office in helping to combat human trafficking” (European Commission, Fight Against Trafficking in Human Beings: [‘National Info Pages: United Kingdom’](#), 19 December 2011). In addition the Government have said that the UKHTC will be equipped with a new role:

To better coordinate and direct our work overseas, we will give the UK Human Trafficking Centre responsibility for collating and analysing information on trafficking to inform our strategic approach and drive our operational response. This will ensure the right information is disseminated to the operational frontline. We will work with other agencies to ensure that the information that we gather is as consistent and thorough as possible, and is fed consistently into our Organised Crime Mapping tools.

(Home Office, *Human Trafficking: The Government’s Strategy*, 19 July 2011, page 12, [para 43](#))

Since April 2010, UKHTC has been legally part of the Serious Organised Crime Agency (SOCA). A House of Commons written answer revealed that UKHTC had 37 staff at the end of March 2011: 35 of the 37 employees were SOCA staff and two were UK Border Agency staff on attachment. However, the figures did not include “additional resources which UKHTC, as a part of SOCA, can draw on when required. The UKHTC is further supported by partners in the public, private and charity sectors” (HC *Hansard*, 16 June 2011, col [948W](#)).

In 2010 the Government announced the creation of the National Crime Agency (NCA) in 2013. The NCA, the Home Office website says, will:

- spearhead the UK’s fight against serious and organised crime
- strengthen policing at the border
- ensure local policing effectively links to the work of national agencies and action overseas

(Home Office website, [‘National Crime Agency’](#), accessed on 19 January 2012)

This will comprise distinct command units for “Organised Crime, Border Policing, Economic Crime, and the Child Exploitation and Online Protection Centre (CEOP), and will build on the capabilities and expertise of its precursor organisations such as SOCA, which includes the UK Human Trafficking Centre” (Home Office, *Human Trafficking: The Government’s Strategy*, 2011, page 7, [para 17](#)). The proposed NCA would have a role in tackling human trafficking. In transition to the NCA, and as part of the NCA build, the Government have said it would establish the Organised Crime Coordination Centre:

The centre will be based initially within SOCA and will have a dual reporting line to ACPO. The Centre will lay the foundation for the transition to the NCA by: improving the coordination of our organised crime response; developing the national tasking and coordination mechanism to be led by the National Crime Agency; and developing an improved understanding of the threat from organised crime through the analysis of multiple data and intelligence sources.

(Home Office, *Human Trafficking: The Government’s Strategy*, page 22, [para 84](#))

In a Westminster Hall debate in May 2011, Damien Green, the Home Office Minister, assured MPs that the creation of the NCA would not adversely affect the UKHTC:

When it became part of the Serious Organised Crime Agency, much work was done to ensure that the UKHTC retained its unique role, character and identity. That includes its focus on victim care and its competent authority role in identifying victims as part of the national referral mechanism. Merging the UKHTC into the national crime agency will not affect its important work or change its focus in any way. Specifically, as part of the NCA, the UKHTC will benefit from being able to draw on the resources and intelligence of the wider organisation, while retaining its focus.

(HC *Hansard*, 18 May 2011, col [97WH](#))

5.3.3 National Referral Mechanism (NRM)

The NRM was set up following the implementation of the Council of Europe Convention on Action Against Trafficking in Human Beings in April 2009. The Convention created “provisions for support to victims through a forty-five day recovery and reflection period for all identified victims and temporary one-year renewable residence permits in circumstances where they assist the authorities or support criminal proceedings” (CPS, *Public consultation on the CPS Public Policy Statement on Prosecuting cases of Human Trafficking*, July 2010, [page 18](#)). The Government have said the NRM is a “key part of the support package” offered to trafficking victims. The NRM “helps in determining whether [victims] have access to support, such as accommodation, medical care, training and education, translation, as well as psychological and material help. The NRM provides a way for all agencies such as the police, the UK Border Agency, local authorities and Non-Governmental Organisations to cooperate, share information about potential victims and facilitate their access to advice, accommodation and support” (Home Office, *Human Trafficking: The Government’s Strategy*, 19 July 2011, page 9, [para 24](#)).

CPS guidance outlines what this means for victims of trafficking:

A first responder who encounters them can make a referral to either the UK Human Trafficking Centre or the UK Border Agency to access these provisions. The potential victim’s case is considered and, if approved, the victim is given a 45 day reflection period during which time they are entitled to a range of support services, and will not be removed from the UK. Accommodation and support is provided through Poppy Project (for victims of sexual exploitation) and Migrant Helpline (for victims of labour exploitation). A number of individuals are also accommodated by charitable third sector support providers.

At the end of the reflection period, a conclusive decision will be made and if the victim does not have any leave to remain in the UK, they will be considered for a residence permit based on whether the victim is to support criminal proceedings, or whether their personal circumstances warrant a grant of leave to remain in the UK.

(CPS, *Public consultation on the CPS Public Policy Statement on Prosecuting cases of Human Trafficking*, July 2010, [page 18](#))

In a written answer the Government have said they are aware of the difference between the estimated number of victims of human trafficking in the UK and the number of potential victims of human trafficking identified by the National Referral Mechanism:

Trafficking is by its nature a hidden crime and therefore it is difficult to get a full picture of the numbers involved. Entry to the National Referral Mechanism (NRM) is voluntary so we cannot force those we suspect of being victims to participate against their will. But we are committed to bringing as many victims as possible into the NRM. To do this we continue to raise awareness of trafficking with frontline partners such as the police, local authorities and health service and have recently increased the number of voluntary sector partners who are able to make direct referrals into the NRM.

(HC *Hansard*, 9 September 2011, cols [848–9W](#))

In 2011 the NSPCC-Child Trafficking Advice and Information Line and Barnardo's became able to directly refer child victims into the NRM system (Home Office, *Human Trafficking: The Government's Strategy*, 19 July 2011, page 10, [para 28](#)).

5.3.4 Supporting victims

The Government have said that victim care is central to their approach in combating trafficking. They were "providing identified trafficking victims with the proper support they need and deserve" and for this reason had "protected the funding for supporting adult victims of trafficking at £2 million per year in England and Wales" (Home Office, *Human Trafficking: The Government's Strategy*, 19 July 2011, page 11, [para 33](#)).

Between 2003 and 2011, the Poppy Project provided accommodation and support to women who had been trafficked into prostitution or domestic servitude. However, from 1 July 2011 a new model for funding adult support in England and Wales has been in operation. The Salvation Army is now the central contractor with a case-management function as well as responsibility for overseeing and coordinating the provision of care. The Government's strategy paper explained:

Under this model, funding will follow the victim to whichever organisation supports them, allowing the support system to adapt to changing demand and develop a greater range of service provision.

This flexibility will provide a tailored service to victims, taking account of their individual needs. This will also make it easier to track a victim through the system and monitor the quality of the service provided. To ensure appropriate victim care is maintained, the Home Office will monitor delivery of the new funding model in conjunction with the Ministry of Justice on a quarterly basis.

(*ibid*, page 11, [paras 36–7](#))

Lord McNally, the Justice Minister, gave more detail in a written answer as to how the Salvation Army's contract would work:

The Salvation Army will subcontract approximately 75 percent of support service provision for adult victims of human trafficking in England and Wales to organisations experienced in supporting vulnerable victims. The care provided to all identified victims will meet the standards set out in the Council of Europe Convention on Action against Trafficking in Human Beings. The Salvation Army is experienced in supporting victims of human trafficking, running a safe house for

trafficked women in England and supporting victims in 124 countries. In its bid the Salvation Army made clear its intention to make use of the expertise already present within the sector.

(HL *Hansard*, 23 May 2011, col [WA390](#))

Support for trafficked children is arranged separately. Baroness Neville-Jones told the House of Lords that:

Responsibility for the care, protection and accommodation of child trafficking victims falls under the statutory responsibilities of local authorities. They must ensure that the child's needs are assessed, that they are placed in safe accommodation and that they are given social work support to plan for their care.

(HL *Hansard*, 27 July 2010, col [1225](#))

5.3.5 Children

The Government's strategy paper also set out a series of actions it would take to improve the protection of child victims of trafficking. The Government would "continue to work closely with partners to raise awareness of child trafficking and ensure child victims are safeguarded and protected from re-trafficking" (Home Office, *Human Trafficking: The Government's Strategy*, 19 July 2011, page 24, [para 97](#)). Guidance available for practitioners and local authorities would also be updated to ensure they are "fully equipped" to identify and safeguard victims. With regard to the police and criminal justice system the Government pledged to ensure trafficked children engaged in criminal activity would be dealt with "from a child safeguarding perspective and not necessarily criminalised" (ibid, page 24, [para 98](#)). The strategy also set out actions the Government would take to tackle the issue of children who disappear from local authority care in England and Wales.

In terms of improved border control, the Government have said: "We will also ensure that the border represents a robust line of defence for child trafficking victims. Where children are being trafficked into the UK for exploitation they will be identified and safeguarded at the earliest possible opportunity" (ibid, page 25, [para 100](#)). The Government are also pledged to ensure a multi-agency response is in place to tackle child trafficking:

Working with our partners we will therefore look to build on the success of the child safeguarding multi-agency teams such as Operations Paladin and Newbridge that are in place at some of our major ports to ensure there is appropriate level of coverage across the country, proportionate to the identified threat. We will ensure our intelligence supports these operations so that they can respond flexibly and ensure there are no 'safe routes' for those seeking to bring vulnerable young people into the UK.

(ibid, page 25, [para 103](#))

6. Recent assessments of anti-trafficking policies in the UK

6.1 3P Anti-trafficking policy index (2011)

Research by a group of academics from universities across Europe ranked the UK as worse than Albania and Vietnam, and equal to Uzbekistan, in a league table of anti-

trafficking policies. The research said that:

While the UK achieved full marks for prosecution and prevention in 2009, it scored a mere two out of five for protecting victims of trafficking. The creators of the Index suggest that policies such as imprisoning victims on grounds of illegal immigration, an action against the mandate of the UN Protocol, is the reason behind the low score in this area.

But the UK is not alone in its lack of effective policies for protecting trafficking victims. While the Index suggests worldwide anti-trafficking policy has improved in the past 10 years, it also recently shows a modest deterioration in policies designed to protect victims, who would mostly be foreign nationals.

(LSE News, '[UK less effective than Albania in tackling human trafficking](#)', 14 April 2011)

The 3P Anti-trafficking Policy Index was devised by researchers at the University of Goettingen, with the participation of the London School of Economics and Political Science (LSE), on the basis of evaluations of the anti-trafficking policies in place in 177 countries from 2000-2009 across the three policy dimensions recommended by the UN: prosecution of traffickers, prevention of the crime of human trafficking and protection of trafficking victims.

6.2 US State Department: assessment of UK policy (2011)

The US State Department's annual report on anti-trafficking provides a country-by-country assessment of the anti-trafficking mechanisms in place. In 2010 the report introduced a new ranking system. Those ranked as Tier 1 are countries whose governments fully comply with the US's Trafficking Victims Protection Act's (TVPA) minimum standards, whereas Tier 3 are those whose governments do not fully comply with the minimum standards and are not making significant efforts to do so. In the 2011 report the UK is ranked in Tier 1 because:

The Government demonstrated vigorous prosecutions and convictions of sex trafficking offenders in England, obtaining during the reporting period the highest sentence on record for trafficking in the United Kingdom. The UK government improved its prosecution of forced labour offences and continued to implement its National Referral Mechanism (NRM). NGOs, however, continued to report inadequate and inconsistent protection efforts for trafficking victims in the UK. Some potential and confirmed trafficking victims, including children, were prosecuted and imprisoned for committing offenses as a direct result of being trafficked. Due to devolution of law enforcement powers to Northern Ireland, Wales, and especially Scotland, each region has its own human trafficking laws and anti-trafficking enforcement powers. Inadequate protection measures for victims in Northern Ireland, Scotland, and Wales could result in their re-trafficking throughout the Kingdom and the Republic of Ireland.

(US State Department, *Trafficking in Persons Report*, June 2011, [page 369](#))

The report makes a number of recommendations for the United Kingdom:

Standardise anti-trafficking responses across the UK insofar as possible given devolution of law enforcement powers; train law enforcement and the legal community on the slavery-based approach of the 2009 Act; examine sentencing structures to determine if they appropriately respond to domestic servitude or

other labour trafficking situations; improve outreach and training to all front-line responders to ensure potential trafficking victims, including children, are identified as such to prevent their inadvertent punishment or deportation; appoint a victim coordinator in each region to ensure victims identified through the NRM are provided with specialized services and can fully access their rights; take further steps to ensure that confirmed trafficking victims are not penalized for unlawful acts committed as a direct result of being trafficked; increase capacity to ensure all trafficking victims are provided access to specialized services and safe accommodation; improve protections for UK-resident child trafficking victims, as well as unaccompanied child asylum seekers who are victims of trafficking; conduct an assessment of forced labour and domestic servitude in the UK and its territories; share technical expertise and training to raise awareness and improve the law enforcement and victim protection response in UK overseas territories; and appoint a rapporteur in each region to make critical assessments and improve the UK's overall anti-trafficking response.

(ibid)

6.3 Inquiry into human trafficking in Scotland

In November 2011 the Equality and Human Rights Commission published the findings of an inquiry into human trafficking in Scotland, led by Baroness Kennedy of the Shaws. The Inquiry found that:

1. Scotland needs to have a comprehensive strategy to prevent and tackle human trafficking.
2. There is little public or professional awareness in Scotland of human trafficking or its indicators.
3. Human trafficking legislation in Scotland and in the UK has developed in a piecemeal fashion and is not based on a thorough consideration of how legislation should best deal with the problem. This has left human trafficking legislation in Scotland and the UK inconsistent, both internally and in comparison with international law, and has served to limit its scope and impact.
4. Scotland's police service has a significant intelligence gap on human trafficking.
5. There have been few prosecutions against suspected traffickers in Scotland for human trafficking offences.
6. Law enforcement bodies operating in Scotland have experience in disrupting organised crime through the application of asset recovery powers, but there have been few operations specifically targeting organised human traffickers.
7. There is a need for the Scottish and UK Governments to encourage and assist organisations responsible for inspecting employment agencies and standards, environmental health and health and safety at work, regulating domestic work, or making licensing decisions, to embed anti-trafficking into their regulatory frameworks and practices.

8. Traffickers use commercial products, services, and premises to organise and facilitate the exploitation of victims, including through mobile phones, websites, credit and debit payment facilities, and privately rented or owned accommodation.
9. The current arrangements for identifying victims and deciding trafficked status are too centralised, lack accountability, create a conflict of interest in decision making, and do not lead to the tracking of outcomes for victims or to an analysis that identifies patterns and trends in human trafficking.
10. Scotland does not yet have comprehensive, end-to-end services for victims of human trafficking.

(Equality and Human Rights Commission, [Inquiry into Human Trafficking in Scotland: Executive Summary](#), 2011, pages 21–35)

The report sets out ten recommendations aimed to prevent and tackle human trafficking in Scotland. These recommendations include:

- Scotland should pioneer a strategic, victim centred approach to trafficking, focussing on human rights and crime prevention. This should be in place before the Commonwealth Games in 2014.
- Scotland needs to raise awareness of trafficking issues so that individuals and agencies know what trafficking looks like, where it happens, and what to do about it.
- Agencies must share information more systematically to improve performance on gathering intelligence, successful prosecutions, and supporting victims.
- There is a case for a new Human Trafficking Act, which would address the crime of trafficking directly, and which would enable more prosecutions of traffickers.
- Scotland needs end-to-end services for victims, with practical assistance accessible wherever a victim is found.

(ECHR press release, '[EHRC launch inquiry into Human Trafficking in Scotland report: Baroness Helena Kennedy QC Investigating Commissioner](#)', 28 November 2011)

