



Scotland's
Commissioner
for Children and
Young People

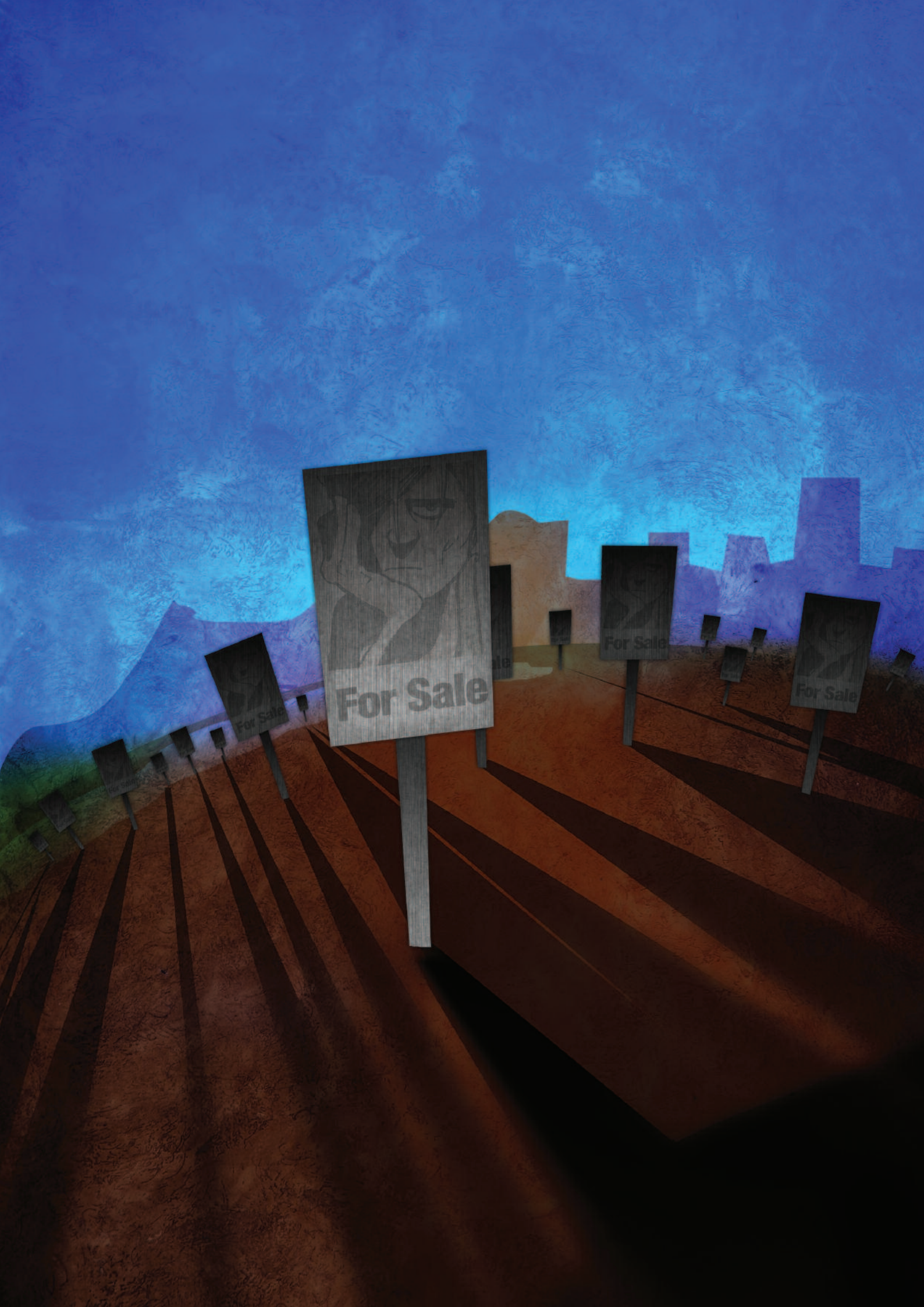


University of the
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Perth College



Scotland: A safe place for child traffickers?

A scoping study into the
nature and extent of child
trafficking in Scotland



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Scotland: A safe place for child traffickers?

A scoping study into the nature and extent of child trafficking in Scotland

Scotland's Commissioner for Children and Young People
& the Centre for Rural Childhood, Perth College UHI

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www.sccyp.org.uk/publications/adults/policyandresearch
on:

- The legislative framework dealing with human trafficking related exploitation and;
- Overview of child protection in Scotland.

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List of Acronyms

ATMG	Anti-Trafficking Monitoring Group
CEOP	Child Exploitation and Online Protection Centre
CJS	Criminal Justice System (of England & Wales)
CoE	Council of Europe
EEA	European Economic Area
ECPAT	End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes
FRA	European Union Fundamental Rights Agency
GIRFEC	Getting it Right for Every Child
ILO	International Labour Organisation
NGO	Non-Governmental Organisation
NRM	National Referral Mechanism
NSPCC	National Society for the Prevention of Cruelty to Children
OSCE	Organisation for Security and Cooperation in Europe
SCCYP	Scotland's Commissioner for Children and Young People
TARA	Trafficking Awareness Raising Alliance
UKHTC	United Kingdom Human Trafficking Centre
UASC	Unaccompanied Asylum Seeking Child/ren
UKBA	United Kingdom Border Agency
UNHCHR	UN High Commissioner for Human Rights
UNCRC	UN Convention on the Rights of the Child
UNHCR	UN High Commissioner for Refugees
UNICEF	UN Children's Fund
UNODC	UN Office on Drugs and Crime
UNTOC	UN Convention against Transnational Organized Crime

Foreword

When children are sold, or stolen, or simply taken off the street and transported thousands of miles, it is an international scandal. When children are raped or exploited as slaves in households or ‘businesses’ in Scotland, it becomes our national scandal. When we fail to notice, fail to pick up the signs, and fail to act on children’s trauma, it demands action.

As this report reveals, in Scotland we frequently fail to recognise the signs of child trafficking, and even when we suspect, all too often we fail to act. In the few cases where children are identified as victims of trafficking, our poor response to their needs and the lack of successful criminal prosecutions of the perpetrators makes Scotland a welcome place for child traffickers. The report demonstrates that we have a collective lack of awareness and understanding of child trafficking, including in some of the very sectors which are expected to identify and help victims.

I hope that the document you are holding will take this issue out into the open and this report - the first of its kind in Scotland - demands action. Based on its findings, I have made a number of recommendations for the UK Government, Scottish Government, local authorities, police forces and the UK Border Agency in Scotland.

I urge you to join me in making every effort to ensure that these recommendations effect change, and make Scotland a better place for child victims of trafficking and a place where child traffickers would rather avoid.

We must not deny trafficked children their voices, nor let our blindness to their plight continue to fail them.

A handwritten signature in black ink that reads "Tam Baillie". The signature is written in a cursive, slightly slanted style.

Tam Baillie

Scotland’s Commissioner for Children and Young People

Executive Summary

1: Introduction

This scoping study on the extent and nature of child trafficking in Scotland was commissioned by Scotland's Commissioner for Children and Young People (SCCYP). The purpose of the study was to provide the Commissioner with an understanding of child trafficking which would allow his office to make recommendations for policy, practice and legislative change and to use the results to raise awareness, among professionals and key stakeholders, of child trafficking.

1.1. The Background

Human trafficking

Human trafficking is a complex global problem. There is general consensus that, at least concerning cases of adults being trafficked, there has to be an element of coercion and/or deception on the part of the trafficker in recruiting individuals, as well as a degree of exploitation.

Human trafficking has traditionally been considered an issue of transnational crime and border/migration control, and the responses developed have, until more recently, focused on these elements. This has arguably had a detrimental effect on those who have been trafficked,

categorising them as part of the problem, rather than as victims of human rights violations.

Child Trafficking

Children who are affected form a particularly vulnerable group, with additional needs that cannot be met without first establishing a clearer picture of the nature and extent of the phenomenon. This underscores the essential need for this scoping exercise of child trafficking into, within and possibly out of Scotland.

It is only by identifying the children who are suspected of being trafficked; their country of origin; their age, gender, locations within Scotland; the nature of the activity for which they have been trafficked; and how they were identified and subsequently supported that an appropriate response can be developed. The absence of information as to why a child is giving cause for concern does not, of course relieve any individual from making a child protection response.

Legal Tools and Protocols

The primary legal tool designed to combat human trafficking is the United Nations Convention against Transnational Organized Crime (UNTOC).

The UK also ratified the Council of Europe Convention on Action against Trafficking in Human Beings on 17

December 2008 (the 'CoE Convention'), which came into force on 1 April 2009. Having ratified these international instruments, the UK, and so Scotland, has certain obligations relating to persons suspected of having been trafficked.

1.2. The Scottish Picture

With the exception of some research undertaken in Glasgow (Rigby, 2009; Rigby, 2010), little Scotland-specific research has been undertaken as to the extent and nature of child trafficking.

The study presented here is viewed through a Scottish lens and is informed by knowledge of the agencies responsible for children in Scotland. It also has to be acknowledged that whereas responsibility for immigration and transnational crime remain ultimately with the UK Government as reserved matters, child protection and welfare are devolved issues. Dealing with trafficking involves services overseen and delivered by a number of government departments, for some of which the responsibility remains principally with the UK Government while others are primarily the responsibility of the Scottish Government.

1.3. Methodology

The methodology employed was a mixture of desk based and empirical research. A literature review was compiled, a web survey designed and posted online and two phases of interviews held.

2: Literature Review

2.1. Methodological, Definitional and Statistical Problems

The issue of trafficking in human beings, and how to address the problem, has gained currency in international political and legal discourse increasingly in recent years. Not only have more studies been conducted into the phenomenon, but a growing number of states have been entering into, and reinforcing the legal framework addressing human trafficking.

2.1.1. The Legal Definition of Trafficking

Article 3 of the Trafficking Protocol offers what the UNODC hails as the "first global legally binding instrument with an agreed definition on trafficking in persons". This definition comprises the acts involved in human trafficking, such as the recruitment, transportation, transfer, harbouring or receipt of persons, the means used to cause a person to become a victim, and the purpose, which comprises a form of exploitation (see full definition on p. 23).



An exception to the Protocol definition though is made in the case of children where no evidence of coercion or deception is required for them to be identified as victims of trafficking. This is due to their perceived vulnerability and inability to offer informed consent to being smuggled (Dowling *et al*, 2007).

2.1.2. Trafficking or Smuggling?

Attempting to neatly distinguish between smuggling and trafficking, particularly from a human rights perspective is a risk because of the possible construction of a hierarchy of victimhood, with those identified as trafficked being seen as ‘innocent’ and deserving of protection, whereas those smuggled are less deserving having been complicit in, and therefore ‘guilty’ of, their illegal migration (European Commission, 2004; Morrison, 2003). This duality of the willing/duped migrant also strips the individual of any agency (Bruckert & Parent, 2002). This is particularly the case with children where, as per the Trafficking Protocol, there does not have to be coercion or deception present before they may be identified as having been trafficked.

2.1.3. Data Collection on Trafficking

Apart from the obvious problem that trafficking is a hidden and covert activity, there are several other barriers to the collection of statistical data. These include:

- The ongoing debate about the definition of trafficking (i.e. who should be counted as a victim of trafficking), the lack of systematic and consistent methodology (Aronowitz, 2009);
- An over emphasis on trafficking for sexual exploitation which has led to an under-reporting of other trafficking for other forms of exploitation (Goodey, 2008);
- The reluctance of victims to identify themselves (Europol, 2009) and;
- Different countries, and agencies within countries,

collecting data or using estimates to no specific criteria (Lebov, 2009).

Data collection needs to be coordinated, and produce information that is comparable and covers individual victims, the number of victims per country annually, individual traffickers and the trafficking process. A comprehensive picture would support all those involved in anti-trafficking activities, in developing targeted services for those who have been trafficked, and trying to reduce the underlying risk factors which make people vulnerable to traffickers (Aronowitz, 2009).

2.2. Transnational Crime Control or Human Rights Approach?

The Trafficking Protocol is perhaps best thought of as a kind of hybrid international legal instrument, originating from the sphere of international criminal law, but containing human rights provisions.

Probably the most significant step towards instilling a more human rights based approach to tackling trafficking has been the implementation of the CoE Convention on Action against Trafficking in Human Beings (the ‘CoE Convention’). The Convention introduces a process of recognition of victims of trafficking and provides for a minimum of 30 days recovery period. It stipulates the introduction of provisions such as awareness-raising for persons vulnerable to trafficking and actions aimed at discouraging “consumers” in the destination countries, recognising victims of trafficking as such in order to avoid police and public authorities treating them as illegal migrants or criminals; physical and psychological assistance for victims, support for the reintegration of those who have been trafficked into society and entitlement to compensation.

2.3. Migration Control

One obstacle in identifying those trafficked is the individuals’ hesitation to report the abuse experienced. This hesitation often stems from fear of what action the

authorities might take against them as a result of their irregular immigration status. This is only exacerbated when trafficking is regarded as an illegal migration issue requiring the tightening of borders.

Placing individuals' human rights at the centre of all dealings signifies a shift from criminalising and potentially deporting them over their migration status, to acknowledging their vulnerability and need of assistance (Dowling *et al*, 2007).

2.4. Prevention and Root Causes

The human and children's rights approach is not only useful so as to protect those who have been trafficked, but also in establishing any programmes designed to prevent trafficking. Trafficking itself is a human rights violation, but those most vulnerable to being trafficked are likely to be those who are marginalised in their countries of origin. Trafficking viewed through this lens, while being acknowledged as an abuse in itself, is also a consequence of structural human rights abuses.

Any meaningful discussion of measures to tackle trafficking at the source must take account of the need to effect sustainable change in terms of structural inequalities such as poverty, lack of educational opportunities, gender inequality, discrimination on the grounds of age and ethnicity, imbalance of opportunities between urban and rural environments, armed conflict and environmental degradation.

2.5. Demand and the Role of Destination Countries

The demand within wealthy countries for cheap labour and services undoubtedly encourages worker migration (Bruckert & Parent, 2002). Addressing trafficking and exploitation will require states to implement policies aimed at minimising environments in which exploitation can occur by better protecting migrants and strictly enforcing labour laws, particularly in the low wage sectors of their economies.

2.6. Child Trafficking

2.6.1. The Heightened Vulnerability of Children

The literature highlights the vulnerability of people as being the primary factor rendering them susceptible to trafficking, it is accepted that children are among those most exposed to the risk of being trafficked.

Children's rights, although the international legal framework is in place, are often not upheld with children facing discrimination as a result of their age, and often their views are not sought or, if they are, then discounted (Bessell, 2004; UNICEF, 2007). A lack of educational opportunities is also often cited as exacerbating children's vulnerability (CEOP, 2007; Nelson *et al*, 2004), as well as chaotic situations in countries where there is conflict, or the country is transitioning through a post-conflict period (Nelson *et al*, 2004). Other possible factors aggravating children's situations include natural disasters and disruptions to the family structure, such as the death of parents or guardians.



2.6.2. Modes of Child Trafficking

Children may be trafficked through a number of methods including abduction; being picked up if separated from their family as is likely during conflict or internal displacement; or the family agreeing for the child to be taken in the belief the child will receive an education or suitable employment (Van Reisen & Stefanovic, 2004).

A Rights Based Approach to Combating Child Trafficking

The need to embed a human rights approach to tackling trafficking is particularly resonant in the case of children. The principle of placing the best interests of the child as a primary consideration in all decisions affecting the child, as articulated by Article 3 of the United Nations Convention on the Rights of the Child (UNCRC), should be at the heart of any practices addressing child trafficking.

Article 12 of the UNCRC is also required to be strongly implemented whereby children can voice their views over decisions which concern them, and these views are given due weight (Bessell, 2004; Dottridge, 2007; Mario, 2010).

2.6.3. Age Assessment

Of acute concern regarding children who may have been trafficked is that of age assessment, especially related to children in the 16 – 18 years age bracket whose age is disputed. There is no uniform policy internationally regarding age assessment, and the concern is that states

may be eager to classify trafficked individuals as adults in order to diminish some of their responsibilities to offer assistance. This has become an issue particularly when the trafficked individual is identified within the asylum system when the child either has no, or holds fake, documentation. It is generally accepted that there should be a policy which gives victims the benefit of the doubt (Bokhari, 2008; FRA, 2009; UNICEF, 2006) and it is the stated policy of the UKBA to do so (UKBA, 2009).

However, age disputes remain common, and qualified professionals are increasingly reluctant to engage in age assessments, which rely on unreliable methodologies and cannot offer a conclusive judgement (Crawley, 2007; Save the Children, 2006).

2.6.4. Indicators of Child Trafficking

The literature shows that child trafficking is a complex phenomenon in which there is no typical victim who fits a 'classic model' of trafficking (Amnesty, 2008). In order then to limit the number of children who could slip through the net and not be identified as having been trafficked, the use of indicators has been encouraged.

In the UK context, the government has included a list of indicators in its document on safeguarding children who may have been trafficked (DCSF, 2007), and the Scottish Government has incorporated the indicators into its guidance adapted for application in Scotland (SG, 2009).

However, indicators should not be solely relied upon, and cannot be used as a substitute for the systematic appraisal of each individual case (Rigby, 2009).

2.6.5. Missing Children

Another growing concern identified in the UK literature is that of children going missing from local authority accommodation with very little being known as to what happens to them (Bokhari, 2008; CEOP, 2009; ECPAT 2007).



However according to the literature available this does not appear to be as much of a problem in Scotland as it is elsewhere within the UK. In one study of unaccompanied asylum seeking children (UASC) in Glasgow between 2006 and 2009, five percent went missing permanently. Information provided by local authorities has confirmed that numbers of unaccompanied children going missing from care are low in Scotland. However, the fact that no information on the number of unaccompanied minors going missing from local authority care is collected centrally in Scotland is a problem, which needs to be addressed.

2.7. The UK and Scotland

In March 2007, to mark the UK's signature of the CoE Convention, the then Scottish Executive and the Home Office jointly published the *UK Action Plan on Tackling Human Trafficking* (HO & SG, 2007). This has since been updated in 2008 and 2009.

The Action Plan made commitments to ensure frontline staff have the right tools and expertise to identify child victims and offer them appropriate protection and support bearing in mind the special needs of children. In addition, the Scottish Government's guidance for safeguarding children who may have been trafficked also provides guidance (SG, 2009).

2.7.2. The National Referral Mechanism

The UK National Referral Mechanism (NRM) was introduced in April 2009 and the UK and the Scottish Government consider it to be "central to improved arrangements for children who are potentially child trafficking victims" (HO & SG, 2009).

The UK has designated the United Kingdom Human Trafficking Centre (UKHTC) and the UKBA to be the Competent Authorities to which suspected cases of trafficking be referred. All cases of suspected

trafficking are referred to the UKHTC which then deals with cases in which the victim is British or there are no outstanding immigration issues.

Described as unfit for purpose by the Anti-Trafficking Monitoring Group (ATMG 2010), the NRM is subject to criticism for:

- Not allowing appeals of decisions on whether a person is a victim of trafficking;
- Being too closely aligned to the asylum process and;
- Its use of a narrow definition of the term 'referral'.

2.8. Prosecuting Trafficking

Despite several high profile law enforcement operations aimed at trafficking, there have been relatively few successful prosecutions in the UK, and none so far in Scotland at the time of writing this report. There are some fears that trafficking legislation is too unwieldy and demands an unrealistic burden of proof relating to a crime in which the gathering of evidence is extremely difficult.

2.9. Recommendations within the Literature

The one recommendation that was repeatedly made in cases where children are suspected of having been trafficked was the establishment of a guardianship scheme, whereby a guardian would act on behalf of the child to ensure s/he receives appropriate accommodation and care. The guardian would be responsible for dealing with all the agencies involved in the care of the child.

There is also consensus that what is needed is a coordinated effort to collect and collate data on human trafficking, in a manner which facilitates comparative research, and a uniform definition of trafficking.

Gaining a better profile of perpetrators would be beneficial both in prosecuting traffickers, and in educating those who are susceptible to being trafficked, of those who are potentially a threat.

Other recommendations include more specialised accommodation and suitably qualified and trained interpreters.

2.10. Statistics

The UKBA Office for Scotland and Northern Ireland provided statistics relating to NRM referrals of children it received covering the time period of April 2009 – August 2010. That Office had received 14 cases. Of those 14, five demonstrated reasonable grounds of having been trafficked. Of those five, four later received positive conclusive decisions. One child received a negative reasonable grounds decision and so no conclusive decision was pursued. The eight remaining cases were deemed backlog cases and the decisions were still pending.

This report has provided statistics from several sources but until there is one centralised data collection body the picture regarding the extent of child trafficking in Scotland will remain unclear. It may have been anticipated that this would be resolved by the establishment of the UKHTC, but that organisation will only be collecting data relating to NRM referrals and so will only provide a partial picture.

3: The Web Survey and Interview Findings

3.1. Interviewees and Web Survey Respondents

To ascertain the nature and extent of child trafficking in Scotland, the views and experiences of relevant professionals were sought. A wide spectrum of positions was represented in the survey, including researchers, trainers and practitioners, to senior managers, directors and an immigration judge:

- The largest number of responses came from health (263 responses: 30.0%) and social work (255 responses: 29.1%);
- The majority of the respondents (452: 51.6%) were employed in frontline provision or as case workers;
- The largest response rate (304: 34.7%) came from those working in Glasgow with the second largest (126 respondents: 14.49%) from those working in Aberdeen.

3.2. Awareness of Child Trafficking

The web survey and interviews explore participants' knowledge of child trafficking indicators, and their understanding and perceptions of child trafficking.

3.2.1. Main Findings on Awareness of Child Trafficking:

- Existing knowledge is sketchy, with the greatest knowledge bank in cities, particularly Glasgow;
- Willingness to admit to a lack of knowledge;
- Misperception that victims would be young children as opposed to adolescents;
- Viewed as being an urban problem which could not



happen in rural areas as communities know what goes on and;

- A presumption that trafficking is an immigration issue.

3.3. Training

The web survey ascertains information on the level of training that respondents had received, whereas the interviewees were asked as to the level of support required for practitioners.

3.3.1. Main Findings on Training of Child Trafficking

- The view that not everyone needs to be a specialist;
- Training should be commensurate with position held and tailored to the needs of that position;
- Training should be delivered in the most cost effective way and;
- There is a danger of fragmentation if local authorities act independently without giving cognisance to national guidance.

3.4. Procedures in Place

Subsequent questions in the web survey ask about the procedures in place to deal with child trafficking, both hypothetically and in practice. Face to face interview opinions divide between those who thought there is a need for more specific procedures to be clearly established relating to dealing with child trafficking, and those who felt the existing child protection measures and accompanying training were sufficient.

3.4.1. Main Findings on Procedures in Place:

- Child trafficking is seen first as a child protection matter;
- There is divergence of opinion as to the expediency of the child protection system in meeting the needs of trafficked children;

- There is a wide recognition of the need for a holistic approach and;
- There is evidence of good will and some pockets of good practice, which could be of benefit to child victims of trafficking.

3.5. Discussion on difference between 'numbers of concerns' and 'numbers of referrals'

The interpretation of the survey responses confirms that awareness of child trafficking and knowledge of indicators of child trafficking is low in Scotland. It is argued that this lack of awareness may have led to a significant number of cases of possible child trafficking remaining unidentified with vulnerable children therefore not being referred to relevant agencies.

A comparison between the number of respondents who have been concerned that a child may have been trafficked and the number of respondents who have reported actually referring such a child reveals a discrepancy or variation between the numbers. This discrepancy is further highlighted when these numbers are compared to the actual number of referrals received by the UKBA in Scotland. The analysis of the survey data can be found at Chapter 3.5. It suggests that it is likely that over 200 children may have been trafficked compared to 14 referrals to the UKBA.

Even after adjusting the survey returns to take account of possible double or triple counting the discrepancies remain and are of significant concern.

3.5.1. National Referral Mechanism

The interviews explored the NRM in some detail, and this revealed that familiarity with the NRM is patchy. There were those who were aware of it, and those who had experience of it. Amongst those with no direct experience

of it, there appeared to be no urgency to familiarise themselves with the procedure.

Problems with its implementation were also highlighted, particularly:

- The tight timescale in which the suspected trafficked child is to be interviewed and evidence gathered;
- The need for the victim to sign the referral form and;
- The format employed when interviewing children.

However, the UKBA felt the NRM had got off to a good start, but that it is too soon to say much about its effectiveness.

The possibility of the UKBA assuming the three roles of ‘Competent Authority’, ‘First Responder’ and ‘Asylum Case Owner’ simultaneously raised concern. The UKBA members of staff interviewed stated this was not an issue, citing the professionalism of staff as the reason it was not compromised. Notwithstanding this, justice must be seen to be done and the potential multiple roles of the UKBA could be perceived to cloud the issue.

The concerns expressed in the literature review resonate with those expressed by those operating the system and those who need to refer to it. Currently there appear to be two camps: one which believes the NRM requires immediate revision in order to make it more child-friendly, and those who would give it more time to become established, and to overcome any initial teething problems. Those in the former camp would give that role to a more child focussed agency.

3.5.2. Post-Referral

The web survey asked if those respondents who had referred children as suspected cases of trafficking knew what had happened post-referral; various outcomes were reported from nothing being done at all, to a full police investigation.

3.5.3. Main Findings on Procedures

- There is limited knowledge of the NRM;
- There is concern regarding the three roles assumed by the UKBA simultaneously (‘Competent Authority’, ‘First Responder’ and ‘Asylum Case Owner’);
- Those who have used the NRM are critical of the procedure;
- Those most confident in the NRM had not yet used it;
- There is an absence of reliable data and;
- Even having come to the attention of the authorities, children and young people can still slip through the net.

3.6.1. Prosecutions

One recurring theme from certain participants was that of prosecutions and the absence of any convictions for trafficking offences in Scotland.

The perception of investigating child trafficking being “additional work” is a reflection of the disparity between the stated priority in the UK national anti-trafficking action



plan and Ministerial statements on the one hand, and the reality of the need to adequately resource the police to deal with child trafficking. This goes against the UK Government's assurance that trafficking will be dealt with as a matter of priority.

The choice between protection and prosecution, in order to maximise limited resources suggested by some interviewed police representatives is a false dichotomy. The non-investigation of cases results in traffickers continuing their criminal activity. This arguably reinforces the view of child trafficking as being a low-risk / high-profit activity and potentially encourages more people to engage in this illegal enterprise. Such an approach can also put at risk the 'saved' victims, who may be, as many have been, targeted again by the same traffickers and re-trafficked. It also puts more children in countries of origin at risk as traffickers generally exploit as many victims as they can handle, and one child could easily be replaced by another.

3.6.2. Attitudes

Distinct from lack of awareness of child trafficking, some respondents were concerned about attitudes to child trafficking held by their colleagues and the wider community.

Some respondents maintained that child trafficking needed to be placed in a child protection context, but also dealt with from a human rights perspective, whilst a number of respondents observed that child trafficking is not always taken seriously.

3.6.3. Needs of Victims

Resource availability, particularly out of hours was viewed as problematic, in particular in relation to health and appropriate accommodation. The shortage of available fostering arrangements and residential placements was highlighted, and so children are reportedly being placed where there is space as opposed to where would best suit their needs.

Concerns expressed also included:

- Language barriers and a shortage of appropriately trained interpreters;
- A lack of awareness of cultural issues and practices;
- The medium and long-term support available to victims;
- Access to support services and;
- Child victims' mental health and substance misuse, and personal safety.

3.6.4. Concerns for Specific Groups of Children

There were concerns about a range of specific groups of children and wider issues affecting them, namely:

- Those in the 16-18 year age bracket whose age is disputed;
- The particular risk of grooming of those in residential and private foster care;
- The closed nature of some immigrant communities and;
- Children of A2 nationals, particularly those from the Roma community.

5: Recommendations

This report makes 23 recommendations for UK Government, Scottish Government, local authorities, police forces and the UK Border Agency in Scotland.

The recommendations in full are located at page 74.

Chapter One

Introduction

This scoping study on the extent and nature of child trafficking in Scotland was commissioned by Scotland's Commissioner for Children and Young People (SCCYP). The purpose of the study was to provide the Commissioner with an understanding of child trafficking which would allow his office to make recommendations for policy, practice and legislative change and to use the results to raise awareness, among professionals and key stakeholders, of child trafficking.

The Commissioner called for a scoping study recognising the current gaps in the knowledge base surrounding the extent and nature of child trafficking in Scotland. This need had already been highlighted in the 2009 report by the Scottish Government Social Research Unit, *Human Trafficking in Scotland 2007/2008*, as well as in the *Scottish Government's response to the UN Committee on the Rights of the Child's concluding observations of 2008*.¹ The former report was premised on the recognition that, while "a good deal of research [on human trafficking] has been conducted at global, European and UK levels, none has previously focused specifically on the nature and extent of the phenomenon in Scotland."² A primary conclusion of the report was that a "wider understanding of how child trafficking

(including internal trafficking) manifests itself in the UK would be beneficial to [develop the necessary] appropriate multi-agency responses."³

1.1. The Background

Human trafficking

Human trafficking is a complex global problem. Although according to the UN Office on Drugs and Crime (UNODC) human trafficking is a criminal activity which affects almost every country (UNODC, 2009), be that as source, transit or destination, certain misconceptions exist, and there is ambiguity as to the applicability and use of certain terms. As will be brought out more fully in the literature review, there is general consensus that, at least concerning cases of adults being trafficked, there has to be an element of coercion and/or deception on the part of the trafficker in recruiting individuals, as well as a degree of exploitation. In the case of children this element of coercion/deception does not necessarily arise.⁴

Trafficking is often conflated with prostitution and sexual exploitation, particularly of young women and girls who

have been brought into the UK from abroad (a perception reinforced by the media's tendency to focus on these types of cases).⁵ However the anecdotal evidence offered by those working in both non-governmental organisations (NGOs) and law enforcement agencies is of growing numbers of men and boys being trafficked for forced labour, particularly in the agricultural sector, and the trafficking of people within national borders, also known as 'internal' trafficking. Internal trafficking will be returned to later in the report, but the most common form of internal trafficking appears to be young people being moved by coercers from their usual place of residence to a nearby town or area in order to be sexually exploited. The young people generally are returned to their habitual residence one or two days later (Marie & Skidmore, 2007).

Human trafficking has traditionally been considered an issue of transnational crime and border/migration control, and the responses developed have, until more recently, focused on these elements. This has arguably had a detrimental effect on those who have been trafficked,⁶ categorising them as part of the problem, rather than as victims of human rights violations, particularly the right to liberty and the right not to be held in slavery or involuntary servitude. This traditional approach to human trafficking,

further explored in the literature review, has been encapsulated by the concept of 'the three Ps': Prosecution, Protection and Prevention. However from a human rights perspective this may be criticised for the onus has tended to be put on prosecution, to the detriment of protection, via safeguarding those who have been trafficked, and prevention, in addressing the root causes of the problem.

The insufficiency of solely concentrating efforts on 'the three Ps' approach has now been recognised and confronted by, among others, the United Nations Special Rapporteur on Trafficking in Persons, especially women and children, Joy Ngozi Ezeilo. In her 2009 annual report to the UN Human Rights Council, she called for "the gravity of trafficking as a severe violation of human rights [to be] fully recognised and appropriate victims' protection mechanisms [to be] put in place globally."⁷ The Special Rapporteur emphasises the need for a human rights approach to those who have been trafficked and suggests one way to achieve this is through a more holistic approach which encompasses, along with 'the three Ps', 'the three Rs': Redress, Rehabilitation and Reintegration. However, the relationship between such approaches continues to evolve, as is brought out further in the literature review.

1 *Do the Right Thing: For people who work with children or work on their behalf*. A SG action plan in response to the UN Committee 2008 Concluding Observations, pp. 46 – 47. Available at: <http://www.scotland.gov.uk/Resource/Doc/282927/0085645.pdf>.

2 Scottish Government Social Research, (2009), *Human Trafficking in Scotland 2007/08*, p. 3. Available at: <http://www.scotland.gov.uk/Publications/2009/03/31164935/0>.

3 *ibid.*, p.15.

4 See Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Article 3 (c) states '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.' Subparagraph (a) lists various forms of coercion and deception. This Protocol supplements the UN Convention on Transnational Organized Crime. Available at: <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>.

5 This is also the aspect of trafficking that has so far received the most attention in research terms, e.g. the Equality and Human Rights Commission Scotland Formal Inquiry into human trafficking in Scotland, led by Baroness Helena Kennedy, has a particular focus on commercial sexual exploitation (February 2010). Available at: <http://www.equalityhumanrights.com/scotland/projects-and-campaigns-in-scotland/inquiry-into-human-trafficking-in-scotland/terms-of-reference/>

6 See for example, Hathaway (2008).

7 (A/HRC/10/16, 20 February 2009, para 13).

Child Trafficking

Children who are affected by the above problems and issues form a particularly vulnerable group, with additional needs that cannot be met without first establishing a clearer picture of the nature and extent of the phenomenon. This underscores the essential need for this scoping exercise of child trafficking into, within and possibly out of Scotland. It is only by identifying the children who are suspected of being trafficked; their country of origin; their age, gender, locations within Scotland; the nature of the activity for which they have been trafficked; and how they were identified and subsequently supported that an appropriate response can be developed. Of course an absence of information as to why a child is giving cause for concern, does not relieve any individual from making a child protection response.

This evidence base is prerequisite to any identification of what services are required and where they need to be based, in order to assist these abused and exploited children, so that they may have the best opportunity for rehabilitation and go on to lead full, autonomous lives. This underscores the importance of children being identified as victims of trafficking at as early a stage as possible, as only once identified can appropriate steps be taken to resettle children in the UK, or ensure if they are returned to their country of origin it is only done if it is in their best interests and with assurances that sufficient protective measures are in place to uphold children's rights and to secure their wellbeing.

Legal Tools and Protocols

The primary legal tool designed to combat human trafficking is the United Nations Convention against Transnational Organized Crime (UNTOC).⁸ The Convention is supplemented by three Protocols targeting specific areas and manifestations of organised crime: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition. Together these Protocols are known as the Palermo Protocols.⁹ For the sake of brevity, unless otherwise stated, the Palermo Protocol relating to the Trafficking of Persons shall be referred to as 'the Trafficking Protocol'.

The UK also ratified the Council of Europe Convention on Action against Trafficking in Human Beings on 17 December 2008 (the 'CoE Convention'), and it came into force with domestic application on 1 April 2009.¹⁰ Having ratified these international instruments, the UK, and so Scotland, has certain obligations to meet relating to persons suspected of having been trafficked. Arguably, the CoE Convention goes further than the Trafficking Protocol in emphasising those who have been internally trafficked within a country, and in setting out explicit measures to protect and promote the rights of victims, including children.¹¹ Article 10 states that Parties:

"...shall provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings, in identifying and

⁸ Adopted by General Assembly resolution 55/25 of 15 November 2000 and entered into force on 29 September 2003.

⁹ The Protocols on trafficking and smuggling were both adopted by the same General Assembly resolution as the Convention, and entered into force on 25 December 2003 and 28 January 2004 respectively. The third Protocol dealing with firearms was adopted by General Assembly resolution 55/255 of 31 May 2001 and entered into force 3 July 2005.

¹⁰ The Council of Europe Convention on Action against Trafficking in Human Beings. Available at http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Profiles/UKProfile_en.asp.

¹¹ *ibid*, Chapter 3

helping victims, including children, and shall ensure that the different authorities collaborate with each other as well as with relevant support organisations, so that victims can be identified in a procedure duly taking into account the special situation of women and child victims...”

Article 12 requires that each Party “shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery.”

Furthermore, Article 39 of the 1989 UN Convention on the Rights of the Child (UNCRC)¹², which the UK has ratified, provides that:

“States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.”¹³

1.2. The Scottish Picture

With the exception of some research undertaken in Glasgow (Rigby, 2009; Rigby, 2010), little Scottish specific research has been undertaken as to the extent and nature of child trafficking. Research has been

conducted in an attempt to develop an understanding as to the nature and extent of human trafficking in the UK or its component regions. However, these have either not focused on children,¹⁴ or have been from a UK wide perspective with not enough breakdown of the situations within the different parts of the country.¹⁵ The exception is the Children’s Commissioner for Wales who commissioned ECPAT UK to carry out a Welsh scoping exercise.¹⁶

The study presented here is viewed through a Scottish lens and is informed by knowledge of the agencies responsible for children in Scotland. It also has to be acknowledged that whereas responsibility for immigration and transnational crime remain ultimately with the UK Government as reserved matters, child protection and welfare are devolved issues. Dealing with trafficking involves services overseen and delivered by a number of government departments, some of which the responsibility remains principally with the UK Government while others are primarily the responsibility of the Scottish Government.¹⁷ The need to clarify the situation regarding trafficked children in Scotland is therefore imperative.

Scotland’s distinct geography and economy, has been taken account of, particularly in relation to the large number of migrant workers hired for seasonal agricultural labour in the rural regions. Many of these workers will have voluntarily come to, or moved within, Scotland to take up such work, and enjoy commensurate pay and conditions. However, the itinerant and casual nature of

12 UN Convention on the Rights of the Child 1989 (adopted by UN General Assembly resolution 44/25 of 20 November 1989 and entered into force 2 September 1990) 1577 UNTS 3. The UK ratified this Treaty 16 December 1991.

13 Available at: <http://www2.ohchr.org/english/law/crc.htm>

14 See for example the Northern Ireland Human Rights Commission, *The Nature and Extent of Human Trafficking in Northern Ireland*, 2009. Available at: [http://www.nihrc.org/dms/data/NIHRC/attachments/dd/files/115/The_Nature_and_Extent_of_Human_Trafficking_in_Northern_Ireland_\(January_2010\)_ECNI_NIHRC.pdf](http://www.nihrc.org/dms/data/NIHRC/attachments/dd/files/115/The_Nature_and_Extent_of_Human_Trafficking_in_Northern_Ireland_(January_2010)_ECNI_NIHRC.pdf).

15 See for example the Child Exploitation and Online Protection (CEOP) Centre, *A Scoping Project on Child Trafficking in the UK*, 2007. Available at: http://www.ceop.gov.uk/downloads/documents/child_trafficking_report0607.pdf.

16 *Bordering on Concern: Child Trafficking in Wales*, March 2009. Available at: <http://www.childcom.org.uk/uploads/publications/130.pdf>

17 Parts 1 and 2 of Schedule 5 to the Scotland Act 1998 set out policy areas which are reserved to the UK Parliament.

much of this work makes many labourers and possibly family members susceptible to being exploited.¹⁸

The study has also addressed the implementation of the National Referral Mechanism (NRM), and what effect this has had on dealing with children suspected of having been trafficked. In considering the NRM, the study has taken into account Scotland's particular variations in local child protection investigation structures, and the effect these may have on its operation.

1.3. Aims of the Study and Research Questions

The stated **key objectives** of the study were to:

- Identify levels of information among professionals about the existence and scale of child trafficking with reference to:
 - (a) the number of cases of suspected or confirmed child trafficking encountered by professionals;
 - (b) the type of exploitation of the suspected or confirmed cases (e.g. domestic servitude, forced marriage, benefit fraud, sexual exploitation);
 - (c) the identification and background of suspected or confirmed cases including gender and age, country of origin and other relevant details such as parental involvement;
- Find out the processes and procedures of dealing with or responding to suspected or confirmed cases including identification methods, reporting, assessment and recording mechanisms, placements made, police investigations and prosecutions initiated;
- Find out what might be the perceived obstacles to

better identification and better protection of victims of child trafficking;

- To find out levels of awareness amongst key professional stakeholder participants about child trafficking in Scotland with reference to:
 - (a) documentation and guidance such as Safeguarding Children who may have been Trafficked and mechanisms such as the National Referral Mechanism in Scotland and the National Register of Unaccompanied Children;
 - (b) the Home Office and Scottish Government Anti-Trafficking Action Plan and its implementation;
 - (c) levels and nature of training specific to child trafficking and its place within the Scottish context.

The **research questions** sought to determine:

- The levels of awareness of child trafficking issues and policies among those employed in social services, voluntary sector organisations, health, education, law enforcement and child protection;
- Whether confirmed or suspected cases of child trafficking have been encountered by any of the above professionals;
- How identified cases of child trafficking have been dealt with by the social services;
- What reporting procedures are involved in cases of child trafficking;
- The extent to which local authorities promote co-operation between statutory and other agencies, and the extent to which agencies share information and work together to meet the needs of trafficked children;
- What obstacles, perceived or real, those who suspect a child has been trafficked encounter.

¹⁸ See for example the OSCE, *A Summary of Challenges on Addressing Human Trafficking for Labour Exploitation in the Agricultural Sector in the OSCE Region*, 2009. Available at: <http://www.osce.org/cthb/37937>

1.4. Methodology

The methodology employed was a mixture of desk based and empirical research. A literature review was compiled, a web survey designed and posted online and two phases of interviews held. The web survey was posted online on 28 June 2010 and disseminated with the aim of targeting as wide an audience as possible. At date of closure 876 responses had been received. It was sent to relevant stakeholders, including those engaged in social work, child care professionals, children's hearings, the voluntary sector and NGOs, the health service, education, police, law and the asylum process. It was also sent to religious organisations, the transport sector and those representing business, e.g. the tourist, hospitality and haulage industries. The life span of the web survey coincided with the Scottish school holidays however notwithstanding this 138 responses were received from the education sector. This, as can be seen in Chapter 3, put the education sector in third place coming after health and social work sectors respectively.

Face to face interviews were conducted throughout the months of June, July and August 2010. Initially these were conducted with those who were known to have knowledge in, or direct experience of child trafficking. These preliminary interviews yielded important data as well as offering the opportunity to snowball sample further interviewees. The second tranche of interviewees involved those recommended in the preliminary interviews as well as a selection of individuals who had expressed a willingness in the web survey to participate in a follow-up interview. In total 41 interviews representative of a wide geographical area were held throughout Scotland. Those interviewed were from the UK Border Agency (UKBA), the Police, NGOs, social workers, community based organisations, legal advisers, youth justice sector, child protection officers and education and health professionals.

The findings detailed in Chapter 3 are an amalgamation of both phases of interviews and the web survey. Other than the UKBA, all interviews were conducted on a one-to-one basis, except for two which, for the convenience of the participants, were joint interviews. In the case of the UKBA, in order to maximise time, the interview was held as a small focus group, composed of an Asylum Team Manager and four Asylum Case Workers. The interviewers relied on a core set of questions which can be found in Appendix 4, but did not follow in a prescriptive manner, but rather used it as a framework for discussion. The web survey can be found in Appendix 3, and the questions for the UKBA focus group can be found in Appendix 5.

Chapter Two

Literature Review

In order to explore the nature and extent of child trafficking in Scotland it is necessary to have an understanding of the wider, global nature of the phenomenon. The literature review provides an analysis of the international, regional and national legal framework, articles and policy documents. It also of course, provides the contextual framework for any study of human trafficking and charts the shift in approaches to dealing with human trafficking in general, as well as making explicit reference to the particular vulnerabilities of children.

The majority of the literature available deals with human trafficking as opposed to child trafficking. However, it is helpful to have an understanding of the more general issues, debates and solutions suggested because many of these are as relevant to child trafficking as that of adults. That said, children are not merely 'mini adults' and child trafficking not simply a category within human trafficking. Child trafficking does need to be understood through the lens of children's particular needs and situations, and the requirement to respect their rights universally. It is therefore necessary for these overall complexities to be understood, if any meaningful attempt is to be made to

comprehensively address child trafficking as well as human trafficking in general.

2.1. Methodological, Definitional and Statistical Problems

The issue of trafficking in human beings, and how to address the problem, has gained currency in international political and legal discourse increasingly in recent years. Not only have more studies been conducted into this issue, but a growing number of states have been entering into, and reinforcing the legal framework addressing human trafficking. However, attempts to build a robust legislative framework with the *raison d'être* of combating and preventing human trafficking have often been hindered in practice by conceptual confusion as well as debates surrounding the extent and nature of trafficking. This lack of clarity is reinforced by the fact that the development of policies dealing with trafficking has come from two distinct, though related, perspectives, namely

whether human trafficking is principally an issue of transnational crime control or fundamentally a violation of human rights, as is seen later.

As these debates take place, those who have been, or are vulnerable to being trafficked, can easily be sidelined. Regarding children, and the specific circumstances that can leave them particularly vulnerable to being trafficked and exploited, there is real concern that their rights are often “lost in highly politicised debates that tend to focus on organised crime, illegal migration and issues of state sovereignty” (Bessell, 2004).¹⁹

Human trafficking is often referred to as contemporary slavery,²⁰ and as this suggests, it is not a new phenomenon. The coerced movement of people for various forms of exploitation has a long history, as has the development of legal instruments to combat the slave trade. The first international instrument against slavery was the 1815 Declaration Relative to the Universal Abolition of the Slave Trade. Since then there have been numerous efforts at further restricting the movement and exploitation of people for the profit of others. As previously mentioned, the primary legal tool designed to combat human trafficking is the UNTOC and the Trafficking Protocol.

The name and source of the UNTOC and the relevant Protocols (here referring to the Trafficking and Smuggling Protocols) are illustrative of two of the most conceptually problematic aspects of human trafficking. Firstly, that they were “conceived and adopted within the UN’s transnational crime infrastructure” (Hathaway, 2008)²¹ and are not first and foremost human rights instruments, but rather international/trans-national criminal law

instruments motivated primarily by law enforcement concerns (Touzenis, 2010).

The definitional confusion over the nature of trafficking, and in particular the problem in distinguishing between human trafficking and the smuggling of migrants, and the tension this creates between offering support and services to highly vulnerable individuals and solutions of control and punishment (Bruckert & Parent, 2002). These two areas of contention are not separate but are related and have implications for one another, as indeed they do for other issues, such as the methodological difficulties in collecting reliable data on trafficking, which is dealt with in greater detail below.

2.1.1. The Legal Definition of Trafficking

Article 3 of the Trafficking Protocol offers what the UNODC hails as the “first global legally binding instrument with an agreed definition on trafficking in persons”²²:

(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

¹⁹ Bessell, S., p. 22.

²⁰ See for example the UN Secretary General Ban Ki-moon who described human trafficking as “slavery in the modern age” as he launched a UN global action plan to combat human trafficking on August 31st, 2010. Available at: <http://www.un.org/apps/news/story.asp?NewsID=35777&Cr=slavery&Cr1=>. See also the European Court of Human Rights, Case of Silidadin v. France (*Application no. 73316/01*)

²¹ Hathaway, p. 54.

²² See <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>.

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.

As this definition shows, trafficking comprises three components: the act i.e. *what* is done; the means i.e. *how* it is done; and the purpose, or *why* it is done. However, despite UNODC’s confidence in providing a legally binding definition, with prosecutors having to prove the presence of all three elements to prove trafficking has occurred, it is arguably too onerous for use in domestic courts (Jordan, 2002). This is an issue that also emerged from several of the interviews held for this scoping study and will be returned to in the following chapter. Also, some legal ambiguities remain as the Protocol does not define key terms, such as ‘coercion’ and ‘forced labour’, leaving open room for interpretation as to what does or does not constitute trafficking. This has led to inconsistencies in national legislative approaches (Anderson & O’Connell, 2002; Kutnick et al, 2007).

An exception to the Protocol definition though is made in the case of children where no evidence of coercion or deception is required for them to be identified as victims of trafficking. This is due to their perceived vulnerability and inability to offer informed consent to being

smuggled (Dowling et al, 2007). This highlights the legal difference between trafficking and the smuggling of migrants, which is largely dependent on the notion of consent, whereby the smuggled migrant is accepted to have agreed to the illegal movement and entry into another country. Although smuggled migrants are vulnerable to exploitation this is not a prerequisite factor, whereas trafficking is always exploitative. However reality is messier and neat legal distinctions between trafficking and smuggling are often hard to apply, especially as smuggling can also employ exploitative measures, such as involving violence or exorbitant fees for travel (Goodey, 2008).

2.1.2. Trafficking or Smuggling?

As to where smuggling ends and trafficking begins is almost impossible to identify with any certainty if applying the Palermo Protocols’ dichotomy between coerced and voluntary irregular migration (Touzenis, 2010). The irregular movement of people is more a process which involves a “continuum of experience”²³ rather than a clear distinction between abusive/ non-abusive practices and coerced/ consensual movement. However this acknowledgement of trafficking and smuggling as processes involving a variety of experiences and encompassing varying degrees of exploitation further problematises the notion of consent. Someone could willingly enter the process, only to find him or herself unable to withdraw from the contract as agreed, or to find that, contrary to what was initially proposed, the relationship with the smuggler did not end at the destination point, but rather the individual was then held in debt bondage (Gallagher, 2009).

23 Anderson & O’Connell, p. 12.

Attempting to neatly distinguish between smuggling and trafficking, particularly from a human rights perspective is a risk because of the possible construction of a hierarchy of victimhood, with those identified as trafficked being seen as 'innocent' and deserving of protection, whereas those smuggled are less deserving having been complicit in, and therefore 'guilty' of, their illegal migration (European Commission, 2004; Morrison, 2003). This duality of the willing/duped migrant also strips the individual of any agency (Bruckert & Parent, 2002). This is particularly the case with children where, as per the Trafficking Protocol, there does not have to be coercion or deception present before they may be identified as having been trafficked. However, if this definition is taken to its logical conclusion it is difficult to accept a child could exercise any element of choice in leaving their home environment or country of origin. Denying the child agency has repercussions for any approach to trafficking that purports to have a human rights perspective, as is explored further below (Bessell, 2004; Dottridge, 2004).

This denial of agency and the dichotomy of unwilling victim/consensual migrant are also problematic from a gender analysis perspective. The Trafficking Protocol is aimed at eliminating the trafficking of persons, especially women and children. Categorising women and children together as one group in need of extra protective measures not only infantilises women, but risks underplaying the abuses men might experience (Anderson & O'Connell, 2002). Traditionally it has been the case that the majority of those trafficked, or at least those who have been identified as such, have been women and girls. This is partly due to the fact that most research has until now focused on trafficking for sexual exploitation (Goodey, 2008), and it is one of the more easily identified forms of exploitation (CEOP, 2007). However, there is acknowledgment throughout the literature that researchers are now widening their scope, looking more at trafficking for labour and other forms of exploitation. Women trafficked for sexual exploitation are

probably still overrepresented (UNODC, 2009), but a more diverse profile of those being trafficked is beginning to emerge (ECPAT, 2008; Europol, 2009).

2.1.3. Data Collection on Trafficking

As the above demonstrates there is ongoing debate as to the definition of human trafficking. A corollary to this uncertainty is the related problem of collecting statistical data on human trafficking. This is not only due to the definitional difficulties, i.e. who should be counted as a victim of trafficking, but other challenges to data collection. Apart from the obvious problem that trafficking is a hidden and covert activity, there are several other barriers to collecting and collating data. These include the lack of systematic and consistent methodology (Aronowitz, 2009); an over emphasis on trafficking for sexual exploitation which has led to an under-reporting of trafficking for other forms of exploitation (Goodey, 2008); the reluctance of victims to identify themselves (Europol, 2009); and different countries, and agencies within countries, collecting data or using estimates to no specific criteria (Lebov, 2009). The UK Human Trafficking Centre (UKHTC) publishes data on cases identified within the UK, but as with any study these figures should be treated with caution.

There is consensus that in order to ascertain how best to combat human trafficking and assist the victims, there has to be an improvement in the collection of data on a local, national and international level. Also, data collected needs to cover individual victims, the number of victims per country annually, individual traffickers and the trafficking process. It is necessary to have a coordinated method of comparable data collection that can be monitored in order to provide a comprehensive picture of the phenomenon. Once this is in place it should be

easier for all those involved in anti-trafficking activities, to, amongst other things, develop targeted services for those who have been trafficked, and try to reduce the underlying risk factors which make people vulnerable to traffickers (Aronowitz, 2009). Of course it should be emphasised here that a child protection response should always take place where a child is at risk, and the lack of the above should not be used as an excuse for not taking action to protect children.

There is general agreement throughout the literature that it is important for the international community to establish a coordinated approach to terminology in defining and thereby being able to better quantify the extent and nature of human trafficking. As previously noted, this cannot be too reliant upon those who have been trafficked in identifying themselves and reporting the crime, as they will often be reticent to self-identify through a mistrust of authorities; lack of awareness of how to report their abuse; fear of retaliation by their traffickers against themselves and/or family in their home countries; fears of arrest and deportation due to their irregular immigration status; and others would rather remain in the exploitative position than return home to the very situation that made them vulnerable to trafficking in the first place (Aronowitz, 2009; Goodey, 2008; Lebov, 2010).

2.2. Transnational Crime Control or Human Rights Approach?

Human trafficking was initially dealt with through the UNTOC and its Protocols as problems of transnational crime and border control, characterised by what has been described as ‘the three Ps’ approach: Prosecution,

Protection and Prevention (Ezeilo, 2009). However the focus has tended to be on prosecution, with less attention paid to protection and prevention (Wylie & McRedmond, 2010). Human rights activists have criticised this approach and the reliance on the Trafficking Protocol, arguing that it puts the focus on criminalising the transnational movement of migrants and accordingly fails to acknowledge human trafficking as a violation of individuals’ rights and thus offer adequate protection to individuals once they have been identified as having been exploited (Hathaway, 2008).

The Trafficking Protocol does include measures to offer assistance to victims, but these are couched in soft law²⁴ terminology, e.g. ‘each state party shall consider...’, ‘in appropriate cases’ and so on (Jordan, 2002; Touzenis, 2010). The Trafficking Protocol is perhaps best thought of as a kind of hybrid, i.e. an instrument originating from the sphere of international criminal law, but one that contains human rights provisions. This is not necessarily too detrimental to the human rights approach however, as several authors note the Trafficking Protocol represents only one step in the development of a larger framework (Gallagher, 2009; Touzenis, 2010), and indeed the Trafficking Protocol “does not exist in a vacuum: it complements and is complemented by other instruments including the major human rights conventions and it cannot be seen as isolated from these.”²⁵

Probably the most significant step towards instilling a more human rights based approach has been the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings (the ‘CoE Convention’). This Convention has been praised by, among others, the UN Special Rapporteur on Trafficking in Persons, Joy Ngozi Ezeilo, as an “excellent regional example of using a rights based approach to combat trafficking in persons.”²⁶ Some of the groundwork for the

²⁴ ‘Soft law’, not being legally binding, leaves more to the discretion of states.

²⁵ Touzenis, p. 68.

CoE Convention was undertaken by the Experts Group on Human Trafficking established by the European Commission, which maintained the need to integrate a human rights perspective as a normative framework in the development of any policies relating to trafficking. Importantly, it was agreed this had to include the integration of a child rights perspective (European Commission, 2004). The Expert Group used as one of the building blocks in this normative framework the Principles and Guidelines on Human Rights and Human Trafficking put forward by the UN High Commissioner for Human Rights (UNHCHR), which clearly set out the primacy of human rights and that the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims.²⁷

Important provisions contained within the CoE Convention include awareness-raising for persons vulnerable to trafficking and actions aimed at discouraging “consumers” in the destination countries; recognising victims of trafficking as such in order to avoid police and public authorities treating them as illegal migrants or criminals; and the provision of physical and psychological assistance and support for the reintegration of those who have been trafficked into society. This should include medical treatment, counselling and information as well as appropriate accommodation. The CoE Convention further itemises measures entitling victims to receive compensation, and granting them a minimum of 30 days to recover and escape from the influence of the traffickers and to take a decision regarding their possible cooperation with the authorities.

This shift towards a human rights approach is indicative of the method the UN Special Rapporteur on Trafficking

is now encouraging. The importance of ‘the three Ps’ is maintained but they should now be enhanced by ‘the three Rs’: Redress, Rehabilitation and Reintegration of victims (Ezeilo, 2009).

Another significant advance made by the CoE Convention from the Trafficking Protocol is its clearer stance on internal trafficking. Supplementing the UNTOC, and emanating from the UN Office primarily dealing with transnational organised crime, the Trafficking Protocol is inevitably seen as being concerned with trafficking of people over international borders. The CoE removes this requirement of border crossing for a case to be identified as trafficking. This is a progressive step, as internal trafficking is widely recognised to be an area of growing concern (Almandras, 2009; Aronowitz, 2009).²⁸

2.3. Migration Control

These measures highlight some of the other problems encountered by those who have been, or are at risk of being trafficked, as well as those engaged in anti-trafficking measures. As mentioned above, one obstacle in identifying those trafficked is the individuals’ hesitation to report the abuse experienced. This hesitation often stems from fear of what action the authorities might take against them as a result of their irregular immigration status. This is only exacerbated when trafficking is regarded as an illegal migration issue requiring the tightening of borders. The reality is, as is now generally accepted in the literature, that in exerting increasingly restrictive controls over their borders, states actually encourage more irregular migration rather than curtail it. The harder it becomes for people to legally migrate for

²⁶ Ezeilo, p. 11.

²⁷ Guideline 1. Available at: <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>.

²⁸ It should of course be noted that a country can be a source, transit and/or destination country, although the main flows of trafficking are still generally from poorer to wealthier countries. The UK is mainly a destination country (Dowling *et al*, 2007).

opportunities to improve their socio-economic situation, the more likely they are to turn to irregular methods, and as such become more vulnerable to being exploited by traffickers (Gallagher, 2002; Morrison, 2003; Nelson et al, 2004). But placing individuals' human rights at the centre of all dealings signifies a shift from criminalising and potentially deporting them over their migration status, to acknowledging their vulnerability and need of assistance (Dowling et al, 2007).

Similarly, if someone has been forced to engage in illegal activities while under the control of a trafficker, e.g. cannabis cultivation, benefit fraud or prostitution, this human rights approach avoids criminalising people for activities into which they were coerced. Recognising trafficking as a human rights abuse, the nature of any activities undertaken during that time is seen as exploitation, and any illegality is rendered irrelevant. However whether this is filtering through into practice remains open to debate.²⁹

2.4. Prevention and Root Causes

The human and children's rights approach is not only useful to protect those who have been trafficked, but also in establishing any programmes designed to prevent trafficking. Trafficking itself is a human rights violation, but those most vulnerable to being trafficked are likely to be those who are marginalised in their countries of origin. Trafficking viewed through this lens, while being acknowledged as an abuse in itself, is also a consequence of structural human rights abuses. Any

discussion of trafficking must take in issues of poverty; educational opportunities; gender inequality; discrimination on the grounds of age and ethnicity; imbalance of opportunities between urban and rural environments; armed conflict and environmental degradation. In addition, this conversation must take place within the context of globalisation, the socio-economic divide between developed and developing countries and the culpability of destination countries relating to the enforcement of laws aimed at eliminating labour exploitation (OSCE, 2006).

At the European Union level this is being addressed by the Proposal for a Directive on preventing and combating trafficking in human beings, and protecting victims.³⁰ The proposed Directive acknowledges the vulnerability of people as driving human trafficking, and utilises the same holistic approach exemplified by the CoE Convention. It aims, *inter alia*, for a higher standard of assistance for victims and to implement special protective measures for children; to achieve more uniform responses to trafficking throughout all member states; and to establish 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 while under the control of the traffickers.

However, at the time of writing the UK Coalition Government has chosen not to opt in to the proposed Directive, arguing it would make little practical difference as to how it deals with trafficking. The Home Office further maintains the Directive would require provisions which are currently discretionary in UK law to become mandatory which would "reduce the scope for professional discretion and flexibility and might divert already limited resources."³¹ The UK Government will

²⁹ See for example the 2010 report from the Anti-Trafficking Monitoring Group, *Wrong Kind of Victim? One year on: an analysis of UK measures to protect victims of trafficking*, in which concerns are raised that victims still appear to be criminalised for activities undertaken through coercion (p. 13).

³⁰ Proposal for a Directive on preventing and combating trafficking in human beings and protecting victims, repealing Framework Decision 2002/629/JHA.

³¹ Spokesperson quoted on Home Office website: <http://www.homeoffice.gov.uk/media-centre/news/trafficking-directive>.

review its position once the Directive has been implemented. This decision not to initially opt in however has been criticised as a missed opportunity for the Government to focus its attention on ensuring a greater degree of justice for those who have been trafficked, especially children (ECPAT, 2010).

Any proposals to combat trafficking at the source must be long term, and any development programmes must take into account how best to bring about sustainable change to the structural inequalities present (Dottridge, 2007). In fact, it is even simplistic to refer to the 'causes' of trafficking, without acknowledging the various levels of factors that can push people towards being so exploited. Dottridge, in relation to child trafficking, separates the causes into three levels, namely, the immediate causes, those at the direct level, such as household poverty; the underlying causes, i.e. the values and circumstances of a family or community to accept child labour, or to be convinced a child is being sent away to a better situation; and the structural or root causes, which operate at societal level, such as prejudices and values reflected in government policies and practices.

The implementation and strong enforcement of trafficking policies and laws obviously have a role to play in reducing human trafficking but prosecution can only be one element in the campaign against human trafficking. Developed countries need to take structural inequalities into account as these will have implications for international development programmes, and need to consider what effect their foreign policies, particularly on trade and aid, will have on those marginalised and discriminated against in the source countries. Throughout the literature there is a sense that this is not yet being addressed, that the human rights approach so far adopted remains focused on the individual level, rather than the structural (Goodey, 2008).

2.5. Demand and the Role of Destination Countries

Having considered the 'push' factors that heighten the risk of people being vulnerable to traffickers, it is necessary to consider the 'pull' factors within destination countries. The demand within wealthy countries for cheap labour and services undoubtedly encourages worker migration (Bruckert & Parent, 2002). However it would be simplistic to view this in isolation as a simple supply/demand question and markets must be considered within the socio-economic context in which they function. As Anderson and O'Connell put it, "[a]ll labour and consumer markets are socially and politically constructed in the sense that what people buy and what they sell is determined, to a large extent, by a complex set of structural and ideological factors."³²

States then have a role in allowing the creation of the environments in which exploitation can occur. Traffickers generally supply workers for agriculture, fisheries and the catering industries, all employment sectors that have a disproportionate number of itinerant, unskilled workers, in temporary positions. These factors, along with the light touch regulation that is enjoyed by these sectors, provide a suitable environment for exploitative practices. Although all trafficking is, to an extent, a covert activity, another major area of concern is trafficking for domestic servitude, in which the exploited are hidden in the private sphere of employers' homes, making it an even more difficult sector to regulate and monitor (Home Affairs Committee, 2009).

Addressing this exploitation will require states to implement policies aimed at better protecting migrants

³² Anderson and O'Connell, p. 5.

and strictly enforcing labour laws, particularly in those low wage sectors of their economies. Workers must have the right to organise and the capacity to take action in order to improve their conditions, and migrant workers should be granted the same rights as, and treated equally to, states' nationals (European Commission, 2004). Only by addressing inequalities in their own labour markets and the demand for cheap labour and services, rather than exclusively focusing on controlling illegal migration, will destination countries undermine the profitability of trafficking (Gallagher, 2002).³³

2.6. Child Trafficking

The literature reviewed so far has focused on human trafficking generally, and many of the concepts and debates are equally applicable to children and adults. There are however more specific studies spotlighting the particularities of child trafficking, and the factors that are distinctive to that phenomenon.

2.6.1. The Heightened Vulnerability of Children

Although all the literature highlights the vulnerability of people as being the primary factor rendering them susceptible to trafficking, it is accepted that children are among those most exposed to the risk of being trafficked. As noted above, the legal definition of trafficking does not require the element of coercion or deception to be present

in cases involving children whose relative immaturity, as well as their dependence on adults and lack of power within the family structure generally makes them easier to control (Dottridge, 2004). Along with this, children's rights, although the legislative framework is in place,³⁴ are often not upheld with children facing discrimination as a result of their age, and often their views are not sought or, if they are, then discounted (Bessell, 2004; UNICEF, 2007). Lack of educational opportunities is also often cited as exacerbating children's vulnerability (CEOP, 2007; Nelson et al, 2004), as well as chaotic situations in countries where there is conflict, or the country is transitioning through a post-conflict period (Nelson *et al*, 2004). Other possible factors aggravating children's situations include natural disasters and disruptions to the family structure, such as the death of parents or guardians.

Another factor that makes children vulnerable in certain countries is the lack of universal birth registration. Birth registration not only confers legal proof of identity upon children, but renders them less vulnerable to potential abuse and exploitation, especially if separated from other family members. The right to birth registration also imposes obligations upon the state as per Articles 7 and 8 of the UNCRC (Cody, 2009).

2.6.2. Modes of Child Trafficking

Children may be trafficked through a number of methods including abduction; being picked up if separated from their family as is likely during conflict or internal displacement; or the family agreeing for the child to be

³³ Regarding the obligations on states, see *Rantsev v Cyprus and Russia* Application No. 2596504 Judgement 7 January 2010, decision of the European Court of Human Rights. In this case the Court spelt out obligations incumbent on both the state of origin (Russia) and the state of destination (Cyprus). The Court also found that although trafficking is not a term found within the terms of the European Convention of Human Rights it does fall within the scope of Art. 4, which enshrines the prohibition on slavery, servitude and forced labour.

³⁴ The 1989 UN Convention on the Rights of the Child is described by UNICEF as, "the most complete statement of children's rights ever produced...and is the most widely-ratified international human rights treaty in history." See <http://www.unicef.org.uk/pages.asp?page=92&nodeid=convent§ion=2&gclid=CNzL9-mihKQCFZFe4wodLRGblw>.

taken in the belief the child will receive an education or suitable employment (Van Reisen & Stefanovic, 2004). As this last scenario indicates, the perception of childhood within the construction of societal and familial relations must also be considered, and whether as a result of household poverty children contribute by undertaking paid labour, or are encouraged to move away from the immediate family home to take advantage of educational or work opportunities. Again, this brings to the fore the need to confer children with agency, and enable them to articulate reasons they might have had for initially choosing to leave home, rather than labelling them passive victims of trafficking (Bessell, 2004; Dottridge, 2004).

One of the conspicuous knowledge gaps identified in the literature is that of the characteristics of the traffickers. Although the UNTOC is concerned with transnational organised criminal networks, it is questionable how representative such networks are of traffickers. The emerging picture more resembles a spectrum, with the organised syndicates at one end and opportunists at the other end, who are not part of a systematic and regular operation (CEOP, 2007). Throughout the literature there is a recommendation for better data gathering into the nature of traffickers (Aronowitz, 2009), on the individuals as well as the processes they utilise.

One noteworthy trend is the disproportionate number of women convicted globally of trafficking, in relation to other crimes (UNODC, 2009).³⁵ It is suggested the reason for this is women who have been trafficked themselves in turn recruit others as a way of paying off a debt, or securing their status with their trafficker (Waugh, 2006). Some, of course, will have the same criminal motivations as male traffickers.

What is known in cases of child trafficking reflects this mix of activity by organised criminals, particularly of Chinese and Vietnamese gangs involved in illegal drug manufacture and distribution, and that on a more ad hoc basis with family members as the perpetrators. However, in the latter case the family may not realise the exploitation the child will experience at his/her destination (Dowling et al, 2007).

This is feeding into the trafficking of children, usually for domestic servitude, within private fostering arrangements, often within extended family networks. This is suspected to be a growing concern, but one that is very difficult to investigate due to the children being within the private sphere and thus harder to locate and identify (Touzenis, 2010). The Scottish Government has also identified this as an area of concern and the Care Commission has produced *Private Fostering – The Unknown Arrangement? A report by the Care Commission on private fostering arrangements in Scotland*.³⁶ This document has been designed as a child protection tool and it acknowledges private fostering may be a cover for child trafficking.

A Rights Based Approach to Combating Child Trafficking

The need to embed a human rights approach to trafficking is particularly resonant in the case of children, and this is recommended throughout all the literature. The principle of placing the best interests of the child as a primary consideration, as articulated by Article 3 of the UNCRC should be at the heart of any practices involved with combating child trafficking, affording an integrated normative framework (European Commission, 2004; FRA 2009; UNICEF, 2006 and 2007). The three pillars of children's rights, Provision, Protection and Participation must be guaranteed by states and children must be

³⁵ This report gathered data on the gender of offenders in 46 countries. The findings suggest that women play a key role as perpetrators of human trafficking (p. 10).

³⁶ http://www.carecommission.com/images/stories/documents/publications/reviewsofqualitycare/private_fostering_arrangements_in_scotland.pdf

viewed as rights holders with a role to play in any decisions concerning them, rather than as helpless victims. This requires the strong implementation of Article 12 of the UNCRC whereby children can voice their views over decisions which concern them (Bessell, 2004; Dottridge, 2007; Mario, 2010).

2.6.3. Age Assessment

Of acute concern regarding children who may have been trafficked is that of age assessment, especially related to children in the 16 – 18 years age bracket. There is no uniform policy internationally regarding age assessment, and the concern that states may be eager to classify trafficked individuals as adults in order to diminish some of their responsibilities to offer assistance.³⁷ This has become an issue particularly when the trafficked individual is identified within the asylum system when the child either has no, or holds fake, documentation. It is generally accepted that there should be a policy which gives victims the benefit of the doubt (Bokhari, 2008; FRA, 2009; UNICEF, 2006) and it is the stated policy of the UKBA to give the benefit of the doubt to the victim (UKBA, 2009). Furthermore, this is endorsed by Chapter 3, Article 10 (3) of the CoE Convention, which requires those in age-disputed cases to be treated as children before the completion of age assessment:

“When the age of the victim is uncertain and there are reasons to believe that the victim is a child, he or she shall be presumed to be a child and shall be accorded special protection measures pending verification of his/her age.”

³⁷ This issue of states having somewhat ulterior motives in failing to accurately identify someone as having been trafficked is also raised in the debate examined earlier between the classification of smuggling and trafficking. See, for example, Gallagher (2002) who argues that “[t]he regime created by the two [Palermo] protocols (whereby trafficked persons are accorded greater protection and therefore impose a greater financial and administrative burden on States Parties than smuggled migrants) creates a clear incentive for national authorities to identify irregular migrants as having been smuggled rather than trafficked.” (p. 27).

³⁸ As the explanatory notes accompanying these indicators state, “without clear operational indicators there is also a risk that researchers and practitioners may not recognize trafficking when they see it – or see trafficking where it does not exist”.

However, age disputes remain common, and qualified professionals are increasingly reluctant to engage in age assessments, which rely on unreliable methodologies and cannot offer a conclusive judgement (Crawley, 2007; Save the Children, 2006). As Crawley describes, age disputes can have detrimental consequences on children, from the possible psychological harm caused by questioning and undermining a child’s sense of identity, to the denial of services and protection they would receive as children, if assessed to be over 18 years old.

Age assessment remains a contentious issue and is returned to in the following chapter.

2.6.4. Indicators of Child Trafficking

As the literature shows, child trafficking is a complex phenomenon in which there is no typical victim who fits a ‘classic model’ of trafficking (Amnesty, 2008). In order then to limit the number of children who could slip through the net and not be identified as having been trafficked, the use of indicators has been encouraged. Several organisations have compiled lists of criteria to apply, the combination of which should raise the alert that a child is at risk of having been trafficked. At an international level for instance, the International Labour Organisation and the European Commission have issued indicators for adults trafficked for sexual exploitation and for forced labour, and parallel ones for children (ILO & EC, 2009).³⁸ In the UK context the Government has included a list of indicators in its document on safeguarding children who may have been trafficked

(DCSF, 2007), and the Scottish Government has incorporated the indicators into its guidance adapted for application in Scotland (SG, 2009). There are some warnings however of an over-reliance on indicators. There is the danger of practitioners adopting a 'tick box' approach in assessing whether a child has been trafficked. Indicators should not be solely relied upon, and cannot be used as a substitute for the systematic appraisal of each individual case (Rigby, 2009).

2.6.5. Missing Children

Another growing concern identified in the UK literature is that of children going missing from local authority accommodation with very little being known as to what happens to them (Bokhari, 2008; CEOP, 2009; ECPAT 2007). It is thought that although after the child is in the care of the local authority s/he is still in contact with and under the control of the trafficker who arranges to meet the child (as s/he will often have retained a mobile phone) and removes him/her elsewhere. The other possibility is that the child has run away in an attempt to escape the trafficker (ECPAT, 2007). Either way these children represent an extremely vulnerable group, and as very little is known about their consequent experiences, it is impossible to ascertain what further exploitation and abuse they are likely to endure.

However according to the literature available this does not appear to be so much of a problem in Scotland as it is elsewhere within the UK. In one study of unaccompanied asylum seeking children (UASC) in Glasgow between 2006 and 2009 five percent went missing permanently. A low number of UASC going missing from care in Scotland is confirmed by information provided by local authorities, and is compared to research conducted in England and Wales which found 20% - 60% of suspected trafficked children may go missing from care and for their whereabouts to remain unknown (Rigby, 2010).

However, this is an area which requires more research, to broaden the data set beyond UASC and Glasgow, before anything more definitive could be concluded. Some concern over children going missing was raised in the interviews held, and is returned to in Chapter 3.

2.7. The UK and Scotland

In March 2007, to mark the UK's signature of the CoE Convention, the then Scottish Executive and the Home Office jointly published the UK Action Plan on Tackling Human Trafficking (HO & SE, 2007). This has since been updated in 2008 and 2009. The Action Plan contained an acknowledgment that more was needed to be done regarding child trafficking, including the internal trafficking of UK national children. The Action Plan made commitments to ensure frontline staff would have the right tools and expertise to identify child victims and offer them appropriate protection and support bearing in mind the special needs of children. The UK and Scottish Governments recognised the need for a multi-agency approach in order to achieve these objectives, including participation by those from the health and education sectors as well as law enforcement, child protection and social work. The Scottish Government also produced guidance for safeguarding children who may have been trafficked (SG, 2009).

2.7.1. Research in Scotland

To reiterate, little research has been undertaken as to the extent of child trafficking into and within Scotland. Of those surveys into child trafficking in the UK, little is made of the Scottish situation, e.g. in the CEOP scoping study of a total of 330 children who had been identified as a trafficked or suspected victim, only one was referred to the research team from Scotland (CEOP, 2007).

Pertaining specifically to child trafficking in Scotland, Save the Children carried out a project during 2005/06 which culminated in the report, *A Hidden Trade*. While this report gives statistics as to the number of UASC being supported by Glasgow City Council and the Scottish Refugee Council, it does not suggest these are all cases of child trafficking. More recently, there have been other projects similarly concentrating on UASC in Glasgow (Rigby 2009 & 2010). The 2009 study which retrospectively examined the case files of a sample of 75 UASC in Glasgow against sets of indicators of child trafficking. In 21 cases, children were identified as 'high concerns' either having been exploited on route to the UK, or being at continued risk of future exploitation. Another five children were assessed as being 'of concern' and a further 11 cases were 'cause for suspicion', depending on the presence of and combination of indicators.

As noted, any figures offered relating to human and child trafficking should be treated with caution. The issue of numbers is returned to in the following chapter.

2.7.2. The National Referral Mechanism

The UK and the then Scottish Executive also indicated in the UK Action Plan on Tackling Human Trafficking that the UK Government would sign the CoE Convention and in the longer term would develop a National Referral Mechanism (NRM) to identify victims of trafficking.

Article 10 of the CoE Convention:

"[R]equires that Parties provide their competent authorities [i.e. the public authorities which may

have contact with trafficking victims] with persons who are trained and qualified in preventing and combating trafficking in human beings and in identifying and helping victims, including children and that they ensure that those authorities cooperate with one other as well as with relevant support organisations."

NRM as a term is not specified in the CoE Convention, but the term can be found in a handbook published in 2004 by the OSCE, according to which, a NRM is "a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-ordinating their efforts in a strategic partnership with civil society. The political call for a national mechanism was previously expressed by the OSCE Ministerial Council Decision No. 2/03, *Combating Trafficking on Human Beings* of December 2003. The basic aims of a NRM are to ensure that the human rights of trafficked persons are respected and to provide an effective way to refer victims of trafficking to services."³⁹ Described in the terms of the OSCE, a NRM appears as a flexible tool which could be useful during the investigation of cases and identifying the best solution in each individual situation (UNICEF, 2007).

The UK NRM was introduced in April 2009 and the UK and the Scottish Government consider it to be "central to improved arrangements for children who are potentially child trafficking victims" (HO & SG, 2009).⁴⁰ However, during the year the NRM has been in place, concerns have been expressed from a number of sources, from a conceptual and practical perspective, that these improvements will fail to materialise (ATMG, 2010 & Rigby, 2010).

'Competent Authorities' are central to the NRM, yet the CoE Convention leaves room for interpretation within the definition:

³⁹ OSCE (2004), *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook* (p. 15).

⁴⁰ p. 26.

“By ‘competent authority’ is meant the public authorities which may have contact with trafficking victims, such as the police, the labour inspectorate, customs, the immigration authorities and embassies or consulates. It is essential that these have people capable of identifying victims and channelling them towards the organisations and services who can assist them.”⁴¹

The UK though has designated the United Kingdom Human Trafficking Centre (UKHTC) and the UKBA to be the Competent Authority to which suspected cases of trafficking be referred. All cases of suspected trafficking are referred to the UKHTC which then deals with cases in which the victim is British or there are no outstanding immigration issues. The UKHTC refers cases to the UKBA when, along with the concerns related to trafficking, there are also additional questions over the individual’s immigration status. This narrow interpretation of Competent Authority has resulted in a centralised system, the independence of which was questioned by some giving evidence before the Home Affairs Committee. Particular concern was expressed over the UKHTC’s understanding of the UK’s international obligations to respect children’s rights, and UKBA’s involvement endangering the NRM becoming essentially an immigration screening mechanism rather than one to identify victims of child trafficking (Home Affairs Committee, 2009).

For a child to be referred into the NRM, a referral form has to be completed by an organisation known as a ‘First Responder’ which will then be assessed by the ‘Competent Authority’. ‘First Responders’ include the Police, local authorities, the NHS and others deemed to have expertise in trafficking issues, such as Migrant Helpline. However, it must be noted that in cases dealing

with children in Scotland, NGOs cannot be the ‘First Responder’; only public bodies can act in this role. The UKBA can also be a ‘First Responder’. The different roles the UKBA may be seen to discharge within the NRM, as UKBA staff will also be the case owners in any asylum claim being made, has given rise to some controversy. This is reflected in the responses of interviewees and is a debate which is dealt with later in this report.

Once the Competent Authority has assessed the evidence of suspected trafficking given in the referral form, a decision will be made, usually within five working days, as to whether or not there are ‘reasonable grounds’ for accepting the person has been trafficked. The burden of proof is necessarily low at this stage to allow people the benefit of the doubt and to ensure that cases where people may not have been able to fully disclose are not missed in the initial assessment. The ‘reasonable grounds’ test acts as a filter to a fuller, final decision.

In the event of an affirmative decision, a period of 45 days temporary leave will be granted. This is to allow the individual to recover and reflect and to enable him/her to access appropriate accommodation and support. Throughout this time s/he will not be removed from the UK. This temporary status is also designed to allow the individual to escape the influence and control of their traffickers. There is, at this stage, the discretion to extend the validity of the temporary admission beyond 45 days where circumstances warrant (UKBA, 2010).⁴²

During this 45 day period the Competent Authority will grant a ‘conclusive decision’ as to whether or not the individual has been a victim of trafficking. The legal test at this stage is whether, on the balance of probabilities, the person referred is a victim of trafficking (Briddick, 2010). This may be followed by the grant of an extendable

41 Explanatory Note to the CoE Convention, para. 129. Available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Convntn/CETS197_en.asp#TopOfPage.

42 Victims of trafficking: guidance for competent authorities’. Home Office UKBA, 2010. Available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/competent-guidance?view=Binary>

residence permit. However if a negative decision is returned there is no right of appeal other than by seeking judicial review of the adverse decision (ECPAT, 2010) which involves going to the High Court (England and Wales), or the Court of Session in Scotland. This lack to a right of appeal has been criticised for not allowing an appeal that would look into the merits of the decision, whilst judicial review could only determine the lawfulness of a decision (ATMG, 2010). Another consideration in favour of a right of appeal is the potentially high cost of judicial reviews (ATMG, 2010).

The foregoing is an outline of what is supposed to happen in theory, however what became evident in this scoping study is that the theory is not replicated in practice and apparently there are serious delays and backlogs, with decisions rarely being made in the 45 day period. This will be returned to in the next chapter.

A flowchart, taken from the Scottish Government's *Safeguarding Children in Scotland who may have been Trafficked*, as to how the NRM should work in practice, is provided in Appendix 2.

The NRM has come in for much criticism, for instance from the Anti-Trafficking Monitoring Group and ECPAT. The former explicitly states that the NRM is unfit for purpose (ATMG, 2010) and the latter calls for a complete overhaul of the process, including the creation of a separate child focussed NRM process (ECPAT, 2010).

Another criticism is that the term 'referral' has been construed narrowly to mean an "individual is submitted to a central government authority to decide on their status, not that they are being referred to a range of specialised services" (ATMG, 2010).⁴³ It is through this process that individuals are identified as having been a victim of trafficking or not, and therefore whether or not they warrant protection and access to services, although of

course it should be noted that local authorities can still offer services to those not identified by the NRM or having not gone through the mechanism.

Those who have made practical use of the NRM, including legal practitioners and social workers, have been critical of the procedure, particularly regarding the time factor imposed on gathering evidence, which can be a time consuming and delicate process.

The Anti-Trafficking Monitoring Group draws attention to the original purpose of granting a reflection period:

*"The purpose of a reflection period, insufficient as this may be for full recovery in the case of [Post-traumatic Stress Disorder], is to allow trafficked persons to begin to recover, to assess their circumstances and options, and to make an informed decision about if or to what extent they wish to disclose their experience to others."*⁴⁴

The Group criticises the current policy of how the 45-day reflection period is granted and used:

*"The concept of a reflection period was designed to resolve this dilemma by allowing presumed trafficked persons a period to recover, before they were required to decide whether to make statements to the police or other officials.[B]y requiring referrals to be made within a very short time (five days) and scrutinising the credibility of the information contained in these referrals, the procedures of the UK's NRM has undermined the purpose of a reflection period."*⁴⁵

Concerns have also been raised, for example in research based on Glasgow's experience with the NRM, that it is too closely aligned to the asylum process. This has resulted in the prioritising of immigration procedures which can undermine the application of a holistic, multi-

43 p. 27.

44 ATMG, p. 34.

45 *ibid*, p. 38.

agency approach addressing all the needs of a child (Rigby, 2010). There is also the problem that use of the NRM can show disregard for children as rights holders in that their consent is not sought as to whether they want to be referred to the NRM, and no one is required to represent their best interests at this stage (ATMG, 2010). However, the issues raised here are explored further in the interview analysis offered in Chapter 3.

2.8. Prosecuting Trafficking

Several other problems are highlighted in the literature relating to the UK. One criticism is the lack of successful trafficking prosecutions. Despite several high profile law enforcement operations aimed at trafficking, there have been relatively few successful prosecutions in the UK, and none so far in Scotland, at the time of writing this report. As mentioned previously, there are some fears that trafficking legislation is too unwieldy and demands an unrealistic burden of proof relating to a crime in which the gathering of evidence is extremely difficult. As a result of this, rather than proceed with trafficking charges, some jurisdictions have used the 'Al Capone' approach of attempting to convict traffickers on related crimes, such as immigration charges or living off immoral earnings. This however is problematic both practically, and in terms of perception. In the first case, if charged with a related offence, perpetrators could receive a relatively short prison sentence and be released before their victims (who may have been witnesses in the prosecution) have had an opportunity to resettle, or be granted asylum.

The other disadvantage of this approach is that by not prosecuting trafficking cases but relying on other charges, this perpetuates the belief that trafficking does not

happen here, and is not a problem needing attention (Home Affairs Committee, 2009).

In the UK where there is no overarching legislation, trafficking for sexual exploitation is criminalised under sections 57-59 of the Sexual Offences Act 2003 in England, Wales and Northern Ireland, and Section 22 of the Criminal Justice (Scotland) Act 2003. Trafficking for labour exploitation is prohibited under Section 4 of the Asylum and Immigration Act 2004. This Act applies to the whole of the UK, immigration being a reserved matter (see discussion on devolved/reserved powers in Chapter 1.2.). These Acts cover internal trafficking as well as trafficking into the UK, and carry a maximum of 14 years imprisonment.

Domestic servitude is addressed in the Criminal Justice and Licensing (Scotland) Act 2010. This legislation brings within its remit slavery, servitude and forced labour and makes provision for a maximum sentence of 14 years imprisonment. This brings Scotland in line with the position in England and Wales where similar legislation, the Coroners and Justice Act, 2009, was recently adopted.

Some countries have adopted legislation to assist trafficking prosecutions. Canada for example recently amended its Criminal Code to introduce a new human trafficking offence specifically addressing child traffickers.⁴⁶ The new law provides a minimum sentence of five years imprisonment for anyone convicted of child trafficking in Canada. This will be raised to a minimum of six years imprisonment for cases with aggravating factors. Similarly Ireland passed the Criminal Justice (Human Trafficking) Act 2008 which criminalises not only those who traffic people, by bringing them into the country against their will, but also outlaws forced labour in Ireland. As a result, the employers of those victims of trafficking – who have been coerced into working in restaurants or in

46 Bill C-268, received Royal Assent June 29 2010.

private homes – could face prosecution and a penalty of up to life imprisonment.

It is not within the scope of this particular study to make any international comparisons and evaluations on the effectiveness of legislative provisions and their role in countering trafficking. Rather, this merits a longitudinal study to ascertain whether trafficking specific measures are more effective than the more piecemeal approach adopted elsewhere, including Scotland. Since the Irish trafficking legislation has been in place, two people have been sentenced on child trafficking offences and three more cases are still before the courts.

2.9. Recommendations within the Literature

Throughout the literature reviewed there are a number of recommendations made. There is consensus that there needs to be coordinated efforts to collect and collate data on human trafficking, and for this to be done in a transparent manner in order to facilitate comparative research. Of course, in order to determine who should be included in any data, a uniform definition of trafficking needs to be agreed upon.

A notable gap in knowledge which several authors argue needs filled, is the characteristics of traffickers. Most of what is known about traffickers comes from interviews with their victims (Goodey, 2008). Gaining a better profile of perpetrators would be beneficial both in prosecuting traffickers, and in educating those who are susceptible to being trafficked, of those who are potentially a threat.

Research into traffickers and the methods they use could also shed light on to the relationship between trafficked and trafficker. A more nuanced understanding of the

dynamics of this relationship could assist in diminishing the control traffickers have over their victims and, for example, reduce the risk of children disappearing from local authority care (Rigby, 2010), and could also facilitate the interviewing process.

The one recommendation that was repeatedly made in cases where children are suspected of having been trafficked was the establishment of a guardianship scheme (Bokhari, 2008; Dowling et al, 2007; ECPAT, 2007; Home Affairs Committee, 2009; Mario, 2010; OSCE, 2006; UNHCR, 2006; UNICEF, 2006). A guardian would act on behalf of the child to ensure s/he receives appropriate accommodation and care and would be responsible for dealing with all the agencies involved in the care of the child. As most reports urge for a multi-agency approach, the guardian would be the child's single point of contact navigating what can be a complicated, and confusing, network of agencies and services. It should be noted here that in June 2010 the Scottish Refugee Council and the Aberlour Childcare Trust launched a pilot guardianship project in Scotland for separated children. This will be independently monitored and evaluated in order to determine wider future use.

Other recommendations include more specialised accommodation and suitably qualified and trained interpreters. Ultimately it comes down to the provision of a high standard of services which acknowledges the complexity of child trafficking cases, yet are pliable enough to adapt to the individualised needs of every child (Rigby, 2010).

The problem of human and child trafficking is gaining increasing prominence. The media regularly feature stories on trafficking and exploitation, and a number of political campaigns to combat trafficking and raise awareness of the issue launched. However, as this literature review has demonstrated, behind all this activity

there remains some confusion as to the nature and extent of trafficking, as well as how best to tackle and prevent it, from both a legal and socio-economic perspective. Where there does appear to be consensus though, is that the source, transit and destination countries all have to embrace a coordinated approach in preventing trafficking and securing and promoting the rights of those who have been trafficked. This focus on human rights is particularly imperative in the case of children and it must be ensured that the best interests of the child are at the heart of any anti-trafficking activity. As to whether this is borne out by the findings of this scoping study is now considered in the following chapter. To inform this, it is first helpful to consider the statistics that are involved in this study.

2.10. Statistics

What can be said about the scale and extent of child trafficking in Scotland? This study represents a qualitative assessment of the nature and scope of child trafficking in Scotland which illustrates some discernible trends in child trafficking, and does not profess to be a comprehensive study of its full extent. Furthermore, it deliberately does not attempt to quantify the number of cases of child trafficking, partly because the covert nature of trafficking makes this a difficult exercise, but also, there is still debate over what exactly is being quantified. Nevertheless, in the section on identification and the NRM (Chapter. 3.5) some numbers have been provided. However these must be approached in a circumspect manner because not every child who has been trafficked may have been identified as such.

Furthermore figures, while being important, should not be taken as the 'be all and end all', but rather should inform the debate. The provision of some

statistics gathered previously has been beneficial, however, the following statistics have emerged in the course of this study,

The one data set that can be considered more reliable is that of referrals to the NRM. However, it must be borne in mind that this is limited to only those referred through the NRM, and many victims of trafficking will not go through this procedure. It should also be remembered that in cases of adults they must consent to being referred via the NRM. In interviews the concern was raised that the consent of children was not always sought prior to referral to the NRM. This again strips the child of any agency which, as seen in the literature review, is highly problematic.

The UKBA Office for Scotland and Northern Ireland provided statistics relating to NRM referrals of children it received covering the time period of April 2009 – August 2010. That Office had received 14 cases. Of those 14, five demonstrated reasonable grounds of having been trafficked. Of those five, four later received positive conclusive decisions and one negative. One child received a negative reasonable grounds decision and so no conclusive decision was pursued. The eight remaining cases were deemed backlog cases and the decisions were still pending.

The gender profile of the UKBA's 14 cases comprised three males and 11 females. Three of the children were Chinese; two Somali; two Malawian; and one child came from each of the following countries: Burundi, Chad, Nigeria, Sierra Leone, South Africa, Uganda and Vietnam. In ten of the cases the nature of the exploitation was sexual; in four cases it was forced labour; there was one case of domestic servitude (in one case both sexual exploitation and domestic servitude were alleged). The majority of the cases involved children between the ages of 14 – 18, although one child was only two years old and another was aged four.

According to data obtained from CEOP, during the period between March 2007 and February 2010, 17 children

were trafficked into Scotland. A breakdown of the age, gender, country trafficked from and type of exploitation involved is provided in [Table 1](#).

As these figures illustrate there was initially a preponderance of females, although this is now being offset by an increase in the number of males. It also endorses the fact highlighted in the literature review, that although sexual exploitation remains a purpose for child trafficking, the forms of exploitation are becoming more diverse and extend beyond sexual exploitation.

As previously mentioned in the discussion over age arising from the interviewees and web respondents, the

tendency to think of child trafficking as something that happens mainly to very young children is a misconception. The above statistical information confirms that trafficked children are more likely to be young adolescents. In this cross section, the vast majority (13 of the 17) were 14 years old or above.

In figures presented to the Scottish Parliament Equal Opportunities Committee Enquiry into Migration and Trafficking, in evidence presented by DS Jamieson of the Scottish Crime and Drug Enforcement Agency, on 14 September 2010, from 1 April 2009 to 31 August 2010 there were 74 referrals (66 female, eight male) to the

Table 1: Children trafficked into Scotland, March 2007 - February 2010

Year	Referred to NRM	Gender	Age when Trafficked into Scotland /Reported	Country Trafficked From	Destination	Type of Exploitation
2007- 08		Female	14	Romania	Leith	Sexual Exploitation
2007 - 08		Female	15	Romania	Fife	Street Crime
2007 - 08		Female	15	Romania	Scotland/NI	Street Crime
2007 - 08		Male	17	Romania	Scotland/NI	Street Crime
2007 - 08		Female	16	Romania	Falkirk	Street Crime
2007 - 08		Male	17	Romania	Falkirk	Street Crime
2007 - 08		Female	14	China	Dundee	Sexual Exploitation
2007 - 08		Male	16	China	Glasgow	Unknown
2008 - 09		Male	17	China	Falkirk	Cannabis Cultivation
2008 - 09		Female	13	S E Asia	Dundee	Sexual Exploitation
2008 - 09		Female	2	Portugal	Glasgow	Benefit Fraud
2008 - 09		Female	6	Portugal	Glasgow	Benefit Fraud
2008 - 09		Female	14	Somalia	Glasgow	Sexual Exploitation
2009 - 10	Yes	Male	15	Malawi	Glasgow	Domestic Servitude
2009 - 10	Yes	Female	15	China	Elgin	Sexual Exploitation
2009 - 10	Yes	Male	14	Bangladesh	Prestwick	Domestic Servitude
2009 - 10	Yes	Male	13	Pakistan	Scotland	Labour Exploitation

Source: CEOP, data provided to authors 15 October 2010. Permission for reproduction granted 6 December 2010.

NRM in Scotland, 18 of which were children.⁴⁷ No further breakdown was given as regards the age, gender, route or type of exploitation, although the nationalities were given as being predominately Nigerian and Chinese. That of course is for the group as a whole, not only children.

One proviso regarding the figures cited by both the UKBA and DS Jamieson is that although these cases had come to light in Scotland, some of the cases involved trafficking and exploitation in other parts of the UK.

The interviewees were reticent to offer figures, although one police officer from the Strathclyde Police area did provide some statistical information (Interviewee 26). According to this interviewee there were 95 cases of trafficking, including both adults and children, within the Strathclyde Police area. Strathclyde made 38 referrals to the NRM from April 2009 to the end of May 2010. The interviewee estimated 10 – 15 of these referrals involved children. No further information was given regarding the age, gender, country of origin or route travelled.

Table 2 represents the number of children one legal representative from Glasgow assisted as potential victims of trafficking in the period April 2009 until September 2010.

While the data is interesting and may be useful intelligence, it should be read with the following caveats. Firstly, it only represents disclosures of exploitation from children which could be cases of child trafficking; and secondly, it is only the caseload of one legal practice in Glasgow over a limited period of time.

Taking the examples from this table and those in Table 1 it would appear that trafficking for domestic servitude is becoming more prevalent. Scotland recently adopted the Criminal Justice and Licensing (Scotland) Act 2010, which for the first time introduces legislation to prosecute against slavery, servitude and forced labour. In light of the numbers presented in Table 2, it is a timely and welcome addition to anti-trafficking legislation and there is urgent need for it to be used to punish perpetrators and to discourage future offences.

This report has provided statistics from several sources until there is one centralised data collection body the picture will remain unclear. It may have been anticipated that this would be resolved by the establishment of the UKHTC, but that organisation will only be collecting data relating to NRM referrals and thus will only provide a partial picture. It will only represent those who have been referred and not those who are unknown to the authorities.

Table 2: Number of children one legal representative from Glasgow assisted as potential victims of trafficking, April 2009 - September 2010

Year	Number Of Children Assisted*	Gender	Age	Type of Exploitation
April 2009 – March 2010	8	Female: 7	5 – 15 years: 2	Sexual Exploitation: 6
		Male: 1	16-18 years: 6	Domestic Servitude: 2
April 2010 – Sept 2010	12	Female: 8	5 – 15 years: 6	Sexual Exploitation: 8
		Male: 4	16-18 years: 6	Domestic Servitude: 3
				Forced Labour: 1

* Assisted as children who are *potential* victims of trafficking having disclosed exploitation in the UK and Europe.

Chapter Three

The Web Survey and Interview Findings

To ascertain the nature and extent of child trafficking in Scotland, the views and experiences of relevant professionals were sought.

Obviously the time frame of the scoping study determined the number of interviews being undertaken but the findings as drawn from the web survey and the interviews illuminated some interesting results which will merit further research. However notwithstanding the limitations of the scoping study, the findings do provide information from which to base recommendations and further policy.

3.1. Interviewees and Web Survey Respondents

Questions 1 – 3 of the web survey were designed to provide a profile of the respondents according to employment sector, position held and geographical location.

Figure 1 ►

As per employment sector, the largest number of responses came from health (263 responses: 30.0%) and social work (255 responses: 29.1%). Of the 'other' sector responses, 54 came from individuals working in multiagency teams/community services; nine were children's panel members; six held religious positions; five were employed in the arts and two came from the Scottish Government.

Of the responses ten (1.1%) were received from the business/commerce sector. This is a sector that should be explored further because, as highlighted in the literature review, businesses and those responsible for monitoring employment conditions could have a major role to play in making labour markets more inhospitable to traffickers and those ready to exploit workers.

As for the level of position held within their particular workplace, the majority of the respondents (452: 51.6%) were employed in frontline provision or as case workers. A wide spectrum of positions was represented in the survey from researchers, trainers and practitioners, to senior managers, directors and an immigration judge.

Figure 2

The interviewees in the face to face and telephone sessions included those in a managerial position in children’s services, a head of education, senior police

personnel, a children’s advocate, a youth worker, law enforcement agents, UKBA staff, a lawyer, a member of the immigration judiciary, a child protection officer, senior staff of non-government agencies and social workers.

So as to get as wide a geographical representation as possible, care was taken in the dissemination, and those completing the survey were asked to indicate in which part of Scotland they worked, choosing from a list of the 32 local authorities. An analysis of the responses highlight that the largest response rate (304: 34.7%)

Figure 1: Employment sector of respondents

What sector do you work in?

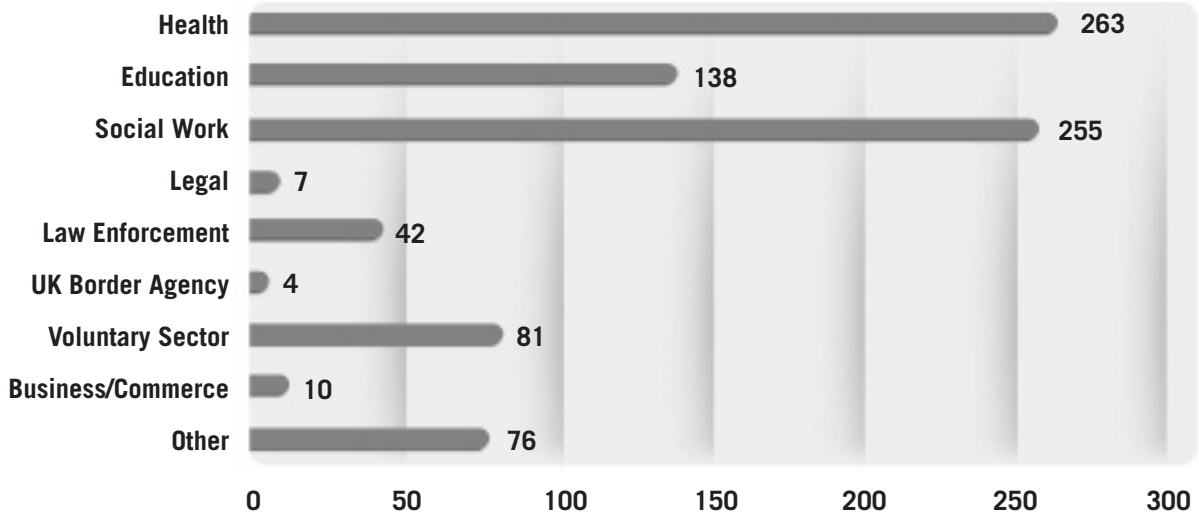


Figure 2: Professional position of respondents

What level of position do you hold within the organisation?



came from those working in Glasgow with the second largest (126 respondents: 14.49%) from those working in Aberdeen. Some less populated areas, such as the Western Isles (six respondents: 0.7%), Orkney Islands (three respondents: 0.3%) and Shetland Islands (six respondents: 0.7%) had fewer respondents. There were very few responses from the local authorities at the border of Scotland and England, with both Scottish Borders and Dumfries and Galloway recording just seven respondents (0.8%). One explanation advanced as to why these particular areas provided so few returns, as will be seen later in the findings of interviews within Dumfries and Galloway, is that the area is a transit corridor from the port of Stranraer, but not a point of destination.

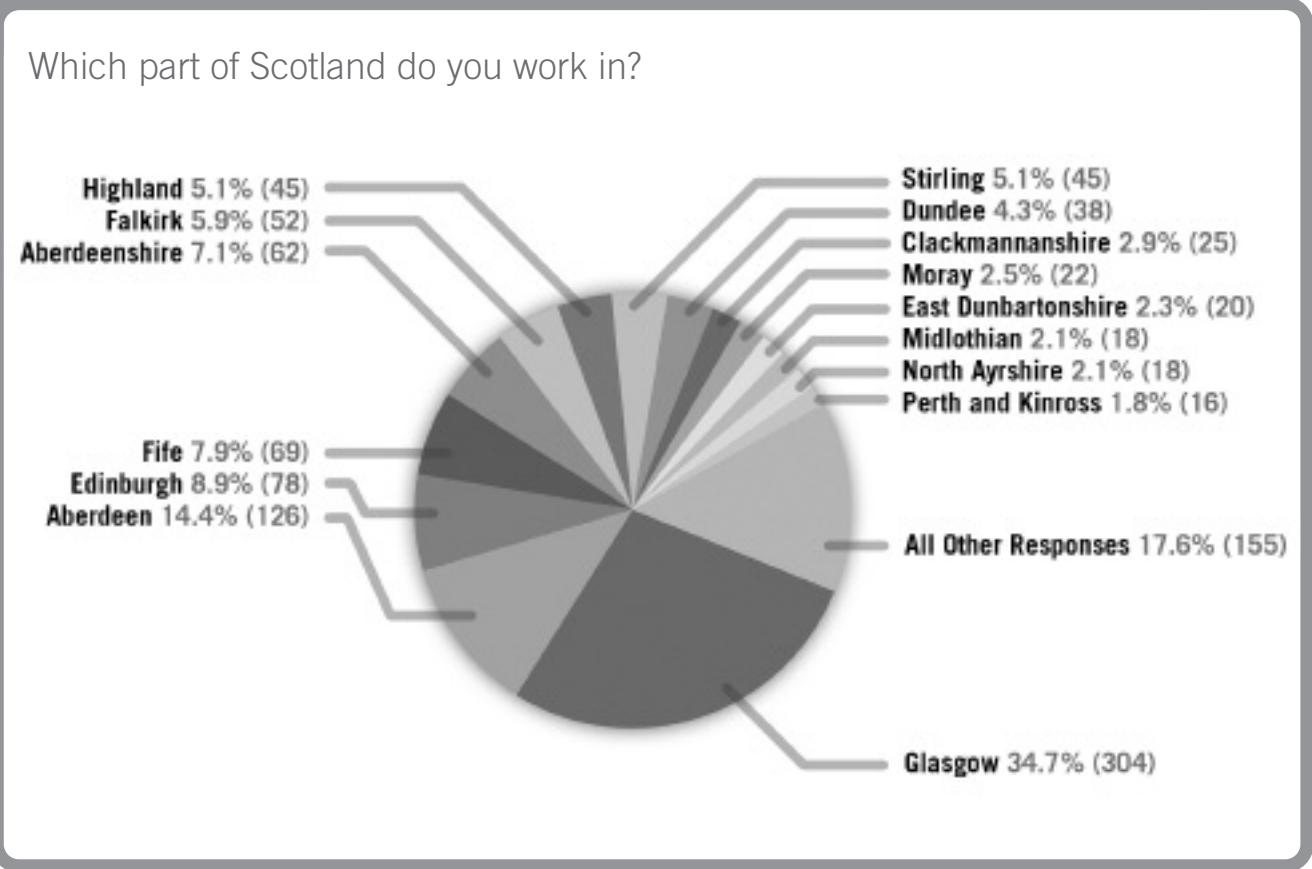
The 15 local authorities with the greatest response rate to the web survey are identified in Figure 3. The other 17 local authorities, from which fewer than 15 responses were collected from each (totalling 155 responses), are represented in the 'all other responses' category.

It should be noted that in some cases respondents checked more than one local authority, presumably having responsibility spanning more than one.

Figure 3 ▼

Time constraints were such that it was not possible to conduct interviews throughout the length and breadth of Scotland, but interviews were conducted with those in what can be described as the Central Belt of Scotland,⁴⁸

Figure 3: Geographical location of respondents



⁴⁸ The Central Belt refers to the area of Scotland within which some 80% of the population is located. It is generally defined as being region covered by the M8, M80 motorway and M9 motorways stretching from Greenock and Glasgow in the west to Edinburgh in the east although the larger central belt may be defined as stretching from Dundee to Ayr and Dumbaron to Dunbar.

the Highland area, the North East, Fife, as well as the cities of Aberdeen, Dundee, Edinburgh, Glasgow and Inverness. The findings of the web survey can accordingly be further informed by the observations of the individual interviewees, so providing at least a sample which allows for certain conclusions as to whether geographical differences exist and whether the differences are caused by geography or other factors.

3.2. Awareness of Child Trafficking

Turning initially to awareness of child trafficking in Scotland, the picture that emerges is that the level of knowledge on trafficking issues varies considerably. This variation in knowledge is compounded by confusion over the terminology employed. This definitional problem of course reinforces the findings in the literature review, which similarly highlight conceptual and definitional inconsistencies, particularly regarding the grey areas of where trafficking, and other forms of irregular migration converge. As one web respondent put it:

"In my experience many staff do not equate trafficking as a child protection issue, struggle to understand the differences between trafficking, smuggling and migration and hold many of their own personal views / judgements about whether children are "better off here than they were at home" even if they have been trafficked."

(Violence against Women Worker)

Knowledge through Indicators

Figure 4 ▶

The web survey sought to assess the level of knowledge through specifying certain indicators that might serve as alerts to a child being trafficked. Question 4 provided respondents with a series of indicators of child trafficking⁴⁹ and they were asked whether any of these applied to any children they had encountered. 800 respondents answered this question. 551 respondents (68.9%) could not apply any of the indicators to children they had come across. On the face of it this may seem a high percentage, but while bearing in mind the limitations of a web survey and without speculating, an explanation can perhaps be gleaned from some of the quotes made later in the survey from representatives of these 551.

"I am not sure I would be able to recognise signs of child trafficking as it is an issue that I have heard little about in the area I work." (Manager, Education)

"I would like to know how prevalent child trafficking is in our area. Reading the list of possible concerns in an earlier question I would like the opportunity to have a round table discussion with other professionals so that I am informed and take the correct actions." (Manager, Education)

"Fortunately I have not come across this issue, but I am pleased to note that this is being highlighted at present as it may help field workers to become more aware of the situation with some of the previous questions asked in question 4." (Social Worker)

Of those indicators that could be applied, the most common was that of the child appearing to be in Scotland illegally (130 respondents: 16.3%).

⁴⁹ The examples of indicators were taken from those contained within the Scottish Government guidance, *Safeguarding Children in Scotland who may have been Trafficked* (2009). Available at: <http://www.scotland.gov.uk/Publications/2009/02/18092546/0>

Other common indicators were showing signs of physical or sexual abuse, or having contracted a sexually transmitted infection or having an unplanned pregnancy (96 respondents: 12.0%); having his or her journey and/or visa arranged by someone other than self or family (94 respondents: 11.8%); having a history with missing links and unexplained moves (87 respondents: 10.9%); and being unable or reluctant to give details of accommodation or other personal details (76 respondents: 9.5%).

Of those who indicated they had come across a child to whom they could apply the suggested indicators, 152 were able to apply more than one of the indicators. Of this group, 93 were from Glasgow. The next largest group

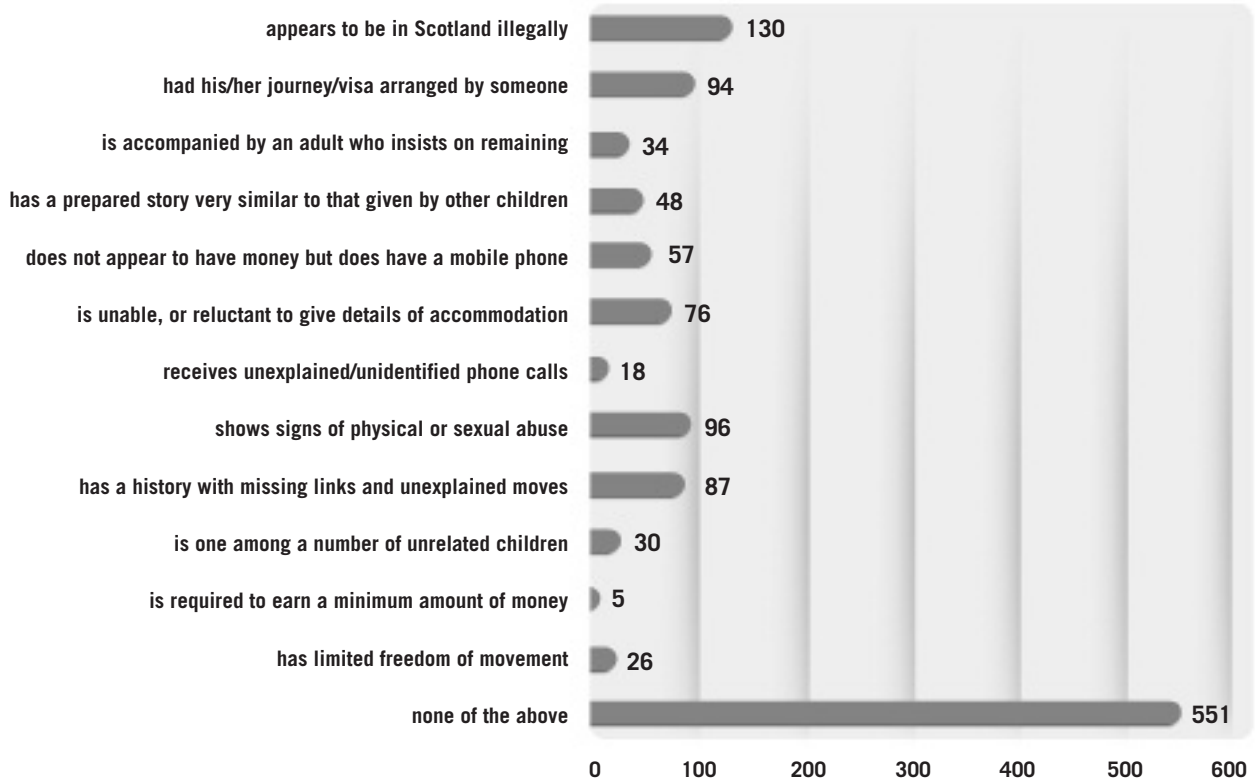
of those who could identify more than one indicator were the 14 respondents who worked in Aberdeen and Aberdeenshire (ten respondents were based in Aberdeen, two from Aberdeenshire and two had checked both Aberdeen and Aberdeenshire).

Understanding of Child Trafficking

A more specific question was put to the interviewees who were asked to explain their understanding of 'child trafficking', what it means and entails, and what indicators they would rely upon to identify it. Although all those interviewed were aware that trafficking involves movement and exploitation, knowledge as to the specific indicators and the range of experiences of exploitation

Figure 4: Knowledge of children exhibiting child trafficking indicators

Have you come across any child through your work who (please check all applicable):



and contexts in which this occurs, was patchy. At first mention the majority of interviewees expressed trafficking as being for sexual exploitation and involving the international, long distance movement of young people, in other words, non-UK citizen children. This is in line with the web respondents' most often cited indicator being a child appearing to be in the country illegally.

Asked expressly about internal trafficking all interviewees were receptive to the idea that it occurs, although candid that it might be something they had overlooked. One (Interviewee 3), whilst claiming he had no knowledge of the internal trafficking of indigenous children, acknowledged that in the past he knew a number of cases of children in residential children's homes "being passed around abusers" but he had never considered this to be internal trafficking. In contrast one representative from an NGO admitted that he had a perception of trafficking as an international, migrant issue, but in fact his practical experience showed the norm to be more young people being internally trafficked within the UK (Interviewee 16). To avoid confusion, it is important, when discussing internal trafficking, to make it clear that its most defining feature is the sexual exploitation of its victims. Until recently there has been little reference to the term 'internal trafficking' in debates around sexual exploitation of UK citizen children and young people. Separate government guidance exists both in Scotland (Scottish Government, 2003) and in the UK (DfES, 2009) on sexual exploitation and there is a separate Council of Europe Convention (Council of Europe, 2007), not yet ratified by the UK, focusing on combating child sexual exploitation.

UKBA staff also acknowledged internal trafficking, although given the focus of the Agency's function on

immigration and asylum cases, this thereby limits its remit not only by excluding UK citizen children, but also those of European Economic Area (EEA) countries. The very nature of UKBA's function is such that the focus is on non-EEA children. The diverting of the spotlight to non-EEA nationals highlights a growing area of concern namely the ease with which children of A2 nationals⁵⁰ may be brought into the UK. It is encouraging that there is widespread recognition of internal trafficking and acknowledgment that internal trafficking not only takes place, but that when it does it is as much a crime. This is also in line with the CoE definition which, as demonstrated in the literature review, encompasses internal trafficking and as a contracting party to that Convention it is incumbent on the UK, and hence Scotland, to take action against internal trafficking.

The evidence from both the web survey and the interviews supports a finding that the greatest knowledge of child trafficking is concentrated in Glasgow and Edinburgh. A possible explanation for this may be that these two cities are home to the largest number of asylum seekers, and the only asylum and immigration Hearing Centre in Scotland is in Glasgow. These cities have also traditionally been host to the largest ethnic minority groups in Scotland.

Perceptions of Child Trafficking

On the basis of the web survey and the interviews, it can be said that overall the level of knowledge on child trafficking can at first glance be characterised as shallow, with a failure to take into account the complex nature of child trafficking and the different ways it may be manifested. This is compounded by trafficking

⁵⁰ A2 nationals are those from Romania and Bulgaria, the two countries to most recently join the EU. A2 nationals have the same right to enter and reside in the UK as nationals of other EEA countries, however they do require permission to take up employment, and this can affect whether they can be joined by family members.

being seen through a traditional stereotype lens of crossing an international border, and as something that happens to other, foreign children. For example, one interviewee stated:

“Trafficking to me would be children coming into the UK from third world countries or whatever into the UK...” (Interviewee 12)

A respondent to the web based survey expressed a similar idea:

“[P]eople tend to think of foreign young people being trafficked into Scotland and do not consider “trafficking” in a wider sense i.e. internal trafficking of young people within the UK and around nationally within Scotland.”

(Worker, Voluntary Sector)

There is also a general view that trafficking is an urban problem. This was most evident from the interviewees within the Highland and other rural regions expressing confidence that child trafficking was not a problem in their areas.⁵¹ The general feeling elicited may be summed up as self-assurance in their knowledge of their local communities. More than one interviewee stated the nature of rural communities is such that there is little chance of anonymity (Interviewee 24) and so it would be very difficult to bring children into the area without them coming to the attention of local authorities. Any suspected cases of trafficking then would be quickly known because of the ‘high profile’ they would assume (Interviewee 7).

It is not possible at this stage to definitively say if these responses accurately reflect an absence of child trafficking in rural areas, or rather whether trafficking is being overlooked, partly as a result of non-belief, among

both child care professionals and the wider public, that child trafficking does not occur in Scotland.

Indeed, in sharp contrast to this view is a suspicion voiced by other interviewees that the topography of rural areas may facilitate trafficking, citing the relative ease with which people can cut themselves off in remote parts of the country. A number of interviewees in Highlands, expressed concern over ‘new age’ communities and children being home schooled as instances of situations in which children could be isolated with little or no contact with local authority services. This is not to imply that children in these situations are more likely to be trafficked or exploited, but simply that the closed off nature of the environment they are brought up in means there is likely to be less external interaction.

The perception held by web survey respondents that child trafficking does not occur in their own localities within Scotland was repeatedly expressed. The following are some of the comments that were received:

“I have never given it any thought.” (Frontline Health Worker)

“I have never given it any thought to be honest. Probably naively think it doesn't happen in remote area up in north of Scotland.” (Manager, Health)

“Frankly, I was not aware that the issue occurred in Scotland”. (Case Worker, Health)

“Police in Aberdeenshire do not think there is a trafficking problem here.” (Strategic Development Officer, Education)

Apparent from the interviews is the perception that sexual exploitation is the primary motivation for trafficking, although some interviewees acknowledged

⁵¹ According to the Scottish Government, “rural Scotland is defined as settlements with a population of less than 3,000. By analysing drive times to larger settlements we can divide rural Scotland into: Accessible rural: those with a less than 30 minute drive time to the nearest settlement with a population of 10,000 or more; Remote rural: those with a greater than 30 minute drive time to the nearest settlement with a population of 10,000 or more.” (<http://www.scotland.gov.uk/Publications/2008/08/27154843/1>).

instances of children being trafficked for domestic servitude, and also possibly for forced marriage⁵² and benefit fraud, whereby individuals or families harbour children for the purpose of claiming benefits to which they would otherwise not be entitled.

Awareness or lack of it appears to be compounded by the perception of the term ‘child’. It is evident from the interviews that for many ‘child’ has an immediate connotation of a young child, i.e. early teens or under. However when it comes to child trafficking most cases of trafficking, or suspected trafficking, deal with those in their mid-teens. One NGO reported it was rare to encounter a child under 14 (Interviewee 22). This goes against the general perspective of ‘children’, dealing as it does with those at the top end of the age range of childhood.

As is highlighted in the UK Children’s Commissioners’ Report to the UN Committee on the Rights of the Child, 2008, this 16 – 18 year age group is characterised by an ambiguity of what persons in that particular age bracket can legally do or not do in Scotland at that age, as well as complicating the issues of agency and consent. This is a result of a “legacy in terms of a cultural expectation of greater autonomy”⁵³. In relation to trafficking one particularly problematic issue is that Scots law fixes the age of full legal capacity at 16, and this may conflict with immigration law which considers anyone under 18 to be a child.

3.2.1. Main Findings on Awareness of Child Trafficking:

- Existing knowledge is sketchy, with the greatest knowledge bank in cities, particularly Glasgow;
- Willingness to admit to a lack of knowledge;
- Misperception that victims would be young children as opposed to adolescents;
- Viewed as being an urban problem which could not happen in rural areas as communities know what goes on and;
- A presumption that trafficking is an immigration issue.

3.3. Training

Those participating in the web survey were asked directly (Question 5) as to whether any training had been received on the issue of child trafficking whereas the interviewees were asked as to the level of support required for practitioners. Of the 800 web survey respondents who answered this question, the majority (648: 81.0%) had not received any training on the issue of child trafficking. Those who had received most training came from the law enforcement sector, 62.2% of whom had received training, and the UKBA, all of whom had received training. This is perhaps not surprising given that the UKBA deals with children, whether as unaccompanied asylum seekers or otherwise, on an everyday basis. However, the appropriateness of the

⁵² The Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Bill was introduced into the Scottish Parliament in the autumn of 2010. This legislation will protect people from being forced to enter into marriage without their free and full consent and protect those who have been forced to enter into marriage without such consent.

⁵³ UK Children’s Commissioners, 2008, p. 7.

training provided by the UKBA is dealt with further in the context of the interview responses below.

The sector in which there had been no training received was business, but this should be read with the caveat that there were very few responses from this sector.

Figure 5 ▾

This absence of training provision was reinforced in the interviews with interviewees making a strong call for the introduction of training. However the dominant message is that such training should not just be rolled out across all stakeholders but should be targeted to ensure that the training is commensurate with the need of the relevant professional. The interviews underscore a general consensus that training should be carefully designed and should focus on trafficking indicators for those who would be most likely to encounter a trafficked child, e.g. social workers, health workers, education providers or police officers.

A recurring view expressed by the interviewees is that not everyone needs to become an expert on all aspects

of trafficking, but should have the awareness and competency to recognise the risk signs and know what to do and with whom to raise concerns. Interviewee 4 stated the requirements of such a training package as covering the relevant child trafficking legislation, including exactly the nature of the legal powers, who to contact in an emergency situation and the phone numbers of 24-hour contacts, such as the contact details of a doctor, information on where children can be accommodated in an emergency as well as contact details for the UKBA.

The same interviewee also indicated that GPs should be required to attend training sessions. GPs, and their apparent absence from training, were a recurring theme in the interviews in particular geographical areas, e.g. one from Highland region stated:

“GPs can be a problem in that they don’t tend to take the opportunity to be involved in local inter-agency training so they may not be as aware as they could be, also they tend not to be so involved in the child protection agenda.” (Interviewee 14).

Figure 5: Training on child trafficking received by respondents

Have you received any training on the issue of child trafficking?



However this is the opinion of one individual, and is counterbalanced by a GP in the Glasgow area who cited extensive and regular child protection updates designed to maintain knowledge in this area.

The predominant view emerging from the interviews is that child trafficking should be dealt with in more depth in child protection training. This, it was maintained, would improve levels of awareness among practitioners. It was also indicated that the training should be delivered possibly via an online information base that would be readily accessible. On the method of delivery one police officer suggested a DVD would be beneficial, advising on the actions to be taken by officers as 'First Responders' (Interviewee 3).

Much of the UKBA training is via e-learning which includes a list of child trafficking indicators. This is supplemented by a two-day training course on child protection, of which an ongoing part is the issue of child trafficking. When one of the UKBA focus group members attended this training session, referred to within the UKBA as the 'Safeguarding Children' training, it had been delivered by an ex-police officer who had expertise in trafficking, and was described as 'very knowledgeable'. The focus group participant felt she had gained a lot from that session.

Notwithstanding these assurances from the UKBA, it is evident that this confidence in its training is not shared by key individuals in other agencies. In interviews conducted by Dr Hazel Cameron (Cameron, 2010), serious concerns were raised as to the appropriateness of the UKBA training, and whether child protection issues are adequately addressed, including the procedures that should be followed in referring cases to social work teams. There were also some reservations expressed as to the alleged content of the training especially in relation to interviewing children. For instance, it was suggested that the interviewing of children was initiated prematurely by

the UKBA before the appropriate child support assistance had been sought from social work and/or the police and a suitably qualified individual brought in to lead the interviewing of a vulnerable child.

In information provided by Dr Cameron, it is apparent that child trafficking awareness training of all social workers within the Glasgow and Clyde Valley geographical area is virtually complete. However, some senior social workers Dr Cameron spoke to in the course of her study voiced concerns at the attitudes of 'grassroot level' social workers indicating that many either struggle with the idea that child trafficking is taking place in Glasgow, or opt to 'turn a blind eye' to suspected cases if they feel that the individual is now enjoying a better existence than in their country of origin. There are also concerns that the training received in Glasgow and the Clyde Valley is not being replicated elsewhere.

Several of the interviewees touched on the importance of the method of delivery of any training being economical and readily accessible, particularly in the current financial climate. This highlights that training does not come without an investment of resources and in a time of constraint such training would come at the cost of something else. The issue of competing demands was a recurring theme throughout the interviews.

From the interview responses it would appear the most efficient, 'streamlined' training would be to equip those likely to encounter at risk children with indicators, thus providing them with an identification tool. There is some knowledge of the Scottish Government's guidance, as elaborated on in the next sections on procedures, but overall it is more an awareness of its existence, rather than knowledge of the actual content.

This is leading to some services within different local authority areas taking the initiative in compiling their own procedures to follow. For example, Dumfries and Galloway Police Constabulary have developed their own

protocol and the Force in Fife is in the process of developing one (Interviewees 3 & 28). These initiatives are admirable on one hand, but on the other there is the danger is that the system will become too fragmented, with each agency, in a region using their own distinct procedures. While it is understandable and necessary for each local authority to have local procedures in place, particularly in light of the decentralised nature of much of Scotland's service provision, this must still be done through a set of local procedures that encompass and are known to and followed by all relevant services in that local authority. If this was to become more piecemeal it could be detrimental to the development of the holistic, multi-agency approach that is considered essential by all those interviewed.

In theory, local protocols, in and of themselves, will not necessarily lead to fragmentation, and arguably the Scottish Government did not want to take too prescriptive an approach in telling local authorities how to implement their guidance on safeguarding children who had been or were suspected of being trafficked. However, this must be taken in the context of Scotland being a country of only five million divided into 32 local authorities, with, as seen in the web survey, professionals often having responsibility for services and practices in multiple local authorities (e.g. health professionals and police). In this light then, perhaps stronger leadership from a more central source would be helpful in advising professionals of the existence of the guidance, and some basic standard methods of provision, without precluding local variations.

Another interviewee maintained that there is insufficient information available, although she acknowledged that this is based only on her own perceptions elicited from acquaintances employed by the local authority. That particular interviewee felt there was need for more training among educational professionals, whether or not they were in direct contact with the public. She

continued, and this was brought out by several other interviewees, that people intuitively know when something is wrong, by questioning how these instinctive feelings could be translated into evidence-backed action, or fears allayed with confirmation that these instincts are misplaced in a case (Interviewee 4). Similar sentiments were expressed by other interviewees.

3.3.1. Main Findings on Training of Child Trafficking

- The view that not everyone needs to be a specialist;
- Training should be commensurate with position held and tailored to the needs of that position;
- Training should be delivered in the most cost effective way and;
- There is a danger of fragmentation if local authorities act independently without giving cognisance to national guidance.

3.4. Procedures in Place

In theory, if the Scottish Government's guidance was in place, it would be expected that relevant childcare professionals would be familiar with these procedures and those followed would reflect the national guidance, with some inbuilt local flexibility. If this was the reality on the ground, all suspected cases of child trafficking would be dealt with in a similar manner, irrespective of their location within Scotland. In other words, the treatment received by a child suspected of, or known to have been trafficked should not be determined by a geographical lottery.

In the light of the low level of awareness and the absence of training, the findings as to what action would be taken if the interviewee knew or suspected that a child had been, or is being trafficked, show that the majority of respondents would refer to either the police or the social work department.

Question 6 and subsequent questions in the web survey asked about the procedures in place to deal with child trafficking, both hypothetically and in practice. Respondents were asked what action they *would* take if they knew, or suspected a child may have been trafficked, before being asked if they ever had occasion to actually follow this procedure.

675 respondents answered Question 6 on what they would do in suspected cases of child trafficking. These responses were in the format of free text and revealed a wide variety of actions and considerations. 298 respondents stated that they would inform the police and 306 specifically referred to social work services. 216 respondents referred to child protection procedures. Most

respondents would contact several agencies relating to a single case, e.g. child protection officer in their unit, the police and the UKBA.

Those respondents from schools, churches and the health sector often made referral to dedicated child protection practitioners within the organisation.

There were variable responses as to whether the cases presented to them represented an urgent issue or not. Some respondents questioned whether it was a child protection issue and/or whether suspected child trafficking was a police matter. Approximately one third of responses were quite non-specific such as “refer to line manager,” or “refer to appropriate person”. Two respondents stated that they did not know what action they would take and another two indicated that it “would depend on the situation.”

Apart from the police and social work, other agencies were also mentioned by respondents. **Table 3** shows these included:

Table 3: Organisations named by individuals who would be informed in cases of known or suspected child trafficking

Organisation	Number of respondents
UKBA	12
Immigration and asylum	10
TARA	7
UKHTC	6
Scottish Refugee Council	4
Barnardos	3
ECPAT	2
Crimestoppers	2
NSPCC helpline (C-TAIL)	2
Embassy	2
Legal services	2
Izzy's Promise (Dundee)	1
Eighteen and Under (Dundee)	1
Interpol	1
Big Step (now a Glasgow City Council project)	1
Migrant Helpline	1

However, as the comment below demonstrates, obstacles do remain in the way of some people reporting their concerns to others within their own organisation, as well as to external agencies:

“I have come across children whilst working on duty that I have suspected may have been trafficked. All incidents have been reported to my line manager along with my concerns and reasons for suspecting trafficking. On nearly all cases my concerns have been dismissed, on the one occasion I have been taken seriously on contacting other agencies i.e. immigration, borders control no one was interested. I felt that I was getting nowhere and because the families were of Eastern European backgrounds no one wanted to know.” (Social Worker)

Some other interesting responses to this question include the one below, which is representative of a pro-active approach in which the respondent identifies, and displays a willingness to take concerns to several different people and organisations:

“If I knew I would advise police/social work and my child protection consultant. If I suspected a child was being trafficked I would raise my concerns with the social work department/police and child protection consultant.” (Health Visitor)

A nuanced approach which individualises the child's circumstances in order to determine the appropriate action for that case was also evident in one response:

“This would depend on the level of immediate and/or assumed risk. I may want to gather more information from other agencies who may know the child but ultimately I would pass my concerns on to the appropriate authorities i.e. police and social work services.” (Social Worker)

A response from someone whose primary employment focus is not on child welfare and/or protection is still willing to identify and take concerns to a number of different people and organisations as the situation demanded:

“I would seek guidance/assistance from police/social workers/doctors depending on circumstances. I think police would be first option.”
(Tourism/Hospitality Worker)

The responses from the interviews do not depart radically from what emerges from the web survey. Most interviewees saw the first line of contact as being a unit that falls within child protection. However what became apparent is there is a lot of ‘good will’ being relied upon with those interviewed responding they would ask the advice of whoever they considered to be the most appropriate, if faced with a suspected case of child trafficking. This of course assumes they would recognise the indicators that the child may have been trafficked.

What also came strongly through the interviews is the divide between those who thought there is a need for more specific procedures to be clearly established relating to dealing with child trafficking, and those who felt the existing child protection measures and accompanying training were sufficient. This divide could be traced geographically, with Highland being particularly confident in the present system in use, Getting it Right for Every Child (GIRFEC)⁵⁴. As one interviewee noted:

“We have a programme of training about GIRFEC and child protection, which are dovetailed together and which is one holistic training programme for staff, not just for professional Social Workers... that programme of taking an holistic view and being

⁵⁴ GIRFEC is a national policy of the Scottish Government and can be found at: <http://www.scotland.gov.uk/Topics/People/Young-People/childrenservices/girfec>.

open to all the possibilities to consider them and where there are any issues of concern having a very clear mechanism by which you escalate that through a single route.” (Interviewee 24)

GIRFEC was spoken of highly by other practitioners, as being a successful implementation of different agencies sharing information and joint working on children’s cases (Interviewee 12).

This contrasts with other responses of those who do not regard the child protection procedures as they stand to adequately address all the needs of trafficked children, again due to the complexity involved, and the extra vulnerability of these at risk children and in cases where there are complicated international factors (e.g. Interviewees 25 & 26).

It is telling that those who had most faith in the sufficiency of the child protection mechanisms were from the region (Highland) that did not consider child trafficking as a problem, and that even having not identified any children as having been trafficked, were confident that the measures in place would be appropriate for any potential future cases. The possibility that the procedures could be failing to uncover cases of child trafficking was not considered.

Irrespective of the interviewees’ opinions on GIRFEC, there was consensus more generally that what is required is a multi-agency, holistic approach to dealing with children who have been, or are suspected of having been, trafficked. This need for cooperation and coordination among all those involved in a child’s case, ensuring the child’s best interests are of primary concern also comes out strongly in the literature review. This is of course because of the cardinal principle of the best interests of the child as stated in Article 3 of the UNCRC.

However, how extensively this type of approach is being realised on the ground remains open to debate, with some interviewees claiming sharing of information among agencies is not good (Interviewee 23) and two police officers describing practices as “piecemeal” because the *“processes and procedures are disjointed within law enforcement agencies, as well as between law enforcement and other agencies”* (Interviewees 17 & 18).

It is of concern that, as it transpired from the interviews with UKBA staff, the UKBA has not yet agreed a joint protocol with the police and other relevant organisations, although a memorandum of understanding between TARA, Strathclyde Police and the UKBA had been reportedly worked on during research interviews in 2007-2008 (Lebov, 2010).

Other interviewees though identified examples of good practice where the multi-agency approach has been implemented, but it must be noted that these are existing services aimed at children in need of protection from all forms of neglect and abuse, not from trafficking *per se*. How adequately these schemes would absorb and minister to the needs of trafficked children,⁵⁵ remains to be seen, as many of the examples given tended to be located in those areas that had not identified any cases of child trafficking. This of course recalls the uncertainty of whether this is indicative of an absence of child trafficking, or it simply not being identified as such.

Good Practice

Examples of good practice cited though, include MARS: The Multi-Agency Resource Service,(MARS) described by Interviewee 14 as the first child protection hub of its kind in the UK. Initially funded by Scottish Government, it

⁵⁵ This is an issue highlighted by Asquith and Turner in their 2008 report, *Recovery and reintegration of children from the effects of sexual exploitation and related trafficking*, in which they argue that just because a service provided for one child works well, does not mean it will work with all children. Services need to be individualised to meet the particular needs of each child. Available at: http://www.oakfnd.org/activities/2007/Recovery_and_Reintegration_English.pdf

is designed to facilitate access to child care and protection expertise so as to help agencies deal with issues of neglect and abuse. Agencies, councils and organisations can approach MARS for help with specific cases or situations where a child death has occurred or there is a concern about possible or substantial injury or abuse. The Children 1st facility on the Black Isle was also highlighted as offering comprehensive yet individualised programmes to young people who have suffered abuse (Interviewee 12). However, it is recognised, as in the previous examples, these are generic child protection services and it is unknown how they would respond to the complex needs of trafficked children.

One practice commended was that in the Highland area, namely the appointment of a person from the Child Protection Committee to alert children to safe use of the internet, and indeed mobile phones. That individual was advised by CEOP, and a spinoff is the development of an information bank about what is happening in the geographical area (Interviewee 12). Every household in which there are school age children has received a letter, alerting parents that they need to take responsibility for their children's internet usage. This letter was produced between the Public Protection Unit and the education sector. This is of relevance to child trafficking because there is evidence of the internet being used for the recruitment of young people by traffickers, particularly young women being befriended and groomed online by older men to later be sexually exploited (Interviewee 16).

More generally one interviewee in Glasgow had observed the development of *“a streamlined multi agency approach to working with the rights of children who may have been trafficked, in mind. There is a clear willingness to do this across agencies, and the close working of different agencies means that children do not have to be re-interviewed, and re-traumatised, repeatedly - the agencies can share the information from one interview with one child.”* (Interviewee 2)

3.4.1. Main Findings on Procedures in Place:

- Child trafficking is seen first as a child protection matter;
- There is divergence of opinion as to the expediency of the child protection system in meeting the needs of trafficked children;
- There is a wide recognition of the need for a holistic approach and;
- There is evidence of good will and some pockets of good practice, which could be of benefit to child victims of trafficking.

3.5. Discussion on difference between ‘number of concerns’ and ‘number of referrals’

The interpretation of the survey responses offered in this section confirms that awareness of child trafficking and knowledge of indicators of child trafficking is low in Scotland. It is argued here that this lack of awareness may have led to a significant number of cases of possible child trafficking remaining unidentified, with vulnerable children therefore not being referred to relevant agencies.

This is evidenced by looking at the variation in the figures in the survey questions (Q4, 7,10, 8 and 11). In Table 4 the number of respondents who have been concerned that a child may have been trafficked (Question 7) is compared with the number of

respondents who have reported actually referring such a child (Question 10) and also with the number of respondents who reported coming across children who have exhibited two or more trafficking indicators (Question 4). What this reveals is a discrepancy or variation between the numbers. A similar discrepancy exists between the reported number of children about whom respondents have been concerned in the last two years (Question 8), with the number of children reportedly referred by respondents in the same period of time (Question 11) and the actual number of referrals received by the UKBA in Scotland, which is 14.

This comparison of figures suggests that the official number of referrals may be far below the overall number of potential child victims of trafficking. Even by adjusting the survey returns to take account of possible double or triple counting - by dividing the numbers of children arrived at in Question 8 and Question 11 by three - the discrepancies remain and are of significant concern.

The inbuilt logic of the web survey required questions 4, 7, 8, 9, 10 and 11 to be asked in a specific order (see Appendix 3). They can be divided into two groups –

questions regarding respondents' general experience, which are not time bound and are not asking about numbers of children encountered (Questions 4, 7 and 10) and questions regarding concrete numbers of children encountered in the last two years (Questions 8 and 11). To reflect this division, the analysis below requires a more cyclical approach, which has made cross-referencing necessary. It will therefore look at these questions in a non-linear order.

Looking firstly in more detail at responses to Question 7, having been asked what actions they would take in suspected cases in the previous question, the respondents were asked if they had in fact had concerns that any child they have been in contact with through their work may have been trafficked. 741 respondents answered this question. The majority of respondents (581: 78.4%) answered no. However, 104 respondents (14.0%) answered yes.

In Question 10 respondents were asked directly if they had referred a child about whom they had concerns. Of the 100 respondents who answered this question, 56 (56.0%) stated they had referred a trafficked or

Table 4: Comparison of 'number of concerns' and 'number of referrals'

	Non time-bound			In the last two years		
	Number of respondents who...			Number of...		
	...have come across children exhibiting more than two trafficking indicators (Q 4)	...have had child trafficking concerns about a child (Q 7)	...have referred a child (Q 10)	...children about whom respondents have had child trafficking concerns (Q 8)	...referrals (Q 11)	...referrals received by the UKBA
Survey responses	152	104	56	249	79	14
Adjusted figures	n/a	n/a	n/a	83	26	n/a

suspected trafficked child. Of the 56, 33 came from social work, seven from health, seven from law enforcement, four from voluntary organisations, two from education, two other, and one from the legal sector. Of those who answered no to the question, 17 were from social work, seven from health, six from voluntary organisations, five from law enforcement, three from education, three from 'other', two from the UKBA and one from the legal sector.

In Question 4, 152 of the web survey respondents indicated they had come across a child to whom they could apply two or more of the suggested indicators. While exhibiting two risk indicators for child trafficking does not necessarily mean that a child has been trafficked, it does indicate a somewhat higher level of risk, worth further investigation into the possibility that the child may be a victim of trafficking. It is perhaps worth noting the disparity between the 104 respondents who expressed concerns over children in Question 7 and the number of individuals who were able to identify two or more of the indicators of child trafficking given in Question 4 (152 respondents). One possible explanation for this is that those 48 individuals applied the indicators as signifying more general child protection concerns as opposed to instances of possible child trafficking. Bearing in mind the limitations of a web survey these figures are not indicative necessarily of a lack of concern about the children's welfare. However it does beg the question that perhaps a number of children who have been trafficked may have slipped through the net and not been identified as such.

Before returning to Table 4, it is useful to look at the responses to Question 8 which asked those who had positively answered Question 7 how many children they had concerns about in the last two years. 100 respondents answered this question. Most respondents (55.0%) had been concerned about fewer than three

children within the last two years. However, 19 respondents (19.0%) had concerns for between three and five children, with ten respondents (10.0%) being concerned about between six and ten children. A further seven respondents (7.0%) expressed having concerns for more than ten children. Of these seven respondents, six were from Glasgow (five from within social work and one from the legal sector), and one from Aberdeen (a manager in the education sector).

The nine respondents who answered 'none' here having expressed concerns in Question 7, presumably had not had concerns within the timeframe stipulated, i.e. within the last two years.

Taking the responses to Question 8 at face value, and employing a very unsophisticated method of calculation in taking the minimum number of children over whom respondents expressed concerns, it could be hypothesised that in the past two years the web survey respondents may have come across 249 children who may have been trafficked into and within Scotland. The UKBA in Scotland has received 14 referrals of suspected child victims of trafficking for the time period of April 2009 – August 2010 (Table 4, p57).

On this basis, Question 8 reveals a significant discrepancy between the number of children about whom professionals have had concerns in the past two years compared to the number of actual referrals made to the UKBA. This discrepancy is very high even compared to the answers to Question 11, below, and deserves further discussion and commentary.

Question 11 asked those who had made referrals to quantify how many referrals they had made in the last two years. 51 respondents answered this question. Most respondents (29: 56.9%) had referred fewer than 3 children in the last 2 years. However, six respondents

(11.6%) had referred more than five, a further two (3.9%) referring more than ten children.

Applying the same face value assumptions as in Question 8 would produce a rough 'minimum' number of referrals made by the survey participants in the last two years, amounting to 79 children.

Thus a comparison between responses to Question 8 and Question 11 indicates the probability of one third of children about whom there exist trafficking concerns going unreported. This is a serious cause for concern about the capacity of professionals to respond in accordance with adopted procedures and indeed about their awareness of such procedures and processes.

The number arrived at above, 26 children in Table 4 appears higher, but nevertheless comparable to the official number of referrals the UKBA has reported receiving, i.e. 14, for approximately the same period of time. One explanation for this difference is that survey respondents talk about referrals to various organisations (Table 3, p 53), not only the UKBA.

Breaking these responses down geographically confirms the perception that the most knowledge and activity around child trafficking in Scotland is concentrated in Glasgow. Both the individuals who had referred more than ten children were social workers based in Glasgow. Of the four who had referred between five and ten children, three were respondents from Glasgow (one from health, one from social work and one a member of an Independent Child Protection Committee), the fourth respondent was an education manager. Of those six respondents who had referred between three and five children, all were based in Glasgow with the exception of one who was from Dundee.

The above discussion reflects problems highlighted in the literature review relating to the lack of clarity over

definitions and data collection. As can be seen, this is not simply a theoretical problem, but has real ramifications for children. Better awareness and identification of victims of trafficking should ensure that the number of referrals made is a true reflection of the number of cases, and a safeguard against children being missed or slipping through the system.

3.5.1. National Referral Mechanism

Although not directly questioned on their knowledge and use of the NRM, several web respondents make mention of it (3 of the 42 who answered Question 12). Those who all referred to the NRM were based in Glasgow and were employed in social work, two at managerial level, and one in policy development.

The interviews however explored the NRM in some detail, and this revealed that familiarity with the NRM is patchy. There were those who were aware of it, and those who had experience of it. Of those with no direct experience of it, there appeared no urgency in familiarising themselves with the procedure. One (Interviewee 15), 'assume[d]' it was in the *Safeguarding Children who may have been Trafficked* document. Another indicated that while the NRM was contained within the Child Protection Policy Guidelines folder, a potential barrier to using it is the lack of familiarity staff possesses. Interviewee 12 continued that this would be the case as long as "you're not using it regularly you have to take time and absorb it and make sure you're covered."

Generally those who were most positive about the NRM were those who had no practical experience of it, but felt it would work well (Interviewee 27). Those who had experience of the NRM proved much more critical of the process, and its ability to correctly identify children

who had been trafficked. Interviewee 2 claimed it offered only *“a conservative measure of the scope and scale”* of trafficking.

Problems with its implementation were also highlighted, particularly the tight timescale in which the suspected trafficked child is to be interviewed and evidence to be gathered, as well as the need for the victim to sign it (Interviewee 26). This was endorsed by others who described the NRM as *“laborious”* (Interviewee 22) and failing to identify cases. Another (Interviewee 25) felt there was no benefit for children being identified via the NRM as a victim of trafficking.

The UKBA felt the NRM had got off to a good start, but that it is too soon to say much about its effectiveness. The UKBA stated that they had been hampered from the start by resourcing issues, but would soon be employing a member of staff dedicated to the NRM and it is hoped this will make a difference in allowing the Agency to catch up with outstanding trafficking decisions. At the time of being interviewed the UKBA had received 20 referrals within the previous month and admitted to there being a backlog.

The possibility of the UKBA assuming three roles: ‘Competent Authority’, ‘First Responder’ and ‘Asylum Case Owner’, simultaneously raised concern. The UKBA stated this was not an issue, citing the professionalism of staff as the reason their role was not compromised. Notwithstanding this, justice must be seen to be done and the potential multiple roles of the UKBA could be perceived to cloud the issue.

One element of the NRM that was considered problematic is the timescale within which the process is expected to be completed. However the UKBA’s concern here was not that of some others particularly from NGOs that it was too rushed a timeframe, but that there was a lack of understanding between themselves and other agencies involved in a case as to what exactly had to be delivered within the prescribed time. That, along with

everyone being stretched for time, led to different organisations working at different paces. A member of the UKBA focus group described one case currently being dealt with in which an interview between the social worker and the police needs to be set up but *“again that’s two other different agencies with two completely different timescales for arranging things.”*

The format employed when interviewing children is a matter of concern, and one which needs to be addressed. This demands consultation with all the relevant agencies and possibly could be underpinned by the UNICEF Guidelines on interviewing trafficked and abused children (Frederick, 2009). These Guidelines recognise it is seldom possible to obtain all the necessary information in one interview, and in consideration for the well being of the child and to ensure the information is complete and truthful, the interviewer should expect to conduct a number of interviews over a period of time for each topic. As the Guidelines emphasise these interviews should always be conducted and informed by the core ethical principles of best interests of the child; child-friendly interviewing; informed consent; and do no harm.

On this subject Interviewee 22 raised the need to have more trained workers capable of implementing a Joint Interview Teams (JIT) programme, allowing for case conference style meetings similar to those used by the Children’s Hearing System in Scotland, minimising the number of times a child will be interviewed.

Another concern expressed by UKBA staff is that the procedure once underway tends to be the driving force and does not allow individuals much flexibility or discretion in cases. As one member of the focus group described it:

“Meantime I’m trying to fight off the immigration and asylum system from proceeding because I know that there’s a referral coming to me, but it hasn’t actually arrived but the policy doesn’t allow me to stop the process.”

However this is somewhat contradictory to another example given within the focus group which suggests a level of discretion is allowed. This was raised during the discussion regarding the timescale of the NRM process in which it was admitted there have been cases in which it has been recognised extra time would be beneficial and the case worker has allowed for that time to be taken. However, the context of this element of the discussion was that the UKBA generally is of the opinion that, with some level of flexibility, the present timescale should be followed for the moment, at least to see how it works once the NRM has been in place for a longer period, and it has had a chance to 'bed in'. The UKBA's rationale for this being that if deadlines are extended for the submission of the necessary reports this will simply lengthen the process without offering any additional value to the child's interests. As one member of the focus group noted *"if you would give three months, then they'll take three months to submit that report"*.

Referring particularly to minors it was clear from the UKBA focus group that they questioned whether children got the same benefit out of the trafficking system as adults. The reason being, that from the child's perspective:

"...very little is different. If they were not claiming to be trafficked, they would get social services support. If they weren't claiming to be trafficked, they would still get, if they were under 17 and a half, the leave up until they are 17 and a half here. So they go through all of this, and I think a lot of them, I'm not sure if they understand why they're doing it or what the benefit is to them really because we can very often, and in most of the cases that we've granted a positive, conclusive decision for minors, they haven't got leave from it. And the only reason they haven't got leave from it is because they've already been granted leave under the unaccompanied asylum seeking children's policy which means that they get leave already. So from a trafficking point of

view, I don't think from their point of view it makes much difference. It's great from our point of view in the sense that we're collating more data, but that's really the only benefit to children being involved in this just now".

It is apparent the NRM's introduction has not been without criticism and there are mixed feelings as to whether it is fulfilling its purpose. The concerns expressed in the literature review resonate with those expressed by those operating the system and those who need to refer to it. Currently there appear to be two camps: one which believes the NRM demands immediate revision in order to make it more child-friendly, alongside those who would give it more time to become established and to overcome any initial teething problems. Those in the former camp would give that role to a more child focussed agency.

What is agreed on however is the question of what benefit there is for children being referred to the NRM, and whether this really does serve their best interests.

3.5.2. Post-Referral

Question 14 of the web survey asked if those respondents who had referred children as suspected cases of trafficking knew what had happened post-referral. 45 respondents answered this question. Most of the respondents (36: 80%) stated that they did know what happened to the child/children after referral. 33 of these added comments about what had happened to the child/children once the referral had been made.

Various outcomes were reported. These included at one end of the spectrum, nothing being done at all or nothing being done by statutory agencies (four respondents), to the children being safeguarded and accommodated by local authorities in residential care (children's unit or foster care) (13 respondents). In some cases a police

investigation follows, however this was not always the case. For example, concern was expressed about the lack of communication between the UKHTC and the police and the police not being proactive, i.e. not pursuing an investigation where there has been no complaint lodged (Interviewees 1, 11 & 26).

Two respondents stated that following investigations, the child was found not to have been trafficked although no comment was made as to what happened to the child. One respondent stated that children were referred to the UKBA and returned home, whilst three respondents stated that in the cases of which they knew, the children claimed asylum. One child who went missing was later thought to have been found in London, but his/her identity was not confirmed.

The findings highlight confusion around the use of the 45-day reflection and recovery period by the Competent Authorities. The Anti-Trafficking Monitoring Group (ATMG) is critical of the Competent Authorities and suggests that the 45 day reflection and recovery period should be used for what its name implies; a period designed for the presumed trafficked person to begin recovery and to make informed decisions about disclosure to the police or other official bodies rather than an opportunity for the Competent Authority to scrutinise the credibility of the information provided.

However, the UKBA “Competent Authority Guidance” states that the 45-day reflection period provides the conditions for a fuller evaluation to be made and should be used to carry out “evidence gathering and further enquiries”⁵⁶ as required in order to confirm an individual’s status as a trafficked person. Such practices may involve contact with a presumed trafficked person, but there is confusion as to the nature of this contact as well as to

who should have such contact. This confusion is not confined to Competent Authorities:

“After that referral has been made we have to wait another 30 days before we interview and 45 days before we issue an actual asylum decision. But in that space of time, you can have contact with the individual. In my experience it’s in their interest to maintain contact because even though no official decision will be made for 45 days, it’s in their interest to progress the case. That’s the feedback I get off Social Work as well and solicitors.”

(Interviewee 11)

“They [Social Work] thought the 45 days was absolutely no contact whatsoever and so people were getting very agitated with us at first, when we first started because it was like, “You’re not supposed to contact us...”, and it was, “No, no! No immigration decision in 45 days. We never really make direct contact with any trafficking applicant.”

(Interviewee 11)

The aforementioned guidance provides that Competent Authorities should carry out any evidence gathering and further enquiries as required, but the language employed regarding interviewing individuals suggests that discretion remains with those gathering the evidence:

“In all circumstances Competent Authorities should attempt to gather all available information before deciding to interview and should not normally conduct an NRM interview during the first 30 days of the recovery and reflection period, unless there are strong reasons why this would be appropriate.”⁵⁷

Relevant interview respondents did not elaborate on the nature of their contact with presumed trafficked persons, however it would appear that discretion at some level is

⁵⁶ UKBA, 2010, p.20, p.30

⁵⁷ Criminal Justice System “Trafficking toolkit: Specific arrangements and advice for Competent Authorities”

being exercised in accordance with the Guidance. The problem ultimately lies then not with those within Competent Authorities as they are operating within the parameters of the policy. Rather, any criticism should be aimed at the Guidance itself, for misinterpreting the spirit of the 45 day period, as provided for in the CoE Convention, by allowing for evidence gathering to take place throughout the reflection and recovery period.

3.5.3. Main Findings on Procedures

- There is limited knowledge of the NRM;
- There is concern regarding the three roles assumed by the UKBA simultaneously ('Competent Authority', 'First Responder' and 'Asylum Case Owner');
- Those who have used the NRM are critical of the procedure;
- Those most confident in the NRM had not yet used it
- There is an absence of reliable data and;
- Even having come to the attention of the authorities, children and young people can still slip through the net.

3.6. Recurring Themes and Concerns

An overview of the web responses and interviews does highlight a number of recurring themes and concerns. As previously mentioned there was not exact correspondence between the web survey and the framework used for the semi-structured interviews. However Question 15 of the web survey, the final substantive question, opened the forum for respondents to offer their own comments and concerns relating to

child trafficking in Scotland. 389 web respondents answered this question using free text format. A number of needs and concerns were expressed. What is striking are the similarities between issues and concerns identified online and those raised during the face to face and telephone interviews.

As already highlighted training and awareness-raising were raised in the web survey and the interviews. Other issues were only alluded to in the former and explored further in the interviews.

3.6.1. Prosecutions

One such recurring theme from certain participants was that of prosecutions and the absence of any convictions for trafficking in Scotland. One web respondent suggested that the lack of convictions of offenders was the foundation for the attitude that child trafficking is not a problem in Scotland. This is an area the interviews dwelt on, particularly those with police officers, and the tension between the target driven nature of modern policing and the child centred approach best suited to dealing with child trafficking.

One very strong message from the interviews, from the point of prosecuting child trafficking cases, is that putting conventional policing would focus on detecting the offender and taking them to court. However, if child trafficking is primarily a child protection issue, it is about protecting children from exploitation, whatever that exploitation is, and it may not actually lead to a prosecution. As this senior police officer, put it, there:

“may not be a criminal justice end to this issue, and that is a very difficult thing for law enforcement because at the outset you are suggesting that they are going to spend public money and resources on something that has no outcome in a tangible criminal justice way for the organisation.”

(Interviewee 1)

This tension between measurable outcomes, i.e. convictions for crime as far as the public, the government and senior managers within the police and child protection are concerned was emphasised by other interviewees. The same pressure exists for child trafficking. Meeting public expectations, as well as fulfilling measurable outcomes demands perpetrators are imprisoned. This determines the allocation of resources, and in the current economic climate, resources will be directed where a return on investment will be in a tangible realisation of outcomes. As one interviewee put it:

“It’s like ourselves, every single department including Social Services has been given this additional work to do with no additional resources. They expect a lot.” (Interviewee 11)

The perception of investigating child trafficking being “additional work” is a reflection of the disparity between the stated priority in the UK national anti-trafficking action plan and Ministerial statements on the one hand, and the reality of need to adequately resource the police to deal with child trafficking. This goes against the UK Government’s assurance that trafficking will be dealt with as a matter of priority.⁵⁸

One interviewee felt that this pressure should be resisted and what should be encouraged is a shift to an approach which does not focus exclusively on prosecution, but includes criteria such as, *“this number of people saved, this number of interventions, this number of children protected”* (Interviewee 1). From the interviews there is evidence of the police becoming more receptive to the view that the *“welfare of the child should be paramount and at the centre of any actions”* (Interviewee 5).

However, the choice between protection and prosecution

in order to maximise limited resources is a false dichotomy. The non-investigation of cases results in traffickers continuing their criminal activity. This arguably reinforces the view of child trafficking as being a low-risk / high-profit activity and potentially encourages more people to engage in this illegal enterprise. Such a *laissez-faire* approach can also put at risk the ‘saved’ victims, who may be, as many have been, targeted again by the same traffickers and re-trafficked. It also puts more children in countries of origin at risk as traffickers generally exploit as many victims as they can handle, and one child could easily be replaced by another.

Suggesting a choice between investigation and protection also contradicts the approach taken when investigating child protection cases where the victims are UK citizen children. A non-investigation approach would also be inconsistent with the UK’s international obligations. In the context of Scotland, where a successful conviction on specific charge of child trafficking charges is still to be seen, such an approach is even more questionable. Notwithstanding the other legislative tools available to prosecutors, the absence of successful convictions for child trafficking does not suggest that potential and actual victims of trafficking in Scotland are receiving the best protection.

The reluctance to pursue prosecutions may also be reinforced by the perceived lack of cooperation on the part of victims. However this displays an ignorance of the complexity of child trafficking and the possible nature of the relationship between the child and his/her trafficker. The view was expressed by one officer that the police do not understand why a child would not previously have reported victimisation; appears to be non-compliant and unwilling to engage with the investigative or prosecution process; or doesn’t present as a ‘stereotypical’ victim of

⁵⁸ See for example the comments of the current Coalition Government’s Immigration Minister, Damian Green at <http://www.homeoffice.gov.uk/media-centre/news/trafficking-a-priority>.

violence and exploitation. This interviewee also suggested the police do not understand the impact of voodoo or debt bondage on victims (Interviewee 26).

This is further compounded by obtaining accurate witness statements due to the child possibly being traumatised, as well as the presence of language and cultural barriers. The children may not self-identify as victims, or realise they have been trafficked (Interviewee 11).

One other problem raised is the continuing criminalisation of those who have been coerced into illegal activities during their trafficking, e.g. children forced to work in cannabis factories, commit petty crime or assist in benefit fraud. This undermines their status as vulnerable individuals in need of protection in the eyes of some (Interviewee 26).

One avenue to increase prosecutions suggested by a police officer was that of victimless prosecutions⁵⁹ as a starting point in any trafficking investigation, particularly for sexual exploitation. This individual (Interviewee 1) acknowledged this requires a more concerted effort by police and prosecutors, and he believes this is not done at the moment as it is relegated to “the too difficult basket”. He also asserts that there is the choice to press alternative charges.

However this view was not shared by all, with another police officer regarding the route of victimless prosecutions as “a bad road to go down”, because all victims are vulnerable and are not protected by not giving statements (Interviewee 20). Also the amount of evidence required for a victimless prosecution would be prohibitive in trafficking cases, particularly in light of the obstacles in obtaining evidence noted above. His opposition to this type of prosecution is because he views it as proactive work for which there will be no extra resources available,

and his view of these cases being time and resource intensive.

One interviewee, a police officer, cited the lack of explicit child trafficking legislation as being an impediment to prosecutions, but this was refuted by a more senior police officer who stated he could not understand why police officers should care about what legislation is used in order to prosecute cases of child trafficking. He could not see the point in getting “hung up” on the fact that prosecutors do not use human trafficking legislation, but initiate alternative charges (Interviewee 1).

Another interviewee highlighted it was better to get offenders for something rather than nothing, i.e. a sexual offence charge might be better pursued than a trafficking one. But as the literature review highlighted there are problems with this approach in that the conviction might carry less of a punishment than a trafficking charge would, and also not prosecuting trafficking compounds the misconception that trafficking is not a problem.

The issue of prosecutions was addressed in evidence provided to the Equal Opportunities Committee Enquiry into Migration and Trafficking. The Lord Advocate provided such information in respect of convictions in Scotland following Operation Pentameter 2, as a result of which there were 21 individual prosecutions of which 17 accused were convicted of 23 separate criminal offences. These offences included managing an immoral house, keeping/managing/acting in management of a brothel, using a female for gain control/direct/influence as a prostitute and being in possession of false identification.⁶⁰ This is evidence that although there are no prosecutions for human trafficking offences in Scotland, there have been, according to Frank Mulholland, the Solicitor

⁵⁹ ‘Victimless prosecutions’ are ones in which the victim need not appear in court and his/her statement is submitted in place of oral evidence.

⁶⁰ See: http://www.scottish.parliament.uk/s3/committees/equal/inquiries/migration/documents/MTS_LordAdvocateLettertoMM_a.pdf

General, successful prosecutions for “offences against a background of people trafficking.”⁶¹

3.6.2. Attitudes

Distinct from lack of awareness of child trafficking, some respondents were concerned about attitudes to child trafficking held by their colleagues and the wider community. One web survey respondent referred to a “culture of disbelief” and another to “victim blaming”, and others observed that the internal trafficking of UK citizen children appeared to be ignored in discussions around child trafficking. Some respondents maintained that child trafficking needed to be placed in a child protection context, but also dealt with from a human rights perspective. The views expressed below echo repeated concerns:

“When a suspected trafficked child came to my attention as a manager in a previous job, I was struck by how difficult it was to have the welfare of the child at the centre when dealing with the home office/immigration. He was not my case but it caused the caseworker a fair amount of stress, let alone the impact it had on the child.”

(Manager, Education)

“I know of instances when female in custody, is in UK illegally and therefore not offered any services. Child has been living rough sleeping anywhere often with adult strangers who are in similar position.”

(Social Worker, Glasgow)

A number of respondents observed that child trafficking is not always taken seriously. For example:

“I am very concerned that it is not taken seriously enough, because people are unaware of what to do,

or there is too much work involved. More training has to be given” (Social Worker)

“I believe that child trafficking is a problem in Scotland and I am concerned that because the numbers being recognised are relatively low, it will not be recognised as a serious problem by relevant agencies. This will keep the numbers being recognised low as people will not be looking for it or trained to deal with it. This will inadvertently allow traffickers to continue. We have to prepare for the worst case scenario and not just plan around the case we ‘see’. We all know that in any area regarding violence against women and children it is only a minority who access any services. With an issue as complex and difficult as child trafficking it will be an even smaller proportion that access services.” (Violence against Women Case Worker)

3.6.3. Needs of Victims

Before concluding the survey participants were invited to voice any concerns or to comment upon the issue of child trafficking. As emphasised in the literature review one barrier to assisting those in need is the failure to identify them as being at risk. Many respondents doubted that they would be able to identify possible instances of child trafficking.

“I am not sure I would be able to recognise signs of child trafficking as it is an issue that I have heard little about in the area I work.” (Manager, Education)

“I’m concerned (especially since filling in this questionnaire) that there may be children I come across who are trafficked and I’m unaware of this. I’m also concerned by my own lack of knowledge on the subject.” (Case Worker, Health)

61 See: http://www.scottish.parliament.uk/s3/committees/equal/inquiries/migration/documents/MTS5SolicitorG_to_MG_letter.pdf

The hidden nature of trafficking was identified as problematic, particularly as some children may never be registered for health or education services and therefore would appear to be 'invisible' to statutory agencies.

"I think it is entirely possible that the children that my Department officially comes into contact (e.g. through a placing request to enter one of our schools) is the tip of an iceberg. What we cannot know anything about is the number of children for whom trafficking is largely a lonely, anonymous experience because those who have control over them do not place them in the public eye by engaging with services such as the Education Department." (Manager, Education)

Some practitioners, in the health and social work sector found it difficult to substantiate suspicions about trafficked children (for example when a child has a 'suspect history' or lots of unexplained moves) as some families with children may register for health services and then just 'disappear' or when a home visit is made the child/children are 'abroad'.

"There are an increasing number of Eastern European migrants and other immigrants to the city. They often do not engage well with the health services and due to language barriers and cultural differences it is often difficult to get a clear picture of the family background or over time there emerges conflicting information regarding family background, immigration status and clear family relationships. These families can be quite transient and evasive even within the city. There needs to be closer working partnerships with all partner agencies with regard to families moving into the country and settlement." (Case Worker, Health)

Resource availability, particularly out of hours was viewed as problematic, in particular in relation to health and appropriate accommodation. The shortage of available fostering arrangements and residential placements was

highlighted, and so children being placed where there was space as opposed to where best would suit their needs. As one Interviewee put it:

"I think every local authority would like to have dozens of spare foster placements and spare other placements so that you can pick and choose but usually it's where the vacancy is." (Interviewee 24)

The availability of suitable accommodation is further exacerbated for those within the 16 – 18 age group, with several interviewees describing their situation as being "more of a problem" (Interviewee 15). Another noted:

"The 16 – 18 year old age group would test us more seriously. In these cases we would probably look to Housing for help." (Interviewee 30)

Furthermore, language barriers and a shortage of appropriately trained interpreters; a lack of awareness of cultural issues and practices; the medium and long term support available to victims; access to support services; the child's mental health, substance misuse and personal safety were also expressed as concerns.

3.6.4. Concerns for Specific Groups of Children

As already indicated in the literature review, age assessment can be a problematic issue, and this also came through the interviews. Age assessment is particularly a problem for those between 16 and 18 years old who are sometimes in the position of having to prove their age to an authority figure expressing doubt as to the age claimed. Although all the legislation and policies relating to child trafficking emphasise that benefit of the doubt should be given to the young person it was felt, particularly those in the 16 – 18 age group, had an uphill struggle to be accepted as children.

The UKBA is the agency considered most to be at fault in this regard, but this was denied by the UKBA focus group who claimed that they would usually defer to social work as having the expertise in this field. As one member of the group stated:

"[I]f Social Work come back to us and say, he's 16 or he's 15, even if we are really not too sure about it, well they're the experts so unless we've got outstanding evidence..."

Another repeated concern was of children in residential care, or in private foster care, being at particular risk of being 'groomed' by an older boyfriend. Cases were mentioned in which the boyfriend, and perhaps his friends, would sexually exploit those they had befriended. Interviewee 19 expressed concern that:

"Another problem is access to children via the Internet. Younger children can become attached to older boyfriends. I think that there should be more education around this."

This concern was reiterated by one manager of an NGO who has dealt with cases of online grooming in which the young girls were then moved around the country by those who had built up a relationship with them via the internet (Interviewee 16).

From both the web responses and interviews, concerns were raised over the closed nature of some immigrant communities and the detrimental effect this could have on child trafficking investigations and providing victim support, partly at least due to the reticence of such communities in reporting any problems to the police. This was highlighted as a particular problem in relation to the Chinese community as this is one of the groups mentioned by respondents as at risk of being trafficked, but the police have very few avenues of communication with this community. The need to gain the trust of such communities was highlighted.

Another growing concern is of the situation regarding A2 nationals and their children, particularly those from the Roma community. There has been an increase in this population and, as all new migrant communities tend to, they have concentrated in small pockets of cities. It was expressed by more than one respondent that it is not uncommon for 25 or so people to be housed in one flat, making it very difficult to ascertain who resides there, and the inhabitants' relationships to one another. One interviewee noted that teen pregnancy is not only accepted, but can lead to prestige in the community and as such is fairly common. However it was also noted that there has been an upsurge in young women seeking abortions. The interviewee in question maintained that this was an indicator of possible sexual exploitation (Interviewee 10).

The lack of professionally trained and certified interpreters was also mentioned as a particular concern with A2 nationals. Although the evidence is only anecdotal, some fear interpreters are passing information back to others within the community. One interviewee who was working at a residential unit in Glasgow at the time of being interviewed referred to a case in which a man was being investigated for trafficking related activities in which she alleged the interpreter was "in on it.....feeding back secret information." (Interviewee 34)

3.6.5. Children Going Missing from Care

Child trafficking research (e.g. CEOP, 2009 & ECPAT, 2008b), as well as anecdotal evidence, suggests that child trafficking is linked to the disappearances of a significant number of separated children from care in England and Northern Ireland. The evidence gathered within this scoping study suggests that the numbers of

children going missing from care in Scotland are very low compared to those in England or Northern Ireland. In addition to discussing this issue in the interviews, the Commissioner wrote to the 32 Local Authorities and the Scottish Government, enquiring how many UASC had gone missing from care. Local authorities were asked if they collected information relating to children missing from care and were asked to provide information about the numbers of children going missing from care, from 2008 to the present moment, who are either unaccompanied asylum seeking children or other unaccompanied non-UK citizen children (under 18). Only half of the local authorities responded to the request, and of those, only two reported missing children. In both cases one child was missing.⁶² Although there was no specific question regarding the availability of information broken down by nationality/immigration status, it is assumed from the responses that it has been possible for local authorities to establish if any of those going missing are indeed separated children. The Scottish Government referred the Commissioner's query to the Care Commission. Whilst the Care Commission's response did contain information about the number of 'absconding incidents', it made it clear the Care Commission had "no knowledge of whether these children were asylum seeking/non-EU nationals or otherwise."⁶³

This response highlights the lack of central data collection on the number of separated children going missing from care by any Scottish Government agency. One police officer (Interviewee 26) noted any reports of children going missing from care are still recorded on paper and there is no "electronic highway" down which to share this information. As to whether a child is reported missing

appears on the evidence, albeit anecdotal, to depend on a somewhat subjective judgement, namely whether a child is deemed to be at risk or not, and thus dealt with as a matter of urgency.

The difference in the numbers of separated children reported as going missing from care in Scotland, compared to England and Northern Ireland, as mentioned in the literature review, is an area which demands more research.

62 The Glasgow and Moray Councils.

63 E-mail communication from the Care Commission, December 2010.

Chapter Four

Final Comment

What light has this report shed on the nature and extent of child trafficking into and within Scotland? An overall summary of the findings is offered here, dealing with the awareness, identification and treatment of suspected victims of child trafficking.

4.1. The identification of levels of information about the existence, incidence and scale of child trafficking in Scotland

Although some numbers have been provided (Chapter 3.5.1), these are, for the most part, limited to cases which have been referred to the NRM. As came through strongly in both the literature review and the interviews and web survey, there is an absence of accurate statistical information. The analysis of the web survey responses supports the suggestion that the number of actual

referrals of suspected child trafficking cases may be only the tip of the iceberg and that potential child victims of trafficking may have slipped through the net and remained unidentified. The difficulty in compiling precise statistics is compounded by the definitional confusion still apparent over what types of movement and exploitation are covered by the term 'trafficking' and so who should be included in any count.

This problem of identification has ramifications for being able to more clearly profile those who have been trafficked, and pinpoint the forms of exploitation. Although trafficking is still initially seen as being for sexual exploitation, it became clear in the interviews that participants recognise the forms of exploitation are more varied, with forced labour, benefit fraud and domestic servitude also being cited. As to profiling the 'typical' trafficked person, recognition was given to the fact that there is no archetype, and a number of countries now seem to be the source, and include China, several African states, Afghanistan and recent accession countries to the EU.

Better identification and data collection are obviously necessary as highlighted in the literature review, in a coordinated fashion at local, national and international levels. Establishing a clearer picture of the patterns of child trafficking in Scotland will assist in the design and provision of services for those in need or at risk. It would also provide the information that would allow for the appropriate engagement with source countries in any preventative measures. However, quantifying child trafficking should not be pursued as an end in and of itself.

4.2. The identification of the processes and procedures in dealing with or responding to suspected or actual cases of child trafficking

What has emerged is that there is no uniform process for the identification of victims of child trafficking, and due to a lack of appreciation of the indicators of child trafficking, some children who have been trafficked may not have been identified. The problems of the NRM procedures highlighted by respondents may also contribute to the difficulty of victim identification. In response to there not being one centralised body overseeing the implementation of the Scottish Government's trafficking guidance, services in several regions are in the process of drawing up, or have already developed their own protocols, such as those of the police forces of Fife and Dumfries and Galloway previously mentioned. Given the decentralised nature of service delivery throughout Scotland, and the

Scottish Government's non-prescriptive approach, it is understandable that the control of implementing services has been devolved to local authorities. While local protocols are needed to provide an adequate response to child trafficking, to be effective such protocols should be developed jointly by all relevant local services. Notwithstanding this, interviewees and web survey respondents expressed consensus that a stronger lead would be helpful in order to ensure consistency in the identification of and assistance offered to, trafficked children.

The procedure involving referral to the NRM, is seen as cumbersome, and the feasibility of the time frame in which evidence needs to be submitted remains a matter of debate with some arguing the timeframe for providing evidence is "unrealistic" (Interviewee 25), and others wanting to try and work as best within the prescribed time. The multi-agency input the NRM requires if it is to work properly, is made difficult by different agencies working to different timescales, as well as from a resource point of view, both in terms of finance and personnel (Interviewee 11). Opinion on the benefit of using the NRM was divided, with those who had not used it being more convinced of its value.

The views presented by most interviewees and, as seen in the literature review, matched by those of UK NGOs specialising in the area of child trafficking, show that the NRM does not provide any additional protection to child victims, particularly to those going through the asylum process. This, combined with the many other criticisms of the way the mechanism is designed, suggests that simply by giving it more time to develop and improve naturally may not bring about any significant change. Any children who do not receive the protection they need now due to the weaknesses of the NRM would not have a second chance to receive the protection that they need now.

This reflects a similar division of opinion relating to whether the child protection procedures which are already in place, adequately address the needs of trafficked children. The findings suggest a discrepancy which can generally be traced geographically, with rural local authorities, particularly those in the North, being more likely to express confidence in the child protection procedures they have in place. This assurance in the existing measures does however come with the caveat that these are also the local authorities who are least likely to consider child trafficking to be a problem.

4.3. To ascertain the perceived obstacles to better identification and protection of child victims of trafficking

The main obstacle is the lack of understanding over the complexity of child trafficking. This extends to dynamics of trafficking, and the nature of the relationship that may exist between the trafficked child and his/her trafficker. However if training was more widely available and tailored to the needs of relevant professionals, this difficulty would lessen.

Another obstacle is that, to many, trafficking is closely tied to issues of immigration and asylum. If the immigration and asylum aspects appear to take precedence, this can be to the detriment of child protection procedures in which the best interests of the child are the primary focus, irrespective of the child's immigration status. Other procedures linked to the

asylum system such as age assessments are also problematic to ensuring a child who may have been trafficked receives the appropriate service provision.

In the context of age, 16 – 18 year olds do present a particular problem. This is not least because of the need to find the balance between protecting these young people while allowing them a level of autonomy enjoyed by their contemporaries. This is particularly difficult in relation to finding appropriate safe accommodation, of which there is an acknowledged shortage.

The evidence reinforces that child trafficking is also perceived by most to be an urban problem that does not happen in rural communities. This belief could result in confidence in an area's ability to cope with cases of child trafficking that may prove unfounded. Those in rural communities should avoid complacency and remain alert to the possibility that it might not be that child trafficking is not taking place, but that they are blind to it through the confidence they have in their knowledge of their areas.

4.4. To establish the levels of awareness about child trafficking in Scotland

The level of awareness regarding child trafficking is variable throughout Scotland, with higher levels of awareness concentrated in the Central Belt, and most noticeably in Glasgow.

With regards to the documentation and mechanisms available people were aware of guidance such as the

Safeguarding Children in Scotland who may have been Trafficked. However few were fully conversant with the information, and regarded such documents more as to be referred to as and when a situation arose, than have the content mainstreamed into training or everyday procedures.

Indeed respondents did frequently raise doubts of their own knowledge in recognising risk factors and indicators of child trafficking. However, it is a positive output of this study that a number of respondents commented that participating in the survey made them appreciate this to be a subject of which they had little knowledge, and that completing the survey was an awareness raising exercise in itself.



Chapter Five

Recommendations

Recommendations for the UK Government

1. Urgently review the NRM with a view to strengthening multi-agency cooperation and coordination in the context of making the NRM more child-friendly and enabling it to provide children with the necessary protection. In particular:

- Review the current timelines for making a conclusive decision and allow for the 45-day reflection period to be used genuinely as a period of reflection and recovery;
- Take steps, in cooperation and coordination with other relevant agencies, to establish best practice regarding the number and nature of interviews conducted with a suspected child victim of trafficking. Consideration should be given to the UNICEF Guidelines on interviewing trafficked and abused children, and to increasing the use of specialist Joint Interview Teams (JIT). Practical steps should be taken to ensure that all those involved in the interviewing process (including interpreters) are trained in a child sensitive approach

based on the 1989 Convention on the Rights of the Child, particularly Articles 3 and 12, which enshrine the best interests of the child being of primary concern and the child's right to be heard, respectively;

- Consider giving local authorities Competent Authority status for identification of child victims of trafficking. It is necessary at the same time to recognise the inherent risks of such a dual role (of being a corporate parent and a Competent Authority) and to take steps to avoid conflict between the different functions and responsibilities of the local authority and;
 - Support research to examine the national referral mechanisms of other states parties to the CoE Convention to determine how they are working in comparison to the UK NRM, with particular reference to children.
2. Appoint an independent Human Trafficking Rapporteur, accountable to the UK Parliament, with a specific focus on children and young people, with responsibility for the collection, monitoring and analysis of disaggregated data.
3. Ratify without delay the Council of Europe Convention on

the Protection of Children against Sexual Exploitation and Sexual Abuse, which the UK signed on 5 May 2008.

4. Opt in to the 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 Com (2010 95 final).

5. Give cognisance to the evaluation of the Scottish Refugee Council and Aberlour Childcare Trust Guardianship scheme currently being piloted in Scotland, with a view to rolling out the scheme on a permanent basis if it has proved to be a success.

6. Consider affording a right of appeal, at a lower level than judicial review, to the alleged victim, following a negative decision of the Competent Authority.

Recommendations for the Scottish Government

1. Act (and be seen to act) as a lead on the efforts of local authorities across Scotland to combat child trafficking. More specifically:

- Take steps to ensure that nationally agreed procedures are being followed at a local level;
- Encourage the development of multi-agency protocols at the local level to guide action against child trafficking;
- Take a lead role in monitoring the adherence to its *Guidance Safeguarding Children in Scotland who may have been Trafficked*, to ensure a consistency of implementation of practices adopted across local authorities and services;
- Consider the re-convening of the group that supported the development of its *Guidance Safeguarding Children in Scotland who may have been Trafficked*

as a permanent coordination and information-sharing stakeholder group and;

- Encourage the designation of a lead manager on child trafficking within each local authority to whom others can take concerns.

2. Fund and oversee the development and implementation of multi-sectoral training relevant to the needs of all professional sectors involved. At a minimum the training should ensure awareness among all relevant professionals of the indicators of child trafficking and of appropriate responses when concerns arise.

3. Work with the police and local authorities to ensure that the investigation of child trafficking and any other child trafficking-related work is resourced sufficiently.

4. In the absence of a UK-wide independent Human Trafficking Rapporteur with specific responsibility for child trafficking, consider appointing a Rapporteur for Scotland. The Rapporteur's remit would be a matter for consultation, with comments invited from all relevant stakeholders, but as a minimum it would include data collection, monitoring and analysis responsibilities regarding child trafficking in Scotland. The Rapporteur would report directly to the Scottish Parliament.



5. Without prejudice to the outcome of the above recommendation, take steps to ensure that information on the numbers of separated children going missing from care is collected centrally.

6. Consider ways to engage children in raising the awareness level of the issues and dangers of child trafficking among their peer group, e.g. how issues of trafficking could be raised through the school curriculum and peer to peer education projects, perhaps harnessing the energy of those involved in the creative arts, community theatre etc.

7. Subject to successful evaluation of the Scottish Refugee Council and Aberlour Childcare Trust Guardianship pilot, use the learning from the project to develop a permanent guardianship scheme in Scotland. Work with the UK Government to ensure that the project's outcomes are reflected in UK-wide policy and practice development.

8. Monitor the effectiveness of existing legislative provisions in convicting those engaged in child trafficking and take appropriate steps to ensure that child trafficking in Scotland does not go unpunished. In this context an international comparative study could be commissioned to determine the value and success rate of specific child trafficking legislation, e.g. such as that introduced by Canada and Ireland.

Recommendations for local authorities

1. Designate a lead manager on child trafficking to ensure leadership, responsibility and direction on all activities related to child trafficking.

2. Encourage the development of multi-agency protocols to guide action against child trafficking with annual evaluation of their effectiveness.

3. Address the needs of 16 – 18 year olds as a matter of priority, particularly on the issue of the provision of specialised accommodation and age assessment procedures. While these are relevant to all children, they are especially problematic for this older age group.

4. Support efforts to ensure the awareness of child trafficking of both local authority staff and the general public is improved and that training of relevant staff remains current.

5. Work with the Scottish Government and the police to ensure that the investigation of child trafficking and any other child trafficking-related work is resourced sufficiently.

Recommendations for police forces

1. In the process of setting police expenditure levels, work with the Scottish Government and local authorities to ensure that the investigation of child trafficking and any other child trafficking-related work is resourced sufficiently.

2. Make investigations of child trafficking a matter of high priority.

3. Instigate investigations in all cases of suspected child trafficking without delay and without waiting for the victim to request an investigation.

Recommendation for the UK Border Agency in Scotland

1. Urgently put in place joint protocols for working with all relevant agencies in relation to child trafficking.



Appendices

There are additional appendices available at: www.sccyp.org.uk/publications/adults/policyandresearch on:

- The legislative framework dealing with human trafficking related exploitation and;
- Overview of child protection in Scotland.

Appendix 1: Bibliography

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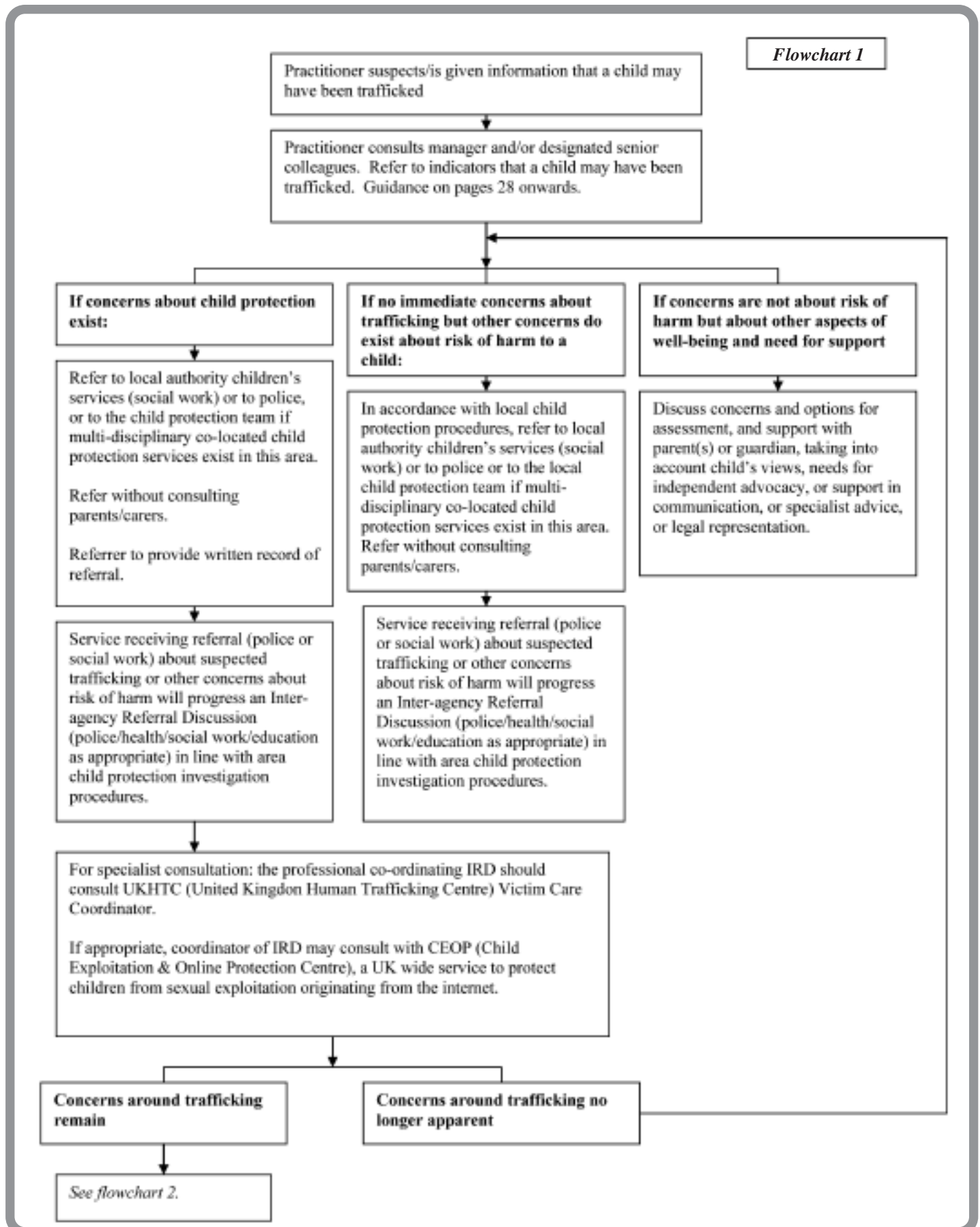
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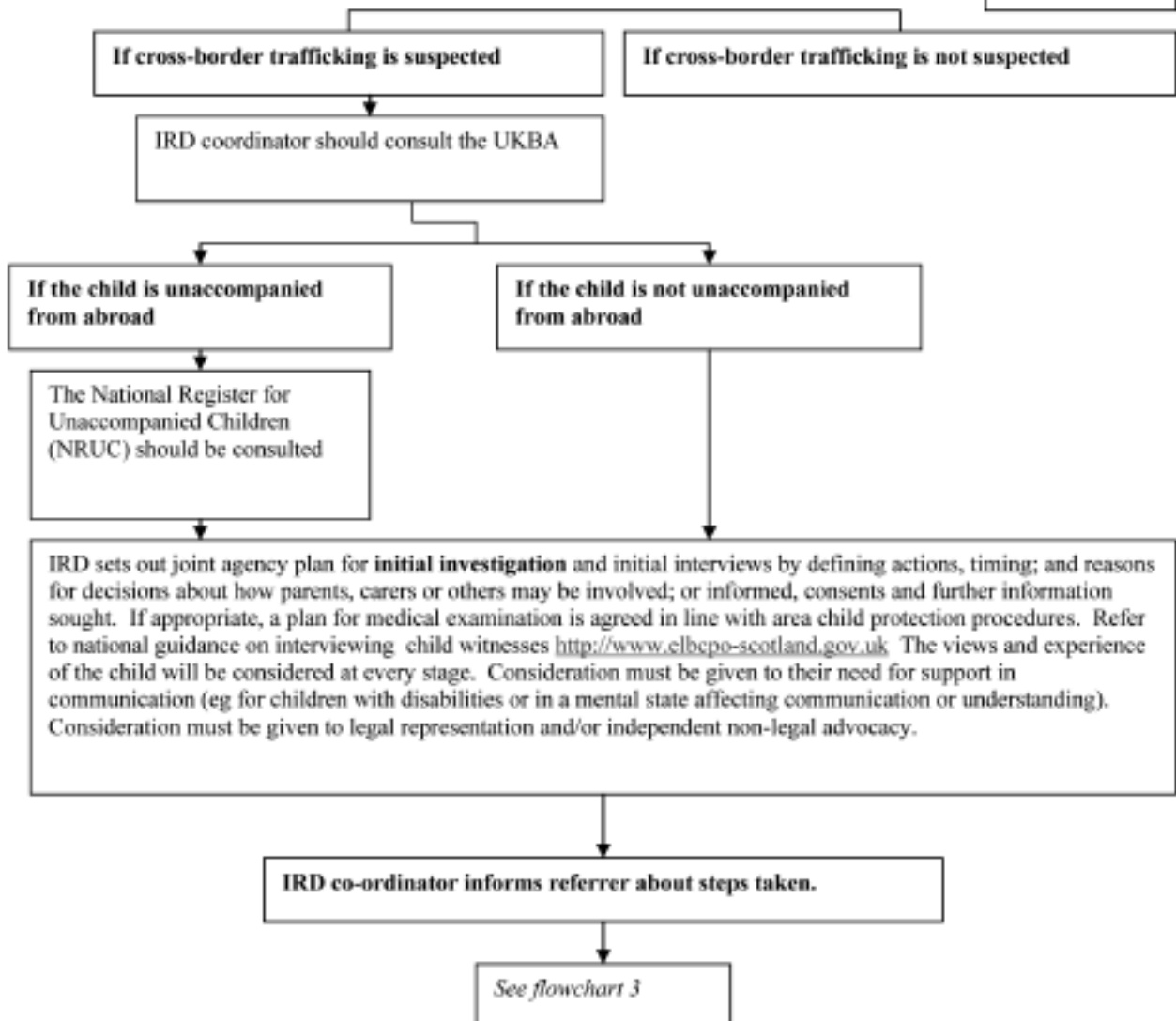
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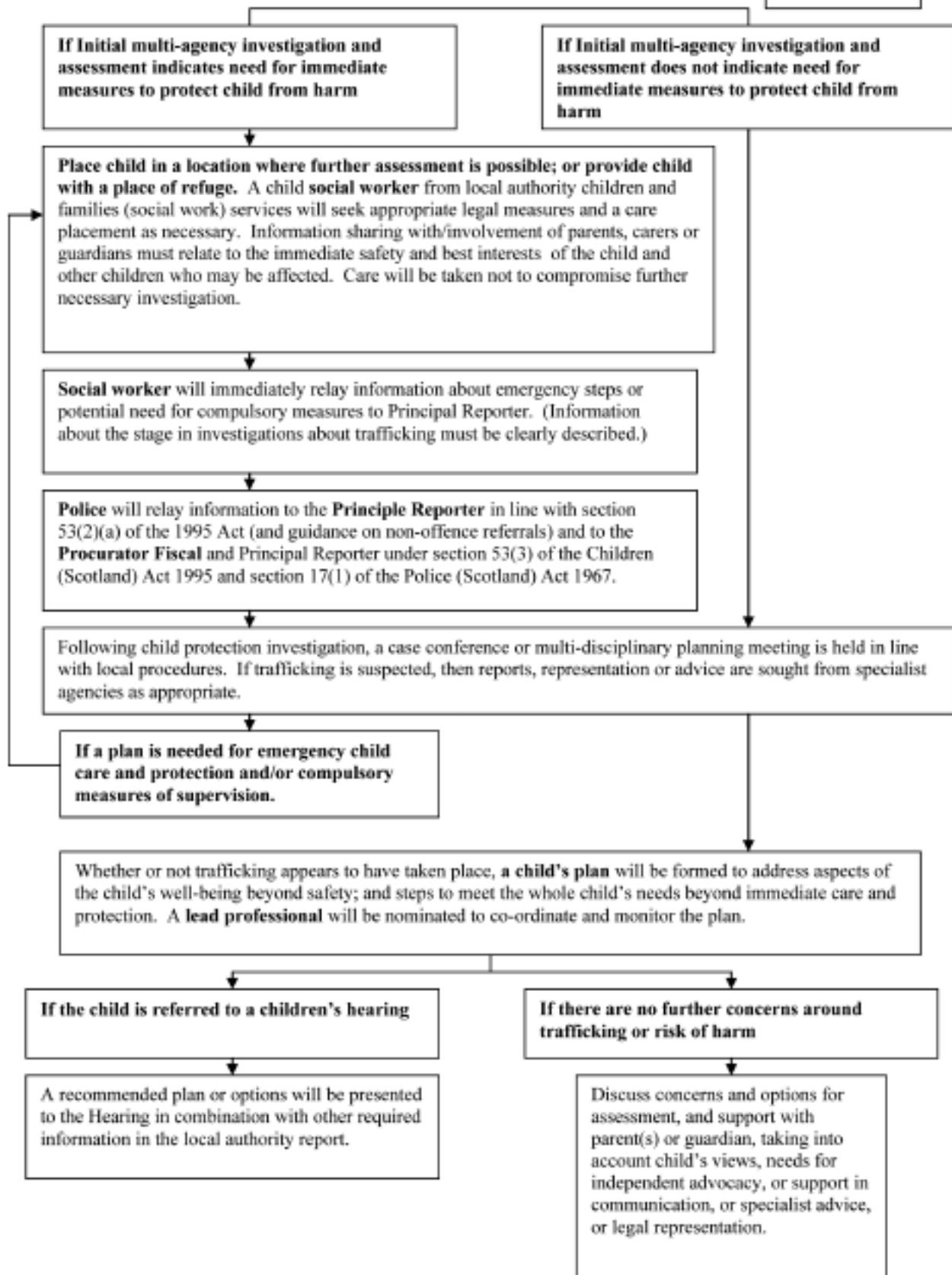
Appendix 2: Flowcharts of the National Referral Mechanism



Flowchart 2



Flowchart 3



Appendix 3: Web Survey Questionnaire

* 1. What sector do you work in?

- Health
- Education
- Social Work
- Legal
- Law Enforcement
- UKBA
- Voluntary Sector
- Business/Commerce
- Other (please specify)

- East Dunbartonshire
- East Lothian
- East Renfrewshire
- Edinburgh
- Falkirk
- Fife
- Glasgow
- Highland
- Inverclyde
- Midlothian
- Moray

*2. What level of position do you hold within the organisation?

- Frontline Service Provision/Case Worker
- Managerial
- Policy Development
- Other (please specify)

- North Ayrshire
- North Lanarkshire
- Orkney Islands
- Perth and Kinross
- Renfrewshire
- Scottish Borders

*3. Which part of Scotland do you work in?

- Aberdeen
- Aberdeenshire
- Angus
- Argyll and Bute
- Clackmannanshire
- Dumfries and Galloway
- Dundee
- East Ayrshire

- Shetland Islands
- South Ayrshire
- South Lanarkshire
- Stirling
- West Dunbartonshire
- West Lothian
- Western Isles (Comhairle nan Eilean Siar)

Appendix 3: Web Survey Questionnaire (continued)

*4. Have you come across any child through your work who (please check all applicable):

- appears to be in Scotland illegally (no identification/forged documentation)
- had his/her journey/visa arranged by someone other than self or family
- is accompanied by an adult who insists on remaining with the child at all times
- has a prepared story very similar to that given by other children
- does not appear to have money but does have a mobile phone
- is unable, or reluctant to give details of accommodation or other personal details
- receives unexplained/unidentified phone calls whilst in placement/temporary accommodation
- shows signs of physical or sexual abuse, and/or has contracted a sexually transmitted infection or has an unplanned pregnancy
- has a history with missing links and unexplained moves
- is one among a number of unrelated children found at one address
- is required to earn a minimum amount of money every day
- has limited freedom of movement
- none of the above

*5. Have you received any training on the issue of child trafficking?

- Yes
- No

6. What action would you take if you knew, or suspected, that a child may have been or is being trafficked?

*7. Have you had concerns that any child you have had contact with through your work may have been trafficked?

- Yes
- No
- I don't know

*8. How many children have you had concerns about within the last 2 years?

- None
- Less than 3
- 3 - 5
- 6 - 10
- More than 10

*9. In what capacity was your contact with the child/children about whom you had concerns that they may have been trafficked? Were they your:

- Client
- Patient
- Pupil
- Child of client
- Colleague's client
- Other (please specify)

Appendix 3: Web Survey Questionnaire (continued)

*10. Have you ever referred a child about whom you had concerns that s/he may have been or was being trafficked?

Yes

No

*11. How many children about whom you had concerns that s/he may have been or was being trafficked have you referred within the last 2 years?

None

Less than 3

3 - 5

5 - 10

More than 10

12. To whom did you refer the child/children about whom you had concerns that s/he may have been or was being trafficked? Please specify below:

13. Did you share the information about the child /children about whom you had concerns that s/he may have been or was being trafficked with any other organisations?

Yes

No

If yes, please specify below:

14. Do you know what happened to the child/children once the referral had been made?

Yes

No

If yes, please provide more information below

15. Do you have any comments or concerns regarding the issue of child trafficking in Scotland and how it relates to your own work?

16. We would very much like to discuss with you some of the issues you have raised. Would you be willing to participate in a follow-up interview to this questionnaire? (Your anonymity will be guaranteed)

Appendix 4: Framework for Semi-Structured Interviews

Questions for semi-structured interviews

- Can you tell me a little bit about your work/role and how you have been involved with or may come into contact with cases of child trafficking in Scotland?
- Can you explain what you understand 'child trafficking' to actually mean or entail?
- What indicators would flag up to you that a child may have been trafficked?
- What would you do if you suspected a child had been trafficked, or what have you done in the past? *(prompt: here looking for what guidance, tools would be referred to, who they would tell, call, procedures and processes in place in their authority)*
- How well do the current processes and procedures work? *(prompt: look for info on NRM and multi-agency working)*
- Do you feel there is a good multi-agency response to this issue? If no, how could this be improved? Are there good examples in Scotland that work with other population groups such as task forces, working groups, networks etc that may work for this group?
- Have you ever come across a situation where you suspect that a child has been trafficked? If yes how many cases of child trafficking have you been involved with both suspected and confirmed?
- What type of trafficking have these involved - *sexual exploitation, forced labour, crimes, begging, domestic servitude etc.*? Do you have information on the age gender and nationality of the children involved?
- How easy is it to access this kind of information and data on child trafficking in Scotland? *(prompt: is there information, is it accessible, is it accurate)*
- Is there the current capacity to respond to cases of child trafficking? *i.e. enough interpreters, beds, psychological and mental health support, case managers, education providers, legal representatives, trained interviewers*
- Have you come across any examples of promising practice and good models in identifying and responding to actual or suspected cases of child trafficking within Scotland or elsewhere?
- What do you feel are the top current barriers and challenges in identifying and responding to cases of child trafficking in Scotland?
- Where do you think the gaps in evidence and knowledge are?
- How good are the current levels of awareness and understanding over child trafficking by practitioners including the different bodies such as health, education, law enforcement, border agency, social work etc in Scotland or in your area in particular?
- What support is needed for practitioners working in this area? *(prompt: looking for info on professional support, training, tools and resources)*
- What would you like to know to do your job better or what do your colleagues need to do to do their jobs better?
- Anything else you would like to add?

Appendix 5: Questions for UK Border Agency Focus Group

- 1) What indicators/framework of assessment would you use to identify children who may have been trafficked?
- 2) In the last 2 years how many presumed trafficked children have you referred to the UKBA as a first responder?
- 3) (Question for the managers, which can be extracted from their stats In the same period, how many cases have been referred to the UKBA in Scotland from first responders
 - a) Who are from within the UKBA
 - b) Who are external to the UKBA)
- 4) In the past two years, how many 'reasonable grounds' decisions have you made for granting a 45-day reflection period?
- 5) In the same period how many positive conclusive decisions have you made?

(If difference between answers 2 & 3 ask for explanation as to why, also profile of children – age/gender?).

In how many of the cases in which positive conclusive decisions were made the children were granted asylum? What was the asylum determination in the other cases of positive conclusive decisions?
- 6) Where do the children who have been identified as having been trafficked come from?
 - i) Country of origin
 - ii) Within/outwith EU
 - iii) Via what route
- 7) What type of exploitation have those children experienced?
- 8) What training, if any, have you received on the issue of child trafficking?
- 9) Do you think those likely to come into contact with children who may have been trafficked receive adequate training?
- 10) As an employee of UKBA you could potentially play three different roles in relation to a child who may have been trafficked – that of a first responder, competent authority and asylum case owner
 - i. Do you find tension between these roles?
 - ii. Do you consider there to be a difference in the framework of assessment used by UKBA and that of other agencies?
- 11) How do you consider the NRM to be working in Scotland?
- 12) What is your relationship with other agencies in relation to child trafficking? (local authorities, NGOs, solicitors, others).

Appendix 5: Questions for UK Border Agency Focus Group (continued)

- 13) Do you have a relationship with the UK Human Trafficking Centre?
 - i. If yes, how do you work together?

- 14) Operation Newbridge identified as a problem children suspected of having been trafficked going missing from Heathrow. Do you think there is a similar problem of children disappearing in Scotland?
 - i. If you have been faced with this situation do you know what happened to the child?

- 15) Do you share information of suspected cases of child trafficking with Europol?

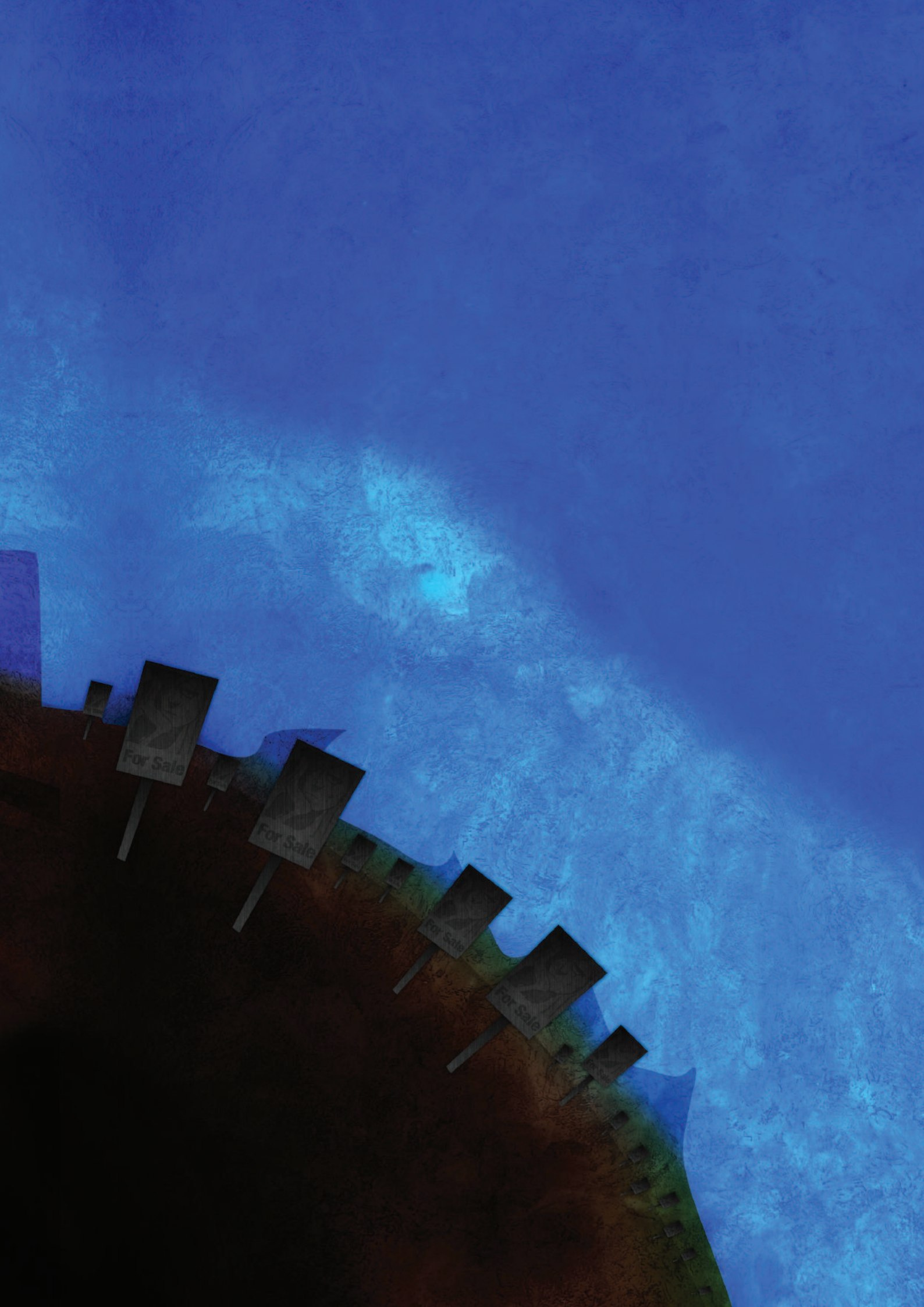
- 16) When a child has been identified as having been trafficked, is his/her opinion on what happens to him/her taken into account (e.g. possibility of repatriation or seeking asylum)?

- 17) How many times is a child/young person interviewed during the various stages of their identification as a victim and the determination of their asylum claim?

- 18) If the trafficking has occurred in a past period and the victim has already escaped the influence of traffickers, how does this affect the outcome of the 'reasonable grounds' and the conclusive decision?

Appendix 6: Occupations of Interviewees Quoted

- Interviewee 1: Senior Police Officer
- Interviewee 2: Lawyer
- Interviewee 3: Family Protection Police Officer
- Interviewee 4: Volunteer Advocate
- Interviewee 5: Police Officer
- Interviewee 7: Police Officer
- Interviewee 10: Social Worker
- Interviewee: 11: UKBA Personnel
- Interviewee 12: Adviser Child and Family Protection, National Health Service
- Interviewee 14: Child Protection Officer
- Interviewee 15: Child Health Commissioner
- Interviewee 16: Director NGO
- Interviewee 17: Police Officer
- Interviewee 18: Police Officer
- Interviewee 20: Police Officer
- Interviewee 22: Child Policy Officer, NGO
- Interviewee 23: Journalist
- Interviewee 24: Education Manager
- Interviewee 25: Social Worker
- Interviewee 26: Senior Police Officer
- Interviewee 27: Education Manager
- Interviewee 28: Police Officer (Protection Unit)
- Interviewee 30: Social Worker
- Interviewee 34: Manager of a Young Persons' Residential Unit





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