

Justice Committee

Human Trafficking and Exploitation (Scotland) Bill

Written submission from COSLA

1. COSLA has a long-standing commitment to contributing towards ending human trafficking. In November 2006, COSLA Leaders backed international action by committing to the principles set out in the Council of Europe's Declaration on the Fight Against Trafficking in Human Beings and agreed that COSLA should progress an anti-trafficking agenda. In November 2012, COSLA Leaders renewed their commitment to progress an anti-trafficking agenda.

2. In 2012, COSLA and the Human Trafficking Foundation (HTF) jointly hosted a conference 'Local Authorities in Tackling Human Trafficking'. The event provided an opportunity to explore the role that local authorities can play in counteracting human trafficking, in terms of tackling the crime and its perpetrators, raising awareness, as well as identifying, protecting and supporting victims.

3. After the announcement of an up and coming Human Trafficking (Scotland) Bill in 2014, COSLA Leaders endorsed the need for Scottish Government and COSLA to engage fully and work in partnership on the development of the forthcoming Bill and strategy.

4. COSLA supports the aim of the Bill to make Scotland a hostile environment for human traffickers, and those who exploit individuals, and to identify and support the needs of victims. Overall, COSLA welcomes and supports the policy objectives of the Human Trafficking and Exploitation (Scotland) Bill.

Part 2: Protection of victims

Adult victims of trafficking

5. COSLA acknowledges that there has been a wealth of expertise and knowledge built from dedicated support services for adult victims of trafficking in Scotland. We welcome the Bill's intention to place the provision of support and recovery services for adult victims of trafficking on a statutory footing.

Child victims of trafficking

6. COSLA notes that the Bill creates no new legislation requirements for the delivery of children's services for child victims of trafficking. We agree that there is no requirement for new legislation, as the necessary support for children who may be victims of trafficking is already enshrined in legislation which provides for all vulnerable children i.e. the Children (Scotland) Act 1995, the Children's Hearing (Scotland) Act 2011 and the Children and Young People (Scotland) Act 2014. COSLA agree that it is critical that support for child victims of trafficking is embedded in local authorities' child protection arrangements and supported by the Getting It Right for Every Child (GIRFEC) approach.

7. We welcome the key policy intention of the Bill to better identify and support potential and confirmed victims. We acknowledge that till now numbers of child victims of trafficking have remained low and principally located in a particular area of Scotland, Glasgow. However, given the expectation that there will be an increase in the identification of victims, there will also be subsequent costs/impacts on children's services, particularly around 16-17 year old provision. We ask that there is a rigorous monitoring process, which will assess any subsequent costs on children's services. It is imperative that adequate resources follow any additional service expectations on local authorities, with particular regard to children's services. We would expect the strategy and the review process to consider and incorporate provisions for the potential impact and cost on these services.

Part 4 – Trafficking and exploitation prevention and risk orders

Prevention and risk orders

8. COSLA welcomes the Bills proposal to provide courts with powers to issue new preventative and risk orders, in specific relation to preventing trafficking. We agree there is value in ensuring courts have the ability to restrict specific activities and impose requirements on those who have been convicted of trafficking or pose a risk of committing trafficking. We note that the Finance Memorandum refers to a 'framework' for TEPOs and TEROs, which we assume will provide more detailed guidance on what a prevention or risk order entails. We need to highlight that there could be a potential impact on peripheral services that are associated with this process, such as criminal justice social work associated with assessment, investigations and/or prosecution. With this in mind, we ask that COSLA and Social Work Scotland are involved in drafting any guidance relating to TEPOS and TEROs. Also, ongoing assessment and monitoring will be required for potential impact on these services.

9. The Bill also provides that, in assessing whether a person has been the victim of the offence, the court is to have regard to any of the alleged victim's characteristics that make the person more vulnerable than other people. The EU Directive includes the additional definition of vulnerability as '*A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.*' Work requires to be undertaken to ensure all services are fully aware of this additional definition.

Part 5 – Strategy and Reporting

Review and publication of strategy

10. COSLA has long recognized there is a real need for strong, central coordination and leadership in the area of counteracting human trafficking and we acknowledge that this should primarily come from Scottish Government. Therefore, we welcome the Bill's introduction of a duty on Scottish Ministers to prepare, publish and regularly review and update a trafficking and exploitation strategy.

Duty to co-operate on strategy

11. COSLA was represented at the Scottish Government Anti-Human Trafficking Summit in 2012. COSLA officers have since participated in a series of multi-agency working groups to take forward the action points from the summit and we are represented on the primary Progress Group. COSLA has long recognized that anti-human trafficking work requires multi-agency working with overall strategic leadership. Scottish local government can, and do, play a key role in terms of responding to this crime: through raising awareness, protecting and caring for child victims, and ensuring their local communities are hostile environments to traffickers. Consequently, we welcome the Bill's provision that Scottish public authorities must co-operate in the development and review of the strategy.

12. However, we also require that the development of the national strategy must be undertaken in ways that reflect and accommodate challenges or opportunities highlighted during its development, and that Ministers are similarly required to act on and resource implications arising from the information that is provided. Taking this into consideration, it is imperative that there is local government representation during the drafting of the strategy but equally important throughout the ongoing review processes. We would expect this to be set out in the resulting strategy.

Further alternatives in the Policy Memorandum

Anti-trafficking commissioner

13. COSLA can see the value of having a UK-wide Commissioner over a Scotland specific Commissioner, in terms of cost as well as sharing good practice and expertise. However, we would want Scottish Government to ensure that a UK-wide Commissioner will accurately represent the views of Scotland and Scottish Local Government in this area.

Establish a Scottish National Referral Mechanism

14. COSLA has a number of reservations regarding how some of the recommendations from the Home Office review of the NRM, published in November 2014, will be implemented. We understand that pilots will be established to test the core recommendations, with the intention of ensuring that this approach to identify and support victims of modern slavery is robust and fit for purpose. From the Policy Memorandum and discussion with Scottish Government, it is our expectation that there will still be room for the consideration of a Scottish NRM, if these recommendations have negative implications regarding the identification and support of victims in Scotland.

Child trafficking advocates

15. Local authorities provide support for child victims of trafficking as part of their child protection procedures and GIRFEC approach. As the policy memorandum states, from 2016 every child will have a named person under the provision of the Children and Young People (Scotland) Act 2014. COSLA recognizes the work that the Scottish Guardianship Service undertakes in relation to a particular group of child

victims of trafficking i.e. unaccompanied children. We would argue that an advocate service for **all** child victims of trafficking is unnecessary and could undermine child protection procedures. It is our belief that provisions for a guardianship service for particular child victims (unaccompanied children) would be best placed within the strategy rather than the Bill.

Training and awareness raising

16. COSLA's ongoing aim is to ensure that local authorities are able to make their areas as hostile an environment to traffickers as possible and can deliver a humane care service for child victims. We acknowledge there is a need for a national rollout of training and awareness raising for frontline staff to achieve this aim. We have identified a number of local authority frontline staff that would benefit from training and awareness raising on the crime of human trafficking. As the Policy Memorandum also acknowledges, we have identified the need for more nuanced training for child protection professionals. COSLA has had a provisional discussion with Scottish Government, through progress group 7- child trafficking, regarding using a more proactive and targeted approach for training and support provision for children, which is intelligence led. We are keen to discuss the potential of this idea through our discussions on the strategy. However, we must state that overall cost for frontline staff could be significant and the brunt of resourcing training should not fall on local authorities.

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24 February 2015