

Assistance to trafficked people

- 1 Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least:
 - a standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;
 - b access to emergency medical treatment;
 - c translation and interpretation services, when appropriate;
 - d counselling and information, in particular as regards their legal rights and the services available to them, in a language they can understand;
 - e assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
 - f access to education for children.

Article 12 (Chapter IV)

Article 12 also requires States to take account of an individual's safety and protection needs, and provide necessary medical or other assistance and access to education and the labour market to victims lawfully resident within its territory. The Convention ensures that assistance to victims is not made conditional on their willingness to act as a witness, and that it is provided on a consensual and informed basis, 'taking due account of the special needs of persons in a vulnerable position and the rights of children'.

In addition, Articles 14 (Residence permits), 15 (Compensation and legal redress) and 16 (Repatriation and return of victims) contain obligations on States regarding assistance to victims.

The Explanatory Report states that it is the responsibility of the State not necessarily to provide services themselves, but to ensure that "victims receive the assistance they are entitled to, in particular by making sure that reception, protection and assistance services are funded adequately and in time".¹

The level and quality of assistance (accommodation, medical and mental health services, interpreting services, legal assistance) varies widely depending on the type of exploitation someone has been subjected to, their location, and the capacity of support providers. The British government is currently failing to ensure trafficked persons receive adequate, appropriate and gender-sensitive and child-sensitive services. Furthermore, trafficked persons are not always able to access the services to which they are entitled, particularly if they choose not to enter the National Referral Mechanism (NRM).

According to the *Trafficking Toolkit* issued at the end of 2009 by the Criminal Justice System², "Victims of trafficking can access safe accommodation, advocacy, living expenses, access to counselling, support through the criminal justice process, access to independent legal advice (where required), access to interpretative services, and help with resettlement through various service providers...Victims of trafficking can also benefit from the roll out of other initiatives like sexual assault referral centres and independent sexual violence advisors".³

The same toolkit points out that, to qualify for government-financed assistance, a trafficked person must be located in the UK and "still be experiencing the constituent elements of trafficking...when they present themselves to a Competent Authority".⁴ This requirement has no basis in the Convention. Under the



Photo: Anti-Slavery International

The Anti-Trafficking Monitoring Group is a coalition comprising Anti-Slavery International, Amnesty International UK, ECPAT UK, the Helen Bamber Foundation, the Poppy Project, Immigration Law Practitioners' Association, Kalayaan, TARA Project and UNICEF UK. The coalition was set up in May 2009 to monitor the UK government's compliance with the *Council of Europe Convention on Action against Trafficking in Human Beings* ('the Convention'), which came into force on 1 April 2009.

Between September 2009 and April 2010, the Monitoring Group consulted information from public sources, conducted 90 interviews with professionals engaged in anti-trafficking work, and reviewed the cases of 390 trafficked persons. In June 2010 the Group published *Wrong kind of victim? One year on... an analysis of UK measures to protect trafficked persons*.

Convention, the British government, including the devolved administrations, should guarantee assistance to any victim identified since the Convention was ratified.

With the exception of those who have already applied for asylum, many trafficked

persons who contact support organisations are not entitled to social assistance in the UK. The Scottish government has agreed funding for the first week for services in Scotland. Otherwise, only a few NGOs have been able to negotiate funding arrangements with government departments which allow them to pay the costs of assistance before someone receives a 'reasonable grounds' decision. Even where the five-day deadline for such decisions is respected, there is already a problem in paying for the first week of assistance, at precisely the time when an individual's needs may be most acute. This is a particular problem in Northern Ireland, where the only specialised support provider for trafficked women does not have such an arrangement with the Northern Ireland Office.

In October 2009, the Update to the *UK Action Plan* announced that an additional £4 million was to be made available over two years to provide "enhanced specialist victim care arrangements in England and Wales".⁵ This was to include the appointment in the UK Human Trafficking Centre (UKHTC) of a National Coordinator for victims of trafficking. The coordinator would also set best practice standards for all service providers. By early 2010 (and by publication of this briefing in January 2011), there was no-one at UKHTC fulfilling this role, and no equivalent in either Scotland or Northern Ireland. Furthermore, there was no comparative funding announcement at that time in either Scotland or Northern Ireland, where victim care responsibilities are devolved. The absence of such coordination concerns many organisations providing assistance to trafficked persons.

The UKHTC does not provide services to trafficked persons, nor in practice has it yet played a role in ensuring that victims receive

the assistance they are entitled to. In fact, in March 2010, the UKHTC stated "[we] have no obligation of care towards applicants to the NRM. This is the responsibility of the First Responder to arrange, in conjunction with NGOs or Local Councils, and UKHTC can offer advice in these areas".⁶ This assertion by UKHTC comes close to denying the State's responsibility of ensuring that presumed trafficked persons are provided with the assistance to which they are entitled under Article 12.1 of the Convention.

Accommodation and specialist support

The main organisations providing accommodation and support to adult women trafficked for sexual exploitation and/or domestic servitude are the Poppy Project in England and Wales (provided through BAWSO in Wales); TARA in Scotland; and in Northern Ireland, Women's Aid. The main organisation providing accommodation for trafficked men and women trafficked for other purposes is Migrant Helpline. These providers all receive varying amounts of government funding. Other NGOs provide accommodation to smaller numbers of trafficked persons without government funding. Between April 2009 and March 2010, some of these NGOs were forced to close down a number of bed spaces due to a lack of funding. Availability of safe accommodation and specialised support is severely limited in every region of the UK, particularly outside major towns and cities.

In January 2010 the UKHTC reported that, of 549 individuals referred to the NRM as trafficked and after having received a reasonable grounds decision, 114 (21 per cent) were accommodated in housing intended for asylum seekers; 61 (presumably all children) were housed by local authorities; 51 were living with friends or relatives; 39 were still being held in detention (seven per cent); 37 were accommodated by Migrant Helpline; 32 by Poppy; 30 were described as living in 'private accommodation'; 25 were

living in a refuge or with another NGO; five individuals were still living with an employer; ten had left the UK; 28 had absconded or gone missing; the accommodation situation of 18 was recorded as 'unknown'; and for 99, no record had been kept to indicate where they had been accommodated (18 per cent).⁷ As this information is not disaggregated by region, it is hard to compare the impact of the devolved administrations' victim care policies.

EU nationals

EU nationals can get access to assistance if they belong to one of the following categories: economically active, as a worker or self-employed; student; if they retain rights of residence or are permanent resident; or if someone else in their family is economically active in the UK. Those who have been trafficked into prostitution are not recognised by the UK authorities as having been 'economically active', while some of those subjected to forced labour have no evidence, in the form of payslips or National Insurance contributions, to prove they were economically active.

EU nationals who are traumatised following a trafficking experience, or who need other forms of counselling and cannot work may consequently find they are not entitled to any general form of social assistance. Unless they are given a residence permit as a result of having been trafficked, they may be left entirely without assistance. These difficulties are exacerbated for nationals of certain EU Member States due to the terms of their entry into the UK (the *Worker Registration Scheme* for A8 nationals and the *Accession State Worker Registration Scheme* for A2 nationals), which dictate that they need to be in continual employment for 12 months before being able to access certain benefits.

Access to health services

Accessing medical treatment can be challenging. NGO staff effectively act as advocates – to persuade a particular doctor

or surgery to treat a trafficked person. Trafficked persons in need of medication, even those who have received a positive NRM decision, have to pay prescription charges from their weekly allowance (including children aged 16 and 17).

The Monitoring Group was told of one woman, who had been identified as trafficked, who was admitted as an in-patient to hospital due to her very serious mental health condition. Despite not being able to wash herself, speak, or make eye contact, she received a visit from the hospital debt collector to see if it was safe to discharge her.

Trafficked persons who are 'dispersed' following an asylum application have no continuity in their care, especially in any mental health support they are receiving, which can be disruptive and ultimately counter-productive to their long-term recovery. There is also a lack of specialised mental health services for trafficked persons.

Interpretative services

As with medical care, referral to the NRM does not guarantee access to good quality interpreters. Individual agencies which are not government-funded have to rely on their own resources to provide interpreting services. The Monitoring Group was told that some counselling services in the UK have to raise funds privately to cover the costs of interpreting before they are able to offer their service to trafficked persons, while others rely on volunteers to interpret. Trafficked persons have little choice as to the interpreters they are allocated. This can be detrimental to disclosure and the recovery process for many trafficked persons, particularly those who have suffered sexual abuse or exploitation if they are not comfortable speaking of those experiences in front of a member of the opposite sex or someone from a very small diaspora community.

The Anti-Trafficking Monitoring Group is calling on all of the devolved administrations and the UK government to:

- Restructure the National Referral Mechanism to act as a multi-agency identification and referral mechanism, increasing access to services for victims;
- Bring the system of identification and referral closer to the victims, on a devolved, regional and local level;
- Ensure safe gender-sensitive and child-sensitive accommodation, support and service provision are available for trafficked persons, both men and women, in all parts of England, Northern Ireland, Scotland and Wales;
- Ensure appropriate provision of certain services for trafficked persons, such as interpreting and counselling services, across all parts of England, Northern Ireland, Scotland and Wales.

A2 Nationals

Specialist support organisations working with trafficked persons from Bulgaria or Romania know that they are unlikely to receive any social assistance in the UK once they leave the organisation's accommodation. In order for such service providers to move them on (and take in others whose need is greater), it would help if the UK authorities could consider a one-year residence permit granted to A2 nationals as equivalent to their having been registered under the Accession State Worker Registration Scheme so they are entitled to mainstream social assistance.

Notes

¹ Para. 149, *Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings*, Warsaw, 2005.

² Since criminal justice and victim care responsibilities are devolved, this guidance is only relevant in England and Wales. No similar toolkit was issued in Scotland or Northern Ireland.

³ Criminal Justice System, *Trafficking Toolkit. Tackling Trafficking*, London, 2009, p. 34.

⁴ Criminal Justice System, *Trafficking Toolkit. Specific arrangements for voluntary organisations*, London, 2009, p. 81.

⁵ Home Office and Scottish Government, *Update to the UK Action Plan on Tackling Human Trafficking*, October 2009, p. 19.

⁶ Response to *Freedom of Information* request 20100161 submitted by Brent Law Centre.

⁷ *Freedom of Information* request 20100021 submitted by ILPA..