

Organization for Security and Co-operation in Europe ENGLISH only**Special Representative and Co-ordinator
for Combating Trafficking in Human Beings**

Foreword

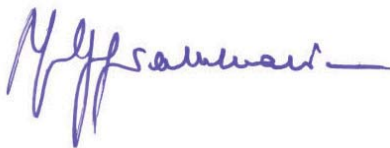
This is the first of a series of country visit reports that I initiated in order to establish a direct and constructive dialogue with participating States on anti-trafficking policy. The overall goal of this work is to further promote the implementation of OSCE cross-dimensional and human rights-based commitments in this field. Through country visits, I aim to share knowledge and good practices as well as to identify challenges and suggest action-oriented recommendations to better prevent and respond to human trafficking.

In 2011, I had the pleasure to pay an official country visit to the United Kingdom and to engage and discuss human trafficking issues with the UK Minister of State for Immigration Mr. Damian Green, and senior officials from other public institutions.

The country visit marked the beginning of a co-operative process to engage and discuss the human trafficking situation and the anti-trafficking responses with the UK government and parliamentary authorities, as well as with NGOs. Throughout 2011, my office and I have maintained an open and productive dialogue with the UK Delegation to the OSCE and the country authorities. Today, I am pleased to present the results of this joint exercise.

Progress has already been achieved since my visit in March 2011, including the adoption of the new UK Government Strategy in July 2011 which took into account some elements of the discussions held during my visit. Subsequently, and also taking into account the new Strategy, in September 2011 I finalized my report which examines UK anti-trafficking policies and offers some concrete recommendations to strengthen the country's response to THB. The report is published together with the UK official response which was received in November 2011.

I would like to acknowledge the constructive engagement of the UK Government with respect to preventing and combating human trafficking which indicates a genuine political commitment at a high political level. I look forward to further co-operation on the occasion of the report's planned follow-up.



Maria Grazia Giammarinaro

Report by OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, following her visit to the UK, 7-10 March 2011¹

Introduction

1. The present Report is based on a visit to the United Kingdom by the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings (later referred to as the Special Representative) from 7 to 10 March 2011.² The aim of the visit was to hold consultations with government authorities and NGOs on human trafficking issues and to support ongoing efforts to prevent and combat this crime.

2. In the course of the visit, the Special Representative engaged in direct consultations with the Minister of State for Immigration Mr. Damian Green, and senior officials from the Foreign Office, Home Office, UK Border Agency, Crown Prosecution Services, and the Gangmasters Licensing Authority. The Special Representative also met with Mr. Peter Bone and Baroness Elizabeth Butler-Sloss, Chairs of the All-Party Parliamentary Group on Human Trafficking. She further met the representatives of the following non-governmental organizations (NGOs): Anti-Slavery International, Bristol Coalition, ECPAT, Helen Bamber Foundation, Human Trafficking Foundation, Kalayaan and Poppy Project. Moreover, on the occasion of the visit, the Special Representative organized the UK launch of the Office's 4th Occasional Paper "Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude". She also gave a lecture on trafficking in human beings (THB) at the London School of Economics and Political Sciences, and participated in a debate on the occasion of the UN Launch of the Voluntary Trust Fund for Victims of Human Trafficking "Placing Victims at the Heart of an Anti-Human Trafficking Response".

3. The Special Representative wishes to thank the UK authorities and in particular the Minister of State for Immigration Mr. Damian Green. She also wishes to extend her particular thanks to the Home Office and the UK Delegation to the OSCE for their assistance in arranging the visit. Moreover, the Special Representative would like to thank all the people she and representatives of her Office interviewed and met for the purpose of this visit, and who shared their knowledge and expertise contributing valuable information on the situation.

¹ The report was finalized on 29 September 2011.

² During her visit, the Special Representative was accompanied by her adviser, Ms. Georgina Vaz Cabral, and her public information officer, Mr. Caraigh Mc Gregor.

4. Discussions during the visit focused on the legislative, policy and practical responses to the THB situation in the country, and in particular on the protection of human rights of victims of trafficking, on the prosecution of traffickers, and on crime prevention.

5. The Special Representative wishes to acknowledge that since the time of the visit, the UK Government has made progress in developing its institutional, legislative and policy framework with the adoption of the new UK Government's Strategy on human trafficking³, which takes into account some of the Special Representative's suggestions discussed in the course of the visit. Furthermore, the UK Government's decision to opt in the new *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA* is of particular relevance to the findings of this visit.

6. The UK Government's Strategy is a step forward in the action against trafficking. The Special Representative very much welcomes the Government's efforts to strengthen the UK approach to combating trafficking. The Special Representative especially commends the establishment of a review mechanism for all National Referral Mechanism (NRM) decisions, the decision to enable more organizations to refer victims to NRM for support and protection services; the development of a multi-agency approach to safeguard and protect child victims. Furthermore, the Special Representative recognizes the importance and value of allocating funding of GBP 2 million per year for supporting adult victims of trafficking in England and Wales. In addition, the Special Representative welcomes the efforts to strengthen the law enforcement response to trafficking and in particular to intensify and make greater use of financial investigation, confiscation proceedings and asset recovery to disrupt the profit of the traffickers.

7. The Special Representative recognizes the opportunities for THB prevention stemming from better intelligence sharing, more effective co-ordination of law enforcement efforts, and multi-agency action at the borders to detect traffickers and victims especially child victims. The Special Representative also wishes to point out the crucial importance of implementing a broad array of preventive and protective measures in the country, aimed at preventing exploitation of all potential victims, be they UK nationals, EU nationals or third-country nationals.

8. The Special Representative notes that during the visit, several interlocutors discussed the challenge of victim identification, and raised the issue of the discrepancy between the number of referrals and the number of victims who receive positive conclusive grounds decisions. For

³ *Human Trafficking: The Government's Strategy* (Crown copyright 2011), <<http://www.homeoffice.gov.uk/publications/crime/human-trafficking-strategy?view=Binary>>, accessed 15 September 2011: later referred to in this document as the UK Government's Strategy.

example according to official information collected between 1 April 2009 and 31 December 2009, there have been 289 referrals made to the Competent Authority, out of which only 85 (i.e., 29%) were positively decided; out of these, 30 victims received a residence permit and 40 were EU or British nationals.⁴ The discrepancy deserves further attention since the majority of the referrals (57%) were made by police.⁵ This discrepancy is also confirmed by data released by SOCA in July 2011 which indicate that during the first two years of operation of the National Referral Mechanism (i.e., from 1 April 2009 to 31 March 2011), out of a total of 954 referrals, Positive Conclusive Grounds Decisions amounted to 331 (i.e., 34.7%), out of which 45 related to UK nationals.⁶

9. The Special Representative welcomes the efforts of the UK authorities aimed at victim identification and is pleased to acknowledge that these data confirm the positive results achieved in the course of the last two years. Yet, challenges in victim identification remain in the UK as in the majority of OSCE participating States. The Special Representative further wishes to suggest that these challenges may be addressed in the implementation of the UK Government's Strategy by adopting a more integrated and holistic approach to human trafficking. In particular, the aim of fighting human trafficking as a form of organized crime should be more effectively combined with a human rights-centred approach, which should lead to an increased number of identified victims. According to the *OSCE Action Plan to Combat Trafficking in Human Beings*, a human rights-based approach should be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims.⁷ This approach complements and improves the criminal justice response by ensuring the rights of victims, including the right to protection before, during and after criminal proceedings. This approach is also essential to secure an important source of evidence, as well as effective collaboration between law enforcement and civil society; it also contributes to increasing the number and quality of investigations and prosecutions.⁸

10. The Special Representative further notes that a multi-agency approach is at the core of the OSCE-ODIHR concept of National Referral Mechanism (NRM), which is endorsed in OSCE commitments⁹ as well as

⁴ "Between 1 April 2009 and 31 December 2009 there have been 289 referrals made to the Competent Authority within the UK Human Trafficking Centre. [...] From the cases referred into the National Referral Mechanism between 1 April 2009 and 31 December 2009, 85 have received positive conclusive grounds decisions. Of these 85 decisions, 30 have been granted a residence permit or other form of leave to remain and 40 are EU or British nationals whose stay in the UK is not subject to immigration control." Source: Phil Woolas MP, Minister of State for Borders and Immigration, House of Commons Debates, Hansard, 12 January 2010: Column 853W, <<http://www.publications.parliament.uk/pa/cm200910/cmhansrd/cm100112/text/100112w0009.htm#>>, accessed 15 September 2011.

⁵ Ibid.

⁶ SOCA, National Referral Mechanism Statistical Data April 2009 to March 2011, 15 July 2011 available at <<http://www.soca.gov.uk/about-soca/about-the-ukhtc/statistical-data>>, accessed 22 September 2011.

⁷ OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005); OSCE Ministerial Council, *Declaration on Trafficking in Human Beings* (Porto, 7 December 2002).

⁸ OSCE Ministerial Council, *Decision No. 5/08 Enhancing Criminal Justice Responses to Trafficking in Human Beings through a Comprehensive Approach* (Helsinki, 5 December 2008), Preamble.

⁹ OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005), Chapter V para. 3; OSCE Ministerial Council, *Declaration on Trafficking in Human Beings*

in EU documents¹⁰. The NRM should be established based on multi-stakeholder participation and strategic partnerships between law enforcement and social partners, as well as on the basis of a clear definition of respective roles and responsibilities. In this regard, the role of experienced NGOs and other service providers should be formally recognized in the identification process of trafficked persons, as it is already done for the identification process and safeguard of trafficked children which exists in the London Borough of Hillingdon. The Special Representative welcomes that the UK Government's Strategy already foresees a stronger role for the local authorities and notes that major challenges will lie in the effective and consistent implementation of the best interests determination process for each child, and in the recognition of the role of NGOs and service providers, and trade unions where appropriate, in the identification of both adult and child victims.

11. The Special Representative considers that efforts to further develop the NRM should aim at: improving victim identification at an early stage of the process, increasing and speeding up victims' access to services, including immediate assistance and legal counseling, as well as at ensuring a consultative approach and a strategic partnership with experienced NGOs.¹¹ This work could build on the UKHTC practice, which should be reconfirmed and further developed. Such an approach has proven effective, and has played a key role in successfully preventing trafficking, prosecuting criminals and protecting victims. Furthermore such an approach would facilitate the co-ordination work and the implementation of the UK Government's Strategy.

12. The Special Representative further recognizes the importance of strengthening the criminal justice response to THB and appreciates that the newly adopted UK Government's Strategy foresees promoting greater use of financial investigation aimed at ensuring confiscation of the proceeds of crime. Moreover, the Special Representative notes that in this area there are opportunities to step up crime prevention efforts building on the positive experience of the Gangmasters Licensing Authority (GLA). The GLA has proven effective in carrying out preventive measures aimed at eradicating deceptive and exploitative practices regarding the recruitment of migrant workers in agriculture. The GLA's competence could be usefully extended to deal with similar issues relating to other economic sectors which are prone to exploitation.

(Porto, 7 December 2002). See also OSCE Office for Democratic Institutions and Human Rights (ODIHR), *National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons A Practical Handbook* (Warsaw, 2004).

¹⁰ See for example Council of the European Union, *EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings (2005/C 311/01)*, Official Journal of the EU C 311, 9.12.2005.

¹¹ OSCE Ministerial Council, *Decision No. 5/08 Enhancing Criminal Justice Responses to Trafficking in Human Beings through a Comprehensive Approach* (Helsinki, 5 December 2008), paras 3-6.

13. The Special Representative notes with interest that the domestic worker visa was introduced in 1998 for the specific purpose of protecting migrant domestic workers from abuse and exploitation. She is pleased to report that the visa is not tied to an individual employer. The ability to change employer offers the domestic worker a vital escape route from dependency on the employer and is therefore crucial to prevent situations of domestic servitude.¹² The Special Representative considers that the administrative regime of domestic workers employed in diplomatic households could also benefit from this preventive measure.

14 In conclusion, the Special Representative wishes to encourage the Government to further strengthen their anti-trafficking work and to consider some recommendations based on OSCE anti-trafficking commitments especially the *OSCE Action Plan to Combat Trafficking in Human Beings*.¹³ Furthermore, the Special Representative is keen to maintain a continuous dialogue and co-operation with the UK authorities and civil society to promote appropriate follow-up to these recommendations.

Recommendations

1. Develop a more effective multi-agency approach to victim identification by:

- Ensuring that the UKHTC and the UK Border Agency - as Competent Authorities for determining whether someone is a victim of trafficking or not¹⁴- exercise such decision-making on equal footing;
- Establishing formalized mechanisms for recognition of the role of experienced NGOs, service providers and social partners during the identification process; in other words, experienced NGOs, trade unions and other service providers (e.g. social care services, health-care services, labour inspectors, child safeguard agencies) should not only have authority to initiate referrals of presumed victims but should also formally contribute with their opinion to the decision-making on victim identification by the competent authorities.

¹² See OSCE OSR CTHB, *Unprotected Work, Invisible Exploitation: Trafficking for Domestic Servitude*, Occasional Paper Series no. 4 (2011), p. 16; UN Human Rights Council, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian* (focused on manifestations and causes of domestic servitude), Fifteenth session, A/HRC/15/20 (18 June 2010), para. 96, p. 21.

¹³ OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005).

¹⁴ *Human Trafficking: The Government's Strategy* (Crown copyright 2011), para. 27 and textbox below.

2. Ensure that quality standards for victim services are maintained while centralizing the co-ordination and the management of the provision of care¹⁵ by:

- Ensuring regular monitoring of the quality of the services provided, including attention to tailoring services to the victims' individual needs;
- Supporting appropriate and comprehensive training for service providers;
- Promoting and supporting effective partnership and mutual learning between experienced NGOs - such as those involved in the Poppy Project - and the Salvation Army, which is the new central contractor in charge of co-ordinating and overseeing victim care.

3. Safeguard the human rights of victims, avoid further victimization and encourage them to act as witnesses by:

- Providing legal counseling and legal aid as soon as there is an indication that the person may have been trafficked, to enable victims to exercise their rights including for claiming compensation for harm suffered;¹⁶
- Establishing a monitoring mechanism to review the application of the provision of non-punishment of victims, adults and children for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subject to trafficking.¹⁷

4. Enhance the role of the Gangmasters Licensing Authority (GLA) by:

- Extending the GLA licensing regime to cover other economic sectors vulnerable to exploitation and trafficking such as construction, domestic work/care, and hospitality;
- Granting to the GLA the power to prosecute the new offence of forced labour, building on its current mission statement of "supporting enforcement of the law, by or in conjunction with the Enforcement Authorities of other Government Departments, and others as appropriate, through shared information and joint working"¹⁸.

¹⁵ This builds on the provision in the Government's Strategy that reads: "35. we want the best possible services to be provided to the largest number of victims within the resources available". See Human Trafficking: The Government's Strategy, para. 35.

¹⁶ OSCE Ministerial Council, *Decision No. 5/08 Enhancing Criminal Justice Responses to Trafficking in Human Beings through a Comprehensive Approach* (Helsinki, 5 December 2008), paras. 6 and 10; OSCE Ministerial Council, *Decision No. 8/07 Combating Trafficking in Human Beings for Labour Exploitation* (Madrid, 30 November 2007), para. 3.

¹⁷ This builds on the provision in the strategy that reads "38. By working with the CPS we will ensure that children are not unnecessarily criminalised and work with partners to reduce instances of children going missing". See Human Trafficking: The Government's Strategy, para. 35. See also OSCE Ministerial Council, *Declaration on Trafficking in Human Beings* (Porto, 7 December 2002); European Union, *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA* (2011), art.14; Council of Europe, *Convention on Action against Trafficking in Human Beings*, CETS No. 197 (2005), art. 26.

¹⁸ GLA Mission Statement, <<http://gla.defra.gov.uk/index.asp?id=1012760>>, accessed 20 July 2011.

5. Enhance prevention of trafficking for the purpose of domestic servitude by:

- Applying the regime of private household domestic visas - which allows migrant domestic workers to change employer - to the regime of domestic workers working in diplomatic households in order to reduce their dependency on the employer and to prevent domestic servitude.

6. Evaluate the human rights impact of anti-trafficking policy and legislation by:

- Establishing a mechanism to monitor the implementation of the UK Government's Strategy and to evaluate the impact of the related policies and measures on the protection of the rights of victims of trafficking.

APPENDIX I¹⁹

RESPONSE TO THE OSCE REPORT ON HUMAN TRAFFICKING

Introduction

The UK Government is committed to tackling human trafficking and is determined to build on its strong track record in supporting victims and fighting traffickers.

The UK Government has recently published a new strategy on human trafficking. The strategy sets out our commitment to working closely with our international partners to stop trafficking at source and before harm can be inflicted.

1. Develop a more effective multi-agency approach to victim identification by:

Ensuring that the UKHTC and the UK Border Agency - as Competent Authorities for determining whether someone is a victim of trafficking or not- exercise such decision-making on equal footing:

We have ensured that the training for all Competent Authority staff is identical and they work to the same guidance and rules. The UKHTC Competent Authority also includes seconded UKBA staff to further promote consistency. All Competent Authority staff have access to other experts within government and the NGO support providers.

The functioning of the NRM is overseen by an official led monitoring group, which includes representatives from government departments, local authorities, the UKHTC and NGO service providers such as The Salvation Army. In particular the oversight group has commissioned regular case reviews with representatives from across its membership to promote consistency and learn lessons from best practice. The recommendations of these case reviews have resulted in initiatives such as meetings and job shadowing between support providers and Competent Authorities at a local level. We will continue to work with this oversight body to ensure that standards are applied consistently across the Competent Authorities.

Some variations in decision outcomes are likely to exist due to each case being considered on its individual merits and the diversity of different case types. The UKHTC deal with all cases referred by agencies other than UKBA where the person is a UK or EEA national, or where there is an immigration issue but the person is not yet known to UKBA. These referrals are often a direct and immediate result of a First Responder's work (e.g the police) to remove a victim from his/her trafficking situation. In such cases there will usually be strong and objective supporting evidence based on first hand experience of the trafficking experience from the First Responder. Referrals to UKBA are usually as a result of an individual's own account which is raised as part of an immigration application where the individual has not been uncovered at a place of exploitation. In a proportion of such cases the experiences of the person concerned do not meet the Convention definition of trafficking or they are no longer in need of the protection offered under the Convention because their circumstances have changed so much since the trafficking occurred.

Establishing formalized mechanisms for recognition of the role of experienced NGOs, service providers and social partners during the identification process; in other words, experienced NGOs, trade unions and other service providers (e.g. social care services, healthcare services, labour inspectors, child safeguard agencies) should not only have authority to initiate referrals of presumed victims but should also formally contribute with their opinion to the decision making on victim identification by the competent authorities.

The government is committed to making the NRM as accessible as possible to victims and has recently widened the list of those who are able to refer to it to include a wider group of organisations such as NSPCC and Barnardo's. All local authority children services are already a First Responder. We will continue to drive forward the multi agency nature of the National Referral Mechanism (NRM).

¹⁹ This response was received on 11 November 2011.

Any organisation looking to formally become a First Responder within the NRM needs to demonstrate that they meet the following criteria:

- Knowledgeable in human trafficking;
- Hold a good understanding of and agrees to work with organisations responsible for counter trafficking work in the UK;
- Routinely come in direct contact with those who are suspected of being victims of trafficking;
- Agree with the principles of the NRM, namely that it acts as a formal mechanism for identifying trafficked victims and facilitates the provision of appropriate support.

Colleagues in the Department of Health are piloting an approach in a local area to explore the feasibility of health professionals becoming First Responders. This pilot will include considering whether health professionals have the appropriate contact with potential victims of trafficking and credentials to become first responders.

First Responders who meet the above criteria are well placed to participate in the multi agency decision making process. Guidance stipulates that the Competent Authority's decision must include multi-agency consultation and engagement. If a negative decision is likely the Competent Authority will contact the support provider and First Responder to let them know this before any final decision is taken. This helps to ensure that the right decisions are taken and victims are properly identified.

There is also an opportunity for the first responder in a case to provide additional information if the competent authority is initially unable to make a positive identification. This can trigger a reconsideration of the decision. The functioning of the NRM is overseen by an official group, which meets every 2 months and which includes NGO representatives (Migrant Help, TARA, The Salvation Army, NSPCC and Barnardo's).

2. Ensure that quality standards for victim services are maintained while centralizing the co-ordination and the management of the provision of care by:

Ensuring regular monitoring of the quality of the services provided, including attention to tailoring services to the victims' individual needs; and Supporting appropriate and comprehensive training for service providers;

We have been working in partnership with the Salvation Army throughout the implementation of the new victim care model in England and Wales, and will continue to do so throughout the life of the contract. We have put in place a robust contract management framework that ensures regular monitoring of all key aspects of the delivery of the contract. This will ensure the model remains responsive to victims needs; delivers support tailored to those needs; and will monitor the quality of the services provided to victims.

For children, the 2004 and 1989 Children Acts impose a statutory responsibility for agencies to promote the welfare of all children. Trafficked children from abroad will obtain the same level of care as UK born children.

Promoting and supporting effective partnership and mutual learning between experienced NGOs - such as those involved in the Poppy Project - and the Salvation Army, which is the new central contractor in charge of co-ordinating and overseeing victim care.

Our new victim care model brings support providers together in a single support network in order to develop and harness the diverse expertise present within the sector. As well as two specialist providers that operated under previous arrangements with Eaves housing, this network includes the previous primary provider of support for victims of forced labour, and organisations with experience and expertise in supporting victims of trafficking and other vulnerable groups, such as victims of domestic violence. Crucially, the model facilitates cross fertilisation of best practice amongst these organisations. Recent training events for support providers, facilitated and supported by Government, have drawn on the experience and skills of the members of this network.

Government is working to engage with NGOs more broadly through the framework of the Government's Strategy on human trafficking. This will enable us to utilise the expertise of the broader counter trafficking sector to deliver the Strategy, including those organisations that do not have a support provision function under the current contract.

The Home Office have also part funded the NSPCC's Child Trafficking Advice and Information Line (2007-2011). A non financial package of support has been agreed moving forward and the Home Office is actively involved in supporting the line. The Child Trafficking Information Forum which links into the work of CTAIL allows the Home Office to be engaged with practitioner level discussions relating to challenges and successes,

3. Safeguard the human rights of victims, avoid further victimization and encourage them to act as witnesses by:

Providing legal counselling and legal aid as soon as there is an indication that the person may have been trafficked, to enable victims to exercise their rights including for claiming compensation for harm suffered;

This assumes that in civil proceedings the trafficker's assets will be traceable and recoverable to pay compensation. According to the Crown Prosecution Service (CPS) most often in trafficking cases, the assets are sent out of the country and are not recovered / restrained. In cases where civil proceedings have resulted in substantial awards, the compensation has still not been realised.

Identified victims are provided with information as to their rights and the services and support available to them, including their options regarding claiming compensation, as part of the support package provided to them during their recovery period. Legal assistance is not necessary to make a claim to the Criminal Injuries Compensation Scheme.

Establishing a monitoring mechanism to review the application of the provision of non-punishment of victims, adults and children for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subject to trafficking.

Existing case management systems are not capable of providing data to monitor the effectiveness of this provision. In the event of a potential victim of trafficking not being charged / prosecuted, they would not be entered on the system. CPS will work with CJS partners and UKHTC to identify a practical mechanism to monitor the effectiveness of existing arrangements.

4. Enhance the role of the Gangmasters Licensing Authority (GLA) by:

Extending the GLA licensing regime to cover other economic sectors vulnerable to exploitation and trafficking such as construction, domestic work/care, and hospitality; and Granting to the GLA the power to prosecute the new offence of forced labour, building on its current mission statement of "supporting enforcement of the law, by or in conjunction with the Enforcement Authorities of other Government Departments, and others as appropriate, through shared information and joint working.

As set out in the strategy, we have committed to reviewing the current human trafficking legislation by 31 December 2011. As part of this review we will consider the remit of the GLA, both in terms of its licensing regime and powers of prosecution.

This would require primary legislation and agreement from other government ministers responsible for departments who presently have a "policing" function in those sectors. For example, primary legislation would be required to enable DEFRA to prosecute a criminal offence of forced labour. Often in forced labour cases there are other criminal offences disclosed, eg theft of a passport, assault, kidnap, and false imprisonment, powers which DEFRA do not currently have.

There is ongoing work to move DEFRA prosecutors who currently prosecute the 2 criminal offences under the GLA (breach of licensing arrangements) to CPS. In the future this may be the means by which GLA can become involved in investigating forced labour. Meanwhile the

GLA / ACPO / UKBA / CPS agreement for joint investigations in these cases provides the mechanism to enable them to participate.

5. Enhance prevention of trafficking for the purpose of domestic servitude by:

Applying the regime of private household domestic visas – which allows migrant domestic workers to change employer- to the regime of domestic workers working in diplomatic households in order to reduce their dependency on the employer and to prevent domestic servitude.

In July 1998 a concession which enabled overseas domestic workers to visit the UK and work in the private household of their employer, was amended to enable them to change employer if they had suffered abuse or exploitation. It was further amended in October 2001 to allow them to change employer whatever the reason. In September 2002, the concession was brought into the Immigration Rules. The route of entry of overseas domestic workers in diplomatic households also currently permits a change of employer within the Mission to which their original employer is posted.

The Government has made a commitment to reduce net migration and is reviewing all immigration routes. The Government has proposed reforms of the overseas domestic worker routes and these are included in its consultation – “*Employment-related settlement, Tier 5 and Overseas Domestic Workers*” – because overseas domestic workers have an avenue to settlement. The consultation closed for comment on 9 September 2011 and we are considering the future of the routes in light of responses.

We acknowledge that people who work for an employer in their private household can be vulnerable to abuse and the current route includes protections to minimise the potential for such abuse. We believe that there is a case for closing this route so that abusive relationships do not come to the UK and we have not seen convincing evidence that closure would lead to overseas domestic workers being trafficked here.

If the route remains –the route for overseas domestic workers in diplomatic households will continue due to the UK’s Vienna Convention on Diplomatic Relations obligations - we are looking to provide protections in a more balanced way. We do not necessarily believe that a right to change employer whatever the reason is the only way to provide protection.

6. Evaluate the human rights impact of anti-trafficking policy and legislation by:

Establishing a mechanism to monitor the implementation of the UK Government’s Strategy and to evaluate the impact of the related policies and measures on the protection of the rights of victims of trafficking.

The implementation of the UK Government’s Strategy is monitored through the human trafficking governance structure. Progress is monitored by a strategic board of cross-Departmental officials which meets on a six-weekly basis. This board reports to the biannual Inter-Departmental Ministerial Group (IDMG) on human trafficking. As well as monitoring progress of implementation, both groups will assess the impact and effectiveness of actions taken under the strategy.

Main body of report

Paragraph 8 interprets National Referral Mechanism data. The analysis of National Referral Mechanism (NRM) data in the report appears to be based on a misunderstanding. The NRM is a victim identification process and at any one time there are a significant number of NRM decisions pending, or that have been withdrawn by the victim or suspended where the victim is no longer in contact with the authorities. However the report assumes that all the cases that have not yet had a positive decision will necessarily be negative decisions, which is not the case.

During the first 24 months of the NRM between 1st April 2009 and 31st March 2011 there were 1481 referrals to the NRM. Of these 1345 Reasonable Grounds decisions had been made as at 31st March 2011 and 895 (67%) were positive. Of the 895 cases that had proceeded to the Conclusive Grounds stage, a decision was reached in 711 cases as at 31st

March. Of these 497 (**70%**) were positive. Consequently at each stage a significant majority of cases receive a positive decision. The largest number of cases referred into the NRM by a single First Responder was from UK Border Agency staff (48%) rather than the police (26%). Moreover there are a number of mechanisms in place to ensure high quality of decisions such as a Second Pair of Eyes reviewing the decision separate from the decision maker, a thematic audit of a sample of decisions, and regular case reviews involving a range of partners including some NGO support providers.

Paragraph 9 suggests that a human rights approach will lead to an improvement in the criminal justice response. This is not necessarily the case; often victims don't wish to support criminal proceedings after they have been recovered, for a variety of reasons, including through fear or not wanting to engage with the CJS. Taking a victim centred approach then, we must take into account whether a prosecution is likely to have an adverse effect on the victim's physical or mental health.

Nor is the quality and number of investigations and prosecutions wholly reliant upon victim engagement or participation. Investigations are often more reliant on evidence obtained outside of the jurisdiction, which can affect our ability to prosecute. When the evidence obtained is not admissible or does not support a charge of human trafficking, we have to identify other offences which reflect the full criminality and which can be evidenced.

Justine Currell
Organised and Financial Crime Unit
Home Office

APPENDIX II

AGENDA OF THE SR IN THE UNITED KINGDOM, 7-10 MARCH 2011

Monday 7 March 2011

09.30-10.15	Press Conference for UK Launch of "Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude"
10.30-12.00	UK Launch of "Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude" with speakers including: <ul style="list-style-type: none">▪ Jonathan Scheele, Head of Representation, Representation of the European Commission in the UK▪ Bridget Anderson, Centre on Migration, Policy and Society (COMPAS), University of Oxford▪ Jenny Moss, Community Advocate, NGO KALAYAAN
13.00-14.00	Lecture at the London School of Economics and Political Sciences , New Theatre, East Building, Houghston Street, off Aldwych, London WC2A 2AE
15.00-18.00	Meeting with four Lawyers, Mike Dottridge (International Consultant) and the Anti Trafficking Monitoring Group , including: <ul style="list-style-type: none">▪ Anti-Slavery International▪ ECPAT▪ Kalayaan▪ Bristol Coalition▪ Poppy Project

Tuesday 8 March 2011

08.30-12.45	UN Launch of the Voluntary Trust Fund for Victims of Human Trafficking "Placing Victims at the Heart of an Anti-Human Trafficking Response" Intervention in debate "A global goal - Ensuring the needs of victims are met" Side - Meeting with MPs of the All Party Parliamentary Group on Human Trafficking : <ul style="list-style-type: none">▪ Peter Bone, Co-chair of the All Party Parliamentary Group on Human Trafficking▪ Baroness Butler-Sloss, Co-chair of the All Party Parliamentary Group on Human Trafficking▪ Anthony Steen, Special Advisor
14.30-15.30	Meeting with UK Human Trafficking Centre <ul style="list-style-type: none">▪ Liam Vernon, Chief Officer
16.30-17.30	Meeting with The Human Trafficking Foundation <ul style="list-style-type: none">▪ Anthony Steen, Chairman

Wednesday 9 March 2011

09.00-10.00	Meeting with Foreign Office <ul style="list-style-type: none">▪ David Crellin-Jones, OSCE section▪ Corinne Kitsell, Migration Dept of FCO HQ
10.30-11.00	Meeting with Foreign Office <ul style="list-style-type: none">▪ Barry Nicholas, Diplomatic missions and International Organisations Unit, Protocol Directorate, FCO▪ David Crellin-Jones, OSCE section
11.30-12.15	Meeting with Home Office to discuss an overview of UK Government's Strategy and approach to human trafficking <ul style="list-style-type: none">▪ Jaee Samant, Director of Crime Directorate – Home Office▪ Dee O'Connell, Head of Organised Immigration Crime Team – Home Office▪ Warren Fowls, Head of Human Trafficking Policy Team – UK Border Agency
13.00-15.00	Rountable Meeting with UK Border Agency/Home Office and Crown Prosecution Service/Ministry of Justice: <ul style="list-style-type: none">▪ Pam Bowen, Senior Policy Officer – Crown Prosecution Service▪ Dee O'Connell, Head of Organised Immigration Crime Team – Home Office▪ Anna Kasparian, Organised Immigration Crime Team – Home Office▪ Warren Fowls, Head of Human Trafficking Policy Team – UK Border Agency▪ Matthew Thorogood, Human Trafficking Policy Team – UK Border Agency▪ Pretash Gohill, Safeguarding Vulnerable Persons Team – Home Office
18:00	Meeting with Helen Bamber Foundation <ul style="list-style-type: none">▪ Helen Bamber, co-founding Director▪ Michael Korzinski, co-founding Director

Thursday 10 March 2011

11.00-12.00	Meeting with Gangmasters Licensing Authority (GLA) <ul style="list-style-type: none">▪ Darryl Dixon, Director of Strategy
14.30-15.00	Meeting with Home Office <ul style="list-style-type: none">▪ Damian Green, Minister of State for Immigration

APPENDIX III

AGENDA OF THE UK LAUNCH OF THE OSCE OSR 4TH OCCASIONAL PAPER
"UNPROTECTED WORK, INVISIBLE EXPLOITATION: TRAFFICKING FOR THE
PURPOSE OF DOMESTIC SERVITUDE"



Launch of publication

“Unprotected Work, Invisible Exploitation:
Trafficking for the Purpose of Domestic Servitude”

Monday 7 March 2011

10.30 - 12.00

Representation of the European Commission in the UK
32 Smith Square, London SW1P 3EU

AGENDA

10.30-10.35 Welcome

- Jonathan Scheele, Head of Representation, Representation of the European Commission in the UK

10.35-10.40 Opening

- **Maria Grazia Giammarino**, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings

10.40-10.50 Presentation of *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*

- **Georgina Vaz Cabral**, Adviser, Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings

10.50-11.05 Gender and immigration status as aspects of trafficking for domestic servitude

- **Dr. Bridget Anderson**, Centre on Migration, Policy and Society (COMPAS), University of Oxford

11.05-11.20 Trafficking for domestic servitude: NGO response

- **Jenny Moss**, Community Advocate, NGO KALAYAN

11.20-11.50 Discussion

11.50-12.00 Conclusions

- **Maria Grazia Giammarino**, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings