

Equality Impact Assessment Record

Trafficking and Exploitation Strategy

June 2017



Scottish Government
Riaghaltas na h-Alba
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EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	Trafficking and Exploitation Strategy	
Minister	Cabinet Secretary for Justice Minister for Childcare and Early Years	
Lead official	Nicholas Duffy	
Officials involved in the EQIA	name	teams
	Nicholas Duffy Anncris Roberts Susan Young	Victims and Witnesses
	Philippa Brosnan Belinda McEwan Alex Devoy	Child Protection Looked After Children
Directorate: Division: Team	Justice: Criminal Justice: Victims and Witnesses Children and Families: Looked After Children, Child Protection	
Is this new policy or revision to an existing policy?	This is a new Strategy based on a new Act, but there are existing policies that deliver some aspects of what the Strategy will cover.	

Screening

Policy Aim

We are working in partnership with criminal justice agencies and support organisations to make Scotland a more hostile environment for trafficking and exploitation and to ensure that victims are given the support and assistance they need. The Human Trafficking and Exploitation (Scotland) Act 2015 ('the 2015 Act') includes provisions that require Scottish Ministers to prepare a trafficking and exploitation strategy, which sets out such actions, arrangements and outcomes as the Scottish Ministers consider

appropriate in relation to the conduct which constitutes an offence under the Act.

The Strategy may set out:

- Actions to raise awareness of trafficking and exploitation
- Arrangements to facilitate the detection and prevention of trafficking and exploitation
- Support and assistance to be available to victims of trafficking and exploitation.

The Strategy to which this EQIA applies has been developed in partnership with stakeholders such as local authorities, Police Scotland, the Crown Office and Procurator Fiscal Service and the NHS and was published on 30 May 2017

The purpose of the Strategy is to bring together and build on the work done by Scottish Government and partners, with an overall vision of eliminating human trafficking and exploitation

Who will it affect?

The Strategy will affect victims and potential victims of trafficking and exploitation, both adults and children. It will also affect various bodies that provide support to victims of trafficking or which investigate and prosecute offenders, including those mentioned above.

What might prevent the desired outcomes being achieved?

The desired outcomes of the Strategy are that victims are identified and supported to safety and recovery; that perpetrators are identified and their activity is disrupted; and that we address the conditions that foster trafficking.

These outcomes might be prevented from being achieved through lack of resources, both human resources and financial resources. The complex and international nature of the problem is difficult to combat.

Stage 1: Framing

Results of framing exercise

Existing evidence comes from

National Crime Agency (NCA) National Referral Mechanism statistics 2016

<http://www.nationalcrimeagency.gov.uk/publications/788-national-referral-mechanism-statistics-end-of-year-summary-2016/file>

Annex C of the publication above sets out that 150 people who were referred to the NRM were first encountered in Scotland in calendar year 2016. The 150 referrals were comprised of 75 females and 75 males; 103 adults (54 female and 49 male) and 47 minors (21 female and 26 male).

Reports from organisations currently providing support to adult victims through grant funding from Scottish Government also provide information. These reports cover financial years and for 2016-17

Migrant Help provided support to 129 adults (92 males 37 females) CSG - TARA provided support to 72 adult females.

Scotland has introduced a specific category of trafficking as an indicator of concern within the child protection system in order to better understand the number of children who are at significant risk of or who have been subject to trafficking. As this has only been recently introduced, no useable statistical data is available yet.

Scottish Guardianship Service worked 1:1 with 78 new children in 2016 and provided less comprehensive support to the 31 children moved to Scotland through s67 Immigration Act 2016. Currently 40% of all the children in the service have indicators of human trafficking

Extent/Level of EQIA required

We are aware that there are adult victims of trafficking who are not referred to the NRM for a variety of reasons and the 2015 Act makes provision to seek to capture this data in order to get a more complete picture of human trafficking in Scotland.

There is also scope within the Strategy for partners to look more broadly at how data is collected.

This EQIA has been shared with stakeholders for their comments as part of the process to develop the Strategy.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic ¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
<p>AGE</p>	<p>Child is under 18. Some will be age disputed so not clear how these are recorded in the NRM statistics</p> <p>Not all adult victims of human trafficking consent to enter the NRM so there are varied views as to the reliability of the figures.</p> <p>While all children should be referred into the NRM, inconsistent practice at local level means this is not always the case.</p> <p>NRM statistics are unclear as to what the main categories of exploitation to which children are most vulnerable, with most being recorded as 'unknown'. This is probably related to the point above.</p> <p>In addition it may be that old age as well as being a child can make a person more susceptible to being a victim of trafficking.</p>	<p>NRM 2015 Stats.</p>	<p>We are continuing to engage with Home Office colleagues as they take forward the review of the NRM.</p> <p>A group will be set up as part of the Strategy to look at how data is gathered.</p> <p>In addition, section 38 of the 2015 Act allows for a duty to be placed on named Scottish public authorities to notify and provide information on victims of trafficking and exploitation. This will help to address any gaps in the collection of data and is being taken forward in conjunction with stakeholders.</p>

¹ Refer to Definitions of Protected Characteristics document for information on the characteristics

	<p>In terms of children, in 2016, there were 47 children referred in to the national referral mechanism as potential survivors of trafficking. 42 of these were from outside the EEA.</p>		<p>As part of that discussion we will consider whether the duty to notify can encompass the collection of information on the protected characteristics.</p> <p>The 2015 Act's provisions at s11 and s12 should have a positive impact for children. Both the s11 legal entitlement for eligible children to have an independent child trafficking guardian and the s12 provision on presumption of age should help to ensure that young people whose age is uncertain benefit from additional protection until such times that an assessment of age has been conducted. The strategy is helping to ensure that LA apply section 12 and the age assessment guidance is currently being reviewed to help improve the process of assessment. The impact of this will mean more young</p>
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			<p>people are safeguarded and have a fair opportunity to be protected and assessed.</p> <p>The Lord Advocate's Instructions provide additional protection for children, as this considers that a child cannot consent to their own exploitation so provides clear instruction, if there is evidence that a child was trafficked, that this a strong presumption against prosecution. The impact of the strategy will help to ensure that more young people (who may have previously been prosecuted) are safeguarded and have an opportunity to fair processes and procedures.</p>
DISABILITY	No known statistics re this characteristic, however, learning disabilities and mental health issues may make people more vulnerable to becoming victims of trafficking and exploitation.		See comments above re protected characteristics

<p>SEX</p>	<p>NRM statistics for 2016 indicate that females and males are equally likely to be victims of trafficking and exploitation (75 female and 75 male).</p> <p>However this has changed over the past couple of years</p> <p>2013 – 65 female; 34 male 2014 – 62 female; 49 male 2015 – 71 female; 74 male</p> <p>Generally speaking females are more likely than males to be trafficked for the purposes of domestic servitude and of sexual exploitation. Males are more likely than females to be trafficked for the purposes of labour exploitation.</p> <p>See comments above as regards views on reliability of figures.</p>	<p>NRM Statistics 2013-16</p>	<p>See comments above as regards improving collection of data.</p> <p>In addition the Strategy sets out the need for coherent and tailored support processes which recognise the trauma that victims have experienced, to facilitate victims’ recovery and build victims’ resilience. This will take account of the different support needs of different victims.</p> <p>The service description for victim support sets out that the service provided should be gender sensitive and take into consideration requirements such as for a female interviewer.</p>
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PREGNANCY AND MATERNITY	<p>No known NCA/NRM stats as regards this characteristic.</p> <p>However, we know that both TARA and Migrant Help have supported women who are pregnant and that local authorities sometimes become aware through e.g. their homelessness services of women who have been trafficked and who are now pregnant. In addition, some health boards are developing guidance and pathways for their maternity services to help staff members to identify women who have been trafficked and to support the staff in knowing what to do. In terms of unaccompanied children, there have been a small number of cases where the child aged 16-17 has become pregnant.</p>	Qualitative information gleaned in discussion with stakeholders	<p>See comments above as regards improving collection of data.</p> <p>The service description for the support service for adult victims from 2017 makes specific reference to the needs of pregnant women who are victims of trafficking and to children whose parent(s) is a victim of trafficking.</p>
GENDER REASSIGNMENT	No known NCA/NRM stats as regards this characteristic.		See comments above as regards improving collection of data.
SEXUAL ORIENTATION	No known NCA/NRM stats as regards this characteristic.		See comments above as regards improving collection of data.

RACE	NCA/NRM stats are broken down by EEA/non EEA and by country but not by race	NRM 2016 stats	See comments above as regards improving collection of data.
RELIGION OR BELIEF	No known stats re this characteristic. However, we are aware that Migrant Help and TARA make available chaplaincy support to the victims that are under their care.		See comments above as regards improving collection of data.
MARRIAGE AND CIVIL PARTNERSHIP (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details)			

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	x			The 2015 Act strengthens the rights of both adults and children who are victims of trafficking to be protected and supported. The Act acknowledges that particular vulnerability can be present due to a person being a child or due to old age. The Strategy takes forward the practical implications of that by putting in place tailored support systems. It also has as its overall aim to eliminate human trafficking and whilst that will not happen overnight, the actions set out in the Strategy and the associated Action Plan take us towards that overall goal.
Advancing equality of opportunity	x			As above. This limb of the Public Sector Equality Duty gives particular importance to the proactive addressing of disadvantage and the encouragement of participation. The views of survivors of trafficking have been reflected in the Strategy and will be sought as implementation is taken forward.

				In relation to age, the duty would expect to see child-centred practice and communication skills as well as a particular emphasis on building social connections for children and young people.
Promoting good relations among and between different age groups	x			There is no specific aim within the Strategy to bring adults and children together beyond family groups etc. However, particularly with regard to addressing the conditions that foster human trafficking, there could be opportunities for adults and children to work together on initiatives e.g. within church or community groups

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	x			Disabled people are not specifically targeted by this policy, but insofar as any victim of human trafficking will be provided with support and protection their interests the impact will be positive. The Act upon which the strategy is based ensures this by acknowledging that particular vulnerability can be present due to a person having a disability.
Advancing equality of opportunity	x			As above
Promoting good relations among and between disabled and non-disabled people			x	Nothing specifically set out in the Strategy around this

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	x			<p>The Strategy sets out that the provision of support should take a gender sensitive approach and that equivalent services should be available to both men and women. Support services will be tailored to the needs of the victim, reflecting their differing experiences.</p> <p>As our data collection and knowledge base grows through stakeholder engagement, we will be able to identify if there are specific areas (geographical and other) where efforts to address gender inequality issues could be specifically targeted.</p> <p>We are working with colleagues who lead on the Equally Safe programme of work to ensure that our work is aligned with theirs as far as possible.</p>
Advancing equality of opportunity	x			As above.
Promoting good relations between men and women			x	

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	x			The Strategy takes account of the situation of pregnant women and mothers who are trafficked, which the recent Anti Trafficking Monitoring Group report Time to Deliver had highlighted as an omission from existing policy and legislation. As set out above, the service delivery specification will also take the situation of pregnant women into account.
Advancing equality of opportunity			x	
Promoting good relations			x	

Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	x			Not specifically but insofar as any victim of human trafficking will be provided with support and protection.
Advancing equality of opportunity			x	
Promoting good relations			x	

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	x			Not specifically but insofar as any victim of human trafficking will be provided with support and protection.
Advancing equality of opportunity			x	
Promoting good relations			x	

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	x			Not specifically but insofar as any victim of human trafficking will be provided with support and protection.
Advancing equality of opportunity			x	
Promoting good race relations			x	

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	x			Not specifically but insofar as any victim of human trafficking will be provided with support and protection.
Advancing equality of opportunity			x	
Promoting good relations			x	

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership²	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	

² In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

If, following the impact analysis, you think you have identified any unlawful discrimination – direct or indirect - you must consider and set out what action will be undertaken to mitigate the negative impact. You will need to consult your legal team in SGLD at this point if you have not already done so.

Have positive or negative impacts been identified for any of the equality groups?	Positive impacts for gender and age in that tailored support systems reflecting the different needs will be put in place. Positive impacts for other protected characteristics more generically in that any victims of trafficking will be provided with support and protection.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ³ ?	No.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	
If not justified, what mitigating action will be undertaken?	

³ See EQIA – Setting the Scene for further information on the legislation.

Describing how Equality Impact analysis has shaped the policy making process

- ◆ No changes have been made to the policy, as we have worked closely with stakeholders in its development and their comments have helped identify equalities issues.
- ◆ The remit of the group that will be established to look at data collection will include considering whether we need to strengthen the systems with regard to equalities issues.
- ◆ We are aware that providing effective and tailored support to victims of trafficking could mean that costs will rise. We will monitor this going forward.
- ◆ However, the provision of effective and tailored support will also lead to improved outcomes for victims.

Monitoring and Review

The Strategy will be supported by an Action Plan, which will be taken forward in conjunction with stakeholders. In addition the Strategy is to be reviewed by Parliament every 3 years and an EQIA will be prepared for the review.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:
Yes No
- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:
 - Eliminating unlawful discrimination, harassment, victimisation;

- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for the Trafficking and Exploitation Strategy and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Willie Cowan

Position: Deputy Director, Criminal Justice Division

Authorisation date: 22 May 2017

Name: Donald Henderson

Position: Deputy Director, Care and Protection

Authorisation date: 22 May 2017



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Edinburgh
EH1 3DG

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