

TIME TO DELIVER

**Considering pregnancy and parenthood
in the UK's response to human trafficking**



February 2016

**The Anti Trafficking
Monitoring Group**

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Preface

The Anti-Trafficking Monitoring Group (ATMG) was founded in 2009 to monitor the UK's implementation of the *Council of Europe Convention on Action against Trafficking in Human Beings* (2005) which came into effect in the UK on 1 April 2009. The ATMG now also monitors the implementation of the *EU Directive on preventing and combating trafficking in human beings and protecting its victims* 2011/36, which entered into force on 5 April 2013.

The twelve organisations belonging to the ATMG are:

- AFRUCA
- Amnesty International UK
- Anti-Slavery International
- Bawso
- ECPAT UK
- Focus on Labour Exploitation (FLEX)
- Helen Bamber Foundation
- Kalayaan
- Law Centre (NI)
- The POPPY Project
- The TARA Service (Trafficking Awareness Raising Alliance, of Community Safety Glasgow)
- UNICEF UK

Executive Summary

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The data collated for this research suggests that between 25-50% of trafficking victims in the UK are pregnant or have children, either accompanying them in the UK or residing in their home country. The purpose of this research was to assess whether the particular vulnerabilities and special needs of this sizeable group are being acknowledged and met by the UK, and in doing so, whether the UK is meeting its obligations to protect the rights of all victims.

The report was compiled through a review of legislation and policy, as well as interviews with frontline professionals who work directly with victims of trafficking and their families.

The ATMG found that pregnancy and parenthood receive scant mention in UK policy and legislation on human trafficking. No data is collected on rates of pregnancy and parental status at the national and UK level. When mention is made it is in the context of victim identification rather than support provision, notwithstanding that there will be significant support implications for both the parent and the child. By and large, the children of trafficking victims are overlooked in the UK's response.

Frontline support services may understand and work hard to meet the particular support needs of this cohort, such as by facilitating access to child care or local authority accommodation, but this support is not provided as a matter of course. This research highlights good practice in key support areas and identifies gaps that need to be addressed if the UK is to meet its obligation to protect all victims.

Identification & data collection

The increasing rates of referral into the National Referral Mechanism (NRM) is testament to the heightened awareness of human trafficking and other forms of modern slavery, catalysed by the recent legislative changes across the UK. However some frontline services, such as health care professionals, still lack confidence in identifying victims and making referrals into the NRM. Others, particularly children's services, do not see the benefit in making a referral to the NRM and the support provided through it.

The NRM is both a system for identifying victims and a gateway to specialised support. Currently, however, the referral form does not include explicit questions on pregnancy or parental status, despite the fact that these will have significant support implications. This omission also means that no data is collected centrally at the national or UK level on rates of pregnancy or parental status.

Impact of pregnancy and parenthood

Pregnancy and parenthood can have a profound impact on an individual's psychological and emotional well being, as well as their support requirements. For some victims of trafficking becoming a parent will be a positive life-change but, for others, particularly when the pregnancy is as a result of rape or other sexual violence, it can be traumatic and hinder their recovery.

The impact of a parent's trafficking experience on their child has been little researched. The child may not necessarily have experienced or witnessed abuse directly but the trauma experienced by their parent can affect their interactions with their child and their ability to look after their child's needs. It is important that the child's needs are individually assessed and parenting support provided.

Health/maternity care

The health care setting is a key environment in which victims of trafficking can be identified; yet research shows that not all staff are confident in identifying and supporting victims. Antenatal care should be provided to all women, regardless of their immigration status. Access to this care can improve outcomes for both the mother and baby. However cases were reported where a lack of identification documents or proof of a positive decision under the NRM proved to be a barrier in accessing health care.

The research recognises the important role that safeguarding midwives and specialist NGOs can have in advocating on behalf of these vulnerable women; helping them access medical care, and signposting them on to other forms of support when required.

Accommodation

NRM safe house accommodation for adult victims of trafficking can cater for those who are pregnant or have children as well as whole family units. Concerns were raised however that the assignment of accommodation was often based on availability rather than suitability, which can result in parents and children being asked to uproot and leave their support networks.

The short 45-day timeframe for support was also highlighted as an ongoing issue in this research. NRM sub-contracted organisations can request extensions of support, but there is no automatic recognition that this cohort are vulnerable and in need of longer-term safe house support.

A significant percentage, currently around 40%, of victims of trafficking are being housed in National Asylum Support Service (NASS) accommodation. Concerns were noted about the suitability of this accommodation for victims of trafficking, particularly in terms of the locations of dispersal accommodation. Recent Home Office statistics also worryingly indicate that only around half of victims accommodated in NASS during the 45-day recovery and reflection period received outreach support. Good practice was however identified in Scotland where anti-trafficking support organisations, the accommodation provider and other key agencies met regularly to identify and address any safety or support concerns for those placed in NASS.

Adult victims of trafficking can be housed in local accommodation, for instance if they are a parent and their child is deemed to be in need. However, strong advocacy is often required in order for local authorities to provide this support, particularly in regions where the housing shortage is being felt most acutely.

Childcare

Childcare provision when victims of trafficking attend Home Office asylum and NRM interviews is patchy across the UK. In some areas, such as London, it is not uncommon for a child to be present during their parent's interviews and exposed to disclosures of abuse.

Victims of trafficking often have limited support networks that they can rely on to look after their children. Access to free childcare can provide them important respite and the opportunity to attend appointments or educational classes. Their child will also benefit from the time spent socializing with others.

Free childcare and financial support to help with childcare will be available to some, but the increasingly stringent eligibility criteria and availability of support are preventing access for many

Local authority support

It is positive that age-disputed children are accommodated by local authorities during their age assessment. When children are incorrectly deemed to be adults, for instance when forged travel documents showing them to be an adult are taken at face value, they can be denied access to child-specific support, which can place them and their (unborn) child at risk of harm and further exploitation. For these children the support of a trusted adult to help them navigate the system and signpost them to appropriate support is vital; they should be appointed an Independent Child Guardian/Advocate as soon as they are known to the authorities. This research highlighted the important role that peer-support groups, run by specialist NGOs, can have for these vulnerable children. The groups provide a space for young mothers to socialise and be supported in their parenting.

Some organisations, both statutory and non-statutory, automatically refer the child of a suspected or known trafficking victim to children's services for an assessment of need, whereas others will only refer the child if they themselves deem the child to be in need or at risk of harm. Good practice was highlighted in which an automatic referral is made to social services by adult support organisations if they encounter a child or pregnant women. This helps ensure that the child's support needs are considered alongside their parents, and fosters understanding and collaboration between organisations, so that support is not offered to the parent and child in silos.

Recommendations

The ATMG urges the UK government to maintain recent momentum on modern slavery to reform the current system of victim support, in order that the rights of all victims of modern slavery are upheld. In particular, the ATMG recommends that the government:

1. Acknowledge pregnancy and m/paternal status of victims of trafficking at the national and UK level and recognise the potential impact of parenthood on the needs of victims of trafficking, and the potential impact of their trafficking experience on their child(ren).

- Explicitly reference this cohort in national policy and guidance
- Collect data through the National Referral Mechanism on the m/parental status of those referred
- Undertake research to better understand the impact of pregnancy and parenthood on victims of trafficking and their resulting support needs, and the impact of their trafficking experience on their children.
- Provide mandatory, up-to-date training for public authorities on human trafficking, including information on additional support needs as a result of pregnancy and parenthood, and how to facilitate access to adult and children's support services.

2. Provide assistance and support to victims of trafficking in line with international legal obligations that takes into account the holistic needs of the family and has, as a primary consideration, the best interests of the child.

- Provide free childcare to victims of trafficking when attending interviews/meetings with public authorities, including supervised crèche facilities within NRM accommodation. Victims of trafficking in receipt of a positive reasonable grounds decision in the NRM should be eligible for free statutory childcare for their children from the age of two years-old.
- Provide funding for sufficient safe and appropriate accommodation for victims of trafficking and their accompanying children. Assign accommodation based on a needs and risk assessment, including consideration of the availability and ease of access to local, support services for the parent and child. Undertake regular multi-agency reviews of the accommodation to assess risk and ongoing suitability.
- Develop information-sharing protocols between adult support organisations and children's services. Automatically refer children of known or suspected trafficking victims to children's services for an assessment of need.

Chapter 1: Introduction

The purpose of the research that informed this paper was to ascertain whether the UK complies with its obligation to protect and assist all trafficked persons, including those who are pregnant or have children.

This group of trafficking victims is recognised as particularly vulnerable, as pregnancy and parenthood impacts significantly on a victim's situation and their support needs. The research assessed to what extent the support needs of this group were met and their rights protected in compliance with international legal obligations.

Background

'Vulnerability' is a crucial factor in human trafficking. The notion of 'the abuse of a position of vulnerability' forms part of the internationally-accepted definition¹ of trafficking and is defined as: 'a situation in which the person involved has no real and acceptable alternative to submit to the abuse'².

Abuse of the position of vulnerability is included in all international anti-trafficking law that the UK is bound by, including the 2005 Council of Europe Convention against Trafficking³. The Convention therefore obliges the UK to take into account victims' particular vulnerabilities and resulting support needs when designing anti-trafficking measures.

Pregnancy is recognised⁴ as a factor that can increase an individual's vulnerability to trafficking, and will render the person with additional support needs once they leave the trafficking situation. The case study below highlights how a woman's drive to provide for her children can also increase her vulnerability to exploitation. Having accompanying children will also impact on the type of support required in the UK.

It is the experience of ATMG members that a significant number, on average 25-50%, of those they support each year are pregnant and/or have children, either accompanying them or in their home country. Concerns have been raised that despite the potential size of this cohort, they are often overlooked in the UK's response to human trafficking. This report finds that the impact of pregnancy and parenthood on the needs of victims is yet to be properly taken into account.

¹Including in the Protocol To Prevent, Suppress And Punish Trafficking In Persons, Especially Women And Children, Supplementing The United Nations Convention Against Transnational Organized Crime, 2000, Article 3(a)

²As defined in Article 2(2), of 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, hereafter known as the 'Directive'.

³Council of Europe Convention on Action against Trafficking in Human Beings and its Explanatory Report, Council of Europe Treaty Series No. 197, 2005. Hereinafter known as the "Convention".

⁴See UNODC, 2012, Issue Paper, Abuse of a position of vulnerability. Available here: https://www.unodc.org/documents/human-trafficking/2012/UNODC_2012_Issue_Paper_-_Abuse_of_a_Position_of_Vulnerability.pdf

Case study – Parenthood increases vulnerability to exploitation

Maria became an orphan at the age of 15 and was taken to live with her paternal grandmother. She had to quit school so she could assist her grandmother with selling water and food on the streets of Lagos, Nigeria. At 17, she began a relationship with an older man who began supporting her financially. At 18, Maria gave birth to his son, and two years later gave birth to his daughter. Her son was born with Sickle-cell disease, which required treatment. Although the older man was supporting Maria financially he did not marry her, and when he died she was left with none of his inheritance. Maria had to return to selling food on the streets to survive.

Maria's son had a major sickle-cell crisis and was taken to hospital for treatment. She was told that he needed an emergency blood transfusion otherwise he would die. This treatment was expensive and Maria did not have the means to pay. She was approached by a woman who offered to help pay for her son's treatment in exchange for Maria working as her house-help. Maria accepted the offer and moved into the woman's house with her two children. There were men and women working in the house. One of the men began sexually abusing Maria, but she was too afraid to tell the owner, because she would lose her job and become homeless.

After 9 months of working there, the house owner offered her an opportunity to travel to Europe with her children. She was promised a better life and better health care for her sickly son, and so she jumped at the opportunity. She was made to take an oath prior to her journey to promise that she would be obedient and pay back the sum of £50,000. If she didn't fulfill her promise and make the payment in full, she was told she would either go mad or lose one of her children.

She travelled with her children to Europe and was picked up by a man she didn't know. When she arrived in London, the man forced her into prostitution and became her pimp. She continued to work to repay her debts and out of fear that she would suffer the consequences of breaking her oath. When her son faced another medical crisis, the man took them to the hospital for treatment. However, he never returned and abandoned Maria and her children at the hospital.

Methodology

This report was compiled through a combination of desk-based and field research from June to September 2015. A review was undertaken of national policy and guidance, as well as national and international research. Face-to-face and phone interviews, as well as written questionnaires were used to gather the views of professionals engaged in anti-trafficking work. Research contacts were identified through the ATMG members' networks. Some of those interviewed also suggested further research contacts. In total, 21 semi-structured interviews were undertaken and 15 written responses were received. To preserve the anonymity of participants, quotes have been assigned to the profession rather than the individual i.e. NGO worker, law enforcement officer, legal practitioner or local authority⁵ staff. The full list of contributors can be found in Annex I.

Trafficked persons were not directly interviewed themselves, in order to avoid unnecessary distress and possible re-traumatisation. This report therefore is not a quantitative analysis of the experience of UK trafficking victims within the research cohort, but is instead a qualitative assessment of the key issues, as identified by those professionals who work directly with those affected. Case studies have been used, where possible, to directly illustrate victims' experience.

Distinct chapters for each of the devolved administrations have not been included due to the similarities in issues raised across the UK. However, the report seeks to highlight any significant differences in legislation, policy and practice of relevance to this research in the devolved administrations within the chapters.

⁵The term 'local authority' will be used throughout this report as a catch-all term for social work services across the UK. The structure of social work services differs in Northern Ireland compared to Scotland, England and Wales, in which local authorities are responsible for the delivery of social work services. In Northern Ireland, the delivery of social work services is the responsibility of the five regional Health and Social Care Trusts, which are directed by policies and legislation created by the Department of Health, Social Services and Public Safety. See www.nidirect.gov.uk/health-and-social-care-trusts

Research cohort

This section details the categories of trafficked persons this research focused on and provides an overview of the data available about the size and make-up of this group.

Box. 1. Categories of trafficking victims who fall within the research cohort

1. Women who are pregnant prior to arrival into the UK
2. Women who become pregnant in the UK, either as a result of their trafficking situation or following their escape from it
3. Women or men who have accompanying children
4. Foreign national women or men who have children in their country of origin (or another country)

NB: There could also be those who do not fit neatly into any of the above categories, for instance, victims of trafficking who have children residing in the UK but who are not living with them or they do not have contact with.

There are also known cases where pregnancies have occurred within the trafficking situation but the woman has suffered a forced abortion at the hands of her traffickers. Traffickers may themselves administer abortions without clinical training or anaesthetic or any form of pain control. Some may be through violent means such as punches and kicking.

In 2014⁷ 2,340 potential victims of trafficking were referred into the National Referral Mechanism (NRM)⁸. The government estimates⁹ that there are currently up to 13,000 victims of modern slavery (a term which encompasses forced labour, slavery and servitude as well as trafficking) in the UK, which means that those referred into the NRM could represent less than one fifth of the total number estimated.

A referral into the NRM is made using a form intended to provide information known about the potential victim at the time of the referral. The current referral form does not require mention of the maternal/paternal status of the individual referred. This information may be included in the text box provided (see chapter on 'Identification and referral' for further discussion on this). However, even if provided, the information is not collated centrally and no official statistics are available on the number of pregnant trafficking victims or those who are accompanied by or have children elsewhere. We are therefore unable to measure the overall size of this cohort or monitor annual trends.

⁶Some individuals may fall into more than one category e.g. a trafficked woman may be pregnant in the UK and also have children in her home country.

⁷At the time of publication, finalised statistics for 2015 had not been published. However in the first 6 months of 2015, 1,488 referrals had already been made into the NRM indicating the annual referral total would likely be greater than in 2014.

⁸National Crime Agency, National Referral Mechanism Statistics – End of Year Summary 2014. Available at: <http://www.nationalcrimeagency.gov.uk/publications/502-national-referral-mechanism-statistics-end-of-year-summary-2014/file>

⁹Home Office, 'True scale of modern slavery in UK revealed as strategy to tackle it published', 1 December 2014. Available at: www.gov.uk/government/news/true-scale-of-modern-slavery-in-uk-revealed-as-strategy-to-tackle-it-published

Although not collected at the national level, this information is collected by some individual organisations. For instance, the TARA Service¹⁰ in Scotland maintains a record of how many referrals it makes to social services, which includes all service users who are pregnant or have children regardless of whether there are child-safeguarding concerns.

Table 1. TARA Service referrals to social services

Year (April – March)	Referrals made to social work services	Number of children referred in total	Number of service users pregnant
2012-2013	18	14	11
2013-2014	6	2	5
2014-2015	20	20	11

In January 2016, the TARA service was supporting 34 women. Of these, 76% either had children (25) or were pregnant (1). In addition, three women were separated from their children who remained in their country of origin either with family or whose whereabouts were unknown; one woman had adult children, and one woman's child was in foster care.

Since April 2014, the Poppy Project¹¹ has supported 30 women who have been pregnant or had children, which represents 35% of all service users in this period. Only 2 of these women were pregnant on arrival into the UK, the rest became pregnant once in the UK. These pregnancies were often related to their trafficking situation. In this period, Poppy also supported four other women who were in prison or immigration removal centres in and around London e.g. Yarl's Wood Immigration Removal Centre, who were parents.

Of the 130 women Kalayaan¹² has referred into the National Referral Mechanism since 2009¹³, seven had accompanying children with them in the UK and 63 were supporting children in their home country. Those without children of their own may have been supporting other family members, such as nieces and nephews. In some instances being child-free may have been the reason why they were asked by their family to work abroad, i.e. in order to provide financial support to other family members at home.

Snapshot statistics on the parental status of trafficking victims in the UK can also be found in previous research. In 2012, the Salvation Army reviewed 625 of its clients' initial assessment forms and found that 24% of the females referred had dependent children, as did 3% of males¹⁴. Data on the number of women who were pregnant was not included. These women were usually referred as single parents with their children, whereas men with children were accompanied by their female partners. Some of the men and women interviewed also disclosed that they had children still residing in their country of origin.

¹⁰Trafficking Awareness Raising Alliance (TARA) service, part of Community Safety Glasgow www.communitysafetyglasgow.org/what-we-do/supporting-victims-of-gender-based-violence
¹¹The Poppy Project provides support, advocacy and accommodation to trafficked women www.eavesforwomen.org.uk/about-eaves/our-projects/the-poppy-project
¹²Kalayaan provide practical advice and support to, as well as campaign with and for, the rights of migrant domestic workers in the www.kalayaan.org.uk/about-us/
¹³Until 9 September 2015
¹⁴Salvation Army, 2012, *Support Needs of Male Victims of Human Trafficking: Research Findings*, see page 9.

Research¹⁵ in 2010-2011 focusing on migrant women in the prison and immigration holding estate found that over half of the women interviewed (58/103) had either been trafficked, or “smuggled and subsequently exploited”. Of these 58 women, 28 had children (48%), and four of them were pregnant at the point of arrest.

Some of those interviewed for this research were unable to provide concrete statistics, but did offer anecdotal evidence that it was not uncommon for those they supported to be pregnant or have children. One estimated the percentage to be as high as 40-50%¹⁶. Others mentioned recent trends they had seen in this cohort. For instance, three separate NGO workers, two in England and one in Wales, commented that there had been a rise in the number of pregnant Albanian women they had worked with. Others noted that more African women with accompanying children had accessed their services recently.

The data collated in this research shows that the number of trafficking victims in the UK who are pregnant or have children is considerable. However, an understanding of the true size and make-up of this cohort in the overall number of victims in the UK will only be achieved through further disaggregation and analysis of official data that takes this group into account.

¹⁵Dr. Liz Hales and Prof. Loraine Gelsthorpe, 2012, Criminalisation of Migrant Women. Available at: www.crim.cam.ac.uk/people/academic_research/loraine_gelsthorpe/criminalreport29july12.pdf

¹⁶Interview with NGO worker, 21st August 2015

Chapter 2: Law & policy

a. International Legal Obligations

The Council of Europe's Convention on *Action Against Trafficking in Human Beings Trafficking*¹⁷ (the Convention) and the *EU Directive 2011/36/EU* on preventing and combating trafficking in human beings and protecting its victims¹⁸ (the Directive) requires the UK to provide protection and assistance to all trafficked persons. However, the provisions discussed below have particular relevance to this research cohort:

- **Gender-sensitive approach:** The Convention's explanatory report recognises that women are the main target group of trafficking¹⁹ and that 'women are often marginalised even before becoming victims of trafficking'²⁰. The Convention therefore obliges the UK to 'design a comprehensive framework for the protection and assistance of victims and witnesses whilst guaranteeing gender equality'²¹. Article 17 also states that gender equality and gender mainstreaming ('the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels...to achieve gender equality'²²), should be promoted in all aspects of a state's response to trafficking.
- **Gender-specific:** The Directive also recognises the 'gender-specific phenomenon of trafficking'²³ and obliges states to take into account the 'gender perspective' to 'strengthen the prevention of this crime and the protection of victims' (*Article 1*).
- **'Special needs' of victims:** The Directive also makes specific mention of victims who have 'special needs' and includes within this category those that are 'pregnant'. Elsewhere²⁴, pregnancy is again recognised as a factor that renders victims as 'particularly vulnerable' persons. Child victims, in particular those that are pregnant, also fall under this definition on account of their age.
- **Prevention measures:** The focus of the Convention and the Directive is on the victims of trafficking themselves rather than on their children. However, both instruments include provisions on the measures to be taken to prevent trafficking. Given their parents' trafficking, the children of trafficking victims may themselves be particularly vulnerable to trafficking, a situation described by the Helen Bamber Foundation as 'generational vulnerability'.²⁵
- **Child-rights approach:** The Convention and Directive both require states to put in place policies and programmes to prevent trafficking, which the Convention notes must be based on 'gender mainstreaming and a child-rights approach to children'. Article 5(5) specifically notes that measures must be taken to reduce children's vulnerability to trafficking by creating

¹⁷Supra, note 3

¹⁸Supra, note 2

¹⁹Between 2010-2012, data collected from 28 EU member states showed that 80% of the registered victims were female. See European Commission, Eurostat: Trafficking in Human Beings, 2015 Edition

²⁰Explanatory report, to the Trafficking Convention para. 210 <http://conventions.coe.int/Treaty/EN/Reports/Html/197.htm>

²¹Supra, note 3, Article 1(b)

²²ECOSOC agreed conclusions, 1997/2, see www.un.org/womenwatch/osagi/pdf/e65237.pdf for more information on gender mainstreaming

²³Supra note 2, Recital paragraph 3

²⁴Ibid, Recital, para 12

²⁵Helen Bamber Foundation, 2013, Further submission to the Joint Committee on the Modern Slavery Bill

a 'protective environment' for them, a concept promoted by UNICEF that has eight key components. The components include: ensuring that those who come into contact with the child have the necessary capacity to protect children; protecting children's rights from adverse attitudes, traditions, customs, behaviour and practices; and developing children's life skills, knowledge and participation.²⁶

- **Residence permit:** Article 14(a) of the Convention provides for the grant of a residence permit to victims of trafficking as "necessary owing to their personal situation" and paragraph 184 of the Explanatory Notes to the Convention states that the "personal situation requirement takes in a range of situations, depending on whether it is the victim's safety, state of health, *family situation* or some other factor which has to be taken into account." (Emphasis added.)

The human rights of all trafficking victims in the UK are also protected under the European Convention on Human Rights,²⁷ which has been transposed into UK legislation through the Human Rights Act.²⁸ In addition to Article 4, which prohibits slavery, servitude and forced or compulsory labour, Article 3, 8 and 14 have specific relevance to pregnant women.

Article 3 prohibits torture and inhuman or degrading treatment or punishment. This right is absolute. If the state fails to provide sufficient care to prevent avoidable pain or suffering, such as pain relief, it may amount to inhuman or degrading treatment. Article 14 prohibits discrimination in the provision of healthcare; women should not be discriminated against on irrelevant grounds such as disability, race, religion or nationality.

Article 8 provides the right to a private and family life; a qualified right that may be subject to lawful and proportionate restrictions. The right to a private life includes the right to physical autonomy and integrity, which means that pregnant women who access maternity or other health services should be provided with sufficient, objective information to make informed choices about their medical treatment. Public bodies should respect a woman's dignity and autonomy, and should not discriminate against any pregnant woman on irrelevant grounds such as immigration status, race or religion.

The right to respect for one's family life includes the right to have and maintain family relationships, including between a parent and a child. Article 8 may come into play when a trafficking victim who is a parent is the subject of immigration controls and is, for instance, threatened with removal or deportation and/or placed in an immigration removal centre (detention). In such cases, the decision-maker may interfere with the individual's right to privacy and family life in the interests of protecting national security, public safety and the economic wellbeing of the country. This is interpreted as the right of the State to maintain firm and fair immigration controls. However, such interferences must be proportionate and, in a landmark Supreme Court judgment in the case of *ZH (Tanzania) v SSHD (2011)*,²⁹ it was held that the best interests of the child must be a primary consideration when carrying out this balancing exercise in immigration cases.³⁰ The best interests of the child can be outweighed by the cumulative effect of other considerations such as (in this

²⁶See www.unicef.org/tdad/unicefcpsstrategyjune08.pdf for full text of UNICEF's Child Protection Strategy

²⁷Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5. Available at: www.echr.coe.int/Documents/Convention_ENG.pdf

²⁸www.legislation.gov.uk/ukpga/1998/42/contents

²⁹The judgment can be read here: www.bailii.org/uk/cases/UKSC/2011/4.html

³⁰In her judgement Lady Hale said, 'In making the proportionality assessment under article 8, the best interests of the child must be a primary consideration.' (para. 33). See Law Centre (NI) briefing on 'The best interests of children in immigration law' (2013) for further information. Available here: www.lawcentreni.org/Publications/Law%20Centre%20Information%20Briefings/LCNI-Briefing-Children-in-Immigration-Law-March-2013.pdf

case) the mother's 'appalling'³¹ immigration history and the precariousness of her immigration position when family life was created. But, the court noted, "...the children were not to be blamed for that. And the inevitable result of removing their primary carer would be that they had to leave with her."

In summary, the UK has a duty to protect, respect and fulfil the rights of victims of trafficking and their children. The protection and support provided to victims of trafficking should be gender-specific and take into account an individual's particular vulnerabilities and resulting support needs. Pregnancy is explicitly recognised as one such vulnerability. Children are inherently vulnerable. Any decisions which impact on the children of trafficking victims should have their best interests as a primary consideration. Moreover, the support provided to victims of trafficking, or lack thereof, should never be a disproportionate breach of their right to a private and family life.

b. UK LAW AND POLICY

This section outlines the UK's legislative and policy framework on human trafficking and 'modern slavery', an umbrella term which encapsulates all contemporary forms of slavery, and assesses whether adequate attention is given to trafficking victims who are pregnant or have children in the implementation and design of the laws and policies. In 2014-2015 the legislative and policy landscape changed significantly as new laws were introduced in all countries of the UK. There are therefore differences in the legislative arrangements across the UK and the potential impact for this group of victims will be discussed below.

It must also be borne in mind that immigration control is not a devolved matter and that, although Scotland and Ireland have their own new laws which legislate in a variety of areas concerning victims of trafficking, victims who are subject to immigration control are also covered by UK legislation on immigration and asylum.

UK legislation

On 26 March 2015, the UK Parliament passed the Modern Slavery Act.³² The majority of its provisions apply to England and Wales only; some also extend to Scotland and Northern Ireland, including the UK Anti-Slavery Commissioner³³, and the 'transparency in supply chains' provisions.³⁴ The Act consolidates the existing offences related to human trafficking, forced labour and slavery and servitude, increases sentences for these offences, and introduces new risk orders and prevention orders.³⁵ The victim-focused provisions include a statutory defence for victims who were compelled to commit crimes as a result of their slavery or relevant exploitation,³⁶ the introduction of 'Independent child trafficking advocates',³⁷ and a duty for the Secretary of State for the Home Department to introduce guidance³⁸ (with the possibility to introduce regulations³⁹) on victim identification and support in due course.

³¹Supra note 29, paragraph 33

³²www.legislation.gov.uk/ukpga/2015/30/contents/enacted

³³Part 4 www.legislation.gov.uk/ukpga/2015/30/part/4

³⁴Part 6 www.legislation.gov.uk/ukpga/2015/30/part/6

³⁵Prevention orders are intended to stop those who have done so already from committing another modern slavery offence, and risk orders are for those deemed to be likely to commit them. See www.gov.uk/government/publications/slavery-and-trafficking-prevention-and-risk-orders

³⁶Ibid, Section 45

³⁷Ibid, Section 48

³⁸Ibid, Section 49

³⁹Ibid, Section 49

Some of the Act's provisions came into force in July and October 2015, including Part 1 (offences); Part 2 (prevention and risk orders), and Part 4 (the Anti-Slavery Commissioner). However, a number of provisions, some of which are of particular relevance to this research, are yet to do so. For instance, Section 48 puts 'Independent child trafficking advocates' on a statutory basis but delays the establishment of this scheme until, effectively, 11 months after the Act enters into force⁴⁰ at which point the Secretary of State had to report to Parliament on the action to be taken to bring this provision into effect. The reasoning for this was to allow consideration of the evaluation findings from the year-long trial of the child advocates scheme, which began in September 2014. In December 2015, the Home Office published the results of the independent evaluation⁴¹ and announced⁴² that more testing of the model of independent advocates was needed before it could be rolled out.

Hansard: HC Dev 10 June C425

Karen Bradley (Minister for Modern Slavery): 'We need to use the findings from that trial to ensure that we understand what works before further defining the child trafficking advocate role.'

www.publications.parliament.uk/pa/cm201415/cmpublic/modernslavery/141014/am/141014s01.htm

Northern Ireland legislation

The Northern Ireland Assembly legislates on a range of matters, such as justice and policing, health and social services and education.⁴³ Until recently the anti-trafficking legislation in Northern Ireland largely mirrored the offences that existed in rest of the UK. However, in June 2013, Lord Morrow introduced a Private Members' Bill in the Northern Ireland Assembly; a comprehensive piece of legislation covering criminal offences, a requirement to produce a prevention strategy, and victim assistance and support measures. The final Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015⁴⁴ was passed in January 2015.

It contains the same offences as those in Part 1 of the Modern Slavery Act, drafted almost identically, as well as additional ones to criminalise the purchasing of sexual services and forced marriage.⁴⁵ 'Civil Prevention Orders are also included in the Northern Ireland Act, as well as 'Independent Guardians'; a statutory service to provide all trafficked and separated children with an independent guardian.

Unlike the Modern Slavery Act, the Northern Ireland Act clearly sets out the statutory support and assistance measures⁴⁶ to be provided to adult victims of trafficking from the point of referral to

⁴⁰As a result of Section 48 (7) and Section 61

⁴¹www.gov.uk/government/uploads/system/uploads/attachment_data/file/486138/iccta-horr86.pdf

⁴²www.gov.uk/government/uploads/system/uploads/attachment_data/file/486693/53019_Un-num_Report_PRINT.pdf

⁴³See Home Office website, 'Devolution settlement: Northern Ireland' for further information on devolved powers <https://www.gov.uk/guidance/devolution-settlement-northern-ireland>

⁴⁴www.legislation.gov.uk/nia/2015/2/section/18/enacted

⁴⁵Ibid, Part 2

⁴⁶Ibid, Part 3

the Competent Authority for formal identification, for a minimum period of 45 days, and longer if required. These measures are reflective of those in Article 12 of the Convention. Section 18(5) sets out safeguards for the provision of this support stipulated in international legislation and states that authorities must have regard to any 'special needs or vulnerabilities', including those caused by gender or pregnancy, when providing this support.

Scotland legislation

Like the Northern Ireland Assembly, the Scottish Parliament has devolved powers to create legislation on certain issues, and in December 2014 introduced its own Human Trafficking and Exploitation (Scotland) Act⁴⁷. As with the Northern Ireland Act, this Scottish Act places a statutory duty on Scottish Ministers to provide support and assistance to adult victims of human trafficking, based on an assessment of need during a flexible time period, which can begin even prior to the receipt of a positive 'reasonable grounds' NRM decision. Following the adoption of amendments made at Stage 2 by the Justice Committee⁴⁸, the Act also now includes, amongst others, provisions on 'Independent Child Trafficking Guardians' and an enabling clause for Scottish Ministers to introduce regulations setting out the support and assistance to be provided to victims of slavery, servitude and forced or compulsory labour.⁴⁹

Child-specific legislation

Child-specific legislation also requires consideration in this research as it applies to child victims of trafficking i.e. those under the age of 18, who are pregnant or have children of their own, as well as the children of trafficking victims. The statutory safeguarding framework for children in England and Wales is set out in the Children Acts of 1989⁵⁰ and 2004.⁵¹ Whilst it is local authorities who have the lead responsibility in caring for and protecting children, other statutory agencies, including the police and health services, also have a duty to safeguard and promote the welfare of children under section 11 of the Children Act 2004 (Home Office staff, including Border Force, have an equivalent duty under Section 55 of the Border, Citizenship and Immigration Act 2009). This legislation is supplemented by a range of guidance, such as 'Working together to safeguard children'⁵² (March 2015), 'Safeguarding children who may have been trafficked'⁵³ practice guidance (2011) and the statutory guidance, 'Care of Unaccompanied and Trafficked Children' (2014).⁵⁴

Children in Scotland, trafficked or otherwise, have a statutory right to support and protection under existing children's legislation, including the Children (Scotland) Act 1995⁵⁵, the Children's Hearings (Scotland) Act 2011⁵⁶ and the Children and Young People (Scotland) Act 2014⁵⁷. The Government has produced a toolkit to help agencies working with children identify victims and

⁴⁷www.scottish.parliament.uk/S4_Bills/Human%20Trafficking%20Bill/b57as4-stage2.pdf (as amended at Stage 2)

⁴⁸The full list of amendments can be read here: http://www.scottish.parliament.uk/S4_Bills/Human%20Trafficking%20Bill/Daily_List_of_amendments_for_webpage.pdf

⁴⁹Ibid, Section 8(a)

⁵⁰www.legislation.gov.uk/ukpga/1989/41/contents

⁵¹www.legislation.gov.uk/ukpga/2004/31/contents

⁵²www.gov.uk/government/uploads/system/uploads/attachment_data/file/419595/Working_Together_to_Safeguard_Children.pdf

⁵³www.gov.uk/government/uploads/system/uploads/attachment_data/file/177033/DFE-00084-2011.pdf

⁵⁴www.gov.uk/government/publications/care-of-unaccompanied-and-trafficked-children

⁵⁵www.legislation.gov.uk/ukpga/1995/36/contents

⁵⁶www.legislation.gov.uk/asp/2011/1/contents

⁵⁷www.legislation.gov.uk/asp/2014/8/contents/enacted

make appropriate referrals, as well as inter-agency guidance on child trafficking⁵⁸, to be read in conjunction with national guidance on Child Protection in Scotland.⁵⁹ Of particular relevance, this guidance notes that children and their families may come into contact with different services at different points and 'where children and families are particularly vulnerable and/or have complex needs, services must work together to take a collective and co-ordinated approach'.⁶⁰

In Northern Ireland, the Health and Social Care Board are responsible for promoting and safeguarding the welfare of all children under the Children (Northern Ireland) Order 1995.⁶¹ Departmental guidance, aimed mainly at the Police Service of Northern Ireland (PSNI) and the Health and Social Care Trusts, has been issued on the arrangements for the protection and welfare of child victims,⁶² and, in a separate document, adult victims.⁶³ Both documents make reference to cases where a family group is discovered and the parent in the family is a victim of trafficking. In these cases 'the family's needs will be met under the provisions of the Children (Northern Ireland) Order 1995 which relate to support for children in need and their families', further stating that 'It is important that family members, where it is safe and appropriate to do so, are fully involved and kept aware of decisions made with regard to their support and care'.⁶⁴

The support provided to this research cohort by children's services will be discussed further in Chapter 5.

Other relevant legislation

Other recent legislative changes of relevance to this particular group of victims include the introduction of the Care Act 2014.⁶⁵ The act reforms the law in relation to care and support for adults and carers in England and Wales,⁶⁶ establishing a statutory duty for local authorities to promote the individual's 'well-being'⁶⁷ and provide support on the basis of their individual need. However, to be supported by the local authority, an adult must satisfy the eligibility criteria set out in the Support (Eligibility Criteria) Regulations 2014 as follows:

- The adult's needs arise from or are related to a physical or mental impairment or illness.
- As a result of the adult's needs the adult is unable to achieve two or more of the specified outcomes, such as, developing and maintaining family or other personal relationships; accessing and engaging in work, training, education or volunteering; making use of necessary facilities or services in the local community including public transport; managing and maintaining nutrition.
- As a consequence of being unable to achieve these outcomes there is, or there is likely to be, a significant impact on the adult's wellbeing.

⁵⁸Scottish government, Inter-Agency Guidance for Child Trafficking, 2013 www.gov.scot/Publications/2013/11/3285

⁵⁹Scottish Government, 2014, National Guidance For Child Protection In Scotland www.gov.scot/Resource/0045/00450733.pdf

⁶⁰Ibid, Para. 6, p. 3

⁶¹The Children (Northern Ireland) Order 1995, <http://www.legislation.gov.uk/nisi/1995/755/contents/made>

⁶²www.dojni.gov.uk/index/media-centre/news-archive/press-release-archive-2012/october-2012/oss-working-arrangements-for-the-welfare-safeguarding-of-child-victims-of-human-trafficking.pdf

⁶³www.dojni.gov.uk/publications/working-arrangements-welfare-protection-adult-victims-human-trafficking

⁶⁴Ibid, para. 5.5

⁶⁵www.legislation.gov.uk/ukpga/2014/23/contents/enacted

⁶⁶The Act also extends to Scotland and Northern Ireland in certain areas, such as Section 48 (Cross-border cases).

⁶⁷A term defined within the act at Section 1(2)(a) to (i)

As highlighted in the Human Trafficking Foundations report, 'Life beyond the Safehouse'⁶⁸, this criteria does not preclude victims of trafficking from accessing Local Authority support but it does present challenges. The report explains:

*'...most survivors' needs do not "arise from or are related to a physical or mental impairment or illness", but are due to the impact of their past traumatic experiences and their specific vulnerability as victims of trafficking i.e. social isolation, problems of autonomy and agency, and lack of knowledge of the UK...The eligibility criteria is set restrictively high and does not include the more specific needs of survivors of modern slavery.'*⁶⁹

As such, unless they are assessed by a local authority who understands the complex needs of trafficking victims beyond diagnosable ill-health and are prepared to advocate on their behalf as to their eligibility, it is uncertain if many adult victims will benefit from local authority support. Indeed it may be said that this approach undermines the need for stability which many would argue is necessary in order to make such diagnoses.

In summary, the legislative landscape on human trafficking has changed greatly in the UK over the past few years. The increased focus on trafficking and other forms of modern slavery, and the introduction of targeted legislation to tackle it, is to be welcomed. Each of the three new pieces of legislation include provisions that may improve support provision for victims of trafficking and modern slavery. However, the Northern Ireland and Scottish legislation are significantly more progressive in terms of support provision for adults than that enacted for England and Wales. Both countries go beyond the minimum obligations for support set out in the Convention and the Directive. Northern Ireland is also the only UK country to acknowledge that regard must be had to the special needs and vulnerabilities, including pregnancy.

Given the novelty of this legislation, it is yet to be seen what impact the enactment of its provisions will have in practice. As discussed in the policy section below, the parliamentary scrutiny processes on the Modern Slavery Act triggered a number of policy reviews and pilots and trials, which will impact on the support provided to trafficking victims, and present an opportunity to improve standards.

The Independent Anti-Slavery Commissioner is uniquely placed to monitor the implementation and impact of this new legislation across the UK and resulting policy changes, and must work closely with the UK and devolved governments, statutory bodies and civil society to ensure that any changes are in the best interests of victims and in line with the UK's international obligations.

⁶⁸Human Trafficking Foundation, July 2015, Life Beyond the Safe House. Available here: www.humantraffickingfoundation.org/sites/default/files/Life%20Beyond%20the%20Safe%20House.pdf

⁶⁹Ibid, page 11-12

UK Policy

The principal policy on modern slavery is contained in the UK Government's 2014 'Modern Slavery Strategy'.⁷⁰ The strategy is based on four strands: 'Pursue', 'Prevent', 'Protect' and 'Prepare'. Confusingly, these four 'Ps' do not reflect those in the international anti-trafficking framework,⁷¹ but rather mirror those in the Government's Serious and Organised Crime Strategy⁷² and Counter-Terrorism Strategy.⁷³ The 'Prepare' strand focuses on improving the identification and provision of support to victims by reference to measures introduced through the Modern Slavery Act, such as the proposed 'child trafficking advocates' and the statutory defence for slavery and trafficking victims who commit an offence.⁷⁴

The strategy refers to the Home Office's recent internal review of the National Referral Mechanism (NRM)⁷⁵, the government system through which victims of trafficking are formally identified and supported, the findings of which were also published in November 2014. The review recommended a complete overhaul of the NRM system, both in terms of the decision-making process and the provision of support.⁷⁶ The recommendations from the review (set out in Box 2 below) were accepted by UK Ministers⁷⁷ and formed the basis for the development of 'NRM pilots', which are currently taking place in two regions in England only: West Yorkshire and the South West.⁷⁸ At the time of preparing this report the pilots are under way, but evaluations are unlikely to be finalised until summer 2016. However, some of the recommended changes proposed in the NRM review could, in principle, improve decision-making and also support provision. For instance, the review recommends multi-disciplinary decision-making panels at the conclusive grounds decision stage at a regional level (currently being piloted) and 'providing support based on an assessment of the individual needs of the victim'.⁷⁹

⁷⁰Home Office, Modern Slavery Strategy, November 2014 www.gov.uk/government/uploads/system/uploads/attachment_data/file/383764/Modern_Slavery_Strategy_FINAL_DEC2015.pdf

⁷¹See, UNODC, 2009 International Framework for Action To Implement the Trafficking in Persons Protocol www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf. The fourth 'P' is accepted to be 'Partnerships'.

⁷²Home Office, Serious and Organised Crime Strategy, October 2013 www.gov.uk/government/uploads/system/uploads/attachment_data/file/248645/Serious_and_Organised_Crime_Strategy.pdf

⁷³CONTEST The United Kingdom's Strategy for Countering Terrorism: Annual Report for 2014 www.gov.uk/government/uploads/system/uploads/attachment_data/file/415708/contest_annual_report_for_2014.pdf

⁷⁴See Section 45, Modern Slavery Act, 2015

⁷⁵Home Office, Review of the National Referral Mechanism, November 2014

⁷⁶*Ibid.*, p. 8, para. 2.2.3, 'The review recommends 'providing support based on an assessment of the individual needs of the victims. Consideration should be given to entry and exit timescales, support following conclusive identification, and the audit and inspection of support provision'.

⁷⁷www.gov.uk/government/speeches/modern-slavery--2

⁷⁸Avon and Somerset, Devon and Cornwall, Dorset, Wiltshire and Gloucestershire police force areas

⁷⁹Supra note 68, para. 2.2.3

BOX 2: Key recommendations of the NRM Review include:

- Extending the NRM to cover all adult victims of modern slavery
- Strengthening the First Responder role – the point when potential victims are first identified and referred by creating new Slavery Safeguarding Leads (SSL)
- Streamlining the referral process by removing the “Reasonable Grounds” decision once the successful implementation of accredited Slavery Safeguarding Leads has occurred allowing direct referral to specialist support for potential victims
- Establishing new multi-disciplinary panels headed by an independent chair with a view to ceasing the sole decision-making roles of UKVI and the UKHTC
- Creating a single case management unit within the Home Office to replace the current case management units in the National Crime Agency (UKHTC) and UKVI

While the above recommendations of the review are welcomed by the ATMG, others are of concern. For instance, the removal of ‘First Responder’ role for NGOs and the recommendation that the NRM for children mirrors that for adults,⁸⁰ rather than embedding the NRM for children within existing child protection systems that take into account the particular vulnerability of children and their distinct needs, are retrograde. The loss of the ‘First Responder’ role has the potential to create a disconnect between civil society and statutory services which is contrary to the spirit of the Convention. The ATMG’s *Proposal for a Revised National Referral Mechanism (NRM) for Children*⁸¹ sets out the arguments as to why embedding the NRM within current child safeguarding procedures would be beneficial and why creating a parallel process carries risks.

Consideration of support provision in England and Wales will be described in statutory guidance which will be prepared and consulted upon once the NRM decision-making pilots are concluded. It is noted, however, that the multi-disciplinary panels making decisions in the two pilot areas are not required to give consideration to support issues arising from their decisions. Support (which includes grants of leave to remain for persons subject to immigration control) post-positive conclusive grounds decision sits with the current Competent Authorities, UKHTC and UKVI. The panels do not make recommendations on support and it is unclear, for example, whether UKVI are obliged to grant leave to remain or constrained from removing an individual from the UK following a positive decision. If this process continues then the opportunity to create an ‘end to end’ NRM process will be lost. Again, this is not in the spirit of the Convention and may indeed be in violation of it.

The evaluation of the NRM pilots, and the ramifications for the NRM as a whole, therefore needs to be comprehensive and robust to ensure that any revisions made to the existing NRM will be in the best interests of victims. The evaluation should also consider the impact of the pilots on the devolved nations and potential clashes with the Scottish and Northern Ireland legislation.

⁸⁰Ibid, para. 10.4.9

⁸¹www.antislavery.org/includes/documents/cm_docs/2014/a/1_atmg_national_referral_mechanism_for_children_email.pdf

Also included in the 'Prepare' strand is reference to the statutory guidance, provided for in Section 49 of the Modern Slavery Act, to be issued to frontline professionals on identifying and supporting victims. This guidance is not due to be published until 2016 (post pilots), however, interim guidance for frontline staff was published online by the Home Office on 31 July 2015, to coincide with the entry into force of some of the Act's provisions.⁸² The updated guidance notes that pregnancy may be an indicator of sexual exploitation⁸³, and identifies 'young girls and women' as people at high risk of modern slavery⁸⁴. It also notes that victims may not be willing to disclose their experiences or information about their traffickers due to threats made against them or their families.⁸⁵ The guidance does not make explicit reference to victims who are pregnant or have children (in the UK or elsewhere), and the additional support that may be required for both them and their children. However, the guidance does note that emergency medical treatment and access to family planning services should be provided, in reference to those who are pregnant.

Northern Ireland policy

Section 12 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (NI) 2015 requires the Department of Justice (DOJ) to publish an annual strategy to tackle the slavery and human trafficking offences under section 1 and 2 of the Act. Following a consultation period, the finalised strategy⁸⁶ has been published by the DOJ, which builds on the NI Human Trafficking and Exploitation Action Plan 2014 – 2015.⁸⁷ As with the 'Modern Slavery Strategy 2014', the NI strategy also has four strands. However, unlike the 'Modern Slavery Strategy', these do align with the internationally-recognised four 'Ps' framework.

The actions to be taken in NI under the 'protection' strand include the provision of appropriate support to adult victims 'in compliance with requirements under the EU Directive and Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015'⁸⁸, as well as the provision of '(i)nformation, guidance and support signposted through the DOJ-funded support services'.⁸⁹

Scotland policy

Part 5 of the Human Trafficking and Exploitation (Scotland) Bill sets out that the Scottish Ministers must prepare a trafficking and exploitation strategy aimed at supporting the implementation of the Act (when in force), through such measures as training and awareness-raising.⁹⁰ Section 33 places a duty on specified public authorities to assist in the development of the strategy. This is currently under development.

⁸²Home Office, 31st July 2015, Victims of modern slavery – frontline staff guidance www.gov.uk/government/uploads/system/uploads/attachment_data/file/450834/Victims_of_modern_slavery_frontline_staff_guidance_v2_0_ext.pdf

⁸³Ibid, Section 7.2

⁸⁴Ibid, Section12

⁸⁵Ibid, Section8.1

⁸⁶www.dojni.gov.uk/sites/default/files/publications/doj/ni-human-trafficking-and-exploitation-strategy-2015-16.pdf

⁸⁷May 2015, www.octf.gov.uk/OCTF/media/OCTF/images/publications/Final-progress-report-Northern-Ireland-Human-Trafficking-and-Exploitation-Action-Plan-2014-15.pdf?ext=.pdf

⁸⁸Ibid, Strategic priority 2 (2)

⁸⁹Ibid, Strategic priority 2 (4)

⁹⁰Explanatory note, para. 132 www.scottish.parliament.uk/S4_Bills/Human%20Trafficking%20Bill/b57s4-introd-en.pdf

On the back of a Scottish government-organised human trafficking summit in October 2012, attended by government bodies as well as NGOs, an Anti-Trafficking Progress Group (ATPG) was established to take forward the action points agreed at the meeting.⁹¹ One of the sub-groups of this umbrella group was tasked with looking at Victim Care and Support for both adults and children and drafted a document on key principles on the identification and support for victims of trafficking. This document is yet to be published by the government. It does not refer to pregnant victims or those with children explicitly.

Other relevant policy

Some victims of trafficking claim asylum in the UK. The exact number is unknown; some victims of trafficking may claim asylum without being identified as victims of trafficking, others may decline to consent to be referred into the NRM for formal identification. While both the Convention (in so far as it affects those from outside the UK, EU or EEA) and the UK's asylum processes are intended to protect victims, consideration under the NRM requires the informed consent of the prospective victim whereas an asylum seeker's status as such may be 'deemed', in other words, consent to make an asylum claim is not required.

Data is available for those who were referred and received a positive conclusive grounds decision between January 2010 and September 2015. During this period, the Home Office received 1,200 applications for asylum from victims of trafficking recognised as such by a positive conclusive grounds decision, and 782 (65.2%) of these received some form of leave to remain as a result. Given concerns have been consistently raised with the quality of the decision-making under the NRM⁹² by the UKVI (and its predecessors) acting as the Competent Authority, the actual number of trafficking victims (referred into the NRM or not identified as such) who have applied for asylum is likely to be much higher.

An asylum claim may or may not be linked to their trafficking. Trafficking is not a ground for claiming asylum as such, however, some victims of trafficking may have a well-founded fear of persecution for one of the reasons listed under the 1951 Refugee Convention⁹³, such as membership of a particular social group, i.e. as a result of their having been trafficked (which then becomes an 'immutable characteristic'⁹⁴). A fear of persecution can arise from a risk of being re-trafficked on return to their country of origin. If such an asylum claim is made (or deemed to have been made) then the UK's asylum processes will then apply to them. Asylum policy of particular relevance to this research cohort will be discussed in the following chapters.

In summary, scant mention is made of pregnancy and parenthood in UK policy on human trafficking, particularly regarding the implications on a person's support needs. A review of policy is however ongoing as a result of recent legislative changes in the anti-trafficking framework, including a review of the operation of the NRM. This presents an ideal opportunity for the UK to rectify the current oversight of this cohort in anti-trafficking policy.

⁹¹The agreed action points from this meeting can be viewed here: www.gov.scot/Resource/0042/00429442.pdf

⁹²See ATMG, 2013, Hidden in Plain sight.

⁹³UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: www.refworld.org/docid/3be01b964.html [accessed 23 September 2015]

⁹⁴www.unhcr.org/3d58de2da.pdf

Chapter 3: Impact of Pregnancy and Parenthood

This chapter explores the potential impact that pregnancy and parenthood has on a victim of trafficking, both psychologically and emotionally, as well as practically. It will also consider if and how their experiences may impact on their child(ren).

a. Impact of pregnancy and parenthood

Various studies⁹⁵ have been undertaken focusing on the physical and psychological impact that trafficking can have on both male and female victims of trafficking. Whilst recognising that every trafficking victim's experience will be unique, these studies have highlighted the profound and enduring impact that trafficking can have on a victim's physical health, mental health and emotional well-being. This research will not repeat these findings but, with these in mind, consider the effect that pregnancy or parenthood may have on an individual's ability to escape and/or recover from their exploitation.

Victims of trafficking may arrive in the UK pregnant, perhaps as a result of rape or sexual exploitation in transit or prior to departure. For example, one NGO worker reported that a woman had two children as a result of rape in war, prior to being trafficked.⁹⁶ Those who become pregnant once in the UK may do so as a result of rape or sexual exploitation while under the control of their traffickers. Others may become pregnant and have children in the UK following their escape from their traffickers, perhaps through relationships with people they met through the course of their trafficking situation or with people who are completely unrelated to that experience. Some of these relationships will also be exploitative, others will be genuine. Often the trafficking victim, because of their particular vulnerability and past experiences, may be unable to recognise further exploitation and believe that they are in a genuine relationship when an objective view of the facts might suggest otherwise. In some cases the children of trafficking victims accompany their parent or carer on entry into the UK, and the parent or carer and/or child(ren) are then exploited. Children may also be brought into the UK by their parents, carer or person(s) posing as such for the purpose of exploitation without the adult(s) themselves being exploited.⁹⁷ The parent/carer might well then be party to the act of trafficking.

The impact of the pregnancy and motherhood will differ for each woman and will be dependent on a range of factors, especially whether their pregnancy is a result of an act of rape or other physical

⁹⁵Examples include: OSCE (2014) Trafficking in Human Beings Amounting to Torture and other Forms of Ill-treatment, Part II Clinical Links Between Human Trafficking and Torture, Helen Bamber Foundation; Zimmerman et al., (2006) Stolen Smiles: The physical and psychological health consequences of women and adolescents trafficked in Europe (2006); Oram et al., 2012, 'Prevalence and Risk of Violence and Physical, Mental and Sexual Health Problems Associated with Human Trafficking: Systematic Review'; Turner-Moss, E., Zimmerman, C., Howard, L. M., & Oram, S., 2014, Labour Exploitation and Health: A Case Series of Men and Women Seeking Post-Trafficking Services; Helen Bamber Foundation & Freedom Fund (2015), Addressing Mental Health Needs In Survivors Of Modern Slavery: A Critical Review and Research Agenda

⁹⁶Written response, 21 September 2015

⁹⁷The 'RACE in Europe' (2014) project highlighted cases where whole family groups of Romanian Roma were brought into the UK by organised criminal groups for forced criminality and begging. In some of these cases the children were forced to commit crimes and beg by their parents 'for the good of the family', which generated considerable profits for their traffickers. See full report: www.antislavery.org/includes/documents/cm_docs/2014/t/2_trafficking_for_forced_criminal_activities_and_begging_in_europe.pdf

or psychological violence and their ability to recover therefrom. For some victims, pregnancy and/or motherhood can be particularly difficult. For example, if the pregnancy is a result of rape or other sexual violence, the mother may not wish to continue with the pregnancy and request a termination. Alternatively, the mother may carry the baby to full term and find the birth difficult because of the circumstances of conception and/or she may find it hard to bond with the child as, for example, the child serves as a reminder of the abuse/their abuser (See Box 3 below on 'Bearing children from rape'). If the mother is detained and/or separated from her child(ren) this is likely to have a long-term impact on the child's well-being and development.⁹⁸

Box 3: Bearing children from rape

Research has been undertaken on children born of rape, often with a focus on rape in conflict situations, looking at both the impact on the mother and on the child(1). Whilst the contextual factors of the rape differ for women trafficked into sexual exploitation and women who have been raped in conflict situations, the trauma they experience will bear similarities.

One such research study was undertaken in 2011 in the Eastern Congo. 110 Congolese women participated in the study, and all had become pregnant through rape during the war which began in Eastern Congo in the 1990s. Each were asked about the emotional effects of bearing children from rape; the report summarises their responses.

'Women and girls described emotional effects, which had a negative impact on their sense of self. Due to a lack of trust in others, particularly men, survivors mainly kept their experiences to themselves. They reported psychological effects normally associated with traumatic experiences, including depression, suicidal behaviours, anger, flashbacks, anxiety, disturbed sleep, withdrawal and avoidance, sexual concerns and identity problems. The consequences for teenage girls included a premature separation from childhood as they became overloaded with responsibilities. The relationship survivors have with their child is extremely complex describing feelings of 'love and hate,' which intensified theirs and their child's psychological distress.'

¹See, for instance: <http://survivors-fund.org.uk/wp-content/uploads/2013/09/Like-a-Tree-without-Branches.pdf>

²Dr. H. Liebing et al. (2012) 'Bearing children through rape in the Eastern Congo: Community and state responses' p. 3 (2012) www.svri.org/ExecutiveSummaryCongoFinal.pdf

Traffickers exploit the existence of children in order to exert control over their victims. It is common that they achieve compliance from mothers by using threats of harm to the child, whether present in the UK or abroad. One interviewee reported a case where the mother had left the child with social services because she was so frightened that her trafficker would take her child to 'sell' on. This fear may not be unfounded; there are known cases where babies have been taken away by the traffickers or the unborn child is forcibly aborted. Indeed victims may be made pregnant for the purpose of selling the resultant child(ren).⁹⁹ In these cases, women can suffer bereavement and need specialist long-term therapeutic care.

⁹⁸Hales & Gelsthorpe, *The Criminalisation of Migrant Women*, 2012. See Section 8.4, p. 102 http://www.crim.cam.ac.uk/people/academic_research/loraine_gelsthorpe/criminalreport29july12.pdf

⁹⁹<http://www.theguardian.com/law/2011/jun/02/nigeria-baby-farm-raided-human-trafficking>

A mother's need to focus on caring for her child can impact on her ability to deal with her own health needs and well-being. More than one interviewee commented that it is sometimes only once practical issues, such as accommodation and immigration status, have been resolved that emotional and diagnosable psychological issues come to the fore. The case study below highlights the toll on one mother's emotional well-being psychological health arising from her concerns for the safety of her child throughout her trafficking experience.

CASE STUDY: Clinical notes on a victim of trafficking

'B' was brought to the UK by three men. She said, "They brought me here because I was pregnant. They told me that they were going to sell the baby and that I would then carry on working as a prostitute." B told me that she thought that she was brought to the UK because "they thought there was a better market for babies in the UK."

She told me that she was very frightened about losing her baby. She said, "After I knew I was pregnant I stopped trying to find ways of killing myself." She said that she was taken to a house in London and was held captive by the man who had trafficked her here and also by another man. She said, "They were talking about how to sell the baby. I was powerless to do anything."

At the time B was 6-7 months pregnant and was not being forced to have sex with men. She believes that this is because her pregnancy was obvious at this time. She said that she worried "all the time" about "whether they would take my baby, whether I'd have to work again as a prostitute."

B said that she still sometimes wakes up in the night and worries that someone has taken her baby. She said that she "always looks out for him and worries he will find me" (the man who held her captive and forced her to have sex with men). She said that she "feels sad all of the time and worries about the future."

At the same time, as the majority of interviewees commented, pregnancy and parenthood often have a positive impact on the well-being of a trafficked woman. For example, having a child provides the mother with a positive focus and gives her life a purpose. As one NGO worker said;

'For the first time in their life, they have someone to care for and someone to love them back. It helps them in terms of moving on and the healing process.'

Furthermore, being pregnant and/or having a child prevents the mother from being completely isolated and may require them to participate in society, for example, attend medical appointments, collect children from school or nursery, or go shopping for clothes and food.

b. Impact of parent-child separation

The experience of victims with children outside of the UK is rather different from cases where the child(ren) are with their parent in the UK. For many parents the decision to leave a child or children behind is made with the children's long-term benefit in mind, financial or otherwise. These potential benefits are judged to outweigh the impact that the separation will have on the adult and children. Research¹⁰⁰ undertaken with male trafficking victims in Belarus and the Ukraine, found that the

¹⁰⁰Surtees, R. 2008. Trafficking of men: The trend less considered. The case of Belarus and Ukraine. Available at: http://publications.iom.int/bookstore/free/MRS_36.pdf

need to support their children, both in terms of basic needs and material aspirations, was given as a key factor for their decision to migrate. The child(ren) will often be looked after by the remaining parent, relatives or friends. In some cases the trafficker may promise to send the child to join them at a later point; a promise which they may later renege on, with devastating impact for the parent.

Sometimes, a parent believes they will only be working overseas for a short period of time, but once in the UK, become trapped in the situation of exploitation and debt bondage and are unable to return. To compound this their trafficker may reduce or even prevent their contact with their children as an aspect of control. As with those who have children accompanying them in the UK threats of harm can be levelled at their children and serve as another effective means of control. These threats may prevent parents from approaching or cooperating with the UK authorities.

The psychological impact of the separation on the parent can be profound. Even without such threats the emotional impact of being separated from their children, for what may be considerable periods of time, can take its toll.

After exiting their trafficking situation some victims will get in touch with their families and want to be reunited with their children. As one NGO worker explained:

'Women who have children in their own countries, particularly when these children may also be at risk from the traffickers, generally have more complex needs than single women. Women who have been forcibly separated from their children suffer feelings of overwhelming guilt, fear and uncertainty. The recovery process for these women is not complete until there has been, at a minimum, contact made with their children and preferably steps taken to reunite the family. Trauma focused therapy for women experiencing complex Post Traumatic Stress Disorder may not be fully effective until the mother is in a stable place. Many women will not feel secure until they are reintegrated as a family unit. This can delay psychological recovery which also poses barriers to progress with practical, educational and social development.'

NGO Worker, 21 September 2015

A minority of parents will choose not to make or maintain contact with their child(ren). As one interviewee stated; 'some women give up hope on being with their children' for a number of reasons, perhaps due to the length of time they have been away from them and the challenges with reunification. One interviewee explained:

'Following reunification, women face further issues including: being the main carer for dependents who may have matured considerably and whom they feel they 'no longer know'; raising children on their own as single parents in a new country with cultural expectations and risks; managing the initial 'honeymoon' period where there can be insurmountable practical barriers (overcrowded and insecure housing, long delays in processing appropriate financial support, issues accessing school places on temporary addresses etc).'

NGO worker, 21 September 2015

In some cases a parent may be separated from the child whilst both are in the UK. For instance, the child may be removed from the parent(s) if the authorities deem the parent to be unfit to care for the child. The case study below highlights one man's experience and the impact of his child's removal.

CASE STUDY: Separation of father and child in the UK

After escaping his traffickers in the UK, D was arrested by immigration officials. He and his pregnant partner were made to sit before a custody panel who assessed whether they were fit to parent their unborn child. A background check showed that D had no legal status in the UK. When D said he had been trafficked he was not believed, and he was taken to immigration detention. When in detention he met with the Salvation Army who referred him into the NRM as a victim of trafficking.

He asked to be housed in Salvation Army accommodation near his baby, which he was. However, by this time his baby had been taken into care. Initially he was not allowed to see his baby, due to his status and his partner's personal history. However, after some months he was allowed a weekly visit of approximately one hour under supervision. He was receiving help from a family lawyer. D reported the emotional strain of being separated from his child, saying:

"It hurts me, trying to rebuild my life back again and my baby has been taken off me, that's the only person that makes me feel I have a family. But, ever since she has been born I've not touched her. I've not touched her."

"...being part of my baby's life, you understand. That would be the greatest day of my life. Because that's the only person I have now."

c. Impact of trafficking on the victim's child(ren)

The majority of those interviewed for this research were not aware of cases where the accompanying children had been subjected to exploitation in the same way as their parents, although cases were known of whole family units being exploited, for instance, for forced criminality and cases of children of adult victims being exploited for benefit fraud.¹⁰¹ Even if children are not directly exploited they may have experienced some form of emotional, physical or even sexual abuse (which may be an aspect of exploitation), particularly if the mother is so controlled by her trafficker that she is or believes herself to be unable to offer the child protection.

The child may also have witnessed their mother's exploitation. Depending on the nature of that exploitation, the impact of this exposure to a parent's exploitation may manifest itself in the child's behaviour. Interviewees noted cases of children exhibiting behaviours that may indicate distress, for example becoming withdrawn or excessively shy, or acting in an aggressive or sexualised manner.

In some cases the mother may have to leave the child whilst they are exploited elsewhere, causing the child distress from separation. Research has shown that young children who are separated from the main care-giver, usually the mother, for even short periods of time, are more likely to have problems in interpersonal relationships as adults.¹⁰² Such separation may occur if the mother is arrested and detained.

¹⁰¹Supra note 97

¹⁰²Helen Bamber Foundation, 2013, Further submission to Joint Committee on the draft Modern Slavery Bill

Those interviewed for this research were, for the main part, very positive about the parenting abilities and skills of the trafficked women they have worked with. However, it is important to understand that the mother's experiences can impact on the child. As reported by Helen Bamber Foundation:

*'Children who are mothered by traumatised women are less likely to develop secure attachments, which are important for resilience against the development of psychological problems in future. Children who are exposed to neglect or abuse whilst being minded by the traffickers are more likely to experience developmental difficulties and mental health problems in childhood and later in life.'*¹⁰³

Even if the child hasn't been directly exposed to abuse the ability of the mother to parent the child may be hindered as a result of the mother's trafficking experience. The mother may have difficulties coping with the care of the child whilst also recovering from their own experiences, or dealing with the practicalities of creating stability in their lives by, for example, seeking appropriate accommodation or regularising their immigration status.

Some trafficking victims have children when they themselves are children and, although they may exhibit confidence and a level of maturity beyond their years, they will need considerable support and guidance with parenting.

Research undertaken on the impact of growing up without one or both parents¹⁰⁴ has shown that parental absence can be a considerable impediment for a child's social and emotional development and even educational attainment, particularly when they are absent during a child's early years.

Without the protection of their parent(s) a child may be vulnerable to abuse and exploitation, perhaps even from those who are acting as the child's primary caregiver in loco parentis of their parent(s).

The sense of loss of having a missing parent or being concerned about their parent's welfare will also take an emotional toll on a child. This can be further exacerbated where the parent has been a victim of trafficking. To understand the full impact on the child of the absence of a trafficked parent more research is required, so that the necessary support can be provided and 'generational vulnerability'¹⁰⁵ to exploitation and trafficking can be avoided.

The support provided to the mother will have either a direct or indirect impact on the child. For example, when the mother has to change accommodation their child will likely have to move too; if the mother has to attend appointments, for example, with the police or immigration authorities, and has no access to childcare, the child will have to accompany them. The unstructured nature of the mother's life, as a result of the insecurities of her life as a trafficked person, as well as inconsistent provision of support, can be disruptive for the child and impact on their development as well as on their ability to socialise/make friends.

¹⁰³Ibid

¹⁰⁴See for instance, Joseph Rowntree Foundation, 2007, Parenting and the different ways it can affect children's lives: research evidence www.jrf.org.uk/sites/default/files/jrf/migrated/files/2132-parenting-literature-reviews.pdf and I, Culpin, J. Heron, R. Araya, R. Melotti and C. Joinson, 2013, 'Father absence and depressive symptoms in adolescence: findings from a UK cohort' by, in Psychological Medicine. www.bris.ac.uk/news/2013/9376.html

¹⁰⁵When the child also experiences the factors that made the parent vulnerable to exploitation.

To summarise, the impact of pregnancy and parenthood on trafficking victims cannot be generalised, nor the impact on a child of having a parent who is or has been trafficked. However, the evidence review makes it clear that the *potential* impact is significant and therefore should be a primary consideration for those involved in the family's care. It should be recognised that any support provided to the parent will have a direct or indirect impact on the child, and vice versa, and therefore support should be holistically considered for the family unit rather than provided separately to each of the individuals within it. As will be discussed in the following chapters, this research demonstrates some good practice by organisations on the frontline who understand the additional support needs of victims who are pregnant or who have children and work to provide this necessary support. However, such consideration is not yet provided at the national level where only scant mention is made of the pregnancy and parenthood of trafficking victims and the resulting support implications.

Chapter 4: Identification & Referral

The first step in ensuring that victims of trafficking are provided with the support and assistance they are entitled to is to correctly identify them as such.¹⁰⁶ The Convention and the Directive require the UK to identify victims of trafficking and to provide them with appropriate assistance. Accurate identification is the gateway to specialist support and protection from further victimisation. This chapter will assess if, and to what extent, consideration is given to a victim's parental status by those responsible for identifying them and facilitating access to support.

The current system through which victims of trafficking are formally identified and supported in the UK is the National Referral Mechanism (NRM). The NRM, first established in 2009, is currently undergoing an overhaul, following a review in 2014.¹⁰⁷ Year-long pilots have begun in August 2015 in two regions in England.

If the model being tested in the pilots is introduced, 'first responders', currently a mix of accredited NGOs and statutory authorities, will be replaced by 'slavery safeguarding leads' (SSLs). It is anticipated that the NGOs will not become SSLs. These SSLs, trained and accredited staff from within public bodies only, will be tasked with making the 'reasonable grounds'¹⁰⁸ decision as to whether an individual is a victim of trafficking (or modern slavery if in England and Wales) before referring on to a multi-agency panel for the 'conclusive grounds'¹⁰⁹ decision. 'First responders' are not decision makers, which is one explanation for their not being offered SSL status. NGOs who are currently 'first responders' will continue to make referrals to the new SSLs. Thus this new system being trialed removes expert NGOs from a formal role in the initial identification process. In the absence of a 'first responder' procedure and the likelihood that referrals will come from many different sources (including, potentially, the general public) it will be of even greater importance that public authority staff are comprehensively trained in the indicators of trafficking and other forms of modern slavery, and can provide immediate access to appropriate support and protection to victims they encounter.

a. Identification

The growing number of NRM referrals in the past few years¹¹⁰ suggests improvements in awareness of human trafficking and modern slavery amongst statutory authorities. It is likely that an increased focus and training on human trafficking and modern slavery has contributed to this, as has the creation of lead staff and specialised units within certain statutory bodies, such as the creation of the National Human Trafficking Unit (NHTU) in Police Scotland in 2013 and Human Trafficking Champions in each local policing area.¹¹¹

¹⁰⁶Trafficking Convention Explanatory note, para. 127

¹⁰⁷<http://webarchive.nationalarchives.gov.uk/20141202113128/https://nrm.homeoffice.gov.uk/documents/2014/11/nrm-final-report.pdf>

¹⁰⁸The current standard of proof at this stage is 'I suspect but cannot prove' that the person is a victim of trafficking

¹⁰⁹The current standard of proof at this stage is 'It is more likely than not that the person is a victim of trafficking'

¹¹⁰See NRM referral statistics here: www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics

Interviewees highlighted examples of improved practice in identifying victims of trafficking. For instance, an NGO worker in Northern Ireland stated that there had been a 'steady trickle' of victims being referred to their service from UKVI who, in the course of an asylum-screening interview, had recognised trafficking indicators. After these individuals had consented to being referred into the NRM, a copy of the referral form was shared (with appropriate consent) by UKVI so the NGO could visit the individual in the community and provide support, if required.

However, despite notable improvements the knowledge levels remain inconsistent across public authorities and there are continued concerns about the number of trafficking victims that go unidentified. In 2013 ATMG research¹¹² highlighted continuing concerns regarding local authorities¹¹³ knowledge about human trafficking and the low number of children being referred into the NRM. Some NGO staff interviewed for this research stated that this dearth of knowledge was still an issue in some local authorities for a number of reasons, including a high turnover of staff, resulting in a lack of knowledge retention. (See Chapter 5 'local authorities' for further discussion on local authority support)

Knowledge levels amongst healthcare staff have also been a focus of recent research. Healthcare settings are increasingly being recognised as places where victims might turn for assistance, particularly for those who are pregnant and require maternity care. It is therefore important that frontline healthcare professionals have the skills and knowledge to properly identify victims. It is envisaged that SSLs will be in place within healthcare authorities, however, this must not deskill frontline staff. All healthcare staff in the UK have a duty of care towards victims of modern slavery. As an example of good practice, Health and Social Care Trusts in Northern Ireland are unique across the UK nations in having first responder status.

'One place where victims often have an opportunity to escape traffickers is when accessing health care. Traffickers may take victims to abortion clinics or to Accident and Emergency if they are injured whilst being exploited. Victims, in their accounts of escape, tell of using an opportunity afforded to them by accessing essential health care. Better training on indicators for health care workers could result in the provision of support to these victims at this crucial time.'

NRM Review, 2014 (Para. 4.3.2, p.20)

To assess the knowledge of healthcare staff in England regarding human trafficking a study¹¹⁴ surveyed 892 National Health Service (NHS) professionals about their knowledge and confidence levels in relation to identifying and supporting victims and their contact with trafficking victims. Out of 892 professionals, 13% reported they had been in contact with a patient who they knew or suspected was a victim of trafficking. This figure rose to 20.4% (1/5) of staff working in maternity services. Whilst the vast majority of those interviewed agreed that they had a responsibility to

.....
¹¹¹Written submission from Police Scotland to the Justice Committee regarding the Human Trafficking and Exploitation (Scotland) Bill. Available at: www.scottish.parliament.uk/S4_JusticeCommittee/Inquiries/HTE45PoliceScotland.pdf

¹¹²ATMG (2013) The National Referral Mechanism: A Five-Year Review, see p. 27
www.ecpat.org.uk/sites/default/files/atmg_national_referral_mechanism_a_5_year_review_email.pdf

¹¹³The term 'local authority' will be used throughout this report as a catch-all term for social work services across the UK. The structure of social work services differs in Northern Ireland compared to Scotland, England and Wales, in which local authorities are responsible for the delivery of social work services. In Northern Ireland, the delivery of social work services is the responsibility of the five regional Health and Social Care Trusts, which are directed by policies and legislation created by the Department of Health, Social Services and Public Safety. See www.nidirect.gov.uk/health-and-social-care-trusts

¹¹⁴Health services research - Research: Human trafficking and health: a cross-sectional survey of NHS professionals' contact with victims of human trafficking. Ross et al., 215 Available at: <http://bmjopen.bmj.com/content/5/8/e008682.full>

respond to suspected cases of human trafficking, 80% felt that they had not had sufficient training to be able to assist them. Moreover, those who had attended training on human trafficking were significantly more likely to report having had contact with victims of trafficking than those who had not.

To aid frontline staff in identifying victims a number of statutory authorities have introduced guidance. As noted in the Policy review in Chapter 2 some of this guidance will have to be revised in light of the recent legislative and policy changes. Other guidance, such as the College of Policing’s ‘Authorised Professional Practice’¹¹⁵, has already been amended.

Existing guidance mentions pregnancy as one of the possible indicators of sexual exploitation¹¹⁶, including the indicators matrix included in the NRM child referral form. Furthermore, references are made to the families of victims as a driver for migration to find work opportunities, as well as a means by which victims are controlled and a reason why victims might find talking about their experiences difficult. The most recent Home Office guidance¹¹⁷ for frontline staff lists ‘young girls and women’ as those at risk of modern slavery, however, the guidance does not include those who are pregnant or those with children amongst the most vulnerable adult victims. The guidance for ‘first responders’ on child victims makes no mention of child victims who may be pregnant or have children of their own.

b. Referral

In order to access specialist, government-funded support services, adult victims of trafficking must consent to being referred into the NRM to be formally identified. A written NRM referral form must be completed by or on behalf of the potential victim. The majority of child trafficking victims, particularly those who are unaccompanied or separated children, are entitled to support from local authorities as they would qualify as a ‘child in need’ (see Chapter 5 on ‘Local authority support’).

The NRM form currently in use for both child and adult victims asks for the personal information of the potential victim and information about trafficking indicators. However, the form does not currently ask for information about the maternal/paternal status of the individual being referred or whether the potential victim has dependent children accompanying them in the UK or elsewhere. Whilst some interviewees reported that they would include this information about pregnancy and parental status in the text box provided at the end of referral form , there is no guarantee that this is the case across all first responders. Even when it is provided, given that it is not mandated, it is not collated and there would appear to be no means for it to be stored centrally by the National Crime Agency. An NGO worker reported a case where the Competent Authority was considering an adult’s trafficking case but did not know that the victim had a child (in school) and was heavily pregnant. This potential victim of trafficking had been referred to the NRM because of concerns about sexual exploitation.

This is an oversight not only from a data-collection perspective, but also in terms of decision-making and support provision. As stated in Home Office guidance, pregnancy can be an indicator

.....
¹¹⁵www.app.college.police.uk/app-content/major-investigation-and-public-protection/modern-slavery/

¹¹⁶For instance, ‘Home Office, Victims of modern slavery – frontline staff guidance’, section 7.2

¹¹⁷Section 12

¹¹⁸Section J, Adult NRM www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms

of sexual exploitation, and children and their unmet needs can be a reason why someone became vulnerable to exploitation or can be used as a means to maintain control. A positive referral into the NRM should trigger access to specialist support based on the individual's need. If the pregnancy or the paternal status of the victim is not included in the referral form consideration cannot be given to the particular services and support necessary for their recovery and for the safeguarding and development of their child(ren). It is also very concerning as the child itself may be at risk of exploitation. Failure to seek information about a victim's dependents may mean that the risks to their child or children are overlooked and a safeguarding opportunity missed.

The fact that someone is pregnant or has children should also be a factor for consideration in whether a victim of trafficking is granted a residence permit (done in the UK through a period of discretionary leave based on their 'personal situation' should they fail to qualify for leave on other grounds following the receipt of a positive conclusive ground decision).¹¹⁹

'In my opinion there does not seem to be a lot of consideration given to special needs within the NRM – this hasn't appeared to have been reflected in the decision as to whether they are granted discretionary leave along with their CG decision.'

NGO worker, 22 September 2015

As highlighted in the policy section in Chapter 2 the NRM is currently in a period of flux and a revised NRM system is currently being tested in a year-long pilot. The NRM referral forms are set to be redrafted as part of the pilot process, as too the guidance for authorities who have a duty to identify, refer and support victims. Explicit reference should be made in both the updated NRM referral forms and the guidance about pregnancy and parenthood and the resulting needs and entitlements of the victim of trafficking and their child(ren) as anticipated by the Convention's Explanatory Note (paras 180 – 184).

Regardless of whether a referral into the NRM is made, pregnancy or the presence of accompanying children should trigger safeguarding procedures by those who come into contact with a victim. For instance, when the Metropolitan Police attend an incident where children are present, they must complete a 'Merlin' report,¹²⁰ regardless of whether the incident is related to the child, which is then automatically sent to the local authority to notify them of the child's existence in case further safeguarding is necessary.

This is the case for some non-statutory anti-trafficking services which will signpost the mother towards a range of different services, including healthcare and social services, even before an NRM referral is made. In Scotland, when the TARA project supports a service user who has children or is pregnant, a 'shared referral form' is completed.¹²¹ Details about the mother and child are included and vulnerabilities/risks/concerns are flagged on the form, which is then shared with Glasgow's health and social care team, who will then notify Special Needs in Pregnancy team (SNIPS) who work with women who have additional needs for support.

Shared referral forms are completed in all cases, regardless of whether TARA does in fact have

¹¹⁹www.gov.uk/government/uploads/system/uploads/attachment_data/file/460712/Discretionary_Leave_2__v7_0.pdf

¹²⁰The 'Merlin' database is used by police to record information about children they encounter in criminal investigations. Each report is assessed as to whether the required threshold of concern is met to warrant the report information being shared with children's services and other relevant statutory authorities.

¹²¹A copy of the shared referral form can be found here: www.glasgowchildprotection.org.uk/CHttpHandler.ashx?id=12933&p=0

concerns about the welfare of the child. All women are aware in advance that TARA are obliged to notify social work services. TARA's mandate is only to provide support to adults, so this referral ensures that social services are aware of the child and can undertake the appropriate assessments and provide the necessary support to ensure their safety. A similar process occurs in Northern Ireland. Women's Aid automatically refers to Adult Protection Services any woman potentially or formally identified as a victim of trafficking who is pregnant or has a child. However, Women's Aid will also indicate on the referral whether there is an immediate need for intervention. If they deem there not to be a need, Adult Protection Services will not become involved immediately but may later support the woman and her child, for example, if she receives a negative NRM and/or asylum decision and requires local authority support in the community.

To conclude, awareness of human trafficking and modern slavery has undoubtedly improved in recent years, but some public authorities are still failing to identify victims. The NRM pilots and the proposals to decentralise some aspects of decision-making may, if adequate training is given to public authority staff, serve to increase knowledge levels across the board provided that consistency of best practice can be encouraged and overseen.

Recommendations

- Explicitly reference pregnancy and parenthood in training, guidance and policy documents on human trafficking, including the likely support needs of the parent and child, and where and how they can access their rights and entitlements
- Include questions on the NRM referral form on pregnancy and m/paternal status
- Collect data on the national and UK level on the parental status of victims of trafficking.

Chapter 5: Support needs

Victims of trafficking are entitled to the assistance measures set out in the Convention, listed in Box 4 below:

BOX 4: Support entitlements under the Trafficking Convention

Article 12 – Assistance to victims

- 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 that 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.

All of the above support measures are important for a victim's sustained recovery. The following chapters will, however, focus on the measures of particular pertinence to those who are pregnant and/or have dependent children. The following will be covered in turn:

- Health and maternity care
- Accommodation
- Childcare
- Local authority support¹²²

¹¹⁹The term 'local authority' will be used throughout this report as a catch-all term for social work services across the UK. The structure of social work services differs in Northern Ireland compared to Scotland, England and Wales, in which local authorities are responsible for the delivery of social work services. In Northern Ireland, the delivery of social work services is the responsibility of the five regional Health and Social Care Trusts, which are directed by policies and legislation created by the Department of Health, Social Services and Public Safety. See www.nidirect.gov.uk/health-and-social-care-trusts

a. HEALTH & MATERNITY CARE

Pregnancy can be a stressful time for all mothers. For victims of trafficking, this stress can be compounded by their trafficking experiences and the precarity of their situation, either as a result of being under the control of their trafficker or the instability following their escape or exit from their trafficking situation. The stress experienced by a mother can impact on the development of their unborn children. Accessing maternity care can help alleviate some of this stress. Any possible complications or risks can be identified and interventions put in place and the mother can access support and information about her health and that of her baby.

Victims of trafficking who have been identified as such by a competent authority are entitled to free health care, including antenatal, birth and post-natal care (if they are not already eligible through other means).¹²³ Those who choose not to be referred into the NRM may still be eligible for free maternity care, for instance, if they are ordinarily resident in the UK, are insured for healthcare in another EEA member state, or they have applied for or been granted asylum. All maternity care, including routine antenatal treatment, is deemed to be 'immediately necessary'; therefore charging issues¹²⁴ should never result in any woman being delayed or denied access even if it is shown that she must pay for the treatment but is unable to do so.

Trafficked women may come into contact with maternity services at different stages of their pregnancy. If they become pregnant under the control of their trafficker they may be denied access to antenatal care and/or only receive it once they have escaped/exited with the support of a service provider. Women may not realise that they are pregnant if they escape their trafficking situation early in their pregnancy, hence the importance of being provided immediate access to healthcare services, including sexual health services.

Regardless of when women access maternity services they should be treated with particular sensitivity. Their trafficking experience may have impacted on them physically, psychologically, and/or emotionally and they may need additional support with their pregnancy. As is highlighted in the 'Trafficking Survivor Care Standards',¹²⁶ safeguarding midwives/nurses can play an important role in supporting vulnerable women and can provide access to mental health support if required.

¹²³See Department of Health, Guidance on implementing the overseas visitor hospital charging regulation, 201, Section 1.2: www.gov.uk/government/uploads/system/uploads/attachment_data/file/418634/Implementing_overseas_charging_regulations_2015.pdf; See Northern Ireland, Section 10: Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) Act 2015 www.legislation.gov.uk/nisr/2015/27/regulation/10/made

¹²⁴Those who are not ordinarily resident in the UK have to pay for NHS hospital treatment. In April 2015, an immigration health surcharge of up to £200 per year was introduced for overseas visitors in England. The health surcharge is added to the cost of the immigration application fee, and also to be paid by these overseas visitors applying to extend their stay. Those who have paid the surcharge are exempt from paying for NHS treatment. Victims of trafficking, confirmed as such by the UK Human Trafficking Centre or the Home Office, fall under the category of those who are exempt from paying the immigration health surcharge and exempt from paying NHS charges. Some treatment is deemed to be 'immediately necessary', such as maternity care and as such must never be withheld regardless of whether the overseas visitor has indicated whether they have the means to pay.

¹²⁵Ibid, p.66, Section 8.6

Support provided by expert anti-trafficking organisations to pregnant trafficking victims can be invaluable. These organisations are aware of what statutory and non-statutory support is available and can assist the women in accessing it. Furthermore, NGOs, such as Helen Bamber Foundation, have developed relationships with local primary healthcare, sexual health clinics and other NGOs.¹²⁸ For example, Birth Companions,¹²⁹ a service that provides pre- and post-natal support to vulnerable women in London, was mentioned by interviewees as a place where victims of trafficking were able to access excellent support throughout their pregnancy (see Box ??? below).¹³⁰ The British Red Cross' Glasgow Office, which provides a similar service through their 'Mum's project' to vulnerable women in Scotland, was also highlighted. NGO workers interviewed noted that, in some cases, a woman may encounter discrimination from staff in hospitals or local authorities who lack knowledge about human trafficking and the impact it can have on the mother, and the vulnerabilities and support needs as a result.

'Their vulnerability is not always acknowledged by midwives. There is a negative perception of these girls as bad mothers.'

NGO worker, 17 July 2015

Support workers can help trafficked women to navigate the system, ensuring that they are provided with the services and support which they are entitled to and that other professionals they encounter are aware of their particular vulnerabilities or anxieties.

¹²⁶Human Trafficking Foundation, Trafficking Survivor Care Standards, Section B.2.1
www.humantraffickingfoundation.org/sites/default/files/Trafficking%20Survivor%20Care%20Standards%202015.pdf

¹²⁷Women who are pregnant and deemed to be vulnerable can be flagged internally and risk-assessed by a multi-agency team for potential safeguarding concerns regarding the mother and the unborn child.

¹²⁸Helen Bamber Foundation, 2013, Further submission to the Joint Committee on the draft Modern Slavery Bill

¹²⁹www.birthcompanions.org.uk

¹³⁰www.redcross.org.uk/Donate-Now/Make-a-major-donation/Trust-donations/Lottery-projects/Mums-Project-Glasgow

CASE STUDY: Birth Companions

Birth Companions provides support to vulnerable and isolated women in the community and in Holloway prison, London, who would otherwise face pregnancy, birth and early motherhood alone. The women they support may have a range of difficulties such as mental health issues, precarious immigration status and substance misuse. Many are foreign nationals who have little or no support network in the UK.

The service provides advice and information and can assist them in creating a birth plan, offer practical support such as baby clothes, and can accompany them during the labour. Birth Companion volunteers will also visit the woman post-natally to support them with feeding and early bonding.

Between January 2014 and March 2015, a pilot doula project was run in Peterborough for vulnerable women in prisons and the community. Ten women were supported throughout the course of the project. Below is an excerpt from one of the women's testimony featured in the evaluation report.¹

'I'm not saying that I would have been depressed, but I think I was a candidate for post-natal depression, I ticked all the boxes. They were actually, the hospital, telling me to take anti-depressants and I haven't. I don't feel that I need them. The doula always made time to come and see me, whether it was Sunday or an evening she was there all the time to help me latch on. It was brilliant, she was absolutely brilliant. She helped with my nerves. I discussed with her the fact that I was starting to get depressed. She relieved me of all the bad feelings that I had. The support that they showed was amazing ... They've been part of the most important experience in my life. I'm always going to be indebted. I was in a heap, a complete and utter mess, and now I'm not in a dark place, I'm in a happy place.'

¹www.birthcompanions.org.uk/media/Public/Resources/Ourpublications/Birth_Companions_Peterborough_Doula_Project_External_Evaluation_Report.pdf

Barriers to accessing appropriate healthcare

Research¹³¹ looking at trafficking victims' access to healthcare in the UK found that the NRM was acting as a barrier in some cases. Poor and slow decision-making¹³² meant that either victims were being delayed or denied¹³³ access to health care services. Support providers interviewed as part of this research shared cases where their clients have been denied access to services despite entering the NRM and have needed to intervene and advocate on their clients' behalf.

¹³¹Oram S, Zimmerman C, Adams B, Busza J. International law, national policymaking, and the health of trafficked people in the UK. *Health Hum Rights*. 2011;13 (2):E3-16.

¹³²For further discussion on decision-making under the NRM, see ATMG, 2013, Hidden in plain sight www.antislavery.org/includes/documents/cm_docs/2013/h/hidden_in_plain_sight.pdf

¹³³If the NRM competent authority failed to correctly identify them and they were not entitled to free healthcare on other grounds.

'In 2013 we corresponded with a GP surgery in Northern Ireland, which refused to register a client who had two young children and who was going through the NRM process. We also corresponded with the Business Services Organisation which is responsible for overseeing GP surgeries in Northern Ireland. She was then permitted to register.'

Information provided by NGO, August 2015

There is also a significant number of victims who do not consent to being referred into the NRM, for instance due to concerns about the involvement of immigration services which they fear may lead to their detention and subsequent removal from the UK. Others choose to live and work irregularly in order to survive after they exited/escaped from their trafficking situation. This includes those who may have been earning some money (whilst nevertheless in a situation of exploitation) and need to continue to do so to support their family back home. In these cases, a lack of knowledge about UK healthcare services, English-language proficiency, cultural differences and/or fear may prevent them accessing health care.

Maternity care, including routine antenatal care, is deemed to be 'immediately necessary' and thus should be promptly provided to all women irrespective of their eligibility for free healthcare. However, one interviewee had experience of women being turned away from healthcare services and GP clinics despite being pregnant, and noted that A&E services may only see women who need urgent healthcare. Some A&E services will not necessarily assist pregnant women who present to them as a means of accessing appropriate services.

In November 2015, NHS England published 'Standard Operating Principles' for GPs¹³⁴, which acknowledges that an increasing number of patients are having difficulty in registering with GP practices due to a lack of supporting documentation. The principles explicitly mention that this may be the case for trafficking victims and state that a lack of documentation should not be a barrier to accessing primary health care. These principles must be widely disseminated to GPs, and adhered to, so that victims of trafficking, whether formally identified as such or not, can access health care immediately.

Recommendations:

- Provide mandatory, accredited and up-to-date training on human trafficking for all NHS staff (including non-clinicians), including information on the rights and entitlements of trafficking victims and local, specialist support organisations
- Provide immediate access to health care for victims of trafficking regardless of whether they have identification documents
- Refer suspected or known victims of trafficking to the specialist, safeguarding midwife/nurse for a risk- and needs-assessment

¹³⁴www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2015/11/pat-reg-sop-pmc-gp.pdf

b. ACCOMMODATION

This section will focus only on accommodation provision for adults who are pregnant and/or have children. Accommodation for children will be discussed in the Chapter 5 on ‘Local Authorities Children’s Services’.

The UK has obligations under the Convention to provide standards of living capable of ensuring a person’s subsistence through the provision of ‘appropriate and secure’ accommodation’ (Article 12 (1) (a)) which takes ‘due account of persons in a vulnerable position and the rights of children’ (12 (7)). Likewise the Directive states must, at a minimum, provide ‘appropriate and safe accommodation’ (Art 11 (5)) and ‘attend to victims with special needs, where those needs derive, in particular, from whether they are pregnant’ (Art 11(7)).

The safety and security of post-exit/escape accommodation is vital to the recovery process for all victims of trafficking. A person needs to feel secure in the knowledge that they are out of harm’s way of their traffickers and can access the necessary amenities to meet their needs. For those who are pregnant or have children their heightened vulnerability and that of their children will only increase this need and anxiety in its absence. As well as being secure, the accommodation needs to be suitably located, have sufficient space, the necessary utilities and standards of cleanliness in which to care for themselves and their child(ren).

Accommodation options

There are different types of accommodation provided for trafficked persons. Some of them are exclusive to victims of trafficking, others also accommodate different groups, such as vulnerable adults or asylum seekers. Below, the different options and their suitability for pregnant victims and those with children are discussed.

In the NRM

The Salvation Army manages the government contract for adult victim care in England and Wales, which it delivers through 11 partner organisations that run a total of 17 safe houses. Adult victims of trafficking in England and Wales who consent to entering the NRM and receive a positive ‘reasonable grounds’ decision from the Competent Authorities can, if required, be accommodated and supported by one of these sub-contracted organisations during the 45-day ‘recovery and reflection’ period.

From 1 April 2015, the Salvation Army had 162 accommodation units available, as well as 53 accommodation units available for ‘spot purchase’ if required. Between June and September 2015, a further 108 units were brought into use due to the increasing demands on the service.¹³⁵ Out of these 313 units, 18 are for exclusive use by families and 188 can be used flexibly to accommodate a particular gender, lone parents and/or families. Within this accommodation women and their children will have access to specialist professionals who can provide direct support and also signpost them on to further services when required. Concerns were raised by some who were interviewed that insufficient consideration is given by the Salvation Army when it allocates accommodation to victims and that accommodation is assigned based on availability

¹³⁵Data provided in email communication with Salvation Army, 3 September 2015

rather than suitability. In addition, the lack of available Salvation Army accommodation in the area where a victim is based can lead to a refusal of support because the victim does not want to uproot and move from the area in which they are living, particularly for what may only be a 45-day period. One NGO worker described a case where an adult female victim was being offered accommodation hundreds of miles from where she was based. If she moved, her child, who was on a child protection plan with a local authority, would have to move too. Concerns were raised by the child's social worker that this would be hugely disruptive to the child, who was in school and doing well. The mother was refusing to move into NRM accommodation in another part of the country because she did not want to uproot her child.

Scotland and Northern Ireland are responsible for the provision of support to adult and child victims of trafficking which are identified within their respective jurisdictions. In Scotland the TARA service and Migrant Help are funded to provide support to respectively, female and male victims of trafficking. The TARA service has two bed spaces in a safe house available and Migrant Help has 12 (mixed gender) bed spaces. The TARA Service cannot currently accommodate women with children but has established links with Social Work Service's homelessness services who can access National Asylum Support Service (NASS) accommodation if a claim for asylum is made. In Northern Ireland support is provided to men by Migrant Help and to women by Women's Aid. Women's Aid have a total of 106 bed spaces available which are suitable for women who may be pregnant or with young children and can also access NASS housing if the mother has more than one child or older children. Migrant Help do not have safe houses for men, but can also access NASS accommodation for their male clients together with their partner if required.

One issue of concern raised by interviewees in England and Wales was the short time-frame victims of trafficking were allowed to remain in safe house accommodation before having to move on, for instance, to NASS accommodation (*see below*), local authority accommodation or, if ineligible for statutory support, with friends or to homeless shelters. Salvation Army sub-contractors can only accommodate victims of trafficking for the 45-day recovery and reflection period; to continue to support the individual in their safe house beyond this period they must complete a written request to Salvation Army demonstrating that the support needs of the client can only be met in the safe house, rather than through outreach. For many, if not the majority, this arbitrary 45-day period will be insufficient time for them to access the support they need and to begin their recovery. It is telling that the *average* length of stay of client in Salvation Army accommodation in 2014 was almost a third longer (58 days) than this intended maximum period of 45 days¹³⁶ and may be longer if financial and policy constraints were removed and the duration of safe house support was purely needs-based.

Support organisations in Scotland and Northern Ireland, and those in England and Wales who are outside of the Salvation Army support, have greater flexibility in the length of time that they support these clients, both in the safe house and through outreach support. For example, the TARA service can continue to support women through outreach for a period of up to 12-18 months beyond this reflection period, as can Women's Aid in Northern Ireland.

The removal of the specialist support available in a safe house can be distressing and cause setbacks in the person's recovery, particularly if the move-on accommodation is inappropriate

¹³⁶See Salvation Army report 'Year 3' www.salvationarmy.org.uk/Anti_Human_Trafficking_Latest_Report

¹³⁷See Human Trafficking Foundation, 2015, 'Life beyond the Safe House', for a review of move-on accommodation options for victims of trafficking, and the issues faced by a significant number who do not have appropriate options available to them: www.humantraffickingfoundation.org/sites/default/files/Life%20Beyond%20the%20Safe%20House.pdf

or unsafe and places them (and their children) at risk of further abuse and exploitation.¹³⁷ The individual may be at risk of losing contact with support workers and statutory services. Such an upheaval and change of routine can have a negative impact on the welfare of a child.

National Asylum Support Service (NASS) accommodation

A significant number of victims of trafficking claim asylum at some stage before or whilst in the NRM. If they are being supported by Salvation Army sub-contractors these support providers are required to refer the individual to the Asylum Support Service so that they can be promptly moved, usually into initial accommodation on a short-term basis, then into dispersal accommodation, which is unlikely to be in the same area. All NASS accommodation is provided on a ‘no choice’ basis; dispersal is therefore mandatory or the accommodation is withdrawn. NASS accommodation was not designed for nor intended to provide for victims of trafficking. It was not intended to conform to the Convention or the Directive. Support organisations, including those outside of the government support contract, can continue to provide support to victims of trafficking accommodated in NASS through outreach. Table 2 below shows the number referred into the NRM who were accommodated in NASS accommodation,¹³⁸ and how many received outreach support.

Table 2: Use of NASS accommodation in NRM

	2013/2014	2014/2015
Number referred into NRM	1,282	1,800
Number accommodated in NASS (%)	537 (42%)	716 (40%)
Number in NASS with positive Reasonable Grounds/ Conclusive Grounds (%) decision	403/154 (28.6%)	632/ 126 (17.6%)
Number in NASS receiving outreach support during 45-day reflection period ¹³⁹	202 (Male - 20; Female - 182)	246 (Male - 33; Female - 213)

Concerns over the high number of victims being accommodated in NASS and the inadequacy of this NASS accommodation were first raised by the ATMG in 2010.¹⁴⁰ As shown in the table above, a significant proportion of victims of trafficking continue to be housed in NASS (an average of 41% over the past two years) and the same concerns about the standards and safety of NASS accommodation were raised by a number of interviewees. For example, an increasing incidence of service users being made to share an accommodation unit, including those who were pregnant and had accompanying children, was noted by two NGO workers.

As well as the standards of the accommodation, issues were raised about victims being dispersed to locations far away from their established support networks, leaving both the parent and child at real risk of social isolation. This disruption and uprooting also impacted on the child’s social and educational development, particularly for those who had begun attending nursery or school. In some cases this relocation, or even multiple relocations, meant that statutory services ceased to work with the family and new connections had to be made in the dispersal location/s. As shown in the table above, not all those who are moved into NASS accommodation received outreach support, in fact approximately between 40-50% in each of the last two years. Home Office guidance for competent authorities, updated in November 2015¹⁴⁰, states that:

.....
¹³⁸HL 1926 www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2015-09-07/HL1926/
¹³⁹HL 1926 www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2015-09-07/HL1926
¹⁴⁰ATMG, 2010, Wrong kind of victim?, see p.103
¹⁴¹www.gov.uk/government/uploads/system/uploads/attachment_data/file/488171/Competent_Authority_Draft_guidance_v2.0_EXT_clean.pdf

'Potential victims who are not housed in specialist accommodation (including those housed by asylum support) must still be offered outreach support to make sure their entitlements are met under Article 12 of the Council of Europe Convention on Action against Trafficking in Human Beings.'

The low numbers indicate that either outreach is not being offered to all victims of trafficking accommodated in NASS, or that not all are choosing to accept it.

For those that do receive outreach support the location of their accommodation compared to that of the support provider can impact on the number or length of the outreach visits. If the outreach worker has to travel a considerable distance to visit them in NASS accommodation the travel time may cut into the visit's duration.

Concerns with the use of NASS were not felt as acutely in Scotland and Northern Ireland due to the fact that service users tended to be dispersed within the local area (in Scotland, this was within Glasgow and in Northern Ireland, it tended to be within Belfast) and support organisations had developed good relationships with the NASS accommodation providers. In Scotland, the introduction of four weekly meetings attended by the support organisation, the accommodation provider, health and asylum support had been shown to be successful in identifying any safety concerns for the woman and issues with her accommodation. A summary of TARA's support model is provided in Box 5 below.

Box 5: Good practice example- TARA Service's support model

Referral: TARA's referral form includes questions on whether accommodation is required, if there are 'general safety' concerns or any acute health needs (physical/sexual/mental). Dependent on the circumstances, TARA staff meet with the woman either immediately, within 24 hours or within a week.

Initial Meeting: At this meeting a risk assessment is completed. The assessment includes questions on the perpetrators, drug and alcohol history, self-harm/mental health history, current involvement in prostitution, history of gender-based violence, and whether they are pregnant and/or have children. With the woman's permission the TARA service can refer her to a Consultant Clinical Psychologist co-located within the service for a mental health assessment. Support to access legal advice with a focus on immigration status and/or entry to the NRM is also provided.

'Safe house' accommodation: If safe accommodation is immediately required the service can access two beds in a 'safe house' at any time. This is unsupported out of office hours but staff are available to be contacted 24/7. For women newly recovered and referred they will be visited by staff at the accommodation, at a minimum, at least once per day by staff for the first two weeks. If the safe house is unavailable or Glasgow is assessed as unsafe, the women can be accommodated in one of a number of women's aid refuges across Scotland or within Migrant Help's accommodation dependant on need. TARA can fund this accommodation for up to 45 days if required. TARA will accommodate women from outside the EU who have entered the NRM but who have decided, following legal advice, not to claim asylum. This provision is limited to the 45-day reflection and recovery period unless there is evidence of additional needs such as complex health issues, however, outreach support can be provided beyond this for a period of up to 12-18 months.

NASS accommodation: Following legal advice if the woman wishes to make a claim for asylum the service can support her with this and help her evidence her vulnerability. TARA advocate that they are screened and dispersed within Glasgow to ensure they do not lose

contact with the service. TARA will negotiate to try to continue to accommodate her until 'dispersal' accommodation is identified in Glasgow. The service assertively advocates on the type of accommodation and the geographical area and will advise colleagues in advance of areas that may be unsafe to minimise unnecessary moves. Once accommodated by NASS, TARA will provide outreach support.

Housing and health MARACs: The TARA Service Manager convenes and chairs a 4-weekly Housing and Health Multi-Agency Risk Assessment Conference (MARAC) for service users in NASS accommodation. Those attending include the TARA Development Officer, Orchard and Shipman (accommodation providers), Asylum Help UK and the Asylum Health Bridging Team, and if required, the NHS Trauma Team and any other relevant organisations. The meeting provides the opportunity for developing issues around accommodation quality/repairs/hate crimes or safety issues to be discussed.

Access to benefits/private rental accommodation: If the woman is an EU national who wishes to remain in Scotland and has entered the NRM the TARA service will advocate for her to access benefits (which is often difficult due to the habitual residence test) in order to assist with follow-on accommodation. The TARA service has contacts with a social enterprise who can assist and support vulnerable adults to access good quality homes in the private rental sector and maintain their tenancies.

Guidance issued to victim support organisations by the Salvation Army in April 2013 states that:

'Where a Support Worker, having seen the Asylum Support Service (ASS) accommodation in question, is of the opinion that the accommodation is unsuitable they support the individual by seeking to remedy this directly with their local ASS in the first instance. If the matter cannot be resolved with the ASS, the Salvation Army Contract Management Team will escalate issues as appropriate'.

There is no clear guidance however on what 'unsuitable' accommodation in this instance means; there is no standardised risk assessment that must be undertaken to assess the suitability of NASS accommodation for victims of trafficking. It is therefore down to the support organisation's opinion as to whether the accommodation is appropriate with no obligation to seek the views of the service user, and at the discretion of NASS as to whether they will find alternative accommodation if the first accommodation is deemed unsuitable.

In addition, although risk assessment processes do exist for NASS accommodation suppliers, these are not designed with trafficking victims in mind. Victims of trafficking give their informed consent to entering the NRM and this then permits relevant information being provided to appropriate authorities. NASS accommodation providers are not listed among those to whom such details may be passed. Any risk assessment carried out on a victim of trafficking in NASS accommodation therefore relies on ad hoc processes for which there are no formal protocols.

Local authority accommodation

Local authorities have a duty to safeguard and promote the welfare of children in need and promote the upbringing of the children by their families. They have an obligation to undertake investigations to assess whether the child is at risk of significant harm or if they are in need and can provide accommodation to adult trafficking victims in order to promote the welfare of the child, unless they are receiving support from the NRM or as an asylum-seeker. Victims of trafficking can also be accommodated in local authority housing if in receipt in of a positive conclusive grounds decision

under the NRM and have been granted a period of discretionary leave. However, strong advocacy can be required from support organisations to facilitate access to local authority accommodation, particularly in areas where there is a shortage of housing available. Local authority support is further discussed in Chapter 5.

The NRM review noted that good practice exists across the UK in helping victims of trafficking 'transition back into mainstream support', but that there 'is no standard approach across the UK and this results in victims not tapping into the varied support available'.¹⁴² As was highlighted in the Human Trafficking Foundations' report¹⁴³, the Care Act (2014) has the potential to provide a consistent route into local authority support for adults in England and Wales, but without statutory guidance on its interpretation, which would make clear that victims of modern slavery are eligible for such support, few of this cohort are likely to benefit from it. The research for this paper confirms this to be the case for the particular group of pregnant victims and those with children.

Recent case law has placed a focus on public authorities duties to support victims of trafficking post-conclusive grounds decision. In 2015 (in the case of *AK vs Bristol City Council*¹⁴⁴) the claimant, a Lithuanian national who received a positive conclusive grounds decision under the NRM, was refused access to welfare benefits and evicted from her home whilst waiting for the Home Office decisions on her application for Discretionary Leave. The local authority refused to support her on the grounds that she did not meet the Habitual Residence Test and/or the definition of a 'worker'. The claimant argued that by not supporting her the UK would be in breach of Article 3 & 4 of the European Convention on Human Rights and fail to comply with Article 11 of the EU Trafficking Directive. Prior to the trial, Bristol City Council conceded and agreed to provide her subsistence support and accommodation until she had access to alternative accommodation. This concession by a local authority is an important one and should apply in other cases where victims of trafficking are in similar need of support.

Recommendations:

Safe and appropriate accommodation is fundamental to a victim's recovery and for the protection and development of accompanying children. In order for the UK to meet its obligations under the Convention and the Directive to provide safe and appropriate accommodation, prevent further trafficking and exploitation, and protect children the ATMG recommends the UK and devolved administrations:

- Provide funding for sufficient safe and appropriate NRM accommodation
- Develop protocols for the allocation of NRM accommodation and length of stay in it based on an individual's needs and risk-assessment, which ensures the best interests of the victim's child or children is a primary consideration. Include in this specific mention that victims who are pregnant or have children are particularly vulnerable and a support priority.
- Review the use of NASS accommodation generally as to the extent to which it complies with the UK's obligations to provide appropriate and secure accommodation. If such a review concludes that there are circumstances where victims can safely be placed in NASS accommodation, undertake regular monthly multi-agency meetings with all relevant services to assess ongoing suitability and need.

¹⁴²NRM review, 2014, para. 6.2.10
¹⁴³Human Trafficking Foundation, 2015, Life beyond the Safe House
¹⁴⁴The court order in *AK vs Bristol City Council* can be read here:
http://currentsite.deightonpierceglynnc.co.uk/news/news_docs/1092383%20Consent%20order%20sealed%2018.11.2015.pdf.

- Undertake a scoping exercise of key services, statutory and voluntary, available to parents and their children across the UK. Include, and regularly update, this information in statutory guidance.
- Invest in appropriate move-on support for victims of trafficking after the recovery and reflection period, the length of which is based on a needs-based assessment, to prevent the destitution and further exploitation of vulnerable women and their children¹⁴⁵, and to ensure their long-term stabilisation and integration.
- Undertake a risk- and needs-assessment to assess the suitability of move-on accommodation following safe house support. Provide alternative accommodation if move-on accommodation is deemed to be unsuitable.

c. CHILDCARE

A lack of childcare for victims of trafficking is another key issue raised by those interviewed as part of this research. This is particularly acute when victims have to attend interviews and appointments with statutory authorities and support organisations. The childcare options available to victims of trafficking and the impact of a lack of access to them are discussed below.

'Childcare' is a broad term which encompasses a range of different contexts, activities and providers when a child is cared for and supervised by someone other than their parent or normal guardian. Childcare providers include day care centres, playgroups, pre-school nurseries, as well as less formal providers, such as babysitters and child-minders.

There are a number of occasions when victims of trafficking may need their child(ren) to be cared for by others, including:

- When attending interviews and appointments, such as with the police, immigration authorities, or a GP
- When attending educational or vocational courses
- Whilst at work
- When in need of respite
- If they wish for their child to receive a pre-school education
- When receiving therapy or counselling
- While testifying in court

Childcare when attending interviews

Home Office 'Competent Authority' guidance¹⁴⁶ states that when it is necessary for victims of modern slavery to be interviewed as part of the NRM the person 'designated to carry out the interview must make arrangements to allow for the interview to take place in private', away from the presence of their children. Similarly, Policy Instructions¹⁴⁷ for caseworkers conducting asylum interviews states that:

¹⁴⁶Section 17.8 www.gov.uk/government/uploads/system/uploads/attachment_data/file/450842/Competent_authority_guidance_v2_0_ext.pdf

¹⁴⁷Home Office, Asylum Policy Instruction: Asylum Interviews:
www.gov.uk/government/uploads/system/uploads/attachment_data/file/410098/Asylum_Interviews_AI.pdf

'For those [asylum claimants] who are unable to arrange childcare on the date their interview has been booked, offices should be as accommodating as possible, either by rescheduling the interview for a day when the claimant is able to arrange childcare, if that is their preference, or by the provision of childcare at or near Home Office premises, if this is available at the office concerned. Information must be provided in the invitation letter.'

Both the Competent Authority guidance and Asylum Policy instructions recognise that having their child(ren) present may reduce interviewees' willingness to talk about their experiences especially if they are of a violent or sexual nature. The latter also notes the potential safeguarding concerns for children if exposed to such information.

Whilst the guidance and policy instructions highlight the importance of victims of trafficking being interviewed away from their children, interviewees commented that, in practice, the provision of free childcare by the Home Office and other statutory authorities is patchy.

Some interviewees were happy with the childcare provided. For instance, in Wales, childcare is consistently provided by UK Visas and Immigration (UKVI) in Cardiff for children as young as 3 months. Positive feedback was also given about the high standards of childcare provided by UKVI in some of its offices across England, such as Leeds and Birmingham.

However, such provision was not available across all regions. For instance, NGO workers based in London reported that it is not uncommon for the child(ren) to be present with the parent (usually the mother) during interviews and meetings. This was also the case in Wales when parents had to attend other interviews and meetings, such as with solicitors, with no childcare arrangements in place.

In Scotland, childcare was provided by the Home Office for a time but was then withdrawn. It is thought that this withdrawal was due to a lack of usage. One legal professional commented that the uptake was low because the childcare provided was inadequate; the child was usually just supervised in the next room in earshot of the parent. As a result many preferred to find alternative childcare arrangements. The Women's Asylum Charter, through the 'Protection Gap' campaign¹⁴⁸, have consistently called for childcare to be provided during screening and asylum interviews across all of the UK¹⁴⁹. It is believed that the Home Office has now pledged to look into options for providing childcare where it is currently unavailable.¹⁵⁰

Whilst formal childcare arrangements may not be available, interviewees did note that childcare is sometimes provided 'in-house' in certain organisations, i.e. staff supervise the child(ren) whilst others work with the mother. One NGO staff member noted that staff had to 'get creative' with time and space when working with a client and that this system was 'not ideal'¹⁵¹.

Exposing children to the facts of a person's trafficking experience risks lasting harm to the relationship between the parent/carer and child, distressing the child and adding to the potential for re-traumatisation of the victim. Victims of trafficking who suffer PTSD may, for example, suffer psychological responses such as dissociative episodes which may put the unborn child or child in their care at risk. Statutory authorities owe a duty of care to avoid reasonably foreseeable risks, particularly to vulnerable persons and children.

¹⁴⁸www.asylumaid.org.uk/protectiongap/#unique-identifier

¹⁴⁹The Protection Gap, Campaign Briefing, December 2014
<http://d2ihomkd2yhtk.cloudfront.net/wp-content/uploads/2014/12/The-Protection-Gap-briefing.pdf>

¹⁵⁰www.asylumaid.org.uk/protectiongap/#unique-identifier

¹⁵¹Written submission, 17th August 2015.

Availability and access to free childcare

Victims of trafficking may not have friends or family in the UK with whom they can leave their children whilst attending appointments/work/school. Due to the perilous nature of their trafficking situation they are also unlikely to have the necessary funds to pay for private childcare. Free childcare, or financial support with childcare, is available in the UK in some circumstances, for which some victims of trafficking will be eligible. The availability and accessibility of this support is discussed below.

Government-funded childcare for two to four-year-olds: All three and four-year-olds are entitled to a certain amount of free early education and childcare. The amount and type is dependent on where the child lives in the UK. If in England, a child can get 570 hours free per year (15 hours/week); in Scotland they can get 600 hours per year (12.5 hours per week during term-time); in Northern Ireland 12.5 hours per week (2.5 hours each week-day); and in Wales, 10 hours per week. Children in Wales can also begin reception classes in the September of the year in which they turn four. At the time of writing the UK government's Childcare Bill¹⁵² is being deliberated in Parliament and seeks to double the amount of childcare for school-age children of working parents to 30 hours per week. This announcement has proved controversial due to concerns regarding the underfunding of childcare providers.¹⁵³

Childcare is also available for some two-year-olds in certain circumstances, which include where the parent is getting certain welfare benefits, such as Jobseeker's Allowance¹⁵⁴ or when the parent and/or child are receiving support as asylum-seekers.¹⁵⁵ Children will also be eligible for free childcare if, for instance, they are looked after by a local council, get Disability Living Allowance or are on a care plan. This pre-school education for children from vulnerable backgrounds can be highly beneficial in terms of their social and educational development.¹⁵⁶

The type of free childcare available differs somewhat between countries. For instance, in England this childcare can be provided at nurseries, playgroup, pre-school, child-minders, and 'Sure Start Children's Centres', whereas in Wales, childcare for 3 years is restricted to nursery classes located within primary schools.

Barriers to accessing childcare

Free childcare is only available for all children who are aged three or four years old and is usually only provided at certain times of the day by each provider. Some of the appointments and meetings that victims of trafficking have to attend will fall outside of these set hours and alternative childcare will have to be sought.

¹⁵²<http://services.parliament.uk/bills/2015-16/childcare.html>

¹⁵³www.pre-school.org.uk/sectornews/425/new-research-highlights-30-hours-underfunding-concerns

¹⁵⁴Jobseeker's allowance is set to be replaced by 'Universal credit'

¹⁵⁵Under Part VI of the Immigration and Asylum Act, 1999

¹⁵⁶See, for instance: www.gov.uk/government/publications/influences-on-students-development-at-age-16

For their child to be eligible for free childcare from the age of two, a victim of trafficking must have claimed asylum and be accessing 'Section 95 support',¹⁵⁷ i.e. be deemed to be destitute; or be accessing certain welfare benefits, such as Jobseeker's Allowance or Income Support. Many victims of trafficking will not be able to access these latter benefits. They may be subject to immigration control and fall under the category of 'No Recourse to Public Funds' (NRPF).¹⁵⁸ Those who may be deemed to have NRPF also include those who are 'irregular' migrants, such as those who entered the UK clandestinely or who overstayed a visa, or those who are deemed not to be ordinarily resident in the UK which can include EU and EEA nationals in some circumstances. EU/EEA victims of trafficking supported under the NRM will also have NRPF.

Since January 2014, the government has made it more difficult for EU/EEA nationals, including victims of trafficking, to access Jobseeker's Allowance. EU/EEA nationals must now pass the Habitual Residency Test (HRT) which means demonstrating they have a 'right to reside' (through, for instance, showing that they are worker, a student or are a family member of a qualifying EU/EEA national), and that they have had 'actual residence' in the UK for at least three months. Providing the necessary paperwork to pass this HRT may be difficult for victims of trafficking who may have their finances controlled and have moved from place-to-place.

A positive conclusive grounds decision through the NRM can result in the victim of trafficking being granted discretionary leave to remain (DL) in the UK,¹⁵⁹ although recent research has shown that this is often not the case.¹⁶⁰ Those with DL are entitled to access to welfare benefits subject to, for example, their availability for work. Whilst this will be helpful for some victims of trafficking, it does not help the significant number of trafficking victims who are or remain unidentified, or those who are given negative NRM decisions by the Competent Authorities and who wish to have that decision overturned as in error. Whereas asylum seekers retain that status if they make an application to appeal a refusal of asylum until they become 'appeal rights exhausted', no such status exists for victims of trafficking, not least because no right of appeal against a negative NRM decision exists.

One NGO worker in Wales was aware of children aged two- years-old being provided access to free childcare despite being officially ineligible. However, this was due to the relationship the organisation had built up with the childcare provider and was not necessarily being provided to all children systematically.

In addition to these barriers to accessing childcare, if the parent is eligible for free childcare, there can be variations in the amount of childcare places available, with some nurseries having long waiting lists.

¹⁵⁷Support is provided to asylum-seekers under Section 95 for those who are deemed to be 'destitute'. See Section 95 of the Immigration and Asylum Act (1999) here: www.legislation.gov.uk/ukpga/1999/33/section/95

¹⁵⁸See www.nrpfnetwork.org.uk/Documents/Practice-Guidance-Adults-England.pdf and www.maternityaction.org.uk/wp/advice-2/mums-dads-scenarios/3-women-from-abroad/maternity-rights-and-benefits-women-with-no-recourse-to-public-funds/

¹⁵⁹www.gov.uk/government/uploads/system/uploads/attachment_data/file/460712/Discretionary_Leave_2__v7_0.pdf

¹⁶⁰See Human Trafficking Foundation, Life Beyond the Safe house, p.14

In summary, only some victims of trafficking will be eligible for free childcare when their children reach the age of two, and those that do are likely to require significant support in accessing and navigating the system. The inflexible nature of the childcare provision available for children aged two to four-years-old is likely to mean that there are still occasions when victims of trafficking are without the necessary childcare support.

Childcare support from other providers

Some colleges and workplaces will have crèche facilities on-site. This convenient access to childcare may be an incentive for victims of trafficking who wish to study or (return to) work. The fees will vary between these crèche/nursery facilities; some will have subsidised fees for low-income parents or those eligible for financial support from the government (see below). One NGO staff member working in Scotland raised concerns that the number of colleges who had crèche facilities available was diminishing in Scotland which was impacting on the number of service users who were returning to study.

Financial support with childcare

There are a number of routes through which parents in the UK may access financial support. These include:

Childcare grants – Available to students in full-time higher education. The amount received will be dependent on the person's circumstances but could be up to 85% of the total childcare costs.¹⁶¹

Childcare vouchers – Which are provided through an employer to an employee to help them pay for childcare, and which are beneficial to both parties due to their national Insurance and tax exemptions.¹⁶² This childcare voucher scheme is set to be replaced by 'Tax Free Childcare', which will be phased in in early 2017.¹⁶³

Care to Learn/ Discretionary Learner Support – Provided to those who are, respectively, under and over the age of 19 who are attending educational courses and facing financial hardship.¹⁶⁴

Child Benefit – A weekly payment to parents of approximately £20 for the oldest child (and around £14/week for the other children) to assist with the cost of their upbringing.

Sure-start maternity grant – A one-off payment of £500 to provide support to first-time parents, or those who are having twins/triplets.¹⁶⁵

¹⁶¹See England: www.gov.uk/childcare-grant/overview Wales: www.studentfinancewales.co.uk/part-time-students/201516-new-students/childcare-grant.aspx#.VIX66STA7_Q and Northern Ireland: www.studentfinancenir.co.uk/portal/page?_pageid=54,1268367&_dad=portal&_schema=PORTAL

¹⁶²www.gov.uk/help-with-childcare-costs/childcare-vouchers

¹⁶³www.turn2us.org.uk/Benefit-guides/Tax-Free-Childcare/What-is-Tax-Free-Childcare

¹⁶⁴See www.gov.uk/care-to-learn/overview and www.gov.uk/discretionary-learner-support/overview

¹⁶⁵www.gov.uk/sure-start-maternity-grant/eligibility

Maternity payments for asylum-supported women – A single one-off payment of £300 if the mother is supported under Section 95 of the Immigration & Asylum act 1999.¹⁶⁶

All of the above though have set, stringent eligibility criteria and, as with the government-funded childcare, access to these support schemes may be denied to victims of trafficking who are not asylum-seeking, are subject to immigration control or cannot satisfy the Habitual Residence Test.

Even if victims of trafficking are eligible this financial support may be insufficient to cover the rising costs of childcare in the UK. A childcare cost study undertaken in 2015 found that the cost of sending a child under two to nursery part-time had risen by 5.1% since 2014 and over the past 5 years by 32.8%.¹⁶⁷

Impact of a lack of childcare

Several interviewees commented on the shortage of available childcare and the resulting issues for their service users. Despite Home Office guidance to the contrary, women often have to present at important asylum, NRM, and even police interviews accompanied by their children, which can be traumatic for both the mother and the child, and can reduce the amount of information they feel able to give. One NGO staff member explained:

‘Often the children are present and will hear the graphic disclosures that the parents are being made to say during local authority and home office interviews. Often parents have difficulty disclosing with their children present, this is due to shame and trauma, tearfulness and as well due to wanting to protect their children. This can sometimes have a negative impact on the information provided to authorities and in turn limit the accessing of support’.

NGO worker, 8 August 2015

A lack of childcare may actually prevent a parent from attending one of these important meetings, which may also have a negative impact on their case and the support to which they are entitled. In the case of an asylum screening or full asylum interviews a failure to present can lead to refusal of their asylum claim.¹⁶⁸ A police investigation may too be hampered if a parent cannot attend interviews to provide evidence.

Greater consideration also needs to be given to the impact on the child’s welfare. A child may become upset if they have to listen to their parent’s stories of abuse and see their parent emotionally distressed. One NGO worker noted that children ‘are aware of everything’ and can pick up on their parent’s suffering even if they try to hide it from them. On the other hand, it could also be traumatic for a child to be left with a childcare provider that they don’t know, which may be the case if they do not have access to a regular childcare provider. It will be for the parent to decide which is the best option on each occasion, but the options must at least be available.

¹⁶⁶Asylum Policy Briefing 70, Section 25.3 www.gov.uk/government/uploads/system/uploads/attachment_data/file/422990/Asylum_Support_Policy_Bulletin_Instructions_Public_v6.pdf

¹⁶⁷www.familyandchildcaretrust.org/sites/default/files/files/Childcare%20cost%20survey%202015%20Final.pdf#overlay-context=childcare-cost-survey-2015

¹⁶⁸Home Office, Asylum Policy Instructions, Asylum Interviews, March 2015, Section 3.5

In the long-term a lack of regular childcare can be detrimental to a parent’s emotional and social well-being. It may prevent them from attending educational or vocational classes, hindering their recovery and social reintegration. Just as importantly though, constant childcare duties can be draining on a single parent and their fatigue can impact on their ability to nurture their child. As well as mother and baby/toddler groups across the UK, there are also organisations that offer respite support to mothers who need a break. One such organisation regularly used by service users at the TARA project in Glasgow is ‘Geeza Break’.¹⁶⁹

Recommendations

The lack of appropriate childcare is an increasing issue faced by victims of trafficking. Whilst the importance of having childcare during interviews is highlighted in national policy and guidance, in practice, it is not consistently available. This can impact on the parent’s ability to attend appointments and access their rights, hinder their long-term recovery and re-integration, and can be detrimental to the welfare of their child. Given its importance the ATMG recommends that:

- Childcare should be provided when a parent takes part in an asylum or NRM interview.
- Government-funded accommodation for victims of trafficking in the NRM should have crèche facilities within them and/or a support worker available to care for the child if the parent has to attend an appointment where the child’s presence would be inappropriate.
- A positive reasonable grounds decision in the NRM should allow victims of trafficking access to free childcare for their child from aged two, as well as access to financial support such as child benefit, to help them raise their child, if they are not already eligible through other means.

d. LOCAL AUTHORITY CHILDREN’S SERVICES & PEER/PARENTING SUPPORT

Local authority children’s services are responsible for protecting and promoting the welfare of all children, including trafficked children, some of whom will be pregnant or have children of their own. Children’s services can also be involved in the care and support of the children of adult victims. Each of these two separate groups, and the support provided to them by local authorities, will be discussed in turn.

I. Child trafficking victims who are pregnant and/or have children:

Child victims of trafficking should be supported under the existing child-safeguarding legislative framework. Child trafficking victims are victims of child abuse and, as such, should be supported by children’s services, regardless of whether they have received a positive NRM decision. However, both the Convention and the Directive recognise that children are particularly vulnerable and that the state should put in place specific support and protection measures to help children recover,

¹⁶⁹Geeza Break <http://www.geezabreak.org.uk/articles/article.php?sectionID=10&articleID=51>
¹⁷⁰See UNICEF UK, 2016, Achieving a Durable Solution for Trafficked Children. Available at: http://www.unicef.org.uk/Documents/Unicef_DurableSolutions_Report2015.pdf

such as the appointment of an independent child guardian, and put in place arrangements for a 'durable solution'.¹⁷⁰

A referral into the NRM, and positive decision under it, can therefore be beneficial in facilitating access to this specialised support. An NRM referral can improve information-sharing and collaboration between agencies involved in the child's care.¹⁷¹ Such a multi-agency response has been shown to be important in effective child protection responses.¹⁷² If the child claims asylum the information provided in their NRM referral and the receipt of a positive decision under the NRM can be used to support their claim.

However, one NGO worker who works closely with trafficked children noted that some social workers still lack the confidence to flag trafficking in a case and make a referral into the NRM. Or, if trafficking has been flagged, it is gradually lost from the child's records over time due to poor record-keeping or high staff turn-over.

Age assessments

However, the first hurdle that children sometimes face in accessing local authority support is being recognised as a child i.e. under the age of 18. Article 10 (3) of the Convention states that when there are reasons to believe that they are a child he or she shall be presumed to be a child and supported as a child. This 'presumption of age' clause has now been transposed into national legislation.¹⁷³ Unaccompanied children are regularly age-disputed; one NGO worker stated that age-dispute cases 'take up the bulk of [her] work' (NGO worker, 17 August 2015). It is positive that age-disputed children are now looked after by the local authority (under Section 20 of the Children Act 1989) whilst the age assessment process takes place. If an assessment is undertaken and it incorrectly deems the child to be an adult, or no assessment is undertaken at all (e.g. if a child is travelling with forged documents which are taken at face value), this can have a profound impact on the support they receive; vulnerable children can be placed in adult accommodation with little or no support, or worse in immigration detention or adult prisons. The psychological impact of not being believed and also of having to repeat their story numerous times can be detrimental.

'When they are believed [to be a child] and supported by the local authority the change is unbelievable, they often feel like they are beginning a new life, a completely new life'.

NGO worker, 17 August 2015

Child trafficking victims are unlikely to have any financial means to support themselves or may not have a support network on which they can depend. The local authority will be responsible for meeting their needs. Their support needs will be dependent on a range of factors such as their age, nationality, family history, and their trafficking experience. Necessary support measures will include:

- Safe accommodation
- Medical care
- Interpreters and translators

¹⁷¹www.gov.uk/government/uploads/system/uploads/attachment_data/file/244697/NRM_First_Responder_Guidance.pdf

¹⁷²Fundamental Rights Agency: Guardianship for Children deprived of Parental Care, 2014, pp16-17

¹⁷³See Modern Slavery Act, Section 51; Human Trafficking and Exploitation (Scotland) Act 2015, Section 12.

- Education
- Legal/immigration advice
- Counselling
- Financial support

Trafficked children who are pregnant or who have children will also require access to additional services such as antenatal care and parenting support. As with adults, children may be unaware that they are pregnant at the point they come into contact with authorities, or if aware, may not have been allowed access to medical help. The child should be supported in accessing services and information that can support them in their choices about their pregnancy.

The need to feel safe is essential for all trafficked children. If a child is pregnant, their feelings of vulnerability are likely to be heightened; therefore finding **safe and appropriate accommodation** will be of paramount importance. Trafficked children are usually, though not always, 'looked after' and accommodated by the local authority. The accommodation options available to trafficked children include residential children's homes or foster placements. For children aged 16 and 17 they may transition to semi-independent accommodation. A child who is pregnant will have high support needs which may be best met in a specialist foster placement where they will have the support of a specialised, trained foster carer, however, provision of such specialist services is limited. For some children a foster placement may not be the most appropriate; the child may feel better supported in a residential placement surrounded by other children of similar age. It is important that the views of the child are always sought and considered when decisions about their care are taken so they can regain a sense of control of their lives.¹⁷⁴

The location of accommodation for children who are pregnant will be important so that they are able to access relevant services and appointments, during their pregnancy and when their child is born, such as a GP surgery, or with immigration solicitors. Travelling long distances to attend appointments may be unfeasible in the late stages of pregnancy or with a young child, which may result in the young person missing out on vital support. It can also be important for the young person to be close to cultural and social links, e.g. close to a church or mosque, or within an area which has people from their same ethnic or cultural background. This should be weighed against the risk of the child coming into contact with those who may know their traffickers. Although out-of-area placements may be deemed necessary due to the risk of re-trafficking, consideration should also be given as to the impact of relocating a child, particularly if they have become settled in an area and have to move away from their social and support networks. Being made to move accommodation frequently may cause them and their (unborn) child unnecessary stress.

Guardianship

Unaccompanied children are recognised as particularly vulnerable¹⁷⁵, and both the Convention and Directive¹⁷⁶ state that child victims of trafficking should be appointed a legal 'guardian', where appropriate, as soon as they are identified as such. It is recognised internationally that child guardians are a key component of any child protection system¹⁷⁷, ensuring that all necessary actors co-operate to protect the child and ensure the child is accessing the support they are entitled to.

¹⁷⁴See ECPAT UK, 2011, On the Safe Side: Principles for the safe accommodation of child victims of trafficking

¹⁷⁵Trafficking Directive, preamble at para. 23

¹⁷⁶See the Convention at Article 10(4) and the Directive at 14 (2) & 16 (3)

¹⁷⁷European Union Agency for Fundamental Rights, 2014. Guardianship for children deprived of parental care- A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking. P. 16

Child victims of trafficking who are pregnant or have children of their own will require a more intensive level of support, not only in accessing specialist medical care, accommodation and childcare, but in understanding the child protection system and their rights. The guardian can play a key role in advocating on their behalf and build a relationship of trust with the young person so that they are able to share with the guardian their concerns and fears.

One issue raised by an NGO worker was that young people usually don't have a support network to turn to, to ask questions about life skills, such as budgeting, parenting or understanding healthy sexual relationships. They also struggle to find support with childcare to allow them respite to have their own childhood, or to attend school or college. The guardian, as a stable and consistent person in the child's life, and trained in supporting victims of abuse, should have an understanding of their changing support needs and be available to provide advice and access to support when required.

Peer Support Groups

Government guidance on the 'care of unaccompanied and trafficked children'¹⁷⁸ recognises the role that NGOs can play in providing specialist support to child victims of trafficking, in addition to the support provided by local authorities. One important way NGOs can support children is by running peer support groups. There is a handful across the UK that are run specifically for victims of trafficking, such as the ECPAT UK's youth groups (a weekly group for trafficked females aged 15-23 and a fortnightly group, co-run with The Children's Society, for trafficked boys aged 11-25) and AFRUCA's peer-to-peer support group.

CASE STUDY – Peer group/independent advocate

U was trafficked from West Africa aged 14 for domestic servitude and was locked in a house for two years by a relative. She was 16 when identified as a victim of trafficking and placed in LA care in semi-independent accommodation with little support.

She was befriended by an older male who became controlling very quickly and increasingly violent towards U. The police became involved and discovered that the man had a history of domestic violence. Whilst she was still a child, she became pregnant by the man. U felt he loved her and would change when the baby came. However, the baby was put on the child protection register from birth, due to the ongoing situation of domestic violence.

U felt her social workers judged her and blamed her for entering into a relationship with a violent man and putting her child at risk. The social workers had little understanding of her personal circumstances and her lack of ability to make safe choices and look after herself and her baby. She was given very little support and felt she had few options.

Before the baby was born, U was referred to the ECPAT UK Youth Group. ECPAT UK ensured U was linked in to her local Children's Centre to support her with parenting skills. Workshops were held with the group about sexual health and healthy relationships, and sessions were held to build confidence and life skills. Debbie Beadle, Head of the ECPAT UK Youth Programme, attended Looked After Child Reviews and Strategy meetings about U's child to help advocate for U. As an independent advocate, Debbie was able to ensure U understood what was happening, her rights as a young mother and, perhaps more importantly, that she felt someone was on her side.

¹⁷⁸www.gov.uk/government/uploads/system/uploads/attachment_data/file/330787/Care_of_unaccompanied_and_trafficked_children.pdf

A number of the girls attending these groups will have children. These groups provide a space for young people to relax and a chance for them to socialise with others who have been through similar experiences. Their children also have the opportunity to socialise with others. As well as social activities and excursions, the groups also offer workshops on important life skills. These groups are run by specialist professionals who can identify issues as they arise, for instance difficulties with their parenting, and can offer guidance and be able to signpost young people on to further support if necessary. The regular group meeting can provide the young people with some routine in their lives and a social network, empowering them to understand risk and overcome it. Other NGOs that have a specialism in trafficking, such as the Law Centre (NI) and the Refugee Council, provide support to child victims of trafficking through the provision of legal advice and information, and can advocate on their behalf and signpost them on to other services. These specialist organisations can play a crucial role, alongside statutory services, in a child's recovery and development.

Recommendations:

- Adhere to the 'presumption of age principle' and treat the person as a child until it is conclusively proved otherwise. Local authorities should follow the good practice set out in the recently-published 'Age Assessment guidance' drafted by the 'Association of Director's Services'¹⁷⁹
- Assess the safety and appropriateness of children's accommodation regularly
- Provide children access to antenatal care, family support services, parenting support, respite support, and specialist children's/anti-trafficking organisations
- Support children in accessing educational classes and provide access to childcare when necessary
- Immediately appoint an independent legal guardian to all trafficked and separated children

II. Adult trafficking victims who have children

Local authorities have a duty to safeguard and promote the welfare of children in need and promote the upbringing of these children by their families. Section 17 of the Children Act 1989¹⁸⁰ clearly states that the local authority has a requirement to accommodate children in need and their families:

- (1) It shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part)—
 - (a) to safeguard and promote the welfare of children within their area who are in need; and
 - (b) so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs.

They can therefore provide accommodation to adult trafficking victims in order to promote the welfare of the child as long as the family is not already eligible for support through other means, for instance as an asylum seeker or under the NRM. Interviewees who had tried to access such support noted that this wasn't always simple, particularly in London where local authority housing was in short supply.

¹⁷⁹http://adcs.org.uk/assets/documentation/Age_Assessment_Guidance_2015_Final.pdf

¹⁸⁰www.legislation.gov.uk/ukpga/1989/41/section/17

'Child in Need applications for accommodation and financial support - this can be very challenging. It varies from borough to borough whether the women we refer meet their threshold. I referred one woman to Children's Services who did accept her for emergency accommodation under Child in Need but only due to the fact she was late in the stage of pregnancy (7 months), HIV positive and was waiting for a delayed application for Section 4 (Asylum Support) accommodation that was expected to come through in two weeks. We have had other experiences, for example, of a newborn baby living in a room that had rats, no heating, mould on the walls, but the local authority would not accept this referral as they said it did not meet their threshold, as well as the fact that the woman had no recourse to public funds at that point.'

NGO worker, 22 September 2015

Interviewees reported that it is not uncommon for local authorities to try and refuse to provide accommodation and encourage adult victims who are EEA nationals to return to their birth country as it is seen as a cheaper option than accommodating them and their children. In such cases, advocacy from NGOs, as well as the threat of legal action from lawyers, can be required to ensure the local authority upholds its duties. This is very concerning as many victims may not understand their rights and know how to challenge the local authority when support is refused.

Adult trafficking victims with children may come into contact with local authorities due to concerns about the child's welfare as a direct or indirect result of their parent's trafficking experience, for instance if they had witnessed their parent being abused or if they were at risk of abuse themselves. The trauma experienced by their parent may have a detrimental impact on their ability to cope with their parental responsibilities, which in turn may impact on their child's development. In these cases the local authority may deem it necessary to investigate and take measures to intervene to support the family.

Some interviewees were critical that the child's best interests were immediately prioritised over the parent's and there was no acknowledgement of the mother being a victim in her own right with her own support needs.

'The focus is placed on the child. Child protection procedures can kick in, the concern is addressed but there is no acknowledgement of the mother as a victim of trafficking and their support needs are not addressed.'

NGO worker, 6th August 2015

Family Support Workers were felt to play an important role in supporting women to access services and advocating on their behalf. Those based in specialist NGOs, such as the Poppy Project, understand the impact that trafficking can have on the mother, and consequently on their relationship and interaction with their child, and can provide basic parenting support to prevent them coming into Children's Social Care due to safeguarding concerns.

As previously highlighted in Chapter 4 (*Identification and referral*), in some organisations across the UK pregnancy and the presence of children can trigger an automatic referral to local authority children's service. In Scotland, agencies working with 'vulnerable adults', a category which includes trafficking victims, are to follow 'inter-agency procedural guidance for vulnerable women

during pregnancy',¹⁸¹ which clearly sets out the assessment process of all women referred to ascertain whether the baby is at risk or in need and the safeguarding procedures to follow if this is the case. The guidance also sets out the antenatal services available to the woman and the range of agencies that should be involved in the assessment and support of the parent and child, both before and after the birth. This inter-agency procedure fosters collaboration and information-sharing between agencies, and in cases involving trafficking victims, can increase awareness and understanding of the issue.

Recommendations:

- Automatically refer children of trafficking victims to children's services for an assessment of need
- Train local authority staff on human trafficking and the impact that trafficking may have on a mother and their interactions with the child
- Provide access to parenting support to victims of trafficking
- Put in place comprehensive Child Protection policies in all adult support organisations and train staff on the potential risks to and needs of children of their service users
- Develop and standardise information-sharing protocols between adult support organisations and local authority children's services. Provide holistic support to the family which takes into account the potential impact of the support on all family members

¹⁸¹Glasgow Child Protection Committee, 2008 www.glasgowchildprotection.org.uk/CHttpHandler.ashx?id=12921&p=0

Chapter 6: Conclusion

Victims of trafficking who are pregnant and/or have children represent a significant proportion of those trafficked to the UK: 25-50% of those assisted by ATMG members each year are pregnant or have children. Frontline professionals and support organisations also regularly encounter victims of trafficking who are pregnant or who have children, either in the UK or abroad.

Pregnancy and parenthood can have a profound impact on the physical and psychological wellbeing of trafficking victims. For some, parenthood will be a positive experience: providing the individual with a sense of purpose, helping them to engage in the wider society and overcome the experience of exploitation. For others, particularly those whose pregnancy was as a result of rape, their child may be a constant reminder of the past exploitation. Trafficked parents are very vulnerable to further exploitation as traffickers often use threats against a victim's child to maintain control over them.

The parents' trafficking experience can also take a significant toll on their children. The absence of a parent, who has been trafficked away from home, can hinder the social and emotional development of the child who was left behind. The lack of parental protection may also leave them open to exploitation and abuse. Conversely, children accompanying their trafficked parents may experience or witness abuse which can result in developmental and/or mental health issues in later life. Even if the child is not directly abused, they may be affected if the parent's trafficking trauma impacts on their ability to cope with caregiving duties.

Yet, this group of victims has been systematically overlooked in the UK policy response. Neither the Modern Slavery Strategy, nor the National Referral Mechanism (NRM), recognise trafficking victims who are pregnant or have children as being particularly vulnerable, and fail to give adequate consideration to the support implications of pregnancy and parenthood. The children of trafficking victims too are disregarded in the UK's response.

The failure to recognise victims who are parents or pregnant and their children as particularly vulnerable denies them access to rights and leaves them at risk of further exploitation, destitution or deprivation.

While some frontline service providers do understand this and make special arrangements for this group, this is not a requirement, resulting in a post-code lottery type of service provision at the national level.

The lack of arrangements for the specific needs of this group of victims is underpinned by their absence from national statistics. Pregnancy and parental status are not required categories on the NRM referral form, even though this status will significantly impact on an individual's support requirements. Some individual support organisations do record the number of clients who are pregnant or parents. However, as this data is not recorded consistently at a national level, it remains unknown how many of the annual number of victims recorded fall within this category.

Lack of attention to this group within the UK policy is a significant shortcoming: the Council of Europe Trafficking Convention requires the UK to apply child- and gender- sensitive approach to anti-trafficking policies and to ensure that no victim is discriminated against in access to rights and protection. The apparent absence of this group from UK policy arrangements is at odds with UK's international obligations and has been found to prevent them from enjoying equal rights and access to services like other victims, who are not pregnant or parents.

Pregnancy and parenthood have significant support implications. Access to antenatal care ought to be a priority for those who are pregnant, particularly if their trafficker had stopped them accessing it through the early stages of pregnancy. Yet some professionals reported that the lack of identification documents or proof of a positive decision under the NRM can be a barrier for accessing health services.

Access to appropriate accommodation for victims of trafficking victims who are pregnant or have accompanying children has also been found to be precarious. Government-funded safe house accommodation units across the UK can cater for adult women who are pregnant or have children as well as whole family units. However, victims are too often moved on to alternative, and sometimes inappropriate, accommodation, which can jeopardise their safety and recovery. Similarly, concerns have been raised about the high number of trafficking victims (around 40%) currently housed in National Asylum Support Service (NASS) accommodation. The accommodation is often of low standard, and victims can be allocated dispersal accommodation far from their established networks. Safe house support staff can advocate on their behalf to ask for alternative accommodation if they consider it to be inappropriate, however there is no guidance as to what constitutes inappropriate accommodation and when NASS must grant such a request.

Adult trafficking victims can also be housed in local authority accommodation, for instance, if they have been conclusively identified under the NRM and granted a period of discretionary leave, or if their child is deemed to be in need of protection. Problems with accommodation arise because this group of victims is not automatically recognised as vulnerable and, as such, eligible for continued safe house support. Good practice exists across the UK in assisting victims of trafficking to access this mainstream support but clearer guidance is required to at the national level to prevent vulnerable women and families falling through the gaps.

Whether the children of adult trafficking victims will come into contact with local authority children's services is dependent on where in the UK their parent(s) are identified and by whom. Some organisations, both statutory and non-statutory, automatically refer the child of a suspected or known trafficking victim to children's services for an assessment of need, whereas others will only refer the child if they themselves deem the child to be in need or at risk of harm.

This inconsistent practice means that not all children of trafficking victims are known to children's services. An automatic referral of the child to social services from organisations which support adult victims of trafficking would help ensure that the child's support needs are considered alongside their parents, and would foster communication and collaboration between organisations, so that support is not offered to the parent and child in silos.

Lack of government-funded childcare has also been found to be a substantial impediment that prevents trafficking victims with children from accessing their rights. If no childcare is forthcoming, victims may be unable to attend important appointments, such as an asylum-screening interview, for which victims can be penalised and subsequently denied access to support. If there are no alternatives to the child accompanying them to the interview, the child will have to listen to their disclosure of abuse. In the long-term, a lack of regular and easily accessible childcare can prevent a parent accessing vocational courses and social events, which can be detrimental to their recovery and re-integration. A lack of respite from childcare duties can also be tiring and emotionally draining for the parent, which can affect his/her behaviour towards her child.

Pregnant victims of trafficking and those who have children have long been overlooked by policy makers and many practitioners in the UK. As a result, this very vulnerable group has remained at risk, and often without access to their rights and equal access to services. This situation can be remedied through a series of simple steps that would ensure that they no longer remain invisible in UK's action against modern slavery.

Chapter 7: Recommendations

Overall

1. Acknowledge pregnancy and m/paternal status of victims of trafficking at the national and UK level and recognise the potential impact of parenthood on the needs of victims of trafficking, and the potential impact of their trafficking experience on their child(ren).

- Explicitly reference this cohort in national policy and guidance
- Collect and analyse data through the National Referral Mechanism on the m/parental status of those referred
- Undertake research to better understand the impact of pregnancy and parenthood on victims of trafficking and their resulting support needs, and the impact of their trafficking experience on their children
- Provide mandatory, up-to-date training for public authorities on human trafficking, including information on additional support needs as a result of pregnancy and parenthood, and how to facilitate access to adult and children’s support services

2. Provide assistance and support to victims of trafficking in line with international legal obligations that takes into account the holistic needs of the family and has, as a primary consideration, the best interests of the child.

- Provide free childcare to victims of trafficking when attending interviews/meetings with public authorities, including supervised crèche facilities within NRM accommodation. Victims of trafficking in receipt of a positive reasonable grounds decision in the NRM should be eligible for free statutory childcare for their children from the age of two years-old
- Provide funding for sufficient safe and appropriate accommodation for victims of trafficking and their accompanying children. Assign accommodation based on a needs and risk assessment, including consideration of the availability and ease of access to local, support services for the parent and child. Undertake regular multi-agency reviews of the accommodation to assess risk and ongoing suitability
- Develop information-sharing protocols between adult support organisations and children’s services. Automatically refer children of known or suspected trafficking victims to children’s services for an assessment of need

ANNEX I: Interviews and written contributions

The ATMG is grateful to all who contributed to the research through either written submissions or oral interviews, including:

AFRUCA
Asylum Aid
Bawso
Belfast Women's Aid
Birth Companions
ECPAT UK
Focus on Labour Exploitation (FLEX)
Helen Bamber Foundation
Kalayaan
Medaille Trust
Migrant Help
New Pathways
Newham Local Authority
NSPCC Child Trafficking Advice Centre (CTAC)
Law Centre (NI)
Refugee Action
Refugee Council
Scottish Refugee Council
Social Work Services, Glasgow City Council
The Poppy Project
The TARA Service (of Community Safety Glasgow)
Trafficking & Kidnap Unit, Metropolitan Police Service
Unseen

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The Anti-Trafficking Monitoring Group (ATMG) was established in May 2009 and works to promote a victim-centred, human rights-based approach to protect the well-being and best interests of trafficked persons.

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The ATMG comprises:

AFRUCA

Amnesty International UK

Anti-Slavery International

Bawso

ECPAT UK

Focus on Labour Exploitation (FLEX)

Helen Bamber Foundation

Kalayaan

Law Centre (NI)

The POPPY Project

The TARA Service (Trafficking Awareness Raising Alliance, of Community Safety Glasgow)

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The Anti Trafficking Monitoring Group

