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# Trafficking

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## What is trafficking?

### Definition of Trafficking

(a) “Trafficking in human beings” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of “trafficking in human beings” to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in human beings” even if this does not involve any of the means set forth in subparagraph (a) of this article;

People trafficking is not the same as people smuggling. A people smuggler smuggles consenting people from one place to another for payment. The relationship between the smuggler and smuggled person ends when the smuggled person reaches their place of destination. A trafficked person is moved from one place to another and then exploited as a commodity. However, it should be noted that some people who believe that they are being smuggled in reality end up being trafficked.

UK law on human trafficking is governed by a number of international instruments:

- United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000 (often referred to as the ‘Palermo Protocol’)
- Council of Europe Convention on Action against Trafficking in Human Beings 2005 (known as ‘the Trafficking Convention’)
- European Union Directive 2011/36/EU. Came into force in April 2013.

## Trafficking and Criminality

Article 26 of the Trafficking Convention:

“Each party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.”

Article 8 of the EU Trafficking Directive:

“Non-prosecution or non-application of penalties to the victim

Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2.”

The EU Directive also broadens the scope of activities which may be considered as exploitation of victims of trafficking explicitly including forced begging, pick-pocketing, shop lifting, drug trafficking, illegal adoption and forced marriage.

At present the CPS has a discretion to chose not to prosecute victims of trafficking who have committed criminal offences linked to their status as victims of trafficking if they believe that it is not in the public interest to pursue prosecution.

## Identifying victims of trafficking

For a number of reasons victims of trafficking may not be recognised in early stages of the criminal justice process and may end up serving a sentence of imprisonment. All staff working with prisoners should have some knowledge of possible indicators that a person is a victim of trafficking. Identification can be very difficult. Victims of trafficking may be extremely reticent about their situation and often will not recognise themselves as victims of trafficking, particularly if they have been exploited by someone they identify as a partner or relative (e.g. ‘my boyfriend’, ‘my auntie’, ‘my uncle’).

Victims of trafficking may also tell lies about some or all of their situation or repeat elements of a cover story provided to them by their traffickers in case of questions from authorities. This makes it easy for victims to be labelled as ‘liars’ or people who are trying to manipulate the system without recognition of the fear and stress that they may be experiencing in addition to possibly displaying symptoms of Post Traumatic Stress Disorder including hostility, aggression, and/or poor memory or

recollection of events.

The following is taken from the Trafficking Toolkit:

**Adult victims**

Individuals may be reticent to perceive themselves as victims due to:

- A fear of retribution/reprisals from their traffickers;
- Fear and suspicion of authority figures, and a lack of awareness that these figures are in a position to help;
- Accusations from authority figures that individuals were complicit to their trafficked situation [of particular relevance when the victim is serving a sentence of imprisonment];
- Toleration of their situation as it is more favourable than their home circumstances;
- Being in a relationship with their traffickers;
- Stockholm syndrome, where due to unequal power victims create a false emotional or psychological attachment to their controller;
- Fear of discrimination from their community and families.”

The toolkit also provides a list of indicators that may suggest that a person may be a victim of trafficking:

**Physical indicators**

- Injuries apparently as a result of assault or controlling measures;
- Neurological symptoms: headaches, dizzy spells, memory loss;
- Gastrointestinal symptoms;
- Cardiovascular symptoms;
- Musculoskeletal symptoms;
- Tattoos or other marks indicating ownership by exploiters;
- Work related injuries.

**Psychological indicators**

- Expression of fear or anxiety;
- Depression (lack of interest in engaging in activities, lack of interest in engaging with other individuals, hopelessness);
- Isolation;
- Suffering from post-traumatic stress and/or a range of other trauma induced mental or physical illnesses;
- Drug use;
- Alcohol use;
- Self harm or suicidal;
- Hostility (annoyed and easily irritated, temper outbursts);
- An attitude of self-blame, shame and a pervasive loss of control.

**Sexual health indicators**

- Females may be suffering from unwanted pregnancy resulting from clients or their

- traffickers. They may also have recently been forced to terminate a pregnancy;
- High rates of sexually transmitted diseases;
- Injuries of a sexual nature.

### **Situational/environmental indicators**

- Distrust of authorities;
- The person acts as if instructed by another;
- Difficulty in concentrating;
- Lack of knowledge of area where located in the UK;
- Fearful of saying what their immigration status is;
- Fearful and emotional regarding family or dependents;
- Limited English, only being able to speak limited vocabularies related to the exploitation situation they are in.”

Many of these may be difficult to discern in a prison situation.

### **Supporting victims**

You must take care to record any information which is disclosed to you by a potential victim of trafficking. Such recording can reduce stress by minimising the need for a victim to repeat information over and over again to multiple agencies. It may not be appropriate to question a potential victim too closely

### **What Next?**

Having identified a prisoner as a potential victim of trafficking they should be referred into the National Referral Mechanism (NRM), a framework for identifying victims of trafficking and ensuring that they receive the appropriate protection and support. Adults must consent to the referral.

Potential victims can be referred into the NRM by a ‘first responder’ agency. First responders include:

- The police
- UK Border Agency
- The Crown Prosecution Service
- Local Authority Children’s Services
- The Gangmasters Licensing Authority
- Some third sector agencies including Poppy Project, Salvation Army, Migrant Help, Kalayaan, Medaille Trust.

Migrant Help and Salvation Army provide 24 hour trafficking reporting telephone lines and Poppy Project have a specialist worker working with trafficked women in prisons.

- Migrant Help 24 hour helpline: 07766 668781
- Salvation Army 24 hour helpline: 0300 3038151

- Poppy Project referral line: 020 7735 2062

All of these organisations can also provide specialist training on trafficking.

Victims of trafficking may be reluctant to talk about these issues and staff should ensure any discussions are confidential. If translation is necessary use only authorised translators available through the national contract. Other prisoners should not be used in these circumstances as prisons may include traffickers as well as victims of trafficking.