FINANCE COMMITTEE CALL FOR EVIDENCE
HUMAN TRAFFICKING AND EXPLOITATION (SCOTLAND) BILL:
FINANCIAL MEMORANDUM SUBMISSION FROM COSLA

1. COSLA welcomes the opportunity to provide evidence to the Finance Committee regarding the Human Trafficking and Exploitation (Scotland) Bill, and has a long-standing commitment to help end human trafficking.

2. COSLA Leaders have backed international action by committing to the principles set out in the Council of Europe’s Declaration on the Fight Against Trafficking in Human Beings and agreed that COSLA should progress an anti-trafficking agenda. In November 2012, COSLA Leaders renewed this commitment, and local authorities have explored the role that local authorities can play in terms of tackling the crime and its perpetrators, raising awareness, and identifying, protecting and supporting victims.

3. COSLA Leaders have also endorsed the need for Scottish Government and COSLA to work in partnership on the development of the Human Trafficking (Scotland) Bill. COSLA supports the aim of the Bill to make Scotland a hostile environment for human traffickers and those who exploit individuals, and to identify and support the needs of victims.

4. The following comments are made within this context, and have been developed in consultation with individual councils. COSLA has also provided a submission to the Justice Committee focusing on the policy objectives of the Bill.

Overall Comments

5. Although the Financial Memorandum estimates that there will not be considerable costs arising from the Bill, it does highlight a range of implications for local authorities. However, the Memorandum does not seek to quantify any costs for local government associated with these implications.

6. COSLA considers it important that more work is undertaken to define these costs in more detail. Indeed, while Memorandum suggests that implications arising from the Bill can be absorbed within existing work practices and activities, our assessment is that it is not always clear that all of the ancillary impacts have been fully scoped in this regard.

7. Our own initial scoping has also highlighted some areas where potential associated costs for local authorities may not have been identified. In particular, we anticipate that the Bill is likely to have some additional impact on front line health and social work roles, as well as potentially wide ranging implications for training and awareness raising across a range of services, including preschool, primary and secondary education, community and youth work, corporate organisational development and beyond.

8. While we acknowledge that forecasting future demand around human trafficking is difficult, historical precedent and the anticipated impact of greater awareness suggest that increases in demand may be experienced in future. For example, the Memorandum acknowledges that small numbers to date must be treated with significant caution, and the Scottish Government has accepted that there are potentially two and three times as many potential victims of trafficking as are currently identified. Any implications and costs for local authorities are therefore likely to rise sharply over time. While the Bill will create a National Strategy with a three year review period, to be fully effective COSLA’s view is that this work is required now in order to ensure that the impact of the Bill is understood and resourced.

9. We have set out a summary of key points for consideration below.
Detail

Part 1 - Offences
10. The Memorandum estimates that consolidating and clarifying the existing criminal law, and measures arising from the trafficking and exploitation strategy should increase the potential for successful investigations, prosecutions and convictions. It also states that there will not be new costs on local authorities as a consequence of these specific sections.

11. However, COSLA believes that further assessment and monitoring of initial and ongoing costs is required across the spectrum of services associated with the impact of the new legislation – not simply those involved in prosecutions and custody. For example, it is likely that at least some additional pressures will be exerted on existing local government services such as social work assessments associated with investigations and/or prosecutions.

12. Local authorities could also incur costs in supporting any individuals that have a specific physical or mental health condition which may require health and subsequent social care services. These service areas are already under significant demand, and the ability to respond to additional requirements, even where these are marginal, therefore needs to be carefully considered and resourced.

Part 2 – Protection of Victims

Ensure the rights of victims to access and support
13. The Bill specifies minimum support and assistance to victims, including access to housing, treatment, and interpretation services. COSLA’s current intelligence is that given that these services are provided through dedicated providers (TARA and Migrant Help), this is not anticipated to impact heavily on local authorities. Currently, five local authorities provide a crisis response where required until providers can travel to the victim. This is based on a voluntary agreement to work in partnership with those providers.

14. Nevertheless, we are aware that a significant number of potential victims do not engage with the National Referral Mechanism\(^1\), and the Aire Centre states that ‘care must be taken to ensure that the implementation of Article 11 of the EU Directive, which sets out the assistance and support which must be provided to a victim of trafficking, is not dependent on an NRM referral\(^2\).

15. Given this position, COSLA is keen to confirm that if the potential victim of Human Trafficking does not consent to referral into the NRM, the processes in place for TARA and Migrant Help are flexible and able to provide emergency funding to cover accommodation and support, for the period of time required.

16. Given the potential increases in demand arising from the Bill, it will also be important to confirm that TARA and Migrant Help have the capacity to cope with increased number of referrals, in order to be sure that there are not associated implications for local authorities in addressing any short-fall.

17. We also wish to highlight complexities in relation to benefits/entitlements for EEA Nationals that we believe will require further exploration. This is an area of concern given

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\(^1\)65% of the total number of potential victims of trafficking appear not to have been recorded on the NRM. Page 6 http://www.nationalcrimeagency.gov.uk/publications/15-ukhtc-strategic-assessment-on-human-trafficking-in-2012/file
that the AIRE Centre has highlighted that many EEA National trafficking victims face destitution because they cannot access social assistance benefits. These complexities arise in relation to the outcome of the NRM process (negative conclusive decision, positive conclusive decision) and the follow on from the 45 day recovery and reflection period. A ‘conclusive decision with resident permit/leave to remain’ appears to entitle (under UK legislation) a victim of human trafficking to further benefits and support. However, the UK Government consider ‘the presumption is EEA Nationals can either remain in the UK exercising treaty rights or return home safely,’ meaning that a ‘conclusive decision’ for EEA Nationals will not necessarily have a residence permit/leave to remain attached to it.

**Child victims of trafficking**

18. Support for child victims of trafficking is co-ordinated by local authorities as part of their child protection arrangements and supported by the Getting It Right for Every Child approach. The Memorandum states that the Bill creates no new legislative requirements for the delivery of children’s services, recognising that this already exists. Nevertheless, given the stated policy intentions of the Bill, we believe that a more rigorous assessment of potential impact on children’s services is required to ensure that any potential changes and subsequent costs are understood at this stage. This is important as while numbers of child victims of trafficking are currently low, and due to dispersal, currently largely based around Glasgow, a key point of the Bill is to increase awareness and identification of victims more widely, with associated implications for increases in demand on local authority children’s services across Scotland.

19. We also believe that the issue of internal trafficking of UK nationals (and non UK nationals) and associated links with Child Sexual Exploitation also require to be recognised and highlighted in this regard, including the local authority implications for appointing a guardian and/or representative.

**Part 3 – Trafficking and Exploitation Orders**

*Introduce new measures to disrupt and prevent trafficking and exploitation*

20. Section 4 Subsection (3) provides that, in assessing whether a person has been the victim of the offence, the court is to have regard to any of the alleged victim’s characteristics that make the person more vulnerable than other people. We note that the EU Directive includes the additional definition of vulnerability as ‘a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved’ and we would suggest that there is a need to ensure that all public services are fully aware of, and able to address, this definition (including scoping and addressing any new resource implications that this infers).

21. Our initial intelligence is that most of the responsibility for supporting these measures is likely to fall on the police service. Nevertheless, as with Part 1 of the Bill, it is likely that additional demands will be placed on local authorities in relation to the servicing of these provisions, and in providing background information and other support.

22. In particular, clarification is required with regard to the costs and arrangements for managing and overseeing any Trafficking and Exploitation orders within a local authority.

**Part 5 - Strategy and reporting**

*Ensure a strategic, cross-agency approach to tackling trafficking*

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3 Victims of trafficking and The Law: Issues of Identification, Adam Weiss, AIRE Centre
4 UK Contribution to Ad-Hoc Query on EEA Citizens as victims of trafficking. April 2013
5 EU Directive 2011/36
23. COSLA welcomes the duty on Scottish Ministers to prepare, publish and regularly review and update a trafficking and exploitation strategy.

24. The Bill places a duty on relevant public bodies, to be named in regulations, to assist in the preparation and review of the strategy. We are clear that local government must also be actively involved in the 3 year review process, including the costing the strategy, and that this should be set out in the resulting strategy.

**Duty to co-operate on strategy**

25. Section 33 provides that Scottish public authorities must provide information and assistance as Scottish Ministers may reasonably require and otherwise co-operate with the Scottish Ministers in the preparation or review of the strategy.

26. Although the Bill will require public organisations to cooperate in the development of a national strategy, COSLA is clear that the development of the national strategy must be undertaken in ways that also reflect and accommodate challenges or opportunities highlighted during its development, and that it should similarly require Ministers to act on and resource implications arising from the information that is provided.

27. We are also clear that the national strategy should take account of and reflect all aspects and forms of human trafficking, and set out mechanisms for addressing and resourcing the challenges associated with these.

**Duty to notify and provide information about victims**

28. Section 34 places a duty on specified Scottish public authorities to notify the police service about a person who is, or appears to be, a victim of an offence under section 1 or section 4.

29. The Memorandum anticipates that the costs to relevant public authorities of providing anonymised data about potential human trafficking victims to Police Scotland will be marginal. Certainly, our understanding is that for local authorities this is not considered to be a significant issue as the new duty is related to adults who do not want to enter into the National Referral Mechanism (and will be addressed via services provided by TARA and Migrant Help). Children do not need to consent to referral and this information is already shared by local authorities.

30. Nevertheless, local authorities have asked for further clarification regarding the process and procedures for this in the context of the Bill.

**Awareness Raising and Training**

31. The Bill outlines requirements around awareness raising and training for staff, particularly those likely to come into contact with trafficking victims or potential instances of trafficking. The Memorandum indicates that there will be costs for local authorities associated with engaging in the preparation and review of the trafficking and exploitation strategy and in awareness raising and training of front-line staff. No quantification of these costs is offered.

32. While COSLA recognises the scope to minimise costs by adapting existing general awareness raising and training materials, and to develop this using a targeted and evidence led approach, we consider it vital that local authorities are provided with adequate resourcing to deliver these requirements.

33. To be effective, our view is that awareness raising and training is required for all front-line staff who are likely to come into contact with potential victims of human trafficking—not just child protection or social work professionals. We believe that this requires a bespoke
training pack, as well as face-to-face training. The cost implications of these steps could be significant, and COSLA has consistently stated that resourcing such training should not fall on local authorities. We have also asserted this in our parallel response to the Justice Committee.

34. Councils already provide key front line staff with awareness and training sessions in relation to human trafficking and exploitation issues, and there is scope to build on and develop these arrangements further as part of this approach. We also anticipate that e-learning packages could provide an efficient and effective route for some training, for example, for regulatory officers.

COSLA
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