Finance Committee

Human Trafficking and Exploitation (Scotland) Bill: Financial Memorandum

Published 26th March 2015

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Introduction

1. The Finance Committee issued a call for evidence on the Financial Memorandum (FM) of the Human Trafficking and Exploitation (Scotland) Bill in January 2015. The Committee received eight responses to its call for evidence, of which the majority came from local authorities and related bodies. Responses were also received from the Association of Licensed Adult Entertainment Venues and the Scottish Court Service (SCS). To explore further the issues raised in the responses the Committee then took oral evidence from Scottish Government officials on 18 March 2015.

The Financial Memorandum

2. The FM states that the Bill’s purpose is to “consolidate and strengthen the existing criminal law against human trafficking and exploitation and enhance the status and support provided to victims.” It then explains that the Bill makes provisions in six parts, which are considered in turn—

- **Part 1 (Offences)** includes provision on the creation of a single offence of human trafficking for all types of exploitation of both adults and children; establishes statutory aggravators of human trafficking for use with other crimes; and reframes the current standalone offence of slavery, servitude and forced or compulsory labour.

- **Part 2 (Protection of victims)** includes provision on prosecutorial guidelines for the prosecution of victims and provision about the support and assistance to which adult victims are entitled.

- **Part 3 (Confiscation of property)** includes provision on detention and forfeiture of property and proceeds of crime.

- **Part 4 (Trafficking and exploitation prevention and risk orders)** includes provision on two new preventive orders, the trafficking and exploitation prevention order and the trafficking and exploitation risk order.

- **Part 5 (Strategy and reporting)** includes provision on the trafficking and exploitation strategy and the duty on specified Scottish public authorities to notify and provide information about victims.

- **Part 6** contains general and ancillary provisions.

Issues identified in evidence

**Part 1: Offences**

3. The FM states that the Bill “establishes a new single offence of human trafficking for all types of exploitation for both adults and children, replacing existing separate criminal offences.”

4. The maximum penalty for conviction for the single trafficking offence will be life imprisonment (compared to the maximum 14 years for the current separate offences). The FM acknowledges that this is likely to have cost implications for the Scottish Prison Service (SPS).
5. The Bill also revises legislation relating to slavery, servitude and forced labour and again, increases the maximum sentence on conviction from 14 years to life imprisonment.

6. Finally, the Bill makes provision for “statutory aggravators”, although the FM states that this is not expected to have any substantial financial implications.

7. The FM states that to date, the maximum number of prosecutions for human trafficking and exploitation offences in any one year was four individuals involved in two separate cases.

8. These changes are expected to increase the number of convictions for human trafficking offences. However, the FM states that the Government “does not anticipate significant additional cost implications for law enforcement agencies or courts, as cases will often proceed with a trafficking offence alongside or in place of other related offences.”

9. However, the FM does note that there would be some additional costs on the COPFS, the SCS and SLAB, and provides a table setting out the estimated costs of two additional trial procedures per annum after paragraph 26.

10. The FM also provides a table after paragraph 28 which suggests that the SPS could expect to incur additional costs of between £340,000 and £890,000 per annum by the fourth year after the legislation has come into force.

11. When asked about the potential for an increase in the numbers of people going through the criminal justice system the Bill Team confirmed that “most of the people we are talking about will already be going through the court system and then to prison, but not under the label of human trafficking.”

12. When asked about the potential impact on the SPS’ costs, the Bill Team further confirmed that the numbers involved were “very small and would be at the normal margins of the daily change around of the prison population.”

13. The FM does not expect local authorities or other bodies, individuals or businesses to incur any additional costs as a result of Part 1.

14. The SCS stated in written evidence that it expected to incur one-off costs of £12,000 in respect of Part 1 as a result of required upgrades to its IT systems to enable it to record “statutory aggravators.” This cost does not appear to have been considered in the FM.

15. COSLA also considered it likely that “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.”

Part 2: Protection of Victims
16. The Bill places a statutory duty on ministers to secure the provision of relevant immediate support and recovery services for adult victims of trafficking for a specified period, subject to an assessment of need.
17. The FM notes that the Government currently provides grant funding totalling £723,000 to third sector organisations to assist victims. Assuming a potential increase of between ten and twenty per cent in the number of requests for assistance and support, the FM states that the Government could incur increased costs of between £290,000 and £580,000 per annum by the fourth year after the legislation has come into force.

18. The FM notes that it is likely that all or part of this additional funding would be directed through third sector organisations with the necessary expertise.

19. Whilst the Bill creates no additional duties for local authorities, the FM acknowledges that they may incur some additional costs with reference to child victims of trafficking as part of the GIRFEC approach. However, it states that these cannot be estimated at this time.

20. The FM explains that whilst human trafficking is, by its nature, a hidden crime, the National Referral Mechanism (NRM) recorded 96 referrals to first responders in Scotland in 2012 and 99 in 2013. For the purposes of the FM, the Government has accepted the National Crime Agency assessment that there are likely to be between two and three times as many potential victims of trafficking as currently identified through the NRM.

21. The FM states that the “other actions arising from the Bill, including the single offence and publication of the trafficking and exploitation strategy, will result, over time, in an increase in identified victims and requests for assistance and support.” It suggests that it would be reasonable to anticipate an increase of between ten and twenty per cent per annum in the overall number of requests for assistance and support each year over the next four years.

22. The FM acknowledges the potential for additional costs as more victims are identified and states that they could range between £290,000 and £580,000 per annum by year four. It further states that it is likely that “all or part of the additional funding…will be directed through relevant third sector organisations with the expertise to provide immediate support and protection to victims.”

23. A number of local authorities suggested that they could incur additional costs as a result of the Bill’s provisions, both through the provision of services to victims and in relation to training and awareness-raising in respect of public sector staff.

24. In oral evidence the Bill Team acknowledged the difficulty it had faced in making concrete estimates as a result of the crime’s hidden nature and the fact that not all victims might wish to identify themselves as such.

25. When asked about the basis for the FM’s assumption of a ten per cent year-on-year increase in identified victims when the NCA strategic assessment and NRM had respectively identified UK-wide increases of 22 and 41 per cent between 2012 and 2013, the Bill Team explained that the figures for Scotland were lower “once intelligence and other factors were drawn in.” The Bill Team went on to confirm that it considered ten per cent to be a “reasonable estimate.”
26. When asked whether the predicted increase meant that the Bill’s provisions were not expected to have a deterrent effect, the Bill Team stated that it was hoped that “in the long run, there will be a deterrent effect.” However, it was thought that “there was quite a significant pool of people” who were currently unidentified and that they needed to be identified before there was a downturn in the figures.

27. Nevertheless, it was hoped that the introduction of specialist risk orders would deter identified traffickers from repeating the crime. The Bill Team confirmed, however, that whilst future savings were hoped for as a result of the hoped for deterrent effect, the FM’s estimates had not assumed any.

Support for victims

28. COSLA recommended that further work be undertaken to define and quantify potential additional costs for local government as, it was not always clear “that all of the ancillary impacts have been fully scoped.”

29. COSLA acknowledged that support and assistance to victims (including access to housing, treatment and interpretation services) is provided through dedicated non-government providers and was therefore not expected to impact heavily on local authorities. However, as a number of potential victims did not engage through the NRM, COSLA requested clarification of whether emergency funding from dedicated providers would be made available such circumstances.

30. COSLA also sought assurances that these dedicated providers had the capacity to cope with the expected increase in demand and that there would not be cost implications for local authorities in addressing any shortfall.

31. On a similar note, Aberdeenshire Council stated—

“it is likely that victims will need to access mainstream services during their recovery and may have complex needs. Given the covert nature of this issue, there is potential that individuals’ experiences may not be disclosed until after they are engaged with mainstream services.”

32. South Lanarkshire Council suggested that the Bill would result in a need for additional resources, “specifically in social work but potentially also in other areas such as housing and education.” In the event that these costs turned out to be significant it stated that “an allocation from the Scottish Government would be required.”

33. Both Aberdeenshire and South Lanarkshire Councils also noted the likelihood that the perpetrators of human-trafficking-related offences would require access to criminal justice social work services.

34. The Bill Team explained that the Government provided immediate support for identified victims for a minimum period of 45 days after which they would access mainstream services like anyone else.
35. The Bill Team then explained that “a significant majority” of victims came from outwith the European Union and were therefore subject to asylum and immigration arrangements organised by the UK Government, including funding provided to local authorities.

36. When asked whether the FM had considered potential costs relating to the investigation of bogus organisations involved in the trafficking of EU citizens the Bill Team confirmed that there was scope to prosecute people present in Scotland who were involved in such crimes outwith the UK.

37. When asked about COSLA’s request for assurances about the funding of dedicated providers, the Bill Team stated—

"We currently fund TARA and Migrant Help and we will continue to fund services. Our assumption in the financial memorandum is that more of the people who we think are genuine trafficking victims will be identified, so we have assumed an increase in our funding for that."

38. Whilst Angus Council did not anticipate any significant costs as a result of the Bill, it suggested that “the impact of the Bill will require to be monitored so that any unanticipated costs can be identified and it would be helpful if there was a commitment to meeting such costs in the future.”

39. In response to questioning from the Committee the Bill Team confirmed that it intended to monitor any increase in costs and that “if there are any extra costs for local authorities, we will discuss that with COSLA.”

40. The lead committee may wish to seek further detail from the Cabinet Secretary regarding how the Government intends to monitor costs and over what timescales.

Support for child victims
41. The FM notes that the Bill creates no new requirements in relation to child victims who would already be covered by the GIRFEC approach. However, it also states that “it may be that actions arising from the development of the strategy and dialogue with stakeholders will give rise to additional activity or costs with reference to child victims of trafficking, but these are not known and cannot be estimated at this time.”

42. COSLA advised that a “more rigorous assessment of the potential impact on children’s services is required.” This, it suggested, was important due to the potential “implications for increases in demand on local authority children’s services across Scotland” as opposed to the current situation where most [of the relatively low number of] child victims are concentrated around Glasgow as a result of dispersal policies.

43. South Lanarkshire Council agreed with the FM that costs relating to child victims were unknown and could not be estimated and stated that until further work had been conducted to assess these costs, it was unable to confirm that the FM’s predictions were reasonable and accurate.
44. West Lothian Council acknowledged the difficulty in predicting if and when it might have to deal with such cases, but pointed out that the cost to local authorities of looking after minors could amount to over £15,000 per month.

45. The Bill Team explained that, unlike adult victims, local authorities were already under a duty to provide services to children under the Children (Scotland) Act 1995. Whilst the number of trafficked children in Scotland was not expected to increase as a result of the Bill, it was likely that more children would be identified as such.

46. The Bill Team further explained that a lot of children who presented as being victims of abuse or otherwise vulnerable were later identified as being victims of trafficking. No “huge upturn” in the numbers of such children was expected but it was hoped that there would simply be a better understanding that children already in the system might have been trafficked.

47. When asked about the possibility of appointing guardians for trafficked children the Bill Team confirmed that it intended to review the Scottish Guardianship Service’s work with unaccompanied asylum seekers later in the year.

**Part 3: Confiscation of Property**

48. The FM states that —

> “the Bill will provide police with powers to detain the property, such as cars, boats, etc. of a person arrested for a trafficking offence. This power will be exercised at the time of arrest and is not expected to impose any additional costs on the police or others.”

49. However, the SCS stated in written evidence that it would incur costs relating to the confiscation, uplift and storage of vehicles ordered forfeited. Whilst these costs may be offset by the sale or scrapping of the forfeited vehicle, the SCS expected to incur substantially higher costs in the event that ships or aircraft are confiscated.

50. In response to questioning from the Committee, the Bill Team explained that whilst the Bill would provide for the immediate seizure of vehicles to prevent trafficking, separate provisions currently existed under proceeds of crime legislation under which such seizures already happened. The Government did not expect to see “huge numbers of additional seizures” as a result of the Bill.

51. When asked about the potential for the sale of confiscated vehicles to generate income, the Bill Team explained that whilst the individual elements of proceeds of crime income did not tend to be separated, there was currently “an overall benefit relative to the costs.”
Part 4 (Trafficking and exploitation prevention and risk orders)

52. In written evidence COSLA sought clarification “with regard to the costs and arrangements for managing and overseeing any Trafficking and Exploitation orders within a local authority.”

53. In response to questioning from the Committee, the Bill Team explained that “the main costs of monitoring the orders would fall on Police Scotland” but that the costs—

“must be offset against the costs of not having to investigate and prosecute trafficking offences because we will be controlling things and preventing people from committing those offences.”

54. When asked about the potential volume of such orders, the Bill Team stated that it thought the numbers would be “very small” based on the current numbers of prosecutions. Even if prosecutions were to double, this would still only amount to around eight people per year with whom the police would likely already be dealing in relation to other offences.

55. The Bill Team further confirmed that Police Scotland was content that resources were in place to meet the costs of monitoring convicted traffickers.

Part 5: Strategy and Reporting

56. The Bill places a duty on Scottish Ministers to prepare, publish and regularly review and update a trafficking and exploitation strategy. Relevant public bodies (to be named in regulations) will also be required to assist with this task.

57. The FM suggests that this would cost the Government around £25,000 every three years and that expenditure of between £100,000 and £250,000 per annum would also be incurred in relation to additional awareness-raising and training activity over the first four years after the Bill takes effect.

58. Local authorities and other bodies, individuals or businesses are expected to incur only marginal additional costs (if any) as a result of Part 5.

Training and awareness-raising

59. Aberdeenshire Council noted the FM’s reference to training materials such as leaflets and e-learning courses for front-line staff including police officers and health workers and asked whether these would be made available to local authorities.

60. Aberdeenshire Council also drew attention to the Home Office’s announcement of “centrally funded, accredited training” in England and Wales and suggested that the model would be valuable in a Scottish context.

61. COSLA stated its view that a bespoke training pack as well as face-to-face training should be provided to all front-line staff who may come into contact with victims of human trafficking. The costs of providing such training could be significant and COSLA restated its position that any related costs should not be borne by local authorities.
62. The Bill Team confirmed in oral evidence that—

“We have included in the financial memorandum an assumption that we will carry on funding additional training and awareness-raising activities as part of the human trafficking and exploitation strategy that we will prepare.”

63. With regard to child victims, the Bill Team confirmed that the Government had published a toolkit on identifying potential victims which had been included in its recently refreshed national guidance. It further confirmed that the Government intended to continue to work with child protection committee chairs to assess how things were working locally and what could be done to assist at a national level.

64. The lead committee may wish to seek further detail of the Government’s proposals for delivering joint training and awareness-raising materials to all front-line public sector staff who may come into contact with victims of trafficking.

65. The lead committee may also wish to seek further detail of the funding that will be provided to support additional awareness-raising and training activity and how it is expected to be allocated.

Conclusion

66. The lead committee is invited to consider this report as part of its scrutiny of the Human Trafficking and Exploitation (Scotland) Bill.