

## **CPG on Human Trafficking, Meeting Note - Thursday 5<sup>th</sup> March**

5.30 - 7pm at the Scottish Parliament

### **Participants**

Ann Oxley (Scottish Government)  
Catriona Dalrymple (COPFS)  
Frank Mulholland, PC, QC (Lord Advocate  
– COPFS & Scottish Government)  
Kathleen Harper (COPFS)  
Neil Rennick (Scottish Government)

### **Attendees**

Christina McKelvie MSP  
Roderick Campbell MSP  
Mary Scanlon MSP  
Aileen Flemming  
Alexa Anderson  
Alison Wales (NSPCC)  
Allana Turnley  
Andrew Beattie (Hope United)  
Andy Bevan (International Justice Mission  
UK)  
Anelda Grove (Scot-Pep)  
Bronagh Andrew (TARA)  
Catriona MacSween (Scottish  
Guardianship Service)  
Chloe Swift (Scotland's Commissioner for  
Children & Young People)  
Chris Oswald (European Human Rights  
Commission)  
David Thomson  
Eva Kestner  
Gordon MacDonald (CARE)  
Graham O'Neill  
Heather Olatokunbo (Roma Children &  
Families Team)  
Hazel Watson (Action Together Churches  
in Scotland)  
Heather Iqbal  
Heather Simpson (Abolition Scotland)  
Hollie Ruddick (Unchained)  
Jacci Stoye (Action Together Churches in  
Scotland)  
Janice Wilson (Soroptimist International)  
Janine McKenna (Scottish Churches  
Parliamentary Office)  
Jenny Kemp (Zero Tolerance)

Jim Laird  
Joanna Zawadzka (Fife Migrants Forum)  
Karen Wylie (RGU)  
Kathy Betteridge (Salvation Army)  
Kirsty Thomson (Legal Service Agency)  
Lexi Smart (Soroptimist International)  
Lisa Gamble (Barnardos)  
Marie Banneties  
Marion Donaldson  
Melissa Hill  
Moira McKinnon (Glasgow City Council)  
Nadia Maloney (Unchained)  
Nadine Scott (Scot-Pep)  
Paul Rigby (University of Stirling)  
Rebecca Marek (Scottish Youth  
Parliament)  
Rebecca Wallace (RGU)  
Stephanie Collins (International Justice  
Mission UK)  
Stewart Cunningham (Scot-Pep)  
Taylor Fallon  
Viv Wright (Fife Migrants Forum)

### **Apologies**

Anne McTaggart MSP  
Jean Urquhart MSP  
Jenny Marra MSP  
Billie Wealleans (Soroptimist  
International)  
Carolann Nesbitt (TARA)  
Elaine Wishart (Edinburgh City Council)  
Euan Fraser (Stop the Traffik)  
Katie Lang (Soroptimist International)  
Keith Moore-Milne (Glasgow City Council)  
Louise Johnson (Scottish Women's Aid)  
Lydia Moore (UN House)  
Lysa Owen  
Margaret Mowat (Soroptimist  
International)  
Marion Miller (Soroptimist International)  
Mark Cooper (NSPCC)  
Neil Whettam (East Lothian Council)  
Pam Cairns (Soroptimist International)  
Steve Malloch

## Agenda:

1. Adopt meeting note from 3<sup>rd</sup> December 2014
2. The Scottish Government Bill Team – Ann Oxley and Neil Rennick
  - a. Update now the bill has been published
  - b. Q & A
3. The Lord Advocate – Frank Mulholland, PC, QC
  - a. Presenting broadly on the duty to investigate trafficking, the prosecution of traffickers in Scotland and the impact of the new bill.
  - b. Input from Kathleen Harper (Head of the National Sex Crimes Unit) and Catriona Dalrymple (Head of Policy at the Crown Office)
  - c. Q & A
4. AoB

### Agenda Item 1

Christina McKelvie (“CM”) opened the meeting

Meeting note from the December meeting adopted

### Agenda Item 2

Ann Oxley (“AO”) provided a summary of where the bill is currently at

- Oral evidence is due in March 2015
- The Cabinet Secretary for Justice, Michael Matheson, will be giving evidence at the end of March
- 56 pieces of evidence being considered
- The Justice Committee has visited a number of locations throughout Scotland to witness first hand care provision and programmes addressing trafficking

Neil Rennick (“NR”) mentioned a productive meeting with the Human Trafficking Summit Steering Group

### Q&A

Gordon MacDonald (“GM”) asked if there were any surprises in the evidence received.

- AO – discussion surrounding the use of the word ‘travel’
- NR – there was a need to underline the issue of internal/domestic trafficking

Bronagh Andrew (“BA”) asked what the interpretation of ‘travel’ is to be

- AO – based on the dictionary definition
- NR – keen for this to include for travel for the purposes of all forms of exploitation
- Lord Advocate (“LA”) – confirmed the simple understanding of travel and warned of the dangers of over-defining words in legislation

Paul Rigby (“PR”) – what happened to references to children in the legislation?

- NR – the offence cover both adults and children; the Scottish Government (“SG”) decided not to make it a separate offence; a recognition that there is already existing legislation on children
- LA – acknowledged that a general provision outlining who children are is required
- Lisa Gamble (“LG”) – underlined the importance of have a provision in the bill focusing on this
- CM – the SG is concerned that the UN Convention on the Rights of the Child is incorporated
- NR – The Child Protection Team in the SG are focusing on this
  - **LG and Barnardos invited to contribute towards this**

Andy Bevan (“AB”) asked what the likely timescale for the bill would be.

- AO – Outlined the provisional timescale:
  - Justice Committee to hear evidence by the end of May; debate in the chamber by the end of May; Stage 2/3 to finish by the end of June
  - Therefore, legislation could be in place before the summer – however, this depends on a number of factors

### **Agenda Item 3**

LA provided the opening statement:

- The need to meet with the bodies involved to ensure best service
  - LA recently met with the UK Anti-Slavery Commissioner and Europol
  - Outlined challenges to law enforcement – e.g. the ‘Dark Web’
- The approach to Human Trafficking in Scotland must be international
- Approaching this issue is complicated – the need to educate juries and for expert witnesses. The issues are not black and white, they are grey.
- The Crown Office supports the bill – particularly:
  - Definition of the crime – makes prosecution easier
  - Extra territorial nature – criminalising acts committed by people from Scotland, even if these are committed overseas
  - Clause 11 – Human trafficking treated as a lifestyle offence – this provides for the recovery of proceeds of crime
  - Clause 7 – Publish guidelines on prosecution (draft guidance will be made available during the bill process) (See later developments below...)

### Q&A

BA asked if a principle of non-prosecution of victims can be included.

- LA - “We are not in the business of prosecuting victims”. There is already guidance to Procurator Fiscals. There is an instruction to report this issue to the head of the sex crimes unit during the process of the trial.
- LA - Why it’s a bad idea to include it in the bill – if you make it a statutory offence, the onus goes on the victim to raise it
- Kathleen Harper (“KH”) – clear factors indicate coercion: passport held; someone else speaking; not knowing their address etc.

LG raised the same question again but underlined the importance non-prosecution in the context of domestic victims

- LA – might lead to injustice; removes flexibility; publishing guidance next week
- BA and Catriona MacSween (“CMac”) shared examples of victims that had been prosecuted – both concerned about the practical outpouring of the guidelines
- LA – welcomed updates and knowledge to inform the Crown on how to respond to this; there is a need for evidence; there is also a need for public awareness and education
- CMac – education of professional is also needed
- LA – there’s a need to think outside the box in how we prosecute traffickers and protect/recognise victims

Kirsty Thomson (“KT”) questioned the lack of guidance surrounding the status of 16/17 year olds and non-prosecution

- Catriona Dalrymple (“CD”) – confirmed that this will have to be looked at but underlined that the Crown Office will have to follow the guidance
- KT – highlighted that in reality, this doesn’t always happen...
- LA – underlined that this will be enforced; there is a duty to train PFs on Human Trafficking; operational instructions are in place
- KT – stated again that the status has to be clear

- LA – **confirmed that information on this will not be in the form of ‘Guidance’, it will be an ‘Instruction’** – Instructions carry more weight.

Jim Laird (“JL”) asked about compensation of victims and the need for prosecution to have proceeded before compensation can be given

- LA – acknowledged that this was a good point but it was up to the courts to decide

AB asked about the need to train prosecutors and justice systems in developing world countries in order to address the problem of human trafficking in source countries

- LA – confirmed various efforts to do this: Malawi; Europol; international division at the crown office; providing evidence; sharing information etc.
- AB – Is this type of work adequately funded?
- LA – underlined the unpoliticised nature of the Crown Office

CM closed the meeting.

**Next meeting on Thursday 4<sup>th</sup> June, 5.30-7pm**