



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# EQUAL OPPORTUNITIES COMMITTEE

Tuesday 15 June 2010

Session 3

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**Tuesday 15 June 2010**

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**EQUAL OPPORTUNITIES COMMITTEE**

**12<sup>th</sup> Meeting 2010, Session 3**

**CONVENER**

\*Margaret Mitchell (Central Scotland) (Con)

**DEPUTY CONVENER**

\*Marlyn Glen (North East Scotland) (Lab)

**COMMITTEE MEMBERS**

\*Malcolm Chisholm (Edinburgh North and Leith) (Lab)

\*Bill Kidd (Glasgow) (SNP)

\*Christina McKelvie (Central Scotland) (SNP)

Stuart McMillan (West of Scotland) (SNP)

\*Hugh O'Donnell (Central Scotland) (LD)

\*Elaine Smith (Coatbridge and Chryston) (Lab)

**COMMITTEE SUBSTITUTES**

Rhoda Grant (Highlands and Islands) (Lab)

Mary Scanlon (Highlands and Islands) (Con)

Margaret Smith (Edinburgh West) (LD)

\*Bill Wilson (West of Scotland) (SNP)

\*attended

**THE FOLLOWING GAVE EVIDENCE:**

Graham O'Neill (Equality and Human Rights Commission)

John Watson (Amnesty International)

**CLERK TO THE COMMITTEE**

David McLaren

**LOCATION**

Committee Room 1



## Scottish Parliament

### Equal Opportunities Committee

*Tuesday 15 June 2010*

[The Convener *opened the meeting at 10:00*]

#### Interests

**The Convener (Margaret Mitchell):** Good morning and welcome to the 12<sup>th</sup> meeting in 2010 of the Equal Opportunities Committee. I remind all those present, including members, that mobile phones and BlackBerrys should be switched off completely as they interfere with the sound system even if they are switched to silent.

We have apologies from Stuart McMillan, and I welcome Bill Wilson back to the committee, this time as a substitute. I invite him to declare any relevant interests.

**Bill Wilson (West of Scotland) (SNP):** I have no interests to declare beyond those that I have registered.

#### Decision on Taking Business in Private

10:01

**The Convener:** Item 1 is a decision on whether to take items 3 and 4 in private. Item 3 is consideration of the committee's approach to the scrutiny of the Scottish Government's draft budget for 2011-12, and item 4 is consideration of the committee's work programme. Do members agree to take those items in private?

**Members** *indicated agreement.*

## Migration and Trafficking Inquiry

10:01

**The Convener:** Item 2 is the fifth evidence session in our inquiry into migration and trafficking. Today's session will focus on trafficking. I welcome John Watson, who is the programme director for Amnesty International Scotland, and Graham O'Neill, who is the senior enforcement officer at the Equality and Human Rights Commission. Unfortunately, due to unforeseen and unavoidable circumstances, Ann Hamilton, who is the head of equalities and women's services at Glasgow community and Safety Services, is unable to join us, but we hope to take evidence from her at a later meeting.

I will open the questioning—my first question is directed at Graham O'Neill. In February 2010, the Equality and Human Rights Commission launched an inquiry into human trafficking in Scotland. How is the inquiry progressing, and why has the EHRC decided to focus on sexual exploitation rather than on other forms of human trafficking?

**Graham O'Neill (Equality and Human Rights Commission):** I thank the committee on behalf of the Equality and Human Rights Commission in Scotland for the opportunity to talk to you today. I also thank you for asking that question—I was hoping that you would do so, because we are keen to share with members why we are undertaking the inquiry and what it specifically involves.

The inquiry was launched on 9 February 2010; perhaps it would be helpful if I said a little bit about what an inquiry is. It is one of the regulatory approaches that we take to examine in depth particular issues that we think we need to learn more about. Issues around human trafficking are absolutely in our mandate, and inequality and human rights are two issues that are always involved in human trafficking.

Undertaking an inquiry enables us to speak to a range of organisations and experts who know more about different aspects of the issue. It allows us to produce a report from our findings—which we must do in all our inquiries—and to make recommendations to which the people to whom they are directed must have regard; an inquiry has some status in that respect.

We want to find out more about this particular issue. The inquiry is led by Baroness Helena Kennedy QC, which we are delighted about—she will be a huge asset for us as we take the work forward. It has four terms of reference; I do not have them verbatim in front of me, and I will not say too much about them. First is consideration of the extent and nature of human trafficking in

Scotland, albeit with a focus on trafficking into commercial sexual exploitation. It is important for us to emphasise that we are looking at human trafficking in Scotland overall, not just at one element, which would be wrong and would not reflect the reality of the exploitation that is often suffered.

The second term of reference, which is important for us, involves examining the influences and causes of human trafficking in Scotland. We anticipate that global causes, such as demand for commercial sexual exploitation, will play out in Scotland, but we also anticipate that some issues might play out in ways that are particular to Scotland. It is crucial that we ask about the causes, because it reflects the part of the international human rights obligations on trafficking that is about prevention.

Thirdly, we will look at policy and practice in asylum and immigration, policing and courts, and victim care services that we hope help victims of trafficking to recover, as much as one can recover.

Fourthly, we will try to identify good practice at a range of levels in Scotland and other parts of the United Kingdom, as well as overseas.

We have completed phase 1 and are now in phase 2, which contains two chunks of work. First is the gathering of evidence. We are spending quite a bit of time in the back office trying to make sure that we get our plans for evidence gathering right. If it would be helpful, I can talk about the six bits of evidence gathering that we will be doing.

The first is to look into the experiences of adult women victims of sex trafficking in Scotland—in particular issues around identification and victim care. Secondly, we plan to send questionnaires to statutory organisations that have responsibilities in respect of human trafficking in Scotland to find out how they are approaching the issue.

Thirdly, we plan to issue early in the autumn a call for evidence that will be targeted primarily at community organisations and individuals so that we can get a little bit more information and knowledge about experiences of trafficking in Scotland. We are particularly interested to find out more about some of the other purposes of trafficking, but with the qualification that sometimes trafficking cuts across different purposes. For example, domestic servitude can overlap into sexual exploitation and commercial sexual exploitation.

Fourthly, we plan to learn a bit more about international best practice in relation to trafficking. We will focus particularly on what works in terms of protecting victims and helping them towards their recovery.

We plan to hold a seminar later in the autumn that will allow us to talk more about the causes of trafficking. We will bring together a range of different organisations and experts. The causes of trafficking are an important issue, as I have said, and some of the issues around the social vulnerability of victims have an influence. The demand for services and products that foster forms of exploitation is also important in relation to trafficking. Organised crime's desire for power and profit is also very important, as is the impact of migration policy and practice. However, we do not know how important those issues are because we are at the early stages of the inquiry.

Finally, we are really keen for the inquiry to get out there and speak to people, which is very close to Baroness Kennedy's heart. We plan to do that initially through local round-table discussions. We will hold three of them in Glasgow, Edinburgh and Aberdeen at the end of this month. They will not be just one-off events; they are intended to be the start of a dialogue between the inquiry and civil society—for want of a better way of putting it—so that we can learn more. Those are the six bits of evidence-gathering work that we will be doing.

We have set up an advisory group that is comprised of those who have expertise and responsibilities in Scotland, such as the Scottish Government, the Scottish Crime and Drug Enforcement Agency, and the trafficking awareness-raising alliance project. The group had its first meeting at the end of April and we plan to hold the second meeting in mid-July. We were absolutely delighted with the participation at the first group, which reflects one of the reasons for doing the inquiry and focusing on Scotland. There is a willingness in Scotland to do something together, and Scotland can take the lead, as Baroness Kennedy emphasised at the launch of the inquiry on 9 February, so it is important to us to build up good advisory group arrangements.

I will stop there, because I do not want to go on any further.

**The Convener:** That gives us a comprehensive idea of how the inquiry will progress. However, I wonder whether you have answered fully enough why you are focusing on sexual exploitation, given that some people say that forced labour, domestic servitude and organised crime are more prevalent than sexual exploitation, although we recognise that there can sometimes be a drift from domestic servitude into sexual exploitation and vice versa.

**Graham O'Neill:** I will say five things about that, but I will try to keep it brief. First, as I said, the inquiry is about human trafficking, so we will examine a range of trafficking purposes. Of course we will examine issues around commercial sexual exploitation, but we will also examine issues around forced labour, domestic servitude, forced

begging and other forms of forced criminality, such as cannabis cultivation. We will look at the myriad of trafficking purposes and the relationship between them. We welcome the opportunity to emphasise that.

**The Convener:** Why, though, are you focusing on sexual exploitation?

**Graham O'Neill:** The second point is that we recognise that the experiences of exploitation do not sit neatly within those categories.

There are three reasons for the focus on sexual exploitation. The first is that we have concerns about the hidden forms of sexual exploitation in indoor prostitution. In Scotland and elsewhere, there is a movement indoors in prostitution, which we think is facilitated in part by increasing use of the internet. That is a hidden issue, so we need relentless proactivity in the inquiry to find out more about what is going on.

The second reason is that we are concerned about the salacious stereotyping of many people who are involved in what is called Scotland's sex industry. Committee members and others have emphasised that issue in previous evidence sessions. Not enough is done to humanise the impact of sexual exploitation and to show that it is women, girls, men and boys who are involved. We want to do something about that through the inquiry and to give the human story. From an equality and human rights perspective, we are concerned about that salacious stereotyping, particularly in some of the red tops.

Third, we are concerned about some of the distinctively severe physical and psychological impacts on people who suffer through commercial sexual exploitation in Scotland and elsewhere. I emphasise that we absolutely do not draw any hierarchy of exploitation between the trafficking purposes. For example, we suspect that some of the control techniques that are used in sweatshop factories involve violence.

Those are the three reasons for our focus on sexual exploitation, but they must be understood in the context of our considering human trafficking and the relationship between the trafficking purposes.

**The Convener:** The committee shares your concern about the use of websites, which almost legitimise the practices. I am sure that it will be welcome if the inquiry focuses on that and unearths some issues in more detail.

**Hugh O'Donnell (Central Scotland) (LD):** Is the commission confident that its inquiry will not be reinventing the wheel, in the light of the work that this committee is carrying out? Given public finance constraints, is the inquiry the best use of your resources, particularly given that, based on

what you have said, it almost duplicates the committee's work?

**Graham O'Neill:** I am as confident about that as I can be in the early stages of the inquiry. As I said, part of the purpose of an inquiry is to consider an issue in depth and holistically. The terms of reference go some way towards that, although obviously, the test will be whether we meet the terms of reference. Those terms reflect what I call the four Ps—the four international human rights obligations against trafficking—which are to prevent trafficking, to prohibit it, to prosecute traffickers and to protect the victims of trafficking. The terms of reference reflect that perspective.

10:15

We will be looking in depth and holistically at issues around trafficking. One of the most important things for us in the inquiry is to locate human trafficking where we think it is in reality, which is in inequality and human rights violation. Inequality is a prerequisite for human trafficking. I have three comments to make in that regard. First, the vulnerability of victims of trafficking enables traffickers to coerce, deceive, take advantage of and abuse them. Secondly, vulnerability is characterised by inequalities, in particular gender, child and racial inequality and, underpinning it all, material inequality. Thirdly, there are issues around inequalities in so-called destination states such as Scotland. We think that inequalities in Scotland can influence and drive, to an extent, the demand for exploitative labour and services that are met in part by trafficking. Inequality is at the heart of the analysis of human trafficking. In addition, as I said, human trafficking is always a violation of human rights. Often, organised crime is involved and at times, the issue of migration is—

**Hugh O'Donnell:** That is all very useful, but it does not address the question: in what way is your inquiry not simply a reinvention of the wheel? Given the tack that this committee has taken, what is different in the approach that you are taking? I ask you to be concise.

**Graham O'Neill:** We hope that the main difference will be that our approach will locate human trafficking in the context of inequality and human rights. The difference will depend on what the committee finds. For example, it is important to look at issues around human trafficking and other areas—be they organised crime or migration. That said, we want to place human trafficking absolutely within the context of inequality and human rights. Taking such a genuinely human rights based approach to trafficking is an important step forward.

**Hugh O'Donnell:** In what way does the work of this committee not reflect issues of inequality?

**Graham O'Neill:** No, no—

**Hugh O'Donnell:** That seems to be what you are suggesting.

**Graham O'Neill:** That is absolutely not what we are suggesting. There is a complementary relationship between the work that the Equal Opportunities Committee is doing and our work. We hope that some of the stuff that we are feeding in will help in that regard. When the committee reports—which I understand will be later this year—we anticipate that we will learn a lot from the points that you will raise.

When I spoke earlier about our inquiry, I omitted to mention timescales. We hope to report our findings early to spring next year. We are mindful that some of what we find—and potentially some of what we recommend—will be based in part on some of the learning that we have picked up from the work of this committee. In some of our evidence gathering, we are mindful that we should not burden people—for want of a better way of putting it—by asking them some of the same very valuable questions that the committee has already asked. We will try to ensure that we do not do that—including in the call for evidence that we plan for the autumn. I will try to put it concisely: there is a complementary relationship between the two inquiries.

**Hugh O'Donnell:** Thank you for your forbearance, convener.

**Elaine Smith (Coatbridge and Chryston) (Lab):** My question is on a term that Graham O'Neill used—"the sex industry"—which I was concerned to hear earlier this morning in media reports of the meeting in relation to women who are brought into the country. The term is a harmful distortion of the language that should be used to reflect the subject under discussion. Is the term in more common usage these days? I believe that it emanates from the massive money-making organisation that is the so-called sex industry in an attempt to make things such as trafficking, prostitution and pornography more palatable.

**Graham O'Neill:** In conducting its inquiry, the commission consciously used the term "commercial sexual exploitation" as opposed to "sex industry" mainly because we felt that using the term "sex industry" might not enable us to examine the nature of the exploitation that is often suffered by persons in various aspects of the sex industry. We felt that it was important to start from the premise of looking for exploitation in the different areas, be it lap-dancing clubs, mail-order brides or indoor prostitution.

We also wanted to ask ourselves about choice for those who are in what some people refer to as the sex industry and we refer to more as commercial sexual exploitation. We wanted to consider the actual circumstances of people who are in prostitution. Are there issues with addiction to alcohol or drugs or with certain control techniques being used against prostitutes in Scotland who are from overseas? We also wanted to consider whether those circumstances can enable one to say meaningfully whether a person's involvement in what some call the sex industry has, in some way, been chosen. We want to examine critically some of the distinctions around choice and decisions in relation to persons being involved in the sex industry.

**Elaine Smith:** Yes—but I am asking whether there is a worrying increase in the use of the term "sex industry" to distort the picture.

**Graham O'Neill:** When I answered the question about why the inquiry focused on sex trafficking, I said that we are concerned about the normalisation of some of the activities within the sex industry. We will examine that because, if a lot of what goes on within what some people call the sex industry is exploitative, it is problematic—to say the least—that that is being normalised.

**The Convener:** John Watson will be relieved to know that Marlyn Glen has a question for him.

**Marlyn Glen (North East Scotland) (Lab):** I am sure that it will be useful that so much attention is being focused on human trafficking from different areas. I am impressed by the width of the inquiry that the EHRC is doing and will, like all the committee members, keep a close eye on it.

The committee understands that Amnesty International's report on the framework that has been set up to identify and support victims of trafficking is due to be launched tomorrow. What will be the main conclusions of the report? How well is the Scottish Government meeting its obligations under the Council of Europe convention on action against trafficking in human beings?

**John Watson (Amnesty International):** Thank you and good morning. I, too, am happy to be here. I am particularly happy because, although our report is being launched tomorrow, I have special dispensation to talk about it today, so I do not need merely to tease but can give you the details that I have.

We are part of a conglomeration of nine organisations—including the TARA service that Ann Hamilton manages—that has done a year's research into how the United Kingdom Government and various devolved bodies have delivered on the European convention against trafficking, about which I am sure you have heard



a lot in previous evidence-taking sessions. That research has involved a great number of freedom of information requests, a great number of parliamentary questions and a review of 390 individual cases. The report runs to a massive 167 pages of fairly dense text; at a seminar tomorrow, we will launch an eight-page summary.

The strength of the report is that it gives us new information. It gives us some information about the scale of trafficking in reporting the extent to which it has been brought to the authorities' attention. It also gives us valuable information about the kinds of trafficking that are being raised with the authorities and the areas from which the trafficked people come, as well as some information about who those people are and what happens to them when they are in the system. It gives us a lot of information that we will be glad to feed into the committee's inquiry.

The weak point for the inquiry is that we found it difficult to get specifically Scottish information. We have UK-wide figures for people who have been through the national referral mechanism. We went back to the UK human trafficking centre and asked it for specifically Scottish figures, but it had become part of the Serious Organised Crime Agency in the intervening period and was therefore exempt from freedom of information inquiries and so declined to give us that information. We will follow up the matter—the committee might also want to do so—but I have only UK-wide figures at the moment.

I know from discussions with Ann Hamilton and other practitioners in Scotland that they are certainly happy to sign up to the picture that we are presenting as being valid in Scotland: if Ann Hamilton were here, she would say that she believes that the conclusions that we have drawn are valid in Scotland as well. It would be ideal if we could get Scottish figures at some stage in the future, although our general conclusions are robust.

Our overall impression, which is given in the press release that is being sent out, perhaps as I speak, is that the national referral mechanism is not fit for purpose. It is not working as an effective means of identifying and providing support to potential victims of trafficking in the UK. I will give a few of the headline reasons why we think that. First, I will deal with the different outcomes for different kinds of people who go through the national referral mechanism. I assume that I do not need to explain what that mechanism is and that members have heard about it from other witnesses.

**The Convener:** It is always good to get things on the record, if you do not mind.

**John Watson:** Okay. The national referral mechanism is the process by which people who are considered to be potential victims of trafficking are brought into the system and given a more thorough review to determine whether or not they are a victim of trafficking. The various first responders—the bodies that come into contact with people—can say that they have concerns about an individual who they believe may be a victim of trafficking. Those bodies include the police, local authorities, children's services, TARA and the UK Border Agency, for example. The body will fill in a form, which will be sent to the UK human trafficking centre. If the individual has leave to remain in the UK, the centre will consider their case, and determine whether the person is a trafficked person. If they are deemed to be a trafficked person, they will come under the terms of the Council of Europe convention on action against trafficking in human beings and will be eligible for a certain level of support and to remain in the UK. If they are not eligible to remain in the UK—if they are from China or Nigeria, for example, and are here without a visa—they will be sent to the UK Border Agency, which will determine whether they are a trafficked person. If they are a trafficked person, they will be eligible for support and a 45-day period of leave in which they can gather themselves and decide whether they want to support any prosecution of their trafficker before they consider what they will do next. They can apply for asylum or to be repatriated. If they are deemed not to be a trafficked person, they must immediately decide what to do next. They can apply for asylum or they will be repatriated.

So far, so good. Our first concern about the system is that it is overcentralised. Only two bodies make decisions about very vulnerable people. We have particular concerns about the UK Border Agency's role in the system. If somebody comes to its attention because they are considered to be here illegally, for example, an individual at that agency will decide whether to put that person into the national referral mechanism. The individuals are generally not that well trained in those matters, but they decide whether there are indications of trafficking. That same individual can then be the one who decides whether the indications are valid and the person will be accepted as being a victim of trafficking. The process takes place without a right of appeal. The process is centralised and there is insufficient external scope; it is too focused on a single individual's opinion of the case.

10:30

We have other concerns about the system, given the outcomes that it has produced. During the first nine months in which the national referral mechanism was in place, 527 cases were

referred. Of the people who were UK citizens or had leave to remain in the UK, 76 per cent were positively identified as victims of trafficking. Of those who were European Union nationals, only 29 per cent were accepted as being victims of trafficking; it was determined that the rest were not victims of trafficking. For non-EU nationals, the rate was just 12 per cent. There is a huge range of outcomes of determinations, depending on whether people are UK nationals, EU nationals or citizens of the rest of the world.

The concern is, therefore, whether issues to do with immigration and asylum are dominating the process whereby it is determined that people are victims of trafficking. We cannot say for certain that those issues are dominating the process, but the concern is there and the issue must be looked into much more thoroughly. In particular, the UKBA is much more reluctant than the UK human trafficking centre is to determine that someone has been trafficked. Is that because foreign nationals are more likely to be sent to the national referral mechanism? Are first responders more sensitive if they are talking to someone from Nigeria, Thailand or China? It is hard to say, but I think that most of those people are initially referred by the UK Border Agency and I would not imagine that the UKBA is overly sensitive in that regard. If the UK Border Agency is putting people up for referral and then rejecting them, something needs further examination. We need to open up the process.

We are also concerned about the lack of support for unaccompanied children who are found to be potential victims of trafficking—

**The Convener:** May I interrupt you before you move away from the national referral mechanism? Although there was some comment on the NRM in the written submission that we received from the service that manages TARA, the key point seemed to be that there is “mixed awareness” on the part of people who provide advice to potential victims of trafficking who present to them. TARA was referring, for example, to people in non-governmental organisations and to solicitors who give advice on immigration. Before we attack the whole system, is there a general issue to do with awareness raising?

**John Watson:** Yes, there is. These are still fairly early days for the national referral mechanism and, more generally, in relation to awareness raising about trafficking and people’s understanding of the situation of trafficked people and the signs that can indicate whether someone has been trafficked.

We reviewed 390 cases as part of our research and interviewed a wide range of service providers, first responders and other bodies. The general conclusion is that there is still quite a long way to go to do the basic groundwork that will ensure that

people who come into contact with potential victims of trafficking know what to look for and where to send people if the warning signs are there.

We found that Strathclyde Police are doing well and have gone a long way down the route of having an understanding and having systems in place. The force is very much part of the underpinning of the TARA project and has made an effort to have somewhere to take potential victims of trafficking. However, outside Strathclyde there is not the same level of awareness. There is much work to do to embed an understanding of trafficking and what people should do when they find a potential victim of trafficking.

**Christina McKelvie (Central Scotland) (SNP):**

I have a page of notes on the national referral mechanism, which concerns me greatly. The committee heard in evidence that people who have been referred to the NRM and have subsequently applied for asylum have received determinations on both matters—made by the same person in the UKBA—in the same envelope. One of the things that I hope you can clear up is whether it is correct that a person must self-identify for the national referral mechanism. Do they have to say that they have been trafficked?

**John Watson:** They have to agree to the referral happening. In fact, we identify in our report over 100 other people who were identified by first responders as potential victims of trafficking who did not want to go down the national referral mechanism route.

**Christina McKelvie:** That is what I want to get to: the reasons why someone would not want to identify themselves. It could be because of fear of organised crime. Can you elaborate a bit on that?

**John Watson:** It is partly the well-known story of traffickers manipulating and controlling their victims by telling them that terrible things will happen to them if the UK authorities get hold of them. There is generally a fear of getting involved in the official system. It is a well-founded fear, because often the people involved have not had good experiences of the authorities and that is reinforced as a means of controlling them.

Individuals will have different levels of knowledge, but if we are concerned about the UK Border Agency having a tendency to reject claims, other people will be, too. There is a general mistrust of the system. My understanding is that many of the people who said that they did not want to go through the national referral mechanism just did not see how it would benefit them. The people who would be using the system have no confidence in it.

**Christina McKelvie:** Yes. Those people are being hit by a double whammy. They are terrified

of the person, or organisation, who trafficked them into the country and terrified of engaging with the system that should support them.

I am interested in people who are in the asylum system and who are often also detained. Detention is sometimes a safety net for them because it is a safe environment away from the trafficking person. Do you know of any attempts by the UKBA to identify trafficked people who are already in the system, particularly in detention centres?

**John Watson:** I do not know the detail of how the UK Border Agency identifies people who are potential victims of trafficking. I know that the UK Border Agency is the primary first responder, in that most people who come to the national referral mechanism come from the UK Border Agency. There is obviously some mechanism whereby, when the UK Border Agency staff interview people for asylum claims or whatever, they look out for signs that people have been trafficked. I do not know specifically what those procedures are, but concerns are expressed in our report about the level of training and awareness that those staff have.

**Christina McKelvie:** One of my colleagues will discuss training later. I have a final question about the national referral mechanism's 40-day reflection period in which somebody can think about what they want to do. Do you think that that is long enough? You probably get a longer cooling-off period if you buy double glazing. We have had evidence that 42 days is quite short. Do you have an opinion on that?

**John Watson:** It is quite a short period. The Council of Europe, which is the body that set up the European convention on trafficking, recommended a period of 90 days. Certainly, there is research in a report called "Stolen smiles: a summary report on the physical and psychological health consequences of women and adolescents trafficked in Europe" by one of the colleges in London that suggests that it takes about 90 days for people to recover sufficiently from their trauma to start to be able to make coherent decisions about their lives again. I think that the convention sets out a minimum requirement of 30 days, so the 40 days is obviously more than that. I guess that we have to be glad of that, but it would be better if it was more than 45 days. Certainly, the research suggests that that is not enough.

**The Convener:** To be clear, is the reflection period 45 days?

**John Watson:** It is 45 days at the moment.

**The Convener:** Yes, and the minimum is 30.

**Hugh O'Donnell:** I have some understanding of how difficult it is to gather reliable information on the subject matter, given its nature. You made a couple of assertions about training, about which one of my colleagues will ask further questions. However, in light of your concerns, have you had any engagement with the UKBA's inspector and, if so, what reaction have you had from them? If you have not engaged with the inspector, how will you begin to engage in the process of talking to them about your concerns?

**John Watson:** I know that there has been engagement with the UKBA, but I do not know the detail of that. It involves research that my colleagues carried out.

**Hugh O'Donnell:** Just to be clear, the UKBA and the inspector of the UKBA are two separate bodies, so it is not the UKBA itself in which I am interested, but the supervising inspectorate that monitors behaviour and the application of the legislation.

**John Watson:** Then we are into territory that I do not know about. However, if there are specific questions about the research that I cannot answer, I can find out and send something in writing to the committee. I would be happy to find out from the researchers what contact they have had with the UKBA and send that information to you.

**The Convener:** That would be helpful.

**John Watson:** What I can say is that one of the primary calls that we make on the back of our report is to have an independent watchdog along the lines of the body that was set up to oversee the system in the Netherlands. We need independent scrutiny of how things are done. If there is an inspector of the UKBA, they should cover part of that. However, there is a real lack of analysis and monitoring in the system, which is why we undertook our recent research. There is an urgent need for a way of making people accountable for how the system runs and for the decisions that are made on individual cases. For example, there could be an appeal system, but it would need to be set up so that an independent watchdog oversaw it.

**The Convener:** I want members to go back to the original line of questioning. I allowed quite a lot of latitude in the first two questions to set the scene, but I hope that members can be a bit more concise from now on.

**Marlyn Glen:** We obviously have a deep interest in the subject.

I will return to the matter that I asked about earlier. Are there specific conclusions in Amnesty International's report about how well the Scottish Government is meeting its obligations under the convention?

**John Watson:** There are no specific lines in the report that say that the Scottish Government must do this or that, but the Scottish Government is included in several of the recommendations. As I said, our message is valid UK-wide in that regard. We find that more work needs to be done to ensure that there is a basic level of understanding among service providers and first responders so that they can see indications of somebody having been trafficked. We need a certain level of support provision so that people can access translators and health care, if needed. We need a certain standard across Scotland and the rest of the UK, but it is not there at the moment.

We have concerns about the continuing prosecution of victims of trafficking for crimes that were committed as part of their trafficking experience. We highlight examples of that in the report. For example, many cannabis farms are being found, which generally involve small-scale cultivation in private houses. There seems to be a real connection with trafficked people being brought to this country and forced to staff such farms. It seems that there is a reluctance among the police to allow people who have been caught growing cannabis to avoid prosecution. The European convention on action against trafficking in human beings states clearly that people who commit a crime as part of the trafficking experience—for example, being forced to grow cannabis or having fake documentation—should not be prosecuted for that. However, from the cases that we have looked at, it is clear that that still happens across the UK. In England and Wales, the Crown Office has produced guidance for police forces that states clearly that trafficked people should not be prosecuted, but we do not have the same guidance in Scotland. A few years ago, we engaged on the matter with the Lord Advocate, who said that she would look into what could be done in Scotland as an equivalent measure, but I am not aware that that has happened. We need something a bit more robust to ensure that victims of trafficking are not prosecuted in that way.

**Marlyn Glen:** The committee can follow that up.

**John Watson:** Yes. The report has a clear analysis of that matter.

I would particularly like to see further study of why there have been no prosecutions for trafficking offences in Scotland, although there have been well over 100 in England and Wales. I know that the committee had somebody here from the Association of Chief Police Officers in Scotland who said that they did not know why that was the case. I have no explanation for it. Somebody must look into that and visit police forces in England and Wales and see what they do differently. That question has been around for some years, but it

has still not been answered. We need a specific effort to answer that question and see what can be done.

10:45

**Malcolm Chisholm (Edinburgh North and Leith) (Lab):** My question is on the definition of trafficking and the extent to which the Palermo protocol—the United Nations “Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations convention against transnational organized crime”—definition is appropriate and workable.

Deputy Chief Constable Meldrum from ACPOS raised that issue in a previous evidence session; I will summarise his fairly lengthy statement. He broke down the protocol definition by stating:

“First, there is the act, or what is done. Is it ‘recruitment, transportation, transfer, harbouring or receipt of persons’?”

He said that the definition goes on to cover

“the purpose, or why it is done”

and how it is done, whether it is through the use of force or other methods.

He concluded by stating:

“The act, plus the means, plus the purpose, equals trafficking, but it is a fairly complex landscape, especially for front-line service deliverers, who are under pressure doing a hundred other things. If a person presents to them, they must ask whether what they hear equates to all of the above. If I were still out there on the streets, I would be going back to the books to remind myself of the definition to work out whether it constituted trafficking.”—[*Official Report, Equal Opportunities Committee*, 4 May 2010; c 1658.]

To what extent does the definition pose a problem in identifying people who are being trafficked? Is Deputy Chief Constable Meldrum overstating the problem?

**Graham O'Neill:** We think that the definitions of human trafficking in the Palermo protocol and in the Council of Europe convention are long and comprehensive, but clear.

We prefer the Council of Europe definition, for two reasons. First, it gives primacy to victims of human trafficking, particularly in chapter III, which sets out the rights of victims with regard to issues such as protection. Secondly, we prefer its scope; whereas the Palermo protocol applies to trafficking that is transnational in character and related in some way to organised crime, the Council of Europe definition applies to all forms of trafficking. That is an important feature of a definition from which everybody is working.

As John Watson said, the Council of Europe convention is currently driving practice. We agree with Deputy Chief Constable Meldrum on the

components of the Palermo protocol definition—the act of trafficking, and the means and the purpose of exploitation—and we note the breadth of the control techniques that are used to define the different areas, such as coercion, deception and abuse of vulnerability.

It is important in working with definitions of trafficking that training is based not just on the books but on real-life experiences. We have spoken with experts in the field, and they have impressed on us that we must consider what the person is saying and their description of their experiences as well as looking at their wider circumstances. That is one thing that the definition of trafficking requires one to do.

It is difficult—as police and others have impressed on us—to disentangle coercion, deception and abuse of vulnerability. On the one hand one is listening to what the suspected victim is saying, and on the other hand one is looking at the wider circumstances in which the victim finds themselves. To that end, we recommend the International Labour Organization's work with the EU from 2009, which sets out the indicators of human trafficking and some of the control techniques that are common across different trafficking purposes. That would need to be part of any awareness raising and training work with service providers and others.

Therefore, we would recommend the use of the Council of Europe definition, especially from an equality and human rights perspective. As always in such matters, how that definition is then interpreted is also important, but we believe that the material that has been produced by the International Labour Organization and the European Commission is helpful in providing a set of things that people should look for when dealing with persons who may have been trafficked.

**John Watson:** I certainly sympathise with any officer who has to grapple with the complexities of the Palermo definition while remembering a thousand and one other points of law. However, police officers should not need to decide on the detail of whether or not someone has been trafficked. Rather, they should have a certain basic level of awareness and know what to do when they come across someone who may have been trafficked and how to send that person on to someone with a more detailed understanding. If officers can understand the basic idea that someone who has been trafficked has been recruited, is under coercion and is being exploited, and if officers know what to do when they come across those indications of trafficking, that is all that should be required of them. We should not burden officers with any more than that. The detail of the exact definitions can then be left to the people who make the final decisions.

However, we have an additional concern at that end, in that certainly our evidence suggests that the people who make those final determinations on whether someone is an accepted victim of trafficking are using very strict definitions that stick to the absolute wording of the convention, rather than considering the broader sense of whether the person has been trafficked. In fact, we called our research report “Wrong kind of victim?” because we found numerous examples of people who were clearly accepted as victims of trafficking but were rejected for the support because they did not meet the tight definitions that are set out in the European convention. For example, someone was told, “Yes, clearly you were trafficked and that was a traumatic experience, but you were not a trafficked person when we came into contact with you, so we will not give you the support that you would otherwise be eligible for.” We need flexibility at that end as well. Too literal a use of the exact definitions can result in support being refused to people who are clearly victims of trafficking within the sense of the convention.

**Malcolm Chisholm:** If some people are being missed because of the definition, does that mean that the definition needs to be revised, or does it really mean that people need to be more flexible in their interpretation of it?

**John Watson:** At that level, people need to be flexible and look at the spirit of the convention. The difficulty is whether those who make the decisions should look for ways to reject people or look out for the benefit of the individual concerned. If we have a victim-centred approach in which people think about what the best outcome would be for the person whom they are supposed to help, I think that we would see a certain flexibility in the definition. I am not convinced that that is happening at the moment. That is why we need some external scrutiny.

**The Convener:** The issue raises a very important point. I submit that Gordon Meldrum's evidence was that an increased general awareness and understanding of the nature of trafficking is needed, not just from the police but among the general public. Without needing to undertake a legalistic or academic study of the minutiae of what constitutes trafficking, people need some recognition of what is involved in the act, the means and the purpose in a general way. Perhaps if more people were aware of trafficking, more people would consider reporting incidents to the police and referring them to the authorities, which would make things more difficult for the traffickers. That is what I think, although I take on board those points about the nitty-gritty of how those who are in a position to do so decide on whether someone is a victim of trafficking. Clearly, there will be legal arguments and issues about

whether people should adopt flexibility or look only at the letter of the law.

However, unless any other pressing points need to be made, we must move on to our next question, which will be from Hugh O'Donnell.

**Hugh O'Donnell:** From today's evidence session, and from previous ones, we have a fairly firm understanding that the statistics, or numbers, are a major challenge. For example, I notice that paragraphs 7, 8 and 9 of Graham O'Neill's written submission make clear observations, which are summarised to some extent in paragraph 10, on the quality and variability of data gathering by local authorities, health boards and so on.

Given what you said, and the general consensus that firm evidence is hard to come by, should there be a single evidence base for such statistics? If so, who should be responsible for holding it? If my understanding of the EHRC's role is correct, there is an enforcement element to it, so what steps has the EHRC taken in relation to the third-party reporting that has been cited, such as Audit Scotland's reports? Given that the EHRC has the power to take action in that respect, what has it done? Paragraph 10 tellingly summarises the position. I quote part of it:

"The reality is that we simply do not know who is resident in Scotland at any one time as there is no central repository for monitoring the flows of migrants to and from Scotland. ... We understand that this is a resource-intensive exercise ... in the absence of collation by a central authority it must fall to public authorities".

What engagement has the EHRC had with public authorities to ensure that they are carrying out their duty? Stop the Traffik has suggested that community groups of the various nationalities should establish databases in their areas to try to map and establish where there are indicators of trafficking. Can you comment on that?

**Graham O'Neill:** I will do my best. You pose very good points and questions. The suggestion in our submission about the need for an evidence base was made in relation to issues around migration and how public authorities could use their race equality duties, soon to be part of the new equality duty, as a mechanism for improving some of their work on data collection and analysis of a range of things—in this case, the needs of migrant communities within Scotland. We work very closely with a number of organisations, including Audit Scotland, to see how data collection and analysis can be improved, given that it is essential for starting to understand needs better across newer migrant communities. We suspect that people may be being trafficked within newer migrant communities. We think that it would be useful to have wider data collection from new communities who have migrated and to try to build

in questions to help the analysis of whether there is trafficking within some of the communities.

As you said, we have enforcement powers. It is fair to say that, as far as we can at the moment, we are keen to work collaboratively with organisations such as Audit Scotland to improve and share data collection and analysis. Of course, if we feel that, in general, public authorities are not adequately performing their various gender and disability duties, we will always have the option of taking enforcement action. At this point, we have not done that in relation to data collection and analysis, but that is not to say that that will not happen in the future. We have had the race equality duty for quite a long time now and, to a slightly lesser extent, the gender and disability equality duties. We also have the equality duty coming into effect later on this year.

On the point that I think was made by Simon Chorley from Stop the Traffik at a previous evidence session, we think that the role of community organisations is very important in at least two ways, the first of which is just raising awareness of trafficking among groups so that they can be the local eyes and ears who can spot indicators of trafficking in their localities. They can also be a source of local evidence on the picture for newer migrant communities in different parts of Scotland.

11:00

There is a question about who is responsible for that. Part of the underlying rationale for having equality duties is that organisations themselves should take responsibility for doing certain things, including data collection and analysis among the people they serve. That is appropriate, as it is those organisations that are expert in their areas, rather than a central institution such as ourselves in the Equality and Human Rights Commission—although we have a very important role in monitoring whether the duties are being met or not.

It is important to improve the work that is being done to ensure that the estimates that are made at any one time of the numbers of victims of trafficking are robust. The systems for making those estimates must themselves be robust—and they rely on good relationships with a whole spread of community organisations across Scotland.

I see an overlap between some of the things that we will be considering in our inquiry—improving knowledge and the robustness of the estimates around trafficking—and some of the work that Stop the Traffik is doing, which Simon Chorley described when he spoke to the committee.

I could go on to say more about our thoughts on the scale of trafficking, if that would be helpful.

**Hugh O'Donnell:** I would like to hear from John Watson, if he has any thoughts on the matter.

**John Watson:** Yes. We do not have good systems at the moment for compiling and collating information in this area. We had to work hard with freedom of information requests and parliamentary questions in order to compile the report that we will launch tomorrow, and that has been indicative of how hard it is to get hold of what information does exist. We would like protocols to be developed for information sharing between different agencies.

In particular, there needs to be a Scottish angle. In the course of our research we found that, among the various UK bodies, such as the UK human trafficking centre, there is not a good understanding of how things are different in Scotland, with different legislation, police forces and local authority structures. We need a different way of collecting the information in Scotland, and the differences are not well understood at the moment among the bodies concerned. We need work to be done on that.

**Hugh O'Donnell:** What engagement has each of your organisations had with the Gangmasters Licensing Authority? In areas where trafficking, in its broadest sense, is a potential matter of interest, how does the work that both your organisations are doing tie in with the work that Ian Japp's organisation is doing in Scotland? How does that contribute to the your approach? What useful data have been obtained from that organisation?

**John Watson:** I do not know the detail off the top of my head. I believe that the Gangmasters Licensing Authority was one of the bodies that was spoken to as part of our research, but I do not know what came out of that. I could go away and ask and provide an answer in writing.

**Hugh O'Donnell:** Thank you.

**Graham O'Neill:** As you would hope and expect, we have had some conversations with the Gangmasters Licensing Authority. We will be deepening those conversations as our inquiry proceeds. That will be important. We do not want our inquiry just to be about trafficking issues in isolation from the related issues of people smuggling and wider forms of exploitation of migrant workers, be that in employment or housing.

Our focus will be on trafficking of course, but we have heard from various organisations and individuals that it is sometimes not possible in real life to make the fine distinction between the experience of trafficking and the experience of people smuggling. There is an overlap, which the

Scottish Refugee Council particularly emphasised when we spoke with its representatives last year. That is in our minds, and it will be important to discuss that with the Gangmasters Licensing Authority.

**Elaine Smith:** On the trafficking of children, which John Watson briefly referred to, and the issue of gathering more information, the Convention of Scottish Local Authorities told the committee that it was involved in the development of a national child trafficking toolkit that provides

"ways of identifying trafficked children."—[*Official Report, Equal Opportunities Committee*, 4 May 2010; c 1652.]

Are you aware of that toolkit? If so, what are your views on it?

**John Watson:** We are certainly aware of it. I think that it will be very useful, because we need the people in child protection committees around the country to have a good understanding of what to look out for, what is at stake and, indeed, what to do. In that respect, the toolkit is a good start.

On top of that, however, we need a better system for dealing with trafficked children. The European convention against trafficking defines a child as anyone under 18; our concern is that although we have very well-developed children's services and child protection systems in this country, we do not use them. Instead, children who are thought to have been trafficked are sent with everyone else into the national referral mechanism, which is not set up to cater for their needs. Given that we already have very well-developed systems, I think that it is a mistake to send children off into the adult system when they should really be dealt with by child protection systems.

**Elaine Smith:** Will the toolkit help in that respect?

**John Watson:** Yes, in that it will give first responders an understanding of the situation. I hope, too, that it will provide some advice to the people at the UKHTC and the UK Border Agency who assess these cases. The problem is that you will still be training up non-specialists when we already have lots and lots of specialists who know what they are doing. Although the toolkit will make the current system better, we would prefer the existing specialisms to be used.

**Graham O'Neill:** I concur with those remarks. I have looked at—and welcome—the toolkit. Although we will examine child trafficking issues in our inquiry, we are aware that Scotland's Commissioner for Children and Young People is also about to start some really good work on that very issue. We very much welcome that; indeed, we will try to learn from some of that work to ensure that we do not duplicate anything.

Child trafficking is a critical issue. I have seen various statistics on trafficking for sexual exploitation, one of which suggested that the average age of a victim was about 14. I cannot speak for the credibility of that statistic, but it shocked me and illustrated the harsh reality of sexual exploitation—that it is girls and boys, too, who suffer this horrendous abuse.

**John Watson:** According to new information that we have received, a third of the individuals who have gone into the national referral mechanism as potential victims of trafficking are children. That will be in the information that we will send on to you after tomorrow's launch.

**The Convener:** That will be helpful.

**Christina McKelvie:** Do you consider sexual exploitation to be the primary rationale behind human trafficking? A lot of the evidence that we have heard—and we have taken a lot of evidence both this morning and from previous panels—suggests that there are other motives, including domestic servitude and forced labour.

**Graham O'Neill:** We do not know whether commercial sexual exploitation is the main driver in trafficking, but the likelihood is that demand for such exploitation is a very important element in the various levels and forms of sex trafficking. That that is a fact across the globe is reflected in the main international instruments against human trafficking.

We made observations earlier on why we are focusing on sex trafficking, and we want to look more into how important commercial sexual exploitation is to the levels and forms of sex trafficking. If it is a growing and increasingly hidden and normalised issue, those are all warning signs that such exploitation will, if anything, increase rather than decrease. Therefore, as I said earlier, we want in the inquiry to look into what is going on in the world of indoor prostitution.

To answer the question, we suspect strongly that sexual exploitation will be found to be an important driver. In our work in general, and specifically in relation to the causes of trafficking, it will be one thing that we look at in particular.

**John Watson:** We have some figures on the issue as we have been able to analyse the national referral mechanism. Of the 527 people who were referred in the first nine months, 37 per cent were referred as potentially trafficked for sexual exploitation, 33 per cent for forced labour and about 30 per cent for domestic servitude, for another cause or for a non-known or not-stated cause. Clearly, there is a lot of emphasis on sexual exploitation, but forced labour is just as big a driver in people trafficking.

Obviously, there will be errors in those percentages. For example, we cannot assume that indications of sexual exploitation or forced labour are treated in the same way. I imagine that, because there is much more of an emphasis on sexual exploitation, people will be more aware of it and will look for it more, so we might be underrepresenting forced labour in those figures. However, we can take them as ballpark figures.

**Christina McKelvie:** In some of the evidence that we have had, it seems that bringing in people for forced labour and servitude is a huge industry compared with bringing in people for the sex trade. An obvious concern is that there is perhaps an invisible number that we are not picking up.

There are also concerns looking to the future. We have the international children's games in Lanarkshire next year, and there will also be the Commonwealth and Olympic games and a few other big sporting events. During some such events, there can be a recorded rise in the demand for people to be trafficked for sexual exploitation. What work are you doing with relevant organisations in preparing for those events and in identifying the issues more clearly?

Finally, three men who were recently picked up in Scotland had been trafficked in for the sex trade. That is the first such case in Scotland that we have found out about. Will you give us some thoughts about that, too?

**Graham O'Neill:** In preparation for the Olympic games in 2012, the commission has been working with stakeholders in London, including organisations such as the Metropolitan Police and the Helen Bamber Foundation—essentially, a diverse range of bodies that have responsibilities and/or expertise. There is concern that the Olympics may be a magnet for forms of trafficking, including forms of sex trafficking.

I have linked into that process to ensure that we learn from some of that work and expertise, so the issue is certainly on our radar. In the inquiry, we will also work with partners in Scotland—the Scottish Government, the trafficking awareness raising alliance, Glasgow City Council and so on—in preparation for the Commonwealth games. Work has already started—it has been referred to in submissions. We will keep a close eye on it, and we will feed some of the evidence from our inquiry into it to try to lessen the risk of higher levels of trafficking connected to the Commonwealth games.

**John Watson:** We have not done any work that is linked to particular events.

**Christina McKelvie:** Finally, there are other forms of illegality. We have heard of a few this morning, and some tend to be supported by the use of people who are trafficked. A lot of them



have links to serious organised crime as well. How do you see those issues developing? Are we not picking up the market element of big organisations that use people in an exploitative manner?

11:15

**Graham O'Neill:** Arguably, the desire for power and profit of those who are involved in organised crime is now one of the biggest causes of human trafficking. As I said, we will look at the causes in our inquiry, and that is one that we will consider.

It is important for all the stakeholders to work closely together to find out more about the world of organised crime. As we state in our submission, we need to do three things if we are to understand the nature of human trafficking. First, we need to learn more about the situations, vulnerabilities and experiences of trafficking victims. Secondly, we need to look at the situation, the motivations and the practices of organised crime networks. In our inquiry, we will link closely with organisations such as the Scottish Crime and Drug Enforcement Agency to try to increase awareness of the practices of organised crime groups. The baseline that was established by the Scottish serious organised crime group mapping project that was done last summer is vital. That is a rolling piece of work rather than a one-off, and we will certainly try to feed some of our evidence into that as well as learning from it. Trafficking is an underacknowledged issue, and we need to try to find out more about what is going on in the practices of the organised crime groups.

Thirdly, we need to learn from the organisations that work with the victims and try to act against the exploiters—the criminals. That means that there has to be some sort of de facto primacy of victim care organisations, such as the trafficking awareness raising alliance, as well as the police. Victims' experiences are vital in work against human trafficking.

**John Watson:** I do not have much to add. We welcome the fact that the police in Scotland are now tackling trafficking through the route of linking it to organised crime. Amnesty International first became involved in the issue of trafficking at the international level when research suggested that it is one of the big three illegal money makers in the world, along with arms and drugs. The international approach must therefore be central to breaking up the organisations that do it.

We must not forget the levels of profit that can be made from such a trade. Because of that, people will continue to do it for as long as they can. Although we need to place great importance on the identification and care of victims—much of our discussion has been about that—we need also to focus on prosecuting the perpetrators. I return

to my concern about why there have been no prosecutions in Scotland. For as long as that position continues, we are in danger of being seen as an easy touch.

**Bill Wilson:** You have covered quite a lot of the ground, but do you have any comments to add on the level and type of support that is available to victims of trafficking? Also, I am curious to know the extent to which there is a multi-agency approach. How well do the agencies communicate with each other and the voluntary bodies?

**John Watson:** The support is patchy. You are probably aware by now that the TARA project in Glasgow is well spoken of, as it provides a good level of support, but once we get outside Glasgow it is more difficult for people to access support. In theory, TARA is now a Scotland-wide project, but it is not resourced at a level that enables it to provide a high level of support to people throughout Scotland. We hear stories about people in Scotland who are identified as potential victims of trafficking and who have to go down to England to get support. That is not good enough.

We hear about other people who just disappear. I guess that a large part of the reason is that they are unable to access the right support early on. People who are identified as potential victims of trafficking might be scared of the police. With the best will in the world, there is not much that the police can do to prevent such people from being frightened of them. Unless victims are in touch early on with people whom they trust and are more at ease with, there is a high risk that they will leave and go back to their original captors, live on the streets, or who knows what? There is some good support and good practice, but it is patchy.

**Graham O'Neill:** On support, we echo the comments of John Watson and others. TARA does excellent work and strives, as far as resources allow, to provide an holistic service. That is vital.

John Watson talked about the need for us to improve the national referral mechanism. He made a point about overcentralisation and the need for more Scotland-led work. An aspect of that is the question whether we need more Scotland-based services across the different forms of human trafficking to deal with, for example, victims of forced labour as well as victims of sexual exploitation. As John Watson said, for most of its life TARA has been a Glasgow-based service, but it has now been expanded, which is very welcome. The question needs to be explored—we will explore it in our inquiry and I am sure that others will—whether we need more Scotland-based services across the different purposes for which persons are trafficked.

**Bill Kidd (Glasgow) (SNP):** A couple of times, mention has been made of the training that is available to front-line staff. We have also heard that immigration staff in the UK Border Agency are frequently reluctant to be sensitive or sympathetic to the rights and requirements of trafficked people, yet they are often the judge and jury in deciding whether someone can remain here. Glasgow Community and Safety Services, Strathclyde Police and TARA have developed good practice in dealing with trafficked women, in particular, and in bringing organised criminals to task while, at the same time, supporting the women who are the victims. Can the different agencies learn from each other? Could there be any cross-fertilisation of ideas and development of training programmes to help in the identification of victims of trafficking?

**John Watson:** As I have said before, on the basis of our research, one of the key things that we need is some kind of independent body to oversee the issue of human trafficking in the UK. Such a body would enable the sharing of good practice and could make available to the UKBA staff who make the decisions the knowledge that has been acquired by people such as the folk at TARA. It could also provide a driver for the UKBA staff to pay attention to the decisions that they make through the body having oversight of them. We have great concerns about the potential for immigration concerns to dominate the decisions that are made about whether people are designated as having been trafficked. As I mentioned earlier, there is a huge disparity between the outcomes for people who already have leave to remain in the UK and the outcomes for people who do not. Some process is going on there, which requires further study by somebody who is independent of the UKBA.

My worry is that we have people working at opposite ends of the spectrum. At one end, we have caseworkers at TARA and the Legal Services Agency and other people who are tuned in to the circumstances and scenarios that lie behind a lot of trafficking cases. At the other end, we have a very bureaucratic system in which individual officers with insufficient training make life-changing decisions without external scrutiny and without having to run those decisions by others who are in a position to question them. We need to bring those two groups together in some way, and the best way of doing that would be to have a system such as they have in the Netherlands, whereby a body has a power to get information from the different agencies that are involved, oversees the process and reports to Parliament.

**Graham O'Neill:** On the first part of your question, about how persons who may have been trafficked are treated in the asylum system, the concern has been raised with us—I know that it

has also been raised with the committee—that there are potential issues around one person making two decisions. The commission will look into that significant matter in our inquiry and will consider the appropriateness of that arrangement. Obviously, we will speak to the UKBA about the issue.

As far as multi-agency working is concerned, I defer to John Watson and the anti-trafficking monitoring that Amnesty has done and the evidence that it has gathered on what the position is on the national referral mechanism. However, we have looked into the issue and it has always struck us that the Council of Europe convention is very clear about the need for co-operation among a range of actors—state actors and civil society organisations. It is extremely important that civil society organisations are given a clear and persuasive voice within any co-operative structures that are established, such as the national referral mechanism, because victim care organisations, particularly those such as TARA, are attuned to the circumstances and the sensitive issues that trafficking victims face and to the gravity of their responsibility. Most important, they are motivated by the need to try to ensure good outcomes for the victim.

The experiences and the voices of those organisations need to be fed into the discussions with other organisations that, to an extent, work to different outcomes. For example, the police want to secure convictions. We think that, more often than not, good victim care practice is a prerequisite for securing successful prosecutions, so in that sense there is no tension. On the contrary, there will often be a close relationship between such organisations and the police, although, of course, as the Council of Europe convention says, co-operation on securing a prosecution should not be a precondition for the granting of a residence permit to someone who is a victim of trafficking.

**The Convener:** Briefly, please, Hugh.

**Hugh O'Donnell:** I apologise for commenting further.

I asked about the reliability of information. As in previous evidence, statements have been made to the effect that there is evidence to suggest that trafficking and prostitution increase when large events such as the Olympic games, the world cup or the Commonwealth games are held, but I have yet to hear anyone reference such evidence. It would be extremely helpful if the committee was provided with a specific reference for that information, because too much of the debate involves extrapolations from fairly small databases of information.

Finally, I want to express my concern about the BBC news website. I feel that it was irresponsible for such an established organisation to use for its piece on today's evidence session the headline "sex trade warning", given that the committee has discussed—usefully, I think—a wide range of issues and that, as we have heard, enforced labour and other activities that relate to trafficking are quite high on the agenda.

**The Convener:** I am sure that your point about the media will be taken on board. We have raised a variety of issues to do with media reporting. I have no doubt that the wide-ranging and comprehensive evidence that we have received from both witnesses today will not be lost on the media.

Thank you for your attendance. The committee looks forward to receiving the additional information that you have promised, to looking in more detail at Amnesty International's report on support for victims of trafficking, and to following the progress and reading the eventual findings of the EHRC's inquiry into trafficking.

11:29

*Meeting continued in private until 12:27.*



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