

- S40(2) + 38

From: Wilson, Julie (DOJ) <Julie.Wilson@justice-ni.x.gsi.gov.uk>
Sent: 21 June 2016 18:23
To: DOJ Minister's Office; - S40(2) + 38
Cc: Perry, Nick; Harbinson, Anthony; Pearson, Karen; Patterson, Amanda; Stephen - S40(2) + 38
Subject: Briefing - Lord Morrow meeting
Attachments: Briefing - Lord Morrow meeting.DOCX

Please see the attached briefing for the Minister's attention.

Thanks

Julie

- 540(2) + 38.

FROM:

**PROTECTION AND ORGANISED CRIME DIVISION
21 June 2016**

- 1. Julie Wilson [Agreed, JW; 21/06/16]
- 2. Claire Sugden

MEETING WITH LORD MORROW

Issue: You are meeting Lord Morrow on Monday 27 June at 11am to discuss human trafficking and This briefing covers human trafficking;

outside scope of Request.

Timing: Routine.

Presentational Issues: This is a private meeting; no issues anticipated at this stage.

FOI Implications: Elements of this submission may attract an exemption under FOI (free and frank provision of advice).

Financial Implications: N/A

Legal Implications: N/A

Shared Future Proofing: N/A

Legislative Implications: N/A

Justice Comm. Referral: N/A

Executive Referral: N/A

Recommendation You are invited to note the attached briefing for the meeting with Lord Morrow, as follows:

- Annex A: summary of the legislation;
- Annex B: National Referral Mechanism statistics for Northern Ireland;
- Annex C: NI trafficking and slavery cases;
- Annex D: Sex Workers Liaison Group; and
- Annex E: Lines to take.

Background

You have agreed to meet with Lord Morrow on at 11am Monday 27 June in your office at Parliament Buildings to discuss human trafficking. A pre-brief with officials has been arranged for 10.45 am. This submission provides briefing on human trafficking;]

- outside scope.

Julie Wilson, Head of Organised Crime Branch, will attend to provide support on issues relating to human trafficking and modern slavery.

Detail

Legislation

2. Lord Morrow was sponsor of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 ("the Act"), which received Royal Assent on 13 January 2015. DOJ worked closely with Lord Morrow to agree significant amendments and additional provisions that were introduced into the Bill during its Assembly passage. On most policy areas we were able to reach policy agreement with Lord Morrow, with the main exception being policy relating to criminalising the purchase of sexual services.

3. Lord Morrow is likely to ask about operation of the Act to date. Recent AOs suggest that he is particularly interested in the number of cases before the courts for the new offences and support for victims. Although most of the Act has been implemented Lord Morrow may enquire about the few provisions on which work is ongoing. As the Act only received Royal Assent in January 2015 it will take some time to assess its full effect. Further detailed briefing on the Act is attached at Annex A and Julie Wilson will also be on hand and can advise on any specific queries not already covered that might arise.

Strategy

4. The meeting also provides the opportunity to discuss the Human Trafficking and Exploitation Strategy, which we are required to publish on an annual basis, under section 12 of the Act. This was one of the provisions that Lord Morrow pressed for in the legislation; previously the Department had produced and worked to action plans.

5. We plan to launch a public consultation on our second annual strategy by the end of June.

535(4)(a).

5. Lord Morrow is likely to express an interest in enforcement action under section 15 of the Act, which criminalises the purchase of sexual services. We have provided some statistics on police action to date. Information and lines to take on the Sex Workers Liaison Group, on which sex workers representatives sit, are also provided.

Recommendation

6. You are invited to note the briefing for this meeting, as follows:

- Annex A: Legislative summary;
- Annex B: National Referral Mechanism statistics;
- Annex C: NI trafficking and slavery cases;
- Annex D: Sex Workers Liaison Group; and
- Annex E: Lines to take.

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Nick Perry
Anthony Harbinson
Karen Pearson
Amanda Patterson

- 540(2)+38

SUMMARY OF LEGISLATION

The Human Trafficking and Exploitation (Etc) Act (Northern Ireland) 2015

New slavery and human trafficking offences.

- The Act creates new offences of:
 - slavery, servitude and forced or compulsory labour; and
 - human trafficking (previously human trafficking and slavery offences were provided for under different legislative vehicles).
- Exploitation relevant to the human trafficking offence is also clarified under the legislation.
- The offences are triable on indictment only; they attract a minimum sentence of two years (unless there are exceptional circumstances); and they carry a maximum sentence of life imprisonment. The new offences are brought within the ambit of the public protection sentencing framework.
- The Act also created a new preparatory offence of committing an offence with the intention of committing a 'modern slavery' offence.
- The Act provides for statutory aggravating factors that the courts are required to consider before sentencing.
- DOJ must produce an annual strategy aimed at raising awareness of these offences and contributing to their reduction.

Confiscation, reparation and prevention

- Part 1 also contains provisions to make it easier to confiscate and detain assets of suspected or convicted offenders.
- New slavery and trafficking reparation orders allow the courts to direct offenders to pay reparation to their victims.
- The Act also provides for slavery and trafficking prevention orders (STPO) that can be made by the courts in order to restrict the actions of offenders and therefore reduce harm to the public. The STPO regime came into effect on 1 April 2016, although we are not aware that any STPOs have yet been made.

Reporting and understanding the scale of modern slavery

- Section 13 of the Act makes provision for a statutory duty on specified public authorities to report where they encounter a suspected modern slavery case (this is intended to enhance reporting under the NRM and will capture anonymised information even where the individual does not wish to be referred to the NRM). The equivalent provision has been commenced in England and Wales but the Westminster Statutory Rules Committee raised concerns about the drafting of associated regulations. We are working through the issues raised with a view to bringing secondary legislation to the Assembly in the Autumn. This provision, therefore has not yet commenced. We are working with the Home Office to make sure that arrangements and capacity are in place for them to receive reports from Northern Ireland before commencing.

Other exploitation offences

- Part 2 of the Act makes provision for other exploitation offences.
- Section 15 criminalises the purchase of sexual services. During the passage of the Bill through the Assembly the Department raised concerns about the possible effect and about the difficulties of enforcing this provision. Section 15 also requires the Department to review the provision after three years.
- Section 16 creates an offence of forced marriage, with a maximum sentence of seven years on indictment. This measure falls under the responsibilities of the Department of Finance.

Assistance and support for victims

- Part 3 of the Act deals with assistance and support.
- Section 18 puts on a statutory footing the support that DOJ provides to adult potential victims of human trafficking, whilst their cases are being assessed under the National Referral Mechanism. (You have now agreed that this support should be extended to all potential victims of modern slavery, not just those who have been trafficked – this is covered in the lines to take).
- Section 19 places a requirement on the Department of Health to prepare and publish a strategy to ensure that a programme of assistance and support is

made available to persons wishing to exit prostitution. This strategy has now been published and, in line with the legislation will be reviewed within three years.

Compensation guidance

- Section 20 requires DOJ to publish guidance for victims of trafficking on applying for compensation; this guidance has now been published and is available in a range of languages.

Independent guardians

- Lord Morrow is likely to be interested in the implementation of section 21, which requires the Health and Social Care Board to introduce an independent guardian scheme for separated and trafficked children. The Department of Health failed to get the Health's Committees agreement to draft regulations on these guardians and this has led to a delay in implementation by that Department.

Protection of victims in criminal proceedings

- Part 4 of the Act provides a range of measures aimed at protecting slavery and trafficking victims in criminal investigations and proceedings.
- Section 22 creates a statutory defence for victims who have been compelled to commit certain offences as a direct result of their trafficking or slavery situation. The threshold for the defence in respect of child victims is lower – in their case they must have committed the offence as a direct result of being a victim of slavery or trafficking. Adults must also prove that a reasonable person in the same situation would have no realistic alternative to doing that act.
- Other measures are aimed at protecting victims from secondary victimisation during police interviews (section 23) and ensuring that they are automatically eligible to apply for special measures in court, such as screening or giving evidence by video link (section 24).

The Modern Slavery Act 2015

Certain sections of the Westminster Modern Slavery Act 2015 extend to Northern Ireland, following a Legislative Consent Motion by the Assembly in December 2014.

These are:

- Part Three of the Act, which makes provision for UK-wide maritime enforcement powers for constables and enforcement officers to tackle modern slavery offences at sea. You are aware that we are working to resolve issues around the accountability arrangements in respect of the exercise of hot pursuit powers.

S35(4)(b)

- Part Four of the Act extends the remit of the UK's Independent Anti Slavery Commissioner to Northern Ireland. Regulations are now in place that provide that certain public bodies in Northern Ireland are under a statutory duty to co-operate with the Commissioner (these include DOJ, PSNI, Health and Social Care Board and Trusts, and the Probation Board). Part Four has been fully commenced; and
- Part Six of the Act makes provision in respect of transparency in supply chains. Home Office Ministers have made regulations requiring companies doing business in the UK with turnover of over £36million to produce an annual slavery and trafficking statement setting out what they have done to eradicate modern slavery from their supply chains. Whilst the number of companies based in Northern Ireland that would be under this requirement is small, the provision is intended to have a trickle-down effect on employment practices throughout the entire supply chain. It is one of the issues that our cross-border forum on modern slavery in Armagh on 22 June will look at.

ANNEX B: NATIONAL REFERRAL MECHANISM STATISTICS

The NRM referral statistics for Northern Ireland broadly demonstrate general year on year increases. This could be as a result of work that has been done to raise awareness of human trafficking, and associated increased reporting.

In recent years forced labour has particularly emerged as an increasing exploitation type. Again, this could be as a result of increased awareness.

Year	Number of potential victims recovered	Breakdown (where available)
2010/2011	23	5 forced labour, 18 sexual exploitation
2011/2012	33	8 forced labour, 25 sexual exploitation
2012/2013	16	9 sexual exploitation, 2 domestic servitude, 5 unknown
2013/2014	38	1 domestic servitude, 10 forced labour, 17 sexual exploitation, 10 unknown
2014/2015	45	5 sexual exploitation, 32 labour exploitation, 8 unknown
2015/2016	59	34 forced and compulsory labour exploitation with the remaining rescued from sexual exploitation and securing services exploitation.

Countries of origin include: the UK and Republic of Ireland, China, Latvia, Albania, Romania, Zimbabwe.

ANNEX C: HUMAN TRAFFICKING AND SLAVERY CASES IN NORTHERN IRELAND

To date there have been two convictions in Northern Ireland for human trafficking:

- In March 2012 Matyas Pis was convicted of the offence of trafficking into the UK for the purposes of sexual exploitation. He was sentenced to 3 years imprisonment divided into 18 months custodial and 18 months on licence.
- In July 2012 Rong Chen was convicted of the offence of trafficking into the UK for the purposes of sexual exploitation. She was sentenced to 7 years imprisonment divided into 42 months custodial and 42 months on licence. A confiscation order was made against an offender convicted of human trafficking in 2012 (£68,018).

There have also been two convictions related to Northern Ireland:

- In 2011 Stephen Craig and Sarah Ashleigh Beukan were convicted in Scotland of offences relating to trafficking within the UK for sexual exploitation. Both PSNI and PPS were involved in the investigation and prosecution. This case involved trafficking from Northern Ireland. Craig received 3 years and 8 months imprisonment and Beukan received 18 months imprisonment.
- Under a joint Northern Ireland/Sweden investigation two Romanian nationals were found guilty of human trafficking offences and sentenced to four years imprisonment. Both individuals have now been extradited to Northern Ireland for trial here, which is expected to commence in September 2016.

Number of persons against whom prosecution was commenced for trafficking in persons:

	2012	2013	2014	2015	2016
Males	1	1		3	1
Females	1			1	1

**Action under section 15 of the Human Trafficking and Exploitation (Etc) Act
(Northern Ireland) 2015:**

s31.

ANNEX D: SEX WORKERS LIAISON GROUP

Lord Morrow may challenge us on the establishment of the Sex Worker Liaison Group (SWLG).

- The SWLG was set up in November 2015 and is chaired by a DOJ senior official. The purpose of the Group is to formalise and improve the engagement between the Department of Justice and organisations representing or working with sex workers in order to assist in the overall strategy to raise awareness of human trafficking and to identify and rescue potential victims. It does not provide a forum to discuss issues related to wider policy on prostitution.
- The SWLG explores methods of working together to tackle human trafficking for sexual exploitation; assists in the development of resources to improve identification of victims trafficked for sexual exploitation; informs development of human trafficking policy, programmes and strategies; and provides an arena for the exchange of information and ideas.
- Members include the DOJ, Belfast Commercial Sex Workers' project (a Belfast Health and Social Care initiative), PSNI and two sex worker organisations - UglyMugs.ie and Sex Workers' Alliance Ireland. As with the NGO Engagement Group on Human Trafficking, minutes are published on the Organised Crime Task Force website.
- Engaging with representatives of sex workers organisations is aimed at encouraging sex workers to report suspected trafficking for sexual exploitation to the police.
- An event for sex workers took place in February 2016 and we have received positive feedback from those attending the event.

ANNEX E: LINES TO TAKE

Legislation

- Welcome the new legislative framework; believe it will assist in the prosecution of traffickers and exploiters operating in Northern Ireland.
- The legislation is however still relatively new; it will take some time to see its full effect. Encouraged by the cases before the courts. Understand that since 2015 prosecutions have been commenced against six individuals for trafficking in persons.
- Law enforcement also focussing on this issue. Dedicated PSNI Human Trafficking Unit has now been in place since April 2015.
- Legislative change needs to be complemented by ongoing awareness raising. Cross border conference on forced labour on 22 June is one example of that.

Support for victims

- Recognise the importance of supporting victims who have suffered as a result of modern slavery.
- Intend to extend support to all potential victims of modern slavery under the NRM, not just those who have been trafficked. Officials are working with Home Office to implement this as soon as possible.

[Will this be put on a legislative footing?]

- This would be on an administrative basis, at least initially. Although I am open to exploring appropriate legislative vehicles.

[what about potential victims who have been charged with a criminal offence, or who are in prison?]

- Officials continue to work with the Prison Service to brief officers on identifying potential trafficking and slavery victims within the prison setting.

- Both PPS and police are alive to the issue.
- There are robust processes in place for dealing with victims of human trafficking who have been charged with a criminal offence.
- The statutory defence is also available where appropriate.

Strategic response

- I intend to launch a consultation on the second annual strategy in the next few days.
- Good progress was made against the objectives in the first strategy. This includes implementation of secondary legislation under both the Human Trafficking and Exploitation Act, as well as the Modern Slavery Act 2015. Work on engaging with migrant groups has also been taken forward with NGO partners.
- The annual timeframe means that we are often focusing on the development, rather than the implementation, of the strategy.
- Would welcome your views on moving towards a longer timeframe, perhaps a three or five year strategy? This might allow for more effective, longer term planning. It would, however, require an amendment to the Act.

Sex Worker Liaison Group

- The group is intended to assist in raising awareness of human trafficking, and identifying and recovering victims.
- Important that we engage with sex workers about trafficking for sexual exploitation.
- They are in best placed to spot and report any suspected trafficking and we need to encourage that.
- Belfast Health and Social Care Trust hosted an awareness raising event for sex workers in February. Officials received positive feedback
- As with the NGO Engagement Group, minutes of the meetings are made public on the Organised Crime Task Force website.

[Sex workers representatives will use the group to lobby for the sex industry]

- The group is focussed on tackling trafficking. It is not a forum for addressing wider issues relating to prostitution. If any other issues arise these will be referred to the appropriate lead, whether within DOJ or to another body.