

SIAA Response

Consultation on regulations under Section 10 of the Human Trafficking and Exploitation (Scotland) Act 2015

October 2017

1. The Regulations would be able to set out the method of determining whether an adult is or appears to be a victim of an offence under section 4.

In your view, how should that determination be made? For victims of the equivalent offence in England, Wales and Northern Ireland this is carried out through the National Referral Mechanism (NRM). The NRM is a framework for identifying victims and ensuring they receive the appropriate support.

Do you agree that this should be the route for potential victims recovered in Scotland?

Y/N/Unsure

If you do not agree, what would you suggest? What should identification encompass?

It is vital that the identification and registration process is accessible, non-judgemental and supportive of the individuals that it works with. It is crucial that all victims are treated as victims and not criminals and when victims have come from outside the UK, the focus is on the alleged crime committed against them, rather than their immigration status. It is important to note that if the framework is accessible, there is the potential for individuals to be able to contribute information and intelligence.

2. The Regulations would also be able to set out how long support must be provided for (equivalent to the mandatory period for adult victims of human trafficking). They may also set out the period during which support and assistance may be provided (the equivalent of the discretionary period for adult victims of human trafficking).

The Scottish Government proposes that a 90 day period of mandatory support would be available to victims of slavery etc, the same as will be the case for victims of human trafficking (a section 1 offence) once the relevant Regulations are in force, with a discretionary period based on need until a conclusive determination is given.

Do you agree with these proposals?

Y/N/Unsure

Please feel free to comment further on your answer.

It is really important that the duration of support provided is tailored to the needs of each individual as no two victims will be the same; every trafficked individual will have a unique experience and reaction. It is really important that the support is person-centred and takes a human rights-based approach by implementing the PANEL principles (Participation, Accountability, Non-Discrimination, Empowerment and Legality).

3. The Regulations would also be able to set out the types of support and assistance to be provided. In section 9, the list of support and assistance that may be provided for trafficking victims includes accommodation; day to day living; medical advice and treatment (including psychological assessment and treatment); language translation and interpretation; counselling; legal advice; information about other services; and repatriation.

The Scottish Government proposes that the same types of support and assistance should be provided for victims of slavery etc, insofar as they are required by the adult.

Do you agree?

Y/N/Unsure

Do you have any further comments?

Many victims of slavery will experience mental health issues and any individuals who are covered by the Mental Health Act have a legal right to independent advocacy. Independent advocacy enables people to access their human rights, know the options available to them and what decisions they are required to make. It is essential that individuals receive sufficient support so they are not subject to destitution, further abuse and exploitation.

4. The Regulations may also set out the manner in which the support and assistance should be provided. The Scottish Government proposes that the support and assistance should be provided in the same way as that provided for victims of a section 1 offence i.e. through the same providers as those appointed to support victims of a section 1 offence. Annex A gives further details.

Do you agree?

Y/N/Unsure

Do you have any further comments?

Support and assistance needs to be implemented in an accessible, person-centred and have a human rights-based approach, as aforementioned. It is essential that individuals who are covered by the Mental Health Act are provided with an independent advocate who can help them to access their human rights and other services as required and ensure that their agency, independence and rights are valued and respected.