



JustRight Scotland's Response to the Consultation on Section 38 of the Human Trafficking and Exploitation (Scotland) Act 2015:

Duty to notify and provide information about victims

About JustRight Scotland

JustRight Scotland is Scotland's legal centre for justice and human rights, where we use the law to defend and extend people's rights.

We currently operate three legal centres: (i) the Scottish Refugee & Migrant Centre (SRMC); (ii) the Scottish Women's Rights Centre (SWRC); and (iii) the Scottish Anti-Trafficking & Exploitation Centre (SATEC). In early 2020, we are launching our fourth centre: the Scottish Just Law Centre (SJLC). We also have a policy, research and training hub, JustRight for All (JRA), which supports our wider awareness raising, legal education and influencing work. All of our centres engage with human trafficking and exploitation.

The **Scottish Anti-Trafficking & Exploitation Centre (SATEC)** however is our key hub in this area, providing information, outreach, policy, training, and research on human trafficking and exploitation. We also provide legal advice and representation to child and adult survivors of trafficking and exploitation throughout Scotland and work in partnership with the Trafficking and Awareness Raising Alliance (TARA) and the Scottish Guardianship Service in doing so. We are, furthermore, a member of the Anti-Trafficking Monitoring Group (ATMG), which has submitted a separate response to this consultation.

Summary

Key Principles

In responding to this consultation, the following key principles have informed our response:-

1. Information and intelligence requires to be shared in order to combat human trafficking and exploitation.

2. Combatting human trafficking and exploitation also requires close co-operation and effective multi-disciplinary and cross sector partnerships between state, civil society and the private sector. This must be conducted within frameworks that are transparent and accountable, with clear delineated competencies and responsibilities.
3. Any intervention must incorporate, and build upon, existing identification, protection, support and assistance measures.
4. The human rights of trafficked persons must be at the centre of all efforts to combat trafficking and exploitation. This means interventions must be trauma and survivor informed, gender and child sensitive and rights based at all times, ensuring a person is able to provide informed consent.

Recommendation

We support the Scottish government's aim of facilitating information sharing to build a more robust intelligence picture in Scotland, we are recommending the following:-

- the legal duty to notify is restricted in the first instance to local authorities on a standardised form with clear procedures, guidance and support;
- voluntary notifications from a range of other authorities and organisations are to be encouraged on the same standardised form with the same procedures, guidance and support;
- identifiable information is not shared on the same standardised form due to concerns that this could undermine the Scottish government's commitment to a rights based approach;
- existing practices and agreements with Police Scotland and key organisations continue to be used and built upon in order to share identifiable information;
- information processing is done in a clear and transparent manner; and
- robust monitoring and evaluation of the provision of information (both statutory and voluntary) is built into the implementation process.

Our recommendations in this regard are based upon the key principles outlined above, which stem from international law and best practice whilst also taking into account the implementation of a similar provision in England and Wales, the different context in Scotland, the scale of the proposed implementation and the unintended consequences and risks that may arise. We have expanded on some of these factors below.

We are concerned that the laudable aim of sharing information in order to have a more robust picture of human trafficking and exploitation may not be met, and indeed undermined, if implemented too widely and too quickly without sufficient resource to support this.

We are therefore recommending a more limited implementation of the legal duty in Scotland supported by regulations which is then monitored and evaluated over a period of time and then extended if the monitoring and evaluation results support this.

The implementation of the Modern Slavery Act in England and Wales

Section 38 of the Human Trafficking and Exploitation (Scotland) Act was transposed from the same provision contained in the Modern Slavery Act, which came into force in 2015, and regard must therefore be had to its implementation when considering how it should operate within Scotland.

In England and Wales, the duty to notify currently applies to bodies who are also First Responders under the formal identification system for human trafficking and exploitation, the National Referral Mechanism (NRM). The aim behind the duty is to gather data to build a more comprehensive picture of the nature and scale of trafficking and exploitation¹. The duty applies to the police (including British Transport police), the Home Office, the Gangmasters and Labour Abuse Authority and councils. Where consent is not given for an NRM to be completed, a standard form called an MS1 is completed. Other agencies, both state and non-state, are encouraged to voluntarily complete a notification using this standard form.

In 2016, the ATMG published *Class Acts: Examining modern slavery legislation across the UK*² which raised such significant concerns about misuse of the duty to notify provision that it called on the process of implementation to be suspended³. These concerns remain, and are more fully outlined in the ATMG response to this consultation which discuss lack of awareness and understanding around about indicators of trafficking and pathways for the support and assistance of trafficked persons who do **not** wish to enter the NRM.

The Scottish Context

There are points to consider in terms of why a further process is needed in order to obtain information in Scotland and how information will be shared and processed.

In relation to the first point, the landscape is different in Scotland to that in 2015, when there were concerns that information and intelligence were not being shared with Police Scotland leading to low rates of prosecutions. This provision was therefore transposed from the Modern Slavery Act to ensure wider information sharing beyond that which already occurs within the NRM and the criminal justice system.

This is not the case in 2019, where there are a number of pathways to support the sharing of information and intelligence to Police Scotland, which has led to prosecutions now being taken in the Scottish courts. This is done through broader access points such as contacts through 999, 101 or Crimestoppers, targeted access

¹ Home Office, "Duty to Notify the Home Office of Potential Victims of Modern Slavery Home Office Guidance for Specified Public Authorities," Version 3.3 (August 2019) located at <https://www.gov.uk/government/publications/duty-to-notify-the-home-office-of-potential-victims-of-modern-slavery/duty-to-notify-the-home-office-of-potential-victims-of-modern-slavery>

² Anti-Trafficking Monitoring Group, *Class Acts? Examining Modern Slavery Legislation Across the UK*, October 2016. See: http://www.antislavery.org/wp-content/uploads/2017/01/atmg_class_acts_report_web_final.pdf

³ Ibid., p41

through the Modern Slavery helpline and bespoke arrangements between certain organisations, both state and non-state.

Information is therefore shared in order to build intelligence pictures and commence investigations through the NRM, criminal justice processes and other bespoke arrangements. Information sharing will take place in order to safeguard trafficked persons and prevent crime and will be done in line with the key principles of the EU General Data Protection Regulation 2016/679 (GDPR) and the Data Protection Act 2018 as well as a person's right to privacy in international and domestic law.

We can understand that a more streamlined process of recording and submitting information through a standardised form would ensure a more robust and qualitative data set. However, contact through the existing pathways would meet any legal notification duty and any additional process must therefore have a legitimate basis whilst respecting these existing arrangements and avoiding the creation of any disproportionate burden on all organisations involved. This may require standardisation both in how organisations report into Police Scotland but also how Police Scotland record and receive information through the existing processes noted above with any standard form also being used by Police Scotland internally.

The second point is how the information will be used. In England and Wales, the information is sent to the Secretary of State for Home Department (SSHD), it would appear, for statistical purposes only. The MS1 form makes it clear that organisations completing the form should also consider a referral to the police for safeguarding and detection of crime purposes and that the MS1 process does **not** replace this process. Where consent is provided, the MS1 does ask for a safe number for an individual to be contacted by the police so direct follow up contact is possible.

In Scotland, a criminal investigation does not require to be initiated by a formal complaint/with the consent of an individual and it is possible that identifiable information could be used to commence a criminal investigation resulting in court proceedings. Therefore, where there is identifiable information (whether intentionally provided or not), this could be followed up by Police Scotland with an individual (if identified) or indeed with the organisation who submitted the report if it is in the public interest to do so. Therefore, the sharing of identifiable information and the issue of informed consent is a material consideration.

The consultation document itself states that the original policy intention is now wider than that stated in 2015. It is not clear what this expanded policy intention beyond the initial legislative aim would mean in practice within the Scottish context and this requires clarity. For instance, there is a part within the consultation which refers to the anonymous sharing of information around a location. The same section notes that an identifiable location is necessary for the commencement of any criminal investigation. Clarity is required in order to ensure an implementation that is line with the principles set out above in our consultation response.

Role of Effective Training and Resources

Human trafficking and exploitation are often complex to identify. Individuals affected by trafficking and exploitation experience layers and layers of control.

Each individual's circumstances are different, but the issues we see repeatedly are severe trauma, fear of being located by traffickers and fear of reprisals, fear and mistrust of authorities, significant physical and mental health issues, lack of understanding of relevant legal processes, and a lack of knowledge of rights and remedies and how to access these.

Interventions in this sphere must therefore be gender and child sensitive, human rights-based and trauma informed. This is also why there are specified First Responders who have been trained to ensure they have the expertise to identify and complete referrals into the NRM.⁴

Training and resource will be required to ensure that any organisation participating in this process has the skills to identify indicators of trafficking and exploitation (and that this training is updated as this is a fluid and fast moving area). Training is required to ensure that frontline professionals are competent to support a person to understand what has happened to them, and ensure appropriate support is put in place, including both the NRM process or other supports and assistance where the NRM is not entered into. This work can be complex in practice, with referral pathways not always clear in the latter instance.

Training and resource is also required to ensure that the rights of an individual in relation to their personal information and privacy is protected. This includes making sure that data is actually anonymised and that effective informed consent is taken if this is to arise, to the standard set out by the Information Commissioner's Office (ICO) for anonymised information.⁵

The Provision of Informed Consent

For individuals providing identifiable information to Police Scotland, the law demands that the individual provides informed consent. This means that an individual requires to understand what will happen to the information they provide, how this would link or be used in any criminal justice process and a person's rights in this regard including a right to further legal information and specialist support.

We therefore have concerns regarding the disproportionate burden and risk this may place on organisations. The misapplication of any notification process (voluntarily or

⁴ See: Home Office, "Victims of Modern Slavery – Competent Authority Guidance," Version 8.0, 2 September 2019

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828756/victims-modern-slavery-competent-auth-v8.0.pdf

⁵ See: Information Commissioner's Office, "Anonymisation Code," <https://ico.org.uk/media/1061/anonymisation-code.pdf>

otherwise) could lead to serious legal consequences for the authority who disclosed the information without informed consent as being in breach of section 38 itself as well as data protection law and human rights based protections contained within legal standards relating to human trafficking, victims of crime and human rights law.

Within the Scottish context, it is unclear why an individual or organisation would provide identifiable information in the format of an MS1 or similar to the MS1 rather than make a complaint through the criminal justice process with the assistance of specialist services, using the existing mechanisms for reporting crime/sharing intelligence already in place.

For these reasons, we recommend the following:-

1. any notification process is limited to obtaining and sharing anonymised information;
2. any notification process is robust in ensuring identifiable information is not inadvertently processed; and
3. identifiable information continues to be shared through pre-existing processes, frameworks and agreements which will avoid unnecessary confusion and duplication.

We take support from this position from the following:-

1. Our own experience in obtaining informed consent. For adults entering into the formal identification system of the NRM, informed consent is necessary. From the frontline perspective, this is not easy to obtain with a specialist First Responder and a specialist lawyer often a necessary prerequisite to explain what the NRM process is, a person's rights as a presumed trafficked person and how any information will be stored and shared in the NRM process.
2. Our own experience in working with trafficked persons and women affected by violence and the criminal justice process in Scotland, formed in part by an understanding that even when an individual has willingly reported, for example, a sexual crime, there remains a high chance of them disengaging from the criminal process.⁶ Where information has not been clearly explained to an individual about the criminal justice process, including where information has been shared without a person's knowledge, this can increase the likelihood of disengagement.

This is the opposite of what a human rights based approach seeks to achieve and indeed the opposite of the aim behind the legislation. Conversely, in our experience, the same person would be more likely to engage with the same

⁶ Inspectorate of Prosecution in Scotland Thematic Review of the Investigation and Prosecution of Sexual Crimes, Nov 2017, <https://www.gov.scot/binaries/content/documents/govscot/publications/progress-report/2017/11/thematic-review-investigation-prosecution-sexual-crimes/documents/00527738-pdf/00527738-pdf/govscot%3Adocument/00527738.pdf?forceDownload=true>

process provided that all information has been explained at the outset and an informed and actual choice given to that individual.

3. Reported concerns around the confusion and potential misuse of identifiable reporting information in the English and Welsh context. We refer again to the 2016 ATMG Report, *Class Acts*, which recommended that a similar section regarding identifying material be removed from the MS1⁷ as well as the more recent concerns raised by ATMG in their consultation response around misuse of the provision.

4. Evidence given by Dr Ken Macdonald, Assistant Information Commissioner for Scotland, to the Scottish government on the proposed duty to notify during the Scottish Parliament deliberations over the Human Trafficking and Exploitation (Scotland) Act where it was also recommended that the consent provision be deleted when it was at bill stage in 2015, *“Clause 34 of the Bill will require specified Scottish public authorities to notify the Chief Constable of Police Scotland about people who are, or are believed to be, victims of human trafficking or exploitation. Paragraphs 92-94 of the policy memorandum consistently talks about the use of anonymised data. However, Clause 34(2) includes a provision that an adult victim might consent to being identifiable. We infer from this that, as a matter of course, adult victims would be asked to consent to their name being provided to the Chief Constable. We understand the purpose of such sharing is to improve the available intelligence about the scale and extent of trafficking and exploitation. Victims are likely to be in a vulnerable state and may have little, if any, understanding of the English language and the Scottish legal system. In which case, we question whether they would be capable of providing fully informed and freely given consent. **As the stated policy intention is for only anonymised data to be provided, we recommend that the consent provision be deleted.** We would be happy to work with the Scottish Government in the drafting of any regulations made under this clause to ensure that specific individuals cannot be identified from what may be very unique circumstances.”*⁸

⁷ ATMG Report, p41

⁸ See: Information Commissioner’s Office, “Written Submission to the Justice Committee – Human Trafficking and Exploitation (Scotland) Bill,” 23 February 2015
http://www.parliament.scot/S4_JusticeCommittee/Inquiries/HTE29InformationCommissionersOffice.pdf;
cited in Op.Cit. Note 3, ATMG Report, p37

Consultation Response – By Question

Question 1

Do you agree that these bodies should be named in regulations under section 38 (1) of the Act?

All 32 Scottish Local Authorities	Yes	No	If no please give your reasons for this
All 32 Scottish Local Authorities	X		
All 14 Scottish Geographical NHS Boards		X	
NHS 24		X	
Scottish Ambulance Service		X	
Scottish Fire and Rescue Service		X	
Scottish Ministers for the purposes of including Marine Scotland		X	
Scottish Ministers for the purposes of including Scottish Prison Service		X	
Scottish Environment Protection Agency (SEPA)		X	

For the reasons set out above, we think that the duty should be limited in its application in the first instance to existing First Responders in Scotland who are also public authorities and are competent to be covered by Scottish legislation. This is local authorities.

Local authorities will complete NRMs for children, as consent is not required. This means that the duty to notify is limited to adults and we believe that this would assist in working out when an NRM should be completed over a statutory notification, which has caused problems in the implementation in England and Wales.

To date, local authorities have not tended to act as First Responders for adults and therefore, training and resource will be required around identification, safeguarding and protection, the process of sharing information as well as electing when to complete an NRM or go through the notification process for those aged 18 and over. We note that Glasgow City Council is drafting guidance on processes for support and assistance for adult trafficked persons which could be of assistance in this regard.

Clear processes and guidance will be required to ensure that any reporting is completed in a manner that is human rights compliant and ensures protection and safeguarding of that individual including protection of privacy.

All other authorities noted above could complete voluntary notifications for anonymous information following the same processes and procedures outlined for local authorities

in the preceding paragraph. The voluntary notification procedures should be monitored and evaluated as well as the statutory notifications from local authorities.

The issue of providing informed consent to the sharing of identifiable information is problematic for reasons highlighted above and we would not support it being used in the way it is in England and Wales. We therefore believe that that any legal duty to notify ceases at the sharing of anonymised information and that this should not form part of the notification process. This would be the same for the voluntary notification of anonymised information.

Identifiable information is already shared within existing frameworks and processes. Specialist NGOs are often involved to ensure a trauma informed and rights based approach is in place. Existing processes should therefore be built upon to ensure there is no duplication of resource and that the information being referred into Police Scotland, as well as obtained by Police Scotland, is consistent with that being collated through the NRM and notification processes.

Question 2

Do you agree that those listed below should be encouraged to submit voluntary notifications?

Who	Yes	No	If no please give our reasons for this?
Dental Practice Staff	X		
Community Pharmacists	X		
General Practice Staff	X		

Yes, with the provisos noted regarding voluntary notifications in the preceding section. Organisations should not be encouraged to submit notifications if the correct policies, training, guidance, processes are not in place to support them to do so.

Question 3

Are there any other Scottish Public Authorities that you think should be subject to the duty to notify? NO

Given our comments above, there are no other Scottish Public Authorities that should be subject to a legal duty to notify.

Question 4

Do you agree that bodies named in the Regulations should establish their own processes for complying with the duty? NO

If you answer No to question 4 please give your reason why?

The concerns raised in England and Wales over the duty to notify provision has stemmed, in part, through a lack of clarity and transparency over the information obtained.

To avoid this, as well as the other pitfalls noted above, clear parameters and guidance should be established around the processes which should be adhered to (whether the notification is voluntary or not). This would include why information is being shared, the types of information shared and the relevant legal processes and rights underpinning this.

It is furthermore crucial that each organisation makes it clear to individuals that anonymous information will be shared with Police Scotland through a notification process (whether they are under a duty to notify this information or are doing so on a voluntary basis) and have a clear policy in terms of their processes if the matter is followed up by Police Scotland.

ATMG refer in their response to the creation of single points of contact within local authorities, police and the NHS in London as a model of good practice within larger organisations, and this should be considered within Scotland.

Obtaining a robust good quality data picture is important and standardisation in the collation of data across the UK (and not just Scotland) is important. This has not been present to date in terms of gathering information around human trafficking and exploitation and creates gaps in how data is collected and therefore analysed. This will form the basis for good and consistent practice which should lead to high quality, consistent intelligence being shared and a sound basis for evaluating and monitoring this data as well as the process of collating and sharing it.

Question 5

Do you agree that the anonymised information below should be included in a notification (if it is available) from a specified Scottish public authority to the Police if the adult does not consent to provide information that may identify them?

Information	Yes	No	If no, please give your reasons for this here
Gender	Yes		
Nationality	Yes		
Country of Origin	Yes		
Location of victim was recovered		No	Depending on what is meant by location, this could be specific enough to be identifiable and therefore not anonymous. From the consultation document, it would appear that some level of

			<p>detail is being requested on this point.</p> <p>It may be sufficient to confirm that the individual was recovered in the local authority who is undertaking the notification.</p>
Location reported exploitation took place		No	We refer to the same points noted above regarding location and note that this would require to be as broad as a local authority area/country.
Has a referral been made to the Police		No	A positive answer to this question will require informed consent. We have discussed the complexities of this above and have recommended it does not form part of any legal duty in this area.
Reported to be a victim of a section 1 offence	Yes		
<p>If a victim of human trafficking did the trafficking involve:</p> <ul style="list-style-type: none"> • Labour exploitation • Sexual exploitation • Domestic servitude • Commission of an offence • Removal of organs or tissue • Unknown • Other 	Yes		<p>This list could be further expanded on with a further break down of types of exploitation within each category.</p> <p>There is often more than one type of exploitation involved in trafficking. Collation of data so far in this areas has not always catered for this and it can obscure data and therefore its usefulness.</p>
Reported to be a victim of a section 4 offence	Yes		.

Given the original aim behind the provision (and the aim in England and Wales) is to share data to ensure a broader picture of human trafficking and exploitation, the information requested from a local authority must ensure anonymity and that it is just data being captured.

We have highlighted the need to ensure clarity over what anonymised information is. It is important that any form does not encourage information that is meant to be anonymous being identifiable for all the reasons set out above and we are aware that the ICO is working with the Scottish Government in this area.

Question 6

Do you agree that the additional information listed below should be included in a notification from a specific Scottish public authority to the Police if the adult consents to the inclusion of that additional identifiable information?

NO

We refer to our comments above around informed consent and identifiable information.

We repeat that this should not form part of any legal duty and it should not be contained on a form that is concerned with the sharing of anonymous data/information. It should not be conflated on any notification process that deals with anonymised information.

In relation to the notification of identifiable information, there is no requirement, as far as we can see, for this to be part of any separate form. We believe that existing processes and procedures within the criminal justice system should be built upon. Robust consideration is required in order to ensure that voluntary notifications where an individual (s) is/are identified follow a process that ensures effective and informed consent is provided taking into account the concerns referred to above. This includes ensuring an individual has access to specialist support and independent legal information.

Question 7

Is there any information that should be included in a notification under section 38 (1) of the Act?

We would recommend consideration is given to the following additional categories:

- Age Group – as this can be useful information and a grouping of age protects anonymity.
- Broad time frames during which exploitation took place – again, this could yield useful evidence, but would again require to be sufficiently anonymous.
- Indicators of previous exploitation/human trafficking – this can be a yes/no answer to maintain anonymity and is irrespective of whether an individual was formally identified or not.

Question 8

Do you agree that the bodies listed below should receive a report from Police Scotland about individuals who are or appear to be victims of a section 1 or section 4 offence?

Who	Yes	No	If no, please give your reasons for this here
Scottish Government	Yes		
All 32 Scottish Local Authorities	Yes		
All 14 Scottish Geographical NHS Boards	Yes		
Marine Scotland	Yes		
NHS 24	Yes		
Scottish Fire and Rescue Service	Yes		
Scottish Ambulance Service	Yes		
Scottish Prison Service	Yes		
Scottish Environment Protection Agency (SEPA)	Yes		
Trafficking Awareness Raising Alliance (TARA)	Yes		
Migrant Help	Yes		
Gangmasters and Labour Abuse Authority (GLAA)	Yes		
British Transport Police (BTP)	Yes		
National Crime Agency (NCA)	Yes		
Home Office	Yes		
Independent Anti-Slavery Commissioner	Yes		
Interpol	Yes		
Europol	Yes		

In order for there to be effective co-operation in relation to human trafficking and exploitation, information sharing is a two way process. It is imperative that any reports, containing anonymised information and data regarding trafficking and exploitation are shared with those who have a key role to play in the identification, protection, prosecution and prevention of these crimes.

Question 9

Are there any other bodies that you think Police Scotland should notify under section 38 (4) of the Act? Yes

The Crown Office and Procurator Fiscal Service (COPFS), as well as relevant Commissioners, such as the Children's Commissioner.

We also support the production of a briefer public report, with summary analyses, similar in form to what the National Crime Agency (NCA) produces using NRM statistics.

Question 10

Do you agree that the anonymised information below should be included in a notification from Police Scotland to a third party if the adult does not consent to provide information that may identify them?

Information	Yes	No	If no, please give your reasons for this here
Gender	Yes		
Nationality	Yes		
Country of Origin	Yes		
Location of victim was recovered		No	Depending on what is meant by location, this could be specific enough to be identifiable and therefore not anonymous. From the consultation document, it would appear that some level of detail is being requested on this point. It may be sufficient to confirm that the individual was recovered in the local authority who is undertaking the notification.
Location reported exploitation took place		No	We refer to the same points noted above regarding location and note that this would require to be as broad as a local authority area/country.
Has a referral been made to the Police		No	A positive answer to this question will require informed consent. We have discussed the complexities of this above and have recommended it does not form part of any legal duty in this area.
Reported to be a victim of a section 1 offence	Yes		
If a victim of human trafficking did the trafficking involve:	Yes		This list could be further expanded on with a further break down of

<ul style="list-style-type: none"> • Labour exploitation • Sexual exploitation • Domestic servitude • Commission of an offense • Removal of organs or tissue • Unknown • Other 			<p>types of exploitation within each category.</p> <p>There is often more than one type of exploitation involved in trafficking. Collation of data so far in this areas has not always catered for this and it can obscure data and therefore its usefulness.</p>
Reported to be a victim of a section 4 offence	Yes		.

Our position is that any notification process, statutory or otherwise, relates to anonymous information only. On this basis, anonymised information could be passed on to third parties. However, this would require to be in line with the general principles, legal obligations and requisite safeguards already outlined in this consultation response which means that organisations require to ensure that individuals are informed about this information sharing process and that their information may or will be shared in this manner.

Question 11

Is there any other information that you think should be included in a notification under section 38 (5) of the Act? No

Question 12

How frequently do you think the Police should pass information to a third party? Please select only one option or state one other time period.

Frequency	(x)
Monthly	
Quarterly (calendar year)	
Quarterly (financial year)	
Bi-Annually	
Annually	
Another time period (please state only one)	X At the same time as NCA reports are produced.

The NCA publish data from the NRM on a reporting frequency. Our experience in Scotland tells us that the NCA statistics don't necessarily match up with service providers' numbers. The Police Scotland report could help with this, and also help us understand gaps in data.

It would therefore make sense, if logistically feasible, for Police Scotland to publicly report simultaneously with the NCA report, in order for a comparison to be made between the data sets.

Question 13

Do you agree that the Scottish Government should work with these bodies to establish a system whereby information can be shared with the police in a similar way to the statutory duty under section 38 of the Act?

Who	Yes	No	If no, please give your reasons for this here
Border Force	X		
Gangmasters and Labour Abuse Authority	X		
British Transport Police	X		
TARA		X	
Migrant Help		X	

The first 3 bodies are covered by the duty to notify in the Modern Slavery Act so it would seem prudent for there to be a way in which information shared under this duty is also shared on a voluntary basis with Police Scotland.

For the latter 2, there should be no mandatory duty to notify. This is outside the scope and intent of the legislation and would serve no identifiable purpose. These organisations already voluntarily share anonymised information with Police Scotland and for consistency could do so in the form of a standardised form.

Question 14

Do you think that there are any other bodies that operate in Scotland that the Scottish Government should encourage to notify the police about a person who is or appears to be a victim of a section 1 or section 4 offence? Yes

It is our understanding that the Duty to Notify provision in the Human Trafficking Act was taken from a similar provision contained within the Modern Slavery Act. The feeling at the time was that there required to be better information sharing across different sectors in order to improve and support intelligence. In Scotland, few prosecutions had been taken in relation to human trafficking and there was a concern that more intelligence required to be shared with Police Scotland.

It is worth reflecting, therefore, why our current methods have not been effective, and whether the proposed system offers the best response. As set out above, we are in favour of improving data collection practices and consistency of information sharing, but also think careful consideration needs to be given to the experience in England and Wales and whether the proposal is suitable given existing Scottish frameworks.

If consistency of information sharing could be improved through the completion of a standardised form, then this should be advocated for, but there should be no duplication.

Finally, with respect to encouraging other bodies to notify the police, we refer to our points above. We are in favour of improving practices in the collection of data and ultimately, identification of individuals who have been trafficked or exploited and this could include bodies such as the HMRC or business entities.

However, our frontline experience has highlighted time and again the complexity faced by First Responders in day-to-day frontline work, and therefore, we would recommend any decision by the Government to widen the scope of organisations encouraged to do this should be carefully assessed, and come with a commitment to establishing clear rationale and providing appropriate training and support for each organisation's frontline staff.

Should you require any further information in respect of this response, please do not hesitate to contact JustRight Scotland on 0141 406 5350 or at info@justrightscotland.org.uk.

END