



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 four legal centres: (i) the Scottish Refugee & Migrant Centre (SRMC); (ii) the Scottish Women's Rights Centre (SWRC); (iii) the Scottish Anti-Trafficking & Exploitation Centre (SATEC) and (iv) 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.

The **Scottish Anti-Trafficking & Exploitation Centre (SATEC)** 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), Migrant Help and Guardianship Scotland in doing so. We are, furthermore, a member of the Anti-Trafficking Monitoring Group (ATMG), which has submitted a separate response to this consultation.

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
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

Please give us your views

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.

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.¹

¹ See Home Office, "Modern Slavery: statutory guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and non-statutory guidance for Scotland and Northern Ireland", version 4.2, 10 October 2025 <https://www.gov.uk/government/publications/modern-slavery-how-to-identify-and-support-victims/modern-slavery-statutory-guidance-for-england-and-wales-under-s49-of-the-modern-slavery-act-2015-and-non-statutory-guidance-for-scotland-and-northe#about-this-guidance>

Local authorities will complete NRM referrals 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 referral should be completed over a statutory notification, which has caused problems in the implementation in England and Wales.²

To date, local authorities have not tended to act as First Responders for adults. In 2024, only 8 out of the 32 local authorities referred an adult into the NRM and, of those 8 authorities, none of them submitted more than 3 adult referrals.³ 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.

All other authorities noted above could complete voluntary notifications for anonymous information following the same processes and procedures outlined for local authorities. 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 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 identifiable information 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
Dental Practice Staff	X	
Community Pharmacists	X	
General Practice Staff	X	

² See British Institute of International and Comparative Law and Human Trafficking Foundation, "Identification of adults with lived experience of modern slavery in the UK", February 2024, Part 3 https://www.biicl.org/documents/12130_identification_full_report.pdf

³ See Home Office, "Modern slavery: NRM and DtN statistics, end of year summary 2024", 6 March 2025 <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fmedia%2F67c5b8ef16dc9038974dbd91%2Fmodern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2024.ods&wdOrigin=BROWSELINK>

Please give us your views

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

Do you agree that the anonymised information below should be included in a notification where the adult does not consent to be identified?

According to section 38(3)(b), Scottish Ministers may make regulations specifying information to be included in the notifications.

In 2019, the Scottish Government proposed that the following anonymised information be included in notifications where the adult *does not consent* to be identified:

Information	Yes	No	Reasons if no
Sex	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 (especially in conjunction with other information like nationality and sex) and therefore not anonymous. These concerns were raised by respondents to the 2019 consultation, particularly with regards to people living in rural areas. The 2025 consultation indicates that 'only essential information' will be captured on the Duty to Notify form. Therefore, there remains a lack of clarity around the level of detail which will be captured with regards to location. 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 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 below 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 (i.e. human trafficking)	Yes		
Reported to be a victim of a section 4 offence (i.e. slavery, servitude and forced compulsory labour)	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 offense • Removal of organs • Other 	Yes		<p>This list could be further expanded with a further breakdown 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 area has not always catered for this and it can obscure data and therefore its usefulness.</p>

The Scottish Government proposes that the following additional information be captured to what was proposed in 2019:

Information	Yes	No	Reasons if no
Whether the victim was under the age of 18 at the time the public authority believes the slavery or human trafficking first occurred.	Yes		
Why the individual did not want to be entered into the National Referral Mechanism (if this was	Yes		

offered to the potential victim and was declined)			
Any other referrals the public authority has made for the potential victim (including to First Responders for entry into the National Referral Mechanism)	Yes		
The police area in which the victim has been identified.	Yes		

Please give us your views

Given the original aim behind the provision (and the aim in England and Wales) was 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 in response to question 4 below. In terms of the police area being provided, this may be unnecessary if the local authority area is already provided.

Question 4

Do you agree with the proposed list of information to be included in notifications where the adult does consent to be identified?

Information	Yes	No
First name		No
Family name		No
Date of birth		No
Alias names and dates of birth		No
Whether the victim is a parent or carer		No
The whereabouts of other victim(s)		No
Safe phone number		No
Safe address		No
Safe post code		No
Does the victim have any additional needs in relation to interviewing or communication		No
Details of alleged persons responsible/perpetrators		No

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

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 5(a)

Do you agree with the proposed list of statutory and operational partners be recipients?

Since the 2019 consultation, the Scottish Government has reviewed the list of proposed recipients. The Scottish Government proposes that the statutory and

operational partners who should receive this information to fulfil their functions under the Duty to Notify be:

Who	Yes	No
Scottish Government	Yes	
All 32 Scottish Local Authorities	Yes	
All 14 Scottish Geographical NHS Boards	Yes	
Interpol 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	
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	
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 5(b)

Do you have any comments about using a Police Scotland portal for this purpose?

Since Police Scotland is the only agency likely to be aware of every Duty to Notify report, it is logical that they are responsible for sharing details of these reports with other agencies. However, it will be necessary to ensure that only those reports relevant to particular agencies can be accessed by them.

Question 5(c)

Would your organisation require any specific support (e.g. training, access guidance, integration)?

See question 7(c) below

Question 6

Do you agree with the proposal that Police Scotland should share with the list of partners and bodies outlined in section 5 above the information in anonymised format only?

Information	Yes	No	If no, please give your reasons for this here
Country of Origin	Yes		
Nationality	Yes		
Sex	Yes		
Location of victim was recovered		No	<p>Depending on what is meant by location, this could be specific enough to be identifiable and therefore not anonymous. These concerns were raised by respondents to the 2019 consultation, particularly with regards to people living in rural areas. The 2025 consultation indicates that 'only essential information' will be captured on the Duty to Notify form. Therefore, there remains a lack of clarity around the level of detail which will be captured with regards to location.</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 points noted above regarding location and note that this would require to be as broad as a local authority area/country.
Number of victims of a section 1 offence	Yes		

Number of victims of a section 4 offence	Yes		
Number of victims where trafficking involved: <ul style="list-style-type: none"> • Labour exploitation • Sexual exploitation • Domestic servitude • Commission of an offence • Removal of organs or tissue • Unknown • Other 	Yes		This list could be further expanded on with a further break down of types of exploitation within each category. 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.

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 7(a)

Have there been significant policy, operational, or legal developments since 2019 that you feel should be considered that have not yet been taken into account above?

Since the 2019 consultation, there have been a number of significant legislative and policy changes which have impacted upon the treatment of victims of trafficking and modern slavery. Notably, Part 5 of the Nationality and Borders Act 2022 and ss22-37 Illegal Migration Act 2023 contain various provisions on exclusions from protection and support centred around criminality and alleged false claims. In addition, since January 2023 there has been a significant tightening of the rules relating to granting confirmed victims of trafficking discretionary leave to remain under the new Appendix Temporary Permission to Stay for Victims of Trafficking. These changes have been accompanied by an increasingly hostile rhetoric with regards to non-British citizens claiming to be victims of human trafficking and modern slavery.

We understand from the Home Secretary's recent asylum and returns policy statement that further reform of the modern slavery system is planned which will increase

emphasis on early presentation of information and address ‘potential misuse’ of the system.⁴

All of these developments contribute to the creation of an environment which makes it less likely that victims will be willing to come forward and engage with authorities.⁵

Question 7(b)

Are there practical challenges that may affect your organisation when implementing a duty to notify?

N/A

Question 7(c)

What guidance or training would be helpful to support implementation in your organisation or sector?

Emphasis should be placed on providing training to those agencies subject to the duty to notify. A lack of adequate training in England and Wales has been found to contribute to under reporting which in turn affects the accuracy of the data gathered.⁶

In particular, 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.⁷

⁴ Home Office, “Restoring Order and Control, A statement on the government’s asylum and returns policy, 17 November 2025, p26 https://assets.publishing.service.gov.uk/media/691ae05b493305b49ce6e845/Restoring_Order_and_Control_-_A_statement_on_the_Government_s_asylum_and_returns_policy_final.pdf

⁵ See e.g. British Institute of International and Comparative Law, “Assessing the Modern Slavery Impacts of the Nationality and Borders Act: One Year On”, 25 June 2024 <https://www.biicl.org/publications/assessing-the-modern-slavery-impacts-of-the-nationality-and-borders-act-one-year-on#:~:text=The%20clearest%20impacts%20of%20the,return%2C%20the%20risk%20of%20their>

⁶ Independent Anti-Slavery Commissioner, “Refusal to consent, factors influencing the uptake of modern slavery support under the NRM”, April 2025 <https://www.antislaverycommissioner.co.uk/media/dzmltiwo/refusal-to-consent-final-report.pdf>

⁷ See Information Commissioner’s Office, ‘Anonymisation Code’ <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/data-sharing/anonymisation/>

Question 8(a)

What role should third sector parties play in the Duty to Notify process, and how can this best be supported?

It is difficult to generalise the appropriate role of third sector parties given the varying degrees of involvement with supporting victims of trafficking. However, it can be said that the role of third sector organisations is vital in engaging with and supporting victims of trafficking, particularly given the recent policy developments set out in question 7(a) which are likely to make individuals less likely to come forward to authorities.

Question 8(b)

Are there any specific operational risks, unintended consequences, or other considerations that may need to be addressed as the Scottish Government moves toward implementation of the Duty to Notify?

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.

This is why, in response to question 1, we recommend 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.

In addition, as set out in response to questions 3 and 6, we are concerned that some of the information relating to location which the Scottish Government seeks to collect in anonymous Duty to Notify reports could lead to individuals being identified. We have also set out concerns in response to question 4 about agencies' ability to ensure informed consent is given with regards to information that could identify an individual.

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.

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