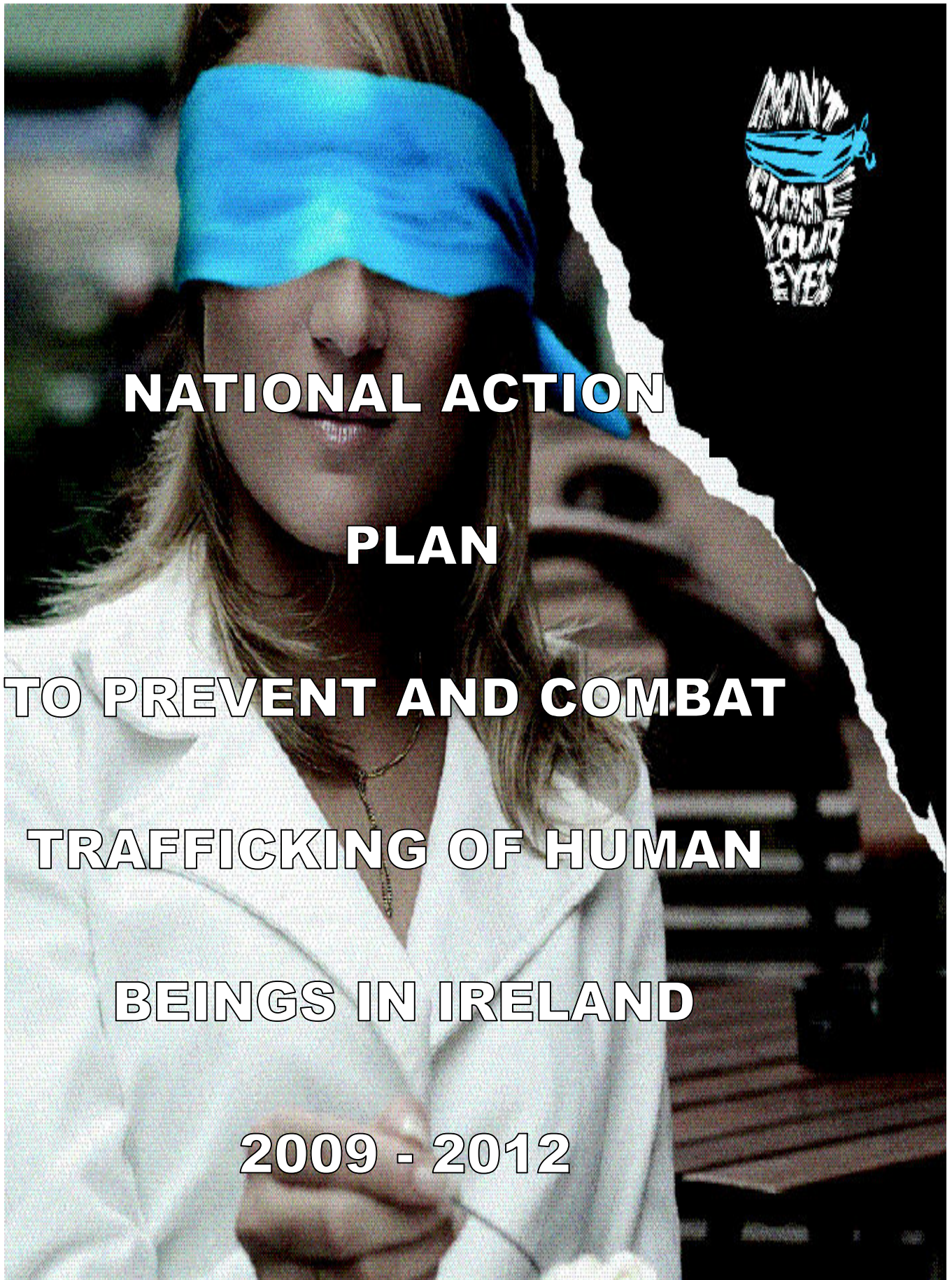




Department of Justice, Equality and Law Reform  
An Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí



**NATIONAL ACTION**

**PLAN**

**TO PREVENT AND COMBAT**

**TRAFFICKING OF HUMAN**

**BEINGS IN IRELAND**

**2009 - 2012**

**NATIONAL ACTION PLAN  
TO PREVENT AND COMBAT TRAFFICKING OF HUMAN BEINGS  
IN IRELAND**

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<b>CONTENTS</b>	<b>Page No.</b>
Foreword by Mr. Dermot Ahern, T.D; Minister for Justice, Equality and Law Reform	4
Preface by Executive Director; Anti-Human Trafficking Unit; Department of Justice, Equality and Law Reform	6
Executive Summary	8
<b>Part One:    <u>Background and Context</u></b>	<b>25</b>
1.1. What is Human Trafficking?	
1.2. Human Trafficking vs. Human Smuggling	
1.3. Who are the Victims of Human Trafficking?	
1.4. How Do Traffickers Control Their Victims?	
1.5. Consequences of Human Trafficking	
1.6. What is the Scale and Scope of Trafficking in Ireland?	
1.7. The National Action Plan	
<b>Part Two:    <u>The Framework</u></b>	<b>35</b>
2.1    Legislative Framework	
(a) <i>The International Legal Framework</i>	35
(b) <i>The Irish Legal Framework</i>	38
2.2    Administrative Framework	49
(a) <i>Anti-Human Trafficking Unit</i>	
(b) <i>Human Trafficking Investigation and Co-ordination Unit, the             Garda Síochána</i>	
(c) <i>High Level Interdepartmental Group</i>	

*(d) Governmental and Non-Governmental Roundtable Forum &  
Interdisciplinary Working Groups*

<b>Part Three:</b>	<b><u>Addressing Prevention, Protection and Prosecution</u></b>	<b>52</b>
<b><i>Prevention</i></b>		
(3.1.1)	Tackling Root Causes, Building Capacity and providing information on legal migration	55
(3.1.2)	Awareness Raising, Demand Reduction and Education Campaigns	61
(3.1.3)	Data and Research Strategy	75
(3.1.4)	Border Control	80
(3.1.5)	Ensuring the legitimacy, security and control of Irish travel and identity documents	85
(3.1.6)	Co-ordinating strategy and fostering cooperation	90
(3.1.7)	Training for law enforcement officials, support workers and other key personnel	96
(3.1.8)	Interagency Information Sharing	102
(3.1.9)	Missing Persons Protections	105
<b><i>Protection</i></b>		
(3.2.1)	Measures to assist victims in their recovery	110
(3.2.2)	Recovery and Reflection period and Temporary Residence for suspected victims	118
(3.2.3)	Access to Information, Legal aid and advice; Compensation and Legal Redress	124
(3.2.4)	Victim Identification Procedures	133
(3.2.5)	Protection of Identity of suspected victim	139
(3.2.6)	Victim voluntary return – measures to assist	143
(3.2.7)	Non-Punishment of suspected victims	146
(3.2.8)	Victim and Witness Protection	149
<b><i>Prosecution</i></b>		
(3.3.1)	Enforcement Measures	155
(3.3.2)	Supporting suspected victims during criminal proceedings	163

**Part Four: Responses to Child Trafficking**

(4.1)	Reducing Vulnerability of Children	167
(4.2)	Identification of Child Victims	170
(4.3)	Protection of the Child's Identity	174
(4.4)	Measures to assist a suspected child victim's recovery	177
(4.5)	Co-operation in the search for missing children	182
(4.6)	Child Residence Permit; Repatriation and Return of Child Victims	185

**Part Five: Implementation and Evaluation** 189

Appendices:

A1:	Acronyms and abbreviations	193
A2:	Terms of Reference and Membership of Interdepartmental High Level Group, Roundtable Forum and Working Groups	196
A3:	Table of Key Actions in the National Action Plan	204
A4:	List of submissions received in relation to the National Action Plan	219
A5:	Data Strategy – protocol and sample form	220
A6:	Penalties for breaches of Employment Law enforced by the National Employment Rights Authority	234

This document is available on the Department's website [www.justice.ie](http://www.justice.ie)

Copies of this document may be obtained from:

**Anti-Human Trafficking Unit,  
Department of Justice, Equality and Law Reform  
Pinebrook House, 71/74 Harcourt Street, Dublin 2.  
Email [ahtu@justice.ie](mailto:ahtu@justice.ie)**

## Foreword -

*Mr. Dermot Ahern, T.D.,*

*Minister for Justice, Equality and Law Reform*

Human trafficking is a form of modern-day slavery which has no place in Irish society. Trafficking of human beings is a phenomenon which undermines the values of human rights and dignity of the person. To put it plainly, human trafficking involves issues such as the recruitment, buying and selling of human beings by means such as fear, force, fraud and deception for the purposes of their sexual or labour exploitation or the removal of their organs. It is a crime which involves multiple actors including recruiters, facilitators of transportation and fraudulent employment opportunities, exploiters and end beneficiaries of so-called goods and services provided and produced by trafficked persons. Both I, as Minister for Justice, Equality and Law Reform and the Government, in co-operation with non-Governmental organisations and our international partners, are committed to putting in place an overall strategy to proactively and comprehensively address the issue of human trafficking, utilising all the necessary resources of the State with a view to making Ireland a more hostile environment for those who might consider trafficking people into, out of and within this jurisdiction.

There are no easy solutions in the fight against this crime. The reasons it happens are complex. Generally - but not always - it is a transnational crime and co-operation with our international partners is of the utmost importance in seeking to put in place measures which are wide ranging and effective.

This National Action Plan has been developed in line with the Government's commitment, as outlined in the Programme for Government 2007-2012, to ratify the Council of Europe Convention on Action against Trafficking in Human Beings and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organised Crime. The Plan will also contribute to the commitment to tackle emerging trends in crime as outlined in the Department of Justice, Equality and Law Reform's Strategy Statement 2008 – 2010. This Plan seeks to outline the many steps taken to date and

those which will be taken in the coming years in an effort to prevent trafficking; protect victims; and prosecute the perpetrators. The Interdepartmental High Level Group, the Anti-Human Trafficking Unit, established in my Department in February 2008, the Garda Síochána and various Government Department's and Agencies have already begun implementing many of the measures outlined in this Plan and the work carried out to date will be expanded upon and developed during the lifetime of this Plan.

We must all recognise the current economic climate in which this National Action Plan will have to be implemented. In drawing up the Plan we have sought to balance what can realistically be achieved within current resources with our international obligations and our determination to provide the best possible service to victims of trafficking.

Global trends indicate that the prevalence of this atrocious practice is on the rise, as criminals continue to exploit the vulnerable for personal gain. It has been estimated that approximately 800,000 people are trafficked across national borders annually, with millions more trafficked within their own countries.<sup>1</sup>

The aim of this Plan is to set out the legislative and administrative structures that are in place or that will be put in place to:-

- (i) address the crime of human trafficking
- (ii) ensure the protection of the human rights of victims of this crime and
- (iii) allow for the ratification of all relevant international instruments and agreements.

The deliverable measures outlined in this Plan in the areas of Prevention, Prosecution and Protection are intended to demonstrate that Ireland is determined to stamp out this abhorrent crime.

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<sup>1</sup> United States Department of State, *Trafficking in Persons Report*, 2008, p.7.

## Preface

Minister,

I am pleased to present to you the first National Action Plan on the Prevention and Combating of the Trafficking of Human Beings in Ireland. The Plan is presented on behalf of the Interdepartmental High Level Group on Combating Trafficking in Human Beings, which was established to recommend to you the most effective responses to trafficking in human beings in Ireland.

A key goal of this Plan is to set out the structures which, when fully put in place, will ensure that Ireland has the appropriate legislative and administrative framework to allow for the ratification of all relevant international instruments. The Plan is based on what is known in the human trafficking area as the three P's - Prevention, Protection and Prosecution.

The Criminal Law (Human Trafficking) Act 2008 provides the legislative framework for the prosecution of traffickers of human beings for purposes of their sexual exploitation, labour exploitation or removal of their organs. The Immigration, Residence and Protection Bill 2008 will address immigration issues. This Plan seeks to develop a holistic approach to the treatment of suspected victims and potential victims. This Plan sets out the services required and how they can be accessed by persons identified as suspected victims of trafficking [by a member of the Garda Síochána, not below the rank of Superintendent, in the Garda National Immigration Bureau]. Services required by suspected victims include, inter alia, emergency accommodation and medical services as well as longer term solutions to victim accommodation and medical needs.

This National Action Plan recognises the need for a co-ordinated approach across Government Departments / Agencies, while acknowledging the important role of the non governmental stakeholders and other international organisations. I look forward to maintaining and strengthening the partnership approach – nationally and internationally - in the continued implementation of measures undertaken since the establishment of

the Anti Human Trafficking Unit in February 2008 and in the implementation of this Plan.

At the end of 2007, interested groups and the general public were canvassed for their views on what should be included in the National Action Plan. Nearly thirty submissions were received which were carefully considered when drawing up this Plan. A list of those who made submissions is at Appendix 4. I am grateful to all those organisations and individuals who took the time to contribute to this process.

It is my hope that this Plan will become the blueprint for a more holistic approach to tackling this evil crime. It will be a 'living' document, which will be kept under review and updated. It has been specially drafted to allow for flexibility in its recommendations – it will adapt to challenges presented in the future and will evolve as our understanding, knowledge and practical experiences of human trafficking grow.

*Marion Walsh*

*Executive Director,*

*Anti-Human Trafficking Unit,*

*Department of Justice, Equality and Law Reform.*



## **Executive Summary**

# **National Action Plan to Prevent and Combat Trafficking** **in Human Beings in Ireland**

Human trafficking is more than the illegal movement of human beings from one place to another. It is an action carried out through abusive means for the purposes of the exploitation of human life. Three components – An **action** (the recruitment, transportation, transfer, harbouring or receipt of persons) must be carried out by a **means** (threat or use of force or other forms of coercion, abduction, fraud, deception abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person) for the **purposes** of exploitation, for human trafficking to occur.

The purpose of this National Action Plan is to:

1. Set out the measures which have been undertaken already across Government Departments and Agencies to address this issue,
2. Identify areas which require further action,
3. Set out the structures which, when in place, will bring Ireland into line with its international obligations and allow for the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

This Plan has been drafted under the following headings:

- I. Prevention of human trafficking and awareness raising,
- II. Protection of the victim,
- III. Prosecution of the trafficker,
- IV. Response to child trafficking, and

## V. Evaluation.

This Plan will be reviewed and updated as our knowledge and experience of the practical issues surrounding this evil crime grow. Its implementation will be monitored by the High Level Interdepartmental Group which was established to recommend the most appropriate response to the Minister for Justice, Equality and Law Reform.

This National Action Plan follows on from a public consultation process which took place in late 2007. Nearly thirty submissions were received from interested groups and members of the general public. The submissions were carefully considered when drawing up this Plan. See Appendix 4 for a list of submissions received.

A summary chart of the key actions outlined in this National Action Plan is at Appendix 3.

This Plan sets out the strong legislative framework which is in place to tackle this crime, including domestic legislation such as the **Child Trafficking and Pornography Act 1998**, the **Criminal Law (Human Trafficking) Act 2008** and the **Sexual Offences (Jurisdiction) Act 1996** and international instruments – the United Nations Protocol to Suppress and Punish Trafficking in Persons, supplementing the United Nations Convention against Transnational Organised Crime (2000), the EU Council Framework Decision 2002/629/JHA on combating trafficking in human beings (2002) and the Council of Europe Convention on Action against Trafficking in Human Beings (2005).

In addition to the criminal legislation outlined above, the entire range of statutory employment rights and protections available in Ireland are applicable equally to foreign nationals and Irish workers. Legislation of relevance to suspected victims trafficked for the purposes of forced labour include the **Organisation and Working Time Act 1997** and the **National Minimum Wage Act 2000**.

An administrative framework to tackle human trafficking in Ireland has also been established which will address key policy issues and provide ongoing support to counter trafficking activities. This framework includes the **Anti Human Trafficking**

**Unit (AHTU)** which was established in February 2008 in the Department of Justice, Equality and Law Reform, a **High Level Interdepartmental Group on Combating Trafficking in Human Beings**, a **Governmental and Non Governmental Roundtable Forum** and **five Interdisciplinary Working Groups**. The Garda Síochána have also recently established a **Human Trafficking Investigation and Co-ordination Unit** within the Garda National Immigration Bureau (GNIB).

This Plan outlines the initiatives which have been undertaken to date to prevent human trafficking in Ireland, protect possible and suspected victims, including child victims and enforce the relevant legislation.

## PREVENTION

Some of the key initiatives aimed at **Prevention** which have been implemented or commenced are as follows:

### Awareness Raising:

- Taking a lead role in the Awareness Raising Strand of the G6 initiative<sup>2</sup> and a national awareness raising campaign (using the ‘Blueblindfold’ concept) in late 2008. Information on anti-human trafficking measures is provided on the Department of Justice, Equality and Law Reform website [www.justice.ie](http://www.justice.ie) which includes a link to the Blueblindfold website [www.blueblindfold.gov.ie](http://www.blueblindfold.gov.ie).
- Funding provided to Ruhama for a 3 minute film and a 50 second advertisement designed to educate ‘punters’ and potential ‘punters’ on the exploitation underpinning the commercial sex industry and to address the demand side of sex trafficking.
- Awareness raising with young people through the inclusion of the topic of human trafficking as part of the ‘Human Rights’ module of the CSPE programme in second level schools.
- The Awareness Raising and Training Working Group has examined different approaches to raising awareness and training for front line

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<sup>2</sup> G6 is an anti-trafficking initiative involving 6 European countries - Ireland, the UK, Poland, Italy, the Netherlands and Spain, supported by Interpol, Europol and Eurojust.

personnel. This group is also exploring methods of awareness raising in countries of origin and with migrant communities.

- Awareness raising information seminars have been held for staff of the Departments of Foreign Affairs and Enterprise, Trade and Employment.
- The Department of Foreign Affairs has included a Human Trafficking page on the visa information section of its website in an effort to bring this issue to the attention of potential visa applicants wishing to travel to Ireland.
- The Department of Enterprise, Trade & Employment has agreed to include leaflets on human trafficking with the work permits it issues. Leaflets will need to be designed but in the short term leaflets from the Blue Blindfold campaign will be issued with work permits.
- Articles aimed at raising awareness of the issue have been supplied to various professional magazines and newsletters e.g. the Judicial Studies Journal.

#### Training:

- Awareness raising training, setting out the indicators of human trafficking, delivered to in excess of 130 participants by the IOM with presentations by the Health Service Executive (HSE), Non Government Organisations, the Garda National Immigration Bureau (GNIB) and the AHTU. Among those who participated in the training were Inspectors from the National Employment Rights Authority (NERA); Inspectors from the Private Security Authority; HSE personnel; staff of the Irish Naturalisation and Immigration Service and of the Office of the Refugee Applications Commissioner, Victim's of Crime Office, Crime Victim's Helpline, Probation Service, Youth Detention Schools, Department of Enterprise, Trade and Employment and Department of Social & Family Affairs.
- Providing the Garda Síochána with the training to enable them to identify victims so as to provide for their wellbeing and initiate criminal investigations, when appropriate. 250 members of the Garda Síochána have taken part in a training course entitled 'Tackling Trafficking in Human Beings: Prevention, Protection and Prosecution'. In addition, 520

probationer Gardaí have received training on the identification of possible victims of trafficking and its elements.

- Appropriate training for all defence forces personnel on overseas missions is also provided.

#### Penalties for offenders:

- Legislative penalties in place for any person who knowingly solicits or importunes a trafficking victim for the purposes of sexual exploitation.
- The Immigration Act 2003 imposes requirements on carriers operating aircraft, ferries or other vehicles bringing persons to Ireland to ensure that passengers are in possession of any necessary immigration documentation. The Immigration Act 2004 requires all non nationals seeking to enter the State to present him or herself to an Immigration Officer and request permission to enter the State. It is proposed in the Immigration, Residence and Protection Bill, 2008 to update and restate the provisions contained in the 2004 Act and also to strengthen the visa system by placing it on a statutory footing for the first time.
- The Passport Act 2008 provides a range of measures to improve passport control. The Criminal Justice (Theft and Fraud) Offences Act 2001 provides for a range of offences dealing with fraud and the use, control etc of false instruments including passports and travel documents.

#### Use of technologies / international co-operation:

- The Garda Síochána are also making the best use of available technologies to ensure our borders are as secure as possible. A Project Board has been established by the Garda Commissioner to drive the upgrade of the Automated Fingerprint Identification System (AFIS). Immigration Officers at certain ports are currently in possession of Carbon Dioxide Detectors (CO2) which assists them in establishing if persons are being smuggled into the State concealed in vehicles. It is hoped to extend this facility to other ports.
- There is ongoing direct contact between the Garda Síochána and the UK Border Control Agency. There is active participation in the activities of

international organisations concerned with border control and preventing trafficking in human beings.

- Providing aid to targeted programmes aimed at tackling root causes of human trafficking in source countries.

#### Data Collection strategy:

- Developing an understanding of the scale of the problem by implementing a data collection strategy, modelled on systems being developed in the EU. Data is being collected and analysed by the AHTU which will help us to improve services and respond to this crime.

## PROTECTION

### Services for victims

The development of a fully effective system of supports for potential and suspected victims of trafficking is a key priority of this National Action Plan. Victim support is important not only for the victims themselves but also for the successful prosecution of the criminals who engage in this heinous crime. It is therefore essential that the measures which aim to protect and assist victims of trafficking, attend to their physical, psychological and social needs for recovery while taking into account the diversity of each victim's needs. Article 12 of the Council of Europe Convention on Action against Trafficking in Human Beings and Article 6 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children set out assistance measures which State Parties must provide for all victims of trafficking.

The arrangements for **accommodation**, which are now in place insofar as adult potential or suspected victims of trafficking are concerned, are that the Reception and Integration Agency (RIA) – a functional unit of the Irish Naturalisation and Immigration Service (INIS) of the Department of Justice, Equality and Law Reform - in conjunction with the Health Service Executive (HSE) is providing services to potential or suspected victims of trafficking referred to them by GNIB. Potential or suspected victims of trafficking are provided with the same accommodation and ancillary services as those provided to newly arrived asylum seekers. That is to say, they are initially

accommodated in a Reception Centre in Dublin where they are offered health screening and processed for social welfare purposes and thereafter accommodated in “Direct Provision” i.e. full board with all utility costs paid by the State.

The reception centres at which suspected victims are accommodated includes a medical centre on-site managed by the HSE. The HSE devises a Care Plan suited to the individual’s needs. Availing of the services is voluntary but service provision can be fast-tracked where necessary. **Material assistance**, i.e. suitable clothing, toiletries, etc. is provided, where necessary. The Legal Aid Board will provide **legal aid and legal advice** to potential and suspected victims of trafficking in both civil and criminal cases. While a legislative amendment is required to enable the Legal Aid Board provide legal aid and legal advice in criminal cases the Board has agreed to put in place an administrative arrangement to allow for the provision of legal aid and legal advice in criminal cases pending the legislative amendment.

**Translation and interpretation services** are provided by each of the organisations that interact with suspected victims of trafficking when necessary and appropriate i.e. GNIB, HSE, INIS and RIA.

During the Recovery and Reflection period suspected victims will not have **access to the labour market**. When a 6 months temporary residence permit has been granted suspected victims of trafficking, who are not within the asylum process, will have unrestricted access to the labour market.

### **Services for child victims**

Using their statutory powers under the Child Care Acts, the HSE will make all necessary provisions regarding any unaccompanied child who is identified as a suspected victim of trafficking. The provision of services to underage suspected victims of trafficking will be further developed by the social work service for separated children seeking asylum which is based in Dublin. Most of the services are already available within the Unit and can be adapted or expanded as required. Services being put in place include initial counselling and debriefing, a multidisciplinary assessment of need and a Care Plan. The child will be allocated a social worker to oversee and implement his/her care plan. A range of placement options will be made available - the

level of protection and care needed will influence the placement option used. The child will have a full medical screening and will be linked to appropriate services. It is an underlying principle of HSE services that the privacy of every child will be observed and protected. There are data protection protocols in place within the HSE in relation to how data is used and stored. It is the policy of the HSE not to disclose details of any child in care except in exceptional circumstances. These circumstances may include the tracing of family members and other measures to secure the well being and protection of the child.

Section 8 (5) (a) of the Refugee Act 1996 (as amended) provides that, where it appears to an immigration officer or an authorised officer that a child under the age of 18 years has arrived in the State and is not in the custody of any person that child must be referred to the HSE who have responsibility for his/her care under child care legislation. If it is not clear whether the child in question is under 18 years it may be necessary to carry out an age assessment. The HSE will continue to age assess clients who are referred as children using a holistic model and will co-operate with other state bodies, as appropriate, to ensure all relevant information is included in such assessments.

### **Recovery and Reflection period**

The Council of Europe Convention requires States to provide for a period of Recovery and Reflection of at least 30 days. There are also requirements to grant victims a temporary residence permit. The **Immigration, Residence and Protection Bill**, currently before the Oireachtas, establishes a framework to allow suspected victims of trafficking an immediate recovery and reflection period of 45 days (to be increased to 60 days during Report Stage). Suspected victims may also be granted a residence permit to allow them assist the Garda Síochána or other relevant authorities in an investigation or prosecution.

Pending the enactment of the Bill an administrative scheme, mirroring the relevant draft legislative provisions, is in place which provides that where there are reasonable



grounds for believing that a foreign national<sup>3</sup> is a suspected victim of trafficking s/he will, following certification by a Garda Superintendent in the GNIB, be allowed remain in the State for a period of 60 days to allow them to recover and escape the influence of their traffickers. A 6 month period of temporary residence may also be granted thereafter if the suspected victim has severed all ties with the alleged traffickers and is willing to assist in an investigation or prosecution arising in relation to trafficking.

This National Action Plan outlines a number of other **Protection** measures which are in place for suspected victims of human trafficking. These include:

- the existing support services for victims of crime generally,
- legislative provisions which protect the identity of suspected victims during criminal proceedings for human trafficking offences;
- legislative provisions which create several offences aimed at protecting victims of crime, those who report crime, witnesses who give testimony and their families. The risk or perceived risk to a suspected victim of trafficking will be assessed and suitable protection measures will then be put in place.
- The Voluntary Assisted Return and Reintegration Programme which is funded by the Department of Justice, Equality and Law Reform and managed by the IOM will be of benefit to suspected victims of trafficking who wish to return to their home country.
- The Guidelines for Prosecutors issued by the Office of the Director of Public Prosecutions which state that an important issue to consider when deciding whether or not to prosecute is whether it is in the public interest to do so.

### **Prosecution and Investigation of Human Trafficking**

This Plan sets out details of the proactive approach the Garda Síochána has taken to the investigation of allegations of trafficking offences even prior to the introduction of the Criminal Law (Human Trafficking) Act 2008. This includes:

#### ***Prior to the Criminal Law (Human Trafficking) Act 2008***

- ‘**Operation Snow**’, an operation undertaken by the GNIB in 2007, designed to prevent the trafficking of minors into, out of and within the State; to ensure the

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<sup>3</sup> For the purpose of the notice a foreign national means a person from outside the European Economic Area. However, a person from the EEA who is identified as a suspected victim of human trafficking, will for the purpose of these arrangements be treated no less favourably.

welfare of suspected victims of such criminal activity is adequately provided for and to achieve prosecutions where criminal activity has been detected.

- A person suspected of trafficking up to one hundred children into Europe was arrested in Ireland on foot of a European Arrest Warrant and subsequently surrendered to the Netherlands where he is now awaiting trial.
- Ongoing close co-operation with the United Kingdom. As part of that co-operation, Ireland participated in **Operation ‘Pentameter 2’** - a UK initiative which concluded in 2008. The primary aim of the initiative was to ensure a co-ordinated approach to the phenomenon of human trafficking across all police forces and other Crown Agencies, such as the UK Border and Immigration Service, in the UK. Participation in the initiative by the Garda Síochána arose from the need to have a co-ordinated approach to human trafficking within the Common Travel Area, which operates between the UK and Ireland. This co-operation took the form of intelligence sharing, joint training exercises and operational co-operation where investigations had a cross-border (Ireland/UK) dimension.

#### *Since the Criminal (Human Trafficking) Act 2008*

- **The Policing Plan** for 2009 has identified the investigation of trafficking in Human Beings as a key priority for the Garda Síochána with increased priority given to prevention, targeting of human trafficking and people smuggling through the effective enforcement of national and international immigration law.
- The establishment of the **Human Trafficking Investigation and Co-ordination Unit** in the Garda Síochána.
- **Ongoing Garda operations** aimed at preventing and combating prostitution offences. This includes raids of premises being used as brothels and policing of other premises with the potential to attract persons engaged in or facilitating the trafficking of human beings.
- **Ongoing close co-operation** between the Garda Síochána and a number of international organisations such as Europol, Interpol, Eurojust and Frontex. For example, Ireland has assisted in investigations in other EU Member States and through the contribution of intelligence information and the undertaking of arrests and searches has helped ensure that prosecutions and convictions are

achieved in those Member States. Following a joint police trafficking investigation between Ireland and Romania four people were prosecuted in Romania for trafficking for the purpose of labour exploitation.

- The signing of a joint protocol between **the Garda Síochána** and the **HSE** on missing children. The protocol sets out the roles and responsibilities of both agencies in relation to children missing from care. Both organisations will work together to reduce the incidence of children missing from care placements, to prevent those children suffering harm.

## **KEY AREAS FOR ACTION**

The main proposals for future actions in the four chapters of this National Action Plan are summarised below.

### **Prevention**

#### **Supporting source countries:**

- We will continue to support the anti-trafficking initiatives of various partner organisations. We will also explore the possibility of entering into specific anti human trafficking bilateral agreements with source countries to support them in their efforts to combat human trafficking.
- Irish Aid, the Overseas Development Division of the Department of Foreign Affairs, has recently entered into the third phase of a comprehensive Partnership Programme with the ILO, which facilitates the promotion of women's entrepreneurship, the inclusion of people with disabilities in employment, action against forced labour, including human trafficking and the elimination of child labour.

#### **Awareness Raising/ Training:**

- We recognise the important role the media has to play in raising awareness of this crime and we will be exploring ways of supporting the media in their effort to provide sensitive and informed coverage of the stories of victims. Targeted advertising campaigns, e.g. at major sporting events etc., will also be considered during the lifetime of this Plan.

- We will continue to use the internet, in particular social networking sites, as a method of creating awareness of the indicators and consequences of human trafficking.
- Awareness raising and training for key officials, such as health and safety inspectors, agriculture inspectors/officers vets, probation officers and prison officers who are likely to come into contact with vulnerable groups will continue to be rolled out over the lifetime of this Plan. The possibility of providing awareness raising training to frontline healthcare providers such as General Practitioners (G.P.s), public health nurses and Accident & Emergency (A&E) staff will be explored further. We will link in with the Irish College of General Practitioners with a view to developing an awareness raising training programme for General Practitioners.
- Frontline staff in both governmental and NGOs will be provided with credit card sized cards which list various indicators of human trafficking. It is hoped this initiative will increase awareness of the signs of trafficking and lead to faster identification of trafficking cases.
- Ireland will be participating in a study which will, inter alia, assess the need for and feasibility of a 116 Europe wide hotline number for the support of trafficked persons.
- We will also work with stakeholders in industries such as agriculture, construction, hospitality and entertainment to develop Codes of Practice which will help to identify potential victims among vulnerable groups.
- We will link in with relevant representative associations in the private sector such as the Restaurant Association of Ireland and the health and beauty industry to put systems in place to raise awareness for staff engaged in these areas.
- We will explore ways of using the arts to reach beyond traditional methods of communication by exploring the issues surrounding human trafficking through the medium of plays, exhibitions, soaps and documentaries. We will seek to

engage with young people in schools through initiatives such as poster and photographic competitions. We will engage in dialogue with third level institutions to explore the possibility of including trafficking in human beings as a topic/module on legal and social science degree and masters courses.

- We will also explore with the relevant professional bodies awareness raising and training options for lawyers/barristers.

#### **Improving our understanding:**

- We will improve our knowledge of the nature and scale of human trafficking in the State through the continued development of our data collection strategy and by developing targeted research projects.

#### **Supporting NGOs:**

- A number of measures contained in this Action Plan are designed to help and support victims through the criminal justice process. The NGO community has a crucial role to play in the provision of supports and services to victims. The strengthening of co-operation between the governmental and non governmental sectors is a key element of our anti trafficking strategy. We will continue to support NGOs in their work with potential and suspected victims of trafficking.

#### **Security of Travel documents:**

- We will continue to ensure the security and integrity of travel and identity documents. In particular, Immigration Officers of the Garda Síochána will continue to enforce the relevant provisions of immigration legislation and the Criminal Justice (Theft and Fraud) Offences Act 2001.
- The Department of Foreign Affairs will continue to ensure that the security controls in place on the production and delivery of passports are maintained. Spoiled or incorrect passports will be destroyed under secure conditions.

#### **International Co-operation:**

- We recognise that this transnational crime requires an international response and the AHTU and the Garda Síochána will continue to engage in bilateral communications and co-operation with other international agencies.

## Protection

### Services for potential/suspected victims:

- We will keep under review the services provided by the RIA to potential and suspected victims of trafficking as our experience of the situation in this country grows and to ensure the needs of potential and/or suspected victims are being properly met.
- We will continue to support the work of the National Referral Mechanism Working Group which is tasked with examining and making recommendations to the Interdepartmental High Level Group on a range of issues concerning a National Referral Mechanism.<sup>4</sup>
- During the lifetime of this Plan we will consider the use of Memoranda of Understanding between key stakeholders involved in the provision of services to potential and/or suspected trafficking victims.
- We will explore the use of technological aids, such as specially-programmed audio players, to assist the Garda Síochána and other frontline personnel who may come into contact with potential victims.

### Information for potential/suspected victims:

- Leaflets will also be developed, in a number of languages, which will outline the rights and services available to potential and/or suspected victims and the contact details for organisations which will be useful to a potential and/or suspected victim. A leaflet outlining a step by step guide to the process for supporting potential or suspected victims of trafficking will also be developed.

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<sup>4</sup> The OSCE defines a National Referral Mechanism as a ‘co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-ordinating efforts in a strategic partnership with civil society’.

- The enactment and commencement of the Immigration, Residence and Protection Bill will provide a statutory framework (based on the current administrative arrangements) whereby suspected victims of human trafficking will be afforded a recovery and reflection period of 60 days and can thereafter be granted a temporary residence permit for six months on a renewable basis.

## **Prosecution**

- We are committed to providing a strong law enforcement response to those who commit human trafficking offences both within the State and internationally. The Garda Síochána will continue to make the detection of human trafficking a policing priority, including the targeting of gangs in specific Garda operations.
- The Garda Síochána will continue to liaise with the international law enforcement community and will continue to actively engage in the activities of international organisations such as Frontex, Europol, Eurojust and Interpol.
- The publicising, particularly in source countries, of successful convictions against traffickers will be considered over the lifetime of this Plan.

## **Child Trafficking**

- We will continue to support the work of the Child Trafficking Working Group which is tasked with examining and making recommendations to the Interdepartmental High Level Group on, inter alia, a child sensitive approach in the development, implementation and assessment of anti-human trafficking policies and programmes.<sup>5</sup> The need for ongoing training in victim identification and support for frontline staff who come into contact with vulnerable child victims is also being examined by the working group.
- Awareness raising among new migrant communities is an area which will be explored further as a means of protecting vulnerable children from possible exploitation. We will also explore with carriers the relevance of a Best Practice

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<sup>5</sup> See Appendix 2 for the Terms of Reference and Membership of the Working Group.

Code on the carriage of minors. The use of easily understood information cards for children travelling alone will also be explored over the lifetime of this Plan.

- We recognise that protecting child victims of trafficking from further exploitation presents challenges. The HSE does not have the power to detain children and only the courts have the power to order the placement of a child in secure placement units. All cases will be dealt with on an individual basis and the most appropriate care setting for the child's particular circumstances will be sourced. The HSE is developing a Plan to mainstream the services provided to separated children and the practice of accommodating children in hostels will be brought to an end as alternative arrangements become available. The main focus of the Plan is to place children in families and local communities throughout the State. It is hoped that these placements will minimise the risk in relation to exploitation as the involvement of teachers, public health nurses and G.P.s can be important in ensuring the legitimacy of family/guardian relationships.
- The recommendation of the Garda Síochána Inspectorate that an emergency alert system for missing children, similar to 'Amber Alert' in place in other countries, should be established has been accepted by the Minister for Justice, Equality and Law Reform and the Garda Commissioner. The Garda Síochána will be working with the support of relevant Government agencies, NGOs, the media and the public to put the alert system in place.
- We will explore the potential role of the National Education Welfare Board in supporting suspected child victims of trafficking in an education setting.
- The Child Trafficking Working Group will examine the current practices and procedures around repatriation and voluntary return of child victims. Their recommendations in this regard will be considered by the Interdepartmental High Level Group. The use of multi/bilateral and international co-operation agreements in verifying voluntary return arrangements will also be explored by the Working Group.



## **Implementation and Evaluation**

The High Level Interdepartmental Group will be responsible for ensuring that this National Action Plan is fully implemented. The interdepartmental nature of this Group makes it the most suitable body to ensure the coordinated and comprehensive implementation of this Plan.

In addition, it is proposed to conduct a structured mid-term review of this Plan. This will involve a consultation process with relevant stakeholders. Following this, this Plan will be updated to take account of changing circumstances and our growing experience in this area.

**NATIONAL ACTION PLAN  
TO PREVENT AND COMBAT TRAFFICKING OF HUMAN BEINGS  
IN IRELAND**

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-Part I-  
Background and Context

(1.1) What is Human Trafficking?

The first step in any attempt to address this evil crime is to have an accurate understanding of the basic characteristics of trafficking.

In 2000, the international community came together to formulate such an understanding. The United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime provided the first comprehensive definition of human trafficking agreed-upon internationally. Article 3 of the Protocol states:

*(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services slavery or practices similar to slavery, servitude or the removal of organs;*

*(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;*

*(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;*

*(d) “Child shall mean any person under eighteen years of age.”*

An identical definition appears in Article 4 (a) of the Council of Europe *Convention on Action against Trafficking in Human Beings (2005)*. From this description, we can see that human trafficking consists of three parts: an action, a means and a purpose. An **action** (the recruitment, transportation, transfer, harbouring or receipt of persons) must be carried out by a **means** (the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person) for the **purpose** of exploitation. All three components must be present for trafficking in persons to occur.

The trafficking of children is an exception to this concept that there must be an action, means and a purpose for trafficking to occur. Article 3 (c) of the UN Protocol explains that the *action* of recruitment, transportation, transfer, harbouring or receipt of a child for the *purpose* of exploitation shall be considered trafficking even if it does not involve the *means* set forth in the definition of trafficking in persons. This exception is repeated in Article 4(c) of the Council of Europe Convention.

It should be noted that consent from the victim of trafficking is irrelevant in this definition: even if the victim had initially consented, the consent is rendered meaningless given the abusive, coercive or deceptive actions of the trafficker. Moreover, actual exploitation need not occur: it is enough that the victim has been subjected to an action, by a means, for the *purposes* of exploitation. Thus, human trafficking involves more than the illegal movement of human beings from one place to another. It is an action carried out through abusive means for the purposes of the exploitation of human life.

To lose control over one's own life is a terrifying thing. To be trapped under the rule of another person is a seemingly unthinkable proposition in today's society but hundreds of thousands of people across the globe find themselves in these circumstances. Human trafficking – the trade and exploitation of human beings – is a global phenomenon that impacts on individuals and communities throughout the world. The scope of this crime is truly global in nature: data compiled in the United Nations Office on Drugs and Crime from the database on human trafficking trends indicates that human trafficking

has taken place in over 130 countries.<sup>6</sup> The United Nations and other experts estimate the total value of illicit human trafficking at \$32 billion and, of this, an estimated \$10 billion is derived from the initial sale of individuals with the remainder representing the estimated profits from the activities and goods produced by victims of this barbaric crime.

### (1.2) Human Trafficking vs. Human Smuggling

An important distinction must be drawn between human trafficking and human smuggling. The 2000 UN *Protocol against the Smuggling of Migrants by Land, Sea and Air* defines the smuggling of migrants as:

*“the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident”.*<sup>7</sup>

By comparing this latter definition with the definition of human trafficking provided by the separate UN Protocol on that phenomenon, one can identify a number of distinguishing elements.

Firstly, while trafficking necessitates the threat of or use of force, coercion or deception against a victim, smuggling does not. Migrants who have been smuggled have voluntarily consented to their smuggling, while victims of trafficking have not or, if they have initially consented, the consent has been rendered meaningless given the abusive, coercive or deceptive actions of the trafficker. Secondly, while human smuggling is characterised by an individual’s illegal entry into the State, victims of trafficking can enter into the State both legally and illegally. For example, a person may enter the State legally and independently, under a legitimate work permit, but later fall victim to exploitation, within the meaning of the Criminal Law (Human Trafficking) Act 2008 within the State. Thirdly, while smuggling necessitates the crossing of international borders, trafficking can take place both across international borders and within the State. There is a general misconception that human trafficking and the smuggling of persons and illegal immigration are the same issue. This is **not**

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<sup>6</sup> United Nations Office on Drugs and Crime, *Trafficking in Persons: Global Patterns*, 2006, p.17.

<sup>7</sup> United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime, Article 3(a).

the case – there is a clear difference. Trafficking is a crime which infringes the fundamental rights of persons, while smuggling is a violation of legislation protecting the borders. In the case of illegal migration facilitated by a smuggler there is an agreement between the migrant and the smuggler. The relationship between the two usually ends when the former enters the territory of the receiving state. In the case of trafficking illicit means such as coercion, deception or abuse of a position of vulnerability are used at a certain stage of the trafficking process. In addition the transfer of the person is carried out for the purpose of further exploitation, which normally starts in the country of destination. However, while there is a distinct difference between trafficking and smuggling the practices can be interlinked. What may start out as a process of smuggling can end up as one of trafficking. For example, a person smuggled into a country may be unable to pay for the cost of smuggling and end up being exploited in the same manner as a victim of trafficking.

#### TRAFFICKING AND SMUGGLING: SIMILARITIES AND DIFFERENCES



Source - International Organization for Migration, February, 2009  
©IOM

#### (1.3) Who are the Victims of Human Trafficking?

While victims are often drawn from the most vulnerable segments of society – the economically marginalised, the jobless, refugees, displaced persons, runaways and so forth –it must be stressed that persons from all social backgrounds, regardless of class, race, sex or belief may be exploited by traffickers.

Research indicates that women and children make up the majority of trafficked victims around the world<sup>8</sup>. Poverty, coupled with a perception of and a demand for sexual services in Western countries, has placed these groups at increased risk of being trafficked for the purposes of sexual exploitation. However, men may also be trafficked for sexual exploitation. To date, research has focused on sexual exploitation, leaving other forms of exploitation, such as labour exploitation, under-researched. This is a significant shortcoming given that it is in the realm of labour exploitation that men are most likely to be trafficked. Thus, men, women and children of all ages are at risk of falling victim to human trafficking.

Traffickers may provide a false promise of opportunity to entice their victim. They may promise employment and financial gains or a better life. In other cases, a victim may know he/she is to be employed but be unaware of the conditions of the employment. While he/she may expect to work in a legitimate job, such as in a restaurant or office, they may have in fact been deceived to be exploited upon arrival. Traffickers may also abduct their victims or threaten them or their families with violence.

#### (1.4) How Do Traffickers Control Their Victims?

Traffickers use a range of methods to maintain control over their victims. Beatings, rape, verbal abuse, threats to the victim and their family, detention and confinement are all effective means to dominate a victim. Traffickers also utilise a range of other strategies, such as debt-bondage and isolation to establish control over their victims.

Debt bondage occurs when traffickers provide their victims with a loan under agreement that it will be repaid with the money earned in the destination country. However, this loan is usually so high that repayment is impossible or will take years to pay off. Another variation of debt bondage occurs when interest rates are so astronomically high on a particular loan that the debt becomes a permanent burden on the victim.

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<sup>8</sup> The United States Department of State's *Trafficking in Persons Report (2008)* estimates that 80% of all transnational victims of trafficking are women and girls and up to 50% are minors. This figure does not include victims trafficked within their own borders, generally for forced or bonded labour. See: United States Department of State, *Trafficking in Persons Report, 2008*, p. 7.

The isolation technique operates by keeping the victim in conditions where he/she feels unable to escape or seek help. One form of isolation operates by confiscating the identity or travel documents of the victim after arrival in the destination country. Thus the victim feels robbed of his/her official – and legal – status, which makes it extremely difficult for the victim to seek help or escape. Traffickers will then prey on the fears of victims by telling them that the police will punish their illegal status. By removing identity and travel documents and instilling fear of State authorities in the victim, traffickers gain a stranglehold over their prey, making victim escape more unlikely. Another form of isolation operates by deliberately excluding victims from the chance to communicate in their mother tongue or associate with persons from a similar background. This linguistic and social isolation forces a victim to rely on the trafficker for basic necessities of everyday life – the traffickers have successfully fostered victim dependence, which they mercilessly exploit to their own ends.

Some trafficking victims have claimed that voodoo or juju is used to keep victims in the grip of their traffickers. Voodoo/Juju is an old cultural/religious practice rooted in ancestral spirit worship and is particularly prevalent in West African communities. Victims claim traffickers exploit this traditional belief to subject victims to religious oaths compelling repayment of the debt for their journey abroad and requiring them never to go to the authorities to complain. The oath ceremony, which includes the use of items from the victim such as hair, blood or nail clippings, is overseen by a “priest” and the essence of the oath is to instil psychological fear and intimidation in a victim. On this basis, once the oath is administered, the trafficker may not need any physical control of the victim, as the victim is told that escaping from the trafficker will mean death for themselves or their family.

Often, numerous techniques will be used simultaneously to control a victim. Debt-bondage may be complemented with violence and sexual assault, or isolation may be combined with threats to the victim’s friends and family. Traffickers are ruthless in their abuse and oppression. Given that traffickers profit from the exploitation of victims, they will seek to protect their investment, making sure the victim cannot and will not try to escape or seek help. In the end, these methods establish a trafficker’s dominance over the victim, undermining basic principles of equality and violating the human rights of their victim.

### (1.5) Consequences of Human Trafficking

Those who fall prey to traffickers find themselves in an environment of extreme exploitation and abuse. The consequences for their everyday lives are extremely serious. They may be victims of sexual exploitation, forced labour, forced servitude, be forced to beg on the street or even have their organs removed. They experience repeated violations of their human rights and may be threatened, beaten, or raped - many fear for their very lives. The physical and psychological impact on these individuals is dramatic and victims who manage to free themselves are often traumatised and permanently scarred, both physically and mentally. Moreover, victims are often stigmatised by family and friends in their community and may feel ashamed of what they were forced to do while under the control of their traffickers. In short, the personal consequences of trafficking on its victim are extreme.

Trafficking also has negative consequences for the communities in which it originates and takes place. Since trafficking is often executed by transnational criminal organisations, the discovery of a victim of trafficking indicates the existence of these criminal groups – and the drugs and arms that may come with them – in the community. In this way, trafficking violates national legislation and can present threats to national security and community safety. Moreover, trafficking undermines the human rights and dignity of the person and such a reflection on the State stands to undermine national and international confidence. Thus, human trafficking not only affects its immediate victims, but also the communities in which they live. For this reason, it is imperative that the State defend human rights, prevent trafficking from occurring, protect the victims of trafficking and prosecute the criminals who undertake this atrocious crime.

### (1.6) What is the Scale and Scope of Trafficking in Ireland?

The absence of a clear definition of human trafficking in Irish law prior to the enactment of the Criminal Law (Human Trafficking) Act 2008 acted as an impediment to documenting the scale and nature of the scale of human trafficking in Ireland. However, some research has been completed which can help provide a context to the problem and inform the direction of our anti-trafficking policy.



To date three significant pieces of research have been conducted. These are:

- Wylie, Gillian and Ward, Eilis (2007) *The Nature and Extent of Trafficking of Women into Ireland for the Purposes of Sexual Exploitation 2000-2006: A Report from Findings*, NUI Galway.
- Migrant Rights Centre of Ireland in association with Dublin City University (2006) *No Way Forward, No Going Back: Identifying the problem of trafficking for forced labour in Ireland*, DCU.
- Kelleher Associates in association with Monica O'Connor and Jane Pillinger. *Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland*. Commissioned by the Immigrant Council of Ireland in co-operation with the Women's Health Project and Ruhama.

The first two studies mentioned were conducted prior to the introduction of the Criminal Law (Human Trafficking) Act 2008. Organisations and persons providing data to the researchers applied their own definition of trafficking. Consequently, these studies lack a common definition of what constitutes trafficking in human beings. The lack of a common definition of trafficking has implications in terms of providing a reliable estimate of the extent of trafficking in Ireland in that a very broad definition of trafficking inflates the number of those understood as being trafficked. This should be borne in mind when interpreting findings from these studies.

Regarding the movement of children into Ireland, some information on the extent of this can be gained from Operation Snow, a recent Garda operation, which was undertaken by GNIB. It was designed to prevent the trafficking of minors into, out of and within the State; to ensure that the welfare of suspected victims was adequately provided for; and to achieve prosecutions where criminal activity was detected. In the period since the commencement of this initiative in late 2007 to the end of 2008 almost **200** incidents have been the subject of investigation with assistance provided for a total of **164** children. However, in the majority of these cases, the children were found to be

in the State for the purpose of family re-unification and no evidence of trafficking was disclosed.

#### (1.7) The National Action Plan

The Department of Justice, Equality and Law Reform in its Statement of Strategy 2008-2010 has as a key objective the implementation of measures to ensure that Ireland is fully compliant with all relevant international instruments to combat trafficking in human beings. This National Action Plan is a key element of the execution of that objective. It documents measures implemented to-date and sets out a strategy to build on the initiatives already taken to prevent and combat human trafficking in Ireland. This Plan is couched in a human rights framework, centred on the protection of victims of trafficking and it seeks to address the **3 P's** of human trafficking: the **P**revention of trafficking, the **P**rotection of its victims and the **P**rosecution of the perpetrators of this abhorrent crime. Grounded in a strong legislative framework, this Plan presents a holistic approach which seeks to build a collaborative approach between State bodies, international organisations, non-governmental organisations and other State parties to ensure the most appropriate and effective response to the challenges posed by human trafficking. This National Action Plan also outlines the central role the Garda Síochána will play in the identification of suspected victims and in the investigation and prosecution of the criminal action of human trafficking.

This National Action Plan will also play an important role in fulfilling the commitment in the National Women's Strategy, 2007-2016 under its theme "Ensuring the Wellbeing of Women" to address the issue of trafficking of women and children.

While many of the interventions proposed in this Plan address trafficking of adults they apply equally to the trafficking of children. However, the added vulnerability of children necessitates special measures and protections to comprehensively safeguard their needs and rights. For this reason, the issue of child trafficking has been afforded a special focus in this Plan.

Most importantly, this National Action Plan sets out the structures which, when fully in place, will allow Ireland to ratify the *Council of Europe Convention on Action Against Trafficking in Human Beings* and the *United Nations Protocol to Prevent, Suppress and*

*Punish Trafficking in Persons, Especially Women and Children.* By implementing the measures required in these international instruments, Ireland will fully endorse international standards and best practice and fulfil its obligation in international law, demonstrating our commitment to the global fight against the trafficking of human beings. A summary chart of all of the proposed actions outlined in this National Action Plan is at Appendix 3.

## **- Part II-** **The Framework**

An extensive framework has been laid, both nationally and internationally, to prevent and prosecute human trafficking and to protect suspected victims. Strong legislation, complemented by an administrative framework, has been put in place in Ireland to address the key legislative and policy issues presented by human trafficking.

### **(2.1)** **Legislative Framework**

The legislative framework established nationally and internationally in recent years has provided a strong foundation to tackle trafficking both at the national level and in conjunction with other States. Whether working together with our global partners in the international arena, working with our colleagues in the European Union or collaborating at the national level, we have a strong legislative framework in place to prevent and combat human trafficking in Ireland.

#### **(a) The International Legal Framework**

As previously noted, while trafficking can occur within the boundaries of a single State, it is frequently a transnational crime, operating across international borders. Numerous countries across the globe are affected by this menace whether as source, transit or destination countries – or some combination of the three. Consequently, trafficking has been placed on the international agenda and the international community has rallied to tackle this challenge head on. Ireland is a signatory or party to a number of international agreements and protocols which seek to prevent and combat human trafficking. They are briefly described below.

1. ***United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (2000)***

This UN Protocol, one of the two “Palermo Protocols” supplementing the *UN Convention Against Transnational Organized Crime*, was the first international treaty

aimed at comprehensively defining and addressing the problem of human trafficking.

Its purpose is threefold:

- to prevent and combat trafficking in persons, paying particular attention to women and children;
- to protect and assist victims of trafficking; and
- to promote co-operation among State Parties in order to meet those objectives.

As previously stated, it also provides the first internationally agreed definition of human trafficking.

To prevent and combat trafficking in persons, the Protocol calls on State Parties to adopt measures to criminalise the offence, improve international co-operation in the governmental and non-governmental sectors, carry out research on trafficking, conduct awareness raising campaigns to discourage demand, exchange information, provide and strengthen training and reinforce controls over borders and travel documents. It requires State Parties to implement legislation which criminalises not only the direct offence of trafficking, but also the acts of instigating, organising or directing trafficking, being an accomplice to a trafficker or attempting to commit a trafficking offence.

The Protocol also has recommendations relating to the protection and support of trafficking victims, such as the provision of appropriate housing, counselling and information, psychological services, medical services, employment opportunities and educational opportunities. Moreover, consideration to allow victims to stay either temporarily or permanently, having regard to humanitarian and compassionate concerns, is also required. States must also adopt measures which have due regard for the safety of those victims who return to their country of origin.

Ireland signed this Protocol in December 2000 and is currently implementing measures to allow for ratification in the near future.

## ***2. European Union Council Framework Decision 2002/629/JHA on Combating Trafficking in Human Beings (2002)***

This Framework Decision complements the UN Protocol by introducing common European provisions to address trafficking-related issues, such as criminal and other sanctions, jurisdiction and prosecution. Primarily concerned with the criminal law elements of trafficking, it requires European Union Member States to take the measures necessary to ensure that trafficking in persons is a punishable offence and approximates the laws and regulations of Member States in the field of police and judicial cooperation in criminal matters. It requires Member States to introduce legislation which provides for penalties which are “effective, proportionate and dissuasive”.

This Framework Decision entered into force on 1 August 2002.

It should be noted that a Proposal for a Framework Decision on Preventing and Combating Trafficking in Human Beings and Protecting Victims, was published on 26 March 2009. It repeals and re-enacts the above Framework Decision with additional criminal law provisions to bring the 2002 Framework Decision in line with other international instruments. The proposal also contains additional non-legislative measures. The new elements primarily deal with victim support, prevention, investigation, prosecution and monitoring. Irish legislation will be reviewed in the light of the outcome of negotiations on the new Framework Decision.

### ***3. Council of Europe Convention on Action against Trafficking in Human Beings (2005)***

This Convention was designed to provide a comprehensive legal framework for the protection of trafficking victims and witnesses and the effective investigation of those suspected of trafficking offences. It contains more precise provisions which go beyond the minimum standards agreed in other international instruments on human trafficking.

First and foremost, the Convention recognises trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. In this regard, it seeks to protect and promote victims’ human rights in the fight against trafficking and places a special focus on the protection of trafficking victims throughout its requirements and recommendations.

Ireland signed this Convention in April 2007 and is currently implementing measures to allow for its ratification in the near future.

**(b) The Irish Legal Framework**

Ireland has introduced comprehensive legislation to criminalise trafficking with a view to making Ireland a more hostile environment for those who might consider trafficking people into, out of or within this jurisdiction. In combination, the following pieces of legislation work to create a powerful framework which will assist in preventing trafficking from occurring, ensure the protection of victims and enable effective prosecution of the perpetrators of this crime.

***1. The Child Trafficking and Pornography Act 1998***

This Act makes it an offence to organise or knowingly facilitate the entry into, transit through, or exit from Ireland of a child for the purpose of the child's sexual exploitation or to provide accommodation for the child for such a purpose while in Ireland. It is also an offence to take, detain or restrict the personal liberty of a child for the purpose of the child's sexual exploitation, to use a child for such purpose or to organise or knowingly facilitate such taking, detaining, restricting or use.

Recent amendments to the Act have increased its scope. Section 1 of the Criminal Law (Human Trafficking) Act 2008 amends the 1998 Act by extending the definition of a child from a person under the age of 17 years to a person under the age of 18 years. The maximum penalty on conviction is raised from 14 years to life imprisonment. These added strengths have brought Ireland into compliance with child-specific enforcement elements of the following International Agreements:- *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (2000)*, the *European Union Council Framework Decision 2002/629/JHA on Combating Trafficking in Human Beings (2002)* and the *Council of Europe Convention on Action against Trafficking in Human Beings (2005)*.

***2. The Illegal Immigrants (Trafficking) Act 2000***

The Illegal Immigrants (Trafficking) Act 2000 was primarily aimed at providing measures in the fight against human smuggling. The Garda Síochána did, however, use provisions of the Act (as well as other criminal law statutes) where human trafficking was suspected prior to the introduction of the Criminal Law (Human Trafficking) Act 2008. Section 2 of the Act creates an offence where a person organises or knowingly facilitates the entry into the State of a person whom s/he knows or has reasonable grounds to believe is an illegal immigrant or a person who intends to seek asylum. A person convicted on indictment is liable to the imposition of a fine or to imprisonment for a term not exceeding 10 years or both. On summary conviction a person is liable to a fine not exceeding €1,500 or to imprisonment for a term not exceeding 12 months or both.

The Act was signed in August 2000 and came into force on 5 September 2000. This Act will be subsumed into the Immigration, Residence and Protection Act, when enacted.

### **3. Criminal Law (Human Trafficking) Act 2008**

The primary purpose of this Act is to create offences criminalising trafficking in persons for the specific purposes of their sexual or labour exploitation or the removal of their organs and to provide severe penalties for anyone found guilty of committing the offences. Enactment of this legislation brought Ireland into compliance with the criminal law/law enforcement elements of the following International Agreements:- *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (2000)*, the *European Union Council Framework Decision 2002/629/JHA on Combating Trafficking in Human Beings (2002)* and the *Council of Europe Convention on Action against Trafficking in Human Beings (2005)*.

**Section 1** of the Act provides a comprehensive definition of trafficking in an Irish context. It states:

*“trafficks means in relation to a person (including a child) -  
(a) procures, recruits, transports or harbours the person, or  
(i) transfers the person to,  
(ii) places the person in the custody, care or charge, or under the control, of, or*



- (iii) otherwise delivers the person to,  
another person,  
(b) causes a person to enter or leave the State or to travel within the State,  
(c) takes custody of a person or takes a person -  
(i) into one's care or charge, or  
(ii) under one's control  
or  
(d) provides the person with accommodation or employment".<sup>9</sup>*

Other key terms defined in **Section 1** include 'child', 'labour exploitation' and 'sexual exploitation'.<sup>10</sup>

A "child" is defined under Section 1 as a person under 18 years. This amends the 1998 Act which defined a child as being under 17 years. Raising the age is in line with international norms and is also required by the international instruments on trafficking.

**Section 2** of the Act criminalises persons who traffick children for the purposes of exploitation. The causing of an offence or an attempt to commit an offence is also criminalised. The section provides for a maximum penalty of life imprisonment and, at the discretion of the court, an unlimited fine on conviction on indictment for committing any of the offences in the section.

At the same time, **Section 3** substitutes provisions in the Child Trafficking and Pornography Act 1998, providing a strengthened definition of "sexual exploitation" and more robust measures criminalising the trafficking of children for sexual exploitation. The section provides for a maximum penalty of life imprisonment and, at the discretion of the court, a fine for anyone convicted on indictment for the offences it establishes.

**Section 4** creates an offence of trafficking in persons aged 18 years or over for the purposes of their sexual or labour exploitation or the removal of their organs. It also

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<sup>9</sup> Criminal Law (Human Trafficking) Act 2008, Section 1.

<sup>10</sup> 'labour exploitation' means in relation to a person (including a child) – (a) subjecting the person to forced labour, (b) forcing him or her to render services to another or (c) enslavement of the person subjecting him or her to servitude or a similar condition or state;  
'sexual exploitation' means in relation to a person – (a) the production of pornography depicting the person either alone or with others, (b) causing the person to engage in sexual activity for the purpose of the production of pornography, (c) the prostitution of the person, (d) the commission of an offence specified in the Schedule to the Act of 2001 against the person; causing another person to commit such an offence against the person; or causing the person to commit such an offence against another person, or (e) otherwise causing the person to engage or participate in any sexual, indecent or obscene act;

makes it a crime to sell, offer for sale, purchase or offer to purchase any person. Causing an offence or an attempt to commit an offence is also criminalised. A person who trafficks a person who is mentally impaired for the purposes of exploitation is also guilty of an offence. A person found guilty of any offence under Section 4 is liable to a maximum penalty of life imprisonment and, at the discretion of the court, an unlimited fine.

One factor fuelling the human trafficking menace is the demand for the services of its victims. The need to discourage this demand is thus a key priority in the fight against human trafficking. Targeting the clients of trafficking victims is one of the most effective means of accomplishing this goal.

Under **Section 5** of the Act, any person who knowingly solicits or importunes a trafficking victim for the purposes of sexual exploitation shall be guilty of an offence. The penalty on summary conviction is a fine not exceeding €5,000 or a term of imprisonment not exceeding 12 months or both. In the event of a conviction on indictment, the penalty is an unlimited fine or a term of imprisonment not exceeding 5 years or both.

**Section 6** is a standard provision which makes it an offence for a body corporate to commit any of the offences under the Act.

**Section 7** of the Act provides for extra territorial jurisdiction where an Irish citizen or resident conspires, incites or commits acts which would be offences under this Act if they were committed in Ireland and also where the victim of such acts committed outside Ireland is an Irish citizen. Penalties of up to life imprisonment and an unlimited fine apply in respect of these offences.

**Section 8** of the Act provides that where proceedings are commenced for an offence committed outside the State, they may be taken in any place in the State and be treated as having been committed in the State.

**Section 9** of the Act deals with double jeopardy - a person cannot be proceeded against for a trafficking offence in this country if s/he has already been acquitted or convicted of the offence in another country.

A number of provisions in the Act were included to protect victims of trafficking within the criminal justice process.

**Section 10** provides for exclusion of members of the public from court proceedings to protect witnesses and victims willing to testify. It gives the Judge power to exclude persons from the court, other than officers of the court, persons directly concerned in the proceedings and such other persons as the Judge may determine, during proceedings for trafficking related offences. This measure serves to limit publicity in cases where persons are alleged to have been trafficked in circumstances where publicity might place them and/or their families at risk. It is intended to protect trafficked persons, who can be very vulnerable and traumatised, from the traffickers and their criminal associates who may wish to harm the victims or prevent them from giving evidence.

Similarly, **Section 11** provides for a guarantee of anonymity of alleged victims of trafficking unless the judge fully or partially waives anonymity in the interests of justice. Failure to guarantee or substantially guarantee anonymity could have serious consequences for an alleged victim, affecting social and psychological recovery, or even physical security. Consequently, any person who, contrary to a Court direction, publishes or broadcasts any information likely to enable an alleged victim to be identified is liable upon conviction on indictment to a fine, or imprisonment for a term of up to 10 years, or both.

**Section 12** amends the Criminal Evidence Act 1992 to allow an alleged victim of trafficking give evidence through a live television link, with the leave of the court in the case of adults, from either within the State or abroad.

**Section 13** provides for amendments to the Sex Offenders Act 2001. Some of these are technical in nature and others are important for the smooth operation of the Act. An important amendment raises the maximum penalty for non-compliance with the

notification obligations in the Sex Offenders Act, or the sex offenders register as it is more commonly known. The penalties for failure by a person obliged to notify the Garda Síochána of his or her address are raised to ensure the offence can be tried on indictment. As an arrestable offence, it will allow the Garda Síochána to arrest, on the spot a person whom they know not to have complied with the notification requirements. The offence of trafficking for sexual exploitation is also added to the Schedule to the 2001 Act making it a sexual offence for the purposes of that Act.

**Section 14** adds the offences created in this Act to the Schedule to the Bail Act 1997 which means they are serious offences for the purposes of that Act.

The Criminal Law (Human Trafficking) Act, 2008 was signed into Irish law in May, 2008 and came into force on 7 June, 2008. The provisions of the Act will be kept under review in the light of operational experience and any international developments in relation to criminal law in this area.

#### ***4. Immigration, Residence and Protection Bill 2008***

This Bill includes measures to protect victims of trafficking and so brings Ireland into compliance with victim protection requirements in 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 (2000)* and the *Council of Europe Convention on Action against Trafficking in Human Beings (2005)*.

Section 127 of the Bill provides for a period of recovery and reflection of 45 days (to be amended to 60 days at Report Stage) in the State for suspected victims of trafficking. Section 127 also creates provisions for the granting of a renewable six months period of residence, where it is necessary to allow the suspected victim to continue to assist the Garda Síochána or other relevant authorities in relation to any investigation or prosecution arising in relation to the alleged trafficking.

Administrative arrangements<sup>11</sup> broadly reflecting the provisions in the Bill, were introduced on 7 June 2008 (the date of commencement of the Criminal Law (Human Trafficking) Act 2008). The administrative framework provides that a person, who has been identified, by a member of the Garda Síochána not below the rank of Superintendent in the Garda National Immigration Bureau, as a suspected victim of human trafficking shall be granted permission to remain lawfully in the State for a period of 60 days recovery and reflection. The Minister for Justice, Equality and Law Reform will issue or cause to be issued to a person who has been granted a recovery and reflection period a notice confirming the fact that the person has been granted permission to be in the State for 60 days. A person who has been granted a recovery and reflection period will not be the subject of removal proceedings for so long as his or her recovery and reflection period remains valid. A recovery and reflection period may be terminated in circumstances where the Minister for Justice, Equality and Law Reform is satisfied that (a) the person has actively, voluntarily and on his or her own initiative renewed contact with the alleged perpetrators of the trafficking, (b) it is in the interest of national security or public policy (‘ordre public’) to do so, or (c) victim status is being claimed improperly. **See Section 3.2.4 for more information on the victim identification process.**

Administrative arrangements are also in place to provide for a 6 month temporary residence permit in circumstances where the Minister is satisfied that a suspected victim of trafficking has severed all relations with the alleged perpetrators of the trafficking and to allow the suspected victim to continue to assist the Garda Síochána or other relevant authorities in relation to an investigation or prosecution arising in relation to the trafficking. The Minister may revoke a temporary residence permission in the following circumstances –

- (a) the person concerned has actively, voluntarily and on his or her own initiative renewed contact with the alleged perpetrators of the trafficking,
- (b) the person concerned no longer wishes to assist the Garda Síochána or other relevant authorities in the investigation or prosecution of the trafficking,
- (c) the allegation of trafficking is fraudulent or unfounded, or

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<sup>11</sup> See: “Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking”, <http://www.inis.gov.ie/en/INIS/Admin%20Arrangements.doc/Files/Admin%20Arrangements.doc>.

- (d) any investigation or prosecution in relation to the trafficking has been finalised or terminated, or
- (e) the Minister is satisfied that it is in the interest of national security or public policy ('ordre public') to do so.

Paragraph 14 of the administrative arrangements provides that where a person is under the age of 18 years, regard will be had to the best interests of the child in the granting and revocation of a temporary residence permission.

The granting of a temporary residence permission does not, of itself, create any right to long term or permanent residence.

Where the person is the holder of a pre-existing residence permission with an expiry date later than the expiry date of the temporary residence permission, the Minister may, at the expiry of the recovery and reflection period, permit him or her to remain in the State for the remaining period of validity of the pre-existing permission.

Finally, the administrative arrangements in place also provide that the Minister will make arrangements to facilitate a suspected victim of trafficking in returning to his or her country of origin at the end of any period of residence granted, or before that period expires if the person so wishes. Assistance in this regard can also be arranged in cooperation with the offices of the International Organisation for Migration (IOM).

These arrangements will serve to assist suspected victims of trafficking on an administrative basis, pending enactment of the Immigration, Residence and Protection Bill. In accordance with paragraph 2 of the administrative arrangements, provisions may be amended having regard to the work of the Interdepartmental High Level Group on Combating Trafficking in Human Beings.

#### **5. *Sexual Offences (Jurisdiction) Act 1996***

Under the Sexual Offences (Jurisdiction) Act 1996 it is an offence for an Irish person, or a person ordinarily resident in the State, to commit a sexual act against a child in another country which is an offence in that country and if committed in the State,

would be an offence under the Schedule to that Act. In such circumstances, the person can be charged with the offence in this country. The offences listed in the Schedule (as amended) are the carnal knowledge, rape, buggery and sexual assault offences.

It is also an offence under the 1996 Act to make an arrangement to transport to a place in or outside the State or to authorise the making of such an arrangement for or on behalf of another person, knowingly for the purpose of enabling that person or another person to commit a sexual offence against a child in another country. It is also an offence to actually transport a person knowingly for that purpose.

In addition, it is an offence under the Act to publish information which is intended to or is likely to promote, advocate or incite the commission of a sexual offence against a child in another country.

The penalties for committing the sexual offences are the same as if they were committed in the State while the penalties for transporting or publishing are a maximum of 5 years imprisonment on conviction on indictment.

#### ***6. Employment Legislation.***

In addition to the Criminal Law (Human Trafficking Act) 2008, the entire range of statutory employment rights and protections available in Ireland are applicable equally to foreign nationals and Irish workers.

Legislation of relevance to suspected victims trafficked for the purposes of forced labour includes the following:

**The Organisation and Working Time Act 1997** states that the maximum average working week for many employees cannot exceed 48 hours. This does not mean that a working week can never exceed 48 hours. It is the average that is important. Disputes in relation to the Act can be referred to a Rights Commissioner.

**The National Minimum Wage Act 2000** provides that the minimum wage rate for an experienced adult employee from 1 July, 2007 is **€8.65** an hour. An experienced adult

employee for the purposes of the National Minimum Wage Act is an employee over the age of 18 who has been in an employment of any kind in any 2 years. Disputes in relation to the Act can be referred to either a National Employment Rights Authority (NERA) Inspector or to a Rights Commissioner, but not to both, for investigation.

**Under the Unfair Dismissals Acts 1997 to 2001** the circumstances in which unfair dismissal can occur are:

- An employer terminates an employee's contract of employment, with or without notice; or
- An employee terminates his/her contract of employment, with or without notice, due to the conduct of his/her employer. This is known as constructive dismissal.

If an employee is dismissed from his/her employment, he/she may, under certain conditions, bring a claim for unfair dismissal against the employer. The unfair dismissals legislation in Ireland does not actually protect an employee from dismissal. Rather, it provides a system of appeal whereby employees can question the fairness of dismissal after it has occurred. Disputes in relation to the Act can be referred to a Rights Commissioner or to the Employment Appeals Tribunal. Depending on the merits of the case an employee who has been found to be unfairly dismissed can be awarded re-reinstatement in his/her old job or where financial loss has been sustained by the employee, financial compensation in respect of such loss, subject to a maximum of two years remuneration or where no financial loss was sustained by the employee, financial compensation may be awarded subject to a maximum of four weeks remuneration.

The **Employment Equality Acts 1998 – 2004** outlaw discrimination in employment, vocational training, advertising and collective agreements. Specifically, employers or employment agencies cannot discriminate against persons employed in Ireland on nine distinct grounds:

- gender
- marital status
- family status



- sexual orientation
- religion
- age (does not apply to a person under 16)
- disability
- race
- membership of the Traveller community.

All claims must be referred to the Equality Tribunal, with the exception of claims of gender discrimination in employment, which can be referred to either the Circuit Court or the Equality Tribunal, but not both.

**The Employment Permits Act 2003 and the Employment Permits Act 2006** introduced a revised legislative basis for work permits, including penalties for employers for illegal employment of non-nationals. These Acts provide legislative protection against the labour exploitation of non-nationals.

In Ireland, either the employer or employee can apply for the employment permit, based on an offer of employment. While previously permits were issued exclusively to the employer, permits are now granted to the employee and specify

- remuneration of post,
- a statement of entitlements, including entitlement to the national minimum wage and
- the possibility of changing employers after twelve months.

The permit is also accompanied by a summary of the principal employment rights of the employee, including new prohibitions:

- Against employers seeking to recover or deduct recruitment expenses, including employment permit fees, from employee remuneration; and
- Against employers retaining personal documents of employees.

An employer or employee who contravenes the legislation is guilty of an offence and

- May be liable for a fine from €5,000 up to €50,000 and/or imprisonment for a period up to five years.

**The Payment of Wages Act 1991** provides a right of complaint to a Rights Commissioner for any employee who has had an unlawful deduction made from wages. Under this Act employers are obliged to provide a statement of pay with every wage payment. A payslip must show gross wages and itemise all deductions. If the Rights Commissioner decides that a complaint is well founded, he/she shall order the employer to pay compensation to the employee. Alternatively, the employee may sue for wages in the ordinary courts. Where the employee's wages are governed by an Employment Regulation Order (ERO) or Registered Employment Agreement (REA), the employer will be guilty of an offence under the Industrial Relations Acts if he/she fails to pay wages or pay wages of less than the statutory prescribed rate. The National Employment Rights Authority will seek to recover pay arrears in any such instances and will, if necessary, initiate legal proceedings.

**Also, the Protection of Employees' (Part-Time) Work Act 2001** provides that all employee protection legislation applies to a person, irrespective of his or her nationality or place of residence, who has entered into a contract of employment that provides for his or her being employed in the State or who works in the State under a contract of employment.

Ireland's comprehensive body of employment rights legislation, which protects employees against arbitrary behaviour by employers, applies to all workers employed on an employer-employee basis in Ireland. Thus a person, irrespective of nationality or place of residence, who works in the State under a contract of employment, has the same rights under Irish employment rights legislation as Irish employees.

## **(2.2)**

### **Administrative Framework**

Complementing the strong legislative foundation described above is an administrative framework established to combat human trafficking by addressing key policy issues and providing ongoing support to counter-trafficking activities. It includes:

- a dedicated Anti-Human Trafficking Unit (AHTU) established in the Department of Justice, Equality and Law Reform under the direction of an Executive Director in February 2008;

- an Interdepartmental High Level Group on Combating Trafficking in Human Beings;
- a Non-Governmental and Governmental Roundtable Forum; and
- five Interdisciplinary Working Groups with wide representation.

The Garda Síochána have also recently established a dedicated unit within the Garda National Immigration Bureau. The Human Trafficking Investigation and Co-ordination Unit will serve as an investigation and co-ordination unit for human trafficking cases.

***(a) Anti-Human Trafficking Unit***

The role of the Unit is to ensure that the State’s response to trafficking in human beings is effective and proportionate to the scale and scope of the problem in Ireland. It has primary responsibility for co-ordinating policies and actions of governmental and non-governmental organisations to maximize the effectiveness of national and international efforts. In addition to providing support to stakeholders and fostering cooperation between the various governmental and non-governmental agencies engaged in the fight against human trafficking, the Unit will also play a lead role in collecting and analysing data on potential, suspected and identified cases of human trafficking. This data will be used to inform policy, guide protective measures and improve victims’ services. The Unit will serve as a central location for information and research on human trafficking and will use and disseminate this information and data to effectively coordinate governmental and non-governmental efforts to prevent and combat human trafficking.

***(b) Human Trafficking Investigation and Co-ordination Unit, the Garda Síochána***

The role of the Unit is to provide a lead in all policy issues in the area of human trafficking. The Unit will be a centre of excellence for the Garda Síochána and will oversee all investigations where there is an element of human trafficking and will provide advice, guidance and operational support for investigations.

***(c) High Level Interdepartmental Group on Combating Trafficking in Human Beings***

This interdepartmental group, with representatives from key Government Departments and agencies, was established by the Minister for Justice, Equality and Law Reform to,

inter alia, draw up this National Action Plan to prevent and combat trafficking in human beings in Ireland and to monitor its implementation. The Group will also advise the Minister on ways of engaging with NGOs and other interested parties and provide strategic direction for the work of the AHTU.

***(d) Governmental and Non-Governmental Roundtable Forum & Interdisciplinary Working Groups***

A Governmental and Non-Governmental Roundtable Forum, comprising over 20 stakeholders, has been established to examine and make recommendations concerning the formulation, implementation and delivery of national and international strategies to combat trafficking in human beings. The Roundtable Forum may make recommendations to the High Level Group in relation to policy, procedures and strategies for combating trafficking in human beings to ensure Ireland's response is effective and coordinated. It receives updates from five interdisciplinary working groups, which have been established to examine and provide recommendations to the High Level Group in relation to five key issues:

- Awareness Raising and Training
- National Referral Mechanism
- Child Trafficking
- Labour Exploitation Issues
- Sexual Exploitation Issues

The terms of reference and membership of all of these groups are at Appendix 2.

## -Part III-

### Addressing: Prevention, Protection and Prosecution

A review of the contributions to the consultation process undertaken at the end of 2007 when interested groups and members of the general public were canvassed for their views on what should be included in the National Action Plan demonstrates that there is broad consensus across the Governmental and Non-Governmental sectors about the three-pronged approach required if any National Action Plan to address human trafficking is to be a success.

The three dimensions are:

- Prevention of trafficking,
- Protection of victims of trafficking, and
- Prosecution of the perpetrators of trafficking offences.

The following section examines these three dimensions, highlighting the requirements of international instruments and sets out the measures which have been undertaken and which will be undertaken in the context of implementation of this National Action Plan.

## 3.1

### Prevention

#### **INTRODUCTION:**

Most of the respondents to our consultation process stated and international experience suggests, that prevention is the most important element in efforts to combat the trafficking of human beings. People become vulnerable to traffickers for a variety of reasons including poverty, social exclusion and a desire to better their lives. Addressing some of these root causes and helping source countries to build their capacity to help potential victims will be an important element of our prevention strategy. Dealing with the demand for the services of victims is another essential element in any strategy to prevent human trafficking. The demand for women and children for sexual exploitation is a strong pull factor in the illegal sex trade and its customers are (even if unwittingly) fuelling the exploitation of vulnerable people and helping to grow the profits of unscrupulous criminals including organised criminal gangs. A major part of our campaign against trafficking will be raising awareness among the public and potential customers of what the consequences of trafficking are, both for the individual and for society in general. The implementation of our prevention strategy will depend on co-operation from a number of Governmental and non governmental agencies. The administrative framework already established (*see Part Two - 2.2 Administrative Framework*) will seek to ensure that the measures outlined here are implemented effectively.

The key objectives of our prevention strategy are:

- To tackle root causes, build capacity and provide information on legal migration - 3.1.1.
- To raise awareness about human trafficking, reduce demand and implement education campaigns - 3.1.2;
- To improve our understanding of the nature and scale of the problem by developing a comprehensive data and research strategy - 3.1.3;
- To strengthen border controls - 3.1.4;

- To ensure the legitimacy, security and control of Irish travel and identity documents 3.1.5;
- To coordinate our strategy and foster bilateral, multilateral and international cooperation across governmental and non-governmental sectors - 3.1.6;
- To provide training for law enforcement, support workers and other key personnel - 3.1.7;
- To foster interagency information exchange - 3.1.8;
- To improve endangered and missing persons protections - 3.1.9.

### (3.1.1)

**Objective: To tackle root causes, build capacity and provide information on legal migration.**

**Background:**

Traffickers often recruit their victims with lies and deception. They may offer a false promise of employment and financial gains, access to accommodation and services and a better life for the victim. Social vulnerability is one of the principal root causes of trafficking. People become vulnerable for a variety of economic and social reasons such as poverty, gender discrimination, armed conflicts, domestic violence and dysfunctional families. This vulnerability is used by international organised crime networks to exploit people. Contributors to our consultation process called for development and aid initiatives to assist countries of origin as a part of our overall prevention strategy. Article 5.4 of the Council of Europe Convention requires State Parties to take appropriate measures to enable migration to take place legally. One of the measures envisaged is providing accurate information on the conditions for legal entry into a country and the rights and duties of immigrants while in that country.

In accordance with Article No. 9 of the UN Protocol, (which requires States to establish comprehensive policies, programmes and other measures to prevent and combat trafficking in persons and to protect victims of trafficking, especially women and children from re-victimization) we will endeavour to develop policies which protect and support potential victims and prevent re-victimisation.

Whether the suspected victim seeks to remain in this State or be repatriated to his/her country of origin, measures which provide support to suspected victims are essential. Without the necessary skills and adequate supports to partake in a modern economy, integration into Irish society may pose substantial challenges for victims. If potential or suspected victims renew contact with their trafficker or if their trafficker finds them, the risk of once again falling victim to exploitation and abuse is substantial.



## **Current Developments:**

### **Building Capacity in Source Countries**

A number of contributors to our consultation process stressed that measures addressing trafficking in Ireland should not be confined to Ireland. Co-operation with countries of origin must be fostered in line with Irish Aid's development strategy and development funding should be provided to counter-trafficking activities in countries of origin. The Irish Government has committed €696 million to its Overseas Development Programme. Ireland plays a lead role in the fight against poverty and social injustice and supports country-led approaches to development, based on the principles of partnership, public ownership and transparency, effectiveness, coherence and long-term sustainability.<sup>12</sup> Poverty reduction and the reduction/elimination of inequality and exclusion are the overarching goals of Irish Aid and, for this reason, Africa is the principal geographic focus. Irish Aid will also build a regional programme in South East Asia and similar programmes in Southern Africa and West Africa. These development programmes will help curb trafficking by lifting potential victims out of desperate economic and social conditions and providing them with a better future. A number of projects relating to trafficking have been funded from within Irish Aid as follows:

- The section covering the Balkans and Commonwealth of Independent States (CIS) countries provided funding in 2006 to the International Organisation for Migration specifically for Youth Groups against Human Trafficking. In 2005 it funded the European Women's Foundation to develop a practical handbook for Women Activists and a project titled 'Strengthen Civil and Political Society' in Bulgaria and Moldova. The applications for funding highlighted trafficking as an issue they would be addressing.
- The Civil Society Fund (CSF) along with ECPAT International<sup>13</sup> supported PREDA, an organisation based in the Philippines which works to protect vulnerable children, including trafficked children and the Edith Wilkins Street Children Foundation, Delhi, India which provides accommodation, counselling, training and

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<sup>12</sup> See: *Irish Aid Annual Report, 2006*, available at: [http://www.irishaid.gov.ie/publications\\_report.asp](http://www.irishaid.gov.ie/publications_report.asp)

<sup>13</sup> End Child Prostitution and Trafficking

education for street children, including trafficked children. The CSF has also supported Anti-Slavery International but not for child trafficking specific projects.

- Irish Aid also provides assessed contributions to IOM, which addresses trafficking as part of its mandate. It provides core funding to UN agencies such as UNICEF, UNIFEM and UNFPA, which also work on these issues.

There are various "sectoral" funding envelopes to which NGOs can apply for the funding of specific projects. These applications for funding are then assessed by the experts in Irish Aid and individual projects are funded, as appropriate. Similarly in Programme Countries, in addition to strategic funding over a number of years, there is a budget set aside for local NGO projects. Also, there are In-Country Micro Project Schemes operative in most countries where the Department of Foreign Affairs has Embassies. Again these funds are available to local NGOs which submit a suitable proposal for funding.

The Irish Aid website [www.irishaid.gov.ie](http://www.irishaid.gov.ie) has full details of the various types of funding available, including application forms and guidelines on how to apply. The link <http://www.irishaid.gov.ie/grants.asp> is specifically geared towards NGOs seeking grants. It is recommended that Irish NGOs with sister organisations or contacts among NGOs in countries of origin should encourage them to apply for funding.

### **Legal migration**

Ireland moved from a country of emigration in the 1980s to a country of immigration in the late 1990s. Since that time the Irish immigration system has facilitated significant levels of legal migration to the State. A substantial number of those who migrated to Ireland during this period have been nationals of the European Union who have exercised a right to free movement under European law<sup>14</sup>. In addition, significant numbers of nationals from non EU/EEA states have migrated to Ireland in accordance with current national immigration policies. In 2007 a total 155,000 non-EEA nationals registered with the immigration authorities as legally resident in the State. Ireland

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<sup>14</sup> Directive 2004/38/EC<sup>14</sup> of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

already has migration policies in place governing admission to the State for a variety of purposes, including employment, study, research, etc.

The Immigration, Residence and Protection Bill 2008, which is currently before the Irish Parliament, contains proposals which will update and codify Irish immigration laws dating back to the Aliens Act 1935. Included in these proposals are measures which will improve and simplify the immigration and protection processes, provide for the promulgation of secondary legislation governing the grant of entry and residence permissions and provide for the introduction of a new system of entry and residence permits.

Information regarding immigration into Ireland is provided via the website of the Irish Naturalisation and Immigration Service, [www.inis.gov.ie](http://www.inis.gov.ie) and through Irish Embassies and Consulates worldwide.

The Department of Foreign Affairs has included a ‘Human Trafficking’ page on the Visa Information Section of its website which is frequently used by intending migrants.

The Department of Enterprise and Employment operates and enforces a system of employment permits for non-EEA nationals under the Employment Permits Acts 2003 and 2006. Detailed information and guidelines for prospective applicants are available on that Department’s website at [www.entemp.ie](http://www.entemp.ie). A call centre is also available on LoCall 1890 201 616.

**Future Actions:**

We will continue to provide support to the anti-trafficking initiatives of various partner organisations, including the International Organisation for Migration (IOM) and the International Labour Organisation (ILO).

We will explore the possibility of entering into specific anti human trafficking bilateral agreements with source countries to support them in their efforts to combat trafficking in human beings.

In November 2008, the third phase of a Partnership Programme was launched by Irish Aid and the ILO to encourage women's entrepreneurship to address the inclusion of people with disabilities in workplaces in developing countries; and to tackle forced labour and child labour. This programme is being implemented by the ILO with the support of Irish Aid and is drawing on the expertise and experience of the Irish Congress of Trade Unions (ICTU) and the Irish Business and Employers Confederation (IBEC). The partnership runs from 2008 – 2011 and Irish Aid will provide support to a number of activities in a range of developing countries over that period.

The Awareness Raising and Training Working Group is examining ways of raising awareness both with migrant communities and in countries of origin, including the use of local migration centres to distribute information.

The National Referral Mechanism Working Group has been established to examine and make recommendations to the Interdepartmental High Level Group on the nature and extent of trafficking in human beings in Ireland and a proposed protection path for suspected victims. Some of the proposals from the Working Group are set out in the next Chapter of this Action Plan – Protection.

### **Table of Actions**

**Objective: to tackle root causes and build capacity and provide information on legal migration.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
1.	To support projects which address the factors that make individuals vulnerable to trafficking.	Ongoing	DFA Irish Aid	No. of projects supported.
2.	Examine ways of raising awareness in source countries, including use of local migration centres and targeting migrant communities.	2009 - 2012	AR WG, AHTU, DFA	Awareness raising information provided.
3.	Irish Aid partnership agreement with the ILO to inter alia	2008 - 2011	DFA, ILO, ICTU and IBEC	Projects supported.

	combat forced labour and eliminate child labour.			
4.	Support of anti-trafficking initiatives of partner organisations.	Ongoing	AHTU, DFA	Support available to relevant organisations.
5.	Explore the use of bilateral agreements with source countries.	2009 - 2011	AHTU, DFA	Possibilities of bilateral agreements examined fully.
6.	Support work of the NRM Working Group in establishing supports for suspected victims of trafficking to prevent re-victimisation.	2009 - 2011	AHTU, NRM, WG	Supports in place to enable victims re-integrate into society.

### (3.1.2)

**Objective: To raise awareness about human trafficking, reduce demand and implement education campaigns.**

#### **Background:**

One of the most important means of combating human trafficking in Ireland is by raising the public's consciousness about the problem. A public informed of the issues will be better placed to assist in efforts being taken to address them. Article 5 of the Council of Europe Convention has specific requirements for establishing or strengthening policies and programmes to prevent trafficking in human beings. The focus of this article is awareness raising, education campaigns and social and economic initiatives, in particular for persons vulnerable to trafficking and for professionals concerned with trafficking in human beings.<sup>15</sup>

Measures taken towards discouraging demand are also important. Article 6 of the Council of Europe Convention requires State Parties to discourage the demand that fosters all exploitation of persons, especially women and children, by means, such as awareness raising, information campaigns and educational programmes in schools.<sup>16</sup>

Article 9 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons especially women and children, supplementing the UN Convention against Transnational Organised Crime also obliges States to undertake measures such as information and media campaigns and educational measures to raise awareness and provide information to discourage the demand that fuels trafficking.

#### **Current developments:**

##### **(1) Awareness Raising**

One of the key focuses of the Anti-Human Trafficking Unit is the organisation and management of awareness raising initiatives throughout Ireland to inform the public of the perils of human trafficking, to guide potential/suspected victims to services,

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<sup>15</sup> Article 5.2 Council of Europe Convention on Action Against Trafficking in Human Beings (2005)

<sup>16</sup> Article 6 Council of Europe Convention on Action Against Trafficking in Human Beings (2005)

encourage them to escape their influence of their traffickers and reduce demand for the services of trafficking victims. The Awareness Raising and Training Working Group, which consists of numerous governmental and civil society stakeholders, is mandated to examine and make recommendations on a range of issues, including different approaches to raising awareness of human trafficking. (See Appendix 2 for complete Terms of Reference and Membership of Working Group.)



Ireland is taking a lead role in raising awareness internationally. It is a member of a European G6 Initiative against Human Trafficking which involves five other European countries (the UK, Poland, Italy, the Netherlands and Spain) supported by Interpol, Europol and Eurojust. The initiative is designed to ensure that these States become a more hostile environment for criminals engaged in the trafficking of human beings. It has four strands of activity:

- an Intelligence Strand led by Europol;
- an Enforcement Strand led by the Netherlands for labour exploitation and the UK for sexual exploitation;
- a Victims Strand led by the UK and Ireland;
- an Awareness Raising Strand led by Ireland.

In its capacity as leader of the Awareness Raising Strand, Ireland hosted an international meeting on 15 January, 2008 in Dublin which dealt, inter alia, with awareness raising campaigns. The meeting documented and discussed the effectiveness of all the awareness raising campaigns carried out in participating countries in the

previous three years. A shared multinational campaign designed to raise awareness and discourage demand for services of victims of sexual and labour exploitation across all six countries was proposed. A further meeting was held in London on 20 June, 2008. It was agreed that participating countries would engage in an awareness raising campaign in 2008 adopting a common approach modelled on the UK's "Blue Blindfold" concept. While the campaign materials would be of a uniform design and style, they would be amended by each G6 member in terms of language and context, as appropriate, allowing for a country-specific message across all participating States. The Irish campaign was launched in October 2008 and featured:

- Newspaper advertisements at the start and end of the campaign in the following newspapers – Irish Times, Irish Independent, Examiner, The Star, The Mirror and the Evening Herald.
- Newspaper Advertisements in Foinse and Metro Éireann.
- A total of 1,250 packs containing 3 posters, 1,000 leaflets and 200 business cards were produced and issued airports/ports/train and bus stations and to organisations such as the Garda Síochána; NGOs; RIA accommodation centres; local health offices; health centres; hospitals; citizen information centres and libraries.
- Advertisements in magazines and publications such as sporting programmes and the In-Touch magazine, which circulated with the Irish Independent on 3<sup>rd</sup> November, 2008.
- Use of the Crimestoppers hotline –12 hour hotline answered by members of the Garda Síochána.
- Stripline and Column ads on the two Luas lines for 3 weeks.
- A skyscraper advert on the RTE Website for 3 weeks.
- Business cards were distributed by the Garda Síochána to hairdressers and beauticians throughout the country.
- A dedicated website was established which, inter alia, sets out the indicators of trafficking - [www.blueblindfold.gov.ie](http://www.blueblindfold.gov.ie).

The Blue Blindfold website was established on 21 October, 2008 and in the period between its establishment and early May 2009 there was a total of 1,502 visits to the website. The internet provides a useful medium to report to and update the public on



the latest human trafficking information and research. The Department of Justice, Equality and Law Reform website [www.justice.ie](http://www.justice.ie) has information on anti-human trafficking measures and a link to the Blueblindfold website. This facilitates ongoing awareness raising to explain the Government's response to human trafficking, outline the indicators of trafficking and explain what people can do in the event that they encounter suspected human trafficking.

Features of the campaign have been placed on the Intranet sites of the HSE and the National Education Welfare Board (NEWB). The UNHCR also featured the campaign on its website.

The AHTU has contributed articles to the magazines and in-house newsletters of a variety of organisations such as Barnardos, the NEWB, Irish Naturalisation and Immigration Service (INIS) and Office of the Refugee Applications Commissioner (ORAC).

In addition to the Blueblindfold campaign the AHTU and the Awareness Raising and Training Working Group are considering other approaches to raising awareness of human trafficking.

Approaches have been made through the Courts Service to provide information on human trafficking to members of the judiciary and an article, prepared by the AHTU, has been provided for publication in an edition of the Irish Judicial Studies Journal which has members of the judiciary as its target audience.

Initiatives are being taken in the Office of the Director of Public Prosecutions to raise awareness among prosecutors of the complex issues likely to be involved in human trafficking cases.

At the end of 2008 the Executive Director of the AHTU gave a presentation on human trafficking and the work of the AHTU to the Hidden Economy Monitoring Group. The Group was established in 1990 at the request of the Central Review Committee of the Programme for National Recovery. The group has representatives from the Construction Industry Federation (CIF), the Irish Business and Employers

Confederation (IBEC), the Small Firms Association (SFA), the Irish Congress of Trade Unions (ICTU), the Department of Social & Family Affairs, the Department of Enterprise, Trade & Employment, the National Employment Rights Authority (NERA) and is chaired by the Revenue Commissioners. The group provides a forum for the exchange of views on the effectiveness of measures introduced to combat the hidden economy. Resulting from this presentation a number of organisations e.g. ICTU, IBEC and CIF, sought and were provided with information on human trafficking. The Revenue Commissioners have also undertaken to bring the issue to the attention of all staff in their internal magazine and to issue an official instruction to staff (especially special compliance units, staff at ports and customs personnel) setting out what type of situations may arise, the main indicators of human trafficking and what staff should do if they encounter trafficking.

Information seminars to raise awareness of human trafficking have been arranged for Department of Foreign Affairs officers prior to posting abroad. These officers are responsible for issuing visas at Irish Embassies and Consulates abroad and may be uniquely placed to identify potential victims of trafficking before they arrive in Ireland. Particular emphasis was placed on raising awareness of the indicators of trafficking so that they will be aware of possible signs to look out for among visa applicants. A seminar was also given to officials from the Department of Enterprise and Employment who work on processing work permit applications.

The Department of Enterprise, Trade & Employment has agreed to include leaflets on human trafficking with the work permits when it issues. Leaflets will need to be designed but in the short term leaflets from the Blue Blindfold campaign will be issued with work permits.

## **(2) Demand Reduction**

Many contributors to our consultation process voiced their concern that our prevention strategy ought to cover not only awareness raising, but also reduction and discouragement of demand. One way in which this concern has been addressed to date is through legislation.

## **Sexual Exploitation**

As previously outlined in **Section 2.1(b) – the Irish Legal Framework** - Section 5 of the Criminal Law (Human Trafficking) Act 2008 contains penalties which seek to punish a person who knowingly solicits or importunes a trafficking victim for the purposes of sexual exploitation. Furthermore, a person who accepts, or agrees to accept a payment, right, interest or other benefit from a person for this purpose shall be guilty of an offence. Offenders are punishable on summary conviction by a fine of up to €5,000 or 12 months imprisonment or both and are punishable on conviction on indictment to an unlimited fine or 5 years imprisonment or both.

### **Child Sex Tourism**

The **Sexual Offences (Jurisdiction) Act 1996** allows for the prosecution of an Irish citizen or person ordinarily resident in the State, who commit an act in another country which is a sexual offence against a child in that other country and, if done within the State, would constitute a sexual offence against a child in the State. It is also an offence to arrange the transport of or to actually transport a person knowingly for the purpose of "sex tourism". In addition, it is an offence to publish information which is intended or is likely to promote, advocate or incite "sex tourism".

In addition, as previously stated, under the Criminal Law (Human Trafficking) Act 2008 it is an offence punishable by up to life imprisonment to traffick a child for the purpose of the child's sexual exploitation. The offence can be committed by Irish persons or persons normally resident in the State when in other countries.

All the above offences can be prosecuted in the State and it is hoped that they will reduce demand for trafficked victims by presenting sanctions against those who avail of their services for sexual exploitation thereby eliminating one of the key factors encouraging the practice to continue and grow.

### **Funding**

In 2008 the AHTU arranged for funding from the budget of the National Women's Strategy for Ruhama<sup>17</sup> for the making of a 3 minute film and a 50 second advertisement designed to educate 'punters' and potential 'punters' to the exploitation underpinning

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<sup>17</sup> Ruhama is an NGO which provides support services to women involved in prostitution and other forms of commercial sexual exploitation.

the commercial sex industry and to help address the demand side of sex trafficking. The 50 second advertisement was launched on 10 November 2008 and was aired, at times deemed most appropriate to reach target audiences, on the national television station, RTE and the sports television station, Setanta.

### **(3) Education Campaigns**

The Department of Education and Science has facilitated the involvement of teachers and students in raising awareness of trafficking in human beings. To this end, sample case studies supplied by the IOM and the Migrants Rights Centre of Ireland (MRCI) have been made available to the Coordinator of the Civil, Social and Political Education (CSPE) course in Secondary Schools. These materials have been distributed to teachers in selected schools on a trial basis with a view to having the topic of human trafficking addressed as part of the 'Human Rights' module of the CSPE programme. It is anticipated that the module can then be rolled out on the CSPE curriculum for the 2009 – 2010 academic year in a series of three to four lessons over the year.

The AHTU has provided articles for inclusion in an e-journal for circulation to teachers and will draft material for inclusion in teachers' union magazines.

### **Future Actions:**

#### **(1) Awareness Raising**

The media has an important role to play in prevention strategies. Sensitive and responsible journalism which complies with the law in relation to the anonymity of victims and ethical standards and promotes and fosters dialogue and co-operation to safeguard victims has the potential to be fruitful in raising public awareness and generating empathy from the public. Moreover, the media has a key role to play in eliminating stereotypes and assumptions about victims and the circumstances of their exploitation. The Department of Justice, Equality and Law Reform and the Garda Síochána will endeavour to assist the media in sensitive reporting of human trafficking. The possible development of a code of conduct or guidelines for journalists reporting on trafficking cases will be explored over the lifetime of this Plan.

NGOs and other partner organisations must also contribute to accurate, fair and balanced reporting. In this regard, we recognise the work carried out by the OSCE and Ireland en Route (IeR), a forum comprised of NGOs, academics, intergovernmental and statutory agencies, which are working to combat trafficking in women and children for sexual exploitation in Ireland. IeR produced guidelines for journalists on human trafficking in early 2008.

The AHTU will examine the potential of social networking sites on the internet as a vehicle for awareness raising initiatives.

The Awareness Raising and Training Working Group will explore possibilities for awareness raising initiatives in cooperation with partner organisations, including those working in migrant communities. The AHTU will link in with relevant representative associations in the private sector such as the Restaurant Association of Ireland and the health and beauty industry to develop an awareness raising training programme for staff engaged in these areas.

Experience in other countries has shown that healthcare providers, i.e. GPs, public health nurses and staff of Accident and Emergency Departments can play an important role in identifying and supporting victims of trafficking. The provision of awareness raising training for first responders, having regard to issues such as cultural differences, will be explored with the HSE, the Department of Health and Children, the Office of the Minister for Children and the Irish College of General Practitioners.

The possibility of developing protocols for healthcare workers to ensure the safety of potential and/or suspected victims will also be examined.

The Awareness Raising and Training Working Group will also consider further advertising at major sporting events over the lifetime of the Action Plan.

The involvement of the arts community, with its ability to reach beyond traditional means of communication, will be important in communicating the anti-trafficking message to the public. Exploring issues surrounding human trafficking using drama, exhibitions, soaps and documentaries will be further examined.

## **European Hotline**

On 15 February, 2007 the European Commission adopted a Decision on the establishment of a common EU hotline number for the victims of human trafficking which would strengthen existing national services and make the hotline number better known in origin, transit and destination countries. The aim of a single European 6 digit toll free phone number starting with the digits 116 is to allow European citizens to reach socially important services by using the same telephone number in different Member States. It is anticipated that the 116 number and the services provided would be the same in all Member States, thus helping people travelling abroad. It is 'only' an action on numbers, in other words a telecom initiative rather than the creation of a single European service. Therefore to benefit from the 116 number interested organisations would have to apply for it to the national telecom regulatory authority (NRA) which is responsible for assigning telephone numbers.

Several anti-trafficking NGOs raised serious doubts as to whether an EU wide anti-trafficking hotline is needed and would meet their clients' demands. Taking into account the importance of the issue of supporting victims of human trafficking and the complexity of having the network of national victim hotlines operational in all Member States, the Commission decided to carry out a feasibility study in order to assess the needs and ways forward on the reservation and creation of a 116 number for the support of trafficked victims on the basis of mapping-up experience of existing hotlines and victim assistance service in all the EU Member States. Following a tendering process the study is being conducted by the organisation La Strada International.

The aims of the study are to:

- Review existing local, national, regional hotlines/helplines dealing partly or exclusively with victims of trafficking covering all the EU Member States;
- Review local, national, regional victim assistance services provided for victims of human trafficking that are linked to the hotlines;

- Gather best practices and identify gaps on the basis of available information both on hotlines and victim assistance services specified in point (a) and (b) above;
- Provide a provisional estimate on the need for and the feasibility of implementation of a Europe-wide 116-hotline for victims of human trafficking and assistance services to be provided with such hotline, based on the collected and analysed information at national and EU level.

In order to provide a detailed picture of existing anti-trafficking hotlines and linked support services in Europe, while at the same time assessing the need for and feasibility of a 116 Europe-wide hotline number for the support of trafficked persons, the study uses a multi-method approach involving quantitative and qualitative instruments, including questionnaires, interviews, roundtable meetings, focus groups and an analysis of relevant document. It is expected that the duration of the task will not exceed 8 months. The AHTU is the national co-ordinator for Ireland for the duration of the study.

## **(2) Demand Reduction**

### **Codes of Practice**

The active involvement of the relevant social partners is essential in our efforts to combat trafficking for the purposes of labour exploitation. Government Departments and agencies, trade unions and employers' organisations are participating in the work of the Labour Exploitation Working Group. This Group is mandated to consider the type of information and support structure that can assist the reintegration of suspected victims into the labour market or their home country, in the event of return. In addition, we will be working with the relevant stakeholders in industries such as agriculture, construction and hotels and entertainment to develop Codes of Practice aimed at identifying potential victims among vulnerable work sectors. These Codes of Practice will seek to assign specific responsibilities in preventing and combating sexual and labour exploitation.

As outlined above, the **Sexual Offences (Jurisdiction) Act 1996** allows for the prosecution of an Irish citizen or person ordinarily resident in the State, who commit an

act in another country which is a sexual offence against a child in that other country and, if done within the State, would constitute a sexual offence against a child in the State. It is also an offence to arrange the transport of or to actually transport a person knowingly for the purpose of "sex tourism". In addition, it is an offence to publish information which is intended or is likely to promote, advocate or incite "sex tourism". While there is no evidence to suggest the involvement of Irish citizens or residents in child sex tourism in other jurisdictions we will seek to work with tourism bodies and relevant Government Department's to examine the applicability in Ireland of the ECPAT Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism. This is an anti trafficking framework and set of business principles specifically aimed at the tourism industry.

The AHTU have been asked by the Minister for Justice, Equality and Law Reform to consider the findings and recommendations of the recently published report *Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant women in Ireland*. Further demand reduction measures will be considered having regard to the recommendations in the report.

### **(3) Education Campaigns**

The AHTU will examine the possibility of providing a human trafficking information presentation at teacher conferences. A similar presentation may also be considered for other fora such as the RIA service providers' forum.

We will seek to engage with young people in schools through the use of booklets, calendars, leaflets, t-shirts and quiz competitions. Initiatives such as poster and photographic competitions will also be explored.

We will engage in dialogue with third level institutions to explore the possibility of including trafficking in human beings as a topic/module on legal and social science degree and masters courses. Awareness raising and training options for lawyers/barristers will also be explored with the relevant professional bodies.



## Table of Actions

**Objective: To raise awareness about human trafficking, reduce demand and implement education campaigns.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
7.	Establishment of Awareness Raising and Training Working Group to advise High Level Group.	Group formed, first meeting in July 2008. Work ongoing for an initial period of 18 months from July 2008	AHTU, GNIB, IOM, ORAC, DET&E, HSE, DFA, DSFA, OMCYA, DH&C, UNHCR, APT, Ruhama, MRCL, NERA, IBEC, ICTU, ISME, Stop Sex Trafficking (Cork)	Terms of Reference for Group met. Work Plan completed or significantly progressed.
8.	Ireland taking a role in all strands and a leadership role in awareness raising strand of European G6 Anti-Trafficking Initiative.	Ongoing for duration of G6 Initiative	AHTU/ Garda Síochána	Successful completion of the work of the G6 group.
9.	Participation in coordinated, G6 “Blue Blindfold” awareness raising and demand reduction campaign.	2008 - 2009	AHTU/ Garda Síochána	Campaign completed and evaluated.
10.	Launch of website <a href="http://www.Blueblindfold.gov.ie">www.Blueblindfold.gov.ie</a> coinciding with Blueblindfold campaign. Link to site on <a href="http://www.justice.ie">www.justice.ie</a>	Launch October 2008, continuous updating	AHTU	No. of visits to website.
11.	Enactment of legislation aimed at demand reduction (section 5, Criminal Law (Human Trafficking) Act 2008).	Completed	Department of Justice, Equality and Law Reform	Legislation to prosecute persons who knowingly use the services of trafficking victims in place.
12.	Media to be supported in their efforts to uncover trafficking stories and communicate them to the public in a sensitive and responsible manner to promote and foster dialogue. Development of a code of conduct for the media to be explored.	2009-2012	AHTU, AR WG, Garda Síochána, DJELR Press Office, Press Council of Ireland, OSCE	Sensitive and informed reporting of stories of potential/suspected victims.
13.	Advertising at major sporting events.	2009 - 2012	AHTU, AR WG	Advertising campaign carried out at specific events.
14.	Development of human trafficking education component as one of the topics in the Civil, Social and	September 2009	AHTU, CSPE Co-ordinator	Roll out of component and feedback received.

	Political programme in the 2 <sup>nd</sup> level school curriculum.			
15.	Examine the possibility of an information presentation for teachers at Teachers' Conferences and RIA service providers forum.	2009 – 2010	AHTU, IOM, D/Education & Science, RIA	Presentations made at conferences.
16.	Develop Codes of Practice and awareness raising initiatives with industries such as agriculture, restaurant, entertainment, health/beauty and construction.	2009-2012	AHTU, AR WG and relevant industry bodies.	Codes of practices developed.
17.	Examine the relevance of the ECPAT Code of Conduct with tourism industry bodies.	2009 - 2010	AHTU in conjunction with tourism bodies and relevant Government Departments	Evaluation completed and action taken, if required.
18.	Arrange awareness raising seminars for Department of Foreign Affairs staff prior to their posting abroad.	Ongoing	AHTU, IOM, Garda Síochána DFA	Seminars delivered to staff.
19.	Arrange awareness raising seminars for Department of Enterprise, Trade and Employment staff who process work permits.	2009	AHTU, IOM, Garda Síochána, DETE.	Seminars delivered to staff .
20.	Include leaflets on human trafficking with work permits when issued.	2009	AHTU, DETE	Leaflet on human trafficking included with work permits.
21.	Examine the possibility of using social networking sites to raise awareness of indicators of trafficking.	2009 - 2011	AHTU, Awareness Raising and Training Working Group	Pages developed on sites.
22.	Examine the possibilities for awareness raising initiatives in migrant communities.	2009 - 2011	AHTU, Awareness raising and Training working Group	Initiatives developed and rolled out.
23.	Work with the Office of the DPP to raise awareness of issues involved in human trafficking cases.	Ongoing	AHTU, DPP	Ongoing engagement with DPP's office.
24.	Training/awareness raising with frontline healthcare providers i.e. G.P.s Public Health Nurses and A&E staff.	2009 - 2011	AHTU, HSE, Dept. of Health & Children, Irish College of General Practitioners	Training options developed.
25.	Explore possibility of developing protocols for healthcare workers.	2009 - 2012	AHTU, Dept. of Health and Children	Protocols developed.
26.	Examine options for engaging with young people in schools such as calendars, booklets etc., posters/photo and essay competitions.	2009 - 2012	AHTU, AR WG, CSPE Co-ordinators	Roll out of options agreed to schools
27.	Explore possibility of including Trafficking in Human Beings as a topic on legal and social science courses in 3 <sup>rd</sup> level institutions.	2009 - 2012	AHTU, third level institutions	Contacts established with third level institutions.

28.	Discuss awareness raising and training options for lawyers and barristers with relevant professional bodies.	2009 - 2012	AHTU, relevant professional bodies	Contacts established with Incorporated Law Society, Bar Council, etc. Training module developed.
29.	Involve arts community in raising awareness of issues through use of plays, exhibitions, soaps and documentaries.	2009 - 2012	AHTU, AR WG	Options explored and developed.
30.	Participate in study regarding need for and feasibility of European hotline.	2009	AHTU	Effective input from Ireland at EU discussions leading to publication of study.

### (3.1.3 )

**Objective: To improve our understanding of the nature and scale of the problem by developing a comprehensive data and research strategy.**

#### **Background:**

Article 5 of the Council of Europe Convention requires State Parties to conduct research to establish and strengthen effective policies and programmes to prevent trafficking. It also states that research on best practices, methods and strategies to discourage demand should be undertaken or strengthened by State Parties. The extent and nature of human trafficking in the Irish context is largely unknown.

One of the objectives of the AHTU is to attempt to rectify this position by engaging with relevant Government and non-governmental stakeholders in data capture and research this should help to provide a more comprehensive picture of the scale of and trends in human trafficking and thereby inform policy making.

#### **Current Developments**

The AHTU has implemented a data collection strategy which has been in operation since January 2009. This data collection strategy is modelled on data collection systems being developed at an international level including:-

- Institute for International Research on Criminal Policy (Ghent University, Belgium) in association with Transcrime: Siamsect/MantraSect,
- IOM/Austrian Ministry of the Interior: Guidelines for the Collection of Data on Trafficking in Human Beings including Comparable Indicators,
- International Centre for Migration Policy Development: Handbook on Anti-Human Trafficking Data Collection in South-Eastern Europe: Developing Regional Criteria.

This strategy is being implemented in conjunction with governmental organisations (GOs) and non-governmental organisations (NGOs). Data is being collected and analysed by the AHTU for the purposes of informing policy development, improving

victim support services and guiding counter-trafficking measures. The information collected will include data on victims and traffickers.

#### *The Suspected Victim*

Insofar as suspected victims of trafficking are concerned, data is being collected concerning the following:-

- demographic data (gender, age, date of birth, if known, etc)
- immigration status,
- motivation for leaving home,
- means of recruitment,
- type of exploitation
- mode of transportation of the victim,
- support services received by the victim.

#### *The Trafficker*

For traffickers the following data is being collected:-

- demographic data (gender, age etc),
- immigration status,
- involvement in organised crime,
- role in the exploitation process.

#### **Data protection**

In order to ensure confidentiality and to protect the suspected victim's anonymity, all data sent to the AHTU by GOs and NGOs is anonymous. Organisations reporting a possible case of trafficking in human beings replace the suspected victim's name with a unique identity code which is provided to the AHTU along with the suspected victim's information. Should the suspected victim be referred to another organisation (GO or NGO) this code is forwarded so as to confirm that the AHTU has been informed of this possible case of trafficking.

#### **Data management**

In order to reduce the likelihood of duplication and to improve overall data management, organisations reporting possible cases of trafficking provide information

regarding the referral pathway taken by the suspected victim. The recording of a date of birth as an identifier will also avoid duplication. In addition, the database containing suspected victim information is regularly checked for possible duplicate cases. If duplicate entries are found they can be traced back to the reporting organisation in question and clarification sought.

The Garda National Immigration Bureau has been maintaining figures manually on the basis of the European Migrant Network template since 7 June, 2008.

### **Future Actions**

Information will also be collected on the pathways of suspected traffickers through the criminal justice system. This information will be collected by means of *the suspect attrition and monitoring form* which is being designed with the purpose of tracking a suspected trafficker through the various stages of the criminal justice process. By tracking suspects in this manner a profile can be built up over time. This will assist the identification of weaknesses in the criminal justice process (i.e. at which points in the process there is suspect attrition). The form is divided into three sections

1. Pre-charge (initial questioning);
2. Post-charge,
3. Trial phase (verdict).

Under each section a number of different options are provided to identify which actions were taken at the various stages of the criminal justice process. This is done through a tick box reply.

### **Research:-**

Part of the AHTU's brief is to undertake research with a view to deepening our current understanding of human trafficking as it occurs in Ireland, thereby informing policy as to how best to deal with this problem. Priority is being afforded, at present, to research which will support the completion of structures to enable Ireland to ratify the Council of Europe Convention and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in persons especially Women and Children. Future research projects will be

determined by a number of factors including Government policy, AHTU priorities, deficiencies in datasets and the views of stakeholders.

The principal aim of all such research is to provide policy makers and state organisations working in the area of human trafficking with the tools to discharge their functions more effectively. Any research conducted will need to meet this criterion.

### **Dignity Research Project**

The AHTU of the Department of Justice, Equality and Law Reform was invited to become a local associated partner of the Irish part of the **DAPHNE III DIGNITY PROJECT**. Ireland was the lead partner in this successful application for funding from the European Commission through the DAPHNE III<sup>18</sup> mechanism. Other international partners are Lithuania, Spain and the U.K.

The Dignity Project aims to contribute to efforts to combat trafficking for sexual exploitation by raising awareness and understanding of the problem among EU Member States and to improve services to victims of trafficking for sexual exploitation. The Dignity project will, through study visits, examine models of good multi-disciplinary practice in service provision to victims of trafficking for sexual exploitation and identify and disseminate such good practice between partners.

### **Table of Actions**

**Objective: To improve our understanding of the nature and scale of the problem by developing a comprehensive data and research strategy.**

<b>No.</b>	<b>Action</b>	<b>Timetable</b>	<b>Responsible Party</b>	<b>Assessment Tool/Indicator</b>
31.	Ongoing development of comprehensive data strategy, based on adjustments to the European Migration Network's Common Research Template.	2009 - 2012	AHTU in conjunction with NGOs, international organisations and Government Dept's / agencies	Comprehensive, high quality data collection.

<sup>18</sup> DAPHNE III - an EU programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk (Daphne III programme).

32.	Data collection and analysis.	Ongoing	AHTU, Government organisations, international organisations and NGOs	Data of sufficient quality and quantity obtained and analysed.
33.	Improve knowledge of scale and scope of human trafficking in Ireland.	Ongoing	AHTU, data collection bodies	Improved management information for policy making, including law enforcement and service provision.
34.	Identify all potential THB data capture systems in Ireland and consult with data collecting organisations.	2008 - 2009	AHTU, GNIB, ORAC, NERA and relevant NGOs	Data capture which mirrors EU systems being developed.
35.	Anti-Human Trafficking Unit to serve as a central location for information on human trafficking in Ireland.	Ongoing	AHTU	Central records of all human trafficking data in State.
36.	Undertake research on a priority and needs basis.	Ongoing	AHTU	Progress reports, completion of research.
37.	Participate in Dignity Research Project	2009 - 2010	Dignity Project partners	Identification and documentation of best practice in Europe.



### (3.1.4)

#### **Objective: To strengthen border controls.**

##### **Background:**

It is widely recognised that secure borders and co-operation between border control agencies is an effective weapon in the fight against transnational trafficking in human beings. Article 11 of the UN Protocol and Article 7 of the Council of Europe Convention both contain provisions which oblige State Parties to undertake measures for the prevention and detection of transnational trafficking which include, inter alia, strengthening border controls and ensuring that means of transport used by commercial carriers are not used to commit offences.

The Government is determined to make our border controls as efficient, effective and secure as possible. We recognise that better management of controls and co-operation at our borders will play an important role in deterring traffickers from targeting our country and will assist in identifying potential victims at point of entry. For these reasons, we have put in place a range of measures to secure our borders, improve border control co-operation and prevent and detect trafficking in persons on the frontline.

##### **Current developments:**

In Ireland, immigration control at points of entry to the State is the responsibility of the GNIB, which is a branch of the Garda Síochána (the Irish national police force). In 2008, additional Gardaí were assigned to several ports in the State, in particular, Dublin Airport, Dublin Port and Knock Airport. Border control operations are kept under constant review having regard to a number of factors, including the necessity to maintain the security of the State, the enforcement of immigration laws and the implementation of strategies to combat cross border illegal activities. With regard to the combating of human trafficking, a number of legislative and other measures have been taken which will assist in the identification of persons arriving in the State and so assist authorities in identifying potential victims as well as the traffickers.

Ireland is committed to making the best use of available technologies to ensure that the immigration authorities have at their disposal the necessary tools for establishing the identity of those arriving at our borders and to prevent the fraudulent use of identities. A new national Automated Fingerprinting Identification System (AFIS) is currently being introduced on a phased basis throughout the immigration system. A project board has been established by the Garda Commissioner to drive the upgrade of AFIS. The aim of the project is to install the upgraded AFIS machines at all ports in the State. They are already deployed in a number of the existing immigration processes, including the registration process with the GNIB. It is planned to operate the system at ports of entry following the passage of the Immigration, Residence and Protection Bill.

In addition, Ireland is currently developing a new Irish Border Information System (IBIS). Under this system passenger information collected by carriers prior to departure will be sent to an Irish Border Operations Centre (I-BOC) where it will be screened against immigration, Garda, customs and other watch-lists. In the event of a match, the relevant agency would be alerted immediately, facilitating time to take appropriate measures to monitor, intercept, question, stop or arrest the individual concerned.

Immigration officers at Dublin, Dun Laoghaire, Rosslare and Cork Ports are currently in possession of Carbon Dioxide Detectors which assist in establishing if persons are being smuggled into the State concealed in vehicles. Extra Carbon Dioxide Detectors are being sourced so that this facility can be extended to other ports throughout the State.

### **Carrier liability**

The Immigration Act 2003 is the legal framework in Ireland for carrier liability. The Act imposes certain requirements on carriers operating aircraft, ferries or other vehicles bringing persons to Ireland, including a requirement to ensure that passengers are in possession of any necessary immigration documentation – passport, travel document or, if required, a visa. The Act provides for a carrier fine in respect of each passenger carried with inadequate documentation. A person found guilty of an offence under these provisions is liable on summary conviction to a fine of €3,000. However, the Act

also provides a fixed penalty procedure in lieu of going to court, i.e. payment of a fixed fine of €1,500 or a prosecution in respect of the alleged offence will proceed.

The GNIB liaises, on an ongoing basis, with carriers to inform them of their obligations and have assisted carriers when new routes have been established. In addition, immigration officers attached to the Bureau have also provided training, on request, to airline staff. This service is provided free of charge.

Ireland has established a network of Airline Liaison Officers at the major hub airports for Ireland. These officers liaise with airlines and border control agencies. Ireland also has direct contact with the United Kingdom border control agencies on a daily operational level and at management and policy level.

### **Denial of entry**

The Immigration Act 2004 requires that a non-national seeking to enter the State must present him or herself to an Immigration Officer and request permission to enter the State. An Immigration officer may, on behalf of the Minister for Justice, Equality and Law Reform, refuse permission to land or to be in the State in a number of circumstances. These include where the non-national has been convicted (whether in the State or elsewhere) of an offence punishable by a term of imprisonment of one year or more; the non-national is the subject of an exclusion order or a deportation order or a determination by the Minister that it is conducive to the public good that the person remain outside the State or where the non-national's entry to the State could pose a threat to national security or be contrary to public policy.

Persons seeking permission to enter the State are required to have a visa unless they are nationals of one of the countries specified in the Immigration Act 2004 (Visas) (No 2) Order 2006. That Order also requires nationals of a number of specified countries to obtain a transit visa prior to seeking permission to pass through the State. A visa may be revoked at any time following its issue where information comes to light which would justify denial of entry on arrival at the border.

The Immigration, Residence and Protection Bill will, when enacted, update and restate the provisions of the 2004 Act and will also strengthen the visa system by placing it on

a statutory basis for the first time. The Bill provides for the revocation of a visa in certain circumstances - where the authorities become aware that the visa was granted on the basis of false, incomplete or otherwise misleading information, or where the presence of the visa holder in the State would not be conducive to national security, public security, public order or would be contrary to public policy. The Bill also provides for a review process where a visa has been revoked.

### **International Co-operation**

As stated above, there is ongoing direct contact between the Garda Síochána and the UK Border Control Agency. Three UK Border Agency officers work within the GNIB and relevant data takes is exchanged routinely. A Memorandum of Understanding governs exchange of information between the two agencies.

Ireland also actively engages in activities of international organisations responsible for border control and preventing trafficking in human beings including Frontex, Europol, Eurojust and Interpol. FRONTEX is the European Agency for the Management of the External Borders of the European Union. The Agency is tasked with improving the coordination of operational cooperation between the Member States in the field of external border management. Europol and Interpol are well established international police organisations which facilitate international police liaison and operate throughout Europe and the World. Eurojust is an organisation of prosecutors from the European Union Member States which works closely with Europol and one of its specific targets is the prosecution of crimes in relation to the trafficking of human beings.

### **Future Actions:**

We recognise that it is important to maintain and enhance the security of our borders, while balancing our commitments to the free movement of people. A number of the measures outlined elsewhere in this Action Plan will assist us in maintaining secure borders [See - **To ensure the legitimacy, security and control of Irish travel and identity documents (3.1.5) and training for law enforcement and other key personnel ( 3.1.7) ]**

We will work to enhance co-operation between Customs Officers and Immigration Officers through the regular sharing of information.

## **TABLE OF ACTIONS**

**Objective: to strengthen border controls.**

<b>No.</b>	<b>Action</b>	<b>Timetable</b>	<b>Responsible Party</b>	<b>Assessment Tool/Indicator</b>
38.	Enforcement of the carrier liability provisions in the Immigration Act 2003.	Ongoing	The Garda Síochána	Optimum prosecutions under the Act.
39.	Enforcement of the Immigration Residence and Protection Bill (when enacted).	2009 - onwards	The Garda Síochána	Optimum prosecutions under the Act.
40.	Training for frontline staff.	Ongoing	AHTU, IOM, The Garda Síochána, NGOs	Training courses completed and evaluated.
41.	Enhanced co-operation between Gardaí and Customs officers.	Ongoing	The Garda Síochána, Revenue Commissioners	Attempts to traffick persons for exploitation within the State thwarted.
42.	Network of Airline Liaison Officers at major hub airports.	Ongoing	The Garda Síochána	Ongoing effective liaison with airlines and border control agencies.
43.	Daily operational level contact with UK Border Control Agencies.	Ongoing	The Garda Síochána	Effective ongoing co-operation.
44.	Upgrade of new national automated fingerprinting system (AFIS).	Ongoing	The Garda Síochána	System rolled out nationally.
45.	Carbon Dioxide Detectors sourced for ports throughout the State.	2009 - 2012	The Garda Síochána	CO2 Detectors at appropriate ports.

### (3.1.5)

**Objective: To ensure the legitimacy, security and control of Irish travel and identity documents; to provide penalties for the destruction of such documents.**

#### **Background:**

Travel and identity documents are essential tools for any trafficker, particularly when he or she seeks to traffick the victim across international borders. Traffickers often use forged passports and altered documents to illegally bring trafficking victims into the State. Sometimes, the trafficker will bring the victim into the country legally, using the victim's legitimate passport, but then, upon entry into the State, renounce the passport and damage or destroy it, consigning the victim to a state of forced illegality in the State. Thus, measures to ensure the legitimacy, security and control of these crucial travel and identity documents play a key role in undermining a trafficker's ability to transport a victim from the country of origin to a transit or destination country. Article 8 of the Council of Europe Convention, which is similar to Article 12 of the UN Protocol, places obligations on State Parties to put in place measures to ensure the quality and integrity of travel and identity documents.<sup>19</sup> The Council of Europe Convention<sup>20</sup> also requires States to adopt legislative or other measures to make it a criminal offence to forge a travel or identity document, procure or provide such a document; or retain, remove, conceal, damage or destroy a travel or identity document of another person when done intentionally and for the purpose of enabling trafficking in human beings.

#### **Current developments**

The Passport Act 2008 provides a range of measures to improve passport control. Under Section 20(1) of the Act a range of offences are created which seek to criminalise the unlawful holding, falsifying or destruction of passport travel documents.

An offence under the Act is committed where a person:

- has, without lawful authority or reasonable excuse, in his or her possession or control a passport that is and that he or she knows or believes to be, a false passport;

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<sup>19</sup> Article 8 and 9, Council of Europe Convention and Article 12 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

<sup>20</sup> Article 20 Council of Europe Convention on Action against Trafficking in Human Beings 2005

- uses, or attempts to use, a passport that was not issued to him or her, knowing or believing that it was not issued to him or her, as evidence of identity or citizenship (in either case, whether or not in connection with travel abroad);
- uses, or attempts to use, a passport that is and that he or she knows or believes to be, a false passport as evidence of identity or citizenship (in either case, whether or not in connection with travel abroad);
- permits—
  - (i) a passport that was issued to him or her; or
  - (ii) a passport other than a passport that was issued to him or her that he or she has in his or her possession or control,
 to be falsely used by another person as evidence of that person's identity or citizenship (in either case, whether or not in connection with travel abroad) or is reckless regarding such use by another person of the passport;
- sells, or attempts to sell, a passport (whether or not a passport that was issued to him or her);
- wilfully damages or destroys a passport (whether or not a passport that was issued to him or her); and/or
- knowingly makes, or attempts to make, a passport that is false.

Taken together, these measures criminalise a range of modus operandi utilised by traffickers to control their victims through the control of passport documents. Maximum penalties for offences established in this section of the Act, on conviction on indictment are an unlimited fine and/or imprisonment for up to ten years.

The new and more secure Irish passport was introduced on a phased basis in December 2004. In addition to extensive, traditional print security features, the laser engraved polycarbonate datapage ensures that the Irish passport is a highly fraud-resistant document. The security features are easily authenticated by the relevant authorities, including border agencies.

The introduction of the biometric or e-passport on 16 October, 2006 further enhanced these security features. The presence of a microchip, containing a digital image of the holder, has for instance meant that any attempted photo substitution would be readily and easily detected. This has greatly reduced the risk of travel on forged documents previously reported as lost or stolen.

The security controls in place on the production and delivery of passports are extensive. Passports are personalised by the Passport Office using highly sophisticated laser engraving technology. Stocks of passports are logged and tightly controlled by the passport system. Spot checks on stocks and stock records are carried out regularly. Destruction of spoiled or incorrect passports is traceable and is carried out under secure

conditions. The passport issuing process is divided into discrete activities so no one person can operate the process from start to finish. All activities and the identity of the staff member carrying out any activity on a passport application are logged electronically.

It is essential that full use is made in the short term of the International Civil Aviation Organisation (ICAO) sponsored Public Key Directory (PKD) by states issuing ePassports. This will allow up to date circulation of the validation keys for all ePassports and also those of passport revocations. It will also combat any attempts to fraudulently produce ePassports.

Details of all lost and stolen passports are provided to Interpol. These details are available to border controls worldwide. Anyone found travelling on any of these reported passports is taken for secondary screening and the details are checked with the Passport Office through Interpol. This system was introduced in 2006 and is working very successfully and those found to be travelling illegally have been arrested.

As required under EU and international law, Ireland supplies travel documents to refugees, those granted subsidiary protection and stateless persons. Temporary travel documents can be issued to asylum seekers and others who do not have passports and need to travel for a particular purpose. A review of the security standards attaching to such travel documents is currently underway.

The Criminal Justice (Theft and Fraud Offences) Act 2001 (Part 4) provides for a range of offences dealing with fraud and the use, control, etc. of false instruments. The definition of an 'instrument' for the purpose of these offences includes a passport or document which can be used instead of a passport and a document issued by or on behalf of a Minister of the Government permitting or authorising a person to enter or remain (either temporarily or permanently) in the State and to enter employment in the State.

In addition, Section 20 of the Refugee Act 1996 provides for offences relating to the provision of false information and alteration of identity documents for purposes related



to an application for refugee status. Proposals contained in the Immigration, Residence and Protection Bill will, when enacted, restate and update this provision. Section 108 of the Bill provides for offences relating to the making of false statements, the provision of false documents and the destruction, concealment, forgery, fraudulent alteration, supply or facilitation of unlawful use, etc. of documents, including identity documents. It also broadens the scope of these offences to include entry to the State, residence in the State, protection in the State, etc. A person guilty of an offence under this section is liable on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 12 months or both, or on conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 5 years or both.

**Future Actions:**

The Garda Síochána, in particular Immigration Officers, will continue to ensure the integrity and security of travel and identity documents and seek to prevent their unlawful creation and issuance. In doing so, the Garda Síochána will continue to enforce the relevant provisions in immigration legislation and the Criminal Justice (Theft and Fraud) Offences Act 2001.

The Department of Foreign Affairs will continue to ensure that the security controls in place for the production and delivery of passports are maintained. Destruction of spoiled and incorrect passports will continue to be carried out under secure conditions.

The relevant legislative provisions will be monitored to ensure they are operating effectively and in line with best international practice.

**Table of Actions**

**Objective: To ensure the legitimacy, security and control of Irish travel and identity documents.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
46.	Legislative provisions to ensure legitimacy, security and control of	Completed	Department of Foreign Affairs	Legislation operating

	Irish Passports (Passport Act 2008).			effectively.
47.	Issue of new Irish electronic passport (ePassport).	Ongoing	Department of Foreign Affairs	E passports issued and working well.
48.	Security controls in place for production and delivery of passports.	Ongoing	Department of Foreign Affairs	Stocks of passports logged and tightly controlled. Destruction of spoiled or incorrect passports is traceable and carried out under secure conditions.
49.	Review security standards of travel documents issued by INIS.	2009	INIS	High security standards for travel documents issued to refugees, etc.
50.	The Garda Síochána to ensure integrity and security of travel and identity documents.	Ongoing	The Garda Síochána	Offences in relation to travel documents detected.

### (3.1.6)

**Objective: To co-ordinate our strategy and foster bilateral, multilateral and international cooperation across the governmental and non-governmental sectors.**

**Background:**

Given the range of legislative, administrative, operational and services requirements of a successful anti-human trafficking policy and the diversity of stakeholders, the establishment of an anti-human trafficking coordinating body is a key step towards a more efficient and effective counter-trafficking infrastructure. The Council of Europe Convention recognises the importance of a multi-disciplinary approach to the prevention and tackling of human trafficking and requires State Parties to strengthen national co-ordination between the various bodies responsible for preventing and combating trafficking in human beings.<sup>21</sup>

Article 32 of the Council of Europe Convention requires State Parties to co-operate with other States for the purpose of preventing and combating trafficking; protecting and providing assistance to victims; and the investigation and prosecution of criminal offences established under the Convention. It is well recognised that because of its international dimension and clandestine nature, it is often difficult for a government to effectively counter human trafficking on its own. The normal difficulties associated with building a prosecution case are greatly exacerbated by transnational elements. One issue is the procedural and logistical obstacles posed by the fact that the evidence and witnesses needed to build a case may only be available in another jurisdiction.

The Council of Europe Convention and the UN Protocol both encourage States to co-operate with NGOs, other relevant organisations and civil society and establish strategic partnerships to combat trafficking<sup>22</sup>. We recognise the importance of strategic and practical operational cooperation between law enforcement personnel and service providers who may come into contact with trafficking victims.

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<sup>21</sup> Article 5.1 Council of Europe Convention on Action against Trafficking in Human Beings.

<sup>22</sup> Article 35 Council of Europe Convention on Action against Trafficking in Human Beings, Article 9 UN Protocol.

With its links to transnational organised crime, it is recognised that fighting trafficking in human beings successfully requires close co-operation at all levels, be that through concerted efforts by Governments, law enforcement agencies, local authorities, civil society, the private sector or the media. Working together, these groups can complement each other's work and build a broader and coordinated network of counter-trafficking efforts. Article 10 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, states that law enforcement, immigration or other relevant authorities of the State must, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;

(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and

(c) The means and methods used by organised criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking and possible measures for detecting them.

### **Current developments**

As previously outlined – See **2.2 Administrative Framework** - an Anti-Human Trafficking Unit was established in February 2008 in the Department of Justice, Equality and Law Reform under the stewardship of an Executive Director. In order to carry out its role effectively and to implement and facilitate a multidisciplinary approach, the AHTU works in close cooperation with a wide variety of Government Agencies and Departments, in addition to NGOs and International Organisations (IOs) working in the anti-trafficking field.

In executing its role as a coordinating body, the AHTU participates in or chairs a broad range of fora at the national, bi-lateral, multi-lateral/regional and international level.

The Garda Síochána has also recently established a Human Trafficking Investigation and Co-ordination Unit within the GNIB. The role of the Unit is to provide a lead in all policy issues in the area of human trafficking. The Unit will be a centre of excellence for the Garda Síochána and it will oversee all investigations where there is an element of human trafficking and provide advice, guidance and operational support for investigations.

### **International Cooperation**

Ireland participates in a number of international cooperative initiatives. For example, as previously outlined, Ireland is a member of the European G6 initiative against human trafficking and has taken the lead role in the Awareness Raising Strand<sup>23</sup> of this project.

Ireland is working cooperatively with our UK partners to assess the levels of and to undermine trafficking activity in both countries. For example, Operation Pentameter, primarily a coordinated campaign of police enforcement activity to tackle trafficking into the UK, also involved the participation of the Garda Síochána, which ran enforcement operations in this jurisdiction during the same period. By complementing the work of our UK partners, the whole Common Travel Area became a more hostile environment for those who engage in the sordid business of human trafficking.<sup>24</sup>

Regular meetings are held between the AHTU, GNIB, the NIO and the PSNI to discuss issues of common concern in relation to human trafficking.

Ireland has been and will continue to be actively involved in cross-border, trans-national trafficking investigations. A joint police trafficking investigation between Ireland and Romania resulted in the prosecution of four (4) people in Romania for trafficking for the purpose of labour exploitation.

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<sup>23</sup> See section (3.1.2) Awareness Raising for more information on the G6 initiative.

<sup>24</sup> See section 3.3.2, – Operation Pentameter (I & II)

Ireland actively participated in Operation 'Baghdad', a Eurojust Operation targeted at Iraqi traffickers across Europe. This operation led to over 100 arrests.

The Garda Síochána has also arrested a suspected international child trafficker for alleged sexual exploitation; he was subsequently extradited to the Netherlands where he is now awaiting trial.

Information regarding immigration related criminality is collated, analysed and disseminated by the Garda National Immigration Bureau (GNIB), including such information and intelligence received, on a regular basis, through the Europol and Interpol National Units, based at Garda Headquarters. In particular, personnel from the GNIB assist in investigations relating to the suspected trafficking and smuggling of persons, initiated in other jurisdictions, where it is suspected either the suspect(s) or victim(s) have entered this State.

Members of the Garda Síochána, in particular personnel attached to the National Support Services attend courses organised by CEPOL (the European Police College) concerning trafficking in human beings which are targeted at (i) senior police officers who are responsible for prosecution services and/or counter trafficking cases, (ii) members of lecturing staff in police training and development units and (iii) heads of police forces who deal with questions of human trafficking. Training courses are due to take place during 2009. Ireland attends the Europol Expert meeting on trafficking in human beings which takes place on an annual basis. This meeting allows Member States to share their experiences and provide operational case examples of trafficking in human beings.

Ireland is part of a number of Europol Analytical Work Files which provide both strategic and operational support. In this context a trafficking in human beings bulletin is circulated on a quarterly basis which is disseminated to members of the Garda Síochána. Other support provided to Ireland by Europol includes expert advice, intelligence reports, training and information exchange through the Europol Information System/Europol National Unit. Operational support can include operational analysis of investigations in Member States, coordination of investigations

(e.g. organisation of meetings at Europol) and support from other Europol National Units, which in Ireland, is based at Garda Headquarters in the Phoenix Park.

**Future Actions**

The AHTU and the Garda Síochána will continue to engage with Government agencies, international organisations, NGOs, Interpol, Europol, Eurojust and Frontex. Other trans-national lines of communication and bi-lateral co-operation with other law enforcement agencies will be maintained as they provide the Garda Síochána with data relating to international trends/patterns in the area of human trafficking. Ireland will also continue to participate at various levels (policy, prevention, investigations, support) in relevant national and international fora in the area of human trafficking.

The Garda Síochána, in particular GNIB, will maintain links/relationships with all recognised State Agencies, international organisations, NGOs and other voluntary organisations operating in this area. The various Working Groups established by the AHTU are important for the further development of Ireland’s response to human trafficking.

**Table of Actions**

**Objective: To co-ordinate our strategy and foster bilateral, multilateral and international cooperation across the governmental and non-governmental sectors.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
51.	Establishment of Anti-Human Trafficking Unit (AHTU) in the Department of Justice, Equality and Law Reform.	Completed	Department of Justice, Equality and Law Reform	Unit established and work progressing in accordance with the Units mandate.
52.	Establishment of a dedicated Garda Unit .	Completed	The Garda Síochána	Unit established and working according to its mandate.
53.	AHTU assigned primary responsibility for coordinating governmental and non-governmental responses to human trafficking and ensuring policy is formulated in a holistic and comprehensive manner.	Ongoing	AHTU in conjunction with Government organisations, NGOs and international organisations	Implementation of the work programme of the unit regularly reviewed by HLG. Effective co-ordination of national response.
54.	(1) Establishment of Non-Governmental and Governmental Roundtable.	Completed	AHTU	Roundtable Forum assists in formulation and

	(2) Meetings of the Roundtable Group.	Ongoing		implementation of policy.  Effective coordination of national response.
55.	Anti-Human Trafficking Unit to engage with over 50 different stakeholders both domestically and internationally.	Ongoing	AHTU	Regular and productive meetings with stakeholders which result in Unit's mandate being progressed.
56.	1. Establishment of Working Groups.  2. Ongoing meetings of Working Groups.	Completed  Ongoing	AHTU	Working Groups assist in formulation and implementation of policy.
57.	Participate in European G6 Counter-Trafficking Awareness raising initiative.	2008 - 2009	AHTU, Irish, British, Dutch, Spanish, Polish, Italian Governments EUROPOL Eurojust, Interpol	Initiative completed and evaluated.
58.	Ireland-UK policing cooperation.	Ongoing	The Garda Síochána, UK Police Forces, PSNI	Successful monitoring of trends, operations, convictions and prosecutions.  Joint investigations.
59.	Regular meetings with the NIO and PSNI.	Ongoing	AHTU, The Garda Síochána	Regular and productive meetings.



### (3.1.7)

**Objective: To provide training for law enforcement, support workers and other key personnel.**

**Background:**

Article 5.2 of the Council of Europe Convention and Article 10 of the UN Protocol both recognise the importance of training for frontline staff in the prevention of trafficking. The UN Protocol in particular recommends that such training should focus on methods used to prevent trafficking and protect the victim's rights. Improving training for those on the front lines of the battle against trafficking will undoubtedly help prevent trafficking in human beings. Those responsible for preventing and combating human trafficking must be sufficiently capable and specialist to undermine the activities of traffickers. The Government has a responsibility to ensure they are equipped with the appropriate skills and knowledge to be successful in this regard. At the same time, those likely to encounter potential/suspected victims of human trafficking must be made aware of the indicators of trafficking so they can take immediate and appropriate action to help potential/suspected victims. Similarly, those in direct contact with potential/suspected victims must have the proper training to deal with traumatised potential/suspected victims in an appropriate fashion. They must be aware of the difficulties the potential/suspected victim faces. They must be able to effectively communicate with and support the potential/suspected victim and must be able to provide or refer the potential/suspected victim to the supports and services required.

**Current developments:**

The Garda Síochána has placed particular importance on ensuring that its members receive training which will equip them to tackle the phenomenon of human trafficking. A continuous professional development training course entitled 'Tackling Trafficking in Human Beings: Prevention, Protection and Prosecution' has been designed by the Garda Síochána, assisted by the International Organisation for Migration (IOM). The aim of the course is to alert operational personnel within the Garda Síochána to the existence of the phenomenon of trafficking and to empower them to identify potential/suspected victims so as to provide for their wellbeing and to ensure initiation

of criminal investigations, where appropriate. These courses also involve a presentation by the HSE on separated children and unaccompanied minors. Members of the Police Service of Northern Ireland (PSNI) have attended this training and the Head of the United Kingdom Human Trafficking centre (UKHTC) has presented at almost all of these training courses emphasising the international and cross-border co-operation between police forces. A total of 250 members of the Garda Síochána have completed this training.

In addition, all new probationer Gardaí attend, as part of their training a module on the identification of potential/suspected victims of trafficking and its elements. To date, 520 probationer Gardaí have received this training, which will be delivered on an ongoing basis.

The Garda Síochána also regularly participates in courses related to human trafficking organised by CEPOL, the European Police College. These courses are targeted at senior police officers responsible for prosecution services and countering trafficking or organised crime cases; members of lecturing staff in national police training colleges, chiefs of police and Government officials from relevant Ministries dealing with issues around human trafficking.

Personnel attached to the Garda Training College and GNIB attended a course provided by the International Organisation for Migration titled “The Training of Border Guards, Border Police and Customs Officials in identifying and providing assistance to the victims of trafficking”. This course was sponsored by the Belgian and Hungarian Governments in co-operation with the European Commission.

In the period between July, 2008 and February, 2009 awareness training has also been provided for more than 130 officials who may encounter trafficking victims in the course of their work. The training has been provided by the International Organisation for Migration (IOM) with input from NGOs, HSE, the GNIB and the AHTU. Among those provided with the training are members of staff from the following organisations:

- Inspectors from the National Employment Rights Authority (NERA),

- Health Services Executive (HSE),
- Irish Naturalisation and Immigration Service (INIS),
- Office of the Refugee Applications Commissioner (ORAC),
- Victim's Support Helpline,
- Victims of Crime Office,
- Department of Enterprise, Trade and Employment,
- Children Detention Schools (Irish Youth Justice Service),
- Probation Service,
- Anti-Human Trafficking Unit,
- Private Security Authority (Inspectors),
- Department of Social and Family Affairs (Social Welfare Inspectors).

All Defence Forces personnel on overseas missions receive appropriate training as part of various career courses run within the Defence Forces (for example, in the Cadet Course, the Peace Support, Crisis Management Operations Courses, Human Rights Course) and is an integral part of all overseas deployment training. A Sexual Exploitation & Abuse Awareness Programme, which is also offered, provides training with topics such as:

- (a) action by soldiers in direct contact with potential victims of human trafficking;
- (b) knowledge of suspicious activity, which may indicate human trafficking is taking place in the Area of Operation or its periphery;
- (c) situations involving no direct involvement by Irish soldiers on peacekeeping missions but in which actual sexual exploitation and abuse of the potential victims of human trafficking is taking place; and,
- (d) ensuring local populations, especially women and children, are not exploited by overseas personnel by way of, for example, using the services of prostitutes.

Awareness raising seminars have been and will continue to be provided to Department of Foreign Affairs staff both in terms of general awareness raising of the issue, but also more particularly in relation to the work of Irish Embassies and Consulates abroad to ensure that they and local Embassy staff, are aware of the indicators of trafficking

particularly among visa applicants. These officers and locally employed staff are uniquely placed in potential source countries and as such could be said to represent the frontline for the Irish authorities in dealing with visa applicants who may be potential victims and education or employment agencies and facilitators, who may be potential traffickers. Awareness raising has also been provided to staff of the Department of Enterprise, Trade and Employment which is responsible for the granting of work permits.

**Future Actions:**

The Awareness Raising and Training Working Group, previously mentioned, is working on identifying the relevant skills required by personnel in Governmental Agencies so as to establish appropriate training based on the skill requirements for each organisation or for particular posts in the organisation. This involves each member of the working group completing a skills identification chart for identified positions in his/her organisation. The results will then be used to draw up specialised training programmes.

Awareness raising programmes for personnel such as Health and Safety Inspectors, Agriculture Inspectors/ Officers and Vets, Probation Officers and Prison Officers and staff of the Irish Prison Service, who may come into contact with vulnerable groups are also being considered in order to enable them to identify potential victims and to ensure that potential victims are not punished for acts which result directly from their being trafficked.

The Revenue Commissioners have also expressed an interest in customs, ports and special compliance staff being considered for awareness raising training and this is something which will be pursued during the lifetime of this Plan.

Another initiative planned for the near future is the development of small, easy-to-carry, credit-card size cards which list the various indicators of human trafficking. These cards will be provided to front-line staff in both governmental and non-governmental organisations, especially those likely to make initial contact with potential trafficking victims, to carry during their every day activities. They aim to

increase awareness of the signs of trafficking, lead to faster identification of trafficking cases and provide potential victims with access to support services more quickly.

### **Table of Actions**

**Objective: To provide training for law enforcement, support workers and other key personnel.**

<b>No.</b>	<b>Action</b>	<b>Timetable</b>	<b>Responsible Party</b>	<b>Assessment Tool/Indicator</b>
60.	Continuous professional development training course for Garda Síochána.	Course developed and training ongoing	The Garda Síochána, IOM, with NGO participation, UKHTC	Training course provides a range of trafficking training and teaches investigative techniques. Leads to identification of victims encountered Approximately 770 officers trained by end 2008.
61.	Human trafficking training for Defence Force personnel.	Ongoing	Irish Defence Forces	Training delivered. Defence force personnel equipped to deal effectively with victims, if encountered.
62.	Training programmes for relevant government personnel in the indicators of and prevention of trafficking in persons.	Ongoing	AHTU, IOM, HSE, NERA, INIS and other relevant Government Departments/agencies	Training delivered. Personnel equipped to deal effectively with victims, if encountered.
63.	Development of information cards with indicators of trafficking for front-line staff.	2009 - 2011	AHTU in conjunction with Awareness raising working Group and Government Department's/ agencies	Cards issued and evaluated for effectiveness and impact.
64.	Awareness raising training provided to Visa Officers in Department of Foreign Affairs and work permit processing staff in Department of Enterprise, Trade and Employment.	Ongoing	AHTU, GNIB, DETE, DFA and IOM	Training delivered. General awareness raised and specific indicators of trafficking emphasised to assist staff in identifying potential cases. Relevant materials widely distributed, with focus on likely source regions in Africa and Asia.
65.	Awareness raising provided to customs, ports and special compliance staff of the Revenue Commissioners, health and safety inspectors, agriculture inspectors / vets , prison and	2009 - 2012	AHTU, GNIB, Revenue Commissioners, HSA, Department of Agriculture and Food, Irish Prison Service, Probation Service and IOM	Training delivered. Personnel equipped to deal effectively with victims, if encountered.

	probation officers, HQ staff of the Irish Prison Service.			
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### (3.1.8)

#### **Objective: To foster interagency information exchange.**

##### **Background:**

A number of contributors to the consultation process suggested and it is universally recognised, that interagency co-operation is necessary for a successful counter-trafficking campaign. Preventing and combating human trafficking requires the co-operation and participation of numerous agencies and Government Departments and across the legislative, judicial and executive branches of Government. Information exchange is a key component of that co-operation and effective policies which ensure such co-operation stands to strengthen the State's efforts to combat human trafficking in this jurisdiction.

##### **Current Developments**

The AHTU serves as a central hub for information and research conducted on human trafficking and will coordinate information sharing between relevant domestic authorities. An extensive data strategy<sup>25</sup> is in place to harvest data. This will be collected and analysed by the Unit for the purposes of informing policy development, improving potential/suspected victim support services and guiding counter-trafficking measures across a range of Governmental and non-Governmental agencies throughout Ireland.

The Interdepartmental High Level Group, the Roundtable Forum and multi-disciplinary Working Groups facilitate exchange of information between the various government and non-government agencies involved in the fight against trafficking. The meetings provide an opportunity to share information, work together on initiatives and co-operate in policy development and implementation.

An example of existing on-the-ground co-operation is the close co-operation and information exchange between the HSE and GNIB regarding unaccompanied minors. Section 8(5) of the Refugee Act 1996 (as amended) provides that where it appears to an

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<sup>25</sup> See section 3.1.3, "Data Strategy and Research".

Immigration Officer or an Authorised Officer in the ORAC that a child under the age of 18 years, who has arrived at the frontiers of the State or has entered the State and is not in the custody of any person, the Immigration /Authorised Officer is required to inform the HSE. The provisions of the Child Care Act 1991, which require the HSE to promote the welfare of children in its area who are not receiving adequate care and protection, will then apply in relation to the child. The Garda Commissioner and the Chief Executive Officer of the HSE signed a joint protocol which sets out the roles and responsibilities of both agencies in relation to Children Missing from Care in April 2009.<sup>26</sup> The joint aim of both organisations is to reduce the incidence of children missing from care placements, to prevent those children from suffering harm and to return them to safety as soon as possible.

**Future actions:**

The AHTU will continue to liaise with all relevant Government agencies, international organisations and non-governmental organisations to ensure a high level of co-operation and information exchange.

The Garda National Immigration Bureau liaise with the various NGOs and State agencies on an ongoing basis. Exchanges of information and best practices takes places at various levels and GNIB have appointed a liaison officer for each of the agencies.

The Health Service Executive and the Garda Síochána will continue to liaise on an ongoing basis at an operational level to ensure that the maximum benefits of joint working are achieved and will develop an agreed protocol for dealing with unaccompanied minors who are encountered at the various points of entries. This protocol will build on the agreed processes already in place between both agencies.

**Table of Actions**

**Objective: To foster interagency information exchange.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
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<sup>26</sup> See section 4.5 Cooperation in the search for missing children.



66.	AHTU to coordinate information exchange between relevant domestic authorities, international organisations and NGOs.	Ongoing	AHTU	Effective cooperation between various government agencies, international organisations and NGOs on a range of issues, including policies regarding unaccompanied minors.
67.	Data collection strategy to be finalised and results shared with all relevant agencies.	2009 - 2012	AHTU	Data strategy implemented and used to assess nature and extent of trafficking and in policy formulation and implementation.
68.	Interdepartmental High Level Group meetings , Roundtable Forum and Working Group meetings to provide opportunities for information exchange and policy development.	Ongoing	AHTU, in conjunction with 34 other relevant governmental and non-governmental bodies	Ongoing and effective information exchange which supports policy development, including law enforcement and victim protection.
69.	Provide multidisciplinary anti-human trafficking training.	Ongoing	AHTU, IOM, the Garda Síochána, NGOs and all State agencies likely to encounter victims of trafficking	Training provided to Government personnel to assist in the identification and protection of victims of trafficking.
70.	Garda /HSE Protocol for missing children signed.	2009	GNIB / HSE	Protocol followed in each case.
71.	Regular liaison between GNIB and NGOs.	Ongoing	GNIB	Effective co-operation between these organisations.

### (3.1.9)

#### **Objective: To improve endangered and missing persons protections.**

##### **Background**

Missing persons are “those whose families are without news of them and/or are reported missing on the basis of reliable information”<sup>27</sup>. People become unaccounted for due to numerous circumstances, both personally chosen and involuntarily forced by others. In this regard, we are all aware of the threats to our children given their vulnerable position in today’s society. At the same time, adults are also at risk of being forcibly moved, sometimes leaving no information of where they are destined, leaving their families devastated by their disappearance. For further information on the measures to ensure enhanced co-operation in the search for missing children see Part IV - Section 4.5.

Article 33 of the Council of Europe Convention on Action Against Trafficking in Human Beings states that in the event the State or any of its agencies believes a person’s life, freedom or physical integrity is in danger, in any way, in another territory, it has policies in place to ensure these concerns are transmitted to the other territory without delay.

##### **Current Developments**

The Missing Persons Bureau in Garda Headquarters is responsible for maintaining data relating to missing persons. All missing persons are recorded on the Police Utilising Leading Systems Effectively (PULSE) system. The quality of data on the PULSE system is maintained at a high standard, so that staff at the Missing Persons Bureau can discharge their duties efficiently and effectively. At present a new PULSE policy relating to risk assessment of missing persons is being devised which will see each missing person automatically assigned a particular level of risk. District Officers for the area where persons have gone missing, take direct responsibility for all investigations/searches carried out. They appoint local investigation teams and employ all necessary means, including the services of specialised units, to assist investigations. The Garda Síochána through the facilities provided by Interpol, Europol and other cross

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<sup>27</sup> The Missing and Their Families: Documents of Reference, ICRC, 2004, p. 13.

border or transnational communication channels transmit without delay any relevant information so that appropriate protection measures can be taken. The same lines of communication are available for the Garda Síochána to receive such information.

In 2005 the ViCLAS (Violent Linkage System) was installed in the Criminal Intelligence Section of the Garda National Bureau of Criminal Investigation. This installation, by the Royal Canadian Mounted Police, provides a database to capture, collate and compare violent crimes within and across several jurisdictions. ViCLAS is a valuable tool in the investigation of serious and complex cases and encourages and facilitates communication between investigation teams in pursuit of a common goal that might not otherwise occur.

On 15 July 2008, the Minister for Justice, Equality and Law Reform requested the Garda Síochána Inspectorate to advise on the need to establish a dedicated Missing Persons Unit within the Garda Síochána. He also sought advice on the need to establish a response network similar to ‘Amber Alert’ in the United States. The Inspectorate were required to examine the following issues:

- the current practice in Ireland regarding missing persons;
- alert systems operating in other countries – including Amber Alert in the United States – and how effective such systems would be in an Irish context;
- the use of existing international mechanisms in place to assist in tracing missing persons, such as Europol, Interpol and the Schengen Information System (SIS) and having regard to the EU proposal on best practice for launching a cross border child abduction alert currently being considered; and,
- whether specific arrangements are needed to deal with missing children or with specific categories of such children.

The Inspectorate report has found that overall the Garda systems for handling missing persons cases are in line with international best practice and has made recommendations on how these systems can be further enhanced.<sup>28</sup>

### **Future Actions**

The recommendations of the Garda Inspectorate report have been welcomed by the Garda Síochána and the Minister for Justice, Equality and Law Reform. The Minister

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<sup>28</sup> The report is available on the Garda Síochána Inspectorate website [www.gsinsp.ie](http://www.gsinsp.ie)

for Justice, Equality and Law Reform has given his approval for the establishment of an ‘amber alert’ system for missing persons as recommended in the report. The Garda Síochána will be working with a range of government agencies, NGOs and the media to establish the system. **See Section 4.5 - co-operation in the search for missing children - - for more information.**

The Garda Síochána will continue to work closely on a bilateral and multilateral basis with other States and international organisations reinforcing co-operation in the search for missing persons, including missing children, particularly when they are believed to be potential/suspected victims of human trafficking.

### **Table of Actions**

**Objective: to improve endangered and missing persons protections.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
72.	Garda Síochána to liaise with EUROPOL and/or INTERPOL in the event of a threat to an individual in another country.	Ongoing	The Garda Síochána	Liaison channels established and maintained and assistance provided when necessary.
73.	Recommendations of the Garda Síochána Inspectorate on enhancement of missing persons systems implemented.	2009 - 2011	The Garda Síochána	Garda systems for handling missing persons cases enhanced in accordance with recommendations of GS Inspectorate report.

## Protection

### INTRODUCTION

As already stated, human trafficking violates the human rights and dignity of the person. The repeated exploitation and abuse of trafficking victims has dramatic consequences for their physical and psychological well-being. All of the contributors to this National Action Plan consultation process emphasised the importance of providing appropriate supports to potential/suspected victims. This is a key objective of this Plan. The NGO community will have a crucial role to play - particularly in the provision of services and support to potential/suspected victims - and many of the actions in this section will depend on co-operation between the Governmental and Non-Governmental sectors.

The development of a fully effective system of supports is a key priority. Victim support and services are not only essential for victim recovery, but also serve to assist in the criminal justice response to this crime. Experience in other jurisdictions has shown that victims who feel safe and are well supported will be more likely to assist in investigations and prosecutions against their traffickers. Victim protection is a cornerstone of any policy against trafficking.

The key objectives of our protection strategy are:

- To provide essential protections to potential/suspected victims of human trafficking (section 3.2.1);
- To provide a recovery and reflection period to suspected victims of human trafficking and to provide a temporary residence permit to suspected victims of human trafficking when doing so will allow the suspected victim to assist the relevant authorities in relation to an investigation or prosecution arising in relation to trafficking (section 3.2.2);
- To provide suspected victims of human trafficking with information on judicial and administrative proceedings; access to legal aid and advice; compensation and legal redress (section 3.2.3);
- To implement effective suspected victim identification procedures to rapidly assist suspected victims of human trafficking (section 3.2.4);
- To protect the private life and identity of suspected victims of trafficking (section 3.2.5);

- To implement measures to assist potential/suspected victim repatriation (section 3.2.6);
- To provide for the possibility of not imposing penalties on potential/suspected victims for their involvement in unlawful activities, to the extent that they have been compelled to do so (section 3.2.7);
- To provide effective and appropriate protection from potential retaliation or intimidation for those who report human trafficking offences or otherwise cooperate with the investigating or prosecuting authorities – for potential/suspected victims, for witnesses and for members of the family of those persons (section 3.2.8).

### (3.2.1)

**Objective: To provide measures to assist suspected victims in their physical, psychological and social recovery.**

**Background:**

Victims who manage to escape from their traffickers need a broad range of support measures to enable them recover from their traumatic experience and re-integrate into society. While victims will require differing levels of support depending on their personal circumstances, a non national victim will also require support to overcome barriers such as language, isolation and uncertainties surrounding their immigration status. It is therefore essential that the measures, which aim to protect and assist victims, attend to their physical, psychological and social needs for recovery while taking into account the diversity of victims needs. Article 12 of the Council of Europe Convention on Action against Trafficking in Human Beings sets out assistance measures which State Parties must provide for all victims of trafficking. These include-

- appropriate and secure accommodation,
- psychological and material assistance,
- access to emergency medical treatment,
- translation and interpretation services, when appropriate,
- counselling and information, in particular as regards their legal rights and the services available to them,
- assistance to enable their rights and interests to be presented and considered at the appropriate stage of criminal proceedings against offenders and
- access to education for children.

This Article requires the State to take into account the victim's safety and protection needs which can differ depending on their personal circumstances. Furthermore, the State is required to provide necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help. Factors such as age, gender, country of origin, type and level of violence experienced should all be taken into account when providing support measures.

The Article also provides for a number of support measures for all victims, national and non national, beyond material assistance, including access to the labour market, vocational training and education. Assistance should not be conditional on the victim's willingness to act as a witness. All the services provided to victims under this Article will be provided on an informed and consensual basis.

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children also requires State Parties to provide similar assistance and protection to victims of trafficking.<sup>29</sup>

Potential/suspected non-national victims of trafficking have the same rights as any Irish citizen in relation to access to social services, which includes access to health care, accommodation, education and material assistance, amongst others.

### **Current Developments:**

This section will highlight the essential protections which have been or are being put in place to address a suspected victim's vulnerability, assist suspected victims in their recovery and provide for a suspected victim's safety and security. A suspected victim who is a national of the State will be entitled to avail of services normally available to nationals in their particular circumstances for example; if they are homeless they will have access to appropriate services. Suspected victims are entitled to the services set out beneath:

#### **Accommodation**

Access to safe accommodation for suspected victims of human trafficking is a key priority of this Plan. Many contributors to our consultation process stressed the need for appropriate accommodation for trafficking victims. The Reception and Integration Agency (RIA) will accommodate non EEA and EEA (non Irish) suspected victims of human trafficking referred by the Garda National Immigration Bureau (GNIB) during the 60 day recovery and reflection period. A referral by GNIB is a sufficient basis for the RIA to accommodate the person.

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<sup>29</sup> Article 6 – UN Protocol to Prevent, Suppress and Punish trafficking in Persons, especially Women and Children, supplementing the UN Convention against Trans national Organized crime.



The RIA already has a package of supports for asylum seekers in place and is sufficiently experienced and flexible to meet the needs of potential/suspected victims of trafficking. Persons in RIA accommodation are usually accommodated outside Dublin, after an initial period at a reception centre there. However, the option of remaining in Dublin is available in cases of a medical or policing need. RIA will be guided by the advice of the HSE and the GNIB in this regard.

In the case of a potential victim of trafficking - i.e. the period pending a determination by a member of the Garda Síochána, not below the rank of Superintendent in the GNIB, that they are a person suspected of being a victim of trafficking and the granting of a period of 60 days recovery and reflection - RIA will also accommodate non EEA and EEA (non-Irish) nationals on the basis of a referral from the GNIB. A person in this situation will be allowed to remain in the country under specified immigration conditions.

**Psychological and material assistance, emergency medical treatment, translation and interpretation services, counselling and information.**

Potential/suspected victims of trafficking are given the same RIA accommodation as that provided to newly arrived asylum seekers in direct provision, i.e. accommodation in a reception centre. The reception centres at which potential/suspected victims are accommodated include a medical centre on-site managed by the Health Service Executive (HSE). The nurse in the medical centre will conduct an initial assessment of the medical needs of the potential/suspected victim, who voluntarily avails of this service and then develop a care plan to meet those needs. The care plan will involve linkages to existing supports and the Women's Health Project, Baggot Street, Dublin, if necessary. The option open to HSE of linking in with relevant NGOs to supplement existing services available to potential/suspected victims will also be explored.

There is an established link between the RIA and the Community Welfare Service – through the Asylum Seekers/New Communities Unit of the HSE - which will assist potential/suspected victims in accessing necessary supports.

Following the 60 day Recovery and Reflection period, if a person is granted a Temporary Residence Permission for 6 months he/she will be required to move from RIA accommodation. Prior to the end of their recovery period the Community Welfare Officer (CWO) in the Asylum Seekers /New Communities Unit will advise them as to their entitlements to State support such as supplementary welfare allowance (SWA) , rent allowance etc. The CWO will assist in their transition out of RIA accommodation. Accommodation options, such as social housing provided by local authorities, will be explored with the person. A Crime Prevention Officer from the Garda Síochána will also liaise with the suspected victim to assess any security risk and advise him/her on appropriate precautions. See **(3.2.8) – Protection for suspected victims, witnesses and family members**, for more information on protection measures.

If, at the end of the 60 day period of recovery and reflection, a suspected victim decides they do not wish to assist the authorities, he/she will be required to leave RIA accommodation. In circumstances where the person has no further permission to be in the State they will be required to leave the State and normal immigration rules will apply. Because the person will have no legal status in the country he/she may not be entitled to State supports generally, with the possible exception of an exceptional needs payment or legal aid and advice.

It should be noted that permission available to potential and suspected victims of trafficking is without prejudice to a person's right to seek protection through the making of a claim for asylum or subsidiary protection in the State.

Appropriate translation and interpretation arrangements are currently available in both the HSE and GNIB. The question of whether enhancements to these arrangements are necessary is being considered by some of the interdisciplinary working groups.

**Information as regards legal rights and assistance in terms of presenting rights and interests during criminal proceedings**

The Legal Aid Board will provide legal advice and legal aid to potential/suspected victims in accordance with the terms of the Council of Europe Convention and the UN Protocol. While the current structures are sufficient to allow the Legal Aid Board provide legal advice and legal aid in civil cases, a legislative amendment will be required to allow the Legal Aid Board provide legal advice and legal aid in criminal proceedings. However the Board has agreed to provide this assistance on an administrative basis until the necessary legislative amendment is in place. See **3.2.3 – Providing potential/suspected victims with information on judicial and administrative proceedings; access to legal assistance/legal aid; compensation and legal redress** - for more information.

**Access to education for children**

The current position is that all children under the age of eighteen in the State are entitled to attend primary and post primary schools. In 2007/2008 over 160 nationalities were represented in post-primary schools. See **Section 4 – Responses to Child Trafficking for further information on the provision of education to children.**

Article 12 (4) of the Council of Europe Convention also requires the State to allow access to the labour market, vocational training and education for suspected victims who are lawfully resident in the State.

During the Recovery and Reflection period a suspected victim of trafficking will not be allowed access to the labour market. The purpose of this period is to allow a suspected victim to remain in the State and give them time to reflect on their options and come to terms with their ordeal. Following this period if a decision is made to grant a Temporary Residence Permit the suspected victim will be allowed full access to the labour market without restriction.

It should be noted, however, that Paragraph 166 of the Explanatory Report to the Council of Europe Convention states that it is for Parties themselves to decide the

conditions governing access to the labour market. An asylum seeker, who alleges trafficking as part of an asylum claim will remain in the asylum process and will not be entitled to work.

**Future Actions:**

The provision of services to potential and suspected victims of trafficking by the Reception and Integration Agency will be kept under review as our knowledge and experience of the situation in this country evolves, to ensure that the needs of potential/suspected victims are being properly met.

The Labour Exploitation Working Group – which has representatives of trade unions and employer organisations in its membership - is to consider and develop supports which will assist the reintegration of potential/suspected victims into the labour market.

Contributors to our consultation process expressed the view that the development of a National Referral Mechanism would be a major contribution to our victim protection strategy. The OSCE defines a National Referral Mechanism (NRM) as “a co-operative framework through which State actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-ordinating their efforts in a strategic partnership with civil society”.<sup>30</sup> In line with the structure recommended by the OSCE for dealing with trafficking in human beings, a multidisciplinary Working Group on a National Referral Mechanism was established, tasked with examining and making recommendations to the Interdepartmental High Level Group on a range of issues concerning a NRM.<sup>31</sup> The work of this group is ongoing.

A National Referral Mechanism formalises relations between the State, law enforcement agencies and NGOs. It thereby provides the opportunity for the highest level of coordination between State actors and civil society in their efforts to combat trafficking, assist victims, ensure the best protection possible and promote the human rights of trafficking victims.

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<sup>30</sup> OSCE, *National Referral Mechanisms – Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook*, 2004, p. 15.

<sup>31</sup> See section 2.2 (d), “Administrative Framework – Non-Governmental and Governmental Roundtable Forum & Interdisciplinary Working Groups”.

During the lifetime of this Plan we will explore the use of Memoranda of Understanding between key stakeholders involved in the provision of services to suspected trafficking victims. It is internationally recognised that Memoranda of Understanding, which formalise the relationship between parties such as law enforcement agencies and victim support providers, contribute to the development of a high level of trust between the different organisations and a common understanding of each other’s goals and principles. This high level of cooperation between agencies will be a key element in protecting and supporting suspected victims.

Trafficked persons who have been moved from their own country often encounter language barriers during their confinement and exploitation in foreign countries. Many come from regions of the world which hold a deep mistrust of the police and other authority figures. To counteract these challenges, the possibility of developing technological aids to assist the Garda Síochána and other front-line responders in attempts to reduce a potential/suspected victim’s fear and mistrust will be examined. One of the suggestions being considered is that specially-programmed audio players be provided to those organisations making initial contact with potential/suspected victims. The devices would have pre-recorded messages in a variety of languages assuring the potential/suspected victim that he/she is safe. The devices have the potential to fulfil a basic first requirement to overcome language barriers between the authorities and the potential/suspected victim, until an interpreter can be located who speaks the same language as the potential/suspected victim. In developing this project we will have regard to the experiences of the UKHTC, who already has practical experience of such arrangements.

### **Table of Actions**

**Objective: To provide measures to assist victims in their physical, psychological and social recovery.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
74.	On an interim basis the Reception and Integration Agency (RIA) to accommodate and provide	Ongoing	The Garda Síochána, RIA AHTU, HSE	Accommodation and services provided speedily when required.

	services to potential and suspected victims of human trafficking referred by the Garda National Immigration Bureau (GNIB).			
75.	CWO from Asylum Seekers/New Communities Unit will assist a person granted temporary residence permission to access state supports such as supplementary welfare allowance, rent supplement etc.	Ongoing	HSE	Supports accessed when necessary.
76.	Crime Prevention Officers from the Garda Síochána will liaise with suspected victims to assess any security risk and advise on appropriate precautions.	Ongoing	Garda Síochána	Advice available to suspected victims.
77.	Explore the use of technological aids to overcome language barriers.	2009 -2011	AHTU, NRM WG	Pilot project set up.
78.	Legal Aid Board to provide legal advice and legal aid to potential/suspected victims of trafficking.	2009	LAB	Legal advice available to potential and/or suspected victims of trafficking.
79.	Development of a National Referral Mechanism to protect and promote the human rights of suspected trafficking victims by coordinating the work of State actors and civil society in their efforts to combat trafficking and assist suspected victims.	Ongoing.	AHTU, Working Group on a National Referral Mechanism, Roundtable Forum, HLG	NRM operating effectively
80.	Explore the use of Memoranda of Understanding between service providers and law enforcement agencies.	2009 - 2011	AHTU, HLG, HSE, the Garda Síochána, NGOs	MOUs in place, where appropriate.
81.	Develop supports to assist the reintegration of suspected victims into the labour market.	2009	AHTU, Labour Exploitation WG, HLG	Appropriate contact information and supports available to assist victims.
82.	INIS will issue a Stamp 3 during Recovery and Reflection period and Stamp 4 during Temporary Residence period. Stamp 4 will allow full access to the labour market without restriction	Ongoing	INIS, DETE	Stamps issued as appropriate.
83.	All children under 18 in the State have access to primary and post primary schools.	Ongoing	Dept. of Education & Science	Child victims of trafficking accessing education.

### (3.2.2)

**Objective: (1) To provide a recovery and reflection period to suspected victims of human trafficking.  
(2) To provide a temporary residence permit to suspected victims of human trafficking when doing so will allow the suspected victim to continue to assist the relevant authorities in relation to an investigation or prosecution arising in relation to trafficking**

#### **Background:**

Article 13 of the Council of Europe Convention on Action against Trafficking in Human Beings requires Parties to the Convention to provide a period of recovery and reflection for victims of trafficking of at least 30 days. A recovery and reflection period is an essential protection as it allows time for a victim to adjust to his or her circumstances and make informed decisions about the future. Article 14 of the Council of Europe Convention states that a renewable residence permit should be issued to a victim in one or both of the following circumstances – (a) where the competent authority considers his/her stay is necessary owing to personal circumstances or (b) the competent authority considers their stay is necessary for the purpose of their co-operation with the competent authorities in an investigation or criminal proceedings. Article 7 of the UN Protocol also requires the State to adopt legislative or other appropriate measures that permit victims of trafficking to remain in its territory, temporarily or permanently, in appropriate cases.

#### **Current Developments:**

##### ***(a) Recovery and Reflection Period***

Under the Immigration, Residence and Protection Bill, a framework will be implemented whereby suspected victims of trafficking will be afforded an immediate recovery and reflection period of 60 days. This will be followed by the granting of a temporary residence permit (renewable) for six months where the Minister is satisfied that the suspected victim has severed all relations with the alleged perpetrators of the trafficking and it is necessary for the purpose of allowing the suspected victim to continue to assist the Garda Síochána or other relevant authorities in an investigation or prosecution arising in relation to the trafficking. An administrative scheme, broadly

based on the provisions of the Bill, was implemented on 7 June 2008, pending enactment of the Bill.

The administrative scheme provides that where there are reasonable grounds for believing that a foreign national is a suspected victim of an offence under sections 3 or 4 of the Criminal Law (Human Trafficking) Act 2008 or section 3 (other than subsections (2 A) and (2 B)) of the Child Trafficking and Pornography Act 1998 he/she may be granted a period of recovery and reflection in the State. For the purpose of the arrangements a 'foreign national' means a person from outside the European Economic Area. However, a person from the European Economic Area who has been identified as a suspected victim of trafficking will, for the purpose of these arrangements, be treated no less favourably than a person outside that area. In this regard, certain administrative arrangements (in particular, the granting of a recovery and reflection period) will apply to persons from the European Economic Area. Nothing done in this regard will interfere with the immigration entitlements such persons have under European Union law.

A person who has been identified as a suspected victim of human trafficking, by a member of the Garda Síochána not below the rank of Superintendent in GNIB, shall be granted permission to remain lawfully in the State for a period of 60 days (a 'recovery and reflection period'). The purpose of the recovery and reflection period is to allow the person:

- (a) time to recover;
- (b) to escape the influence of the alleged perpetrators of the trafficking; and
- (c) to take an informed decision as to whether to assist the Garda Síochána or other relevant authorities in relation to any investigation or prosecution arising in relation to the alleged trafficking.

The Minister will issue, or cause to be issued, to a person who has been granted a recovery and reflection period a notice confirming that the person has been granted permission to be in the State for 60 days.



A person who has been granted a recovery and reflection period will not be the subject of removal proceedings for so long as his or her recovery and reflection period remains valid.

A recovery and reflection period may be terminated in circumstances where the Minister for Justice, Equality and Law Reform is satisfied that –

- (a) the person concerned has actively, voluntarily and on his or her own initiative renewed contact with the alleged perpetrators of the trafficking;
- (b) it is in the interest of national security or public policy (“ordre public”) to do so, or
- (c) suspected victim status is being claimed improperly.

The granting of a recovery and reflection period does not, of itself, create any entitlement for the person to assert a right to reside in the State when the period in the notice has expired.

Where a suspected victim is the holder of a pre-existing residence permission with an expiry date later than the expiry date of the recovery and reflection period, the Minister may, at the expiry of the recovery and reflection period, permit him or her to remain in the State for the remaining period of validity of the pre-existing permission. **See Section 3.2.4 – victim identification procedures – for more information on the identification process.**

***(b) Temporary Residence Permission***

The administrative scheme provides that where there are reasonable grounds for believing that a person (as set out in paragraph (a)) is a suspected victim of an offence under Sections 3 or 4 of the Criminal Law (Human Trafficking) Act 2008 or Section 3 (other than subsections (2A) and (2B) ) of the Child Trafficking and Pornography Act 1998, he/she may be granted one or more periods of temporary residence in the State.

In circumstances where the Minister is satisfied that

- (a) the person has severed all relations with the alleged perpetrators of the trafficking and
- (b) it is necessary for the purpose of allowing the suspected victim to continue to assist the Garda Síochána or other relevant

authorities in relation to an investigation or prosecution arising in relation to the trafficking,

the Minister will grant to the person concerned a temporary residence permission valid for a period of 6 months.

A temporary residence permission may be granted during the recovery and reflection period or following the expiry of that period, as the Minister considers appropriate. It will be renewed in circumstances where the Minister is satisfied that the person has not renewed contact with the alleged perpetrators of the trafficking and it is necessary for the purpose of allowing the suspected victim to continue to assist the Garda Síochána or other relevant authorities in relation to an investigation or prosecution arising in relation to the trafficking.

The administrative arrangements currently in place and the Immigration, Residence and Protection Bill, when enacted, provide that the Minister may revoke a temporary residence permission if:

- (a) the person concerned has actively, voluntarily and on his or her own initiative renewed contact with the alleged perpetrators of the trafficking;
- (b) the person concerned no longer wishes to assist the Garda Síochána or other relevant authorities in the investigation or prosecution of the trafficking;
- (c) the allegation of trafficking is fraudulent or unfounded; or,
- (d) any investigation or prosecution arising in relation to the trafficking has been finalised or terminated; or,
- (e) the Minister is satisfied that it is in the interest of national security or public policy (“*ordre public*”) to do so.

These conditions have been put in place to ensure that suspected victims do not return to their previous environment of exploitation, falling back into the hands of traffickers or attempt to take advantage of the services provided to legitimate suspected victims of human trafficking.

Where the person is under the age of 18 years, regard will be had to the best interests of the child in the granting and revocation of a temporary residence permission.

The granting of a temporary residence permission does not, of itself, create any right to long term or permanent residence.

Where the person is a holder of a pre-existing residence permission with an expiry date later than the expiry date of the temporary residence permission, the Minister may, at the expiry of the recovery and reflection period, permit him or her to remain in the State for the remaining period of validity of the pre-existing permission.

The Minister will make arrangements to facilitate a person to whom these arrangements apply in returning to his or her country of origin at the end of any period of residence granted, or before that period expires, if the person so wishes. Assistance in this regard can also be arranged through the offices of the International Organisation for Migration.

It is neither desirable nor practical for a suspected victim of human trafficking to continue to reside indefinitely in the State as a ‘victim of trafficking’. The longer term residence of a suspected victim can be considered in one of two ways. Firstly, it may be possible for the suspected victim of trafficking to apply in his or her own right for a permission to remain in accordance with existing immigration policies. Secondly, in circumstances where there are exceptional circumstances of a humanitarian nature the Minister for Justice, Equality and Law Reform may, in his or her discretion, grant permission to remain. While it is recognised that suspected victims of human trafficking do seek to return to their home country, it is open to such suspected victims to seek to resolve their longer term status in these ways.

As previously stated, the permissions which are available to suspected victims of trafficking under the Administrative Arrangements and the Immigration Residence and Protection Bill are without prejudice to the person’s right to seek protection through the making of a claim for asylum or subsidiary protection in the State.

### **Future Actions**

The operation of the administrative scheme and the relevant provisions in the Immigration, Residence and Protection Bill, when enacted, will be monitored to ensure they remain effective in meeting the needs of suspected victims and are in line with best international practice.

## Table of Actions

**Objective: (1) To provide a recovery and reflection period to suspected victims of human trafficking.**

**(2) To provide a temporary residence permit to suspected victims of human trafficking when doing so will allow the suspected victim to continue to assist the relevant authorities in relation to an investigation or prosecution arising in relation to trafficking.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
84.	Administrative scheme to be implemented, whereby a person identified as a suspected victim of human trafficking shall be granted permission to remain lawfully in the State for a period of 60 days.	Ongoing until enactment and commencement of like provisions in IRP Bill.	INIS, GNIB, Department of Justice, Equality and Law Reform	Administrative arrangements operating effectively.
85.	Administrative arrangements for 6 month temporary residence permit, renewable, when necessary for the purpose of allowing the suspected victim to continue to assist the relevant authorities in relation to an investigation or prosecution arising in relation to trafficking.	Ongoing until enactment and commencement of IRP Bill.	INIS Department of Justice, Equality and Law Reform, GNIB	Administrative arrangements operating effectively.
86.	Enactment and commencement of relevant provisions in relation to the recovery and reflection /temporary residence period in the Immigration, Residence and Protection Bill.	2009 - 2012	Department of Justice, Equality and Law Reform	Legislative provision operating effectively.

### (3.2.3)

**Objective: To provide potential/suspected victims of human trafficking with information on judicial and administrative proceedings; access to legal aid and advice; compensation and legal redress.**

#### **Background:**

Article 15 of the Council of Europe Convention on Action against Trafficking in Human Beings concerns the legislative or administrative arrangements Parties are required to have in place to ensure that victims have access to information regarding judicial and administrative proceedings, access to legal aid and advice, compensation and legal redress.

The UN Protocol, at Article 6.6, provides that the State must ensure that its domestic legal system contains measures that offer victims of trafficking the possibility of obtaining compensation for damage suffered. Access to compensation and legal redress is a fundamental right and a basic principle of justice.<sup>32</sup> Compensation payments are a form of justice which can bring positive effects to a victim's life by improving his or her ability to come to terms with horrific experiences.<sup>33</sup> The OSCE notes that these payments "may also have a restorative and preventive effect, since they allow victims to build a new life for themselves on their return to their country of origin and counter the danger that they will fall into the hands of human traffickers again".<sup>34</sup> A number of organisations, in their submissions to the consultation process, also highlighted the need to provide legal information in a language understood by victims of trafficking and also the need for access to compensation for victims.

#### **Current Developments:**

##### ***Information on judicial/administrative proceedings***

Article 15.1 of the Council of Europe Convention on Action against Trafficking in Human Beings requires Parties to ensure that from their first contact with the

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<sup>32</sup> See, for example: UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

<sup>33</sup> OSCE, *National Referral Mechanisms - Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook*, 2004, p. 83.

<sup>34</sup> Ibid.

competent authorities victims have access to information on relevant court and administrative proceedings in a language they can understand. Victims who are illegally present in the country will need to be informed of the possibility of obtaining a residence permit under Article 14.<sup>35</sup> There are a number of arrangements and organisations in Ireland to provide victims of crime with information regarding judicial and administrative proceedings.

**The Garda Charter for Victims of Crime** states that a victim of crime or a traumatic incident who presents to the Garda Síochána is entitled to be informed about legal proceedings in a language they can understand. Under the Charter, victims are entitled to the following information – an outline of the investigation process and to be kept informed as to the progress of the investigation, including whether a suspect is charged or cautioned; where a suspect is charged the victim is entitled to be told whether the accused is in custody or on bail and the conditions attached to the bail, details of any court hearings, the prosecution process, including if the victim is likely to be called as a witness, entitlement to court expenses and the final outcome of the trial.

In relation to sexual offences the services of a member of the Garda Síochána and a doctor of the same gender will, as far as possible, be made available to the victim and they will be informed about the availability of local specialist agencies dealing with sexual offences.

The **Commission for the Support of Victims of Crime** funds more than forty voluntary sector organisations to support victims of crime. These organisations provide a range of services, including court accompaniment for victims of domestic violence, sexual violence and child victims of sexual abuse. They also provide information and emotional support for victims of general crime and for families of victims of homicide. There is a national **Crime Victims Helpline (1850 211 407)** supported by the Commission which can listen, provide information and support and refer victims of crime to appropriate local services. **Women's Aid in Dublin (1800 341 900)** provide a helpline for victims of domestic violence. The **Dublin Rape Crisis Centre (1800 778 888)** provides a helpline for victims of sexual violence. These last two helplines are

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<sup>35</sup> Paragraph 192 of the Explanatory Report of the Council of Europe Convention on Action against Trafficking in Human Beings.

supported by the HSE and voluntary fund-raising. Contact details of national and local domestic and sexual violence services are available on [www.cosc.ie](http://www.cosc.ie). From summer 2009 contact details for other organisations supporting victims of crime nationally and locally will be available on [www.csvc.ie](http://www.csvc.ie).

A Victims Charter and Guide to the Criminal Justice System is available on [www.justice.ie](http://www.justice.ie). This Charter is currently being reviewed and updated by the Commission for the Support of Victims of Crime.

There are also a number of Non Governmental Organisations who provide support and information to potential/suspected victims of trafficking. These include Ruhama, Cork Sexual Violence Centre, the Migrant Rights Centre of Ireland, the Immigrant Council of Ireland and the Irish Refugee Council.

**Ruhama** is an organisation that works with women involved in prostitution. As part of their overall work they also provide assistance to women who have been trafficked into Ireland for the purposes of sexual exploitation. A wide range of services are offered by Ruhama, including outreach, advocacy, befriending, counselling and development.

**The Sexual Violence Centre, Cork** provides counselling and support to teenagers, women and men who have been raped or are survivors of child sexual abuse. A qualified counsellor is available to assist potential/suspected victims who may require information and advice on legal issues, medical issues and service availability.

The **Migrants Rights Centre of Ireland (MRCI)** is a national organisation concerned with the rights of migrant workers and their families. The MRCI provide legal advice to migrant workers, which includes potential/suspected victims of trafficking, who are experiencing discrimination or exploitation in the workplace. MRCI has a legal officer who can, provide expert assistance regarding labour legislation and also advise potential/suspected victims on what avenues of legal redress are open to them.

The **Immigrant Council of Ireland (ICI)** is a national independent organisation that promotes the rights of migrants through information, legal advice, advocacy, lobbying, research and training work. The ICI provide an information and support service in

relation to enquiries concerning issues such as permission to remain, student visas, deportation, work permits and green cards. It is also an independent Law Centre. Although this legal advice is free, it is limited and is generally provided in complex situations or cases that give rise to specific policy concerns.

The **Irish Refugee Council** is a national organisation whose work includes policy, research, legal services, networking and information. The IRC provide a limited legal service to those seeking asylum. This consists principally of advice and support to asylum-seekers. Services include assistance with making an application for asylum; interview preparation and - for those with refugee status - family re-unification.

While information on compensation is not provided directly by law enforcement authorities, there is a commitment by the Garda Síochána to inform victims of crime of contact details of support services such as those outlined. These services can inform victims about their rights, provide information and emotional support and refer them to the State compensation scheme or other services.

#### ***Legal Assistance and free legal aid***

Article 15.2 of the Council of Europe Convention states that each Party shall provide in its internal law for the right to legal assistance and to free legal aid for victims under the conditions provided by its internal law.

The Legal Aid Board is an independent publicly funded statutory body. It is responsible for the provision of legal aid and legal advice on matters of civil law to persons unable to fund such services from their own resources. The Legal Aid Board's services are not entirely free. However, the costs involved are minimal and under the Civil Law (Miscellaneous Provisions) Act 2008 such costs can be waived altogether. The Legal Aid Board also provides assistance to those seeking information on matters of immigration and asylum by means of the Refugee Legal Service (RLS). The Refugee Legal Service is a specialised office established by the Legal Aid Board to provide confidential and independent legal services to persons applying for asylum in Ireland. Legal aid and legal advice is also provided, in appropriate cases, on immigration and deportation matters.



The Legal Aid Board will provide legal services to potential or suspected victims of trafficking. They are in a position to provide legal aid and legal advice in relation to civil law matters under their current statutory authority. The Legal Aid Board can provide legal representation for a suspected victim of sexual offences in cases where an application is made to the Court to adduce evidence about or cross-examine the complainant's past sexual history. A legislative amendment is necessary to enable the Legal Aid Board provide representation for a victim of human trafficking at the criminal trial of the accused trafficker in these circumstances. However, the Board will provide such representation on an administrative basis until the legislative amendment is enacted. The Legal Aid Board has also agreed to waive fees for potential and suspected victims of trafficking and to prioritise requests for assistance in order to ensure that suspected victims have access to legal services within a reasonable timeframe. The Board cannot provide legal representation at Employment Tribunals, such as the Employment Appeals Tribunal, the Labour Relations Commission, the Labour Court and the Equality Tribunal. However, legal representation is not necessary for these hearings.

### ***Compensation for suspected victims of trafficking***

Article 15.3 of the Council of Europe Convention establishes a victim's right to claim compensation from the perpetrators through the courts. However, the Explanatory Report to the Convention also recognises that it is often difficult for the victim to obtain compensation from the trafficker, for a variety of reasons.<sup>36</sup>

There are a number of methods of obtaining compensation currently available to victims in Ireland.

There is a general power in Irish legislation which allows a court to order the payment of compensation to a victim. Section 6 of the Criminal Justice Act 1993 sets out the power of the court to order the offender to pay compensation to an injured party. Section 6 states that on conviction of a person for an offence, the court may make a compensation order requiring that person to pay compensation in respect of any personal injury or loss resulting from the offence, or any other offence taken into

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<sup>36</sup> Paragraph 198 Explanatory Report to Council of Europe Convention on action against trafficking in human beings.

consideration by the court in determining sentence, to any person who has suffered such injury or loss. When calculating the amount of compensation to be paid consideration is given to the means of the perpetrator and should not be more than would be awarded in a civil action. This compensation is not paid into the court but is dealt with by the Garda Síochána.

Suspected victims of trafficking may also take a civil action to obtain damages. These can be taken under a variety of legislative or common law rules which may relate to an employment situation or personal injuries, e.g. sexual assault, false imprisonment, kidnapping and other offences. The amount of compensation is dependent on the court in which the case is heard. The District Court can make awards up to € 6,348.69 in damages, the Circuit Court can make awards up to €38,092 in damages and the High Court has unlimited power to award damages. Access to legal advice and legal assistance will be crucial for persons who wish to pursue such cases.

Persons who have been trafficked for the purposes of labour exploitation can seek legal redress and compensation through a number of State bodies which deal specifically with work related rights and entitlements. These include the Employment Appeals Tribunal (EAT), the Labour Relations Commission (LRC), the Labour Court and the Equality Tribunal. There are no fees charged for claims taken to the aforementioned employment rights bodies nor is it necessary to be legally represented at hearings.

Article 15.4 of the Council of Europe Convention on Action against Trafficking in Human Beings requires States to take steps to compensate victims through such legislative or other measures as may be necessary, in accordance with the conditions under its internal law. Examples provided include the setting up of a compensation fund which could be funded by assets seized from criminals. Another means by which compensation will be provided is through the Criminal Injuries Compensation Tribunal which administers a scheme called the Scheme of Compensation for Personal Injuries Criminally Inflicted. The scheme is funded by the Department of Justice, Equality and Law Reform. No legal representation is necessary when applying for compensation and normally applicants do not need to come before the Tribunal in person. The scheme pays compensation for expenses and losses (out of pocket expenses and bills) suffered as a direct result of a violent crime or while assisting or trying to assist in

preventing a crime or saving a life. There is a time limit of three months between the crime and making a claim to the Tribunal. However, this time limit may be extended if the victim can provide a reasonable explanation for the delay. A report from the Garda Síochána is required to progress the application for compensation. It is important therefore, that the crime is reported as quickly as possible. The amount of compensation paid can vary for a number of reasons including the amount of social welfare or salary received while on sick leave, if applicable and the amount of compensation paid on behalf of the assailant. The type and extent of injury the victim receives is also important in determining the amount of compensation awarded to the victim. No compensation is paid if the loss is a very small amount, if the claimant and the author of the crime were living together as part of the same household when the injury happened and no compensation is paid for the pain and suffering experienced by the victim.

**Future Actions:**

In order to ensure that all potential/suspected victims are aware of their rights and have access to the services provided by the Legal Aid Board, a series of booklets/leaflets will be developed outlining the rights of potential/suspected victims in relation to the recovery and reflection period/ temporary residence and criminal/civil remedies which may be available to them.

These leaflets will contain contact details for all organisations which will prove useful to a potential/suspected victim and will be widely available to organisations such as the Crime Victims Helpline, the Gardaí, the Office of the Refugee Applications Commissioner and the Reception and Integration Agency. A leaflet containing a step by step guide to the process for assisting suspected victims of trafficking and contact details for all the relevant services will also be developed. These leaflets will be available in a number of different languages (based on known source countries) and widely distributed.

The Anti Human Trafficking Unit will liaise with the Legal Aid Board, NGOs and State organisations on the arrangements to be put in place to communicate the services available by the Board to potential or suspected victims and how these services can be accessed.

Appropriate training in dealing with suspected victims of trafficking will be provided to the staff of the Legal Aid Board. Training will also be provided to other victim support organisations, such as the Crime Victim's Helpline, as appropriate.

Another option which will be explored over the lifetime of this Plan is the use of Citizens Advice Bureau as an avenue for providing information to potential/suspected victims.

Currently there are no statistics maintained on the application of Section 6 of the Criminal Justice Act 1993 in relation to compensation orders. This is an issue which will be examined further during the lifetime of this Plan.

### **Table of Actions**

**Objective: To provide victims of human trafficking with information on judicial and administrative proceedings; access to legal assistance/free legal aid; compensation and legal redress.**

<b>No.</b>	<b>Action</b>	<b>Timetable</b>	<b>Responsible Party</b>	<b>Assessment Tool/Indicator</b>
87.	Potential/suspected victims of trafficking to be provided with Legal assistance/aid by the Legal Aid Board.	2009 onwards	Legal Aid Board, AHTU	Victims receiving legal advice as required.
88.	Information leaflets to be provided on proceedings to potential/suspected victims in a language they can understand.	2009 - 2010	Legal Aid Board, AHTU, Garda Síochána and NGOs	Leaflets developed and widely available.
89.	Formal referral mechanism developed for the services of the Legal Aid Board.	2009 - 2010	Legal Aid Board, AHTU, NGOs Garda Síochána	Mechanism in place and operating effectively.
90.	Training in dealing with victims of trafficking to be provided to LAB staff and other victim support bodies.	2009	LAB, AHTU, ICI	Staff fully trained and refresher course developed and being offered.
91.	Explore the possibility of using Citizen Advice Bureau to provide information to suspected victims of trafficking.	2009	AHTU	Option of using the Citizens Advice Bureau fully explored.
92.	Develop system for recording compensation orders awarded to suspected victims of	2009 -2010	AHTU, Relevant State agency	Figures available.

	trafficking under Section 6 of the Criminal Justice Act 1993.			
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### (3.2.4)

**Objective: To implement effective victim identification procedures to assist suspected victims of human trafficking.**

**Background:**

The identification of suspected victims of human trafficking remains one of the most difficult problems facing any counter-trafficking strategy, not only because traffickers themselves seek to avoid detection, but also because suspected victims – for numerous reasons – often go to great lengths to hide their experience from State authorities. Suspected victims will tend to purposely avoid police if they harbour fear and mistrust towards them, a fear which may stem from past experiences in their home country. They may also have become convinced by their trafficker that the police will jail them or deport them when it is discovered they do not have proper identity documents. If traffickers have threatened violence, victims may fear violent retaliation by their trafficker against themselves or their family members.

When victims are discovered, or if they come forward, the identification process is often a complex, time-consuming one which requires professional guidance and special victim supports to create a safe environment for the victim.<sup>37</sup>

The Council of Europe Convention at Article 10 requires State Parties to provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings, in identifying and helping victims, including children. States are also required to ensure that authorities collaborate with each other and with relevant support organisations, so that victims can be identified in a procedure duly taking into account the special situation of women and child victims and, in appropriate cases, issued with residence permits under the conditions provided for in Article 14 of the Convention (see section 3.2.2, “**Recovery, Reflection and Temporary Residence**”). It also requires States to adopt such legislative or other measures to identify victims, as appropriate, in collaboration with other states and relevant support organisations. States are required to ensure that, if the competent

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<sup>37</sup> OSCE, *National Referral Mechanisms – Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook*, 2004, p. 17.

authorities have reasonable grounds to believe that a person has been a victim of trafficking in human beings, that person shall not be removed from its territory until the identification process as victim of an offence provided for in Article 18 of the Convention has been completed by the competent authorities. The person should also receive the assistance provided for in Article 12, paragraphs 1 and 2 of the Convention (i.e. assistance in physical, psychological and social measures, safety and protection).

The Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking state that a person identified by a member of the Garda Síochána, not below the rank of Superintendent, in the Garda National Immigration Bureau, as a suspected victim of human trafficking shall be granted a permission to remain lawfully in the State for period of 60 days ( a 'recovery and reflection period').

It has been the experience of the Garda Síochána that persons who are potentially victims of human trafficking come to their attention in a number of ways. These include (i) in circumstances where they are identified by members of the Garda Síochána in the course of investigations; (ii) on referral to the Garda Síochána by the Health Service Executive, or other agencies and NGOs, or (iii) persons may, as part of their claim for asylum, indicate to the Office of the Refugee Applications Commissioner that they have been the victim of human trafficking.

In determining if a person is a suspected victim of human trafficking the Garda Síochána takes account of all information that is available to them at the time the case is being considered. This information will vary, considerably, from case to case. The Garda Síochána encourages all relevant agencies to provide all information, whether this supports a claim or otherwise, within their possession to allow the Garda Síochána make an informed and timely decision on each case.

The State and the Garda Síochána is committed to ensuring that no person who is potentially a victim of human trafficking will be removed from the State while the investigation into the circumstances of the person's arrival into the State, including the identification of the person as a victim, is ongoing.

The Council of Europe Convention on Action against Trafficking in Human Beings sets out measures to protect and promote the rights of victims, including the identification of victims. The Garda Síochána takes these measures into account in every instance. They do not require absolute certainty for not removing a person from the State. If there are reasonable grounds for suspecting a person to be a victim of human trafficking then the person is recommended for permission to remain lawfully in the State for 60 days.

The Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings acknowledges that the identification process takes time and often necessitates detailed enquiries, involving the exchange of information with other countries, parties or organisations which may prolong the identification process.

The International Organisation on Migration - an international inter-governmental organisation - acknowledges that the screening process to determine if a person is a victim of trafficking consists of two stages. The first is an assessment of the varying indicators that can be evaluated before an interview can take place, followed by a detailed interview with the individual. At the same time, the matter is subject of an investigation by the Garda Síochána.

The types of indicators utilised by the Garda Síochána in making a determination include the following and are based on the general indicators published by the United Nations Global Initiative to Fight Human Trafficking: was the person deceived about the nature of the work they would be doing, or where they would be working; were the person's documents confiscated; is there debt bondage; is there a threat of violence. Some other types of indicators utilised include: the type of deception used; the person's illegal status; has the person been forced to lie to friends, or the authorities; and is the person dependent on the individuals who have exploited him / her. The indicators used are being reviewed in light of the experiences to date and will take account of the more recent set of indicators published in March 2009 resulting from the Delphi study undertaken by the ILO and the European Commission.

To enable the Garda Síochána to establish if any of the indicators outlined, or others, are present it is necessary for the person be interviewed by a member of the Garda



Síochána. The purpose of the interview is to elicit as much information as is possible from the person and assess the veracity, or otherwise, of the account being provided. The outcome of this interview will assist the Garda Superintendent in being satisfied that there are reasonable grounds for believing that the person is a suspected victim of human trafficking. Ultimately, in order to make a decision and to progress any investigation into such allegations of a criminal offence, possibly contrary to the Criminal Law (Human Trafficking) Act 2008, the Garda Síochána will seek to document the allegations in a statement.

While ‘reasonable grounds’ are not the same as evidence, in the context of contemplation of any criminal offence, to arrive at a state of mind that a person is a suspected victim of human trafficking the Garda Superintendent must be in possession of sufficient information to afford reasonable grounds for that belief. The test of reasonable is whether or not a reasonable person, acting without passion or prejudice, believes what he / she is being told.

In every instance all information that is available at that time to the Garda Síochána is considered by the Detective Superintendent, Garda National Immigration Bureau, in conjunction with other senior officers and members of the Garda Síochána directly involved in the individual investigation. Where there is insufficient information for the Detective Superintendent to have reasonable grounds for believing that a person is a victim of suspected trafficking the case remains open and every effort is made to gather additional information from the potential victim or other sources.

### **Current Developments:**

As previously outlined (**See 2.2 Administrative Framework**) a Working Group on Awareness Raising and Training<sup>38</sup> has been established to examine and make recommendations on a range of issues including:

- Different approaches to raising awareness of human trafficking in terms of the general public, professional front line personnel as first responders, employers, trade unions, media and educational programmes.

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<sup>38</sup> See Appendix 2 for complete Terms of Reference and Membership of the Working Group.

- The skills and knowledge required in relation to trafficking for different personnel, which will serve as a common guide for designing training material.
- Training for front line personnel in identification of potential victims of trafficking and training in victim support.
- Training/information for Director of Public Prosecutions, Judiciary, Courts Service and other relevant professional bodies.

This Group has met on a number of occasions during 2008 and 2009 and is currently working on the development of training programmes for delivery to all stakeholders likely to encounter potential victims of trafficking.

As previously stated (See **Section 3.1.7 – Training for Law Enforcement and other personnel**), in addition to members of the Garda Síochána, awareness raising training has also been provided between July 2008 and February 2009, to in excess of 130 persons as an introduction to human trafficking and setting out the indicators of human trafficking.

**Future Actions:**

From 2009 onwards it is planned to identify the skills required by frontline personnel who may come into contact with potential victims and to design and plan for delivery of training programmes based on the skill requirements for particular posts in organisations.

## Table of Actions

**Objective: To implement effective victim identification procedures to rapidly assist victims of human trafficking.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
93.	Training to be provided to all frontline personnel on the indicators of trafficking and on prevention and prosecution for members of the Garda Síochána.	Ongoing	IOM, AHTU, the Garda Síochána, NGOs	Potential victims identified and dealt with appropriately.
94.	Design and delivery of counter trafficking training programmes for key Government stakeholders in line with training required for particular post held.	2009 - 2012	AHTU, NGOs.	Victims identified and dealt with appropriately.

### (3.2.5)

#### **Objective: To protect the private life and identity of suspected victims of trafficking.**

##### **Background:**

Measures to protect the identity of suspected victims of trafficking are of the utmost importance. There may be severe consequences for the physical and psychological wellbeing of suspected victims of trafficking if their identities are revealed publicly. Not only does identity protection help to ensure suspected victims do not fall back into the hands of traffickers after they have been set free, but it also plays a crucial role in enabling suspected victims to move on from their experiences and start a new life for themselves, free from discrimination or prejudice.

Article 11 of the Council of Europe Convention requires State Parties to protect the private life and identity of victims. Personal data must be stored and used in conformity with the conditions provided for by the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. This Article of the Convention also requires States to adopt measures to ensure, in particular, that the identity or details that might disclose the identification of a child victim of trafficking are not made publicly known, through media or other means, except in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the wellbeing and protection of the child – (**see Chapter 4 – Response to Child Trafficking**). The Convention also suggests Parties should consider adopting measures aimed at encouraging the media to protect the private life and identity of victims through self-regulation or through regulatory or co-regulatory measures. The UN Protocol also mandates the State to protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.<sup>39</sup>

##### **Current Provisions:**

The Criminal Law (Human Trafficking) Act 2008 addresses the State's obligations relating to the protection of the identity of suspected victims of trafficking offences. To

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<sup>39</sup> UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organised Crime - Art. 6.1.

ensure that victims are afforded the utmost respect for their privacy and the protection of their identity. Section 11.1 makes it an offence for any person to publish or broadcast any information, (unless the provisions at subsection 11.2 apply) including:

- (a) any photograph of, or that includes a depiction of, the alleged victim of the offence; or,
- (b) any other representation of the physical likeness, or any representation that includes a depiction of the physical likeness, of the alleged victim of the offence.

Section 11.2 provides that the Judge may allow for information referred to in subsection 1 to be published, subject to such conditions as he or she may specify in a direction, which will be in writing in accordance with Section 11.3 of the Act.

Section 11.4 of the Act states that a person who contravenes a direction under Section 11 shall be liable upon conviction on indictment to a fine or imprisonment for a term not exceeding 10 years or both.

Similarly, Section 10 of the Act provides for the exclusion of all persons, other than officers of the court, persons directly concerned in the proceedings and such other persons (if any) as the judge of the court may determine. This measure is to ensure the protection of a victim's identity where he/she would be required to give evidence against the trafficker. In proceedings where this protection is applied, the verdict or decision and the sentence (if any) shall be pronounced in public.

Finally, Section 12 of the Act amends the Criminal Evidence Act 1992 and allows an alleged victim of trafficking give evidence through a live television link, with the leave of the court in the case of adults, from either within the State or abroad. Section 13 of the Criminal Evidence Act 1992, as amended, facilitates the giving of evidence from foreign jurisdictions with the leave of the court.

In addition, the Data Protection Acts of 1988 and 2003 set out the procedures a Data Controller (meaning a person who, either alone or with others, controls the contents and use of personal data) must follow in order to be compliant with the Act. The 1988 Data Protection Act gave effect to the Council of Europe Convention for the Protection of

Individuals with regard to the automatic processing of personal data and the 2003 Amendment Act has brought Irish law into line with the EU Data Protection Directive 95/46/EC. The procedures set out in the legislation include:

1. Obtain and process information fairly;
2. Keep data only for one or more specified, explicit and lawful purposes;
3. Use and disclose data only in ways compatible with these purposes;
4. Keep data safe and secure;
5. Keep data accurate, complete and up-to-date;
6. Ensure that data is adequate, relevant and not excessive;
7. Retain data for no longer than is necessary for the purpose or purposes specified; and,
8. Give a copy of his/her personal data to the relevant individual, on request.

State organisations which have access to information on suspected victims such as the Garda Síochána and the HSE, comply fully with Data Protection legislation.

**Future Actions:**

The provisions in the legislation will be monitored to ensure they remain effective and in line with best international practice.

**Table of Actions**

**Objective: To protect the private life and identity of victims of trafficking.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
95.	Legislative provision which makes it an offence to publish or broadcast any information (unless a Judge directs otherwise) likely to enable the identification of an alleged victim of a trafficking offence.	Completed	Department of Justice, Equality and Law Reform	Penalties provided for in S 11(4) of the Criminal Law (Human Trafficking) Act 2008 imposed where necessary.
96.	Legislative provision for the exclusion from proceedings for alleged trafficking offences of all persons, other than officers of the court, persons directly concerned	Completed	Department of Justice, Equality and Law Reform	Legislative provision in S 10 (1) of Criminal Law (Human Trafficking) Act

	in the proceedings and such other persons (if any) as the judge of the court may determine.			2008 implemented.
97.	Legislative provision for a suspected victim of trafficking to give evidence through a live television link, with the leave of the court in the case of adults, from either within the State or abroad.	Completed	Department of Justice, Equality and Law Reform	Legislative provisions in S 12 of the Criminal Law (Human Trafficking) Act 2008 implemented .

### (3.2.6)

**Objective: To implement measures to assist suspected victim voluntary return.**

**Background:**

Article 16 of the Council of Europe Convention and Article 8 of the UN Protocol require the State to put in place measures which address the repatriation and return of victims of trafficking in human beings. In returning any victim to his or her country of origin the State is required to have due regard for the rights, safety and dignity of that person and for the status of any legal proceedings related to the fact that the person is a victim. Rights such as the protection of private and family life, freedom from degrading or inhuman treatment and the protection of identity must be ensured for repatriation to proceed.<sup>40</sup> This responsibility falls not only on the country of origin where the victim is returning, but also on Ireland when it returns a victim to the country of origin.

**Current Developments:**

In Ireland all repatriations are handled sensitively and with the utmost respect for the dignity of the person. The rights of individuals, as laid down by the Irish Constitution and the European Convention on Human Rights, are fully respected. All legal proceedings are respected and voluntary return is always preferable to forced return. It is also publicly stated policy, both at Ministerial and enforcement level, that the potential/suspected victims of trafficking will not be removed from the State while their cases are being considered.

It is also the position that a foreign national being removed from the State must not be sent to a territory if to do so would be a refoulement. Thus all removals from the State are subject to the overarching principle of non-refoulement.

Refoulement essentially relates to the safety of returning a failed asylum seeker, or a person who is otherwise illegal in the State, to their country of origin i.e. to safeguard against any returnee being exposed to a serious threat to their life or liberty if returned

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<sup>40</sup> Article 16 *Council of Europe Convention on Action against Trafficking in Human Beings and its Explanatory Report*, 2005, paragraph 202.



there. In carrying out such a consideration, due regard is had to the political, security and human rights conditions prevailing in the applicant's country of origin at that point in time. Where evidence exists of such a risk e.g. where a complaint has been made to the Garda Síochána and Garda investigations are ongoing or where objective country of origin information supports an applicant's claims, such issues would be given the fullest, individual consideration before a final decision is taken. Clearly in certain compelling circumstances, it would not be appropriate to seek to repatriate an applicant to their country of origin and where this arises, temporary leave to remain in the State would be granted to that applicant.

### **Voluntary Assisted Return and Reintegration Programme**

We must recognise, however, that some victims of trafficking do wish to return to their home country and may require assistance to do so. The Department of Justice, Equality and Law Reform has, in conjunction with the IOM, been offering voluntary assisted return programmes for asylum seekers and other irregular migrants in Ireland since 2001.

Voluntary return is a cost-effective, humane and planned method of return.

The Voluntary Assisted Return and Reintegration Project (VARRP) 2008, which is funded by the Department of Justice, Equality and Law Reform and managed by the IOM, assists individuals from non-EEA countries to return to their country of origin. The programme facilitates orderly and voluntary return and reintegration. Particularly vulnerable clients, such as unaccompanied minors or suspected victims of trafficking, who wish to return to their home countries but do not have the means to do so, can also benefit from the programme.

Reintegration assistance is offered to all returnees, with the aim of assisting in their sustainable return to their country of origin. The reintegration assistance is offered in-kind as initial start-up assistance on a person's return. The assistance provided is discussed with each returnee prior to their departure and may include educational training, assistance in establishing a small business or contributing to an existing small business.

**Future Actions:**

Clear referral mechanisms to ensure that NGOs and Government agencies can direct suspected victims to voluntary assisted return and reintegration programmes should they wish to return home, will be developed.

Individualised reintegration plans will be developed and monitored, in conjunction with relevant stakeholders, for suspected victims returning to their country of origin.

**Table of Actions**

**Objective: To implement measures to assist victim voluntary return.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
98.	Put procedures in place to repatriate suspected victims voluntarily.	Completed	INIS, AHTU, IOM	Repatriation and return arrangements operating in line with provisions in international instruments.
99.	Put clear referral mechanisms in place to direct clients/persons/victims wishing to return home to voluntary assisted return programmes.	2009 - 2012	WG on NRM, INIS, IOM	Referrals made to programmes as appropriate.
100.	Develop reintegration plans for individual suspected victims.	Ongoing	WG NRM, IOM, INIS	Re-integration assistance provided on a planned and individual basis to support sustained return.

### (3.2.7)

**Objective: To provide for the possibility of not imposing penalties on suspected victims for their involvement in unlawful activities.**

**Background:**

Article 26 of the Council of Europe Convention requires that each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to be involved. The Explanatory Report accompanying the Convention states that Article 26 constitutes an obligation on Parties to adopt and/or implement legislative measures providing for the possibility of not imposing penalties on victims, on the grounds indicated in the same article. In particular, the requirement that victims have been compelled to be involved in unlawful activities shall be understood as comprising, at a minimum, victims that have been subject to any of the illicit means referred to in Article 4 (of the Convention), when such involvement results from compulsion. It also notes that Parties to the Convention can comply with the obligation established in Article 26 by providing for a substantive criminal or procedural criminal law provision, or any other measure, allowing for the possibility of not punishing victims when the above mentioned legal requirements are met, in accordance with the basic principles of national legal systems.

Numerous contributors to the National Action Plan consultation process raised concerns with regard to the non-punishment of trafficked persons.

By virtue of Article 30 of the Constitution of Ireland and the Prosecution of Offences Act 1974, all crimes and offences, other than those prosecuted in courts of summary jurisdiction, are brought in the name of the people and by the Director of Public Prosecutions, except for a very limited category of offences still prosecuted at the suit of the Attorney General.

The Director of Public Prosecutions (DPP) is independent in the exercise of his/her functions and can decide not to prosecute for a range of reasons. The Guidelines for Prosecutors issued by the DPP's Office, state that each case is unique and must be considered on its own merits. They further state that an important issue to consider,

when deciding whether, or not to prosecute, is whether it is in the public interest to do so. It is certainly arguable that it would not be in the public interest to prosecute a person for an act he/she was forced into committing. The public interest may also be served by not discouraging suspected victims of trafficking from coming forward to give evidence.

**Future Actions:**

There will be ongoing consultations between the Office of the Director of Public Prosecutions and the Garda Síochána in relation to the practical issues which will arise in cases of human trafficking and how prosecutors should address these matters.

The Office of the Director of Public Prosecutions has decided to assign cases involving trafficking in human beings to a number of lawyers in a specific unit of that Office. It is hoped that this initiative will lead to greater awareness and understanding of the issues surrounding such cases within the Office as specialised knowledge of the issues surrounding trafficking in human beings will thereby be built up in the office.

The Office of the Director of Public Prosecutions will also decide on a policy for dealing with such cases whether by way of specific guidelines or by an amplification of the existing Guidelines for Prosecutors.

**Table of Actions**

**Objective: providing for the possibility of not imposing penalties on suspected victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
101.	Consultations to be held between the Office of the Director of Public Prosecutions and the Garda Síochána in relation to the practical issues which will arise in cases of human trafficking.	Ongoing as cases arise	DPP, the Garda Síochána	Penalties not imposed on suspected victims for involvement in unlawful activities to the extent they have been compelled to do so.
102.	Cases involving trafficking in human beings will be assigned to	Ongoing as cases arise	DPP	Specified knowledge of

	a specific unit within the DPP's Office.			issues involved in such cases will be built up.
103.	Explore the need for an Office Policy document issued by the DPP.	2009	DPP	Policy document issued if required.
104.	Ensure a person who is a suspected victim of an offence under the Criminal Law (Human Trafficking) Act 2008 shall not be prosecuted for entry into, or presence in the State for carrying out labour or sexual acts where those acts were a consequence of the trafficking of that person.	Ongoing	DPP, the Garda Síochána	Penalties not imposed on suspected victims for their involvement in unlawful activities to the extent they have been compelled to do so.

### (3.2.8)

#### **Objective: To provide effective and appropriate protection from potential retaliation or intimidation for suspected victims, for witnesses and for members of the families of those persons**

##### **Background:**

Article 28 of the Council of Europe Convention requires State Parties to adopt legislative and other measures to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators, for victims, witnesses who give testimony and, when necessary, family members of these persons. Protection must also be given, as appropriate, to those who report criminal offences under the Convention. The Article states that each Party shall adopt such legislative or other measures, as may be necessary, to ensure and to offer various kinds of protection. This may include physical protection, relocation, identity change and assistance in obtaining jobs. A child victim shall be afforded special protection measures taking into account the best interests of the child. Appropriate protection for members of groups, foundations, associations or non –governmental organisations supporting victims during criminal proceedings or fighting trafficking must also be provided. Parties to the Convention may enter into agreements with other States for the implementation of this Article.

Protection for potential/suspected victims is far broader than police protection during criminal proceedings. Measures in place to provide potential/suspected victims with access to accommodation, health care, social welfare assistance, education, training and access to the labour market are outlined in other sections of this Plan. **See 3.2.1 – measures to assist suspected victims in their physical, psychological and social recovery.** These broader forms of social protection should make suspected victims feel secure and more willing to assist authorities in prosecuting traffickers.

A number of contributors to the consultation process made recommendations regarding protection measures which should be put in place in order to ensure the safety of victims and witnesses. These recommendations were varied and included such measures as the granting of harassment orders to victims, providing specifically

designed witness protection programmes for victims of trafficking, allowing victims to testify via video link in court cases, placing limitations on cross examining victims on their sexual history and restrictions on reporting personal details. Protecting the privacy and identity of victims during and following the prosecution of traffickers and providing appropriate accommodation to victims were also suggested as a means of protecting victims.

**Current Developments:**

Under Section 41 of the Criminal Justice Act 1999, it is an offence to harm, threaten, menace or in any other way intimidate or frighten any person who is assisting the Garda Síochána in the investigation of an offence with the intention of causing the investigation or course of justice to be obstructed, interfered with or perverted. This applies in particular to witnesses or jurors (or those who may potentially be so) and their families. The offence is punishable by:

- (a) on summary conviction, to a fine not exceeding €1,500 or imprisonment for a term not exceeding 12 months or both and
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 10 years, or both.

Since 1997, the Garda Síochána has operated a Witness Protection Programme (WPP). The programme was introduced in response to attempts by criminal and other groups to prevent the normal functioning of the criminal justice system by systematically intimidating witnesses. Given the highly confidential nature of the programme specific details of the nature of its operation are not made available but some of the protection measures provided by the Garda Síochána as part of the existing programme include: 24 armed protection if necessary, provision of a new identity, financial support and relocation, which may include relocation to another country, if necessary.

The WPP operates on a non-statutory basis. However, it is supported by complementary legislative provisions in Section 40 of the Criminal Justice Act 1999. This section makes it an offence for any person, without lawful authority, to attempt to identify the location or any new identity of a witness who has been relocated under the WPP. This offence carries the penalty of a fine or imprisonment of up to five years.

The use of this programme for a suspected victim or witness in a human trafficking case is an operational matter for the Garda Síochána.

There are provisions in the Criminal Law (Human Trafficking) Act 2008 which provide for the anonymity of suspected victims of trafficking and also provide for the exclusion of members of the public from court proceedings, at the discretion of the Judge.

See **Section 3.2.5 – To protect the private life and identity of victims of trafficking.**

Arrangements for the provision of protection outside of the State will be made with other countries, as appropriate, in individual cases.

#### **Harassment -**

There are existing remedies in Irish legislation for a person who is the subject of harassment by another. For example Section 10 (1) of the Non-Fatal Offences against the Person Act 1997 provides that a person who by any means, including by use of the telephone, harasses another by persistently following, watching, pestering, besetting or communicating with him or her, shall be guilty of an offence.

Section 10 (3) provides that where a person is guilty of an offence under subsection (1), the court may, in addition to or as an alternative to any other penalty, order that the person shall not, for such period as the court may specify, communicate by any means with the other person or that the person shall not approach, within such distance as the court shall specify, of the place of residence or employment of the other person.

Section 6 of the Bail Act 1997 provides for conditions to be attached to bail including restricting contact with certain persons.

#### **Future Actions:**

The question as to who should be offered witness protection and the nature of such protection is primarily a matter for the Garda Síochána. The Garda Síochána will provide measures to protect persons who fall into the categories specified in Article 28 of the Council of Europe Convention. The risk or perceived risk will be assessed and protection measures commensurate with the risk will be put in place. In line with the Convention, this may include physical protection, relocation, identity change and



assistance in obtaining jobs. The Witness Protection Programme is available to persons where the risk is deemed to justify the use of the programme.

### **Table of Actions**

**Objective: Providing effective and appropriate protection from potential retaliation or intimidation for those who report human trafficking offences or otherwise co-operate with the investigating or prosecuting authorities, for suspected victims, for witnesses and for members of the family of those persons.**

<b>No.</b>	<b>Action</b>	<b>Timetable</b>	<b>Responsible Party</b>	<b>Assessment Tool/Indicator</b>
105.	Ongoing protection measures for suspected victims and witnesses.	Ongoing	The Garda Síochána	Protection available, if necessary, to witnesses and suspected victims.
106.	Monitor the effectiveness of Section 41 of the Criminal Justice Act 1999 as it applies to trafficking cases.	Ongoing	The Garda Síochána, DJELR	Protection available, if necessary, to witnesses and suspected victims.
107.	Monitor the effectiveness of S10 of the Non Fatal Offences against the Person Act 1997 as it applies to trafficking cases.	Ongoing	The Garda Síochána, DJELR	Protection available, if necessary, to witnesses and suspected victims.
108.	Monitor the effectiveness of S6 of the Bail Act 1997 as it applies to trafficking cases.	Ongoing	The Garda Síochána, DJELR	Protection available, if necessary, to witnesses and suspected victims.
109.	Monitor the effectiveness of the Witness Protection Programme as it applies to trafficking cases.	Ongoing	The Garda Síochána	Protection available, if necessary, to witnesses and suspected victims.

## Prosecution

### **INTRODUCTION:**

Human trafficking is a crime which requires a strong law enforcement response. We recognise the need to create an environment hostile to those who seek to perpetrate this evil crime within the State and internationally. The prosecution of human trafficking offences presents a number of challenges. For example, the investigation of trafficking offences is often complicated by the clandestine nature of the criminality. Moreover, the frequent need to rely on evidence collected abroad by Ireland's partners and the potential for suspected victims and witnesses to be traumatised by their experience and intimidated makes the collection of evidence a complex undertaking.

However, these difficulties do not justify inaction. We will continue to implement measures to meet these challenges and ensure a robust enforcement response. There have been a number of successful Garda operations focusing specifically on trafficking for sexual exploitation but we will develop our enforcement response to other forms of trafficking, such as trafficking for labour exploitation, as our knowledge and experience grows. The work of the National Employment Rights Authority, in particular their inspection service, will be crucial in enforcing employment legislation and protecting workers who have been exploited.

Combating human trafficking requires a multi-agency response and we will continue to engage with international organisations, NGOs and other Departments and Agencies to ensure that perpetrators are brought to justice.

We also recognise the need to balance a strong enforcement response with the need to provide a safe and protective environment for victims. Suspected victims who feel safe and secure will be better able to co-operate with criminal investigations.

The key objectives of our prosecution strategy include:

- Enforce the legislation and investigate allegations of human trafficking (section 3.3.1);
- The provision of necessary supports to suspected victims during criminal proceedings (section 3.3.2);

These measures bring Ireland into line with its obligations provided in 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 (2000)*; the *Council of Europe Convention on Action against Trafficking in Human Beings (2005)* and the *European Union Council Framework Decision 2002/629/JHA on Combating Trafficking in Human Beings (2002)*. By fulfilling our obligations under the 2002 Framework Decision, Ireland has approximated its domestic laws with those of other EU Member States in the field of police and judicial cooperation in criminal matters relating to the fight against trafficking in human beings.

### (3.3.1)

**Objective: To enforce legislation and investigate allegations of human trafficking.**

**Background:**

The Garda Síochána are and have been involved in a range of operations, both within and outside the jurisdiction, to counter and prevent trafficking in Ireland. These operations are designed to ensure the prosecution of traffickers and disrupt their criminal activities. They include *Operation Snow*, *Operation Pentameter*, *Operation Quest* and *Operation Boulder*.

**Current Developments:**

**Policing priority**

The investigation of trafficking in human beings has been identified as a policing priority for 2009. The Garda Síochána are committed to preventing and tackling human trafficking and people smuggling through the effective enforcement of national and international immigration laws. There will be increased targeting of organised and serious crime networks, including human trafficking networks, during 2009. Within the Garda Síochána, the GNIB and the Garda National Bureau of Criminal Investigation (NBCI) have been assigned particular responsibilities in this regard. The assets of all suspects are investigated and, where there is a possibility to seize assets, believed to be the proceeds of crime, such assets are targeted by the Criminal Assets Bureau.

In addition, as previously stated, the Garda Síochána has recently established a Human Trafficking Investigation and Co-ordination Unit within the Garda National Immigration Bureau.

The Garda Síochána also conduct on-going operations aimed at preventing and combating prostitution offences. This includes raids of premises being used as brothels and targeting of other premises/environments with the potential to attract persons

engaged in or facilitating the trafficking of human beings. See Operation Quest below for more information.

### **International Co-operation**

Liaison at an international level between the Garda Síochána and the international law enforcement community plays an important role in the tackling of human trafficking. Members of the Garda Síochána regularly attend international meetings, including those organised by Europol, Interpol and Frontex, to facilitate the exchange of information and best practice between EU member states and with countries of origin of suspected victims of human trafficking. The GNIB has appointed a Liaison Officer to respond to all requests from Europol and Interpol for information related to suspected trafficking.

In addition the Garda Síochána has been and is actively involved in cross-border, trans-national trafficking investigations. A joint police trafficking investigation by Ireland and Romania resulted in the prosecution of four people in Romania for trafficking for the purpose of labour exploitation. Ireland also actively participated in Operation Baghdad, a Eurojust operation, which targeted Iraqi traffickers across Europe. This operation led to over 100 arrests. A suspected international child trafficker was also arrested in Ireland and extradited to the Netherlands where he is now awaiting trial on charges of trafficking for sexual exploitation .

In September 2006, the Irish and UK Governments signed a Memorandum of Understanding to facilitate the systematic exchange of immigration related information. The GNIB and the UK Border Agency (UKBA) have also exchanged liaison officers.

Some other examples of international police co-operation include:

- Provision of access to Interpol's I-24/7 global police communications system at all ports of entry in the State.
- A member of the Garda Síochána is currently seconded to Interpol HQ in Lyon working as a Criminal Intelligence Officer in the Trafficking in Human Beings sub-directorate.

- Participation by representatives of the Garda Síochána in the Interpol Working Group on trafficking in human beings.
- Regular liaison between the Irish and French immigration personnel.
- The secondment of a UK Immigration Service officer to the British Embassy in Dublin to liaise with the GNIB.
- Appointment of GNIB officers to liaise with the UK Immigration Service and the Police Service of Northern Ireland (in relation to the land border with Northern Ireland).

### **Previous convictions**

Article 25 of the Convention requires State Parties to provide for the possibility to take into account final sentences passed by another State Party to the Convention in assessing a sentence. This is particularly relevant in the case of human trafficking which is often carried out by transnational criminal organisations, members of which may have been tried and convicted in more than one country in the past. Although in Ireland there is no legislation on the taking into account of previous convictions at the sentencing stage of proceedings there is case law, in particular, *People (AG) v Poyning* (1972) I.R.402. In order to decide on the appropriate sentence, the court must first hear evidence of the character and antecedents of the convicted person and of other relevant matters. Evidence of previous convictions is admissible and is usually provided by a member of the Garda Síochána. If the defendant disputes any conviction, proper evidence such as the production of a court order, will be required to put the facts before the court.

### **Garda Síochána operations**

#### *(a) Operation Snow*

Operation Snow commenced in 2007 and is designed to prevent the trafficking of minors into, out of and within the State; to ensure that the welfare of suspected victims is adequately provided for; and to achieve prosecutions where criminal activity is detected. The launch of Operation Snow was timed to coincide with Ireland's commitment to the G6<sup>41</sup> human trafficking initiative.

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<sup>41</sup> The G6 is a European anti trafficking initiative involving Ireland, the UK, Poland, Italy, the Netherlands and Spain and is supported by Europol, Eurojust and Interpol.

The purpose of Operation Snow is to ensure an appropriate level of attention is afforded by the Garda Síochána to the possibility that the trafficking or smuggling of minors is a criminal activity occurring within the State. By engaging in an operation of this nature, it is hoped to increase detection, if there is criminal activity and to prevent its occurrence in the future.

The strategy being adopted to achieve the aims of Operation Snow involves ensuring that the immigration control process is developed so that its potential to uncover suspected cases of trafficking of minors is fully utilised. In this regard, there has been a particular focus on the arrival of unaccompanied minors into the State.

In the period since the commencement of this initiative in 2007 to the end of 2008, almost 200 incidents have been the subject of investigation, with assistance provided for a total of 164 children. The majority of these investigations have revealed family reunification and other immigration motives as the explanation for suspicious activity of non-Irish nationals. The Garda National Immigration Bureau (GNIB) has had cause, on numerous occasions, to place unaccompanied minors in the care of the Health Services Executive (HSE), having invoked the provisions of the *Child Care Act (1991)*, following their arrival at ports of entry to the State and at Dublin airport, in particular. Such incidents are followed up by investigations to ascertain if human trafficking or smuggling or other criminal acts have been committed by persons involved in arranging the arrival of the unaccompanied minors concerned into the State.

*(b) Operation Pentameter (I & II)*

Operation ‘Pentameter II’ was a UK initiative, which concluded in 2008. The aim of the operation primarily was to ensure a co-ordinated approach to the phenomenon of human trafficking across all police forces and other Crown agencies, such as the UK Border & Immigration Service, in the UK. The Garda Síochána participated in the initiative in order to have a co-ordinated approach within the Common Travel Area, operating between the UK and Ireland. This co-operation took the form of intelligence sharing; joint training exercises (**see Section 3.1.7 for more information on training**) and operational co-operation where investigations had a cross-border dimension.

Garda personnel and officials of the Department of Justice, Equality and Law Reform attended planning meetings for this operation, led by Gloucestershire Constabulary, during 2007 and 2008. Senior members of the Garda Síochána and the Anti-Human Trafficking Unit also sat on the senior management team leading this operation.

*(c) Operation Quest*

Operation Quest sought to investigate allegations that non-nationals were being illegally brought into the State for the purpose of employment in the sex industry. The main target of these investigations was activity associated with lap dancing clubs. Personnel from district detective units based in Dublin, operating under the direction of the Assistant Commissioner of the Dublin Metropolitan Region and a number of specialist units operating under the direction of the Assistant Commissioner for National Support Services, amalgamated their resources to conduct these investigations.

In the course of Operation Quest, several hundred non-national lap dancers were interviewed and asked how they came to be employed in the sex industry. One interview, led to a subsequent investigation where trafficking was identified as a factor. The investigation resulted in the identification of a suspect, a Bulgarian citizen, believed to be operating throughout Europe using a number of aliases. However, none of the other girls interviewed made any allegations of mistreatment or showed any indications that they were potential/suspected victims of trafficking. Prosecutions of the owners and management of lap dancing clubs were commenced in all cases where breaches of legislation, for example the Employment Permits Act 2003, were detected.

*(d) Operation Boulder*

Operation Boulder, launched in 2006, centred on the management of brothels in the Cork city area. The operation sought to obtain evidence to support criminal charges under the Criminal Law (Sexual Offences) Act 1993. Other tasks of the operation included the identification of criminal assets in this jurisdiction and abroad and investigation of suspected revenue offences, money laundering offences and human trafficking offences.



As a result of Operation Boulder, one person was arrested in January 2008 for suspected tax offences. A file was also completed for the D.P.P. recommending four suspects be charged with offences contrary to the Criminal Justice (Sexual Offences) Act 1993 i.e. prostitution related offences.

### **Criminal Assets Bureau**

The Criminal Assets Bureau Act 1996 established the Criminal Assets Bureau (CAB). The functions of CAB under Section 4 of the Act are:

- ( a ) the identification of the assets, wherever situated, of persons which derive or are suspected to derive, directly or indirectly, from criminal activity,*
- ( b ) the taking of appropriate action under the law to deprive or to deny those persons of the assets or the benefit of such assets, in whole or in part, as may be appropriate and*
- ( c ) the pursuit of any investigation or the doing of any other preparatory work in relation to any proceedings arising from the objectives mentioned in paragraphs (a) and (b).*

In addition, the Proceeds of Crime (Amendment) Act 2005 allows CAB to seize assets that were generated in foreign jurisdictions. The Act allows CAB to cooperate fully with other international assets recovery agencies.

The Criminal Assets Bureau is staffed by officers from the Garda Síochána, Revenue Commissioners and the Department of Social and Family Affairs.

### **Enforcement of employment legislation**

Persons who have been trafficked for the purposes of labour exploitation can seek legal redress and compensation through a number of State bodies which deal specifically with work related rights and entitlements. These include the Employment Appeals Tribunal (EAT), the Labour Relations Commission (LRC), the Labour Court and the

Equality Tribunal. There are no fees charged for claims taken to the aforementioned employment rights bodies nor is it necessary to be legally represented at hearings.

**NERA Inspectors** investigate allegations of breaches of certain employment rights and when evidence of non-compliance with the relevant employment rights legislation is found, seeks redress for the individual/s concerned and, if appropriate, a prosecution is initiated. Employers are required to maintain records in respect of employees and these records, together with other substantiating evidence, for example, a statement from an employee, provide the essentials of a basis for legal proceedings. Failure by an employer to maintain adequate records is an offence.

Appendix 6 sets out the maximum penalties which may be imposed, on conviction, in respect of the main legislation enforced by the National Employment Rights Authority.

**The Social Partnership Agreement “Towards 2016”** contains a number of commitments with regard to employment standards and compliance including:

- a trebling in the number of NERA Inspectors,
- greater coordination among organisations concerned with compliance,
- provision for joint investigations between the NERA Inspectorate, the Revenue Commissioners and the Department of Social and Family Affairs.
- new requirements in respect of record keeping by employers,
- enhanced employment rights awareness activity,
- the introduction of a new and more user-friendly system of employment rights compliance,
- increased resourcing of the system and higher penalties for non-compliance with employment law.

“Towards 2016” provides that the number of NERA Inspectors will be progressively increased from 31 to 90 beyond 2007 as part of the initiative to increase the staffing resources of the employment rights bodies generally.

**Future Actions:**

The Garda Síochána will continue to make the detection of human trafficking a policing priority, including the targeting of gangs in specific Garda operations.

The effectiveness of employment legislation in protecting those trafficked for labour exploitation will be monitored.

The publicising of successful convictions against traffickers more widely, particularly in source and transit countries, to act as a deterrent to others considering trafficking into this country will also be considered.

### **TABLE OF ACTIONS**

**Objective: To enforce legislation and investigate allegations of human trafficking.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
110.	Make the detection of human trafficking a policing priority.	2009	DJELR, The Garda Síochána	Pro-active investigations and prosecutions, where appropriate.
111.	Maintain Garda operations against trafficking gangs.	Ongoing	The Garda Síochána	Pro-active investigations and prosecutions, where appropriate.
112.	Effective enforcement of employment related legislation.	Ongoing	DETE, NERA The Garda Síochána (where necessary)	Pro-active investigations and prosecutions, where appropriate.
113.	Consider publicising successful prosecutions against traffickers more widely in source and transit countries.	2010	The Garda Síochána, AHTU, DFA	Investigation outcomes reported in other jurisdictions. Policy acting as a deterrent.

### (3.3.2)

**Objective: To provide the necessary supports to suspected victims during criminal proceedings.**

**Background:**

Article 27.3 of the Council of Europe Convention on Action against Trafficking in Human Beings contains provisions to the effect that groups, foundations, associations or NGOs which aim at fighting trafficking in human beings or the protection of human rights will be enabled to assist and/or support the victim, with his or her consent, during criminal proceedings concerning human trafficking offences. Given the priority accorded to governmental and non-governmental cooperation in the fight against trafficking and our strategic partnerships with both domestic and international NGOs the Government actively supports these Convention requirements. Indeed, the NGO community has a crucial role to play in the Irish counter-trafficking strategy and we look forward to strengthening cooperation between the governmental and non-governmental sectors.

**Current Developments:**

The AHTU and the Garda Síochána have ongoing working relationships with NGOs working with suspected victims of trafficking.

The GNIB has appointed a liaison officer to work with potential/suspected victims of sexual exploitation. The role of the GNIB Liaison Officer is to meet with the potential/suspected victim, establish a relationship of trust, provide support including liaison with various Government Agencies and provide a point of contact that is available to the potential/suspected victim. Ultimately the Liaison Officer tries to obtain a statement of complaint for an investigation. The GNIB has also established liaison with a number of organisations representing exploited foreign national workers.

Ruhama have been allocated €250,000 in 2009 in funding from the Probation Service from their budget allocation for "Assistance to Voluntary Bodies" part of which relates to its work for dealing with trafficking in women for the purposes of sexual exploitation. They have also been allocated €62,000 in 2009 from the Commission for

the Support of Victims of Crime for the purposes of accompanying women who appear before a court.

See **Section 3.2.3** for more information on the structures which are available to assist victims of crime and also the organisations which can provide assistance and support to potential and suspected victims of trafficking.

**Future Actions:**

Continued support for the relevant victim’s support services and subject to budgetary constraints, there will be continued funding of relevant initiatives.

**Table of Actions**

**Objective: Adopting legislative and other measures to ensure to any group, foundation, association or NGO which aims at fighting trafficking in human beings or protection of human rights, the possibility to assist and/or support the suspected victim, with his or her consent, during criminal proceedings concerning a human trafficking offence.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
114.	Provide funding to Ruhama for their work in supporting women who may have been trafficked for sexual exploitation or for women required to appear before a court in criminal proceedings.	2009 - 2012	Probation Service, Commission for the Support of Victims of Crime	No. of potential/suspected victims availing of the service provided.
115.	Garda liaison officers to work with potential/suspected victims of sexual exploitation and organisations involved in the fields of sexual and labour exploitation.	Ongoing	The Garda Síochána	No. of potential/suspected victims assisted by the Garda Síochána.

## **Part IV**

### **Responses to Child Trafficking**

#### **Introduction:**

While human trafficking is an objectionable crime, regardless of the age of its victim, the trafficking of children is particularly reprehensible. There are many similarities between the trafficking of adults and children and the provisions in this National Action Plan – particularly in relation to prevention, protection and prosecution – will apply equally to the trafficking of children. However, we recognise that the protection needs of trafficked children are very different. Trafficked children are particularly vulnerable, they have very special needs and are in need of a high level of protection from the State. As with the provision of services to adults, service provision to child trafficking victims also requires a multi-agency approach and cooperation with the NGO sector. The measures outlined in this section are designed to safeguard and promote the welfare of children who have been trafficked and will complement existing guidelines for dealing with children at risk. The principles governing service provision to underage victims of trafficking are that the protection of the child/youth will be paramount and services will operate to the highest standards. Each child will be dealt with as an individual and services will be tailored to suit individual needs.

The objectives of our response to child trafficking are:

To implement specific measures to reduce the vulnerability of children to trafficking and create a protective environment for them - 4.1;

To implement special identification procedures for suspected child victims of human trafficking - 4.2;

To implement special measures to protect the identity of child victims of human trafficking particularly during court proceedings - 4.3;

To implement measures to provide child victims with assistance in their physical, psychological and social recovery, - 4.4;

To implement measures to ensure enhanced co-operation in the search for missing children - 4.5;

To implement measures to ensure a child victim's residency permit is issued in accordance with best interests of the child principles and repatriation programmes for children, if necessary, have full regard for their best interest. - 4.6.

The Council of Europe *Convention on Action against Trafficking in Human Beings (2005)* expands on the groundwork laid by 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*, insofar as child-specific protections are concerned. Under Article 24 of the Council of Europe Convention, the trafficking of a child is regarded as an aggravating circumstance in the determination of the penalty for trafficking offences. This section of the Plan sets out the specific measures which have been taken and will be taken in the future to provide special protections to child victims of trafficking and ensure a strong response to the perpetrators of this despicable crime.

## (4.1)

**Objective: To implement specific measures to reduce the vulnerability of children to trafficking and to create a protective environment for them.**

### **Background:**

Children are amongst the most vulnerable in our society. Human traffickers exploit a child's weakness, innocence and vulnerability for personal gain. Taking specific measures to reduce a child's vulnerability to trafficking and create a protective environment are key goals of this National Action Plan. The Council of Europe Convention obliges States to take specific measures to reduce children's vulnerability to trafficking by creating a protective environment for them<sup>42</sup>. The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000) requires States to take measures to alleviate poverty, underdevelopment and lack of equal opportunity which lead to the vulnerability of persons, especially women and children to trafficking.<sup>43</sup>

The EU Framework Decision at Article 7 states that children should be regarded as particularly vulnerable victims and each Member State is required to take measures to ensure appropriate assistance for the victim's family.<sup>44</sup>

An important factor in the creation of an environment which is protective of all children is eliminating the demand for children as objects for sexual exploitation or as a source of cheap labour. This can be done through educational and social measures which reinforce the unacceptability of such practices.

### **Current Developments:**

The establishment of a Working Group on Child Trafficking under the auspices of the Interdepartmental High Level Group is a key element in developing our response to

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<sup>42</sup> See Article 5.5 Council of Europe Convention on Action against Trafficking in Human Beings.

<sup>43</sup> Article 9.4 and 9.5 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children 2000

<sup>44</sup> Article 7 – Protection of and Assistance to victims - Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA)



child trafficking and in facilitating the creation of an environment which protects children. Among the issues to be considered by the Working Group are

- a child sensitive approach in the development, implementation and assessment of anti human trafficking policies and programmes,
- special protection measures necessary for child victims taking account of the best interests of the child; and
- the development of a mechanism for monitoring national anti-trafficking activities and the implementation of national legislation to ensure that it meets the needs of vulnerable and trafficked children.

There are a number of other issues to be considered by the Working Group and these are outlined in detail later in this section. The complete Terms of Reference and membership of the Working Group are at Appendix 2. The first priority of the Working Group is an assessment of the current arrangements in place for children, identification of any gaps in services provided and working with the relevant stakeholders to eliminate any perceived shortcomings in services for children.

The Awareness Raising Working Group<sup>45</sup> is also considering methods of highlighting the issue of human trafficking, including measures to reduce demand for the services of adult and child victims, – *see (3.1.2) Raising awareness, reducing demand, education campaigns*. In particular, collaboration with the Department of Education and Science, which is aimed at creating awareness among young people of the issues surrounding human trafficking, will seek to inform children about the dangers of exploitation.

The Office of the Minister for Children and Youth Affairs, established by the Government in 2005, has responsibility for improving the lives of children under the National Children’s Strategy and for ensuring greater coherence in the implementation of policies affecting children. A representative from this office is a member of the Child Trafficking Working Group.

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<sup>45</sup> see Appendix 2 for full Terms of Reference and Membership of Working Groups.

The work of bodies such as the Ombudsman for Children’s Office,<sup>46</sup> which seek to ensure that policy makers take account of what is in the best interests of children when making decisions about them, is important in creating an environment where children’s voices can be heard and where their rights and entitlements can be strengthened. A representative of the Ombudsman for Children’s Office is a member of the Working Group on Child Trafficking.

**Future Actions:**

The Child Trafficking Working Group is supported in its work by the Anti Human Trafficking Unit. Recommendations of the group will be carefully considered by the Interdepartmental High Level Group.

Awareness raising among new migrant communities will also help to protect vulnerable children from possible exploitation. Contacts will be developed with organisations already working with these communities.

**Table of Actions**

**Objective: Implement specific measures to reduce the vulnerability of children to trafficking and to create a protective environment for them.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
116.	Working Group on Child Trafficking established and meeting regularly.	Ongoing	HLG, AHTU	Work plan for the group drawn up.
117.	Recommendations of Working Group implemented.	By end of Plan	HLG, AHTU, HSE, OMCYA	Measures recommended by working group adopted.
118.	Awareness raising measures among migrant communities.	2009 - 2012	AHTU, WG s	Awareness raising initiatives implemented.

<sup>46</sup> see [www.oco.ie](http://www.oco.ie) for more information on the work of the Office of Children’s Ombudsman.

## (4.2)

**Objective: To implement special identification procedures for suspected child victims of human trafficking.**

### **Background:**

As has previously been stated (see section 3.2.4, **potential/suspected Victim Identification procedures**), the identification of suspected human trafficking victims remains one of the most difficult problems facing any counter-trafficking strategy, not only because potential/suspected traffickers themselves seek to avoid detection, but also because victims – for numerous reasons – often go to great lengths to hide their experience from State authorities. Identifying child victims of human trafficking can be an even more challenging problem.

A young person may be identified as a potential victim of trafficking, but it may remain unclear whether or not he or she is under 18. Adults may pretend to be aged less than 18 years in order to benefit from the special protections available to children. Young people aged under 18 may have identity documents which suggest that they are adults, thus enabling them to cross borders without immigration officials checking whether they are accompanied by a parent or if they have parental permission to travel abroad.<sup>47</sup> Identifying suspected child victims of human trafficking is essential so as to ensure they receive the special supports and protection children require, such as location of family (if this is in the best interests of the child), access to education, etc.

### **Current Provisions:**

Section 8 (5) (a) of the Refugee Act 1996 (as amended) provides that, where it appears to an immigration officer or an authorised officer that a child under the age of 18 years has arrived in the State and is not in the custody of any person, that child must, as soon as is practicable, be referred to the Health Service Executive (HSE) and thereupon the provisions of the Child Care Act 1991 apply to the child. Difficulties can arise when it is not clear if the child in question is under 18 years and it may be necessary to carry out an age assessment. Authorised officers of ORAC and immigration officers together

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<sup>47</sup> UNICEF, Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe, 2006, p. 44.

with the HSE conduct age assessment having regard to the Separated Children in Europe Programme (SCEP) Statement of Good Practice, 2004 when dealing with cases of unaccompanied minors. The SCEP is a joint initiative of the International Save the Children Alliance and the United Nations High Commissioner for Refugees. The HSE cooperates with other relevant state bodies to ensure that all relevant information is taken into account in age assessments.

A number of caseworkers in the ORAC have received specialised training in interviewing unaccompanied minors. Training is also provided to caseworkers on human trafficking and the implications for a refugee status determination of an allegation of trafficking.

As part of the training provided to the Garda Síochána (*see 3.1.7 Training for law enforcement, support workers and other key personnel*) the Health Service Executive make a specific presentation on separated children and unaccompanied minors. As part of this presentation, specific indicators for the identification of suspected child victims and age assessment are covered. Child Specialist Interviewers are also available within the Garda Síochána as a result of requirements in the Criminal Evidence Act 1992. Children under 14 years must be interviewed by these specialists ensuring that the special needs of children and their rights are protected.

As previously outlined in (*3.1.7 - Training for law enforcement, support workers and other key personnel*) - training is being provided in the indicators of trafficking to all frontline personnel who are likely to come in to contact with suspected victims. This training will be especially relevant for those likely to come into contact with traumatised and vulnerable children as they will be in a position to offer immediate and appropriate action to help. The HSE is arranging the roll out of the training to community based health professionals.

Staff in children detention schools all receive extensive child protection training. There are standard procedures in place to respond to suspicions of any child protection issues, including trafficking, which involve reporting the matter to both the Garda Síochána and the HSE.

As has been previously outlined in **Section 3.1.8 Interagency Information Exchange** there is already a high level of co-operation on the ground between the HSE and the Garda National Immigration Bureau in relation to children arriving into the State. The work of the Child Trafficking Working Group seeks to build on this co-operation and put in place a mechanism to resolve any difficulties which may arise from time to time.

**Future Actions:**

The Working Group on Child Trafficking will examine the need for ongoing training in suspected victim identification and support for frontline staff that may come into contact with child victims.

The Immigration, Residence and Protection Bill provides for registration with the Garda National Immigration Bureau of all foreign nationals under the age of 18 years granted permission to be in the State. At present, only those aged 16 years or over are required to register.

While children arriving in this country by air may not have come directly from known source countries, they may have travelled through hub cities and onwards to Ireland. We will seek to establish links with airlines to develop awareness among staff of the potential vulnerability of children travelling either alone or with adults, particularly if their journey originated in known source countries or within the common travel area with the UK. We are aware of a UK lead initiative with the International Air Transport Association and Control Authorities Working Group (IATA/CAWG) which developed a Best Practice Code on the carriage of minors and we will explore with the Irish airlines the relevance of the Code to this jurisdiction.<sup>48</sup> The possibility of developing easily understood information cards for children travelling alone, which outline the risks they may face and encouraging them to approach the authorities for protection, will be examined.

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<sup>48</sup> UK Action Plan on Tackling Human Trafficking, March 2007 Page 64

## Table of Actions

**Objective: To implement special identification procedures for suspected child victims of human trafficking.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
119.	HSE to carry out age assessment using recognised standards.	Ongoing	HSE, GNIB, ORAC	Vulnerable minors identified promptly.
120.	Training programmes for relevant government personnel in the indicators, identification and prevention of trafficking in persons.	Ongoing	AHTU, IOM, relevant Government stakeholders	Training delivered. Personnel equipped to deal effectively with suspected victims if encountered.
121.	Child Trafficking Working Group to monitor identification procedures and protections for suspected child victims.	Ongoing	CT WG, AHTU	Recommendations of Working Group considered by HLG.
122.	Establish links with airlines to raise awareness among airline staff of the vulnerability of children, particularly if travelling alone.	2009	AHTU, INIS, GNIB	Protocols with airlines agreed.
123.	Provision in the IRP Bill to allow for the registration of all foreign nationals under 18 years.	2009	INIS, DJELR GNIB	Provision commenced.
124.	Explore with Irish airlines developing a Best Practice Code on the carriage of minors and development of information cards for children travelling alone.	2009 - 2010	AHTU, GNIB	Code agreed , if necessary.  Child friendly information cards distributed, if considered necessary.

### (4.3)

**Objective: To implement special measures to protect the identity of child victims of human trafficking, particularly during court proceedings.**

#### **Background:**

Child trafficking brings with it unthinkable consequences for a child's social, psychological and physical well being. What is more, a child who has been trafficked may feel socially isolated and fear for what the future holds. Children may fear being ridiculed or ostracized for what they were forced to do when under the control of traffickers. For these reasons, measures to protect the identity of child victims of trafficking are of the utmost importance. Not only do such measures help to ensure victims do not fall back into the hands of traffickers, they also play a crucial role in enabling victims to move on from their experiences and start a new life. The Council of Europe Convention at Article 11.2 requires State Parties to adopt measures to ensure, in particular, that the identity, or details allowing the identification, of a child victim of trafficking are not made publicly known, through the media or by any other means, except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child. In addition, Article 28.3 obliges States to afford special protection measures taking into account the best interests of the child.

#### **Current Developments:**

The Criminal Law (Human Trafficking) Act 2008 addresses the above obligations relating to the protection of the identity of child victims of trafficking offences during court proceedings. Legislation provides for the anonymity of victims of trafficking, including children and also for the exclusion of members of the public from court proceedings, at the discretion of the Judge of the Court. **See Section 3.2.5 – To protect the private life and identity of victims of trafficking.**

An underlying principle of the service provided by the HSE, which has responsibility for any unaccompanied child identified as a suspected victim of trafficking, is that the

privacy of the child will be respected and protected. The HSE has data protection protocols in relation to how data is used and stored. It is the policy of the HSE not to disclose details of any child in care except in exceptional circumstances. These circumstances include the tracing of family members and other measures to secure the well being and protection of the child.

**Future Actions:**

As outlined at (3.2.8 – *protection for victims and witnesses* ), there are provisions in criminal law aimed at protecting victims of crime, those who report crime, witnesses who give testimony concerning criminal offences and families of victims and witnesses from retaliation and intimidation. The Garda Síochána enforce the law in this area and ensure appropriate protection. The specialised needs of any child who requires such protection will always be taken into account, having regard to the provisions of the law relating to the protection and welfare of children.

We will keep this legislation under review to ensure it remains effective and is consistent with best international practice.

**Table of Actions**

**Objective: implement special measures to protect the identity of child victims of human trafficking, particularly during court proceedings.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
125.	Enactment of Criminal Law (Human Trafficking) Act 2008 to make it an offence for any person to publish or broadcast any information which is likely to enable the identification of an alleged victim of a trafficking offence.	Completed	Department of Justice, Equality and Law Reform	Legislation operating satisfactorily where need arises.
126.	Enactment of Criminal Law (Human Trafficking) Act 2008 to provide for exclusion of members of the public from criminal proceedings for alleged trafficking offences.	Completed	Department of Justice, Equality and Law Reform	Legislation operating satisfactorily where need arises.
127.	Enactment of Criminal Law (Human Trafficking) Act 2008 to enable an alleged child victim of	Completed	Department of Justice, Equality and Law Reform	Legislation operating satisfactorily



	trafficking the ability to give evidence through a live television link, from either within the State or abroad.			where need arises.
128.	Ongoing review of legislative provisions to ensure their practicality and workability.	Ongoing	Department of Justice, Equality and Law Reform	Legislation operating satisfactorily.

#### (4.4)

**Objective: To implement measures to provide suspected child victims with assistance in their physical, psychological and social recovery.**

#### **Background:**

Children, more than adult potential/suspected victims, who escape from traffickers will be in a vulnerable position, far from their families in a strange country without any of their basic needs such as accommodation or support. They will require assistance to recover from a horrific ordeal. Their most pressing needs, such as safe and secure accommodation, access to medical care both emergency and long term will need to be secured in a manner which takes into account their best interests.

Numerous contributors to our consultation process have emphasised that all actions concerning child victims must, as a primary consideration, take into account the best interests of the child. This guiding principle holds whether such action is undertaken by governmental or non-governmental actors, administrative authorities or legislative bodies, law enforcement or social welfare agencies. Article 12.7 of the Council of Europe Convention obliges States to ensure that services provided to all victims of trafficking are provided on a consensual and informed basis, taking account of the special needs of vulnerable persons. The rights of the child particularly in terms of accommodation, education and appropriate health care must also be taken into account. The UN Protocol also contains provisions requiring States to take into account the special needs of children when providing assistance in relation to housing, education and care.<sup>49</sup>

#### **Current Developments:**

**Appropriate and secure accommodation, psychological and material assistance including access to emergency medical treatment:**

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<sup>49</sup> Article 6.4 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. (2000).

Using its statutory powers the HSE will, under the Child Care Acts, make all necessary provisions for any unaccompanied child identified as a potential/suspected victim of trafficking. Where an unaccompanied child is identified as a potential/suspected victim of trafficking he/she will be immediately referred to the Social Work Team for Separated Children Seeking Asylum. This Unit will lead on these cases for the HSE. Most of the services required by potential/suspected victims of trafficking are already in place and can be adapted or expanded, as required, to serve the needs of potential/suspected trafficking victims. Services being developed and enhanced include:-

- Initial counselling and debriefing – counselling by an experienced HSE psychologist will be offered. An advocacy/support service will also be offered to victims to assist them in dealing with other services.
- A multi disciplinary assessment of need will be conducted over time; this will be adapted to the child's individual experience and capacity. This assessment will typically involve social work, psychology and a medical input. The input of other organisations will also be included, where relevant. A Care Plan will be generated by this assessment and will incorporate all the services required to meet the child's needs, including the most appropriate placement recommended. The child will also be assessed in relation to their immigration status and linkage to the asylum process and advised regarding all options available.
- The child will be allocated a social worker to oversee and implement an individual Care Plan. A range of placement options will be made available and the protection level and care required will be taken into account when deciding on a placement option.
- Each child will receive full medical screening with referral to more specialist medical services if required. Where a child may have been involved in the sex industry appropriate links will be made with other relevant organisations both within the HSE and externally.

The HSE has devised a National Operational Plan for all separated children. It is a principle of this policy that all children in the care of the HSE should receive the same standard of care whether they are separated children seeking asylum or national/resident children. The policy also reflects the principle of good practice that

children under 12 should be placed in foster care. There will be a reduction in the current hostel type accommodation provision and increased use of registered child placements and foster care placements. It is acknowledged that, historically, funding was a challenge in relation to addressing this issue. There are considerable additional costs associated with bringing accommodation and care provision to the required standards. However, considerable progress has been made in developing more appropriate accommodation particularly for children under 17. A new residential home (which satisfies the required Health Information and Quality Authority (H.I.Q.A) standards) for children who have been or are at risk of being trafficked opened in 2008. Two more residential homes are due to open in 2009.

The H.S.E. Operational Plan will progress the decentralisation of the Dublin based Service for Separated Children Seeking Asylum (S.C.S.A). The aim is to increase the range of placement options, including increasing the number of foster placements and presents a move away from accommodating children in large numbers in Dublin hostels. It is envisaged that this development will provide increased protection for potential victims of trafficking.

### **Guardian ad Litem (GAL)**

A number of contributors to the consultation process suggested the provision of a specific independent representation in judicial or administrative proceedings affecting children, particularly separated children. Currently Section 26 of the Child Care Act 1991 provides that the court may appoint a GAL in any court proceedings, where the child might become the subject of a care or supervision order or is being placed in the care of the HSE. The GAL is an independent representative appointed by the court to ensure that the views of the child are heard by the court and to advise the court on the best interests of the child. There have been discussions as to whether the role of GAL as defined in the Child Care Act 1991 is appropriate in meeting the needs of separated children as it relates to court proceedings only. Under the Child Care Act the project/social worker assigned to a separated child must regard the “welfare of the child as the first and paramount consideration”. The project/social worker, therefore, acts in the best interests of the child in the context of service provision and while accompanying the child through any asylum process. The provision of any additional advocacy services for separated children needs to be considered in the context of a

wider range of policy considerations. It is hoped that the full implementation of the HSE Operational Plan regarding the care of these minors will mitigate on the need for such a service.

### **Access to Education**

Access to education for child victims of human trafficking is a key priority in any strategy which aims to respond to the phenomenon of child trafficking. At the same time, measures to provide for a child's right to education are a fundamental responsibility of the Government and all children under the age of 18 in the State are entitled to attend primary and post primary schools. There were over 160 nationalities represented in post-primary schools in 2007/2008.

A child missing education may potentially be an indication of a child at risk of exploitation. The National Education Welfare Board<sup>50</sup> is the national agency with responsibility for encouraging and supporting regular school attendance. The NEWB was established to ensure that every child attends school regularly or otherwise receives an education or training. The work of the NEWB will be crucial in supporting children attending school and in ensuring that children do not drop out of school and so become vulnerable to traffickers.

### **Future Actions:**

The HSE, which has responsibility for the immediate and ongoing needs of separated children and those in need of care and protection, have devised a National Operational Plan for all separated children. The practice of accommodating children in hostels will be brought to an end as alternative foster care and residential care arrangements become available. The main element of the policy is to place children in families and local communities throughout the State as it is accepted best practice in childcare that children are best placed in a family and community environment. It is hoped that these placements will minimise the risk in relation to trafficking. Also the involvement of teachers, Public Health Nurses and G.P.s can be invaluable in ensuring an adequate level of investigation in relation to the legitimacy of family/guardian relationships.

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<sup>50</sup> See [www.NEWB.ie](http://www.NEWB.ie) for further information on work of the Board.

It is recognised by all working in this area that the issue of protecting potential/suspected child victims of trafficking from further exploitation presents challenges. As the HSE does not have the power to detain children and only the courts have the power to order the placement of a child in secure placement units. All cases will be dealt with on an individual basis and the most appropriate care setting for the child's particular circumstances will be sourced.

Contacts will be established with the NEWB to explore the role it can play in supporting child victims of trafficking in the education setting.

### Table of Actions

**Objective: To implement measures to provide suspected child victims with assistance in their physical, psychological and social recovery.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
129.	Safe and appropriate accommodation to be provided to child victims of trafficking.	Ongoing	HSE	Potential/suspected child victims appropriately accommodated.
130.	Ensure there are no barriers for trafficked children to accessing education.	Ongoing	AHTU, Dept. of Education & Science, HSE	Potential/suspected child victims attending mainstream schools.
131.	Increase awareness among teachers and other education professionals to ensure that a child victim of trafficking is supported in receiving an education.	Ongoing	AHTU, Dept. of Education & Science, NEWB, HSE	Awareness among teaching professionals.
132.	HSE National Operational Plan for separated children to be implemented.	2009 – 2012	HSE	HSE providing appropriate care to potential/suspected child victims in accordance with the best interests of the child principles.
133.	Contacts to be developed with the NEWB.	2009	AHTU, NEWB,	Role identified for NEWB in supporting child victims of trafficking.

## (4.5)

### **Objective: To implement measures to ensure enhanced co-operation in the search for missing children;**

#### **Background:**

There is a problem both here and in other countries of separated children seeking asylum going missing from care and concerns have been expressed by a number of organisations that the children who go missing from the care of the HSE may be at risk of being trafficked. As previously outlined, Operation Snow<sup>51</sup> has sharpened the focus on the arrival of unaccompanied minors into the State. These incidents are followed up by investigations to ascertain if human trafficking or other criminal acts have been committed by persons involved in arranging the arrival of the unaccompanied minors concerned into the State.

The HSE has developed a joint protocol with the Garda Síochána concerning children missing from care. This protocol, which was signed in April 2009, sets out the roles and responsibilities of both agencies in relation to children missing from care. Separated children are dealt with specifically in this protocol. The protocol provides clearly defined arrangements for addressing issues relating to children in care who go missing and sets out the principle actions to be taken by both organisations when a missing child in care report is made to the Garda Síochána.

#### **Current developments:**

As previously stated, separated children in Ireland are placed in the care of the Health Service Executive (HSE) and the HSE takes all necessary steps to ensure the safety and welfare of these young people. Where an unaccompanied minor goes missing from the accommodation provided the HSE notify using an agreed template with photograph and physical description – the local Garda station, the Garda National Immigration Bureau, the relevant Child Care Manager, the Superintendent Community Welfare Officer, the HSE Asylum Seekers Unit and the Office of the Refugee Applications Commissioner. This ensures as wide a circulation as possible of the missing child's details. The Garda National Immigration Bureau is notified of each case with a view to establishing if the

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<sup>51</sup> See section 3.3.2 - "Garda Operations (a) – Operation Snow".

disappearance is in any way linked to human trafficking. In the period from January to December 2008 22 young people went missing from care with 5 subsequently located.

In September 2004 the Minister for Justice, Equality and Law Reform launched the missing children’s website [www.missingkids.ie](http://www.missingkids.ie). This is a joint initiative between the Garda Síochána and the International Centre for Missing and Exploited Children in the U.S. This website enables the Garda Síochána to circulate instantaneously and internationally to other police forces written details and high quality photographs of children reported missing.

**Future Actions:**

The HSE will liaise on an ongoing basis with the Garda Síochána at an operational level to ensure that the maximum benefits of joint working are achieved and that the joint protocol on missing children is implemented.

In the Agreed Programme for Government 2007 - 2012, the Garda Síochána Inspectorate was tasked with assessing the need to establish a dedicated Missing Person Unit, including a response network similar to ‘Amber Alert’ in the USA. The Garda Síochána Inspectorate report recommends the establishment of an emergency alert system for missing children, similar to the ‘Amber Alert’ in place in other countries.<sup>52</sup> The Minister for Justice, Equality and Law Reform and the Garda Commissioner have endorsed this recommendation.

**Table of Actions**

**Objective: To implement measures to ensure enhanced co-operation in the search for missing children.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
134.	New national protocols regarding children missing from care signed.	2009	HSE, The Garda Síochána	Protocol implemented effectively.
135.	Establishment of an emergency alert system for missing children	2009	DJELR, The Garda Síochána	Alert system in place and

<sup>52</sup> A copy of the report is available on the Garda Síochána Inspectorate website [www.gsinsp.ie](http://www.gsinsp.ie)



	as recommended by the Garda Siochána Inspectorate Report into missing persons procedures including Amber Alert system.			operating effectively.
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#### (4.6)

**Objective: To implement measures to ensure a suspected child victim's residency permit is issued in accordance with the best interests of the child and repatriation programmes for children, if necessary, are implemented taking the best interest of the child principles into account.**

**Background:**

When children are potential/suspected victims of trafficking, the best interests of children must remain the focus of all decisions which could affect them, including decisions in relation to the provision and renewal of residence permits. The vulnerability of children must be given special consideration in any decision to issue or renew a residence permit.

The Government is also responsible for establishing whether or not the repatriation of a potential/suspected child victim of human trafficking is in the best interests of the child and must ensure that repatriation takes place in a safe and secure manner. The return of a child to his or her country of origin must be undertaken with due regard for the rights, safety and dignity of the child. Rights such as the protection of private and family life, freedom from degrading or inhuman treatment and the protection of the child's identity must be ensured for repatriation to proceed.<sup>53</sup> This responsibility falls not only on the country of origin which accepts the child, but also on Ireland when it returns a potential/suspected victim to the country of origin. For example, the State ought to decline repatriation of a child if it has reason to believe this may be detrimental to the child's safety and best interests.

Article 16.7 of the Council of Europe Convention requires that, in all cases, the best interests of the child must be the guiding principle behind any decision to repatriate a child to his or her country of origin. If it is deemed that repatriation is not in the best interest of the child, taking into consideration the safety and security of the child and

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<sup>53</sup> Council of Europe, *Council of Europe Convention on Action against Trafficking in Human Beings and its Explanatory Report*, 2005, paragraph 202.

the protection and promotion of his/her human rights, then repatriation should not proceed.

**Current Developments:**

As previously outlined in Section 3.2.2 pending the enactment of the Immigration Residence and Protection Bill, administrative arrangements<sup>54</sup> have been established whereby a foreign national<sup>55</sup> who is identified as a suspected child victim of human trafficking, may be granted one or more periods of temporary residence in the State. At all times, the best interests of the child will dictate the course of action to be taken, especially with regard to renewal of a residence permit.

In addition, as previously stated, the HSE has responsibility under child care legislation for any unaccompanied minor who is a potential/suspected victim of trafficking. Where an unaccompanied minor claims asylum the minor is assisted by the HSE and a legal representative is chosen on the child's behalf by the HSE. Even if the asylum claim is rejected, access to the support continues. The minor may also apply for Subsidiary Protection in the State in accordance with the provisions of the European Communities (Eligibility for Protection) Regulations 2006 and leave to remain in the State in accordance with the provisions of Section 3 of the Immigration Act 1999 (as amended).

As with adult applicants, any child/minor, who in the context of an application for subsidiary protection in the State claims a risk of serious harm on trafficking related grounds, has such claims considered by reference to up to date, objective, reliable information relating to the applicants country of origin. This will also apply where an application for leave to remain in the State claims trafficking related concerns. Where an application for asylum, subsidiary protection or leave to remain from a child or unaccompanied minor is being considered, the threshold for approving an application is lowered to take account of the applicant's stage of development, vulnerability etc.

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<sup>54</sup> See: INIS, *Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking*, paragraph 14.

<sup>55</sup> For the purpose of the notice a 'foreign national' means a person from outside the European Economic Area. However, a person from the European Economic Area who has been identified as a suspected victim of human trafficking will, for the purpose of these arrangements, be treated no less favourably than a person from outside that area.

In Ireland all repatriations are handled sensitively and with the utmost respect for the dignity of the person. The rights of the individual, as laid down by the Irish Constitution and the European Convention on Human Rights are fully respected. It is publicly stated policy that potential and/or suspected victims of trafficking will not be removed from the State while their cases are being considered. The removal of any unaccompanied child/minor applicant from the State, either as part of a repatriation/voluntary return or Dublin II Regulation transfer arrangement, would only take place where the HSE had satisfied itself that the conditions for doing so were appropriate and that the best interests of the unaccompanied minor are safeguarded.

### **Future Actions:**

The operation of the administrative scheme and the provisions in the Immigration, Residence and Protection Bill, when it is enacted, will be monitored to ensure they remain effective in meeting the needs of potential/suspected child victims and are in line with best international practice.

The Child Trafficking Working Group<sup>56</sup>, whose members include the Garda Síochána, the HSE, the Office of the Minister for Children and relevant NGO organisations, are currently examining the present practices and procedures around repatriation and voluntary return of child victims. It's recommendations in this regard will be considered by the High Level Group.

The Working Group will also explore the use of multi/bilateral and international co-operation agreements in verifying voluntary return arrangements.

## **Table of Actions**

**Objective: To implement measures to ensure a suspected child victim's residency permit is issued in accordance with the best interests of the child and repatriation programmes for children, if necessary, are implemented taking the best interest of the child principles into account.**

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<sup>56</sup> See Appendix 2 for full Terms of Reference and Membership of Working Group.

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
136.	Ensure temporary residence permits will be issued and renewed, as appropriate, if and when it is deemed in the best interest of a child victim of trafficking.	Ongoing	AHTU, HSE, Minister for Justice, Equality and Law Reform, INIS	Residence permits issued as appropriate.
137.	Decisions to repatriate a child victim of trafficking to take due regard of the rights, safety and dignity of the child.	Ongoing	Minister for Justice, Equality and Law Reform INIS, HSE	Repatriation decisions made according to appropriate criteria.
138.	No return of a child will take place if a risk and security assessment indicates that such a return should not take place.	Ongoing	Minister for Justice Equality and Law Reform, INIS, HSE	No child returned if risk and security assessment not favourable.
139.	Enactment and commencement of relevant provisions in relation to the recovery and reflection /temporary residence period in the Immigration, Residence and Protection Bill.	2009 - 2012	INIS, Department of Justice, Equality and Law Reform	Legislative provisions operating effectively.
140.	Child Trafficking Working Group to examine current practices and procedures around repatriation and voluntary return of child victims.	2009 - 2010	CTWG, AHTU	Recommendations of Working Group considered by HLG.
141.	Child Trafficking Working Group to explore the use of multi/bilateral and international co-operation agreements in verifying voluntary return arrangements.	2009 - 2010	CTWG, AHTU	Recommendations of Working Group considered by HLG.

## Part V

### Implementation and Evaluation

One of the goals of this National Action Plan is to disseminate into the public realm information regarding the measures which have been or are being put in place in Ireland to prevent and combat trafficking in human beings. This Plan will increase transparency around these issues. While specific actions have their own assessment tools and indicators, we feel an implementation and evaluation monitoring body will be of value to our counter-trafficking efforts and implementation of this Plan.

As previously outlined, Article 29.2 of the Council of Europe Convention emphasises the need to ensure that a State's actions against trafficking are coordinated, preferably by the establishment of a co-ordinating body. The AHTU which was established in the Department of Justice, Equality and Law Reform in February 2008 has primary responsibility for co-ordinating policies and actions of governmental and non-governmental organisations to ensure the maximum effectiveness of national and international efforts.<sup>57</sup> The Interdepartmental High Level Group gives strategic direction to the work of the Unit.

Article 29.4 of the Council of Europe Convention suggests that States should consider appointing National Rapporteurs or other mechanisms for monitoring the anti trafficking activities of State institutions. Having considered a number of monitoring mechanisms, it is proposed that primary responsibility for implementation of this National Action Plan should be assigned to the Interdepartmental High Level Group. Item 4 of the High Level Group's Terms of Reference endow the group with the responsibility "To monitor the implementation of the National Action Plan when finalised." Given the High Level Group's interdepartmental composition and responsibility for the drafting of this National Action Plan, the group is an ideal candidate to ensure this Plan is fully implemented in a coordinated and comprehensive manner. The Group will monitor the implementation of this Plan on a twice yearly basis.

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<sup>57</sup> See 3.1.6 – co-ordinate strategy and foster co-operation across governmental and non-governmental sectors.

In this context the High Level Group will be complemented by the Non-Governmental and Governmental Roundtable Forum on Combating Human Trafficking. The Roundtable Forum, consisting of some 24 stakeholders, has been tasked with the responsibility “To consider views of stakeholders in relation to the formulation, implementation and delivery of national and international strategies to combat trafficking in human beings.” Once again, the Group’s interdisciplinary composition makes it an ideal candidate to ensure the recommendations in this Plan are progressed and implemented.

In addition, a mid-term review of the implementation of this Plan is proposed. This review will involve a consultation process with relevant stakeholders. This Plan will then be updated in the light of that consultation and to take account of changing circumstances and our growing experience in this area.

Ireland’s anti-human trafficking measures are also subject to evaluation internationally. This applies in the context of evaluation of our compliance with

- (a) EU and UN legally binding instruments;
- (b) implementation of the EU Action Plan on Trafficking in Human Beings; and
- (c) in due course, implementation of the Council of Europe Convention on Action against Trafficking in Human Beings.

The Council of Europe Convention contains provisions which are aimed at ensuring effective implementation of the Convention by all Parties. The Group of Experts against Trafficking in Human Beings (GRETA) is a technical body, composed of independent and highly qualified experts in the area of human rights, assistance and protection to victims and the fight against trafficking in human beings. The Group will report on each Party’s implementation of the Convention.

## Table of Actions

**Objective: to establish a mechanism to monitor the implementation of Irish anti-human trafficking initiatives.**

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
142.	Interdepartmental High Level Group to be endowed with responsibility to monitor all anti-trafficking activities.	Ongoing	Minister for Justice Equality and Law Reform	Monitoring mechanisms in place at national level.
143.	High Level Group supported by Non-governmental and Governmental Roundtable Forum.	Ongoing	Non-governmental and Governmental Roundtable Forum	Feedback from members of Roundtable.
144.	Consultations with relevant stakeholders to be held at midterm review.	End 2010 - Spring 2011	AHTU	Review of National Action Plan.



**-Appendices-**

## Appendix 1

### Acronyms and Abbreviations

<b>AFIS</b>	<b>Automated Fingerprint Identification System</b>
<b>AHTU</b>	<b>Anti Human Trafficking Unit</b>
<b>APT</b>	<b>Act to Prevent Trafficking</b>
<b>AR WG</b>	<b>Awareness Raising Working Group</b>
<b>CAB</b>	<b>Criminal Assets Bureau</b>
<b>CEPOL</b>	<b>European Police College</b>
<b>CIF</b>	<b>Construction Industry Federation</b>
<b>COSC</b>	<b>National Office for the Prevention of Domestic, Sexual and Gender Based Violence</b>
<b>CSF</b>	<b>Civil Society Fund</b>
<b>CRA</b>	<b>Children's Rights Alliance</b>
<b>CSPE</b>	<b>Civil, Social and Political Education</b>
<b>CT WG</b>	<b>Child Trafficking Working Group</b>
<b>CWO</b>	<b>Community Welfare Officer</b>
<b>DETE</b>	<b>Department of Enterprise, Trade and Employment</b>
<b>DJELR</b>	<b>Department of Justice, Equality and Law Reform</b>
<b>DPP</b>	<b>Director of Public Prosecutions</b>
<b>EAT</b>	<b>Employment Appeals Tribunal</b>
<b>EEA</b>	<b>European Economic Area</b>
<b>ERO</b>	<b>Employment Regulation Order</b>
<b>EU</b>	<b>European Union</b>
<b>GAL</b>	<b>Guardian ad Litem</b>
<b>GNIB</b>	<b>Garda National Immigration Bureau</b>
<b>GO</b>	<b>Government Organisation</b>
<b>GP</b>	<b>General Practitioner</b>
<b>GRETA</b>	<b>Group of Experts against Trafficking in Human Beings</b>
<b>HIQA</b>	<b>Health Information and Quality Authority</b>
<b>HLG</b>	<b>High Level Group</b>
<b>HSE</b>	<b>Health Service Executive</b>

<b>IBEC</b>	<b>Irish Business and Employers Confederation</b>
<b>IBIS</b>	<b>Irish Border Information System</b>
<b>I-BOC</b>	<b>Irish Border Operations Centre</b>
<b>ICI</b>	<b>Immigrant Council of Ireland</b>
<b>ICTU</b>	<b>Irish Congress of Trade Unions</b>
<b>IER</b>	<b>Ireland en Route</b>
<b>ILO</b>	<b>International Labour Organisation</b>
<b>INIS</b>	<b>Irish Naturalisation and Immigration Service</b>
<b>IOM</b>	<b>International Organisation for Migration</b>
<b>ISME</b>	<b>Irish Small and Medium Enterprises Association</b>
<b>ISPCC</b>	<b>Irish Society for the Prevention of Cruelty to Children</b>
<b>LAB</b>	<b>Legal Aid Board</b>
<b>LE WG</b>	<b>Labour Exploitation Working Group</b>
<b>LRC</b>	<b>Labour Relations Commission</b>
<b>MOU</b>	<b>Memorandum of Understanding</b>
<b>MRCI</b>	<b>Migrant Rights Centre Ireland</b>
<b>NBCI</b>	<b>National Bureau of Criminal Investigation</b>
<b>NERA</b>	<b>National Employment Rights Authority</b>
<b>NEWB</b>	<b>National Education Welfare Board</b>
<b>NGO</b>	<b>Non Governmental Organisation</b>
<b>NIO</b>	<b>Northern Ireland Office</b>
<b>NRM WG</b>	<b>National Referral Mechanism Working Group</b>
<b>NRM</b>	<b>National Referral Mechanism</b>
<b>OMCYA</b>	<b>Office of the Minister for Children and Youth Affairs</b>
<b>ORAC</b>	<b>Office of the Refugee Applications Commissioner</b>
<b>OSCE</b>	<b>Organisation for Security and Co-operation in Europe</b>
<b>PSNI</b>	<b>Police Service of Northern Ireland</b>
<b>PULSE</b>	<b>Police Utilising Leading Systems Effectively</b>
<b>REA</b>	<b>Registered Employment Agreement</b>
<b>RIA</b>	<b>Reception and Integration Agency</b>
<b>RLS</b>	<b>Refugee Legal Service</b>
<b>SCEP</b>	<b>Separated Children in Europe Programme</b>
<b>SCSA</b>	<b>Separated Children Seeking Asylum</b>
<b>SE WG</b>	<b>Sexual Exploitation Working Group</b>

<b>SIPTU</b>	<b>Services, Industrial, Professional and Technical Union</b>
<b>THB</b>	<b>Trafficking in Human Beings</b>
<b>TIP</b>	<b>Trafficking in Persons</b>
<b>UKBA</b>	<b>United Kingdom Border Agency</b>
<b>UKHTC</b>	<b>United Kingdom Human Trafficking Centre</b>
<b>UN</b>	<b>United Nations</b>
<b>UNHCR</b>	<b>United Nations High Commissioner for Refugees</b>
<b>UNICEF</b>	<b>United Nations International Children's Emergency Fund</b>
<b>UNIFEM</b>	<b>United Nations Development Fund for Women</b>
<b>UNFPA</b>	<b>United Nations Population Fund</b>
<b>VARRP</b>	<b>Voluntary Assisted Return and Reintegration Programme</b>
<b>WPP</b>	<b>Witness Protection Programme</b>

## **Appendix 2**

### **INTERDEPARTMENTAL HIGH LEVEL GROUP ON COMBATING TRAFFICKING IN HUMAN BEINGS MEMBERSHIP AND FINAL TERMS OF REFERENCE**

#### **Group Membership**

##### Co-Chairs:

Pat Folan, Director General, INIS  
Ken O’Leary, Assistant Secretary, D/JELR

##### Members:

Gerry Moloney, INIS  
Kevin O’Sullivan, INIS  
Deirdre Meenan, INIS  
Detective Chief Superintendent Martin Mc Laughlin, GNIB  
Detective Superintendent Noel Clarke, GNIB  
Eamon Corcoran, Social Inclusion Unit, Dept. of Health and Children  
Charlie Hardy, Child Welfare and Policy Unit, Office of the Minister for Children  
Helen Dixon, Dept. of Enterprise, Trade and Employment  
David Walsh, HSE  
Greg Heylin, Director, Victims of Crime Office  
Marion Walsh, Executive Director Anti-Trafficking Unit, D/JELR  
Mick Quinn, Anti-Trafficking Unit, D/JELR  
Ms Gerardine Coyle, Anti-Trafficking Unit, D/JELR  
Anita Jordan, Anti-Human Trafficking Unit, D/JELR (Secretary)

#### **Terms of reference**

1. To draw up a National Action Plan for approval by the Minister for Justice, Equality and Law Reform detailing the most appropriate and effective response to dealing with trafficking in human beings in Ireland, having regard to Ireland’s international obligations.

The National Action Plan will be drafted under the following headings:

- The prevention of trafficking and awareness raising;
  - Prosecution of the trafficker;
  - Protection of the victim;
  - Response to child trafficking
  - Evaluation.
2. To recommend to the Minister for Justice, Equality and Law Reform the most appropriate way to engage constructively with the NGOs and other interested parties to ensure the most effective and coordinated response to the crime of human trafficking.
  3. To provide strategic direction to the work of the Anti-Human Trafficking Unit in the Department of Justice, Equality and Law Reform.

4. To monitor the implementation of the National Action Plan, when finalised.

**ROUNDTABLE GROUP ON COMBATING TRAFFICKING IN HUMAN  
BEINGS  
MEMBERSHIP AND FINAL TERMS OF REFERENCE**

**Terms of reference**

1. To consider views of stakeholders in relation to the formulation, implementation and delivery of national and international strategies to combat trafficking in human beings.
2. To receive updates from working groups on
  - National Referral Mechanism
  - Awareness raising/training
  - Child Trafficking
  - Labour Exploitation issues
  - Sexual Exploitation issues.
3. To make recommendations – via the Anti-Human Trafficking Unit of the Department of Justice, Equality and Law Reform - to the High Level Group on combating trafficking in Human Beings in relation to policy, procedures and strategies for combating trafficking in human beings to ensure Ireland’s response is effective and co-ordinated.

The Round Table Group will exist for an initial period of 18 months from the date of its 1<sup>st</sup> meeting.

**Group membership**

**Chair**

- Marion Walsh, Executive Director, AHTU

**Members**

- Representative(s) of the High Level Group from the following areas
- Department of Social & Family Affairs
- AHTU
- INIS
- GNIB
- D/Health and Children
- Office of the Minister for Children
- HSE
- D/Enterprise, Trade and Employment
- Victims of Crime Office, D/JELR
- IYJS (Irish Youth Justice Service)
- IOM (International Organisation for Migration)
- Ruhama
- MRCI (Migrant Rights Centre Ireland)
- Immigrant Council of Ireland
- Irish Refugee Council
- UNHCR
- Stop Sex Trafficking
- Barnardos
- Amnesty International
- APT Act to Prevent Trafficking
- UNICEF
- ISPCC

- Children's Rights Alliance

## **WORKING GROUP ON AWARENESS RAISING AND TRAINING**

### **MEMBERSHIP & FINAL TERMS OF REFERENCE**

#### **Terms of Reference**

To examine and make recommendations to the Interdepartmental High Level Group on Combating Trafficking in Human Beings and to update the Roundtable Group in relation to progress on the following matters:-

1. The G6 'Blue Blindfold' awareness raising campaign.
2. Different approaches to raising awareness of human trafficking in terms of the general public, professional front line personnel as first responders, employers, trade unions, media, educational programmes.
3. Different approaches to demand reduction.
4. Training for front line personnel in identification of victims of trafficking.
5. Training in victim support.
6. Training/information for Director of Public Prosecutions, Judiciary, Courts Service and other relevant professional bodies.
7. Information campaigns and development aid programmes in countries of origin.
8. The Group to specify skills and knowledge required in relation to trafficking for different personnel.

The Working Group will exist for an initial period of 18 months and from the date of its 1<sup>st</sup> meeting.

Within this mandate a schedule of work will be developed by the AHTU.

#### **Membership of Working Group**

The Working Group will consist of representatives from:

AHTU  
 GNIB  
 IOM  
 ORAC  
 HSE  
 D/Foreign Affairs  
 D/ Enterprise Trade & Employment  
 D/ Health & Children  
 D/Social & Family Affairs  
 UNHCR  
 APT  
 Ruhama  
 Migrants Rights Centre Ireland  
 NERA  
 ICTU

ISME  
Stop Sex Trafficking  
Office of the Minister for Children and Youth Affairs

**WORKING GROUP ON CHILD TRAFFICKING**  
**MEMBERSHIP & FINAL TERMS OF REFERENCE**

**Terms of Reference**

To examine and make recommendations to the Interdepartmental High Level Group to tackle trafficking in Human Beings and to update the Roundtable Group in relation to progress on the following matters:-

1. Child sensitive approach in the development, implementation and assessment of anti-human trafficking policies and programmes.
2. Standardised approach to the identification and care of child victims based on international best practice.
3. Special protection measures necessary for child victims taking account of the best interests of the child.
4. Training of personnel in the identification and protection of child victims ensuring that authorities collaborate with each other and with relevant support organisations.
5. Bilateral/multilateral/international cooperation in relation to the search for missing children who may be trafficked and in relation to verification of return arrangements.
6. Mechanism for monitoring national anti-trafficking activities and the implementation of national legislation to ensure that it meets the needs of vulnerable and trafficked children.

The Working Group will exist for an initial period of 18 months from the date of its 1<sup>st</sup> meeting.

Within this mandate a schedule of work will be developed by the AHTU.

**Membership of Working Group**

AHTU  
Office of the Minister for Children  
GNIB  
HSE  
Ombudsman for Children  
Irish Youth Justice Services (IYJS)  
UNHCR  
Barnardos  
Irish Refugee Council  
Office of the Refugee Applications Commissioner  
INIS  
Irish Society for the Prevention of Cruelty to Children (ISPCC)  
Children's Rights Alliance (CRA)



UNICEF  
Immigrant Council of Ireland (ICI)  
Department of Social & Family Affairs

## **NATIONAL REFERRAL MECHANISM WORKING GROUP**

### **MEMBERSHIP & FINAL TERMS OF REFERENCE**

#### **Terms of Reference**

To examine and make recommendations to the Interdepartmental High Level Group on Combating Trafficking in Human Beings and to update the Roundtable Group in relation to progress on the following matters:-

1. The nature and extent of trafficking in human beings in Ireland, having regard to the definitions provided in the Criminal Law (Human Trafficking) Act 2008.
2. A proposed protection path for victims of trafficking, having regard to the protection provisions in international instruments.
3. Developing a protocol for identification of victims {i.e. formal referral mechanism between statutory agencies, NGOs and others}
4. A data strategy to enable information in relation to
  - (a) The evolving nature and extent of trafficking,
  - (b) The protection path for victims and
  - (c) Identification, investigation and prosecution to be captured and analysed.
  - (d) The strategy should also include consideration of confidentiality.
5. Working group to make recommendations of a "who is doing what mapping for referral of cases".

The Working Group will exist for an initial period of 18 months from the date of its 1st meeting.

Within this mandate a schedule of work will be developed by the AHTU.

#### **Membership of Working Group**

Anti Human Trafficking Unit  
Garda National Immigration Bureau  
Irish Naturalisation & Immigration Service  
Health Service Executive  
Department of Social and Family Affairs  
Office of the Minister for Children  
Department of Health and Children  
Office of the Refugee Applications Commissioner  
United Nations High Commissioner for Refugees  
Ruhama  
Migrants Rights Centre Ireland  
Immigrants Council of Ireland  
National Employment Rights Authority

Irish Congress of Trade Unions  
Stop Sex Trafficking  
International Organisation for Migration<sup>58</sup>

## **LABOUR EXPLOITATION WORKING GROUP**

### **MEMBERSHIP & FINAL TERMS OF REFERENCE**

#### **Terms of Reference**

To examine and make recommendations to the Interdepartmental High Level Group on Combating Trafficking in Human Beings and to update the Roundtable Group in relation to progress on the following matters:-

1. Criteria for understanding trafficking of human beings for labour exploitation.
2. Development, implementation and assessment of anti-human trafficking policies and programmes for forced labour.
3. Means of cooperation between Government Departments and agencies with NGOs and civil society groups in establishing strategic partnerships in developing anti-human trafficking policies and programmes.
4. Mechanism for monitoring national anti-trafficking activities and the implementation of national legislation in relation to forced labour, enslavement and servitude.
5. Access to information on legal rights and services available to victims of trafficking for labour exploitation.
6. Legislative, administrative, educational, social, cultural and other measures to discourage demand for forced labour.
7. Measures to make available appropriate contact information and supports to structures that can assist victims of trafficking for labour exploitation reintegrate into the labour market or their home society if they return.

The Working Group will exist for an initial period of 18 months from the date of its 1<sup>st</sup> meeting.

Within this mandate a schedule of work will be developed by the AHTU.

#### **Membership of Working Group**

Anti Human Trafficking Unit  
Garda National Immigration Bureau  
Department of Enterprise, Trade and Employment  
Department of Social and Family Affairs  
National Employment Rights Authority  
Migrants Rights Centre Ireland  
Irish Congress of Trade Unions

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<sup>58</sup> The Department of Education and Science and the Courts Service are not formal members of the Group but liaise with the Group when necessary.

Irish Small & Medium Enterprises Association  
International Organisation for Migration  
Irish Naturalisation & Immigration Service

**WORKING GROUP ON SEXUAL EXPLOITATION ISSUES**  
**REVISED TERMS OF REFERENCE**

**Terms of Reference**

To examine and make recommendations to the Interdepartmental High Level Group on Combating Trafficking in Human Beings and to update the Roundtable Group in relation to progress on the following matters:-

1. Development, implementation and assessment of anti-human trafficking policies and programmes in relation to sexual exploitation.
2. Means of cooperation between Government Departments and agencies with NGOs and civil society groups in establishing strategic partnerships in developing anti-human trafficking policies and programmes.
3. Mechanism for monitoring national anti-trafficking activities and the implementation of national legislation in relation to sexual exploitation
4. Coordinating assistance to victims and potential victims - interpretation and translation services, counselling, accommodation, medical services, recovery path – by Memoranda of Understanding or other means.
5. Access to information on legal rights and services available to victims of trafficking for sexual exploitation.
6. Legislative, administrative, educational, social, cultural and other measures which (i) impact on and (ii) discourage demand for sexual services of victims of trafficking.
7. Measures to make available appropriate contact information to structures that can assist victims of trafficking for sexual exploitation reintegrating in their home society if they return.

The Working Group will exist for an initial period of 18 months from the date of its 1st meeting.

Within this mandate a schedule of work will be developed by the AHTU.

**Membership of Working Group**

AHTU

GNIB

Ruhama

Immigrant Council of Ireland

Women's Health Project, HSE

National Women's Council of Ireland

Department of Social and Family Affairs

Department of Health & Children

European Women's Lobby Observatory on Violence Against Women

HSE

IOM

## Appendix 3

### TABLE of KEY ACTIONS

No.	Action	Timetable	Responsible Party	Assessment Tool/Indicator
1.	To support projects which address the factors that make individuals vulnerable to trafficking.	Ongoing	DFA Irish Aid	No. of projects supported.
2.	Examine ways of raising awareness in source countries, including use of local migration centres and targeting migrant communities.	2009 - 2012	AR WG AHTU, DFA	Awareness raising information provided.
3.	Irish Aid partnership agreement with the ILO to inter alia combat forced labour and eliminate child labour.	2008 -2011	DFA, ILO, ICTU and IBEC	Projects supported.
4.	Support of anti-trafficking initiatives of partner organisations.	Ongoing	AHTU, DFA	Support available to relevant organisations.
5.	Explore the use of bilateral agreements with source countries.	2009 -2011	AHTU, DFA	Possibilities of bilateral agreements examined fully.
6.	Support work of the NRM Working Group in establishing supports for suspected victims of trafficking to prevent re-victimisation.	2009 - 2011	AHTU, NRM, WG	Supports in place to enable victims re-integrate into society.

7.	Establishment of Awareness Raising and Training Working Group to advise High Level Group.	Group formed, first meeting in July 2008. Work ongoing for an initial period of 18 months from July 2008	AHTU, GNIB, IOM, ORAC, DET&E, HSE, DFA, DSFA, OMCYA, DH&C, UNHCR, APT, Ruhama, MRCI, NERA, IBEC, ICTU, ISME, Stop Sex Trafficking (Cork)	Terms of Reference for Group met. Work Plan completed or significantly progressed.
8.	Ireland taking a role in all strands and a leadership role in awareness raising strand of	Ongoing for duration	AHTU/ Garda Síochána	Successful completion of the work of the G6

	European G6 Anti-Trafficking Initiative.	of G6 Initiative		group.
9.	Participation in coordinated, G6 "Blue Blindfold" awareness raising and demand reduction campaign.	2008 - 2009	AHTU/ Garda Síochána	Campaign completed and evaluated.
10.	Launch of website <i>www.Blueblindfold.gov.ie</i> coinciding with Blueblindfold campaign. Link to site on <i>www.justice.ie</i>	Launch October 2008, continuous updating	AHTU	No. of visits to website.
11.	Enactment of legislation aimed at demand reduction (section 5, Criminal Law (Human Trafficking) Act 2008).	Completed	Department of Justice, Equality and Law Reform	Legislation to prosecute persons who knowingly use the services of trafficking victims in place.
12.	Media to be supported in their efforts to uncover trafficking stories and communicate them to the public in a sensitive and responsible manner to promote and foster dialogue. Development of a code of conduct for the media to be explored.	2009-2012	AHTU, AR WG, Garda Síochána, DJELR Press Office, Press Council of Ireland, OSCE	Sensitive and informed reporting of stories of potential/suspected victims.
13.	Advertising at major sporting events.	2009 - 2012	AHTU, AR WG	Advertising campaign carried out at specific events.
14.	Development of human trafficking education component as one of the topics in the Civil, Social and Political programme in the 2 <sup>nd</sup> level school curriculum.	September 2009	AHTU, CSPE Co-ordinator	Roll out of component and feedback received.
15.	Examine the possibility of an information presentation for teachers at Teachers' Conferences and RIA service providers forum.	2009 – 2010	AHTU, IOM, D/Education & Science, RIA	Presentations made at conferences.
16.	Develop Codes of Practice and awareness raising initiatives with industries such as agriculture, restaurant, entertainment, health/beauty and construction.	2009-2012	AHTU, AR WG and relevant industry bodies.	Codes of practices developed. Awareness raising initiatives planned and rolled out.
17.	Examine the relevance of the ECPAT Code of Conduct with tourism industry bodies.	2009 - 2010	AHTU in conjunction with tourism bodies and relevant Government Departments	Evaluation completed and action taken, if required.
18.	Arrange awareness raising seminars for Department of Foreign Affairs staff prior to their posting abroad.	Ongoing	AHTU, IOM, Garda Síochána DFA	Seminars delivered to staff.
19.	Arrange awareness raising seminars for Department of Enterprise, Trade and Employment staff who	2009	AHTU, IOM, Garda Síochána, DETE.	Seminars delivered to staff .

	process work permits.			
20.	Include leaflets on human trafficking with work permits when issued.	2009	AHTU, DETE	Leaflet on human trafficking included with work permits.
21.	Examine the possibility of using social networking sites to raise awareness of indicators of trafficking.	2009 - 2011	AHTU, Awareness Raising and Training Working Group	Pages developed on sites.
22.	Examine the possibilities for awareness raising initiatives in migrant communities.	2009 - 2011	AHTU, Awareness raising and Training working Group	Initiatives developed and rolled out.
23.	Work with the Office of the DPP to raise awareness of issues involved in human trafficking cases.	Ongoing	AHTU, DPP	Ongoing engagement with DPP's office.
24.	Training/awareness raising with frontline healthcare providers i.e. G.P.s Public Health Nurses and A&E staff.	2009 - 2011	AHTU, HSE, Dept. of Health & Children, Irish College of General Practitioners	Training options developed.
25.	Explore possibility of developing protocols for healthcare workers.	2009 - 2012	AHTU, Dept. of Health and Children	Protocols developed.
26.	Examine options for engaging with young people in schools such as calendars, booklets etc., posters/photo and essay competitions.	2009 - 2012	AHTU, AR WG, CSPE Co-ordinators	Roll out of options agreed to schools
27.	Explore possibility of including Trafficking in Human Beings as a topic on legal and social science courses in 3 <sup>rd</sup> level institutions.	2009 - 2012	AHTU, third level institutions	Contacts established with third level institutions.
28.	Discuss awareness raising and training options for lawyers and barristers with relevant professional bodies.	2009 - 2012	AHTU, relevant professional bodies	Contacts established with Incorporated Law Society, Bar Council, etc. Training module developed.
29.	Involve arts community in raising awareness of issues through use of plays, exhibitions, soaps and documentaries.	2009 - 2012	AHTU, AR WG	Options explored and developed.
30.	Participate in study regarding need for and feasibility of European hotline.	2009	AHTU	Effective input from Ireland at EU discussions leading to publication of study.

31.	Ongoing development of comprehensive data strategy, based on adjustments to the European Migration Network's Common Research Template.	2009 - 2012	AHTU in conjunction with NGOs, international organisations and Government Dept's / agencies	Comprehensive, high quality data collection.
32.	Data collection and analysis.	Ongoing	AHTU, Government organisations, international organisations and NGOs	Data of sufficient quality and quantity obtained and analysed.
33.	Improve knowledge of scale and scope of human trafficking in Ireland.	Ongoing	AHTU, data collection bodies	Improved management information for policy making, including law enforcement and service provision.
34.	Identify all potential THB data capture systems in Ireland and consult with data collecting organisations.	2008 - 2009	AHTU, GNIB, ORAC, NERA and relevant NGOs	Data capture which mirrors EU systems being developed.
35.	Anti-Human Trafficking Unit to serve as a central location for information on human trafficking in Ireland.	Ongoing	AHTU	Central records of all human trafficking data in State.
36.	Undertake research on a priority and needs basis.	Ongoing	AHTU	Progress reports, completion of research.
37.	Participate in Dignity Research Project	2009 - 2010	Dignity Project partners	Identification and documentation of best practice in Europe.
38.	Enforcement of the carrier liability provisions in the Immigration Act 2003.	Ongoing	The Garda Síochána	Optimum prosecutions under the Act.
39.	Enforcement of the Immigration Residence and Protection Bill (when enacted).	2009 - onwards	The Garda Síochána	Optimum prosecutions under the Act.
40.	Training for frontline staff.	Ongoing	AHTU, IOM, The Garda Síochána, NGOs	Training courses completed and evaluated.
41.	Enhanced co-operation between Gardaí and Customs officers.	Ongoing	The Garda Síochána, Revenue Commissioners	Attempts to traffick persons for exploitation within the State thwarted.
42.	Network of Airline Liaison Officers at major hub airports.	Ongoing	The Garda Síochána	Ongoing effective liaison with airlines and border control agencies.
43.	Daily operational level contact	Ongoing	The Garda	Effective ongoing



	with UK Border Control Agencies.		Síochána	co-operation.
44.	Upgrade of new national automated fingerprinting system (AFIS).	Ongoing	The Garda Síochána	System rolled out nationally.
45.	Carbon Dioxide Detectors sourced for ports throughout the State.	2009 - 2012	The Garda Síochána	CO2 Detectors at appropriate ports.

46.	Legislative provisions to ensure legitimacy, security and control of Irish Passports (Passport Act 2008).	Completed	Department of Foreign Affairs	Legislation operating effectively.
47.	Issue of new Irish electronic passport (ePassport).	Ongoing	Department of Foreign Affairs	E passports issued and working well.
48.	Security controls in place for production and delivery of passports.	Ongoing	Department of Foreign Affairs	Stocks of passports logged and tightly controlled. Destruction of spoiled or incorrect passports is traceable and carried out under secure conditions.
49.	Review security standards of travel documents issued by INIS.	2009	INIS	High security standards for travel documents issued to refugees, etc.
50.	The Garda Síochána to ensure integrity and security of travel and identity documents.	Ongoing	The Garda Síochána	Offences in relation to travel documents detected.

51.	Establishment of Anti-Human Trafficking Unit (AHTU) in the Department of Justice, Equality and Law Reform.	Completed	Department of Justice, Equality and Law Reform	Unit established and work progressing in accordance with the Units mandate.
52.	Establishment of a dedicated Garda Unit .	Completed	The Garda Síochána	Unit established and working according to its mandate.
53.	AHTU assigned primary responsibility for coordinating governmental and non-governmental responses to human trafficking and ensuring policy is formulated in a holistic and comprehensive manner.	Ongoing	AHTU in conjunction with Government organisations, NGOs and international organisations	Implementation of the work programme of the unit regularly reviewed by HLG. Effective co-ordination of national response.
54.	(3) Establishment of Non-Governmental and Governmental Roundtable. (4) Meetings of the Roundtable Group.	Completed Ongoing	AHTU	Roundtable Forum assists in formulation and implementation of policy.  Effective coordination of

				national response.
55.	Anti-Human Trafficking Unit to engage with over 50 different stakeholders both domestically and internationally.	Ongoing	AHTU	Regular and productive meetings with stakeholders which result in Unit's mandate being progressed.
56.	1. Establishment of Working Groups. 2. Ongoing meetings of Working Groups.	Completed Ongoing	AHTU	Working Groups assist in formulation and implementation of policy.
57.	Participate in European G6 Counter-Trafficking Awareness raising initiative.	2008 - 2009	AHTU, Irish, British, Dutch, Spanish, Polish, Italian Governments EUROPOL Eurojust, Interpol	Initiative completed and evaluated.
58.	Ireland-UK policing cooperation.	Ongoing	The Garda Síochána, UK Police Forces, PSNI	Successful monitoring of trends, operations, convictions and prosecutions.  Joint investigations.
59.	Regular meetings with the NIO and PSNI.	Ongoing	AHTU, The Garda Síochána	Regular and productive meetings.

60.	Continuous professional development training course for Garda Síochána.	Course developed and training ongoing	The Garda Síochána, IOM, with NGO participation, UKHTC	Training course provides a range of trafficking training and teaches investigative techniques. Leads to identification of victims encountered Approximately 770 officers trained by end 2008.
61.	Human trafficking training for Defence Force personnel.	Ongoing	Irish Defence Forces	Training delivered. Defence force personnel equipped to deal effectively with victims, if encountered.
62.	Training programmes for relevant government personnel in the indicators of and prevention of trafficking in persons.	Ongoing	AHTU, IOM, HSE, NERA, INIS and other relevant Government Departments/agencies	Training delivered. Personnel equipped to deal effectively with victims, if encountered.
63.	Development of information cards with indicators of trafficking for front-line staff.	2009 - 2011	AHTU in conjunction with Awareness raising working Group and Government Department's/ agencies	Cards issued and evaluated for effectiveness and impact.
64.	Awareness raising training provided to Visa Officers in	Ongoing	AHTU, GNIB, DETE, DFA and IOM	Training delivered. General awareness raised and specific indicators of trafficking

	Department of Foreign Affairs and work permit processing staff in Department of Enterprise, Trade and Employment.			emphasised to assist staff in identifying potential cases. Relevant materials widely distributed, with focus on likely source regions in Africa and Asia.
65.	Awareness raising provided to customs, ports and special compliance staff of the Revenue Commissioners, health and safety inspectors, agriculture inspectors / vets , prison and probation officers, HQ staff of the Irish Prison Service.	2009 - 2012	AHTU, GNIB, Revenue Commissioners, HSA, Department of Agriculture and Food, Irish Prison Service, Probation Service and IOM	Training delivered. Personnel equipped to deal effectively with victims, if encountered.

66.	AHTU to coordinate information exchange between relevant domestic authorities, international organisations and NGOs.	Ongoing	AHTU	Effective cooperation between various government agencies, international organisations and NGOs on a range of issues, including policies regarding unaccompanied minors.
67.	Data collection strategy to be finalised and results shared with all relevant agencies.	2009 - 2012	AHTU	Data strategy implemented and used to assess nature and extent of trafficking and in policy formulation and implementation.
68.	Interdepartmental High Level Group meetings , Roundtable Forum and Working Group meetings to provide opportunities for information exchange and policy development.	Ongoing	AHTU, in conjunction with 34 other relevant governmental and non-governmental bodies	Ongoing and effective information exchange which supports policy development, including law enforcement and victim protection.
69.	Provide multidisciplinary anti-human trafficking training.	Ongoing	AHTU, IOM, the Garda Síochána, NGOs and all State agencies likely to encounter victims of trafficking	Training provided to Government personnel to assist in the identification and protection of victims of trafficking.
70.	Garda /HSE Protocol for missing children signed.	2009	GNIB / HSE	Protocol followed in each case.
71.	Regular liaison between GNIB and	Ongoing	GNIB	Effective co-operation between these organisations.

	NGOs.			
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72.	Garda Síochána to liaise with EUROPOL and/or INTERPOL in the event of a threat to an individual in another country.	Ongoing	The Garda Síochána	Liaison channels established and maintained and assistance provided when necessary.
73.	Recommendations of the Garda Síochána Inspectorate on enhancement of missing persons systems implemented.	2009 - 2011	The Garda Síochána	Garda systems for handling missing persons cases enhanced in accordance with recommendations of GS Inspectorate report.

74.	On an interim basis the Reception and Integration Agency (RIA) to accommodate and provide services to potential and suspected victims of human trafficking referred by the Garda National Immigration Bureau (GNIB).	Ongoing	The Garda Síochána, RIA AHTU, HSE	Accommodation and services provided speedily when required.
75.	CWO from Asylum Seekers/New Communities Unit will assist a person granted temporary residence permission to access state supports such as supplementary welfare allowance, rent supplement etc.	Ongoing	HSE	Supports accessed when necessary.
76.	Crime Prevention Officers from the Garda Síochána will liaise with suspected victims to assess any security risk and advise on appropriate precautions.	Ongoing	Garda Síochána	Advice available to suspected victims.
77.	Explore the use of technological aids to overcome language barriers.	2009 -2011	AHTU, NRM WG	Pilot project set up.
78.	Legal Aid Board to provide legal advice and legal aid to potential/suspected victims of trafficking.	2009	LAB	Legal advice available to potential and/or suspected victims of trafficking.
79.	Development of a National Referral Mechanism to protect and promote the human rights of suspected trafficking victims by coordinating the work of State actors and civil society in their efforts to combat trafficking and	Ongoing.	AHTU, Working Group on a National Referral Mechanism, Roundtable Forum, HLG	NRM operating effectively

	assist suspected victims.			
80.	Explore the use of Memoranda of Understanding between service providers and law enforcement agencies.	2009 - 2011	AHTU, HLG, HSE, the Garda Síochána, NGOs	MOUs in place, where appropriate.
81.	Develop supports to assist the reintegration of suspected victims into the labour market.	2009	AHTU, Labour Exploitation WG, HLG	Appropriate contact information and supports available to assist victims.
82.	INIS will issue a Stamp 3 during Recovery and Reflection period and Stamp 4 during Temporary Residence period. Stamp 4 will allow full access to the labour market without restriction	Ongoing	INIS, DETE	Stamps issued as appropriate.
83.	All children under 18 in the State have access to primary and post primary schools.	Ongoing	Dept. of Education & Science	Child victims of trafficking accessing education.

84.	Administrative scheme to be implemented, whereby a person identified as a suspected victim of human trafficking shall be granted permission to remain lawfully in the State for a period of 60 days.	Ongoing until enactment and commencement of like provisions in IRP Bill.	INIS, GNIB, Department of Justice, Equality and Law Reform	Administrative arrangements operating effectively.
85.	Administrative arrangements for 6 month temporary residence permit, renewable, when necessary for the purpose of allowing the suspected victim to continue to assist the relevant authorities in relation to an investigation or prosecution arising in relation to trafficking.	Ongoing until enactment and commencement of IRP Bill.	INIS Department of Justice, Equality and Law Reform, GNIB	Administrative arrangements operating effectively.
86.	Enactment and commencement of relevant provisions in relation to the recovery and reflection /temporary residence period in the Immigration, Residence and Protection Bill.	2009 - 2012	Department of Justice, Equality and Law Reform	Legislative provision operating effectively.

87.	Potential/suspected victims of trafficking to be provided with Legal assistance/aid by the Legal Aid Board.	2009 onwards	Legal Aid Board, AHTU	Victims receiving legal advice as required.
88.	Information leaflets to be provided on proceedings to potential/suspected victims in a language they can understand.	2009 - 2010	Legal Aid Board, AHTU, Garda Síochána and NGOs	Leaflets developed and widely available.
89.	Formal referral mechanism developed for the services of	2009 - 2010	Legal Aid Board, AHTU,	Mechanism in place and operating

	the Legal Aid Board.		NGOs Garda Síochána	effectively.
90.	Training in dealing with victims of trafficking to be provided to LAB staff and other victim support bodies.	2009	LAB, AHTU, ICI	Staff fully trained and refresher course developed and being offered.
91.	Explore the possibility of using Citizen Advice Bureau to provide information to suspected victims of trafficking.	2009	AHTU	Option of using the Citizens Advice Bureau fully explored.
92.	Develop system for recording compensation orders awarded to suspected victims of trafficking under Section 6 of the Criminal Justice Act 1993.	2009 -2010	AHTU, Relevant State agency	Figures available.

93.	Training to be provided to all frontline personnel on the indicators of trafficking and on prevention and prosecution for members of the Garda Síochána.	Ongoing	IOM, AHTU, the Garda Síochána, NGOs	Potential victims identified and dealt with appropriately.
94.	Design and delivery of counter trafficking training programmes for key Government stakeholders in line with training required for particular post held.	2009 - 2012	AHTU, NGOs.	Victims identified and dealt with appropriately.

95.	Legislative provision which makes it an offence to publish or broadcast any information (unless a Judge directs otherwise) likely to enable the identification of an alleged victim of a trafficking offence.	Completed	Department of Justice, Equality and Law Reform	Penalties provided for in S 11(4) of the Criminal Law (Human Trafficking) Act 2008 imposed, where necessary.
96.	Legislative provision for the exclusion from proceedings for alleged trafficking offences of all persons, other than officers of the court, persons directly concerned in the proceedings and such other persons (if any) as the judge of the court may determine.	Completed	Department of Justice, Equality and Law Reform	Legislative provision in S 10 (1) of Criminal Law (Human Trafficking) Act 2008 implemented.
97.	Legislative provision for a suspected victim of trafficking to give evidence through a live television link, with the leave of the court in the case of adults, from either within the State or abroad.	Completed	Department of Justice, Equality and Law Reform	Legislative provisions in S 12 of the Criminal Law (Human Trafficking) Act 2008 implemented .

98.	Put procedures in place to repatriate suspected victims voluntarily.	Completed	INIS, AHTU, IOM	Repatriation and return arrangements operating in line with provisions in international instruments.
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99.	Put clear referral mechanisms in place to direct clients/persons/victims wishing to return home to voluntary assisted return programmes.	2009 - 2012	WG on NRM, INIS, IOM	Referrals made to programmes as appropriate.
100.	Develop reintegration plans for individual suspected victims.	Ongoing	WG NRM, IOM, INIS	Reintegration assistance provided on a planned and individual basis to support sustained return.

101.	Consultations to be held between the Office of the Director of Public Prosecutions and the Garda Síochána in relation to the practical issues which will arise in cases of human trafficking.	Ongoing as cases arise	DPP, the Garda Síochána	Penalties not imposed on suspected victims for involvement in unlawful activities to the extent they have been compelled to do so.
102.	Cases involving trafficking in human beings will be assigned to a specific unit within the DPP's Office.	Ongoing as cases arise	DPP	Specified knowledge of issues involved in such cases will be built up.
103.	Explore the need for an Office Policy document issued by the DPP.	2009	DPP	Policy document issued if required.
104.	Ensure a person who is a suspected victim of an offence under the Criminal Law (Human Trafficking) Act 2008 shall not be prosecuted for entry into, or presence in the State for carrying out labour or sexual acts where those acts were a consequence of the trafficking of that person.	Ongoing	DPP, the Garda Síochána	Penalties not imposed on suspected victims for their involvement in unlawful activities to the extent they have been compelled to do so.

105.	Ongoing protection measures for suspected victims and witnesses.	Ongoing	The Garda Síochána	Protection available, if necessary, to witnesses and suspected victims.
106.	Monitor the effectiveness of Section 41 of the Criminal Justice Act 1999 as it applies to trafficking cases.	Ongoing	The Garda Síochána, DJELR	Protection available, if necessary, to witnesses and suspected victims.
107.	Monitor the effectiveness of S10 of the Non Fatal Offences against the Person Act 1997 as it applies to trafficking cases.	Ongoing	The Garda Síochána, DJELR	Protection available, if necessary, to witnesses and suspected victims.
108.	Monitor the effectiveness of S6 of the Bail Act 1997 as it applies to trafficking cases.	Ongoing	The Garda Síochána, DJELR	Protection available, if necessary, to

				witnesses and suspected victims.
109.	Monitor the effectiveness of the Witness Protection Programme as it applies to trafficking cases.	Ongoing	The Garda Síochána	Protection available, if necessary, to witnesses and suspected victims.
110.	Make the detection of human trafficking a policing priority.	2009	DJELR, The Garda Síochána	Pro-active investigations and prosecutions, where appropriate.
111.	Maintain Garda operations against trafficking gangs.	Ongoing	The Garda Síochána	Pro-active investigations and prosecutions, where appropriate.
112.	Effective enforcement of employment related legislation.	Ongoing	DETE, NERA The Garda Síochána (where necessary)	Pro-active investigations and prosecutions, where appropriate.
113.	Consider publicising successful prosecutions against traffickers more widely in source and transit countries.	2010	The Garda Síochána, AHTU, DFA	Investigation outcomes reported in other jurisdictions. Policy acting as a deterrent.
114.	Provide funding to Ruhama for their work in supporting women who may have been trafficked for sexual exploitation or for women required to appear before a court in criminal proceedings.	2009 - 2012	Probation Service, Commission for the Support of Victims of Crime	No. of potential/suspected victims availing of the service provided.
115.	Garda liaison officers to work with potential/suspected victims of sexual exploitation and organisations involved in the fields of sexual and labour exploitation.	Ongoing	The Garda Síochána	No. of potential/suspected victims assisted by the Garda Síochána.
116.	Working Group on Child Trafficking established and meeting regularly.	Ongoing	HLG, AHTU	Work plan for the group drawn up.
117.	Recommendations of Working Group implemented.	By end of Plan	HLG, AHTU, HSE, OMCYA	Measures recommended by working group adopted.
118.	Awareness raising measures among migrant communities.	2009 - 2012	AHTU, WG s	Awareness raising initiatives implemented.
119.	HSE to carry out age assessment using recognised standards.	Ongoing	HSE, GNIB, ORAC	Vulnerable minors identified promptly.
120.	Training programmes for relevant	Ongoing	AHTU, IOM,	Training



	government personnel in the indicators, identification and prevention of trafficking in persons.		relevant Government stakeholders	delivered. Personnel equipped to deal effectively with suspected victims if encountered.
121.	Child Trafficking Working Group to monitor identification procedures and protections for suspected child victims.	Ongoing	CT WG, AHTU	Recommendations of Working Group considered by HLG.
122.	Establish links with airlines to raise awareness among airline staff of the vulnerability of children, particularly if travelling alone.	2009	AHTU, INIS, GNIB	Protocols with airlines agreed.
123.	Provision in the IRP Bill to allow for the registration of all foreign nationals under 18 years.	2009	INIS, DJELR GNIB	Provision commenced.
124.	Explore with Irish airlines developing a Best Practice Code on the carriage of minors and development of information cards for children travelling alone.	2009 - 2010	AHTU, GNIB	Code agreed , if necessary.  Child friendly information cards distributed, if considered necessary.

125.	Enactment of Criminal Law (Human Trafficking) Act 2008 to make it an offence for any person to publish or broadcast any information which is likely to enable the identification of an alleged victim of a trafficking offence.	Completed	Department of Justice, Equality and Law Reform	Legislation operating satisfactorily where need arises.
126.	Enactment of Criminal Law (Human Trafficking) Act 2008 to provide for exclusion of members of the public from criminal proceedings for alleged trafficking offences.	Completed	Department of Justice, Equality and Law Reform	Legislation operating satisfactorily where need arises.
127.	Enactment of Criminal Law (Human Trafficking) Act 2008 to enable an alleged child victim of trafficking the ability to give evidence through a live television link, from either within the State or abroad.	Completed	Department of Justice, Equality and Law Reform	Legislation operating satisfactorily where need arises.
128.	Ongoing review of legislative provisions to ensure their practicality and workability.	Ongoing	Department of Justice, Equality and Law Reform	Legislation operating satisfactorily.
129.	Safe and appropriate accommodation to be provided to child victims of trafficking.	Ongoing	HSE	Potential/suspected child victims appropriately accommodated.
130.	Ensure there are no barriers for trafficked children to accessing education.	Ongoing	AHTU, Dept. of Education & Science, HSE	Potential/suspected child victims attending mainstream

				schools.
131.	Increase awareness among teachers and other education professionals to ensure that a child victim of trafficking is supported in receiving an education.	Ongoing	AHTU, Dept. of Education & Science, NEWB, HSE	Awareness among teaching professionals.
132.	HSE National Operational Plan for separated children to be implemented.	2009 – 2012	HSE	HSE providing appropriate care to potential/suspected child victims in accordance with the best interests of the child principles
133.	Contacts to be developed with the NEWB.	2009	AHTU, NEWB,	Role identified for NEWB in supporting child victims of trafficking.

134.	New national protocols regarding children missing from care signed.	2009	HSE, The Garda Síochána	Protocol implemented effectively.
135.	Establishment of an emergency alert system for missing children as recommended by the Garda Síochána Inspectorate Report into missing persons procedures including Amber Alert system.	2009	DJELR, The Garda Síochána	Alert system in place and operating effectively.

136.	Ensure temporary residence permits will be issued and renewed, as appropriate, if and when it is deemed in the best interest of a child victim of trafficking.	Ongoing	AHTU, HSE, Minister for Justice, Equality and Law Reform, INIS	Residence permits issued as appropriate.
137.	Decisions to repatriate a child victim of trafficking to take due regard of the rights, safety and dignity of the child.	Ongoing	Minister for Justice, Equality and Law Reform INIS, HSE	Repatriation decisions made according to appropriate criteria.
138.	No return of a child will take place if a risk and security assessment indicates that such a return should not take place.	Ongoing	Minister for Justice Equality and Law Reform, INIS, HSE	No child returned if risk and security assessment not favourable.
139.	Enactment and commencement of relevant provisions in relation to recovery/reflection and temporary residence in the Immigration, Residence and Protection Bill.	2009 - 2012	INIS, Department of Justice, Equality and Law Reform	Legislative provisions operating effectively.
140.	Child Trafficking Working Group to examine current practices and procedures around repatriation and voluntary return of child victims.	2009 - 2010	CTWG, AHTU	Recommendations of Working Group considered by HLG.

141.	Child Trafficking Working Group to explore the use of multi/bilateral and international co-operation agreements in verifying voluntary return arrangements.	2009 - 2010	CTWG, AHTU	Recommendations of Working Group considered by HLG.
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142.	Interdepartmental High Level Group to be endowed with responsibility to monitor all anti-trafficking activities.	Ongoing	Minister for Justice, Equality and Law Reform	Monitoring mechanisms in place at national level.
143.	High Level Group supported by Non-governmental and Governmental Roundtable Forum.	Ongoing	Non-governmental and Governmental Roundtable Forum	Feedback from members of Roundtable.
144.	Consultations with relevant stakeholders to be held at midterm review.	End 2010 - Spring 2011	AHTU	Review of National Action Plan.

## Appendix 4

### **ANTI-HUMAN TRAFFICKING ACTION PLAN: SUBMISSIONS**

- 1) The Immigrant Council of Ireland
- 2) The Human Rights Committee of the Law Society
- 3) Daughters of Charity – Vincentian Refugee Centre
- 4) HSE – Baleskin Refugee Health Screening Team
- 5) Irish Human Rights Commission
- 6) Dept. of Political Science and Sociology, NUIG & Irish School of Ecumenics, TCD
- 7) Barnardos
- 8) Amnesty International – Irish Section
- 9) Ruhama
- 10) United Nations High Commissioner for Refugees
- 11) Irish Women Lawyers Association
- 12) MRCI – Migrant Rights Centre Ireland
- 13) Irish Refugee Council
- 14) IOM – International Organisation for Migration
- 15) Integrating Ireland
- 16) Dominican Justice Office
- 17) One in Four
- 18) Irish Federation of University Women
- 19) Stop Sex Trafficking
- 20) International Human Rights Network
- 21) APT – Act to Prevent Trafficking
- 22) Unicef
- 23) Cúram
- 24) Ombudsman for children: do leanaí
- 25) Public Consultation
- 26) Public Consultation
- 27) Public Consultation
- 28) Public Consultation
- 29) Public Consultation

## Appendix 5

### **Protocols for (1) recording and (2) submitting and (3) requesting data on possible cases of human trafficking**

1. On the basis of your organisation's initial assessment, all suspected cases of trafficking reported to the Anti-Human Trafficking Unit must be in line with the definition of trafficking as outlined in the Criminal Law (Human Trafficking) Act 2008.
2. Any cases where trafficking is suspected should be reported to the Anti-Human Trafficking Unit by completing the standardised template for each individual case and sending it via email to [ahtu@justice.ie](mailto:ahtu@justice.ie)
3. Respondents should answer each question on the template by ticking the appropriate boxes . This will involve either providing the information required or indicating that the information is not known or that the question is not applicable to the victim. This will help avoid confusion regarding whether information is not known or that a question has mistakenly been left unanswered.
4. All respondents will receive a notification via email confirming receipt of the template by the Anti-Human Trafficking Unit as soon as possible.
5. All information contained on the template must be anonymous and must have an ID code in place of the suspected victim's name. This is to ensure that the victim's identification is kept confidential.
6. The reporting organisation must develop an ID coding system to be used in place of the victim's name when completing the template. ID codes used by reporting organisations should preferably contain some of the name of that organisation e.g. ICI 5, MRCI 8 etc. However this is a decision for the reporting organisation.

7. Reporting organisations will be required to keep a record of any cases of suspected trafficking sent to the AHTU along with the ID code and the suspected victim's personal details. This information must be kept in a secure location. Ideally, organisations should have an encrypted folder on their system which contains copies of all of the templates/cases sent to the Anti-Human Trafficking Unit. In regard to hard copies of the victim's information, these must also be stored in a secure location such as a locked cabinet. Access to a victim's personal details must be restricted to personnel dealing with victims cases.
8. Reporting organisations will be required to provide an update on any cases of suspected trafficking to the Anti-Human Trafficking Unit on a regular basis. In circumstances where no new developments have occurred, a report stating this should be submitted via email to the Anti-Human Trafficking Unit.
9. Reporting organisations should attempt, so far as it is possible, to keep track of changes to a victim's circumstances in terms of any new information concerning his/her personal details, experience of trafficking or services victims have accessed. One possible solution could be to mark each updated piece of information in a different colour e.g. yellow tick for first update ✓, green for the second ✓, blue for the third ✓ etc. [For simplicity sake, this coding system is based on the order of colours as they appear in the highlight tool found on the top right of the Microsoft Word toolbar located between the outside border tool and the font colour tool].
10. Reports regarding the prevalence and nature of possible cases of trafficking will be provided by the AHTU on a regular basis. However, if necessary and essential, reporting organisations can request data at other times from the AHTU. This will require the reporting organisation to submit a request via email.

## THB Victim Data Collection Form

1. Victim ID code \_\_\_\_\_
2. Date arrived in Ireland \_\_\_\_\_
3. Referred to your organisation from \_\_\_\_\_  
Date \_\_\_\_\_
4. Referred from your organisation to \_\_\_\_\_  
Date \_\_\_\_\_

### Victim's Information

*Personal information*

<b>5. Gender</b>	Male	
	Female	
	Don't know	
<hr/>		
<b>6. Age (approximate)</b>	Age _____ (Date of Birth <i>if known</i> ) __/__/__	
	Possible minor	
	Don't know	
<hr/>		
<b>7. Nationality</b>	_____	
	Don't know	
<hr/>		
<b>8. Country of residence (pre-departure)</b>	_____	
	Don't know	
<hr/>		
<b>9. Marital status</b>	Married	
	In a relationship	
	Single	
	Separated	
	Divorced	
	Widowed	
	Don't know	

<b>10. Number of children</b>	Number of children in Ireland	
	Number of children outside Ireland	
	Does not have children	
	Don't know	
<b>11. Level of education completed</b>	Primary	
	Secondary	
	Third level	
	Other (specify)	
	No education received	
	Don't know	
<b>12. Occupation (pre-departure)</b>	Agriculture	
	Manufacturing	
	Construction	
	Office work (clerical or administration)	
	Professional, technical and health sector	
	Restaurant, hotel, catering etc.	
	Work in the home/Domestic work	
	Cleaning and maintenance	
	Entertainment and circus	
	Seafarers	
	Security Services	
	Shop and retail	
	Transport	
	Student (school)	
	Student (university)	
	Unemployed	
	Other (specify)	



	Don't know	
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***Immigration status***

<b>13. Immigration status on arrival</b>	Specify status on arrival	
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	Don't know	
--	------------	--

<b>14. Present immigration status</b>	Specify current status	
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	Don't know	
--	------------	--

***Motive for migrating***

<b>15. Motives for migrating</b>	Job opportunity	
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	Study	
--	-------	--

	Wanted adventure	
--	------------------	--

	Chronic economic need	
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	Forced or kidnapped	
--	---------------------	--

	Crisis in the family (eg. Illness)	
--	------------------------------------	--

	Marriage	
--	----------	--

	Family conflict/problem	
--	-------------------------	--

	Political situation in country of origin	
--	--	--

	Natural disaster in country of origin	
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	Other (specify)	
--	-----------------	--

	Don't know	
--	------------	--

***Country where victim was recruited***

<b>16a. Specify country</b>	_____
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***Means of recruitment in trafficking process***

<b>16b. Victim recruited by/through</b>	Family member	
	Relative	
	Partner	
	Friend	
	Acquaintance	
	Employment agency	
	Newspaper advert	
	Radio advert	
	Internet advert	
	Television advert	
	Kidnapped	
	Other (specify) _____	
	Don't know	

***Type of exploitation experienced***

<b>17. Type of exploitation</b>	Sexual exploitation	
	Labour exploitation	
	Removal of organs	
	Other (specify) _____	
	No actual sexual exploitation but real and substantial threat of exploitation occurring	
	No actual labour exploitation but real and substantial threat of exploitation occurring	
	Don't know	

***Country where victim was exploited***

<b>17a. Specify country</b>	_____
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***Sexual exploitation***

<b>18. Details of activities involved</b>	Prostitution	
	Production of pornography	
	Sex tourism	
	Other (specify) _____	
	Sexual exploitation not applicable	
	Don't know	

<b>19. Role of the victim in exploitation process</b>	Prostitute	
	Escort	
	Masseuse	
	Dancer	
	Stripper	
	Other (specify) _____	
	Sexual exploitation not applicable	
	Don't know	

<b>20. Control/coercion experienced in the context of sexual exploitation</b>	Denial of freedom to refuse client	
	Denial of freedom to refuse certain acts	
	Denial of freedom to use a condom	
	Other means of control used _____	
	Sexual exploitation not applicable	
	Don't know	

<b>21. Place of exploitation</b>	On street	
	Off street (apartment/house)	
	Club	
	Hotel/hostel/B&B	
	Other (specify) _____	

	Sexual exploitation not applicable	
	Don't know	

***Labour exploitation***

<b>22. Type of exploitation</b>	Slavery	
	Forced labour	
	Bonded labour	
	Other (specify)	
	Labour exploitation not applicable	
	Don't know	
<b>23. Sector of labour exploitation</b>	Agriculture	
	Industry	
	Shipping	
	Restaurant sector	
	Hotel sector	
	Domestic work	
	Other (specify)	
	Labour exploitation not applicable	
	Don't know	

***Organ removal***

<b>24. Organs removed</b>	Specify organs	
	Organ removal not applicable	
	Don't know	

***Other forms of exploitation***

<b>25. Type of exploitation</b>	Begging	
	Drug dealing	
	Drug manufacture	
	Other forms of exploitation (specify)	
	Other forms of exploitation not applicable	
	Don't know	

***Means by which victim was controlled***

<b>26. Type of control used</b>	Physical abuse	
	Psychological abuse	
	Sexual abuse	
	Threats to the individual	
	Threats to family in country of origin	
	Threat of action by law enforcement	
	Deception	
	Denied freedom of movement	
	Giving of drugs	
	Giving of alcohol	
	Denied medical treatment	
	Denied food drink	
	Withholding of wages	
	Withholding of identity documents	
	Withholding of travel documents	
	Debt bondage	
	Excessive working hours	
	Other	
	Don't know	

***Income***

<b>27. Income earned during exploitation process</b>	Total income per month € _____	
	Don't know	
	Income retained by victim per month € _____	
	Don't know	

*Duration of exploitation*

<b>28. Duration of exploitation</b>	Less than 1 month	
	1-3 months	
	6-12 months	
	>12 months	
	Don't know	

*Transportation to Ireland*

<b>29. Time taken travelling to Ireland</b>	Less than 1 month	
	1-3 months	
	3-6 months	
	6-12 months	
	>12 months	
	Don't know	
<b>30. Means of transport used to enter Rep of Ireland</b>	Car	
	Bus	
	Train	
	Boat	
	Plane	
	Truck/container	
	On foot	
	Other (specify) _____	
	Don't know	
<b>31. Nations crossed during the trafficking process</b>	Country/countries transited (specify) _____	
	Don't know	

***Exploitation during transportation***

<b>32. Experience of and type of exploitation during transport</b>	Sexual exploitation	
	Labour exploitation	
	Organ removal	
	Other exploitation (specify) _____	
	No exploitation occurred during transportation	
	Don't know	

***Money sought***

<b>33. Victim's debt</b>	Victims debt towards traffickers € _____	
	Don't know	

***Personal documents***

<b>34. Documents taken from victim by traffickers</b>	Work permit	
	Identity card	
	Passport	
	Driving license	
	Visa	
	Birth cert	
	Marriage cert	
	Residence permit	
	Other documents (specify) _____	
	No documents seized on arrival	
	Don't know	

<b>35. Use of forged documents</b>	Work permit	
	Identity card	
	Passport	
	Driving license	
	Visa	
	Birth cert	
	Marriage cert	
	Residence permit	
	Other documents (specify) _____	
	No use of forged documents	
	Don't know	

***Re-victimisation***

<b>36. Previous experience of trafficking</b>	Victim re-trafficked into the <b>same</b> area of exploitation	
	Victim re-trafficked into <b>different</b> area of exploitation	
	Victim had not been trafficked previously	
	Don't know	
<b><i>Harbouring</i></b>		
<b>37. Area where victim is harboured</b>	County _____	
	Don't know	
<b>38. Place where victim is harboured</b>	Private house/apartment private	
	Hotel/hostel/B&B	



	Other place (specify)	
	Don't know	
<b>Services received</b>		
<b>39. Services received</b>	Short term shelter <i>Provided by</i> _____	
	Mid to long term accommodation <i>Provided by</i> _____	
	Medical assessment <i>Provided by</i> _____	
	Emergency medical care <i>Provided by</i> _____	
	Longer-term medical care <i>Provided by</i> _____	
	Care plan <i>Complied by</i> _____	
	Longer term psychological assistance <i>Provided by</i> _____	
	Family tracking services <i>Provided by</i> _____	
	Housing subsidy assistance <i>Provided by</i> _____	
	Education (Language VEC etc.) <i>Provided by</i> _____	
	Vocational training <i>Provided by</i> _____	
	Job placement <i>Provided by</i> _____	
	Material assistance (social welfare payments, clothes, food etc.) <i>Provided by</i> _____	
	Voluntary return <i>Provided by</i> _____	
	Legal Services <i>Provided by</i> _____	

	Other <i>Provided by</i>	
	No services received	
	Don't know	

**Groups involved in scoping exercise to ascertain the nature and extent of data on trafficking in human beings**

- **ORAC (meeting held)**
- **MRCI (meeting held)**
- **Ruhama (meeting held)**
- **IOM (meeting held)**
- **ICI (contacted and meeting arranged)**
- **Sexual Violence Centre Cork (contacted and awaiting response, letter sent)**
- **HSE (contacted and awaiting response)**
- **Women's Health Clinic Baggot St (contacted and awaiting response, letter sent)**
- **IRC (contacted but no data is being recorded)**

## Appendix 6

# Fines and Penalties: Employment Law Offences

The table below sets out the current position concerning the maximum penalties that may be imposed on conviction in respect of the main legislation enforced by the National Employment Rights Authority).

<b>Legislation</b>	<b>Maximum Fines</b>
Industrial Relations Acts, 1946 - 1990 (breaches of minimum pay, working conditions and records provisions in Employment Regulation Orders and Registered Employment Agreements)	<b>€952.30</b> <b>€634.87</b> <b>€1,269.84</b> <b>€253.95</b> - fine for each continuing offence
Protection of Young Persons (Employment) Act, 1996 (breaches of provisions governing employment of children and young persons)	<b>€1,904.61</b> <b>€317.43</b> – fine for each continuing offence
Organisation of Working Time Act, 1997 (breaches of records provisions, obstructing an inspector)	<b>€1,904.61</b> <b>€634.87</b> – fine for each continuing offence
National Minimum Wage Act, 2000 (failure to pay minimum wage, breaches of records provisions)	<b>€1,904.61</b> <b>€253.95</b> – fine for each continuing offence <b>€12,697.38</b> – conviction on indictment <b>€1,269.74</b> – fine for each continuing offence on conviction on indictment
Payment of Wages Act, 1991 (failure to provide payslips or requisite details on payslips)	<b>€1,269.74</b>

Towards 2016, the Social Partnership Agreement, recommended that penalties for non-compliance in all areas of employment law should be reviewed and increased. The Employment Law Compliance Bill, published in March, 2008, provides on summary conviction, for fines not exceeding €5,000 and/or imprisonment for a term not exceeding 12 months and on conviction on indictment for fines not exceeding €250,000 and/or imprisonment for a term not exceeding 3 years.

