

**Alternative Report on the implementation of the Optional Protocol to the
Convention on the Rights of the Child on the sale of children, child prostitution
and child pornography**

Joint Report by:

Children's Rights Alliance for England

ECPAT UK

With the support of

Barnardo's

Coram Children's Legal Centre

The Children's Society

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About The Children's Rights Alliance for England:

The Children's Rights Alliance for England (CRAE) seeks the full implementation of the UN Convention on the Rights of the Child (CRC) in England. Our vision is of a society where the human rights of all children are recognised and realised.

CRAE protects the human rights of children by lobbying government and others who hold power, by bringing or supporting test cases and by using national, regional and international human rights mechanisms.

CRAE provides free legal information, raises awareness of children's human rights, and undertakes research about children's access to their rights.

CRAE mobilises others, including children and young people, to take action to promote and protect children's human rights.

Each year CRAE publishes a review of the state of children's rights in England.

About ECPAT UK

ECPAT UK is a leading UK children's rights organisation, campaigning since 1993 to protect children from all forms of trafficking and commercial sexual exploitation.

ECPAT UK works at the highest levels of government but also reaches out to practitioners and those working directly with children through research, training and capacity building.

ECPAT UK works with child protection agencies, communities and government, UK and international police, and NGOs, to identify strategies to combat child trafficking and the exploitation of children in tourism.

ECPAT UK is the national representative of ECPAT International, a global movement in over 70 countries.

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Introduction

1. This shadow report is a joint report by CRAE and ECPAT UK, UK non-governmental organisations (NGOs) with a particular interest in the protection and promotion of children's rights. This submission is also supported by other NGOs from across the UK which work to protect children and promote children's rights.
2. This report is a response to the UK Government's Initial Report to the United Nations Committee on the Rights of the Child (the Committee) under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC).¹
3. The report provides an NGO perspective on the progress made by the UK Government in implementing the OPSC in England. We welcome the opportunity to make this submission to the Committee in advance of its examination of the UK's compliance with the OPSC. The participating NGOs seek to work constructively with the Committee and the UK Government to achieve the protection and assistance afforded to children in the UK by the OPSC and other international anti-trafficking instruments.

Summary

4. The key recommendations from this report are summarised here:

Trafficking:

An independent Anti-Trafficking Commissioner should be introduced to act as a 'national rapporteur' in order to accurately collect trafficking data and oversee trafficking policy and practice in the UK.

A child's immigration status and trafficking situation need to be treated and dealt with as separate issues. Overall responsibility for child trafficking should sit with the Department for Education (DfE), which is tasked with child protection and safeguarding (not the Home Office Agency which has a primary duty to protect the UK's borders). The Competent Authority (CA) status of UK Visas and Immigration and Immigration Enforcement should be removed leaving CA status with the UK Human Trafficking Centre (UKHTC).

The National Referral Mechanism (NRM) should be independently reviewed and comprehensive and appropriate Quality Standards should be introduced.

The referral of a child into the NRM should become a statutory duty for First Responders.

A statutory right of appeal should be introduced into the trafficking identification process.

¹ Initial Reports of the United Kingdom of Great Britain and Northern Ireland (6 June 2011) submitted under article 12, paragraph 1 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/GBR/1)

Training and statutory guidance should be introduced for professionals likely to come into contact with victims of trafficking.

There must be effective monitoring, registration and safeguarding of children at all ports of entry in the UK.

A national policing policy on child trafficking should be developed and forces should have specialised investigators specifically tasked with investigating trafficking offences. Police and Crime Commissioners and Her Majesty's Inspectorate of Constabulary should bring accountability for policing in relation to trafficking.

The Government should establish a system of guardianship for all potential victims of child trafficking (all separated children).

Young people who claim they are children should be given the benefit of the doubt until such time as a holistic, multi-agency age assessment has been concluded and any dispute has been resolved.

Minimum quality standards should be introduced across England for the provision of 'safe accommodation' for child victims of trafficking.

There should be a statutory statement of policy regarding the non-prosecution of victims of trafficking.

Children should be granted indefinite leave to remain as soon as they are identified as victims of trafficking.

Access to compensation and the real possibility of securing it needs to be mainstreamed into policy and practice as part of the NRM process.

Child Sexual Exploitation (CSE):

There should be a national database providing information on the nature and prevalence of CSE.

An awareness-raising and training strategy should be introduced for all agencies working with or in contact with vulnerable children and for young people, their families and communities.

A multi-agency strategy to address CSE should be established and implemented.

Local authority activities to safeguard young people from CSE should be subject to inspection.

There should be a clear multi-agency system to identify and respond to children who go missing, including those abducted and forcibly moved within the UK.

There should be a comprehensive assessment of the availability and appropriateness of specific forms of accommodation provided by local authorities in response to the needs of looked after children.

A ban should be introduced on any child in care, or leaving care, being placed in bed and breakfast accommodation.

There should be monthly inspection visits to private children's homes carried out by a person independent of the organisation and approved by the Local Authority.

There should be statutory guidance to reflect the objective that prosecutions for CSE should be pursued wherever possible.

Measures need to be implemented nationally to make the process before, during and after court a less daunting and traumatic one for child victims of all forms of exploitation, including national availability of pre-trial video-recorded cross-examination across for all forms of exploitation.

The laws on British nationals sexually exploiting vulnerable children overseas should be simplified.

II. Data

Data collection

Issue: Lack of reliable and representative data

Child trafficking

5. There remains no comprehensive and systematic collection of data on victims and perpetrators of child trafficking. Accurate and reliable data is vital for relevant agencies to understand the nature and scale of the issue, how best to protect and support child victims, respond effectively, allocate resources appropriately and prosecute traffickers successfully.
6. The National Referral Mechanism (NRM) is a framework for identifying victims of human trafficking and ensuring they receive the appropriate protection and support. Potential trafficking victims are referred to one of the UK's two Competent Authorities (CAs), the UK Human Trafficking Centre (UKHTC) and UK Visas and Immigration within the Home Office. These referrals are made by authorised agencies ('first responders') such as a police force, social services or certain NGOs.
7. The NRM is also the mechanism through which the UKHTC collects data about victims. It provides the only available national dataset of known and suspected trafficked children based on the number of referrals to the NRM and the number of decisions by the CAs as to whether the referred child is a trafficking victim. As such, it is often relied upon by the Government as the 'official' estimate of the problem. However, this data fails to reflect actual numbers of child trafficking victims. The NRM, by definition, records only victims who are identified and referred to it and so represents just the 'tip of the iceberg' in terms of numbers.
8. The NRM was not established for the purpose of data collection and is subject to a number of limitations. Awareness of the NRM is very low among those responsible

for referring suspected trafficking cases. A recent survey of London Local Safeguarding Children Boards (LSCBs), for example, found only 19 out of 43 child victims were referred into the NRM.² In addition, in terms of referred cases, data is not disaggregated by region making it difficult to assess regional trends and how different areas are using the referral process.

9. Limitations affect other potential sources of data collection. The UKHTC, for example, undertook what was intended to be the first assessment of the full extent of human trafficking in the UK.³ However, the UKHTC does not have statutory powers to require relevant agencies to provide trafficking data and only 21 of the UK's 47 police forces responded to its request for intelligence (of which 7 provided no information).⁴ The assessment also failed to seek data from local authority (LA) children's services, which meant there was likely to be a significant underestimation with regard to child victims of trafficking.
10. With different bodies responsible for identifying and countering trafficking and the care and protection of children, different organisations apply inconsistent definitions and understanding of trafficking, depending on their roles.⁵ This undermines the collection of reliable data. A complete picture of child trafficking will not be possible until one single statutory body is given responsibility and the necessary powers for collecting and analysing data.
11. The Committee should recommend to the UK Government:

The introduction of an independent Anti-Trafficking Commissioner to act as a 'national rapporteur', as required under the Council of Europe Convention on Action against Trafficking in Human Beings⁶ (the Trafficking Convention) and the EU Directive 2011/36 on preventing and combating trafficking in human beings and protecting its victims⁷ (the Trafficking Directive) in order to accurately collect and assess trafficking data in the UK.

Further research should be conducted by the UKHTC into the extent of child trafficking in the UK, taking into account the number of referrals that are not made by social workers, and exploring the reasons behind this.

Child Sexual Exploitation (CSE)

12. There is no established national system for identifying, collecting and recording data on the nature and prevalence of Child Sexual Exploitation (CSE), and until the recent thematic assessment⁸ by the Child Exploitation and Online Protection Centre

² The Anti-Trafficking Monitoring Group (2013) *An Independent Anti-Trafficking Commissioner on Human Trafficking*

³ Serious Organised Crime Agency (2012) *UKHTC: A Baseline Assessment on the Nature and Scale of Human Trafficking in 2011*

⁴ *Ibid*, p. 3

⁵ Rigby R., Malloch M. and Hamilton Smith, N. (2012) *A Report on Child Trafficking and Care Provision: Towards better survivor care*

⁶ Council of Europe Convention on Action against Trafficking in Human Beings, 2005

⁷ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

⁸ CEOP (2011) *Thematic Assessment: Out of mind, out of sight*

(CEOP) and a recent inquiry by the Office of the Children's Commissioner no attempt had been made to produce a national picture.

13. At a local level, despite the fact that current guidance⁹ requires LSCBs to put systems in place to monitor prevalence and responses to CSE within their area, many LSCBs do not do so. Out of the LSCBs surveyed in research by the University of Bedfordshire¹⁰, only one LSCB collected and shared data at both agency and LSCB level. Over half of the LSCBs reported that they were not recording any data on CSE, and this was reflected in the low level of responses from LSCBs to both this research and the thematic assessment by the Child Exploitation and Online Protection Centre.

14. The Committee should recommend to the UK Government:

A national database providing information on the nature and prevalence of CSE should be maintained and monitored, including proactive collection of data by LSCBs and police on the basis of a template/an agreed methodology for use by all front line agencies in gathering and recording data of known or suspected CSE cases.

III. General measures of implementation

Legislation

Issue: Confusing and non-children specific trafficking legislation

15. There is no specific UK legislation concerning child trafficking, either for the prosecution of child trafficking offences or support services for child victims. There needs to be greater recognition in the legislation and accompanying guidance that child trafficking is not merely a sub category of human trafficking.

16. Further, existing legislation criminalising trafficking has developed in a piecemeal fashion and is contained in several legal instruments according to the form of exploitation involved. Different legislation¹¹ criminalises the offences of trafficking for sexual exploitation; non-sexual exploitation; slavery, servitude and forced or compulsory labour; removal of organs; and payment of sexual services provided by a prostitute subjected to force, deception, threats or other form of coercion. This separation is confusing and has the potential to cause misunderstanding for those whose job it is to enforce the legislation. Further potential for misunderstanding, and for trafficking being misconceived as mainly an immigration issue, lies in the fact trafficking for non-sexual exploitation falls under immigration law¹² rather than criminal law.

⁹ Department for Children, Schools and Families (2009) *Safeguarding Children and Young People from Sexual Exploitation*

¹⁰ Jago et al (2011) *What's going on to safeguard children and young people from sexual exploitation? How local partnerships respond to child sexual exploitation*, University of Bedfordshire

¹¹ For full details of the relevant legislation see report by GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*, paras 18 to 21

¹² The Asylum and Immigration (Treatment of Claimants, etc) Act 2004

17. The different trafficking offences are inconsistent regarding the actions, means and forms of exploitation, leading to a failure adequately to reflect the definition of trafficking in the Trafficking Convention.¹³ This can cause problems in terms of prosecution and conviction of traffickers, an issue noted in the Government's Human Trafficking Strategy, which recognises that legislative discrepancies exist¹⁴. As such, as highlighted by the Equality and Human Rights Commission¹⁵, UK legislation is '*inconsistent both internally and in comparison with international law, and has served to limit its scope and impact*'. Of particular concern is the fact that certain sexual exploitation offences relate only to persons under 13 years of age or under 16, but mistaken by the offender to be older.¹⁶

18. The Committee should recommend to the UK Government:

Existing legislation be subsumed into a new single piece of legislation regarding child trafficking for any form of exploitation. This should also include provisions to address other issues identified below including provisions to ensure victims of human trafficking are not prosecuted for crimes they may have committed as a consequence of their trafficking situation and provisions setting out the role and powers of the proposed Anti-Trafficking Commissioner.

The proposed legislation should be drafted to ensure all victims of child trafficking (both for sexual and any other type of exploitation) who are under 18 years of age are treated as child victims of trafficking and receive adequate protection and specialised assistance, in accordance with Article 8(1) of the OPSC.

The proposed legislation should be drafted to adequately reflect the definition of trafficking in the Trafficking Convention.

Coordination and evaluation of the OPSC's implementation

Trafficking:

Issue: No independent oversight of Government policy

19. There is a need for an independent body to collect and analyse child trafficking data, monitor trends and the impact of legislation, provide an objective and robust evaluation of the effectiveness and implementation of the Government's anti-trafficking policies and mechanisms, and make recommendations to improve their efficacy based on the available evidence. There is a need for somebody to promote the views of those who have been trafficked into, out of and within the UK, in order that the experiences of victims and survivors help shape policy.

20. The appointment of a 'rapporteur' (or equivalent) tasked with independently scrutinising a country's anti-trafficking work is a recommendation of the Trafficking Convention and a requirement of the Trafficking Directive.¹⁷ However, no such

¹³ GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round* para 75

¹⁴ Home Office (2011) *Human Trafficking: The Government's Strategy*, para 93

¹⁵ Equality and Human Rights Commission Scotland (2011) *Inquiry into Human Trafficking in Scotland*

¹⁶ Sections 5 to 14 of the Sexual Offences Act 2003

¹⁷ Articles 29 (4) and 19 respectively

independent body exists in England. The UK has a number of agencies working on trafficking. However, as currently constituted, none can fulfil this independent role.

21. The Government considers that the Inter Departmental Ministerial Group (IDMG) fulfils this role. However, the IDMG is not independent of Government and so cannot fulfil the necessary roles of oversight and accountability.¹⁸ There is clearly a conflict of interest in the Government having responsibility for both the design and implementation of an anti-trafficking strategy and its subsequent evaluation. The shortcomings of the IDMG's report,¹⁹ which presents an inaccurate picture of trafficking and a lack of detail regarding children in particular, are testimony to its unsuitability and inability to perform the role that is needed.

22. The Committee should recommend to the UK Government:

Introduction of an independent Anti-Trafficking Commissioner to act as a 'national rapporteur'.

Dissemination and training

Trafficking

Issue: Lack of specialist/good quality and regular training for those who work with or may come into contact with child victims of trafficking

23. There is a general lack of awareness about child trafficking and understanding about the NRM's existence, purpose and process among frontline professionals, such as social workers and police. ECPAT UK has often found those tasked with referral have never heard of the NRM.²⁰ This low awareness and understanding leads to low numbers of referrals to the NRM. Where referrals are made, the detail and quality of them is poor resulting in low numbers getting 'Positive Conclusive Grounds decisions' which would entitle them to further support; out of 390 children referred in the NRM's first two years, only 36% received a 'Positive Conclusive Grounds' decision.²¹

24. LAs remain reluctant to train staff on the issue of child trafficking; a survey of the 32 LSCBs showed only 8 of the 14 LAs who responded had implemented The London Trafficking Toolkit and Practice Guidance, guidance developed by the London LSCB to help agencies who may come into contact with suspected victims of trafficking in identifying, assessing the needs of and supporting those children.²² Concerns have been expressed by certain practitioners that training does not always reach those frontline professionals who are best placed to identify victims of trafficking, in particular health professionals, LAs and neighbourhood police.²³

¹⁸ Institute for Public Policy Research (2012) *The UK's response to human trafficking: Fit for purpose?*, p16

¹⁹ IDMG (2012) *First Annual Report of the IDMG on Human Trafficking*

²⁰ ECPAT UK (2012) *ECPAT UK Briefing: The National Referral Mechanism - for children*

²¹ ECPAT UK Press Release (24 August 2012) *New child trafficking figures are 'tip of the iceberg'*

²² *Ibid*

²³ GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*, para 126

25. Police officers have reported a lack of knowledge in their force, and the confusion over what human trafficking is.²⁴ Whilst the Metropolitan Police has developed an e-learning package to raise awareness of trafficking, some forces have reported that just two officers in the force have undergone this online training and recent reports show almost 90 per cent of officers in England and Wales have not accessed the training.²⁵ Judges²⁶ and lawyers are not specifically trained on trafficking, let alone child trafficking. Similarly, First Responders are given no formal – and certainly no standardised or certified – training on the issues and indicators they should look for. There is evidence of a wide range of awareness and competence amongst First Responders²⁷, highlighting a need for an agreed First Responder training package.
26. Training must address all forms of child trafficking. Forced labour is one of the most prevalent forms of known exploitation in the UK, with there being almost as many known cases of trafficking of children for forced labour as for CSE.²⁸ However, this remains an area with some intelligence gaps²⁹ due partly to a lack of awareness of agencies on the indicators of forced labour and what to do if they do identify it.³⁰
27. The Committee should recommend to the UK Government:

The need for referral of a child into the NRM to become a statutory duty for First Responders.

The need for a statutory trafficking toolkit or similar guidance for First Responders to be developed, including indicators of trafficking and information to be included on the NRM referral form.

Her Majesty's Prison Service, specifically Young Offender Institutions (YOIs), should be granted the status of First Responder.

The further development of regular, quality multi-agency training for frontline staff, First Responders and CAs on the identification of victims and their protection.

All pre- and post-qualifying training for professionals working with young people should include child trafficking and should form part of their continued professional development.

²⁴ The Centre for Social Justice (2013) *It Happens Here: Equipping the United Kingdom to fight modern slavery*, p85

²⁵ *Ibid*

²⁶ GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*, para 119

²⁷ *Ibid*

²⁸ The Centre for Social Justice (2013) *It Happens Here: Equipping the United Kingdom to fight modern slavery*, Figure 1.2

²⁹ Inter-Departmental Ministerial Group on Human Trafficking (2012) *First annual report of the Inter-Departmental Ministerial Group on human trafficking*, p. 71

³⁰ The Centre for Social Justice (2013) *It Happens Here: Equipping the United Kingdom to fight modern slavery*, p. 37

CSE

Issue: Awareness raising and training on CSE is piecemeal and inadequate, particularly with young people, families and carers.

28. Awareness raising and training are essential to effective early intervention to ensure potential victims can be safeguarded and action taken to mitigate risk. Many practitioners and frontline police officers, however, refer to a general lack of awareness of the signs and symptoms of CSE.³¹ Many areas provide little or no training and despite LSCBs having a responsibility to ensure agencies are provided with training on how to safeguard young people, no resources are ring-fenced within the LCSB's budget to meet the cost of training on CSE.³² There is evidence that agencies have reduced their uptake of awareness raising and training on CSE.³³
29. Children who have been subjected to CSE can experience poor care, owing to the attitudes of professionals who are supposed to care for them. Research has found that the perception of capacity – and indeed blame for a child's situation – increases with a young person's age to the extent that 16 and 17-year-olds are rarely recognised as deserving of protection.³⁴ The corollary to this is that action will not be taken against those who abuse them. A review by the Rochdale Borough Safeguarding Children Board into the sexual exploitation of girls in Rochdale found that in children's social care, the focus was on younger children at risk of abuse from family and household members, rather than on vulnerable adolescents. It also found that the missed opportunities were due in part to staff attitudes: '*Case files state that the children were often considered to be 'making their own choices' and to be 'engaging in consensual sexual activity'*'.³⁵

This chimes with findings of the Office of the Children's Commissioner:

The panel was presented with confused and inconsistent understanding on the part of both professionals and young people of the concept of consent to sexual activity. Children and young people who were being sexually exploited were frequently described by professionals in many localities as being 'promiscuous', 'liking the glamour', engaging in 'risky behaviour' and being generally badly behaved. Some of the most common phrases used to describe the young person's behaviour were: 'prostituting herself', 'sexually available' and 'asking for it'. The Inquiry panel believes this labelling reflects a worrying perspective held by some professionals, namely that children are complicit in, and responsible for, their own abuse.

³¹ CEOP (2011) *Thematic Assessment: Out of mind, out of sight*

³² Jago et al (2011) *What's going on to safeguard children and young people from sexual exploitation? How local partnerships respond to child sexual exploitation*, University of Bedfordshire, Annex G

³³ Bamardo's (2012) *How is the UK progressing in protecting its children from sexual exploitation?* p. 15

³⁴ Jago et al (2011) *What's going on to safeguard children and young people from sexual exploitation? How local partnerships respond to child sexual exploitation*, University of Bedfordshire

³⁵ Rochdale Borough Safeguarding Children Board (September 2012) *Review of Multi-agency Responses to the Sexual Exploitation of Children*

An inquiry by the APPG for Runaway and Missing Children and Adults and the APPG for Looked after Children and Care Leavers made similar findings:

Professionals are failing some children by not picking up the signs of abuse or exploitation. The Inquiry heard that some professionals perceive these children as 'troublesome', 'promiscuous', 'criminals' or indeed 'slags who knew what they were getting themselves into' rather than extremely vulnerable young people in need of support.³⁶

30. Raising awareness of CSE amongst young people helps them recognise exploitation and gives them the tools to protect themselves. Equally important is raising the awareness of parents and carers as they are most likely to be the first to be aware of a change in a young person which may give cause for concern. However, young people, their families and carers receive awareness-raising in less than half of the country, with 16% of the LSCB areas surveyed having no plans to provide specific advice on CSE to young people or parents and carers.³⁷ The availability of guidance specifically directed at parents or carers is similarly far from widespread. There is a need for awareness raising and training for teachers in schools in relation to CSE and healthy relationships. Children must be taught in relation to these subjects as part of the schools' curriculum.

31. The Committee should recommend to the UK Government:

32. The development and implementation of an awareness raising and training strategy programme for all agencies working with or in contact with vulnerable children and that extends awareness-raising to young people, their families and communities, including training teachers in schools in relation to CSE and healthy relationships. Children must be taught in relation to these subjects as part of the schools' curriculum. This needs to include awareness-raising of the use of technology in CSE.

All pre- and post-qualifying training for professionals should include CSE and should form part of their continued professional development.

IV. Prevention

Trafficking

Issue: Lack of a UK wide approach to protecting children at ports

33. There is still no UK wide approach to protecting children at ports. Instead, children usually come into contact with immigration officers who are not child protection officers and are not adequately trained on the identification of trafficking victims. This is particularly dangerous for younger children who are often trafficked into the UK as part of a 'family group' which is harder to detect at port.

³⁶ APPG for Runaway and Missing Children and Adults and the APPG for Looked-after Children and Care Leavers (June 2012) *Report from the Joint Inquiry into Children who go Missing from Care*, pp. 9–10

³⁷ Jago et al (2011) *What's going on to safeguard children and young people from sexual exploitation? How local partnerships respond to child sexual exploitation*, University of Bedfordshire, p. 4

34. The Metropolitan Police's Paladin Team and Operation Newbridge³⁸ show how multi-agency specialist teams working at UK ports to combat child trafficking can succeed. We understand in this regard that the Paladin Team is to be drastically reduced in size and capacity and have serious concerns as to the impact this will have on children entering the UK at Heathrow and other ports.

35. The Committee should recommend to the UK Government:

Effective monitoring and registration of children at all ports of entry in the UK.

The introduction of multi-agency child safeguarding teams to operate at UK ports.

Training should be given to flight staff on budget airlines, in recognition that these are more frequently used by traffickers due to the low cost of tickets.

CSE

Issue: The high number of children in England who are sexually exploited

36. The Deputy Children's Commissioner has said that there '*isn't a town, village or hamlet in which children are not being sexually exploited*'.³⁹ Her recent Inquiry into Child Sexual Exploitation in Gangs and Groups (the OCC Inquiry)⁴⁰ identified 16,500 children in England as being at high risk of CSE (during the period April 2010 - March 2011) and 2,409 children were confirmed as victims of sexual exploitation in gangs and groups (from August 2010 to October 2011). The interim report makes it clear there is in no doubt the actual number of victims is far higher.

37. According to current Government guidance⁴¹ LSCBs should introduce systems to monitor prevalence of and responses to CSE within their area and recommends a multi-agency approach. However, recent research⁴² shows: three quarters of LSCBs are not proactively implementing the guidance; many LSCBs do not collate CSE data, and data monitoring is problematic for all; only just over half have up to date protocols to address CSE; only a quarter have appointed a CSE strategy coordinator and less than half of LSCBs have a lead professional for CSE.

38. Evidence to the OCC Inquiry shows there is little co-ordination between those involved in tackling CSE and no consistent method for identifying and assessing children and young people who are being abused. Agencies, for example, often fail to agree as to whether a particular CSE incident should be viewed as a child protection or youth crime matter, or both.

39. Co-located units, where key practitioners from children's services and police work together in a team, were identified in 2011 research as an 'ideal type' for developing

³⁸ Operation Newbridge was established by Sussex Police, UKBA and West Sussex Children's Services

³⁹ Evidence to the Home Affairs Select Committee, 12 June 2012, HC 182-I, Q134

⁴⁰ Office of the Children's Commissioner (2012) *Inquiry into Child Sexual Exploitation in Gangs and Groups: Interim Report*

⁴¹ Department for Children, Schools and Families (2009) *Safeguarding Children and Young People from Sexual Exploitation*

⁴² Jago et al (2011) *What's going on to safeguard children and young people from sexual exploitation? How local partnerships respond to child sexual exploitation*, University of Bedfordshire

the dual strategy of protecting children and prosecuting abusers.⁴³ However, less than 10% of the 100 LSCBs who participated in the research have co-located units in place or planned.⁴⁴

40. The Committee should recommend to the UK Government:

The key indications of vulnerability to CSE should be circulated to key professionals. Young people themselves and parents/carers also need to be made aware of these key indications.

A commitment by LAs to address CSE by developing a multi-agency strategy, involving specialist staff in multi-agency teams and introducing clear protocols for sharing information.

Inspections of LSCBs should include activities to safeguard young people from CSE.

The 2009 Guidance (Safeguarding children and young people from sexual exploitation) should be updated to reflect caselaw and current practice.

Issue: The link between incidents of going missing and CSE

41. One hundred thousand young people run away from home every year.⁴⁵ This can be a symptom of CSE as well as a situation that puts young people at risk of CSE. In recent research⁴⁶, of the 1,014 cases where information was provided in relation to whether children believed to be have been groomed, sexually exploited, or both had ever gone missing, 842 children were known to have been reported missing. Although there is a gap in available information, 'snapshot' data from other research shows well over half the young people identified as at risk or experiencing CSE were known to have gone missing; of these, over half had gone missing more than ten times.⁴⁷

42. The Committee should recommend to the UK Government:

A clear multi-agency system to identify and respond to local cases, including those abducted and forcibly moved within the UK.

⁴³ Ibid, paras 4.25-4.26

⁴⁴ Ibid, p. 26

⁴⁵ Ibid, p. 48

⁴⁶ CEOP (2011) *Thematic Assessment: Out of mind, out of sight*

⁴⁷ Jago et al (2011) *What's going on to safeguard children and young people from sexual exploitation? How local partnerships respond to child sexual exploitation*, University of Bedfordshire, p.48

Issue: The vulnerability to CSE of children accommodated in residential care

43. Too many residential homes are failing to fulfil their parental roles in providing a good, safe caring environment for the children in their care. This increases a child's vulnerability to CSE.⁴⁸ A number, albeit a small number, of young people vulnerable to CSE are accommodated in bed and breakfast accommodation, despite guidance specifying that this type of accommodation is unsuitable for those at risk. For those who are placed in bed and breakfast accommodation with other vulnerable adults and ex-prisoners the risks of CSE can be extraordinarily high.⁴⁹

44. The Committee should recommend to the UK Government:

The Department for Education should lead a comprehensive assessment of the availability and appropriateness of specific forms of accommodation provided by local authorities in response to the needs of looked after children.

A ban on any child in care, or leaving care, being placed in bed and breakfast accommodation.

Monthly inspection visits to private children's homes carried out by a person independent of the organisation and approved by the Local Authority.

An agreed safety plan for every child at risk of or who has experienced CSE.

LSCBs should have oversight of the intelligence on exploiters in the area and children at risk.

No children's home should be allowed to open in a high risk area.

⁴⁸ Office of the Children's Commissioner (2012) *Inquiry into Child Sexual Exploitation in Gangs and Groups: Interim Report*

⁴⁹ Barnardo's News release (10 May 2012) *Specialist foster carers needed for sexually exploited children*

V. Prohibition and Related Matters

Issue: Lack of pro-active investigation and prosecution by police

Trafficking:

45. Conviction rates for child trafficking are low. Ministry of Justice (MoJ) figures show only 121 people were found guilty in England and Wales for human trafficking offences between 2004 and 2010.⁵⁰ There have been very few convictions for child trafficking, with less than five convictions as at October 2011.⁵¹ Considering 330 potential victims of child trafficking were identified between March 2005 and January 2007 alone⁵², there is clearly a gap between the number of identified child victims and the number of trafficking convictions. The number of convictions of trafficking for sexual and non-sexual exploitation fell in the three years to 2011.⁵³
46. Whilst the CSJ⁵⁴ notes some impressive examples of trafficking law enforcement work by local police forces, it also highlights police in many areas are unaware of the issue or treat it as a low strategic priority. It states that smaller area units are often reluctant to get involved in cases due to a lack of awareness of the evidence needed and the sometimes international and often complex nature of trafficking.
47. The only specialised unit in England and Wales for investigating trafficking offences is the Metropolitan Police Service's specialised unit on Human Exploitation and Organised Crime (SCD9).⁵⁵ The Government has stated that each police force has identified a responsible senior police officer for human trafficking – a Single Point of Contact (SPOC).⁵⁶ However, research indicates only half the 33 forces which responded were able to give any information about their SPOC; some claimed they did not have one and others could not provide their details.⁵⁷
48. Prison sentences imposed are often quite low and well below the statutory maximum, average sentences being 4 to 5 years for trafficking for the purpose of sexual exploitation and 18 months to 2 years for trafficking for the purpose of forced labour.⁵⁸ Further, there is evidence of prosecutors failing to charge offences as human trafficking, with charging for other offences such as rape or abduction often

⁵⁰ HC, 20 Feb 2012 : Column 512W

⁵¹ ECPAT UK (2011) *The Child Protection System in England: Written evidence submitted by ECPAT UK (End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes) to the Education Committee*

⁵² GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*, para 130

⁵³ Inter-Departmental Ministerial Group on Human Trafficking (2012) *First annual report of the Inter-Departmental Ministerial Group on human trafficking*, p35

⁵⁴ The Centre for Social Justice (2013) *It Happens Here: Equipping the United Kingdom to fight modern slavery*

⁵⁵ GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*, para 345

⁵⁶ Inter-Departmental Ministerial Group on Human Trafficking (2012) *First annual report of the Inter-Departmental Ministerial Group on Human Trafficking*, p51

⁵⁷ The Centre for Social Justice (2013) *It Happens Here: Equipping the United Kingdom to fight modern slavery*

⁵⁸ GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*, para 342

used as an alternative.⁵⁹ This undermines the potential for trafficking convictions to give the message that trafficking will not be tolerated in the UK. There is not yet a Sentencing Council guideline for trafficking for non-sexual types of exploitation. This is an issue which the Crown Prosecution Service (CPS) has raised.⁶⁰

49. The Committee should recommend to the UK Government:

A national policing policy on child trafficking should be developed, to which all police forces are subject.

Every police force should have a unit of specialised investigators specifically tasked with investigating trafficking offences.

Police and Crime Commissioners should hold their force accountable for their response to human trafficking.

Her Majesty's Inspectorate of Constabulary should add human trafficking to its inspection criteria, and should be commissioned to conduct a thematic inspection of forces' responses to this crime.

Introduction of a Sentencing Council guideline for trafficking for non-sexual types of exploitation

Improved training for defence counsel about questioning victims/witnesses in CSE cases, and the introduction of a strict code of conduct in such cases (with penalties for breaches).

Improved age-appropriate information for victims involved in a criminal investigation made available in a variety of languages and dialects.

The employment of specialist judges, trained on the issue of human trafficking and exploitation, in human trafficking trials to improve conviction rates.

CSE:

50. Whilst there has been a slight increase in prosecution rate, the number of cases with convictions is low, reflecting the rarity of CSE cases reaching court. In 2010 only 57 people (over 21) were found guilty of offences relating to sexual exploitation in England and Wales and these include trafficking offences against adults.⁶¹ Similarly, recent data showed the police were known to be actively involved in 238 CSE cases, of which only 158 were the subject of criminal proceedings.⁶² Less than a quarter of LSCBs demonstrated strategies for both protecting young people from CSE and

⁵⁹ The Centre for Social Justice (2013) *It Happens Here: Equipping the United Kingdom to fight modern slavery*

⁶⁰ GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*, para 318

⁶¹ Ministry of Justice (2011) *Criminal Statistics England and Wales, 2010*, Table S5.7

⁶² Jago et al (2011) *What's going on to safeguard children and young people from sexual exploitation? How local partnerships respond to child sexual exploitation*, University of Bedfordshire, Table 9, p. 111

prosecuting abusers.⁶³ Furthermore, it was found that almost a third of LSCBs had no plans for disrupting and prosecuting offenders, with some stating this to be 'a police matter'.⁶⁴ Less than a third of those interviewed as part of the study reported the availability of training on how to investigate cases of CSE.

51. The Committee should recommend to the UK Government:

Review by the CPS of all CSE prosecutions to identify barriers to taking cases forward, and outline best practice in relation to the support available for victims. The CPS should also review recent cases to identify key aspects of the investigation and criminal justice process that can lead to successful prosecution outcomes.

Training on CSE for all LSCB Chairs and Directors of Children's Services, including on the prosecution of abusers.

Specific training from the police to all relevant agencies on how to gather and record information for evidential purposes (to ensure it has a potential evidential value), as well as effectively supporting victims and their families before, during and after court appearances.

Pursuit of prosecutions wherever possible to prevent re-offending. Statutory guidance needs to be introduced to reflect this objective and to give all relevant agencies advice as to how best to achieve that objective, ensuring that the CRC principle of the best interests of the child is a primary consideration at all times.

VI Protection

Trafficking

Issue: The NRM is 'not fit for purpose'

52. There have been widely documented concerns about decision making within the NRM system.⁶⁵ Although regarded as the central mechanism for identifying and responding to trafficking concerns, there is no statutory duty to refer a suspected child victim to the NRM. The Anti-Trafficking Monitoring Group (ATMG), a UK-based group of anti-trafficking organisations which monitors the British Government's implementation of the Trafficking Convention declared the NRM as '*not fit for purpose*' and '*a flawed mechanism staffed by substantially unaccountable officials*'.⁶⁶ Their report identifies serious flaws in the NRM.

53. A particular concern is the over reliance on the discretion of UKHTC and Home Office officials. Not only does this discretion not comply with the rule of law⁶⁷ but the ATMG highlights a desperately flawed understanding of trafficking within the NRM

⁶³ Ibid

⁶⁴ Jago S et al. (2010) Interim Report: *What's going on to prevent child sexual exploitation, Luton: University of Bedfordshire*

⁶⁵ ECPAT UK (2012) *Briefing: The National Referral Mechanism - for children*

⁶⁶ ATMG (2010) *Wrong Kind of Victim? One year on: an analysis of UK measures to protect trafficked persons*

⁶⁷ Ibid, p. 13

system, resulting in poor CA decision-making.⁶⁸ There is evidence of nationality discrimination for example, with British victims, and to a lesser extent, Eastern European victims, getting much higher rates of Conclusive Grounds decisions than non-EU nationals.⁶⁹

54. Under the current system immigration considerations dominate present assessments and service provision, the focus being securing borders and limiting migration, rather than child protection and the needs of the victim. The ATMG's analysis of 390 NRM case files concluded that *'the system appears to be putting more emphasis on the immigration status of the presumed trafficked person rather than the alleged crime committed against them.'*⁷⁰ A key issue is the dual role held by the Home Office, responsible both for managing immigration and deciding whether a child is a trafficking victim through the NRM process⁷¹. Any potential victim may therefore have to make their welfare case to the same authority, and indeed same caseworker, that is also considering their immigration status. The inherent conflict of interest in this situation has meant that the UK Border Agency (UKBA)⁷² has had difficulty putting aside its immigration control role when identifying child trafficking victims; the reasoning used to dismiss a trafficking victim's credibility often reflects that used in asylum determinations.⁷³ The ATMG found evidence of copying and pasting between asylum decisions and trafficking status decisions.⁷⁴ Different standards of proof, burden of proof and criteria apply in making these two decisions⁷⁵; these have the potential to be confused, increasing the risk of mistakes in the identification of children who have been trafficked.

55. The over-emphasis on a trafficked child's immigration status is to the detriment of their welfare, adversely affecting how they are seen and treated. Measures need to be introduced to ensure any decision about a trafficking victim is a welfare decision based solely on their need for support not their immigration status. Child protection concerns should take precedence over issues of immigration.

56. The Committee should recommend to the UK Government:

Responsibility for child trafficking should sit with the DfE.

Commission an independent review of the NRM.

Comprehensive and appropriate Quality Standards need to be introduced.

⁶⁸ Ibid, p.28

⁶⁹ ECPAT UK (2012) *ECPAT UK Briefing: The National Referral Mechanism - for children*

⁷⁰ ATMG (2010) *Wrong Kind of Victim? One year on – an analysis of UK measures to protect trafficked persons*

⁷¹ These roles were previously undertaken by the former UK Border Agency (UKBA). On 1 April 2013 UKBA was split into two separate units (UK Visas and Immigration and Immigration Enforcement) and its operational functions have been transferred back into the core Home Office. UK Visas and Immigration will be a CA alongside the UKHTC and their staff will consider referrals on potential victims of trafficking just as they did in the former UKBA.

⁷² At the time of reporting UKBA held these dual responsibilities. See footnote 22 above.

⁷³ ATLeP (2011) *Trafficking and the National Referral Mechanism: Training paper for the ATLeP / AIRE Centre Safety through Justice Conference*

⁷⁴ ATMG (2010) *Wrong Kind of Victim? One year on – an analysis of UK measures to protect trafficked persons*

⁷⁵ The Aire Centre (2010) *Victims of Trafficking and The Law: Issues of Identification*

Services responsible for child protection should have primary responsibility for identification of trafficked children, within a defined multi-agency team context.

Immigration status and a child's trafficking situation need to be treated and dealt with as separate issues. Overall responsibility for child trafficking should sit with the DfE, which is tasked with child protection and safeguarding (not the Home Office Agency which has a primary duty to protect the UK's borders) and UK Visas and Immigration and Immigration Enforcement's CA status should be removed leaving CA status with the UKHTC.

An acknowledgement is required that child trafficking is child abuse. The identification and referral process of trafficked children should be incorporated into the existing child protection system and give services responsible for child protection the authority to make decisions related to trafficking.

All departments and agencies with safeguarding responsibilities should be required to treat child trafficking as child abuse triggering an automatic child welfare response.

Issue: Variation in how the definition of 'victim of trafficking' is interpreted by decision-makers within the NRM

57. In identifying children who have been trafficked, the NRM applies a narrow definition, thus denying trafficked children the protection and support they need. Particularly concerning is the arbitrary time limit imposed by CAs on when someone stops being a victim. If a victim is thought to have been too long outside the perceived control of a trafficker, they may be considered to have been a victim historically, but not a victim 'for the purposes of the Convention' and so ineligible for protection and assistance. There is no legal definition of victim of trafficking in the UK but Home Office guidance for CAs identifying trafficking victims⁷⁶ contains a section entitled 'When trafficking is distant in time/historic claims'. It states:

a negative [identification] decision in such cases would not be denying that someone may have been a victim of trafficking in the past, simply that at the time of assessment they did not meet the Convention criteria or need the protection or assistance that it can afford.

58. This is reflected in the CA's decision-making, with victims in numerous child cases having been told, 'you are not a victim of trafficking for the purposes of the Convention', even when their account of trafficking is accepted.⁷⁷ Government officials have explained⁷⁸ this policy is only applied in cases where significant time has elapsed since the trafficking offence occurred and the circumstances of the individual have changed considerably. However, GRETA has reported a case where the person was not considered to be a victim 'for the purposes of the Convention' only 6 months after the trafficking episode.⁷⁹

⁷⁶ Home Office (2010) *Victims of trafficking: guidance for competent authorities*

⁷⁷ ECPAT UK (2012) *Briefing: The National Referral Mechanism - for children*

⁷⁸ GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*

⁷⁹ *Ibid*

59. The Committee should recommend to the UK Government:

Review the application of the definition of trafficking, including the guidance given to Competent Authorities on so-called 'distant in time /historic claims'

Adults who were trafficked in the UK as children should have their referral considered as if one of a child, with the simpler definition of trafficking applied, as opposed to being treated as an adult under the NRM decision-making process.

Issue: The lack of appeal or independent review for victims against an NRM decision

60. There is no right of appeal either to challenge an NRM decision or to have it reviewed by an independent authority; individual decisions can merely be reconsidered by CAs, if further or different information appears, and, if substantive and persuasive, a new decision can be issued. In addition to being limited in scope, such reconsideration is not a review by an independent authority. Given the complexity of the decisions and their impact on the lives and safety of referred children, the absence of independent formal review is wholly inappropriate. In particular it is inconsistent with the right to an effective remedy, guaranteed by Article 13 of the European Convention on Human Rights (ECHR).⁸⁰

61. Beyond this, those wishing to challenge decisions are forced to resort to judicial review, which is not a substitute for appeal. Unlike appeal, it cannot re-examine the merits of the decision, matters of both law and fact; instead it looks only at whether the decision-maker acted lawfully in reaching the decision. However, as most guidance is in the form of policy, not legislation, permission to have such decisions reviewed is difficult to obtain.⁸¹ Going to the High Court can also be traumatic for a child who has already suffered significantly, and is both costly and time-consuming; the process can take months to get a decision. In addition, Government proposals to reform the UK's legal aid system (the provision of assistance to people otherwise unable to afford legal representation and access to the court system) is likely to make it even harder to bring a judicial review⁸².

62. The Committee should recommend to the UK Government:

Introduce a statutory right of appeal into the identification process.

Introduce an independent and public review (through an anti-trafficking commissioner) of all negative decisions made by CAs to ensure accountability of decision makers and quality of decision making.

⁸⁰ The Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms

⁸¹ GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*

⁸² ECPAT UK (2013) *Response to Transforming Legal Aid Consultation*

Issue: Failure to act in a child's best interests and ensure the safety and welfare needs of child trafficking victims are upheld

63. The majority of child victims of trafficking currently have no-one with parental responsibility to act on their behalf and in their best interests. They are often unaccompanied and are expected to instruct their own solicitors and authorise their own medical treatment. These children are in a foreign country, unfamiliar with UK systems, traumatised by abuse, often still under the mental control of a trafficker, and suspicious of governmental institutions.
64. The Government has ratified a number of international instruments that require it to take all steps to provide 'special protection measures' for child victims of trafficking, including specific references to guardianship under Articles 14 and 16 of the Trafficking Directive. The UK Government continues, however, to maintain its view that guardianship is unnecessary and that existing measures of having an allocated social worker and advocate are adequate to meet the requirements of child victims of trafficking.
65. However, as the GRETA report acknowledges, a social worker or an advocate '*falls short of providing a legal guardian who can act independently with authority and uphold the child's best interests*'.⁸³ Social workers are constrained by their standard procedures and the norms of their organisations, and are also unlikely to be able to advocate for all the child's educational, health, legal and welfare needs. Their understanding of the experience of trafficked children and the risks they run has been shown to be patchy and sometimes inadequate⁸⁴, with social workers often not understanding the problem of child trafficking in the context of child abuse.⁸⁵ Further, victims report social workers changing several times, of having to recount their story multiple times to numerous practitioners and of not receiving enough personal support.⁸⁶
66. A guardianship system for potential victims of trafficking would ensure every such child would have someone with parental responsibility to help them navigate all the legal and other procedures they face, make decisions based on their best interests, ensure they receive the protection, legal representation and support they need and ultimately lead to their better care and protection. A guardian would also co-ordinate services, hold agencies to account and act as a link between the wide range of people with which the child is likely to come into contact, enabling a more joined-up approach and better information-sharing. These are all objectives, in most cases requirements, of the international anti-trafficking legislation.
67. There has been no thorough evaluation and analysis of what would be most effective in protecting and supporting trafficked children short, medium and longer term. Most of the reviews have been undertaken elsewhere, often in countries of origin, which

⁸³ GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*, para 245

⁸⁴ ATMG (2010) *Wrong Kind of Victim? One year on: an analysis of UK measures to protect trafficked persons*

⁸⁵ The Centre for Social Justice (2013) *It Happens Here: Equipping the United Kingdom to fight modern slavery*

⁸⁶ ECPAT UK (October 2012) *Submission to JCHR inquiry into the human rights of unaccompanied migrant children and young people in the UK*

while informative and relevant, may not be sufficiently nuanced for and specific to the UK situation, which primarily remains a destination country for trafficking victims. Whilst individual assessment of risk and needs should inform service provision, the evaluation of component factors of different programmes of intervention can be assessed and applied according to individual need.

68. The Committee should recommend to the UK Government:

The Government should establish a system of guardianship for all potential victims of child trafficking (all separated children).

The publication of further/better guidance for professionals on how to support children in recovering from the experiences of trafficking and further research into the impact of trafficking and exploitation on mental and physical health.

Therapeutic services for trafficked children should be made available, and Child and Adolescent Mental Health Services (CAMHS) should have the appropriate expertise to enable a child who has been a victim to receive appropriate support.

Inclusion in Ofsted inspections of local authority action to safeguard and rehabilitate trafficking victims (as part of their progress on identifying and safeguarding children at risk).

A comprehensive evaluation of the services provided at present and development of a pilot model of intervention based on those components considered to be 'best practice'.

Issue: Lack of a comprehensive multi-agency response

69. The Trafficking Convention highlights the importance of different authorities collaborating with each other as well as with relevant support organisations to identify trafficking victims (Article 10(1)). The London LSCB has also said that '*Trafficked children are safeguarded best where a multi-agency approach is working well.*'⁸⁷ However, a multi-agency response to meet the complexity of need and risk has not been apparent to date.

70. According to the British authorities, the NRM involves multi-agency consultation and engagement as part of the identification process.⁸⁸ However, the role of First Responders (which includes certain NGOs specialising in child trafficking) is limited to referring trafficking victims to the NRM. The decision as to whether a child has been trafficked is made independently by the CAs. First Responder NGOs believe that insufficient consideration is given to their views in the identification process, particularly when the credibility of potential victims is questioned.⁸⁹

⁸⁷ London Safeguarding Children Board (2011) *Final Monitoring Report: London Safeguarding Trafficked Children pilots*, p. 9

⁸⁸ GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*

⁸⁹ *Ibid*

71. The report by the Council of Europe's Group of Experts on Action against Trafficking in Human Beings⁹⁰, responsible for monitoring the implementation of the Trafficking Convention, highlights that as UKBA (now the Home Office) is both First Responder and CA, there are many cases where no other agency is involved in the identification process, and further the whole decision making process is in the hands of the same UKBA official (who is also an asylum case owner). Such cases preclude victim identification in partnership with different government agencies, LAs, specialist organisations and victim support providers.

72. The Government's revised guidance *Working Together to Safeguard Children* is inadequate to ensure a multi-agency approach to protect child victims of trafficking. Previous guidance on how organisations and individuals should work together to safeguard and promote the children's welfare included a chapter for frontline professionals on how best to identify and protect child trafficking victims. However, the recently revised guidance⁹¹ omits all references to trafficking apart from one link in the Appendices. It makes no reference to the UKHTC which is the strategic lead for child trafficking in the UK. Nor does it refer to the NRM which is the principal mechanism for identifying and providing subsequent support to trafficking victims and which relies on referrals by frontline professionals.

73. The Committee should recommend to the UK Government:

Adoption of the measures proposed by the International Labour Office (2006)⁹² as the key components of a multi-disciplinary response.

A system of legal guardianship for potential child victims of trafficking to enable more joined-up working across department and to act as a link for the individual child.

Every region should have a multi-agency forum for information sharing which can feed information to the Anti-Trafficking Commissioner and to the UKHTC, led by the LSCB.

Revise the new Working Together multi-agency guidance to ensure it gives clear and effective advice to frontline practitioners in respect of core concerns, requirements and obligations in respect of the identification and protection of child victims of trafficking. Failing this, make the Safeguarding Children who may have been Trafficked guidance statutory.

⁹⁰ GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*

⁹¹ HM Government (2013) *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children*

⁹² ILO (2006) *Rehabilitation of the victims of child trafficking: A multi-disciplinary approach*

Issue: Age Assessments

74. Despite the Government identifying improvement of the age assessment system as a key area for reform in 2008⁹³, there is no current statutory guidance on age assessments, with practitioners having to rely on case law and expert guidance.
75. Age assessment is the responsibility of LA children's services. Determining age can be difficult as most children trafficked to the UK come on false documents or using someone else's documents.⁹⁴ The evidence shows there are both considerable variations in the quality of the assessment process and inconsistencies in the methods used to assess age.⁹⁵ There is evidence of a 'culture of disbelief'. Research by Coram Children's Legal Centre showed almost a quarter of those claiming asylum as separated children have their age disputed by the Home Office and are treated as adults.⁹⁶ This figure does not include those who claim to be children but are not officially 'age disputed' because they are treated as adults by the Home Office. Research by ILPA also shows that the decision to dispute age is often based on ill-informed assumptions about the appearance, behaviour and roles of children in other cultures and contexts.⁹⁷ Further, there are indications that UKBA officials have sometimes put an age on the registration forms before an age assessment has been conducted by the LA.⁹⁸
76. If a child is assessed to be an adult, their treatment and support will be very different; placement in adult accommodation, no direct support from a social worker, detention in adult detention centres or treatment as an adult in any criminal proceedings. Further, the assessment process itself is potentially harmful; by adding to the child's sense of not being believed, they are less likely to disclose any abuse.
77. The Committee should recommend to the UK Government:

An age assessment process should be developed that allows for a holistic multi-agency process, conducted over an adequate period of time, drawing on the expertise of those who play a role in the child's life, including health professionals, psychologists, teachers, foster parents, youth workers, advocates and social workers. Paediatric and medical evidence should also be used where appropriate.

Statutory guidance should be issued to ensure consistency and clarity in the process. This guidance should include the requirements for a holistic, multi-agency process.

The benefit of the doubt principle should be applied when dealing with all young people who claim they are children so that they are treated as the age they claim to

⁹³ Home Office and Border and Immigration Authority (2008) *Better Outcomes: The Way Forward – Improving the care of unaccompanied asylum seeking children*

⁹⁴ ECPAT UK (2012) *Submission to JCHR inquiry into the human rights of unaccompanied migrant children and young people in the UK*

⁹⁵ ATMG (2010) *Wrong Kind of Victim? One year on: an analysis of UK measures to protect trafficked persons*

⁹⁶ Coram Children's Legal Centre (2013) *Happy Birthday? Disputing the age of children in the immigration system*

⁹⁷ ILPA (2007) *When is a child not a child? Asylum, age disputes and the process of age assessments*

⁹⁸ Office of the Children's Commissioner (2011) *Landing in Kent: The experience of unaccompanied children in the UK*, p. 25

be until such time as a holistic, multi agency age assessment has been concluded and any dispute has been resolved.

An accredited training programme for undertaking age assessments should be developed with input from a range of statutory and voluntary agencies.

A form of alternative dispute resolution, such as mediation, prior to the appropriate judicial proceedings should be developed in order to resolve any disputes around a child's age.

Issue: The significant number of trafficked children who go missing from local authority care

78. Article 9(3) of OPSC (and Article 14 of the Trafficking Directive) requires all trafficked children to be given all appropriate assistance, including appropriate and secure accommodation (Article 12(1)(a) Trafficking Convention). Far from meeting this obligation, however, trafficked children are known to regularly go missing from LA care. There is little information on numbers, but it is estimated that 60% of suspected child trafficking victims in LA care go missing.⁹⁹ Other sources show that, in a 6 month period, 25 such children went missing from care in one LA alone, amounting to 5 children per month.¹⁰⁰ Children who go missing from care face a serious risk of exploitation or even re-trafficking.¹⁰¹

79. The problem is linked to the absence in some LAs of appropriate accommodation for children who have been trafficked - either safe residential care or private fostering arrangements.¹⁰² There are no commonly agreed safety and protection standards across the UK for the placement of children suspected or known to be trafficked and as the Home Affairs Select Committee noted:

We are alarmed by the accounts given by our witnesses and reinforced by anecdotal evidence of traffickers training children to present themselves as unaccompanied asylum seekers in order to be placed in insecure care, often near the port of entry, which the trafficker can persuade or coerce them to leave. In effect, traffickers may be using the care home system for vulnerable children as holding pens for their victims until they are ready to pick them up.¹⁰³

80. LAs have an overall statutory duty for the safeguarding of children, which includes responsibility for preventing and mitigating the risk of them going missing from care. Much more needs to be done to comply with this duty and make sure trafficked children are kept safe once in their care. In this regard, it is of note that some LAs

⁹⁹ All Party Parliamentary Group (2012) *Report from the joint inquiry into children who go missing from care*

¹⁰⁰ Data relates to 1 April and 31 August 2011; The Guardian (19 October 2011) *Children lost from care in human trafficking cases, says Council*

¹⁰¹ The Centre for Social Justice (2013) *It Happens Here: Equipping the United Kingdom to fight modern slavery*

¹⁰² GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round*, para 240

¹⁰³ The Home Affairs Select Committee (2009) *The Trade in Human Beings: Human Trafficking in the UK*, para 151

have minimised the number going missing through effective multi-agency arrangements.¹⁰⁴

81. The Committee should recommend to the UK Government:

A strategy that specifically targets those trafficked children who run away from/are abducted from LA care, which involves multi-agency efforts to locate and protect the children from further harm/exploitation and involves a care/protection plan appropriate to the level of risk they have been exposed to, subject to regular review and with the child's participation in developing it.

The introduction of a national network of emergency accommodation provision that allows flexible responses.

The introduction of minimum quality standards across England for the provision of 'safe accommodation' for child victims of trafficking.

A duty on LAs to disclose details of missing children suspected as being trafficked beyond the local missing persons procedures, and where relevant to undertake a case review and share details beyond local authority boundaries.

The introduction of a new system of reporting incidents of children running from care, which combines data from both the police, LAs and the Home Office.

Issue: Prosecution and criminalisation of child trafficking victims

82. There are indications of child victims being criminalised for involvement in activities that directly result from being trafficked. Trafficked children may be arrested for a range of offences, including causing or inciting/controlling prostitution for gain, keeping a brothel, theft, or cultivation of cannabis plants. Vietnamese children have been arrested and prosecuted for cultivating cannabis plants, and even when children have clearly been trafficked into the UK specifically to cultivate cannabis, the authorities have not routinely considered the children to be trafficking victims.¹⁰⁵ This is also true in court. In several cases, even where UK authorities have recognised a child cultivating cannabis has been subjected to pressure and where their family debts have been mentioned during the trial, the judge has failed to consider that the child was subjected to debt bondage and has concluded the child is responsible for their crime.¹⁰⁶

83. Even if a child arrested or charged with an offence receives a positive NRM decision, the CPS can still pursue criminal charges; the NRM's decision can be taken into account by the CPS, but does not automatically lead to the prosecution being discontinued. This does bring into doubt the protection afforded, and usefulness of, NRM decisions for trafficked children. The CPS does have guidance to advise on the

¹⁰⁴ E.g. in Hertfordshire and Hillingdon. Ibid.

¹⁰⁵ ATMG (2010) *Wrong Kind of Victim? One year on: an analysis of UK measures to protect trafficked persons*

¹⁰⁶ The Anti-Trafficking Monitoring Group (2010) *Briefing: Criminal justice and trafficked people*

non-prosecution of potential victims of trafficking. However, CSJ research¹⁰⁷ shows the policy is not widely known about, and has not got the necessary scope to inform and guide all professionals in the criminal justice system. It also highlights that some police and prosecutors have neither seen nor heard of the guidance.

84. The Committee should recommend to the UK Government:

The need, at the very least, for a statutory statement of policy of non-prosecution of victims of trafficking, creating an obligation of non-prosecution across all sectors of the criminal justice system.

Children found in cannabis factories should be referred to social services immediately for a safeguarding assessment. If there are indicators of trafficking they should be provided with immediate protection and support and safe and appropriate accommodation.

The detection of potential victims of trafficking should be a criteria addressed during prison inspections made by Her Majesty's Inspectorate of Prisons.

Her Majesty's Prison Service, specifically YOIs, should be granted the status of First Responder, being given the authority to make referrals to the NRM. This should include all Foreign Nationals Officers, Prison Governors and YOTs.

There should be safeguarding policies regarding identifying and safeguarding child victims of trafficking in YOIs.

Issue: Complexity of the leave provisions and their inadequacy as 'a durable solution'

85. A trafficked child's immigration status is complex and can cause uncertainty and added trauma to children who have already experienced abuse and have little or no support.

86. If a child is conclusively identified as a victim of trafficking, they can be issued with a 12-month residence permit if the CA considers that their stay is necessary owing to their personal circumstances or for their co-operation in any investigation or prosecution of their traffickers. Very few children have been granted such residence permits.¹⁰⁸ Even where such a permit is granted, there is a lack of transparency regarding renewal that prevents child victims from having any certainty about their futures. It is unclear, for example, what the relevant criteria are when considering whether a child's personal circumstances warrant them remaining in the UK.¹⁰⁹ Such a process clearly does not satisfy the definition of 'durable solution' adopted in UNICEF's Guidelines on the Protection of Child Victims of Trafficking (2006).

¹⁰⁷ The Centre for Social Justice (2013) *It Happens Here: Equipping the United Kingdom to fight modern slavery*

¹⁰⁸ ECPAT UK (2012) *Submission to JCHR inquiry into the human rights of unaccompanied migrant children and young people in the UK*

¹⁰⁹ GRETA (2012) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, First evaluation round, para 286*

87. One of the most commonly reported concerns of trafficked children is a lack of certainty about their futures. Each time the young person has to reapply for leave to remain, this instability and fear returns as they do not know whether or not they will have to return to their country of origin and when. This is exacerbated by the length of time extensions can take to grant, with reports of cases taking as long as a whole year to grant, there being no prescribed response time for the Home Office when considering extensions for children co-operating with the CAs.¹¹⁰

88. A further concern is that section 83 of the Nationality, Immigration and Asylum Act 2002 grants the right to appeal asylum only where an individual '*has been granted leave to enter or remain in the United Kingdom for a period exceeding one year*'. As such, trafficked children who are given a one-year residence permit but who have also applied for asylum, cannot appeal their asylum decision, should it be refused. This is inconsistent with the right to an effective remedy, guaranteed by Article 13 of the ECHR.

89. The Committee should recommend to the UK Government:

Child victims are granted indefinite leave to remain as soon as they are identified as victims of trafficking.

Issue: Practical and legal barriers for trafficked children when it comes to trying to get compensation.

90. Access to an effective legal remedy and compensation by a court is an important aspect of redressing the human rights violations endured by trafficked children. Next to the importance of having a sense of justice and acknowledgement of the violations, compensation also plays a vital role in the rehabilitation of trafficking victims.

91. There is little data on the number of trafficking victims who have obtained compensation, but practice shows receipt of compensation to be extremely rare.¹¹¹ Research in 2008 found only one known instance where the prosecution expressed an intention to apply for a compensation order on behalf of a trafficked person, and out of 41 cases reviewed, there were no cases where the court ordered the trafficker to pay compensation to the victim.¹¹² The same research also suggests that trafficked persons rarely pursue remedies through civil courts or employment tribunals.

92. This situation indicates trafficked children face a number of practical and legal obstacles in getting compensation. Amongst these obstacles is the absence of any legal provisions giving access to justice specifically for trafficked children. In addition, current policy provides little guidance for the relevant bodies, such as the police, prosecution or the judiciary regarding the pursuit of compensation payments for trafficked victims. *Human Trafficking: The Government's Strategy*, for example, fails to mention compensation at all. Further, there is no standard procedure in place for

¹¹⁰ Ibid, para 287

¹¹¹ Anti-Slavery International and Eaves Poppy Project (2010) *Rights and Recourse: A Guide to Legal Remedies for Trafficked Persons in the UK*, p. 105

¹¹² Anti-Slavery International (2008) *Opportunities and Obstacles: Ensuring access to compensation for trafficked persons in the UK*, p.1

helping trafficking victims obtain legal redress, with compensation approached on a case-by-case basis.¹¹³ Other obstacles include the lack of residence permits to pursue compensation claims, insufficient support services, difficulty accessing legal aid, and lack of awareness among children and those working with them of the right to claim compensation and avenues for obtaining it.

93. The Committee should recommend to the UK Government:

Introduce legal provisions which give access to justice specifically for trafficked children including a review of the Criminal Injuries Compensation Authority definition of 'violent crime', which currently hampers some victims' ability to access compensation.

Access to compensation and the real possibility of securing it needs to be mainstreamed into policy and practice as part of the NRM process.

Policy guidance needs to be amended to give trafficking victims access to residence permits to pursue a claim for compensation or other legal redress.

Issue guidance and training to police and prosecutors on available compensation mechanisms in child trafficking cases and in particular on the types of loss that compensation orders cover (not just financial loss but also personal injury).

Ensure that trafficked children have access, from their first contact with the CAs, to information about their right to compensation in a language they understand

CSE

Issue: General lack of support for victims before, during and after the court process

94. The court process is inevitably a harrowing one for victims of CSE. Research highlights a significant gap between the policy vision of a child-friendly court and the reality of many young peoples' experiences, particularly the most vulnerable.¹¹⁴ The experiences of CSE victims specifically has been shown to be intrusive both pre, during and post-court, with children doubting that the alleged abuser will be convicted, or prevented from re-abusing them post-sentencing.¹¹⁵ Further CSE victims have said that the process can feel like repeat abuse, with the court process, and cross-examination in particular, being described by some victims as worse than the exploitation itself.¹¹⁶ In this regard, there is statutory provision¹¹⁷ which would allow for video-recorded examination or cross-examination. Whilst this provision is finally to be brought into force, 14 years after it was passed, it is currently only being

¹¹³ Anti-Slavery International and Eaves Poppy Project (2010) *Rights and Recourse: A Guide to Legal Remedies for Trafficked Persons in the UK*

¹¹⁴ Plotnikoff and Woolfson (2009) *Evaluating implementation of Government commitments to young witnesses in criminal proceedings*, NSPCC and the Nuffield Foundation

¹¹⁵ Jago S et al. (2010) Interim Report: *What's going on to prevent child sexual exploitation*, Luton: University of Bedfordshire

¹¹⁶ Home Affairs Committee (2013) *Child Sexual Exploitation and the response to localised grooming*, para

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¹¹⁷ Section 28 Youth Justice and Criminal Evidence Act 1999

piloted in 3 cities¹¹⁸ and has not been rolled out on a national basis as yet in relation to child victims of all forms of exploitation.

95. The Deputy Children's Commissioner has stated that psychological support services are variable around the country and that she does not believe victims of CSE are getting the support they need,¹¹⁹ a belief the NSPCC shares; they estimate a potential shortfall of up to 88,000 places for therapeutic support for victims of CSE.¹²⁰

96. The Committee should recommend to the UK Government:

The Ministry of Justice should implement a review of how the court process impacts on young people who are victims of CSE, learning from the experiences of recent prosecutions. The review needs to assess: the extent to which reforms designed to achieve child-friendly justice have been implemented, particularly in terms of victim support through the court process; young people's experiences as victims and witnesses in recent CSE cases; and the extent of training received by the CPS, the judiciary, barristers and senior court officials in understanding CSE. Also specialist training needed for defence barristers on how to question/cross-examine vulnerable witnesses.

Measures need to be introduced/implemented nationally to make the process before, during and after court a less daunting and traumatic one for child victims of all forms of exploitation, including national availability of pre-trial video-recorded cross-examination across for all forms of exploitation.

VII. International Assistance and Co-operation

CSE

Issue: Protecting children everywhere from being abused by British nationals travelling and or living abroad

97. A recent review of UK's Sexual Offences Act 2003 (the Davies Report)¹²¹, commissioned by the Association of Chief Police Officers, highlights the weaknesses in the UK's law and extra-jurisdictional policing arrangements, which are putting vulnerable children at high risk of CSE, by their failure either to prevent British sex offenders from travelling or to prosecute them when they commit offences abroad. The report concludes that existing measures unnecessarily obstruct efforts to prevent CSE in the UK and abroad. ECPAT UK has documented evidence of individuals travelling with impunity overseas to abuse children, including British offenders who have set up children's charities in order to access the most vulnerable children.¹²²

¹¹⁸ Criminal Law and Justice Weekly (11 June 2013) *Vulnerable victims to pre-record cross-examination*, accessible at <http://www.criminallawandjustice.co.uk/news/Vulnerable-Victims-Pre-record-Cross-examination>

¹¹⁹ Home Affairs Committee (2013) *Child Sexual Exploitation and the response to localised grooming*, para 77

¹²⁰ *Ibid*

¹²¹ ACPO (2013) *Civil Prevention Orders Sexual Offences Act 2003: Review of the existing statutory scheme and recommendations for reform*

¹²² ECPAT UK (2011) *Off the radar: protecting children from British sex offenders who travel*

98. The Foreign Travel Order ('FTO'), which prohibits British nationals convicted of certain child sex offences from travelling overseas, has proved to be over-complicated and flawed.¹²³ The Davies Report highlights that the process of gathering and producing evidence, including foreign and historic evidence and support required for the child victims and their families in the country of abuse, is resource intensive and often beyond the capacity and budget of the local police force required to conduct such investigations. It also illustrates a failure to record and share intelligence across international borders.

99. The Committee should recommend to the UK Government:

Simplification of the laws on British nationals sexually exploiting vulnerable children overseas include the introduction of a single 'Child Sexual Offences Prevention Order'.

Ratifying the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. This can then be used to foster greater international cooperation and mutual legal assistance in investigating and prosecuting child sex offenders.

Adequate resourcing for collaborative policing of such offending in different jurisdictions.

Facilitate better cooperation between police in the UK and overseas, and co-operation with relevant NGOs and civil society organisations, as well as businesses in the travel and tourism sector.

¹²³ ACPO (2013) *Civil Prevention Orders Sexual Offences Act 2003: Review of the existing statutory scheme and recommendations for reform*, Table A p. 15