

WRONG KIND OF VICTIM?

One year on. An analysis of UK measures to protect trafficked persons.

Extract: Wales

The prevention of trafficking and the prosecution of trafficking-related offences are not devolved matters in Wales. This means that policing and justice are not devolved and are the responsibility of the UK Government. The Welsh Assembly Government has responsibility over health, social care and Local Government and therefore has responsibility in the provision of victim support in Wales. It can make decisions and develop and implement policies on this specific area and it sets the priorities and the overall level of funding for services in Wales.¹ Although local authorities retain a significant degree of autonomy and flexibility, the Welsh Assembly Government has an indirect role in overseeing local authority provision.

In January 2010, Peter Hain MP, the Secretary of State for Wales, who was the head of the Wales Office within the United Kingdom cabinet, confirmed the commitment of both Governments to ensure tackling “the horrendous crime of human trafficking” in Wales.²

The Welsh Assembly Government, under its strategy for tackling domestic abuse (*Tackling Domestic Abuse: a Partnership Approach*), launched in 2005, pledged funding for a safe house for women leaving prostitution, including trafficked women in South Wales.³ This safe house never materialised. However, and as part of the UK Government increased financial commitment of £3.7 million for the expansion of the POPPY project, the Diogel (‘Safe’) project, set up by the Black Association of Women Step Out (BAWSO) in Cardiff, started in December 2009 to protect, assist and support trafficked women. The project offers supported accommodation and counselling, health care (including mental health) to five women at any one time. The criteria used are the same as those applied by the POPPY project; namely, the women have to be over the age of 18, have been trafficked into the UK for sexual exploitation and this exploitation should have taken place within three months prior to the referral to the project.⁴ The Diogel project is the first that supports trafficked persons in Wales. Up until December 2009, through Home Office funding, trafficked persons identified in Wales could access support and accommodation via the POPPY project if they had been exploited for sexual exploitation and via Migrant Helpline if they had been exploited for forced labour, though both organisations were based in South East England.

Carl Sargeant AM, the Minister for Social Justice and Local Government, launched *The Right To Be Safe* in March 2010, a six-year strategy for tackling all forms of violence against women in Wales. The strategy is an integrated, cross-Government programme of action which crosses the boundaries of devolved and non-devolved responsibilities, intended to work closely with the Home Office and criminal justice agencies in Wales.⁵ To ensure its implementation, the Welsh Assembly Government published a three-year detailed

¹ Welsh Assembly Government, ‘What is the Welsh Assembly Government responsible for?’, accessed on 23 April 2010 at wales.gov.uk/about/organisationexplained/responsiblefor/?lang=en

² Peter Hain MP, Secretary of State for Wales, Written Answers to Questions, Hansard, 18 January 2010: Column 5W, accessed on 23 April 2010 at

www.publications.parliament.uk/pa/cm200910/cmhansrd/cm100118/text/100118w0002.htm

³ ‘*The Right to Be Safe*’ strategy, published March 2010, page 7. Received 21 April 2010.

⁴ Report sent by BAWSO to the ATMG on 23 April 2010.

⁵ *Ibid.*, page 1.

action plan (*Implementation Plan 2010-13*).⁶ Among its main targets (intended outcomes), the Welsh Assembly Government made a commitment to establish a project in North Wales to support “women fleeing prostitution and trafficking” by 2010.⁷ This was expected to be along the same lines as the Diogel project in South Wales. It also made a commitment to develop a standard reporting protocol with the Association of Chief Police Officers (ACPO) Cymru and the Crown Prosecution Service, both under the responsibility of Westminster, to provide regular data for the whole of Wales, related to the crime of trafficking and to charges, prosecutions and convictions for trafficking in human beings.⁸ A further commitment is to review the Diogel project in 2011 in order to learn lessons and improve support for women and children leaving prostitution or trafficked for sexual exploitation.⁹

In March 2009 a report commissioned by the Office of the Children’s Commissioner for Wales, *Bordering on Concern: Child Trafficking in Wales*, was published by ECPAT UK. This identified 32 cases of children which met criteria set for assessing them as having been trafficked into Wales. On the basis of recommendations in the report, the Welsh Assembly Government convened an All-Wales Child Trafficking Group (as the Assembly Government has devolved responsibility for safeguarding children, including trafficked children). The All-Wales Child Trafficking Group is working towards the development of an integrated approach to child trafficking across Wales, to raise the profile of the issue in Wales and to improve coordination and cooperation across all agencies with child protection and safeguarding responsibilities in Wales. By the end of April 2010, the Group had met three times and was developing an All-Wales Protocol on Safeguarding Trafficked Children. The Assembly Government also commissioned ECPAT UK to develop an on-line training resource on child trafficking specifically for a Welsh audience taking into consideration Welsh structures and legislation and including recent developments such as the introduction of the NRM.

There is also a cross-party Assembly group on the Trafficking of Women and Children chaired by Joyce Watson AM, which was set up in 2007 and has been gathering evidence about the incidence of trafficking in Wales. At the time of writing, the group had just published a report on trafficking in Wales.

What happens in practice

The Monitoring Group visited Wales in December 2009 and contacted Welsh agencies again in April 2010. During December 2009, the Group conducted a focus group and a total of eight individual face-to-face interviews with statutory and non-statutory agencies in Wales, all with different levels of knowledge and experience in supporting and assisting trafficked persons. It was, however, difficult to gather specific information on the numbers of people identified in Wales and referred to the NRM. BAWSO submitted a *Freedom of Information* request¹⁰ that was answered in February 2010. It stated that between 1 April 2010 and 31 December 2009, a total of 11 people were identified in Wales as presumed victims of trafficking and referred to the NRM. Of these, five were referred by the UKBA and six by Welsh local authorities. No information was available about whether these referrals were of adults or children, for what form of exploitation they had been trafficked or what were the decisions made by the Competent Authorities in each case. However, as a result of another *Freedom of Information* request submitted by ECPAT UK¹¹, it was apparent that between 1 April 2009 and 15 January 2010, Cardiff Council, Conwy Social Services and Newport Local Authority had all made referrals of children who may have been trafficked into Wales during this period.

Since the start of the Diogel project in December 2009, the project has supported a total of nine women, two of whom were pregnant when referred. Four of these women subsequently left the accommodation and the remaining five were still awaiting a Competent Authority decision in April 2010. However, of the nine women, only one woman of West African origin was referred from Wales, the referral agency being MEWN Cymru (Minority Ethnic Women’s Network Wales). Another woman was referred by the Immigration Advisory Service in Cardiff and was receiving support through the POPPY Project’s outreach programme in April 2010.

⁶ Welsh Assembly Government, *The Violence Against Women and Domestic Abuse Implementation Plan 2010-13*, 2010, accessed on 13 May 2010 at wales.gov.uk/docs/dsijlg/publications/commsafety/100325implamentfinalen.pdf

⁷ *Ibid.*, section 2 (Provide Support for Victims and Children), point 2.28, page 11.

⁸ *Ibid.* page 15.

⁹ *Ibid.*

¹⁰ *Freedom of Information* request 20100037 by BAWSO, inquiring how many trafficked persons had been referred to the NRM from Wales, listed by First Responder, answered 22 February 2010.

¹¹ *Freedom of Information* request 20100030 by ECPAT UK, inquiring how many children had been referred to the NRM by First Responder and asking to list the local authorities acting as First Responders, answered 11 February 2010.

A total of 20 participants from statutory and non-statutory agencies in Wales attended the focus group organised by the Monitoring Group to discuss the implementation of the Convention and its impact in Wales, especially in terms of victim care and support. The key Welsh-specific issues discussed included:

- The implementation of the Convention had raised awareness on trafficking in Wales but it had not changed what was referred to as the “culture of disbelief” in *Bordering on Concern*, as practitioners believe that trafficking does not take place in Wales, creating a climate which is believed to be advantageous to traffickers;
- Although the Welsh Assembly Government informed all relevant agencies about the introduction of the NRM, this information had not trickled down to the managerial and frontline practitioners level of key agencies. In the absence of formal training available about the NRM, there was widespread lack of understanding of its structure, purpose and process among practitioners in Wales;
- Participants also considered that the NRM needed to be amended to take into consideration the national structures, legislation and policies in Wales, allowing frontline Welsh NGOs, whose expertise was not being taken into account, to refer presumed trafficked persons directly to the NRM;
- Through their involvement in Operation Pentameters I and II, the police forces in Wales had developed and identified ways of working on trafficking of women for sexual exploitation. However, as the police force in Wales is regionally divided in four (Dyfed-Powys, Gwent, North Wales and South Wales), there are now four different ways of working on trafficking, with some forces’ responses being quite sophisticated in their approach and some less so;
- There was a need to develop an all Wales interpreter infrastructure, adequately funded to prevent Welsh frontline practitioners relying on unchecked local individuals or the use of expensive telephone interpreting services, which at times had proved ineffective;
- There were concerns over the quality of legal advice in Wales. Participants reported that due to legal aid cuts, profit driven legal service organisations were pulling out of Wales. Participants informed that the Immigration Advisory Service has withdrawn from Wales completely and that there are no legal immigration services available in Swansea. This situation had created worrying trends: the quality and experience of the remaining immigration solicitors working with legal aid was varied and there were no child welfare solicitors left who were based in Wales;
- The Diogel project had just been opened in Cardiff at the time the focus group took place and therefore knowledge about its existence and how to make a referral to the project were still in their infancy.

Participants commented that the criteria for referring women into the Diogel project were too restrictive. During the first few weeks of the project opening in Cardiff, practitioners reported to the Monitoring Group that they could not make direct referrals and that they needed first to contact the POPPY project in London. However, the Diogel project has accepted direct referrals from statutory and non-statutory agencies in Wales, but by March 2010 it was apparent that the project was unable to meet the needs of all the trafficked persons who were being identified, as it did not offer support and accommodation to those trafficked for forced labour or domestic servitude. At the beginning of 2010, an A8 national was identified as a presumed trafficked person by a number of statutory and non-statutory agencies in South Wales. He had answered a job advertisement in his country of origin by an agency that paid for his travel to Wales. He was accommodated in a small room, shared with six others, for which he had to pay £37 a week. He distributed and collected bags for clothes collection, receiving 70p per bag. He could not earn enough to pay rent and subsistence. When he confronted his manager, he was subjected to a beating. Eventually he was able to escape and went straight to the local police. However, the police did not make a referral to the NRM. Despite the police conducting an investigation and the person collaborating fully with police inquiries, he was never formally identified as a trafficked person. Even though the local authorities have the power in Wales to assist A8 nationals, they have no duty to do so given that he had no right to entitlements to housing and benefits in the UK. As a European Economic Area national, he could not access any of the IOM’s voluntary return programmes, funded by the Home Office, and was therefore unable to obtain any financial assistance to return to his country of origin as he wished to do once he had provided the police with information. His return home was eventually financed by a group of altruistic private individuals.

In April 2008, the Welsh Assembly Government issued the guidance *Safeguarding Children who may have been Trafficked*¹² for all Local Safeguarding Children Boards in Wales, similar to that issued in England by the DCSF. The guidance takes into account structural and devolved matters particular to Wales. *Bordering*

¹² Welsh Assembly Government, *Safeguarding Children who may have been Trafficked*, April 2008, accessed on 3 March 2009 at wales.gov.uk/topics/childrenyoungpeople/publications/trafficked/?lang=en

on Concern reported that practitioners across Wales were not aware of this guidance. In order to address this, the Welsh Local Government Association led an audit conducted in late 2009. A total of 13 local authorities and 12 Local Safeguarding Children Boards responded to it. The audit confirmed that not all Local Safeguarding Children Boards had identified trafficking leads and that only Cardiff, Newport and Blaenau Gwent had developed child trafficking protocols. This confirmed the need for the All-Wales Child Trafficking Group to take leadership and develop an all-Wales Protocol on Safeguarding Trafficked Children, to establish the responsibilities of trafficking leads across Wales and to provide them with support and advice.

When the supplementary child-trafficking 'Toolkit' designed by the London Safeguarding Children Board was developed in early 2009, no local authority in Wales was approached to become part of the pilot. It was only in late 2009 that Barnardo's Cymru pushed to get Newport City Council to become part of the pilot. In December 2009, practitioners reported to the Monitoring Group that the Toolkit was too Anglocentric and needed to be amended to make it relevant to Welsh frontline practitioners, as it included references to structures which existed in England, such as the Common Assessment Framework, that do not exist in Wales¹³. The Monitoring Group also learnt that the Welsh Assembly Government was considering issuing guidance on children who go missing, on private fostering and was in the process of developing parallel guidance to *Safeguarding children and young people from sexual exploitation* published in England by the DCSF in June 2009.¹⁴

Despite Crown Prosecution Service guidelines and a letter sent by the Association of Chief Police Officers (ACPO) to all police forces in Wales on how to handle cases of children and young people recovered from cannabis farms, there is evidence that children are still being convicted for offences that they have committed in Wales while under the influence of traffickers. The Monitoring Group learnt about a number of cases in Wales where children from South-East Asia who had been positively identified as under 18 years of age by children's services had been advised by their criminal solicitors to plead guilty during court proceedings against them for cannabis cultivation and were serving sentences in Children's Security Units across the country, despite evidence that they had been trafficked and advocacy by a number of agencies on their behalf. In one specific case, a child had been referred to the NRM and had received a negative decision by the Competent Authority because the child had not specified he had been forced to work in the cannabis farm. Once again, this suggested that Competent Authority decision makers did not understand the definition of child trafficking adequately.

In a recent development, all police forces in Wales have identified a strategic lead for trafficking and have identified operational points of contact within the four Welsh forces. Heddlu Gwent police convened its first consultation meeting with partner agencies from the areas of health, education, social services, community safety partnerships, national charitable organisations and NGOs as well as representatives of the Welsh Assembly Government departments and non-devolved agencies such as the UKBA.¹⁵ The consultation group is expected to conduct a scoping exercise of service provision currently in place in the region for all trafficked persons (adults and children), and to develop an information sharing protocol on human trafficking. It is hoped that the other Welsh police forces will follow this example and replicate the consultation group in their respective areas.

Recommendations to the Welsh Assembly Government

- Tackle the 'culture of disbelief' that exists in Wales by improving awareness and understanding of trafficking for all forms of exploitation
- Develop efficient standard reporting data protocols with non-devolved agencies such as CPS and the Association of Chief Police Officers (ACPO) and periodically publish statistics indicating the numbers of presumed trafficked persons in Wales, disaggregated by the form of exploitation for which they were trafficked and by age and gender, as well as the number of traffickers charged, prosecuted and convicted for trafficking and related offences;
- Ensure secure accommodation, support and service provision are available for all presumed trafficked persons in Wales, both male and female;
- Raise awareness in Wales of the existence of the Diogel project and expand its services to include adult women trafficked into domestic servitude (and consider making its services available to women trafficked for other purposes, such as forced labour);
- Ensure the establishment of a project in North Wales for all trafficked persons by 2010;

¹³ Interview 77 on 8 December 2009 with an NGO – service provider.

¹⁴ *Ibid.*

¹⁵ Information was sent to the Anti-Trafficking Monitoring Group by those participating in the meeting in April 2010.

- Ensure the development and adequate dissemination of the All-Wales Protocol on Safeguarding Trafficked Children;
- Raise awareness of the online resources for practitioners developed by ECPAT UK and to review its impact one year on;
- Establish an All-Wales Human Trafficking Group to develop an integrated approach to ALL victims of trafficking in Wales, not only on children, but on both adults and children, and incorporating devolved and non-devolved agencies;
- Establish a Welsh National Referral Mechanism, so that referrals and decisions are made within Wales and trafficked persons are supported and cared for at the local level whenever that is in their best interests;
- Appoint trafficking leads wherever those have not yet been established, such as in all local authority teams, all Local Safeguarding Children Boards and Health Trusts in Wales and to support their role through the All-Wales Child Trafficking and Human Trafficking Groups and ensure their continuity.