

## **PPS Policy for Prosecuting Cases of Modern Slavery and Human Trafficking**

### **Summary of Consultation Responses**

The Public Prosecution Service's consultation on its Policy for Prosecuting Cases of Modern Slavery and Human Trafficking was issued on 28 January 2021 for an initial period of 12 weeks. The aim of the consultation was to seek a wide range of views to inform the development of the Policy.

An extension was made to the closing date for the consultation in order to maximise stakeholders' opportunity to respond. The final closing date was 13 May 2021.

Responses were received from:

- CARE NI.
- Barnardo's NI.
- Lord Morrow of Clogher Valley.
- Children's Law Centre.
- Northern Ireland Human Rights Commission.

All comments / recommendations raised were taken fully into consideration.

**We have provided feedback to each consultee and a summary of the main points raised is set out below.**

<b>CARE NI</b>	
<b>Comment/Recommendation</b>	<b>PPS Response</b>
Recommendation that the policy would be improved by including consideration of the possibility, or sometimes, necessity, of prosecuting for offences other than the specific MSHT offences.	<b>Agreed</b> The Policy has been amended to direct the reader to Annex B. This Annex provides a comprehensive overview of offences that are commonly prosecuted in MSHT cases, whether they are specific MSHT offences or offences that might arise as a result of a MSHT element.
Recommendation that the policy enables prosecutors to weigh up these decisions in order to ensure that the most appropriate charges are brought to court balancing the desire to bring cases that have a reasonable prospect of conviction, but to ensure that wherever possible offenders committing these extremely serious crimes of MSHT are prosecuted accordingly.	<b>Noted</b> The PPS approach to decision-making is set out in detail in the PPS Code for Prosecutors. Further guidance is not considered to be necessary. It should be noted that MSHT cases are prosecuted by a specialist team of Senior Public Prosecutors within the PPS Serious Crime Unit. They have extensive expertise and experience in prosecuting MSHT cases, as well as all other types of criminal offences.
Recommendation that PPS should provide a more comprehensive list of the other offences which may be committed alongside MSHT offences.	<b>Noted</b> A list of relevant offences is already provided at Annex B.
Recommendation that PPS should ensure its recording mechanisms enable recording and identification of such cases and encourage the PPS to publish this data annually.	<b>Noted</b> Cases involving MSHT-related offences can be identified from the PPS Case Management System. At present there are no plans to publish annually, however the data can be made available on request.
Recommendation that a section should be added to the policy about the important role that expert witnesses can play in bringing MSHT prosecutions.	<b>Noted</b> The PPS Code for Prosecutors is referred to in the policy at Section 1.2. This outlines in detail the Test for Prosecution, as well as guidelines for the conduct of criminal prosecutions. Specific reference to the role of expert witnesses is made at paragraph 3.11 of the Code. Prosecutors will always consider the evidential basis

	<p>for taking a prosecution decision. If it is considered that there is insufficient evidence or that further information could be sought, and that the role of an expert is key to this, the prosecutor will direct accordingly.</p> <p>Paragraph 3.1.8 contains specific guidance in respect of the role of expert witnesses in helping to explain the cultural complexities that might exist in a particular case.</p>
<p>Recommendation that a specific paragraph should be introduced to address exploitation to commit criminal activities and/or provide services, including reference to forced begging.</p>	<p><b>Agreed</b>  Paragraphs 2.4.1 to 2.4.16 cover a wide range of possible types of exploitation involving both adults and children. This should be read in conjunction with Chapter 4 (Suspects in a Criminal Case who might be Victims of Trafficking or Slavery).</p> <p>Reference to forced begging has been added to the policy at paragraphs 2.3.4 and 4.1.1.</p>
<p>Recommendation that other forms of coercion are also highlighted in the policy including what is known as the “loverboy” method of trafficking women through deceptive romantic relationships.</p>	<p><b>Agreed</b>  This has been added to the policy at paragraph 2.4.7.</p>
<p>Recommendation that Annex C is referenced in Chapter 2.4.</p>	<p><b>Agreed</b>  Annex C has now been referenced at Section 2.4.</p>
<p>Recommendation that a separate specific paragraph be added to the policy to give more details about the risk of trafficking and exploitation to Northern Ireland citizens and UK nationals more broadly which should include reference to particularly vulnerable groups.</p>	<p><b>Agreed</b>  This information has been added at paragraph 2.1.6.</p>
<p>Recommendation that further detail is provided in respect of the offence of smuggling.</p>	<p><b>Agreed</b>  Smuggling is covered in detail at section 2.5.</p>

Recommendation that paragraph 2.5.7 includes reference to slavery and servitude offences.	<b>Agreed</b> Reference has been made to slavery and servitude at paragraph 2.5.7.
Recommendation that the NRM section in Chapter 3 is amended to include need for consent and how this may or may not affect decision to prosecute.	<b>Noted</b> This has been considered and is provided for in Chapter 4 of the policy.
Recommendation that paragraph 3.1.3 is expanded to include further examples of the demonstration of coercion and control.	<b>Agreed</b> Relevant examples have been provided at paragraph 3.1.3.
Recommendation that victims facing barriers in coming forward could also include fear of deportation.	<b>Agreed</b> This is referred to in Chapter 1. However, an additional reference has now been made at paragraph 3.1.4.
Recommendation that a gender-sensitive approach is taken by prosecutors.	<b>Agreed</b> This has been added to the policy at paragraph 3.1.5.
Recommendation that reference is made to the Independent Guardian (IG) role that is provided by Barnardo's NI.	<b>Agreed</b> This has been added to the policy at paragraph 3.3.6.
Recommendation that the policy reaches all prosecutors.	<b>Agreed</b> Awareness raising and training of prosecutors and PPS Panel Counsel will take place as soon as possible after the launch of the policy.
Recommendation that full citation of the R v MK case is provided and that the content around "burden of proof" is clarified.	<b>Agreed</b> Paragraph 4.2.5 has been amended to reflect this.
Recommendation that the 3 stage approach to the prosecution decision is extended to mirror the 4 stage test taken by CPS. Further recommendation to provide more detail on this.	<b>Agreed</b> This has been added to the policy at paragraph 4.3.4.
Recommendation that further information is giving in respect of the statutory defence for children.	<b>Agreed</b> This has been added to the policy at paragraph 4.2.3.
Recommendation that PPS record all instances in Northern Ireland where the statutory defence has been raised.	<b>Agreed</b> A record will be kept of all cases where the statutory defence has been raised.

<p>Recommendation that the ancillary order STPO is clearly referred to in Chapter 5.</p>	<p><b>Agreed</b> Chapter 5 has been updated to include reference to Slavery and Trafficking Prevention Orders (STPOs).</p>
<p>Endorsing the recommendation of CJINI on the need for cultural awareness training.</p>	<p><b>Agreed</b> Awareness raising and training of prosecutors and PPS Panel Counsel will take place as soon as possible after the launch of the policy. This will include cultural awareness training for specialist prosecutors as well as panel counsel.</p>
<p>Recommendation that the PPS include guidance on prosecution of the Article 64A offence in the policy.</p>	<p><b>Agreed</b> Reference to the Article 64A offence has been added to the policy at paragraph 2.3.11. Consideration is also being given to the development of internal guidance for prosecutors in this area.</p>
<p>Recommendation that publication of the final draft of the policy be accompanied with detailed plans for training and guidance on the policy and also on issues of cultural awareness for prosecutors</p>	<p><b>Agreed</b> As outlined above, awareness raising and training of prosecutors and PPS Panel Counsel will take place as soon as possible after the launch of the policy.</p>
<p>Recommendation that PPS take steps to implement the CJINI recommendation that “Within six months of the publication of this report, the Public Prosecution Service for Northern Ireland should develop an action plan to further improve how Counsel is utilised in cases involving modern slavery and human trafficking offences, to include appropriate training requirements for Counsel appointed to represent the organisation in these cases.”</p>	<p><b>Agreed</b> As above, awareness raising and training of prosecutors and PPS Panel Counsel will take place as soon as possible after the launch of the policy.</p>

<b>Barnardo's NI</b>	
<b>Comment</b>	<b>PPS Response</b>
<p>Recommendation that PPS establish contact with the Barnardo's NI Independent Guardian Service as soon as it is identified that a trafficked child is involved. Further recommendation that PPS actively liaise with the Independent Guardian Service in all cases where trafficked children are involved.</p>	<p><b>Agreed</b> Paragraph 3.3.6 has been updated to include further information on the Independent Guardian Service.</p> <p>When considering a file, PPS will ask police as the 'first responder' to liaise with the Independent Guardian Service where it is considered that a child may have been trafficked and such contact has not already been made.</p>
<p>Recommendation that special measures are always provided for trafficked children and young people in the prosecutorial process.</p>	<p><b>Agreed</b> PPS recognise that victims of MSHT may be particularly vulnerable and/or intimidated and that the giving of evidence can be a traumatic experience. Prosecutors will always make robust applications for special measures in every case involving a young witness.</p>

<b>Lord Morrow of Clogher Valley</b>	
<b>Comment</b>	<b>PPS Response</b>
Recommendation that the policy will include a requirement for all legal staff that where the statutory defence is raised in any case, it will be brought to the attention of the Assistant Director of the Serious Crime Unit, to ensure that there is a level of monitoring and that a consistent approach is being taken by the PPS.	<b>Agreed</b> This has been added to the policy at paragraph 4.5.3.
Recommendation that the policy should contain guidance relating to the offence of paying for sexual services under Article 64A of the Sexual Offences Order 2008, as amended by section 15 of the HTA 2015.	<b>Noted</b> Consideration is being given to the need for internal guidance for prosecutors in this area.
Recommendation that the policy at Chapter 4 in respect of the statutory defence does not give too much attention to the potential abuse of the defence by criminals.	<b>Agreed</b> The relevant section of the policy has been redrafted.

<b>Children's Law Centre</b>	
<b>Comment</b>	<b>PPS Response</b>
Recommendation that the policy is implemented at the earliest opportunity	<b>Agreed</b> Awareness raising and training of prosecutors and PPS Panel Counsel will take place as soon as possible after the launch of the policy.

<b>Northern Ireland Human Rights Commission</b>	
<b>Comment</b>	<b>PPS Response</b>
Recommendation that specific reference to the full range of international standards are included in the body of the policy.	<b>Agreed</b> Paragraph 1.4.7 has been added to the body of the policy. This signposts the reader to Annex B which contains the full range of international standards.
Recommendation that the PPS reviews the recommendation made by the UN Convention on the Elimination of Violence against Women. (CEDAW)	<b>Agreed</b> This is referred to at Annex B.
Recommendation that the policy at Chapter 2 should acknowledge that perpetrators may open a bank account in the victim's name and prevent the victim from accessing the money that they have earned through employment. This could also be added at Chapter 3 as a demonstration of coercive control and at Annex D.	<b>Agreed</b> This is now referred to at Chapters 2 and 3, specifically paragraphs 2.4.8 and 3.1.3. Further references are made at Annex C and Annex D.
Recommendation that reference to jobseeker's allowance at paragraph 2.4.12 is updated to "universal credit".	<b>Agreed</b> This has been updated (now paragraph 2.4.13).
Recommendation that paragraph 3.1.5 also makes reference to gender as having an impact of victim's experiences of trafficking.	<b>Agreed</b> This is now included at paragraph 3.1.5.
Recommendation that the PPS should take into account the need for trauma informed practice at every stage, including first responders and the assessment of the veracity of evidence.	<b>Noted</b> Consideration will be given to the requirement for a trauma informed approach and for the provision of relevant training.

**October 2021**