



Department of
Justice

An Roinn Dlí agus Cirt

Mánnystrie O tha Laa

www.justice-ni.gov.uk

**Public Consultation on Measures to Strengthen the Response
to Modern Slavery and Human Trafficking - Proposed
amendments to the Human Trafficking and Exploitation
(Criminal Justice and Support for Victims) Act (Northern
Ireland) 2015**

March 2022

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Introduction

Modern Slavery and Human Trafficking are heinous crimes that can affect anyone, of any age, gender or nationality. Criminals and organised crime groups seek to exploit and abuse vulnerable people for their own gains and it is vital that we maximise our collective efforts to address and eradicate this form of criminality.

There have been significant developments in the overall response to this criminality since 2015 when the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) was introduced. It is essential that progress continues, to ensure that appropriate measures are in place to assess and mitigate the threat posed by ruthless organised criminal groups, and provide support and assistance to victims of these terrible crimes.

In May 2021, the Department published the 2021/22 Modern Slavery and Human Trafficking Strategy for Northern Ireland set out under three strands, to **pursue** offenders, **protect** victims and **prevent** these crimes from occurring.

This consultation document outlines a range of additional tools that could be utilised to help address the scourge of Modern Slavery and Human Trafficking in today's society. The views expressed during the public consultation will help to develop these measures, including possible enhancements to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

Your views are vital in helping to develop proposals for consideration by an incoming Justice Minister and Executive in the new mandate, in order to ensure that justice partners can avail of a wider range of measures to bring to justice those seeking to exploit defenceless, vulnerable people in our society. We must also continue to strive to provide identified victims with the appropriate level of protection and support.

This is an important issue and your views will help shape the criminal justice response to slavery and trafficking offences.

Section 1. Responding to this consultation

- 1.1 This consultation is available at Citizen Space at the link below:
<https://consultations.nidirect.gov.uk/doj/6a703990>
- 1.2 A Response Questionnaire is attached at **Annex A**. In order to aid our analysis of responses it would be helpful if you could use the Response Questionnaire when responding.
- 1.3 The consultation will be open for 12 weeks. The closing date will be 27 May 2022

Alternative Formats

- 1.4 Hard copies of this document and copies in other formats, including Braille, large print etc., are available upon request. If you require an alternative format or in a language other than English, please let us know and we will do our best to assist you. If you require any further information on this consultation or the content of this document, or any other assistance to make a response, please contact the Department.

We can be contacted using the details provided below:

By Email: MSHTEnquiries@justice-ni.gov.uk

In writing: Modern Slavery and Human Trafficking Branch

Protection and Organised Crime Division

Department of Justice

Castle Buildings

Stormont Estate

Belfast

BT4 3SG

Impact Assessments

- 1.5 The policy proposals have been screened for equality impacts and rural needs impacts. No adverse implications or impacts are identified. Copies of the screening assessments are available on our website along with the consultation document. We welcome any comments you might have on the screening documents. The screening assessments will be revisited as necessary if there are significant changes to the proposed amendments to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 as a result of consultation comments.

Privacy, Confidentiality and Access to Consultation Responses

- 1.6 Please note that responses to this engagement exercise will be subject to the Freedom of Information Act 2000, which gives the right of access to much of the information held by public authorities. Before you submit your response, please read the advice in **Annex B** about the effect of the Freedom of Information Act 2000 on the confidentiality of responses. Before you submit a response, please also read the Privacy Notice at **Annex C**, which shows how we will use personal information as part of the processing of responses.

Complaints

- 1.7 If you have any concerns about the way this consultation process has been handled, please submit your complaint by email to Governance.Unit@justice-ni.gov.uk or write to the following address:

Governance Unit
Corporate Engagement & Communications Division
Justice Delivery Directorate
Department of Justice
Room B5.16, 5th Floor
Castle Buildings
Stormont Estate
Belfast
BT4 3SG

Section 2. About this consultation

Executive Summary

- 2.1 The public consultation exercise has been developed to strengthen the criminal justice response to slavery and trafficking offences. It is driven by commitments in the 2020/21 NI Modern Slavery and Human Trafficking Strategy, recommendations made by Criminal Justice Inspection Northern Ireland (CJINI) and the views of the Independent Anti-Slavery Commissioner (IASC). It is also informed by engagement with key stakeholders via the Organised Crime Task Force Modern Slavery and Human Trafficking Sub Group meetings and consideration of written evidence presented to the Justice Committee by Non-Governmental Organisations (NGOs) in the course of the passage of the Justice (Sexual Offences & Trafficking Victims) Bill, currently before the Northern Ireland Assembly.

Slavery and Trafficking Risk Orders (STRO)

[Criminal Justice Inspection Northern Ireland \(CJINI\)](#)

- 2.2 The 2020 CJINI report “An Inspection of how the Criminal Justice System Deals with Modern Slavery and Human Trafficking in Northern Ireland,” reviewed how the criminal justice system deals with these crimes in NI. As part of the review, recommendations included an operational recommendation that the Department should “*re-examine the need for Slavery and Trafficking Risk Orders in Northern Ireland.*”

[Independent Anti-Slavery Commissioner](#)

- 2.3 The Independent Anti-Slavery Commissioner’s annual report for 2020/2021 reiterated her call for the introduction of STROs in NI, she stated “*I noted in last year’s annual report that in Northern Ireland the legislation did not include risk orders and that I had met with the Minister for Justice to ask her to consider their value. I was therefore pleased to see a commitment in the Department for Justice Modern Slavery and Human Trafficking Strategy 2021-*

22 to engage with key stakeholders to consider the potential benefits and implications of introducing Slavery and Trafficking Risk Orders in Northern Ireland based on evidence and experience from other jurisdictions.”

[DoJ Modern Slavery and Human Trafficking Strategy 2021/22](#)

- 2.4 The NI Modern Slavery and Human Trafficking Strategy for 2021/22 committed to engage with key stakeholders to consider the potential benefits and implications of introducing Slavery and Trafficking Risk Orders in NI based on evidence and experience from other jurisdictions.

Duty to Notify

- 2.5 The 2020 [CJINI report](#) reviewed how the criminal justice system deals with slavery and trafficking offences in NI. It referred to the lack of implementation of the duty to notify provisions in NI and under ‘Area for Improvement’ CJINI recommended that the DoJ “*should immediately progress the policy and implementation of the Duty to Notify legislation.*”
- 2.6 The [Independent Anti-Slavery Commissioner’s report](#) for 2020/2021 also highlighted the benefits of a Duty to Notify; the IASC stated “*I understand that the Department of Justice, as part of their future strategy, has committed to considering the Duty to Notify obligation that places a requirement on specified public authorities to make a notification if they come into contact with suspected victims of modern slavery. Collecting this information improves our understanding of modern slavery and I would hope that this mechanism is supported*”.
- 2.7 The [NI Modern Slavery and Human Trafficking Strategy for 2021/22](#) committed to “*scope the potential for Duty to Notify provisions to be provided for in Northern Ireland*”.

Additional Search Powers for Officers

- 2.8 Operational policing colleagues have highlighted the potential benefit of enabling items to be seized from a person whilst carrying out a search of premises under warrant. The consultation therefore seeks views on enhancing the powers available for officers in carrying out investigative duties, under warrant, in cases specifically linked to modern slavery and human trafficking.
- 2.9 This public consultation exercise will provide an opportunity to comment on the range of proposals. The Department will collate the views of stakeholders on the proposed measures, which will assist the Northern Ireland Executive in determining whether to legislate for possible amendments to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.
- 2.10 The responses will help develop proposals for consideration by an incoming Justice Minister and Executive in the new mandate. The consultation on proposed measures will help to deliver on key actions in the 2020/21 MSHT Strategy aimed at improving the effectiveness of the criminal justice response to slavery and trafficking offences.

Section 3. Slavery and Trafficking Risk Orders

Issue

- 3.1 Schedule 3 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 provides for the making of a Slavery and Trafficking Prevention Order (STPO) against a defendant convicted of a slavery or human trafficking offence. Similar provision exists in England and Wales and in Scotland. In addition, however, in England and Wales a chief officer of police, immigration officer or the Director General of the National Crime Agency may apply to a magistrates' court for a Slavery and Trafficking Risk Order. In Scotland, the Chief Constable may apply to a sheriff court for the making of a Trafficking and Exploitation Risk Order.
- 3.2 There is currently no provision for Slavery and Trafficking Risk Orders in NI. During a previous consultation on the introduction of measures including such orders in 2014, concerns were raised regarding the human rights and civil liberties implications of these measures and provision for them was not taken in the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

England and Wales

- 3.3 In England and Wales, by virtue of Part 2 of the Modern Slavery Act 2015 (Prevention Orders), section 23 provides that a magistrates' court may make a Slavery and Trafficking Risk Order (STRO) in relation to a person on an application by a chief officer of police, an immigration officer, or the Director General of the National Crime Agency. The court may make the order if it is satisfied that the defendant has acted in a way which means that there is a risk that the defendant will commit a slavery or human trafficking offence; and it is necessary to make the order for the purpose of protecting persons

generally, or particular persons, from the physical or psychological harm which would likely occur if the defendant committed such an offence.

- 3.4 STROs are not intended as a substitute for prosecution when sufficient evidence is available. They are intended as an additional tool available to law enforcement agencies to control the behaviour of individuals who may cause harm through committing slavery and human trafficking offences. If a defendant is found not guilty of a slavery or trafficking offence, that does not prevent an application for a STRO being made in future, where appropriate.

Interim Slavery and Trafficking Risk Order

- 3.5 Section 28 of the Modern Slavery Act 2015 provides for the making of an application for an interim Slavery and Trafficking Risk Order. If granted, this may have effect for a specified period or until a determination has been made on the main application for a Slavery and Trafficking Risk Order.

Scotland

- 3.6 In Scotland, section 26 of the Human Trafficking and Exploitation (Scotland) Act 2015, provides that the Chief Constable may apply to the Sheriff for a Trafficking and Exploitation Risk Order (TERO).

Interim Trafficking and Exploitation Risk Order

- 3.7 A similar provision to that of England and Wales is in place in Scotland under [section 30 of the Human Trafficking and Exploitation \(Scotland\) Act 2015](#) for an application for an interim order.
- 3.8 As is in England and Wales the order is sought if there is a risk that the person may commit a relevant trafficking or exploitation offence and each prohibition or requirement is necessary for protecting persons generally or a particular person from the physical or psychological harm which would be likely to occur if the adult committed such an offence. In England, Wales and Scotland, these risk orders may impose any restrictions on the individual that the court deems necessary.

- 3.9 In July 2017, the Home Office Modern Slavery Unit, alongside the ‘What Works’ unit in the Modern Slavery Police Transformation programme, undertook a light-touch review of the effectiveness of STPOs and STROs in England and Wales. The review found that between July 2015 and March 2017, 56 orders were issued in total (37 Prevention Orders on conviction and 19 Risk Orders). It should be noted, however that their use was limited to only 15 of the 43 Police Forces in England and Wales.
- The light touch review also found that the use of STROs during investigations was a more effective way of placing restrictions on suspects as opposed to bail conditions.
- 3.10 Statistics in the [UK Modern Slavery Annual Report 2020, published by the Home Office indicate that](#) 60 STROs have been issued in England and Wales between July 2015 and March 2020 with 12 interim STROs issued between 2019 and 2020.

Previous Consultation on STROs

- 3.11 The Department of Justice previously consulted on these measures over a 12-week period between January and April 2014. The consultation paper was titled “Human Trafficking and Slavery: Strengthening Northern Ireland’s Response.” The public consultation document proposed the introduction of STPOs and STROs.
- 3.12 Following the 2014 consultation, comments made in support of STROs in NI included:

Such orders may be useful where:

- a victim is reluctant to make a formal complaint and there are strong suspicions;
- it would assist in targeting offending behaviour at the earliest stages;
- it would protect the public by setting restrictions on those that have been deemed capable of such crimes.

However, contrary views included:

- Risk orders would need additional safeguards put in place to ensure that such orders do not constitute an interference in human rights;
- Concerns in respect of human rights and civil liberties implications;
- Concerns about the low evidence threshold required for these orders.

Based on views expressed by stakeholders the then Justice Minister decided not to bring forward legislation on STROs at that time.

- 3.13 Given the passage of time, and considering that STROs (or equivalent) are a feature of criminal justice approaches to tackling modern slavery and human trafficking in other jurisdictions, it is useful to examine the position elsewhere on the effective use of STROs to date.
- 3.14 In England and Wales, guidance has been issued by the Home Office on STROs. The guidance advises that STROs are not intended as a substitute for prosecution when sufficient evidence is available. They are intended as an additional tool available to law enforcement agencies to control the behaviour of individuals who may cause harm through committing slavery and human trafficking offences. If a defendant is found not guilty of a slavery or trafficking offence, that does not prevent an application for a STRO being made in future.
- 3.15 The guidance advises that for a STRO, evidence of all of the alleged behaviour will need to be put before the Court. The evidence must be of a sufficient standard to prove that the particular behaviour or actions took place. The behaviour or actions may not necessarily amount to a criminal offence (e.g. numerous trips to places with strong links to slavery/trafficking) but, when combined with other evidence, such as previous convictions for non-slavery and trafficking offences, may point to the risk of future criminality.

- 3.16 Once the Court has decided that the relevant behaviour has taken place, the Court must be satisfied that it is necessary to make the STRO to protect persons or a person from harm.
- 3.17 Factors when considering the terms of a STRO may be:
- will the proposed restrictions operate to reduce the risk of harm to the public or to any particular members of the public?
 - are the restrictions proportionate and reasonable?
 - can they be policed effectively?
- 3.18 A STRO or interim STRO is a serious measure and breach of any prohibition contained in it, without reasonable excuse, is a criminal offence. Every effort must be made to ensure the defendant understands this position and that the defendant attends the hearing of the application and is given the opportunity to state their case.
- 3.19 The following types of prohibition may be contained in a STRO:
- Advertising for/ recruiting/ employing staff;
 - Being a gangmaster;
 - Working with children;
 - Working with vulnerable people;
 - Residing with (specified) children/vulnerable people;
 - Organising transport/accommodation for other people;
 - Travelling to specified countries;
 - Contacting/ recruiting specific individuals, directly or indirectly, either personally or by any electronic means;
 - Holding a licence to act as a sponsor for visa applications; or
 - Going to a specific place (e.g., where a victim resides).

Length of prohibition

- 3.20 A prohibition has effect for the period specified in the STRO, unless no period is specified, in which case the prohibition has effect until further Order. The minimum duration which may be specified in an Order is two years.

Variation to STRO or Discharge

- 3.21 Variation of a STRO might be necessary for:
- deletion of unnecessary conditions, for example, if a defendant moves to another area, or
 - addition of supplementary conditions, for example, if an additional group needing protection from risk was identified, although there may be instances when a new Order should be sought.

A STRO cannot be discharged within two years of it being made without the agreement of both parties.

Appealing a STRO

- 3.22 The Modern Slavery Act 2015 provides a right of appeal to the Crown Court against the making of a full or interim STRO. The defendant may appeal against either the making of an Order, or interim Order; or against the making of (or refusal to make) an Order varying, renewing or discharging a STRO.

Breach of a STRO

- 3.23 A breach of any aspect of a STRO is a criminal offence triable either summarily in a magistrates' court or, on indictment, in the Crown Court. The maximum penalty for a breach of a STRO or breach of notification requirements is a term not exceeding imprisonment for 6 months or a fine not exceeding the statutory maximum, or both. On indictment, the maximum penalty is imprisonment for five years.

Examples of circumstances where STROs may be required (taken from [Home Office guidance](#)).

3.24 Examples of the types of circumstances where STROs could be sought are:

- A defendant is coming to the end of a licence period and their behaviour suggests they may still pose a risk. In these circumstances, consideration may be given to whether certain restrictions will be likely to prevent the offender from committing further slavery offences. Imposition of a STRO may be a useful tool to enable the authorities to continue to manage the defendant's behaviour.
- There is evidence that slavery and human trafficking offences have taken place and may continue to take place in the future. Despite there being evidence of this type of wrongdoing, there may be obstacles to prosecution, for example witnesses returning to their country of origin. In such cases, it may be appropriate to apply for a STRO. The civil rules of evidence allow for the evidence of witnesses who have returned to their home country to be relied upon.
- A person may have been convicted of non-slavery and trafficking offences in the past, which can be associated with slavery and trafficking activity. An application may be appropriate if that person is engaged in further activity which does not, in itself, amount to an offence but which, when looked at in conjunction with the previous convictions, creates a picture which indicates a risk of future involvement in slavery and trafficking.
- There may be cases where civil action has been taken in the past, the evidence of which may, when considered with other activity taking place, point to a risk of future slavery or trafficking offences. For example, a closure notice issued in respect of premises used for child sex offences (section 136BA of the Sexual Offences Act 2003) or a possession order in respect of a property where other offences of exploitation have taken place (see Schedule 2A of the Housing Act 1985) could be relevant.

Examples where STRO powers have been used in England and Wales

3.25 [Case 1](#)

Mansfield Magistrates' Court approved the application by the Gangmasters and Labour Abuse Authority (GLAA) for an interim STRO against two Romanian nationals with a number of conditions attached. The conditions included preventing the pair from threatening or intimidating vulnerable people or witnesses, preventing them from arranging travel or transport into or within the UK for anyone other than their immediate family and renting or sub renting property to anyone other than their immediate family.

The Gangmasters and Labour Abuse Authority advised, "*Through our enforcement activity with Nottinghamshire Police, we believed that both defendants could potentially commit slavery or human trafficking offences, and that the granting of the order was crucial in protecting the public from any possible harm*".

3.26 [Case 2](#)

During an investigation into labour exploitation, West Midlands Police secured interim Risk Orders against ten suspects. Officers believed a Polish organised crime gang (OCG) were bringing vulnerable men from Poland to the UK on the promise of good work. Upon arrival in the UK, victims were given work in a variety of service industry jobs and had bank accounts opened for them. The bank accounts were controlled by the traffickers, who then withdrew victims' earnings. Details for victims were also used by the OCG to obtain benefits and payday loans. Interim Risk Orders were granted in June 2016. The prohibitions granted placed the following restrictions on the defendants behaviour; not to arrange travel into the UK, or accommodation for, another

person, not to set up a bank account or be in possession or credit/ debit cards for another person, not to facilitate paid employment for another person, and not to arrange travel for anyone to/ from their place of work. Within three weeks of the order being obtained in 2016 one offender breached a prohibition by being in control of the banking documentation relating to 3 individuals. The offender was arrested and charged for breach of the order and subsequently given a 3.5-year custodial sentence. More recently, a second offender breached their order and after pleading guilty, they were sentenced to 2 years and 4 months in custody. They were the first people in the UK to be jailed using STRO legislation.

3.27 [Case 3](#)

In [Operation Fort](#) run by West Midlands Police, 92 potential victims were identified but police estimate as many as 400 Polish nationals could have been exploited. The victims were forced to live in squalor and work long hours in farms, factories, waste recycling plants and parcel sorting warehouses. As a result of Operation Fort, 8 members of the OCG have been sentenced.

Some houses where the victims resided had no heating, hot water, cooking facilities or furniture. Accommodation was squalid and overcrowded. Victims were forced to sleep many to a room and some had to find mattresses on the street. They were given small quantities of out of date food that had little nutritional value. Subsequent police investigations established a connection between at least one of the landlords and traffickers. The property landlord involved rented out three damp and poorly maintained properties to the OCG. He allowed multiple occupancy even though the houses were registered to single tenants. One property was gutted by a fire in 2015 and was subsequently found to have no smoke detectors or fire doors. Two victims were taken to hospital. He failed to cooperate with the council or police. He continued to rent to the traffickers, even after detectives warned him of the risk that his properties were being used to house victims.

In February 2020 the property landlord received a Slavery and Trafficking Risk Order. The conditions of the Order required him not to accept cash

payments from tenants, agree to property inspections by the local authority every quarter and provide the council with details of all occupants until 2025. Failure to comply with the conditions could result in a jail sentence.

Slavery and Trafficking Risk Orders served in E&W but enforced in Northern Ireland

- 3.28 Whilst Northern Ireland currently has no provision for STROs to be sought against a person or persons linked to Modern Slavery and Human Trafficking, enforcing authorities in Northern Ireland have experience in administering such orders. Where a STRO (or an interim STRO) is granted in England and Wales or Scotland, and where the person subject to the order travels to Northern Ireland, the PSNI can work with enforcing authorities in GB to ensure the conditions of the STRO are adhered to whilst the person is in Northern Ireland.

Guidance on Slavery and Trafficking Prevention Orders

- 3.29 There is already guidance produced for the Chief Constable on Slavery and Trafficking Prevention Orders which can be viewed [here](#).
- 3.30 Paragraph 22 of Schedule 3 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 requires the Department of Justice to issue statutory guidance to the Chief Constable in relation to the exercise of the powers of the Chief Constable under Schedule 3 of the Act. This statutory guidance is a practical tool intended to assist the PSNI. However, it may also be of assistance to all those responsible for applying for STPOs and for managing STPOs effectively. If the proposed amendment is made to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 to include STROs as a tool to combat modern slavery and human trafficking the guidance will need updated/amended to apply to STROs.

Section 4. Duty to Notify

- 4.1 Data on the numbers of trafficking victims in Northern Ireland is taken from the UK National Referral Mechanism (NRM). The NRM is a framework for identifying potential victims of trafficking and ensuring they receive appropriate support and assistance. Although not its primary purpose, the NRM is the only significant mechanism for accruing and processing data about trafficking and exploitation in NI.
- 4.2 The original policy intent underpinning section 13 of the [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 section 13](#) was to allow for the collation and processing of information about trafficking activity in NI not specifically collected through the NRM or the criminal justice system. It was intended that this would provide a more accurate picture of the scale and extent of trafficking across NI, and enable more effective targeting of enforcement activity and provision of support services.
- 4.3 At present, if a person does not consent to enter the NRM, no information is collected. However, an alternative anonymous referral under section 13 of the Act would allow this information to be collected to inform enforcement, and enable the provision of support. This data would be collated by the Home Office and would be available to enforcing authorities who would then have a clearer picture of the areas victims are being recovered from and potentially the areas perpetrators are active in. Statutory and non-statutory partners could also use the information to raise awareness across their services and the local community.

Other Jurisdictions

- 4.4 Since November 2015, first responders in England and Wales must notify the Single Competent Authority (SCA) via the Duty to Notify mechanism if an adult victim does not consent to enter the National Referral Mechanism of

suspected victims of modern slavery and human trafficking. During this process, the first responders do not collect the victim's personal details.

- 4.5 In 2019, Scotland published a [consultation regarding](#) section 38 of the Human Trafficking and Exploitation (Scotland) Act 2015, which relates to the duty to notify and provide information about victims (with the consent of the adult). The Scottish Government also considered that voluntary notifications should be encouraged by Dental Practice Staff, Community Pharmacists and General Practice Staff.
- 4.6 In April 2020 the Scottish Government published a consultation analysis report having considered comments made in the public consultation which can be viewed [here](#). Overall, the majority of responses expressed support for Scottish Government proposals.

Northern Ireland

- 4.7 Currently in Northern Ireland, there is no duty on first responders to capture this information although section 13 of the Human Trafficking and Exploitation Act (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 provides an enabling provision.
- 4.8 Section 13 requires a specified public authority to notify the Single Competent Authority (SCA) about suspected victims of offences under section 1 or 2 (with the consent of the person aged 18 or over). Section 13 remains to be commenced. A separate order then needs to set out how the duty will operate, and the Assembly must approve this.
- 4.9 In England and Wales, section 52 of the Modern Slavery Act 2015, requires the Secretary of State to be notified where the public authority have reasonable grounds to believe that a person may be a victim of slavery or human trafficking. Public authorities include the NCA, Chief Constable of the police for their designated area, a county council or borough and the Gangmasters and Labour Abuse Authority.

- 4.10 Commencing the duty to notify provisions of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 in Northern Ireland would help improve the identification of victims through additional training and awareness for specified public authorities and help build a more comprehensive picture of the nature and scale of modern slavery in Northern Ireland. The duty to notify would also be an additional tool to assist the law enforcement response in identifying and dealing with perpetrators and supporting victims of modern slavery and human trafficking by providing an insight on potential victims across Northern Ireland.
- 4.11 It is proposed that the 'Duty to Notify' provision would make it mandatory for all first responders in Northern Ireland to notify the Single Competent Authority if they have reason to believe that a person or persons may be victim/s of modern slavery and human trafficking as defined in section 1 and section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.
- 4.12 Recent statistics published by the Home Office demonstrate how Duty to Notify referrals (DTNs) have increased in numbers since 2016 which could be as a result of training and awareness raising through engagement with relevant first responders and NGOs. In 2016 there were 762 DTNs made in England and Wales, this rose to 2175 DTN made in 2020. Initial data suggests that DTN total for 2021 will exceed the 2020 figures.
- 4.13 The 2020 [CJINI report](#) refers to the lack of implementation of the duty to notify provisions in NI and under 'Area for Improvement' CJINI recommends that DoJ *"should immediately progress the policy and implementation of the Duty to Notify legislation."*
- 4.14 The [Independent Anti-Slavery Commissioner's Report](#) for 2020/2021 highlighted the issue of DTN provisions in NI. The Commissioner stated, *"I understand that the Department of Justice, as part of their future strategy, has committed to considering the Duty to Notify obligation that places a requirement on specified public authorities to make a notification if they come*

into contact with suspected victims of modern slavery. Collecting this information improves our understanding of modern slavery and I would hope that this mechanism is supported.”

Training

- 4.15 For those nominated first responders who will have a duty to notify, it will be important that they can avail of and commit to appropriate training/refresher training so they are fully equipped to identify the signs of modern slavery and human trafficking in today’s society and act accordingly to notify the Single Competent Authority.

Section 5. Additional Powers to Search a Person

- 5.1 Under [Article 10 of the Police and Criminal Evidence \(NI\) Order 1989](#) officers under warrant may enter and search premises and seize items that could be linked to an offence. Article 10 does not, however, allow officers to seize materials on a person, which could include mobile phones, sim cards, or data sticks which could provide valuable evidence in the investigation of an indictable offence.
- 5.2 In order to gather evidence whether on a premises or on a person for potential offences linked to Modern Slavery and Human Trafficking it is considered helpful to introduce a power to search and obtain evidence similar to powers available to police officers under section 23 of the [Misuse of Drugs Act 1971](#), or section 139B the [Criminal Justice Act 1988](#). Under this legislation, a premises and a person can be searched for evidence that may assist in an investigation.
- 5.3 Operational policing colleagues have highlighted the potential benefit of enabling items to be seized from a person whilst carrying out a search of premises under warrant.
- 5.4 In considering this the Department wishes to engage with stakeholders to determine views on amending the powers of officers in carrying out investigative duties under warrant of cases specifically linked to modern slavery and human trafficking.

Consultation Questions and Response Form

What is your Name? (Optional)

What is your email address? (Optional)

What is your organisation? (Optional)

Slavery Trafficking Risk Orders (STROs)

- 1. Do you agree with the proposal to introduce Slavery and Trafficking Risk Orders in order to protect the public or individuals from harm?

Yes/No

Please provide reasons for your response

DUTY TO NOTIFY

2. Do you agree that the Department should commence the duty and associated regulations to ensure specified public authorities must notify the Single Competent Authority (SCA) if they have any reason to believe that a person may be a victim of modern slavery and human trafficking?

Yes/No –

Please provide reasons for your response

3. Do you agree that the following public authorities must notify the SCA if they think that a person may be a victim of modern slavery and human trafficking?

- A) PSNI
- B) Health and Social Care Trusts
- C) Gangmasters and Labour Abuse Authority
- D) UK Border Force
- E) UK Immigration Enforcement
- F) Belfast International Airport Police
- G) Belfast Harbour Police

Yes/No –

Please provide reasons for your response

4. Are there any other public authorities in Northern Ireland that you think should be subject to the Duty to Notify?

Yes/No –

Please provide reasons for your response

5. Do you agree that the specified public authorities should have a process in place for ensuring compliance with the legislation such as ensuring the provision of appropriate training and refresher training for all frontline staff?

Yes/No –

Please provide reasons for your response

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6. What information do you think should be included in a duty to notify in the following table?

	Yes	No
Gender		
Nationality		
Country of Origin		
Location Victim was recovered		
Location exploitation took place		
Have PSNI been informed		
Section 1 offence HTEA		
Section 2 offence HTEA		
Victim of labour exploitation		
Victim of sexual exploitation		
Victim of domestic servitude		
Victim linked to removal of organs		
Other		

If you selected other, please specify below what other information should be captured

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ADDITIONAL SEARCH POWERS FOR OFFICERS IN MSHT CASES

7. Do you agree that police officers should have an additional power to search a person during a property search under existing modern slavery and human trafficking legislation?

Yes/No

Please provide reasons for your response

8. Have you any additional comments or suggestions you would like to make in relation to this public consultation?

Please provide comments below

Annex B

FREEDOM OF INFORMATION ACT 2000 – CONFIDENTIALITY OF CONSULTATIONS

The Department intends to publish a **summary** of responses following completion of the consultation process.

Your response, and all other responses to the consultation, may also be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this public consultation.

Subject to certain limited provisos, the Freedom of Information Act gives members of the public a right of access to any information held by a public authority, in this case, the Department. This right of access to information includes information provided in response to a consultation.

The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity should be made public or be treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- ❖ the Department should only accept information from third parties "in confidence" if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- ❖ the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature;
- ❖ acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

Further information about confidentiality of responses is available by contacting the Information Commissioner's Office or at www.informationcommissioner.gov.uk

Annex C

Privacy Notice

Data Controller Name: Department of Justice (DoJ)

Address: Department of Justice, Castle Buildings, Stormont Estate, BELFAST, BT4 3SG

Telephone: 02890 378617

Email: FOI@justice-ni.gov.uk

Data Protection Officer Name: DoJ Data Protection Officer

Telephone: 02890 378617

Email: DataProtectionOfficer@justice-ni.gov.uk

Why are you processing my personal information?

- DoJ is seeking comments from interested parties as part of its public consultation on the Consultation on policy proposals for new offences to tackle organised crime in Northern Ireland. DoJ is not seeking personal data as part of the consultation but is likely to receive names and addresses/e-mail addresses as part of a consultee's response.
- Consultation is a requisite part of the development of public policy and strategy.

• ***ONLY if you are relying on consent to process personal data.***

- DoJ is not relying on consent for processing the data supplied by the applicant. DoJ is required to seek consultation responses as part of policy development.

What categories of personal data are you processing?

- Responses to the consultation will include names and addresses and/or e-mail addresses.

Where do you get my personal data from?

- The personal data will originate from the person responding to the consultation.

Do you share my personal data with anyone else?

- We will not share your personal data with other organisations.

Do you transfer my personal data to other countries?

- No.

How long do you keep my personal data?

- We will retain your data in line with 5.7 of Schedule 5 of the DoJ Retention and Disposal Schedule <https://www.justice-ni.gov.uk/publications/doj-retention-and-disposal-schedule>

(If you use automated decision making or profiling) How do you use my personal data to make decisions about me?

- DoJ will not use automated processing for responses to this consultation.

What rights do I have?

- You have the right to obtain confirmation that your data is being [processed, and access to your personal data](#)
- You are entitled to have personal data [rectified if it is inaccurate or incomplete](#)
- You have a right to have personal data erased and to prevent processing, [in specific circumstances](#)
- You have the right to 'block' or suppress processing of personal data, in specific circumstances
- You have the right to data portability, [in specific circumstances](#)
- You have the right to object to the processing, in specific circumstances
- You have rights in relation to [automated decision making and profiling](#)

How do I complain if I am not happy?

Complaints should be submitted to:

Freedom of Information Unit

Department of Justice

Castle Buildings

Stormont Estate
BELFAST
BT4 3SG
Telephone: 02890 378617
Email: FOI@justice-ni.gov.uk

If you are unhappy with any aspect of this privacy notice, or how your personal information is being processed, please contact the *Departmental Data Protection Officer* at: DataProtectionOfficer@justice-ni.gov.uk

If you are still not happy, you have the right to lodge a complaint with the Information Commissioner's Office (ICO):

Information Commissioner's Office
Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF
Tel: 0303 123 1113
Email: casework@ico.org.uk
<https://ico.org.uk/global/contact-us/>