

**LEGAL AID BOARD**

**INFORMATION LEAFLET FOR POTENTIAL VICTIMS OF TRAFFICKING**

**This Leaflet is subject to review and may be amended from time to time.**

**It should be noted that this Leaflet is not and does not purport to be a legal document it is purely for the information of those to whom it applies.**

**Revised version September 2011**

**Human Trafficking Unit  
Legal Aid Board**

## LEGAL AID BOARD

### INFORMATION LEAFLET FOR POTENTIAL VICTIMS OF TRAFFICKING

#### 1. Who is a victim of trafficking?

A victim of trafficking is a person who:

- has been transported, recruited, and/or harboured [either] within a country and/or across transnational borders
- by the use or threat of: fear, fraud, force, deception, coercion, and/or abduction
- for the purposes of abuse, or the giving or receiving of payments and/or benefits,
- for the purpose of being exploited for labour, sexual exploitation or removal of organs.

When children and mentally impaired persons are trafficked, no violence, deception, or coercion needs to be involved: simply transporting, harbouring etc. them into those exploitative conditions constitutes trafficking.

#### 2. What happens when a victim of trafficking is identified?<sup>1</sup>

- When a victim of trafficking is referred to An Garda Síochána, the Garda National Immigration Bureau (GNIB) is informed.
- An Garda Síochána, with the information available, considers if the person is a **“potential”** victim of trafficking.
- An Garda Síochána will offer to refer the “potential” victim of trafficking to support services including **accommodation (provided by (RIA) Reception and Integration Agency), emotional support and material assistance, medical screening (provided by HSE Anti-Human Trafficking Team), access to translation and interpretation services**, (if necessary), access to **counselling** and information particularly regarding legal rights and access to **legal aid and advice**.
- An Garda Síochána conducts an interview with the victim to assess if the person is a **“suspected”** victim of trafficking using the International Organization for Migration identification procedures and other internationally used indicators of trafficking as a guide.
- A **“potential”** victim will not be removed from the State during this identification process.
- A person who has been identified by a member of An Garda Síochána not below the rank of Superintendent in GNIB as a suspected victim of an offence under section 2 or section 4 of the Criminal Law (Human Trafficking) Act 2008 or section 3 (other than subsections 2A and 2B) of the Child Trafficking and Pornography Act 1998 as amended is classified as a **“suspected”** victim and the Irish Naturalization and Immigration Service will grant the victim special permission to remain in the State for a **recovery and reflection** period of 60 days if the person has no other immigration status (e.g. as an EU national or as an asylum seeker). Where a person below the age of 18 years is identified as a suspected victim of human trafficking a recovery and reflection period of a duration greater than 60 days may be granted having regard to the arrangements in place for the care and welfare of the child. In considering the duration of such a period the Minister will have regard to whether the child is in the care of the Health Service Executive or in the care of a parent or legal guardian who is taking responsibility for him or her and the status of his or her parent or legal guardian in the State. The recovery and reflection period is to allow victims time to recover and escape from the alleged perpetrators of the trafficking and to consider their

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<sup>1</sup> More detailed descriptions of the processes can be found in the “Guide to Procedures in Place for Victims of Human Trafficking in Ireland” produced by the Anti-Human Trafficking Unit of the Department of Justice & Equality at [www.blueblindfold.gov.ie](http://www.blueblindfold.gov.ie)

options. Note: **These immigration arrangements only apply for those who do not have an existing valid permission to be in the State.**

- A "**suspected**" victim who has been granted a recovery and reflection period will not be removed from the State during this period.
- After the recovery and reflection period a "**suspected**" victim may be granted renewable **temporary residence permission** for six months if they have severed all relations with the alleged traffickers and it is necessary for the purpose of allowing the victim to assist the authorities with an investigation or prosecution arising from the trafficking offence if the victim chooses to do so.
- The temporary residence permission enables a "**suspected**" victim access to the labour market and supplementary welfare assistance in the State.
- If the "**suspected**" victim of trafficking arrived in the country before 7 June 2008 and the trafficking predates the protection legislation, the victim cannot be granted the Temporary Residence Permit. In this case an application for Leave to Remain may be submitted to the Irish Naturalisation & Immigration Service.
- If the "**suspected**" victim of trafficking has applied for asylum s/he is allowed to remain in the State as an asylum seeker until there is a final determination on his/her asylum application. If the final determination is negative the victim may submit an application for a temporary residence permission under the Administrative Immigration Arrangements or Leave to Remain to INIS.
- The victim is also entitled to seek civil and criminal **compensation** from the perpetrators of the trafficking and criminal compensation from the Criminal Injuries Compensation Tribunal. (see point 8 for more details on the Criminal Injuries Tribunal).
- **Employment law** also protects persons that have been exploited in cases of trafficking for forced labour. The Legal Aid Board can provide advice on how to seek legal redress through the employment law mechanisms: Labour Relations Commission, the Employment Appeals Tribunal or the Labour Court.
- If the victim does not wish to assist An Garda Síochána and has no other valid immigration status, **voluntary return** to country of origin might be arranged with the assistance of the International Organization for Migration. IOM has specific returning programmes for victims of trafficking. See point 6 Repatriation for more details.

### 3. Free Legal Aid

The Legal Aid Board provides free legal services to potential or suspected victims of trafficking through a specialised Unit. We are in a position to provide legal aid and legal advice in relation to civil law matters regarding the following:

- your status in the State and the measures set out in the Administrative Immigration Arrangements which provide for recovery and reflection and temporary residence, as well as applications for leave to remain in the State
- seeking asylum,
- seeking redress through the employment protection legislation,
- information on what is involved in a criminal trial for a victim/witness,
- information on compensation,
- information on voluntary return home.

We also provide legal advice in relation to criminal matters related to the trafficking offence.

The Legal Aid Board provides legal representation to victims of sexual offences in criminal prosecutions where an application is made to the Court to adduce evidence about or cross-examine the complainant's past sexual history. The Legal Aid Board has also agreed to waive fees for potential victims of trafficking and to prioritise requests for assistance in order to ensure that potential victims of trafficking have access to legal services within a reasonable timeframe.

“Potential” and “Suspected” victims of human trafficking are also entitled to seek legal representation from a private solicitor. However the State will not be liable for the cost of such legal representation

#### **4. What happens when a victim of trafficking decides to cooperate with An Garda Síochána?**

Trafficking in Human Beings is a crime. In Irish legislation it is an offence under the Criminal Law (Human Trafficking) Act 2008. Allegations of human trafficking are investigated, and prosecuted where appropriate. If the victim of trafficking decides to cooperate with An Garda Síochána’s investigation, the person will be required to provide a statement of what happened and will be interviewed by An Garda Síochána, possibly on several occasions. If the investigation directs to a prosecution and the matter goes to trial, the victim will probably be requested to give evidence in court against his/her traffickers. To ensure that the victim is protected and advised of his/her role as witness the Legal Aid Board will provide the victim with legal advice all through this process. The victim’s temporary residence permit will be extended for as long as the investigation and prosecution continues. A victim over 18 years who is resident in the State under a temporary residence permission who has continued to assist the authorities in relation to an investigation or prosecution arising in relation to the trafficking may apply to the Irish Naturalisation and Immigration Service for a change of status if s/he has held the temporary residence permission for a period of three years or, in a shorter period if the permission has been held for a continuous period and the investigation is complete.

#### **5. Can a victim of human trafficking apply for asylum?**

Yes. If the "potential" or “suspected” victim's experiences are such that there are grounds **for asylum** and the victim has a fear of returning to his/her country of origin, the victim should attend the **Offices of the Refugee Applications Commissioner** to apply for asylum and may register with the Refugee Legal Services to receive legal aid to assist with the asylum claim. The determination of an asylum claim is a separate process to the procedures for victims of human trafficking in Ireland.

#### **6. Assistance with Return**

The **International Organization for Migration** offers direct assistance to victims of trafficking in collaboration with the State. This includes support with return as well as accommodation in places of safety, medical and psychosocial support, skills development, vocational training, and reintegration assistance in country of origin. IOM also provides for the option of voluntary, safe, and dignified return to countries of origin, or resettlement to third countries in extreme cases. IOM estimates that as many as one third of world wide trafficked persons are minors, and adheres to a policy of offering specialised protection to this most vulnerable group. All IOM counter-trafficking activities are developed and implemented within a framework centred on the well being of the trafficked person.

#### **7. Protection**

A Crime Prevention Officer from An Garda Síochána is available to provide advice on personal safety and provide victims with a safety and security plan. An Garda Síochána has a dedicated number **1800 25 00 25** and a 24/7 incident number **01 666 49 64** to assist victims of trafficking with any security/protection concerns.

#### **8. Compensation**

The victim is also entitled to seek civil and criminal **compensation** from the perpetrators of the trafficking through civil proceedings in the courts and the Personal Injuries Board and criminal compensation in the Courts through section 6 of the Criminal Justice Act 1993 or the Criminal Injuries Compensation Tribunal.

**The Criminal Compensation** from the State must be claimed to the Criminal Injuries Tribunal through the Criminal Injuries Compensation Scheme. The tribunal considers applications from people who suffer a personal injury or death as a result of a crime of

violence. Compensation may be awarded on the basis of any vouched out of pocket expenses, including loss of earnings, experienced by the victim or, if the victim has died as a result of the incident, by the dependents of the victim. The incident in which the injury was caused must have been reported to An Garda Síochána without delay. Application must be made to the tribunal as soon as possible but not later than three months after the incident. The tribunal has authority under the scheme to extend this time limit in circumstances where the applicant can show that the reason for the delay in submitting the application justifies exceptional treatment of the application. There is no time limit for fatal applications. A report from An Garda Síochána (Police) is required to progress the application for compensation.

## 9. Irish Nationals

If an Irish national is a suspected victim of trafficking, s/he will be provided with assistance as required in the particular circumstances including medical care and support through the HSE, legal aid and advice by the Legal Aid Board, safety and security advice by a Garda Crime Prevention Officer, and accommodation (if necessary) through the Community Welfare & Homeless Services.

## 10. Support Agencies/NGOs

### **An Garda Síochána (Garda National Immigration Bureau)**

13/14 Burgh Quay  
Dublin 2  
Tel: 01 666 4964  
Email: [GNIB\\_GV@garda.ie](mailto:GNIB_GV@garda.ie)

**Blue Blindfold Campaign**  
Anti Human Trafficking Unit  
Dept. of Justice & Law Reform  
71-74 Harcourt Street  
Dublin 2  
Tel: 1800 25 00 25  
Email: [blueblindfold@garda.ie](mailto:blueblindfold@garda.ie)  
<http://www.blueblindfold.gov.ie/>

### **Reception and Integration Agency**

Bishop's Square  
Redmond's Hill  
Dublin 1  
Tel: 01 418 3200  
Email: [RIA\\_Inbox@justice.ie](mailto:RIA_Inbox@justice.ie)

### **HSE Anti Trafficking Team**

Baggot St Hospital,  
Baggot Street,  
Dublin 4.  
Tel: 01 6606982  
Email: [admin.whp@hse.ie](mailto:admin.whp@hse.ie)

### **The Legal Aid Board**

Human Trafficking/Administrative support  
Unit  
48-49 North Brunswick St  
Georges Lane  
Dublin 7  
Tel: 01 646 9600  
Web: [www.legalaidboard.ie](http://www.legalaidboard.ie)  
Email: [humantrafficking@legalaidboard.ie](mailto:humantrafficking@legalaidboard.ie)

### **Ruhama**

Support and help for women involved in  
prostitution  
Senior House,  
All Hallows College,  
Drumcondra,  
Dublin 9  
Tel: 01 836 0292  
Email: [admin@ruhama.ie](mailto:admin@ruhama.ie)  
Web: [www.ruhama.ie](http://www.ruhama.ie)

### **Employment Appeals Tribunal**

Employment Appeals Tribunal,  
Davitt House,  
65a Adelaide Road  
Dublin 2  
Tel: 01 631 3006  
Email: [eat@deti.ie](mailto:eat@deti.ie)

### **International Organization for Migration**

7 Hill Street  
Dublin 1  
Tel 01 878 7900  
E-mail : [iomdublin@iom.int](mailto:iomdublin@iom.int)  
Web: [www.iomdublin.org](http://www.iomdublin.org)

### **Migrant Rights Centre of Ireland**

55 Parnell Square West  
Dublin 1  
Tel: 01 889 7570  
Email: [info@mrci.ie](mailto:info@mrci.ie)  
Web: [www.mrci.ie](http://www.mrci.ie)

### **Immigrant Council of Ireland**

2, St Andrew St  
Dublin 2  
Tel: 01 647 0202  
Email: [admin@immigrantcouncil.ie](mailto:admin@immigrantcouncil.ie)  
Web: [www.immigrantcouncil.ie](http://www.immigrantcouncil.ie)

**Health Service Executive**

Asylum Seekers & New Communities Unit  
77, Gardiner St  
Dublin 1  
Tel: 01 858 5100  
Web: [www.welfare.ie](http://www.welfare.ie)

**Health Service Executive**

Team for Separated Children Seeking  
Asylum  
Baggot St Hospital  
Te: 01 669 9538  
Web: [www.hse.ie](http://www.hse.ie)

**Health Service Executive**

Social Work Department  
Sir Patrick Dunn's Hospital  
Tel: 01 647 7000

**Criminal Injuries Compensation Tribunal**

13 Lower Hatch Street  
Dublin 2  
Tel: 01 661 0604  
Email: [criminalinjuries@justice.ie](mailto:criminalinjuries@justice.ie)

**Personal Injuries Board**

P.O. BOX 8  
Clonakilty  
Co. Cork  
Tel: 1890 829 121  
Email: [enquiries@injuriesboard.ie](mailto:enquiries@injuriesboard.ie)  
[www.injuriesboard.ie](http://www.injuriesboard.ie)