ASCM43: MA Dissertation

MA Applied Criminal Justice and Criminology

A critical evaluation of policy and practice responses in England and Wales for unaccompanied migrant children who are trafficked into slavery.

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Declaration

The following dissertation submitted in candidature for the Degree of Master of Arts in Swansea University is the result of my own work. All sources used in the preparation of this dissertation have been properly acknowledged in the body of the work. No part of this dissertation has already been accepted or is being concurrently submitted for this or any other degree.

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Summary

The purpose of this research is to critically evaluate the effectiveness of current policy and practice responses in England and Wales to unaccompanied migrant children (UMC) who are trafficked into slavery. It is literature-based using empirical findings from others' research on practice regarding trafficked UMC, and from reports from the UK Government and Non-Government Organisations. Key themes which emerge from the literature are the identification, protection and support of trafficked victims, written into the Modern Slavery Act 2015. The study evaluates human-rights based legislation alongside the child-welfare and immigration-criminal justice approaches to the treatment of trafficked UMC (Crawley, 2006).

Human trafficking has increased in parallel with the proliferation in migration flows caused by the present migration crisis. This challenges the UK's political and practical response to protecting migrants from trafficking and modern slavery (Rigby, 2011; Betts, 2009). Unaccompanied children are particularly vulnerable to exploitation, and their lack of adult protection has empowered criminal gangs to violate their rights by trafficking, the abuse suffered leaving them with severe problems including poor mental health (Hynes, 2010; UNODC, 2016; Reale, 2008; Pearce *et al*, 2013). Consequently, an effective child protection response is essential for their safety and well-being (Pearce *et al*, 2013).

In the UK government's commitment to end modern slavery, prime consideration is given to the best interests of all children regardless of their immigration status (Modern Slavery Act 2015). Yet, this study suggests that, as the social welfare and the immigration-criminal justice systems take differing stances on the treatment of UMC (child first and foremost or migrant), legislation is not always applied in practice and victims of trafficking can be failed (Pearce *et al*, 2013; Crawley, 2006; Sigmon *et al*, 2008). This raises the question as to whether the Modern Slavery Act can offer a durable solution for these extremely vulnerable children currently in the migratory process, and whether the system of guardianship could redress this imbalance by truly representing the bests interests of the child (Stoyanov, 2012; Deveci, 2012).

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Acronyms and abbreviations

ASSIA	Applied Social Sciences Index and Abstracts
ATMG	Anti-Trafficking Monitoring Group
CA(s)	Competent Authority/ies
CAMHS	Child and Adolescent Mental Health Service
COE	Council of European Convention on Action against Trafficking in Human Beings
CPS	Crown Prosecution Service
DCSF	Department for Children, Schools and Families
ECPAT UK	End Child Prostitution, Child Pornography and Trafficking UK
EThOS	Electronic Theses Online Service
EU	European Union
IBSS	International Bibliography of the Social Sciences
ICTA(s)	Independent Child Trafficking Advocate(s)
IDMG	Inter-Departmental Ministerial Group
ILO	International Labour Organization
ILPA	Immigration Law Practitioners' Association
MSHTU	Modern Slavery Human Trafficking Unit
NCA	National Crime Agency
NGO(s)	Non-Government Organisation(s)
NRM	National Referral Mechanism
NSPCC	National Society for the Prevention of Cruelty to Children
OHCHR	Office of the High Commissioner for Human Rights
UKBA	UK Border Agency (now UKVI)
UKVI	UK Visas and Immigration (formerly UKBA)
UMC	Unaccompanied Migrant Child/Children

UN   United Nations

UNCRC   United Nations Convention on the Rights of the Child 1989

UNDOC   United Nations Office on Drugs and Crime

UNHCR   United Nations High Commissioner for Refugees

UNICEF UK   United Nations Children's Fund United Kingdom

UNICEF NY   United Nations Children's Fund New York

WSMP   Wales Strategic Migration Partnership

Zetoc   Z Electronic Table of Contents (database)

Chapter 1: Introduction

1.1 Background and context to the study: The political response

Effective prevention, protection and support for trafficked victims are written in legislation, but in reality they are not implemented in many countries, consequently failing the victims of this horrific crime (Sigmon, 2008). Drawing on library-based research, this dissertation aims to critically evaluate the effectiveness of current UK Government's child-trafficking policy responses in welfare practice for protecting and supporting unaccompanied migrant children (UMC) trafficked into slavery in England and Wales. The impact of criminal justice and immigration will influence the child trafficking policy discourses contained in this study. The 'unaccompanied' child (under the age of 18) refers to 'those who are separated from both parents and are not being cared for by an adult who, by law or custom, has responsibility to do so' (OHCHR, 1997: 1).

Child trafficking is not a new phenomenon, but its transnational character and scale is recent (Norris, 2008; O'Connell-Davidson, 2006). Kevin Hyland, the UK's first anti-slavery commissioner states: 'The migrant crisis is turning into a crisis around exploitation. If you look at the numbers, we haven't got a migrant crisis, we have a human-trafficking crisis' (Lamb, 2017: 25). Since 2014, the dramatic increase in globalisation and humanitarian migration has left thousands of forced and displaced UMC, particularly from war-torn Syria and Afghanistan, into the EU (UNDOC, 2016). Unaccompanied, without adult protection, and as migrants with uncertain status and circumstances, these children are particularly vulnerable to exploitation and abuse from traffickers who follow migratory routes (Hynes, 2010; UNODC, 2016; Reale, 2008). Consequently, human trafficking has increased in parallel with the proliferation of migration flows, and is now one of the fastest growing criminal activities in the world with some 1.2 million children affected worldwide each year (Rigby, 2011; UNICEF NY, 2006). Trafficking children into slavery has empowered criminal gangs to violate children's human rights by force, deception and coercion for financial gain (Hynes, 2010; Goodey, 2008). Sexual exploitation has been the dominant concern in research into child trafficking (Goodey, 2008) but it is now recognised that children suffer abuse from slavery in a variety of ways including forced labour - more prevalent in England and Wales than any other form of slavery (NCA – National Crime Agency, 2016) - domestic servitude,

cannabis cultivation, begging, trading human organs and benefit fraud (Pearce *et al*, 2013). This, with other crimes suffered by victims, such as rape, torture and forced marriage, leaves victims with severe physical, emotional and mental problems (Pearce *et al*, 2013).

The human-rights perspective covers two centuries of the anti-slavery movement since William Wilberforce led the UK in the fight against slavery, but it is only in recent years that the trafficking of children has been considered from an international perspective (Hague, 2007; Hynes, 2010). In the 1990s, policies preoccupied with transnational organised crime agendas rather than victim protection, aimed to manage migration by deterring migrants but failed to solve the trafficking predicament (Hynes, 2010). It was from this perspective that the United Nation's Palermo Protocol to 'Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children' (2000) emerged and offered the first internationally accepted definition of trafficking, with a broad criminal justice perspective identified in policy and practice (Hynes, 2010; Pearce, 2011; Westwood, 2010). Ratified in the UK in 2006, the Protocol defines the trafficking of children as: 'The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation.' (Pearce *et al*, 2013: 18). Only movement and exploitation are required when considering a child as a victim of trafficking, because a child cannot legally give consent to being exploited (ECPAT UK, 2015). Article 2b of the Protocol proposes preventative measures to eliminate human trafficking, 'to protect and assist victims of trafficking, with full respect for their human rights' (UN, 2000: 2). In response, certain UK laws were strengthened, such as the Sexual Offences Act 2003 that made it an offence to traffic children within and out of the UK for the purposes of sexual exploitation. In addition, the Asylum and Immigration Act 2004 made it an offence to facilitate trafficking people for any form of exploitation (Pearce, 2011). These Acts have now been repealed and replaced by the Modern Slavery Act, introduced into England and Wales in March 2015 in response to the Government's commitment to end human trafficking and modern day slavery (Modern Slavery Act 2015; Crown Prosecution Service - CPS, 2016).

Part 5 of the Act emphasises a human-rights and victim-centred approach, 'the protection of victims', which focuses on the protection and support of the victim regardless of their immigration status (Modern Slavery Act 2015). Prior to this Act, there was no single piece of legislation on child trafficking in the UK except 25 separate laws covering trafficking crimes (Jones, 2012). The Act incorporated the Government's Strategy on Human Trafficking (2011) aimed to increase child-trafficking awareness for safeguarding victims and addressing

their needs and rights (NSPCC, 2016). In addition, the Modern Slavery Strategy 2014 is based on the 'four Ps' structure: Pursue (the perpetrators), Prevent (engagement in modern slavery), Protect (vulnerable people from exploitation and increase awareness of the crime) and Prepare (reduce harm through improved victim identification and support) (IDMG, 2016). This dissertation will focus on the latter two 'Ps' to see how they are implemented in practice. Although UMC can seek protection under the European Convention of Human Rights 1950 and the 1951 UN Convention on the Status of Refugees, child trafficking is child abuse (Pearce *et al*, 2013). It therefore demands a critical child protection response whereby local authorities are held responsible for these children until they are 18 under the Children Act 1989 and 2004 (Pearce *et al*, 2013; Crawley, 2006). In reality however, forced migration challenges the political and practical UK response to migrant protection from trafficking and its prevention, with children oscillating between migration control and child protection (Betts, 2009; Pearce *et al*, 2013). This can create tension between delivering a child-centred approach with the welfare of the child of central importance, and an immigration-focussed approach in which policy requires restricted entry into the UK (Pearce *et al*, 2013; Castles *et al*, 2003). By subjecting these children to an immigration system that competes with the aims and objectives of the social welfare system, their vulnerability is increased and uncertainty is created about the effective implementation of anti-trafficking policies (Crawley, 2006; Maegusuku-Hewett and Tucker, 2013). Consequently, the key challenge facing the UK is in identifying trafficked UMC in order to protect and support their needs, whilst exercising immigration management without violating their human rights (O'Connell Davidson and Farrow, 2007).

1.2 Relevance to criminology

As a result of globalisation, expansion of the capitalist market and greater supply and demand, trafficking children for profit has become increasingly a financially motivated crime producing an estimated annual global profit of 32 billion dollars (ILO, 2008). An organised criminal activity, child trafficking is multi-faceted and covert, making it extremely difficult to detect and prevent, and the identification of child victims is often challenging (Norris, 2008). Offenders coerce UMC to gain their trust until they view their captor as their provider and the authorities as terrifying (Independent Anti-Slavery Commissioner, 2016a). The Modern Slavery Act proposes to break this cycle of abuse. As Theresa May, Home Secretary in 2015 said:

This landmark legislation sends the strongest possible signal to criminals that if you are involved in this vile trade you will be arrested, you will be prosecuted and you will be locked up. And it says to victims, you are not alone – we are here to help you.

(Haughey, 2016: 2)

Part 1 of the Act allows for increased sentencing of perpetrators to bring them to justice whilst section 45 of part 5 provides the defence for trafficked victims of slavery, who commit an offence as a result of their exploitation, but should not be treated as guilty (Modern Slavery Act 2015). However, recent evidence appears to indicate that the CPS is continuing to treat child victims as criminals, a common procedure in the first decade of the 21st century (Bokhari, 2008). In December 2016, 149 Vietnamese children, who had been trafficked to work in cannabis farms in the UK had ended up in young offender's institutes and were then deported to Vietnam without any protection from further exploitation (McClenaghan, 2016). This continuing failure to identify and protect child migrant victims, forced into illegal work, demonstrates that the Modern Slavery Act has not been effectively put into practice. Although it will take time to translate the Act into practice, implementation by law enforcement and criminal justice agencies must consistently adhere to the non-prosecution, victim-orientated approach for trafficked children (UNICEF UK, 2016; Lee, 2011).

The first time that movements of UMC entering the UK were tracked, in an attempt to tackle trafficking, was in 2003 and was conducted by the police and immigration at Heathrow airport in 'Operation Paladin' (Hewett *et al*, 2005). Findings resulted in more effective measures being put in place to protect children travelling alone, with the introduction of a new team of officers dedicated to safeguarding them (Hewett *et al*, 2005; Norris, 2008). Despite this new victim-centred response to trafficking, factors still exist that undermine criminal justice responses to the crime of human trafficking. Child victims can be distrustful of the police and criminal justice authorities, who wish to support them should they report victimisation. Conversely, they are often unclear how to report their abuse and fear reprisals against their families or themselves from their traffickers (Goodey, 2008). To identify victims of trafficking, therefore, requires special knowledge by law enforcement officials, such as the ability to distinguish trafficking from migrant smuggling, and knowledge of trafficking indicators (UNDOC, 2017). Since the passing of the Modern Slavery Act, there has been a recorded increase in the number of perpetrators detected and prosecuted for different forms of

slavery in England and Wales (Haughey, 2016). However, the CPS (2016) only publish the number of charges of trafficking into slavery offences, not the number of defendants charged. It is therefore unclear how many perpetrators have been brought to justice and whether the increase in sentencing powers is reflected in criminal justice practice. The statistics also do not show the age of trafficked victims, making it impossible to know how many children's cases are being prosecuted (ATMG – Anti-Trafficking Monitoring Group, 2016). Hence it follows that there is the need to understand the complexities and dynamics at play in trafficking and the traffickers themselves, in order that the prosecution process is improved and that the identification, protection and support needs of victims are not overlooked (Goodey, 2008; Hynes, 2015; Haughey, 2016).

1.3 Motivation for the study: Aims and objectives

Despite the UK government's increased attention and policy response to modern slavery and human trafficking, and the influential work from leading Non-Government Organisations (NGOs) that shape policy, there is a significant research gap when evaluating trafficked UMC and the effectiveness of policy responses in England and Wales (Bokhari, 2008; Rigby, 2011). This is reiterated by Corby (2006) who claims that, although trafficking is a current issue in UK child safeguarding work, very little research has been done in this area. Although many studies look at the experiences and safeguarding of non-migrant children, Pearce *et al* (2013) discern that there is limited empirical research into the issues facing practitioners trying to support trafficked migrant children who are also unaccompanied. After conducting a thorough literature review, it became apparent that this was indeed the case, and that not enough was known about the factors impacting on the success of policy responses in practice, for example, whether survivors are able to access the full range of their rights. For these reasons, the over-arching aim of this study is to critically evaluate the practice and policy responses of legislation in England and Wales for UMC who have been trafficked into slavery, and to establish whether the Modern Slavery Act offers a durable solution for these extremely vulnerable children in the migratory process today.

Findings will help to make known whether a human-rights approach takes precedence over the migration and criminal standpoints in current practice and response to trafficked UMC in the UK. Conclusions drawn from this study will then potentiate future research of policy responses with further evaluations of the Modern Slavery Act, as well as encouraging greater exploration of and improvements to the on-going practice of those supporting trafficked

UMC. There will also be considerable scope to evaluate policy responses for UMC who are trafficked into slavery in the UK post Brexit after article 50 of the Lisbon Treaty negotiations come to an end in March 2019 (Asthana *et al*, 2017).

The objectives of the study focus on three main areas of trafficked UMC which form the three chapters of the literature review: identification, protection and support, and the 'child first, migrant second' debate. They are based on social care practice and the significance of criminal justice and immigration agencies, anti-trafficking NGO and government agency reports, and are compared to current policies in order to measure their effectiveness. Research questions considered from the literature review for the themed chapters include:

- Is the National Referral Mechanism (NRM) fit for purpose, i.e., for identifying victims of human trafficking into modern slavery?

- What challenges and dilemmas do social care practitioners face in identifying, safeguarding and supporting UMC who have been trafficked?

- How can training improve first responder identification, support and protection of victims?

- What are the implications of age assessments on older UMC?

- The full respect of human rights are written in legislation but, are they protected by the criminal justice, immigration and child welfare systems when managing trafficked UMC?

- Trafficked UMC have statutory entitlement for their support needs to be met, but are specialist support services available to assist the mental health of these children who have suffered extreme trauma?

- Why are trafficked UMC going missing from local authority accommodation?

- Are the consequences of policies on trafficked UMC to be blamed for these children being treated as migrants first rather than as children in practice?

- Is a system of guardianship the answer to protect, support and safeguard the 'best interests' of trafficked UMC through the means of an Independent Child Trafficking Advocate (ICTA)?

1.4 Outline of methodology

To investigate the research question, secondary methodology was chosen in the form of a literature review based on: journal articles, books, media sources, published UK Government

documents and NGO reports. Initially, the intention was to conduct empirical research in Wales in the form of semi-structured interviews with planned appropriate ethical procedures in place. However, due to the challenges of identifying a representative sample, problems with access to the limited number of potential participants working with trafficked UMC in Wales, and the sensitive nature of conducting research with children who have suffered abuse, it was decided a library-based approach was more appropriate (McLaughlin and Muncie, 2013; Mudaly and Goddard, 2009). This led to expanding the research question to include responses to policy in England as in Wales, as the majority of findings from others' empirical studies in the literature pertained to practice with trafficked UMC in England. This not only allowed for a wider geographical representation in the research results of available secondary material, but also a larger collection of significant data of analysis to strengthen and broaden the findings (Sarantakos, 2005).

The nature of the study comprised a wide range of academic disciplines, and as a consequence, the review of the literature acted to increase the researcher's existing knowledge in this subject area. This led to the identification of relevant and controversial discourses to create a valuable theoretical research question about policy and practice. The intention of the research process was to narrow down the literature by targeting key objectives relevant to the question by reviewing, interpreting, and then critically evaluating different research studies covering the same themes (Silverman, 2001). This added clarity and focus to the data collection, making key themes more identifiable (Crowther-Dowey and Fussey, 2013) - a series of hypotheses to be tested (Creswell, 2014). Thus the dissertation question could be addressed by bringing to light disparities and similarities of policy and practice responses to UMC who have been trafficked into slavery.

The researcher began conducting a review of the literature by gathering key sources from Swansea University's databases for criminology such as ASSIA, IBSS and Web of Science and Swansea University's resources discovery tool, i-Find catalogue that searches databases. The system retrieved relevant books and academic articles, and Google Scholar was searched to identify additional academic papers. The British Library's online dissertations/theses, the Internet Journal of Criminology, and up-to-date government and NGO reports were accessed via their own websites, and module reading lists relating to modern slavery and human trafficking were consulted. Several academic books, not available at Swansea University, were requested and accessed through the University's inter-library loan system. Additional relevant articles were tracked down from the references from these books, and a dozen

articles pertinent to the study were requested by the researcher from Swansea University's document supply services. Internet media searches regarding present concerns about human-trafficking, modern day slavery and migration also acted as a useful supplement to emphasise the reality of repercussions if policy is not put into practice. The researcher was aware that the literature review would be on going until the dissertation had been completed due to changes in policy developments and new publications (King and Wincup, 2008).

1.5 Outline of chapters

To achieve the research objectives, the organisation of the dissertation is as follows: Chapter 1 introduces the background and context of the study and the general focus of the research, including key concepts and its relevance to criminology. It presents a brief explanation of the historic and current political response to trafficked UMC, with an introduction to the Modern Slavery Act as the most recent anti-human trafficking legislation in England and Wales. Attention is given to existing conflicts between the criminal justice, immigration and child welfare systems that must function within a human-rights and victim-centred political agenda. In addition, the aims and objectives that motivated the research are discussed and an overview of the research methodology presented. Chapter 2 explains in depth the research methodology and the reasons why and how the researcher chose secondary data in the form of a library-based literature review as opposed to primary research. Existing empirical studies and theories, Government policy reports and NGO reviews, and media contributions, are explored and analysed to identify key themes and theories which generate the subsequent chapters. Chapters 3 to 5 are themed chapters based on a critical analysis of the literature review. Chapter 3 focuses on victim identification and the limitations presented by the NRM used for identifying potential victims of trafficking, and the challenges placed on practitioners to achieve positive outcomes for trafficked UMC. This chapter includes the importance of training for practitioners in identifying victims of trafficking, and the detrimental consequences of age discrepancies in the identification process. This leads to Chapter 4 which presents the critical issue of protection and support determined by the protection of children's rights. This is followed by the present contentious issues of the criminalisation and repatriation of trafficked victims, and the need for specialist mental health services and appropriate accommodation to prevent trafficked UMC from going missing. Chapter 5 examines the tension between professionals delivering either a child-centred or an immigration-centred approach, which dominates the 'child first, migrant second' debate.

Consideration is then given to the role of the guardian as the most suitable alternative to protect and safeguard the best interests and rights of trafficked UMC. Chapter 6 discusses the main findings from the critical analysis of the themed chapters. To conclude the dissertation, chapter 7 reviews the findings discussed to draw conclusions about the effectiveness of policy and practice responses in England and Wales for UMC who are trafficked into slavery, supplemented by recommendations for future policy and practice when appropriate.

Chapter 2: Methodology

Research fulfils a number of functions, one being to offer an independent and critical assessment of current policy and practice in a wide range of human-trafficking issues including the effectiveness of anti-trafficking legislation and its impact on victims (Gozdziak and Collett, 2005). Originally the researcher chose to conduct an empirical study to critically evaluate policies and practices applied to UMC trafficked into slavery, however, due to the principal reasons set out below, secondary research was chosen.

After conducting a thorough informal literature review consisting of background reading (Caulfield and Hill, 2014), the researcher initially decided it would be more useful to use primary sources to investigate the research question in Wales. This would allow practitioners the opportunity to raise matters of concern, and enable them to reflect on their own practices relating to policy responses to trafficked UMC. It was expected from these findings that potential changes needed for implementing more consistent and efficient safeguarding practices and appropriate services for trafficked UMC would be highlighted. In addition, the outcome of this study might have contributed to enhancing the effectiveness of existing policies on the UK Government's commitment to the 'Ps' of 'protecting' and 'preparing' victims of human trafficking in identification and support. As observed by Pearce *et al* (2013) there is a need for further empirical research, based on the issues facing practitioners trying to support trafficked children, in order to provide evidence to inform the development of knowledge and of appropriate service provision. However, it became impossible to obtain access to a purposive sample of participants working with this specialised group of children in Wales, perhaps indicating the hidden nature of the crime and the difficulty in identifying victims (Norris, 2008). Also, criminologists in particular are likely to encounter significant ethical issues during research due to the sensitive nature of their subject matter, in this instance, child trafficking into slavery, and because of raising politically sensitive questions (McLaughlin and Muncie, 2013; Crowther-Dowey and Fussey, 2013). This is especially apparent when conducting research about vulnerable children who have been abused (Mudaly and Goddard, 2009).

For these reasons, and in light of her unique research situation and for the purpose of the questions needing to be answered, the researcher chose a literature-based review rather than primary research as her methodology. An advantage of using secondary data sources is that they can provide breadth and depth in a subject, and may represent the 'real' world rather

than convenience research participants (Caulfield and Hill, 2014). As Morgan and Hough (2008: 70) remark: 'The great fortune of the British criminologist is that he or she inhabits a domain in which there is more than enough data available for secondary analysis. And there are no access problems to be overcome for this task'.

The change in research strategy required the researcher to use a wider theoretical lens, involving a more substantial literature search. Theoretical lens describes the broader explanations used and developed in the research study to shape the types of questions asked, by guiding the researcher to which issues are important to explore (Creswell, 2014). This was necessary because it was found from the early literature review that there were not enough academic writings focussing specifically on practice in Wales for an effective library-based dissertation. Consequently, the research question had to be expanded to include responses to policy and practice in England, as well as Wales, as the majority of empirical findings from other academic studies pertained to practice with trafficked UMC in England. This allowed for both wider geographical representation in the findings and a larger amount of significant secondary data for analysis to enhance and add validity to the study (Sarantakos, 2005). The nature of the study comprised a wide range of disciplines including criminal justice, migration studies, national and international law, politics, human rights and social welfare. Consequently the researcher had to increase her existing knowledge in these areas, and familiarise herself with the major controversial debates in order to begin an informed inquiry. However, with such a dearth of information, and a restricted time frame in which to conduct the literature review, it was necessary to be partial and selective with the data in order to provide a framework for the dissertation research and a criterion for reviewing and comparing others' theoretical work and findings (Crowther-Dowey and Fussey, 2013).

Content analysis involving the use of evaluative and interpretive techniques to approach the literature was therefore adopted by the researcher. Unlike limitations of empirical research, this method is unobtrusive and does not require ethical scrutiny (Bryman, 2016). 'Content analysis is any technique for making inferences by objectively and systematically identifying specified characteristics of messages' (Holsti, 1969: 14). This means that a systematic literature review helps to substantiate the research problem and suggests possible questions and related hypotheses that need to be addressed (Gilbert, 2008; Creswell, 2014). This 'inductive' approach allows the researcher to generate meaning from the data collected, in which themes emerge during the course of research (Creswell, 2014). This is very different from quantitative research that has a specific focus before substantive research is conducted

(Crowther-Dowey and Fussey, 2013). The major key themes discovered using this method, and which formed the dissertation question, were underpinned by human rights and victim-orientated towards the identification, protection and support of UMC who had been trafficked into slavery, and the conflicting discourse between a child-welfare centred approach and an immigration-criminal led approach in policy and practice. It is these identified themes which are presented in the subsequent literature review chapters (3-5) of the study.

The researcher began the literature review by locating and collecting key studies and conceptual articles using advanced searching techniques from Swansea University's full-text databases for criminology such as ASSIA, IBSS and Web of Science using key words, for example, 'human trafficking', 'unaccompanied migrant/refugee/asylum children' and 'modern slavery policies' (Hart, 2001). The same, and other similar terms and key words, were used in Swansea University's resources discovery tool, i-Find catalogue that searches literature databases. The system retrieved relevant books and up-to-date articles in peer-reviewed academic journals. These journals embraced the different disciplines involved in the research area, for example, *Child Abuse Review, Children's Geographies, Criminology and Criminal Justice, Journal of Social Work Practice, International Migration and Critical Social Policy*. Google Scholar was also searched to identify additional online academic papers. Examples of relevant key studies in this dissertation include work by Maegusuku-Hewett *et al*, Pearce *et al* and Crawley whose findings were significant because of the large number of participants used in their research, which had been supported by funding agencies and an extensive time-frame.

The British Library (found via Zetoc), online dissertations/theses (via EThOS), the Internet Journal of Criminology, and up-to-date government and NGO reports, for example, by ECPAT UK and UNICEF UK, who work in this area in conjunction with the Home Office, were accessed via their own websites. Relevant module reading lists were consulted, as were the more recent references at the end of articles and books, which reflect current approaches and viewpoints from academics (Norris, 2008). Several academic books, not available at Swansea University, were requested and accessed through the University's inter-library loan system. Once again, additional material was tracked down from the references of these sources. A dozen articles pertinent to the study, which were not possible to access through Swansea University's databases or the Internet were requested and acquired, by the researcher from Swansea University's document supply services. Media sources regarding the present day concerns about human trafficking, modern day slavery and migration were

accessed via the Internet, on online sites including, *The Guardian, The Independent, The Times and BBC News*. These articles acted as a useful supplement in emphasising the actuality of the migration-child-trafficking nexus and the repercussions on victims if existing policy is not put into practice. However, the researcher was cautious when interpreting and analysing the reliability of media sources, being aware that problems such as credibility and representativeness exist, as they are very selective in what they publish (Gilbert, 2008; Bryman, 2004).

Due to on-going changes to criminal justice policy, researchers need to be continually alert to new policy developments and new publications, and therefore, the literature review is only completed when the final report or equivalent has been finished (King and Wincup, 2008). With this in mind, the process of the literature review for this dissertation was not complete until the date of submission.

Chapter 3:Identification of trafficked UMC

It is only through early and accurate identification that UMC who have been trafficked into slavery are safeguarded from further harm by traffickers and given the protection and assistance they need and are entitled to (Pearce, 2011). It is the responsibility of referring authorities known as 'first responders' who include immigration officers, the police, social workers and NGOs, to identify these children as victims of trafficking (NCA, 2017a). Referrals are then passed on to either of the two competent authorities (CAs) to make the final decision: the Modern Slavery Human Trafficking Unit (MSHTU), which deals with referrals from the police, NGOs and local authorities, and the Home Office UK Visas and Immigration (UKVI - formerly the UKBA - closed in 2013) which considers modern slavery to be part of the immigration process, e.g., as part of an asylum claim (Home Office, 2016a; NCA, 2017a). As soon as they arrive in the UK, initial identification is crucial, since trafficked UMC are frequently confused about what is happening to them, and they are likely to be unaware of their rights or available support (Franklin and Doyle, 2013). If they manage to escape the control of their traffickers however, it is rare for them to disclose all the details of their abuse because they fear retaliation, feel re-traumatised when sharing their story, distrust authority and fear deportation (Bokhari, 2008). Despite UK anti-trafficking laws, these, and many other factors, to be further explored in section 3.2, can impede identification (Sigmon *et al*, 2008). They create some of the biggest challenges for social workers and highlight the need for identification awareness training (Pearce *et al*, 2013) discussed in section 3.3. This is followed by section 3.4 which examines the impact of age assessments that can further prevent identification of older trafficked UMC (Pearce *et al*, 2013). This chapter begins with a critical evaluation of the NRM, the system for identifying potential victims of human trafficking and modern slavery and ensuring that they receive appropriate assistance (NCA, 2017a). The question is raised as to whether it is a durable solution for identifying and protecting these children (UNICEF UK, 2016).

3.1 The NRM: Is it fit for purpose?

The NRM was introduced in 2009 to meet the UK's obligation to identify victims of trafficking under article 10 of the Council of European Convention on Action against Trafficking in Human Beings (COE, 2005). It was extended to all victims of modern slavery in England and Wales following the implementation of the Modern Slavery Act (NCA,

2017a). Although the government decided not to include details of the NRM in the Act, section 50(2) proposes placing a statutory duty on public authorities to identify victims of trafficking early (ATMG, 2016; Modern Slavery Act 2015). Once the referral form is received by one of the CAs, it is decided whether there are reasonable grounds to believe the child is a potential victim and, if affirmative, a period of 45 days of reflection and recovery is granted. This time is used by the CAs to make a conclusive grounds decision on whether the referred person is a victim of trafficking into modern slavery (NCA, 2017a). However, it must be asked as to why experienced child protection practitioners working within a well-established child safeguarding framework in the UK, were rejected as CA decision-makers, especially as the government has stated that child trafficking is a form of child abuse. Rather, it is their statutory duty to refer cases for decision-making by those deemed to have insufficient expertise in children and child trafficking (ATMG, 2010). As Jones expresses, 'the UKBA's main task is to investigate the immigration status of individuals, not to find out if someone has been trafficked' (2012: 85-86).

The clash of policy objectives in which the UKVI is expected to be responsible for anti-trafficking identification on the one hand and the deportation of illegal migrants on the other, implies they may not be the best CA. This is particularly apparent when their main aim is not based on a human-rights and a child-centred approach (Jones, 2012). This concern has provoked comment from a number of researchers including Westwood (2010) who claims government authorities have problems distinguishing them from other non-trafficked children; and Kelly (2012) highlights the point that children seeking asylum are comparatively easy to identify compared to those who have been trafficked. Ishola (2012) agrees with Kelly, believing that data recorded by the Home Office tends to capture only those children who seek asylum in the UK, and therefore the number of UMC, some who may have been trafficked, remain unidentified. The concern about the lack of knowledge and expertise of decision-makers extends to the role of immigration officers as first responders. Crawley (2006) criticises them, claiming that they are not adequately trained in identification of trafficking victims and suggests: '...it is dangerous to expect them to combine the full range of knowledge and skills required for specialist child protection work' (2006: 53). If we are persuaded by Crawley's statement, it is possible to argue that identification decisions made by immigration officers are less adequate than those of social workers, thus less UMC being identified (ATMG, 2010). However, recent statistical evidence challenges this assumption.

The NRM statistics end-of-year summary 2016 reveals that in England and Wales the UKVI, UK Border Force and Home Office Immigration Enforcement made 546 child referrals to the NRM compared to local authorities' 368, the police's 315 and NGOs' 49 (NCA, 2017b). This demonstrates government agencies have become more competent in identifying child trafficking, possibly as a result of increased awareness training (IDMG, 2016). This is likely to correspond with the implementation of Hyland's first strategic plan (2015-2017) to improve victim identification by rolling out training programmes for agencies including immigration law enforcement (Independent Anti-Slavery Commissioner, 2016b) (see section 3.3). This outcome is positive and is related to the overall increase in referrals to the NRM: 1278 in 2016 compared to 982 in 2015 (NCA, 2017b). It shows that the identification measures in the Modern Slavery Act are being implemented, but, as Haughey (2016) recognises in her review of the Act, not as many victims are being identified as should be. If an estimated 10-13,000 children are trafficked to the UK (Home Office, 2014a) there is an enormous gap between the estimated total and those identified through the NRM. This reflects the fact that the children identified are just the 'tip of the iceberg', raising questions as to whether the NRM is sufficient for identification (Hynes, 2015; Refugee Council, 2013).

Drawing on a research programme to inform policy and practice for trafficked unaccompanied asylum-seeking children in Glasgow, Rigby (2011) found that practitioners working with these children believed that asylum issues take precedence. As a consequence, they concluded that the NRM did not aid identification. This is despite the government's claim that the NRM does not have an effect on immigration status and vice versa (NCA, 2017a). The Home Office, for instance, states that no immigration detention or removal action will be taken against the child whilst the decision about their identification is being made (Home Office, 2016b), but often this is not the case (Jones, 2012). The NCA statistics of NRM referrals also openly declare that their figures do not show how many victims are successful in their outcome, with many victims waiting for a decision, or cases suspended or withdrawn (NCA, 2017b). It can therefore be argued that it is the very nature of the NRM that prevents identification, as victims are fearful of the consequences of being brought to the authorities' attention because of their immigration status. As a result, information is hidden and referrals are not made (ATMG, 2010). This was evidenced by the ATMG's 2010 report *Wrong Kind of Victim* which found that 130 individuals identified as victims of trafficking were not referred to the NRM for this reason. The report claims that the UKVI tends to believe potential victims are playing the immigration system, often identifying them as

committing immigration crimes rather than treating them as victims of trafficking. This discriminatory reaction is a violation of the children's human rights and is an example of the UK government breaching its obligations under the COE and UK anti-trafficking law, and indicates inadequacy in its commitment to a victim-orientated policy approach (Hynes, 2015). For these reasons, the ATMG has described the system as 'not fit for purpose' and the NRM as 'flawed' (2010: 9).

The outcome of such criticisms led to the NRM being reviewed by the Home Office (2014b) and again by the ATMG (2014). The Home Office recommended that the UKVI and the MSHTU should cease being the sole CA decision-makers in identifying trafficked victims (Home Office, 2014b). The ATMG (2014) review similarly concluded that the present CAs should be replaced by multi-disciplinary panels to include statutory authorities and NGOs in order to reach positive conclusive decisions. To include social workers in the NRM decision-making process would certainly help to resolve the unease about judgements being made solely by government agencies lacking the experience of working with trafficked children (ATMG, 2014). Child protection legislation would therefore have a stronger role in the NRM process, practitioner's expertise based on a child-centred rather than immigration-led perspective (Home Office, 2016b, Pearce *et al*, 2013). Although this is a positive step forward, victim identification does present challenges for social work practitioners (Jones, 2012; Rigby, 2011).

3.2 Identification of victims: Challenges and dilemmas for social work practitioners

Hewett *et al* (2005) maintain that professionals cannot easily identify trafficked children because they lack relevant proof, as many children do not carry ID documents or information about their circumstances or background. It is therefore necessary for practitioners to recognise the indicators of trafficking for which awareness training is essential (see section 3.3). However, often victims themselves lack the knowledge of trafficking indicators and awareness of self-identification, which is a fundamental dilemma for social workers (Warria *et al*, 2014). This is exemplified in the research conducted by Pearce *et al* (2009) from 2007 – 2009 into 72 child care practitioners in the UK, which assessed the difficulties they face when identifying trafficked children. The participants claimed that most of the children would not use the term 'trafficking' to describe their experiences, despite many of them having escaped

exploitative situations because they had felt cheated and could no longer take the abuse. Also, the victims' choice not to disclose details of their exploitation was found to significantly impede identification (Pearce *et al*, 2013; Bokhari, 2008). There are many reasons why trafficked victims remain silent and do not tell their stories (Pearce *et al*, 2013).

Pearce *et al* (2013) use the 'wall of silence' as a metaphor to describe the hidden nature of child trafficking. On one side of the wall UMC maintain silence because, for example, their past is too difficult to talk about and could re-traumatise them. There can also be barriers to communication, which stem from being alone in a new country with a different culture and language, and so they cannot fully express themselves (Kelly and Bokhari, 2012; Pearce, 2011). The children may fear retaliation from their traffickers, who might threaten violence or report them to authorities to provoke fear of deportation (Kelly, 2012). This group of children are scared of being arrested and deported to their country of origin and are therefore distrustful of authority figures, which can include social workers (Jordan *et al*, 2013; Bokhari, 2008). Consequently, keeping quiet might feel like the safest coping strategy in an unfamiliar and dangerous situation (Pearce *et al*, 2013; Pearce, 2011; Kelly, 2012). This can be related to Chase's (2009) explanation of how asylum-seeking children use silence as a means to gain some 'agency' and control over the vulnerable circumstances in which they find themselves. If they decide to talk, they often provide 'thin' stories in order to maximise their chances of gaining British citizenship rather than telling 'thick' stories that provide a detailed understanding of their trafficking experiences (Kohli, 2006). In other words, when asked to give their stories many times by officials on arrival in the UK, UMC make their stories 'thin' enough to be credible to immigration authorities but not 'thick' enough to jeopardise their claim for sanctuary (Kohli, 2011). These same selective stories are then frequently retold to social workers in their hope for protection and assistance. However, this gap between 'thin' and 'thick' stories can create suspicion and disbelief for practitioners as evidenced by Pearce *et al* (2013).

They found that on the other side of the 'wall of silence' a 'culture of disbelief' exists among some practitioners who carry a definite level of scepticism about the authenticity of trafficking victims. For instance, a practitioner stated: 'This child has a very vivid imagination. I'm not even going to record a lot of our conversation because it's clearly not true' (2013: 92). However, in this example, the child was found to have been trafficked into domestic servitude and had suffered severe physical abuse. Hynes' (2015) view is that disbelief and mistrust of children's accounts can be a consequence of professionals focussing

on migration status, and many scholars concur that this is the reason why the 'culture of disbelief' exists. They believe that it is born out of the confusion as to whether child trafficking is an immigration or child protection issue (Pearce *et al*, 2013; Dennis, 2007). The issue of UMC being treated as migrants first rather than as children is scrutinised in chapter 5, but for the purpose of this chapter, we must consider social workers as one of the key players in the identification process. Without accurate identification, an NRM referral will not be made and appropriate service provision not accessed by these children (Warria *et al*, 2014; Hynes, 2015).

It takes time for practitioners to identify UMC who 'drip, drip, drip' information (Rigby, 2011: 334), trafficking being a process occurring over a long time rather than experienced as a one-off event (Simmonds, 2007, Pearce *et al*, 2013). It is particularly important to be aware of this when the CA's decision is negative, as UMC with on-going assessments by social services might disclose further details that would help their decision to be reconsidered (Home Office, 2016b). Pearce *et al's* (2013) central finding to overcome this barrier for effective identification was that a secure and caring relationship with a practitioner instils confidence in the child to disclose their history of abuse. They argued that policies and procedures are not enough on their own, and that tool kits and guidelines are not a substitute for a positive relationship. They concluded that trafficked children needed support in a trusting relationship to break the 'wall of silence' in order for them to feel safe enough to disclose the details of their traumatic experiences. This must be done by trained and experienced practitioners who will challenge the 'culture of disbelief' by listening to and believing their stories, and thus enabling accurate identification (Pearce *et al*, 2013; Pearce, 2011; Kohli, 2006).

3.3 Training for first responders: Making invisible victims visible

Under-identification of child victims of trafficking is a global problem and challenge (Warria *et al*, 2014). When trafficked victims remain invisible within the covert crime of trafficking, their human rights remain violated (Hynes, 2010). If child protection and anti-trafficking policies that endorse a human-rights approach are to be effectively practised, it is essential that trafficked UMC are identified. This can only be achieved if first responders from all services receive awareness training in trafficking identification and NRM referrals,

particularly when considering the factors reviewed in section 3.2 that make it difficult for practitioners to identify trafficked UMC (Pearce *et al*, 2013; Pearce, 2012). Aradau (2005) also ascertains that training is one of the most important methods of developing human-rights based responses to trafficking. Practitioners have been condemned by researchers and NGOs for lacking knowledge, awareness and training in the complexities of trafficking and victim identification (Bokhari, 2008; Chase and Statham, 2005). Recent research has shown that trafficked children continue to be at risk if social workers do not have awareness training, and therefore, lack the required skills and experience necessary to identify victims (Pearce, 2011; Rigby, 2011; Bokhari, 2008). Training is vital from the outset in order that the definition of a trafficked child is clearly understood to enable early detection and implementation of protection measures (Pearce *et al*, 2009; Rigby, 2011). For example, Pearce *et al* found that some practitioners experienced difficulties in understanding and defining a trafficked child because they had less experience and knowledge about trafficking issues, and were therefore unsure which definition to use. As one practitioner said, 'I suppose it's maybe because we are sometimes working to different definitions and that people don't really know what definitions we are working to…' (2013: 59).

Practitioners' understanding of trafficking influences how they identify trafficked UMC and inconsistent definitions do not facilitate the process (Pearce, 2011; Rigby, 2011). Warria *et al* sum this up by saying, 'The way child trafficking is defined is of great significance in its identification' (2014: 529). The Palermo Protocol definition of trafficking, as stated in the introduction, is repeated in the government's best practice guidance *Working Together to Safeguard Children* (DCSF, 2010) to help practitioners identify trafficked children (Bokhari, 2008). Also, the 2011 *London Safeguarding Trafficked Children Toolkit* is now the best practice guidance for all practitioners across the UK (Ishola, 2012, Rigby, 2011). More recently, the Modern Slavery Act resulted in the formation of the Modern Slavery Threat Group, one of its priorities being to strengthen training for agencies via the UK Modern Slavery Training Delivery Group, as recommended in Haughey's review of the Act (Haughey, 2016). Wales was the first country in the UK to implement, through its Regional Anti-Slavery Groups, anti-slavery training for practitioners on victim identification (ATMG, 2013; Cordis Bright, 2017). The Welsh Government's evaluation report (August 2016) reveals that its effectiveness has increased awareness of modern slavery in Wales and has given practitioners the knowledge and confidence to identify and report potential victims, with more and higher-quality referrals made to the NRM (Welsh Government, 2016). This is

evidenced by the NRM statistics 2016 end-of-year summary (NCA, 2017b) in which 21 minor referrals to the NRM were made compared to 11 minors referred in 2014 (NCA, 2014). Nevertheless, despite progressive practice in victim identification, the majority of estimated potential child victims in the UK, as stated in section 3.1, continue to remain unidentified and invisible to the welfare system.

Further training is therefore needed not only to enable the definition of child trafficking to be incorporated into practice, but also for first responders to have the knowledge to support victims in order to break down the 'wall of silence' as discussed in section 3.2 (Pearce *et al*, 2013). The need for training is made even more apparent when practitioners are expected to ascertain psychological or emotional impacts of UMC's 'lived' experiences for the identification and needs assessments required by the Department of Education's *Guidance and Regulations for Unaccompanied and Trafficked Children* (January 2014) (Larkin, 2015). However, despite further training, a lack of cultural awareness of the victim's background and language barriers means professionals can often miss the indicators of exploitation (Haughey, 2016; Pearce, 2011). To address this concern, Pearce *et al* (2009) recommend that interpreters should be trained to facilitate identification alongside the practitioner, particularly when the child has mental, physical or sexual health problems that need explaining. Chand (2005), in a review of studies examining social work practice agrees with Pearce *et al*, arguing that it is not enough to simply have an interpreter who can speak the child's native language because the concepts related to child exploitation and trafficking are very different from those concerning welfare benefits, and therefore specialist training is required. Chand (2005) also contends that there is a lack of training of social workers and other professionals working effectively with interpreters, and this needs to be confronted if UMC are to be effectively identified as victims of trafficking. Ultimately, accurate identification can hinge upon the training and skill of the interpreter and the effectiveness of social workers and other first responders working with them.

3.4 The glitches of age determination for victim identification

Identification is contested most controversially in assessments to determine age, whereby attention can be deflected away from a child who is in need of support (CdeBaca and Sigmon, 2014; Rigby, 2011; Daniel, 2012). Incorrect age identification is pertinent to

adolescents, as child protection in policy and practice tends to neglect their protection and support needs compared to those of younger children (Pearce *et al*, 2013). The COE recommends the benefit of the doubt be given to a child whose age is disputed (Bokhari, 2008). This is endorsed in section 51 of the Modern Slavery Act which states that if public authorities have reasonable grounds to believe that a person may be a victim of human trafficking, they must assume that person is under 18, and should be provided with appropriate support until an age assessment is carried out by a local authority (Modern Slavery Act 2015). Age assessments are carried out for two main reasons: to determine the asylum process of the applicant and to assess their rights to statutory services to which they are entitled as children (Crawley and Kelly, 2012). Although written in legislation, evidence suggests that the age of many older UMC is disputed, with authorities failing in their legal duty to protect them (Crawley, 2006; Maegusuku-Hewett and Tucker, 2013). The guidance from the Merton Judgement, the benchmark of best practice in age assessments since 2003, clearly states that age determination cannot be based on physical appearance and demeanour alone; but this is exactly what can happen (Crawley and Kelly, 2012). Crawley (2011) for example, suggests that asylum-seeking UMC, who are trafficked for sexual exploitation, can be perceived to be older than their chronological age. They can be seen as sexually mature and thus viewed by authority figures as adults because they do not conform to the traditional Western view of what 'childhood' is - a state of innocence, vulnerability and dependency. Westwood (2010) and O'Connell Davidson (2013) believe it is this idealised conception of childhood related to age which forms child trafficking policy and practice responses.

Additional factors contribute to age misconceptions, as migrant children may appear older than children of the same age brought up in Western culture (Crawley, 2006). Migrant children have often taken on 'adult' responsibilities from an early age, such as fighting as soldiers, and have experienced other traumas associated with migration, as well as differences in cultural norms (Crawley, 2006; Gower, 2011). Disputes over age also arise because some UMC genuinely do not know their age and have no documentation to prove it, or they carry false identity (Crawley, 2007; 2006). In addition, they may have been told to lie about their age by their traffickers (Pearce, 2012). It is these responses that do not allow UMC the benefit of the doubt and undermine the laws intended to protect them, with detrimental consequences (Crawley, 2007; 2006). The child is put at further risk by being re-trafficked into slavery and victimised in adult detention centres (Pearce *et al*, 2013; Crawley, 2006; Ishola, 2012; Maegusuku-Hewett and Tucker, 2013).

On the other side of the age determination argument, the Home Office and social workers share the belief that age discrepancies, which are increasing in number because of the current migration problem, happen when adult migrants entering the UK deliberately claim to be children in order to receive the welfare benefits entitled to children (Crawley and Kelly, 2012; Crawley 2006). This increase in adults falsely claiming to be children is seen as serious abuse of the system, linked to a 'culture of disbelief' (see section 3.2) and is an on-going challenge for professionals (Gower, 2011; Rigby, 2011). This means age assessments become highly subjective, depending on whether the practitioner believes their story, and can have huge implications for their future (Crawley, 2007; Gower, 2011).

Initial assessments of adults claiming to be younger than they are, has recently been documented in the media regarding the young people arriving in the UK from Calais. Tabloid media reporting on young adult migrants claiming to be children revealed their identities by publishing photographs of them using face recognition software to determine their age. This controversial exposure not only increased their vulnerability to exploitation by traffickers, but also incited discrimination which subjected them to hate crime (ECPAT UK, 2016). If age cannot be accurately and consistently determined by physical appearance or due to lack of credible documentation, it is the responsibility of social services to conduct a thorough age assessment by making their own professional judgement on the claimant's age (Crawley and Kelly, 2012; Gower, 2011).

Although social services departments use best practice guidelines and good screening tool kits, there continue to be wide discrepancies in age assessments, and thus in the outcome for individual cases (Crawley and Kelly, 2012, Gower, 2011; Ishola, 2012). This is possibly because practitioners lack confidence in their own skills in conducting age assessments, as they may not have the experience or expertise in this area (Crawley and Kelly, 2012). The assessments are complex, crossing the boundaries between immigration and welfare law with the social worker determining whether the migrant is a vulnerable child victim in need of protection or a bogus adult asylum seeker (Crawley, 2006; Gower, 2011). This dilemma for social workers is critically evaluated in chapter 5, but its existence highlights the confusion social workers experience when conducting age assessments (Gower, 2011). To close the gap between policy and outcomes for UMC, researchers such as Crawley and Kelly (2012) and Gower (2011) suggest that the quality of training must be improved to incorporate a multi-agency approach for best safeguarding and greater consistency in age assessments, and also support for social workers must be provided with regard to this process (see section 3.3 for

further details). This will ensure best practice and avoid the glitches that put vulnerable UMC, mistakenly identified as adults, at risk of further harm (Gower, 2011; McLeigh, 2013). Without the correct identification of trafficked child victims, 'the whole issue of assistance and protection becomes superfluous' (Aradau, 2005: 42). After all, the stages of proper identification, referral and assistance are interlinked and are crucial in their protection (Warria *et al*, 2014). Once identified, the provision of specialist services responsive to these victims' needs are required (Pearce, 2011), and will be considered in the following chapter which begins with a brief review of the inadequacies in the protection of their human rights.

Chapter 4 Victim protection and support

When UMC participate in the migratory process, they are at risk of violation of their rights to survival, development, well-being and protection through the act of trafficking (McLeigh, 2013; Warria *et al*, 2014). Determined by the Palermo Protocol, the UNCRC, and now the Modern Slavery Act, full respect of trafficked children's human rights is paramount in the enhancement of their protection and support, regardless of their immigration status (Lee, 2011; UN, 2000, Modern Slavery Act 2015). And yet, the UK can be criticised for poor and inconsistent implementation of their right to protection, specifically the criminal justice and immigration policies as demonstrated by the criminalisation and repatriation of these children. Section 4.1 of this chapter briefly explores these controversial issues and section 4.2 outlines the challenges faced by child welfare practice when managing trafficked UMC's rights to protection and support. These same rights, as for children born in the UK (article 22 of the UNCRC), are embedded in the Children Act 1989 and extended in the Children Act 2004, in which child protection professionals are legally bound to safeguard and promote the welfare of trafficked UMC in their care (Bokhari, 2012). However, there are concerns about the extent of provision for UMC which currently equates with the provision for UK citizen children under the above Acts (Maegusuku-Hewett and Tucker, 2013; Hynes, 2015). The gaps in service provision for trafficked children are well documented, most notably the absence of mental health services (Deveci, 2012). These children have experienced severe trauma from their exploitation and it is therefore crucial they receive mental health support to manage the implications of abuse and to support their well-being (Zimmerman *et al*, 2006; Domoney *et al*, 2015). This need and the availability of these services will be discussed in section 4.3, with recommendations for improvements. The chapter will finish with section 4.4 which scrutinises the provision of safe accommodation for trafficked UMC in the UK, and examines why children are going missing once accommodated, with suggestions as to how this can be rectified in practice.

4.1 The criminalisation and repatriation of trafficked victims

Advocates, particularly from human rights NGOs, believe that anti-trafficking measures, such as border control and law enforcement, are prioritised over the protection of trafficked

victims' human rights (McLeigh, 2013). This implies that the asylum system does not fully protect the rights of trafficked UMC, but is predominantly interested in criminalising unwanted illegal migrants to serve political ends (Lee, 2011). Although, as mentioned in the introduction, the non-prosecuting principle specified in section 45 of the Modern Slavery Act advises that trafficked victims into slavery must not be treated as guilty of an offence, but recognised as victims of crime: migrant children in slave labour for example continue to be criminalised, such as the Vietnamese children tending cannabis plants in the UK in 2016 (Modern Slavery Act 2015; CPS, 2016, McClenaghan, 2016). As Mark Shepherd, a lawyer at the Migrant Legal Project claims, 'They go from being picked up in cannabis farms to a young offenders institute and then deported to Vietnam, without anyone doing anything about the fact they have been trafficked' (McClenaghan, 2016: 2). This shows that the '4Ps' structure in the Modern Slavery Act, whereby protection and preparation are fundamental to the victim's rights, is not being effectively and consistently implemented, thus the child's best interests (article 3 of the UNCRC) are not met. When the justice system treats UMC as perpetrators rather than victims of crime, it is not providing safety within the laws designed to protect them, but further exposes them to harm from traffickers (Reid and Jones, 2011). This concern is also discernible when these children are repatriated to their country of origin under strict immigration policies, making them vulnerable to further exploitation and abuse (McLeigh, 2013).

For UMC, the prospect of being returned to their country of origin is possibly their single greatest cause for anxiety (Kohli, 2006), and yet alarmingly, they are repatriated more often than adults (Bhabba, 2004; Maegusuku-Hewett and Tucker, 2013). The UKVI's policy commitment to safeguarding children states that no UMC will be removed from the UK unless the Secretary of State is content that reception and care arrangements in the country of destination are safe and adequate (Home Office, 2010). But, how effective is this legal system that seeks to protect trafficked migrant children separated from their families? There is no explanation as to how the adequacy of reception arrangements in the country of origin are to be assessed, and difficulties arise when the child's family cannot be located, if for example, the child has no identity documentation (Finch, 2012; Bokhari, 2012). As Kohli asserts, 'For those who receive a decision to return to their countries of origin, little is known of what practitioners do to prepare them, or about what becomes of them once they go back' (2011: 321). Since there is poor research evidence regarding the safe return of UMC, and information on what happens to them is not routinely gathered, it remains unclear whether

they are free from harm by traffickers when they are repatriated (Kohli, 2011; O'Connell Davidson, 2011). However, victims of sex slavery are known to be particularly vulnerable to continuing abuse in their country of origin (McLeigh, 2013). Placing victims back within the harsh conditions that brought about their migration/initial trafficking experiences is likely to restart the trafficking cycle, and thus, this prosecution-based approach is detrimental to combating trafficking (Amahazion, 2015).

In addition, there is a need for greater understanding of children's agency as rights bearers (Bhabba, 2004). The concept of 'child agency', which defines children as thinking individuals and decision-makers with the right to express opinions on choices that affect them (article 12 of the UNCRC), must be considered during immigration assessments (UNICEF UK, 2016). Allowing them to express their own views and hearing their voices (article 12 of the UNCRC), is an integral part of considering their best interests and upholding their well-being (Maegusuku-Hewett and Tucker, 2013). This is without immigration and border control justifications overriding these obligations (McLeigh, 2013).

Yet so far, there is no mechanism made for the views and opinions of children to be taken into account when planning their return (Finch, 2012). Often UMC are deported without assessment of their safety, thus ignoring the best interests of the child for a safe return and future life (McLeigh, 2013). A recent example of the UK legal system failing to protect migrant children's rights is the cancellation of the resettlement scheme. The Lord Dubs amendment, attached to section 67 of the Immigration Act 2016, pledged the UK government to resettle UMC affected by the migration crisis from Europe to the UK, specifically from the 'Jungle' migrant camp in Calais, with those at risk of trafficking or exploitation to be prioritised (Home Office, 2016c; Casciani, 2017). However, less than six months later on February 8 2017, Secretary of State, Amber Rudd, announced the Dubs amendment scheme would come to an end in March 2017, with only 350 children having arrived under the scheme rather than the 3,000 suggested by Lord Dubs and his supporters (BBC News, 2017). This demonstrates that the UK government is failing to comply with their own clear policies and EU and international law regarding the UNCRC. It also shows that migration and law enforcement continue to dominate current responses to trafficking despite the prominence given to the protection and needs of victims in current anti-trafficking policy (Goodey, 2008; Modern Slavery Act 2015). Also, the 'illegality' of being an undocumented migrant creates a barrier to the support services, social protection and justice these children are legally entitled to (O'Connell Davidson, 2013).

4.2 Meeting trafficked UMC's rights to provision in child welfare practice

Amid the primacy of immigration and criminal justice policy and its apparent disregard for the rights of children subject to immigration control, social workers are faced with the challenges of ensuring their rights and welfare. Interpretation and the level of knowledge of immigration policies certainly influence the practice of working with UMC, and consequently have an impact on their rights (Maegusuku-Hewett and Tucker, 2013). However, it is the 'best interests of the child' practice-guide to working holistically with children that takes into consideration their right to protection, provision and participation, irrespective of their immigration status (WSMP, 2012). Since 2003, local authorities in England and Wales have a legal duty to consider UMC as 'looked after', under section 20 of the Children Act 1989, but it can be argued that this is not always implemented in practice (Dennis, 2007). This is because it is particularly difficult, if not impossible, for social workers to meet the policy criteria of UMC's additional needs, particularly if they have been trafficked, if resources and services such as mental health and safe accommodation are limited or do not exist (Rigby, 2011). For social workers, this is one of the greatest hindrances to effective practice (Hynes, 2015).

Although article 10 of the COE requires member states to ensure that child victims of trafficking are provided with accommodation, health and education services and legal advice, Pearce (2011) found that practitioners were concerned that UK child citizens received better services than those from abroad. For instance, one practitioner states, '…it really was a lot of work trying to get these young people the same rights as British children' (2011: 1436). Could this be because conceptions of the 'normative' child actually punishes rather than protects children not conforming to the imagined norm (see 3.4 related to age assessments) (O'Connell Davidson, 2013)? O'Connell Davidson (2013) believes migrant children do not conform to the Gothic conceptions of the normative child as vulnerable and dependent, and therefore they are not seen as being grief-worthy, which produces and maintains exclusionary conceptions of who is normatively a child. She argues that only by telling the more complicated and broader stories about children's migration will provisions of support services for trafficked children meet their particular needs; a reason why the 'culture of disbelief' as described in section 3.2, should be removed from practice (O'Connell Davidson, 2013; Pearce *et al*, 2013). Similarly, as shown in section 3.2, UMC can maintain the 'wall of

silence' which creates a barrier for social workers in identifying them as victims of trafficking in order to give them support (Pearce *et al*, 2013). All these factors contribute towards the inability of social workers to meet trafficked UMC's rights and statutory entitlement to protection and welfare care (Kohli, 2007; Masocha and Simpson, 2011; Pearce, 2011).

Pearce *et al* (2013) also remind us about their concern regarding welfare provision. They state that generic services fundamental to all children, such as health and education, may not be equipped to manage the specific needs of trafficked children, and that their experiences of abuse can actually isolate them from these services, making them more vulnerable to further harm. It is therefore essential that these children have access to specialist services. Appropriate mental health care for example, must be provided for the many UMC who have experienced trauma, abuse and displacement either before and/or after entry to the UK (Rigby, 2011; Reed and Fazel, 2012); as well as the support of safe and appropriate accommodation vital to their protection and well-being (Pearce, 2012).

4.3 Available and fit for purpose?: Mental health services

Despite the extreme nature of the harm caused by human trafficking, harm is not a concept that is integrated in the Palermo definition of trafficking, or in policies to address the health needs of trafficked victims (Oram *et al*, 2011). Besides sections 49 and 50 of the Modern Slavery Act that includes the guidance and regulations in supporting victims' multiple needs, including mental health, no mention is made of special measures for support services (Modern Slavery Act 2015; Haughey, 2016). The work of NGOs has shown the trauma suffered by UMC from trafficking experiences and war and loss of family, which leads to a much higher prevalence of depression, anxiety and post-traumatic stress disorder than is suffered by accompanied, non-trafficked children (Chase *et al*, 2008; Reed and Fazel, 2012; CdeBaca and Sigmon, 2014). The range of symptoms and their severity are revealed in Zimmerman *et al's* 2006 report *Stolen Smiles* in which they looked at the psychological (and physical) health consequences of adolescents (and women) trafficked into sex work. They concluded that rapid intervention and treatment is crucial to benefit trafficked persons, in particular psychological counselling for mental health problems to support their well-being, independence and reintegration. Consequently, it is very important that access to mental health services is provided to help trafficked children who do not have the parental support to aid recovery (Domoney *et al*, 2015).

Disappointingly, therapeutic services with specialist experience to support UMC who have been trafficked into slavery are few and far between (Pearce *et al*, 2013; Reed and Fazel, 2012). Some dedicated services do exist, such as the Child and Adolescent Mental Health Service (CAMHS), but they tend to be situated in larger cities which does not benefit UMC placed in rural parts of the UK (Pearce *et al*, 2013; Raval, 2007). Dunkerley *et al* (2005) explain that demographics and differences in practices between regions impact upon the development and quality of service provision for refugee children. Therefore, to be effective and accessible to this group of children, CAMHS workers need to develop specialist outreach and detached service provision (Pearce *et al*, 2013). A good model of outreach practice involves school-based mental health services, such as the Haven Project in Liverpool in which UMC are easily reached, compared to the traditional hospital settings (Chiumento *et al*, 2011). This is because barriers to accessing this service for trafficked UMC are reduced, with school staff supporting the psychological work carried out by mental health professionals. The short service review of the project highlights that the link between schools and CAMHS enables mutual understanding of the different agencies working in the best interests of the children to improve their mental health (Chiumento *et al*, 2011). Research interviews with UMC who had accessed a mental health service at school also reported that the service was not only more accessible but very supportive and helpful, with many doubting they would attend a mental health service anywhere else (Reed and Fazel, 2012).

Also, when considering language barriers as an additional need for UMC when providing effective therapeutic practice, it is very important to have interpreters available across the UK trained in methods of working with trafficked children who have been traumatised (Raval, 2007). From their research, Pearce *et al* (2013) identified that if interpreters are not trained and do not understand or communicate the nature of the abuse experienced by the child, the extent of the emotional harm to the child may go undetected or be 'lost in translation'. Indeed, services tailored for specific cultural groups, delivered in people's native language, are found to be the most effective services, but they are not developed because of the diversity of UMC (Reed and Fazel, 2012). Although, as stated in section 3.3, identification awareness training is being rolled out across the UK, there is a lack of training for mental health and social work practitioners aimed to produce cultural competence, that is, understanding the psychological needs of UMC within his/her cultural context (Raval, 2007). Professionals must be able to understand the reasons for lack of disclosure, including awareness that traumatic experiences affect memory and can impact on the child's ability to

recall the timing, details or chronology of events. They must also learn methods of undertaking sensitive assessments, in order to make the appropriate decision about these children's needs (Domoney *et al*, 2015). There remains a need therefore for practitioners and language interpreters to be trained together in order to provide the most effective mental health service for trafficked UMC (Raval, 2007).

It must be remembered however, that it is a testament to their bravery and resilience that many UMC retain a level of optimism whilst trying to manage emotional pain and confronting adversity because of their uncertain legal status (Raval, 2007). Maegusuku-Hewett *et al* (2007) note that social workers tend to deem refugee children passive victims but that in fact they display strength beyond what is considered possible for a refugee child. They argue that they are capable of participation in the research process and therefore must be active agents in voicing their own welfare needs. After all, children are experts in their own lives and it is their right to have their voices heard (Kelly, 2012). By participating in the decision-making process they would improve the existence and development of appropriate and beneficial mental health services (Westwood, 2010; Hopkins, 2008; Kelly, 2012). However, the current lack of mental health resources means that trafficked UMC cannot have these support needs adequately met, and therefore more policy attention is required in this area. This inadequacy in funding is also comparable to the fundamental provision of safe accommodation for trafficked UMC.

4.4 Accommodation provision: Trafficked UMC going missing

Central to the support needs of trafficked UMC is the provision of safe and appropriate accommodation to prevent further abuse, which the UK is obligated under international human rights law to provide (Bokhari, 2012; Pearce, 2012). Also, under the UK's domestic safeguarding law since 2003, section 20 of the Children Act 1989 states that UMC who have no parent or guardian in the UK, should be provided with accommodation by local authority children's services (Larkin, 2015; Chase and Statham, 2005; Pearce, 2012). Instead however, it has been the practice of some local authorities to class UMC particularly aged 16-17, when there is confusion over their legal status, as 'children in need' under section 17 of the Act, leaving them without the support and protection of a social worker (Bokhari, 2008; Bokhari, 2012; Deveci, 2012). Placing these children in semi-independent accommodation that usually

comprises a house shared by a group of unsupervised teenagers, not only exposes them to further risk of exploitation by traffickers (Crawley, 2006; Pearce, 2012), but can result in their developing risky and unhealthy behaviours (without a responsible adult around) (Deveci, 2012). Rigby (2011) also found that accommodation for 16-18 year-olds was problematic when they are inappropriately placed in bed-and-breakfasts with little social contact. Similar to semi-independent accommodation, this accommodation is inadequate for providing child protection and support, since victims of trafficking require 24-hour supervision to keep them safe, which such accommodation does not provide (Downey, 2002).

Figures also show that younger trafficked children are not receiving their right to safe and secure accommodation, as many of them go missing from local authority care. ECPAT UK's 2007 research *Missing Out*, showed that 60 per cent of trafficked children placed in local authority accommodation subsequently went missing soon after being placed there and had never been found (Beddoe, 2007). The research revealed that children are still likely to be under the control of traffickers when in local authority care, and disappear because the trafficker has either maintained control over them or they run away to avoid detection by the trafficker (Beddoe, 2007; Pearce, 2012; Bokhari, 2008). This study was followed up by their more recent research conducted with Missing People in 2016, *Heading Back to Harm*, which revealed more disturbing numbers of missing children from September 2014 to September 2015 (Simon *et al*, 2016). The data was collected from 217 local authorities in the UK, and from the 45 who responded, it was found that 167 trafficked children in care and 593 unaccompanied children in care were reported missing at least once, and of these, 207 trafficked or unaccompanied children had not been found. ECPAT UK believe this number is a gross underestimation as many local authorities were unable to report on the overall numbers of trafficked and unaccompanied children in their care, and identification and recording information was poor and inconsistent (Hamilton, 2016; Kelly and Hodel, 2016). From this evidence, they concluded that the UK's child protection system, in particular to trafficked children, is inadequate and recommended the need for the government to invest in appropriate and safe accommodation to prevent them from going missing (Kelly and Hodal, 2016; Simon *et al*, 2016). They concluded that foster placements with specialist trained foster carers are the most suitable and safe form of accommodation for trafficked children, as they can provide the intensive support and supervision needed for their safety and complex needs (Pearce, 2012).

An example of a local authority that implements this in practice is Herefordshire, which places children with foster carers as soon as they suspect a child is trafficked, but this was only considered after Vietnamese boys were going missing in 2009 once they had been referred to their children's services (Pearce, 2012). However, as Kelly (2012) emphasises, some local services find this a difficult option due to the lack of placement availability with a foster carer, highlighting that disparities in support exist. As agencies struggle to keep up with the whereabouts of trafficked children, the 'hot potato' effect may ensue, whereby these children are passed between agencies as social workers respond to easier cases, allowing trafficked UMC to become invisible (Pearce 2011; Pearce *et al*, 2013). Social work strongly emphasises accountability and demonstration of successful outcomes, which might be impossible to provide when a child goes missing from accommodation. For effective safeguarding it is therefore paramount that practitioners work in a multi-agency framework sharing knowledge, skills and assessments, and that they are equipped with specialist training to help them engage and support these children (Pearce *et al*, 2013). Resources need to be available for this to happen however as, if practitioners are under-resourced, it is likely a referral will be passed on as a 'hot potato' and expected outcomes will not be achieved (Rigby, 2011; Pearce *et al*, 2013).

Whilst legislative attention exists for local authorities to safeguard children, they consistently remark that a lack of resources and funding by the UK government for specialist mental health services and safe accommodation, is a major barrier to offering effective support to some of the most vulnerable children they should be protecting (Bokhari, 2012). Practitioners also have to contend with existing immigration policies which compete with their own welfare objectives, limiting and challenging their responses to achieve positive outcomes for UMC trafficked into slavery (Pearce *et al*, 2013). Chapter 5 will now critically evaluate policy and practice responses with regards to this group of children being treated primarily as children or as migrants (Crawley, 2006).

Chapter 5: The 'Child First, Migrant Second' debate

Despite human rights legislation in which the best interests of the child is underpinned by the principle that an UMC should always be treated as a child first and a migrant second, Crawley (2006) insists that this is not the case in practice. She states that these children are treated as 'migrants first and foremost and children second', causing many of them to fall through the welfare gaps in protection and support that the '4Ps' framework was intended to prevent (Crawley, 2006: 3). Amahazion (2015) is in agreement, believing that the illegal immigration, prosecution-based approach has left trafficked UMC unprotected. This calls into question the effectiveness of UK immigration policies in protecting vulnerable UMC, when they are treated as migrants rather than children; labelled 'bogus' or 'undeserving', their stories not believed and their ages disputed (Crawley, 2006; Hynes, 2010). In practice, tension exists between a child-centred approach - the child's support and protection being paramount - and an immigration/criminal justice approach, whereby policy responses control migration and criminalise victims of trafficking (Pearce *et al*, 2013; Castles *et al*, 2003; Jones, 2012). Subjecting UMC to an immigration-criminal justice system that competes with the social welfare system not only increases their vulnerability (Crawley, 2006) but creates uncertainty about effective implementation of anti-human trafficking policies (Jones, 2012). The contentious debate about the control of immigration policies, which continue to take priority over child protection legislation, as put forward by Crawley, Amahazion and many other researchers (Crawley, 2006; Amahazion, 2015; Rigby, 2011; Hynes; 2015) will be critically evaluated in section 5.1 with reference to chapters 3 and 4. This is followed by section 5.2, which considers the system of guardianship in effectively safeguarding the best interests of trafficked UMC (Kelly and Bokhari, 2012).

5.1 The consequences of policies in practice for trafficked UMC

The Modern Slavery Act emphasises the protection and support of victims of trafficking, with full respect for their human rights and irrespective of their immigration status; yet, it is argued that immigration policies take precedence over this victim-centred approach (Hynes,

2015; UN, 2000). O'Connell Davidson (2011) believes a contrast exists in policy concern between the government's spoken commitment to children's rights and the suffering endured by trafficked UMC; also that insufficient attention is given to the suffering these children experience from immigration legislation and its enforcements. Migration law enforcements can prevent trafficked UMC accessing their right to protection and support of generic services, revealing immigration policies to be discriminatory against migrant children, as well as having harmful consequences for their safety and well-being (McLeigh, 2013; Crawley, 2006; Bokhari, 2008). The increasingly tough enforcement mechanisms responsible for undermining the best interests of the child, as previously discussed, include status assignment, detention, age determination and deportation (McLeigh, 2013).

As stated in section 3.2, many UMC who have been trafficked do not carry documentation or, if they do, this can be falsified by traffickers, thus giving them an 'illegal' status that exacerbates their vulnerability to further trafficking and risk of abuse by illegal immigration control agencies (McLeigh, 2013). The cost of having incorrect documents can result in older UMC being detained in detention centres as revealed in section 3.4, which are widely recognised as unsuitable for children, with reports of children being beaten by police and held in 'punishment cells' (McLeigh, 2013; O'Connell Davidson, 2011). Not only are they therefore put at further risk of victimisation, but they are denied the protection from child safeguarding procedures (Norris, 2008; Ishola, 2012). This highlights the fact that immigration policies can undermine child welfare legislation and the principle of best interests. It also shows how UMC trafficked into slavery can suffer potential physical and psychological harm from 'state actors' who fail in their legal duty to protect children irrespective of their migrant status (O'Connell Davidson, 2011; Crawley, 2006; Maegusuku-Hewett and Tucker, 2013).

In general, it appears that immigration law subjects UMC to the same harsh procedures as adults because independent children without parental protection are perceived as an anomaly compared to the perceptions of the normative child who depends on an adult (O'Connell Davidson, 2011). It is this perception, suggested in sections 3.4 and 4.3, that informs policy and practice, punishing rather than protecting UMC, and is responsible for treating them as migrants without rights, rather than as children in need of protection and support (O'Connell Davidson, 2013, 2011; Westwood, 2010; Crawley, 2011, 2006). The suffering, resulting from these immigration conceptions, can be further noted in section 3.1 which evaluates whether the NRM is fit for purpose in identifying child victims of trafficking. Crawley (2006) argues

that immigration officers as first responders do not have the expertise in child protection work to accurately identify child victims of trafficking, and cannot therefore ensure the child is treated as child first rather than migrant. Jones (2012) emphasised that UKVI's main task is not to investigate whether an individual has been trafficked, but to find out their immigration status; this is despite the Home Office choosing the UKVI to be the CA decision-makers in identifying trafficked migrants! It can be reasoned therefore that immigration policies prescribe the NRM to place emphasis on a child's immigration status (Crawley, 2006). As Hynes concludes: 'A referral mechanism dominated by immigration and police-led agencies may miss children's vulnerabilities or the complexities of the trafficking experience altogether as a result of the environment of deterrence' (2010: 966). However, as stated in section 3.1, the Home Office have now recognised that child protection legislation and social workers must have a stronger role in the NRM decision-making process, by which they can support government immigration agencies to accurately and consistently identify trafficked children (Pearce *et al*, 2013; Home Office, 2016b). It will be interesting to see if this reform to the NRM, when fully implemented across the UK, will begin to treat trafficked UMC as children first and foremost (UNICEF UK, 2016; Crawley, 2006).

The disparity between a child-centred and immigration-led approach is also evident when UMC are deported from the UK with little regard for a child's rights perspective (Finch, 2012). As detailed in section 4.1, the prospect of being deported to the country of origin causes children to hide and become invisible to authorities, which puts them at further risk of exploitation and abuse (McLeigh, 2013; Dona and Veale, 2011; Kohli, 2006). Yet despite clear domestic policies and international obligations, which state UMC must be treated as children first and foremost, they are much less successful in their asylum claims or refugee status than adults (Kelly and Bokhari, 2012; Bhabba, 2004; Maegusuku-Hewett and Tucker, 2013). Thus, irrespective of the UNCRC's child's best interests or of their views being taken into consideration, UMC, including some identified as victims of trafficking, continue to be forcibly deported (O'Connell Davidson, 2013; McLeigh, 2013). Concerned about how the UKVI treat migrant children, Dugan (2010) cites a solicitor specialising in immigration and asylum who believes there is 'a systematic disregard' for hundreds of children by putting them on planes with no checks on their welfare or safety, often leaving them homeless and destitute on arrival. This viewpoint not only emphasises that immigration policies in practice treat UMC as undeserving of the human rights of UK child citizens, but also shows that immigration policies are a source of risk for children (Dona and Veale, 2011; O'Connell

Davidson, 2011). Regardless of the victim's protection and support needs in current anti-human trafficking policy, these immigration enforcements show that migration law continues to dominate current responses to trafficking, and in so doing, treats child victims as migrants first and foremost (Goodey, 2008; Crawley, 2006) as most recently highlighted by the end of the Dubs amendment scheme (see section 4.1).

It is these harmful consequences of immigration policies that limit and challenge not only immigration officers' responses to the best interests of trafficked UMC, but also the responses of social work practitioners (Pearce *et al*, 2013). As described in section 3.2, Pearce *et al* (2013) found that on the other side of the 'wall of silence' where UMC tell 'thin' stories, a 'culture of disbelief' exists among practitioners who find it difficult to believe the child's story, possibly because they are confused as to whether child trafficking is an immigration issue or one of child protection (Pearce *et al*, 2013; Dennis, 2007). If asylum issues take precedence in welfare practice, protection and support services will not be given to these children (Hynes, 2015; Kohli, 2007). For UMC to be treated as children first and foremost and child-trafficking as a child protection concern, the 'culture of disbelief' needs to be challenged by practitioners motivated by a child-centred not immigration-led approach (see section 3.2) (Pearce *et al*, 2013; Pearce, 2011; Kohli, 2006). After all, social workers are legally bound to safeguard and promote the welfare of UMC children in their care, taking into consideration their right to protection, provision and participation, regardless of their immigration status (Bokhari, 2012; WSMP, 2012).

5.2 Safeguarding the 'best interests' of trafficked UMC: Is Guardianship the answer?

As policy and practice in the UK is capable of treating trafficked UMC as migrants rather than children, and in the process overriding their rights, the introduction of an independent guardian with a statutory role, otherwise referred to as an ICTA, could fill the gap in safeguarding their best interests, rights and further exploitation by traffickers (Kelly and Bokhari, 2012; Modern Slavery Act 2015; Halvorsen, 2002). The appointment of a guardian to uphold the rights of UMC is written in a number of international obligations to which the UK is party, such as, the UNCRC (2005) and COE (2005) (Stoyanov, 2012). However, it was not until 2015 that a system of guardianship was first written into British legislation, provided by section 48 of the Modern Slavery Act (Hynes, 2015; Stoyanov, 2012; Modern Slavery Act

2015). This stipulates that ICTAs must be available to represent and support child victims of human trafficking, to help them obtain legal or other advice, to promote their well-being and act in their best interests. They must also be appointed as soon as is reasonably practicable and where there are reasonable grounds to believe the child may be a victim of trafficking (Modern Slavery Act 2015). Most notably is the need for ICTAs to represent the child's best interests and for prompt action to be taken by the appointment of an ICTA from the moment a child is identified as a victim of trafficking (Stoyanov, 2012). However, prior to the Modern Slavery Act 2015, the evaluation of the ICTA pilot scheme revealed that it took a long time for local authorities to refer children to an ICTA (Kohli *et al*, 2015).

The pilot scheme was tested from September 2014 - September 2015 across 23 local authority areas in England (ATMG, 2016). 86 children received an ICTA provided by Barnardo's who were to provide specialist support and ensure the voice of the child was heard within the areas of social care, immigration and criminal justice (Home Office, 2017; Kohli *et al*, 2015). Findings from the trial by the University of Bedfordshire showed that the ICTA service had been successful in a number of ways in improving the outcome for trafficked UMC (Kohli *et al*, 2015). They helped the children navigate their way through complex circumstances and improved the quality of decision making in the child's best interests. However, the government was not satisfied with the pilot model for a number of reasons, in particular that ICTAs were not appointed quickly enough, and that there was no reduction in the number of children going missing (ATMG, 2016; Kohli *et al*, 2015). As a consequence, the Home Office wanted to further assess their role, process and outcomes for children, and introduced ICTAs to early adopter sites in Greater Manchester, Hampshire and Wales to work alongside existing provision, starting in November 2016 until March 2019. This will enable the previous guardianship model to be refined, and may show whether the speed of referrals to ICTAs is increased and the number of missing UMC reduced (ATMG, 2016). Nevertheless, as expressed in the ATMG's 2016 report *Class Acts?,* to further delay the rolling out of ICTAs across England and Wales until after March 2019 is deeply concerning, as these children could be at risk of further harm. To speed up the process, ATMG propose that the full implementation of ICTAs should start simultaneously with rolling out the early adopter sites. This is reflected in Hyland's recommendation that if the panel considers the pilots successful at the mid-term evaluation, they should proceed with full implementation to prevent any further delay (ATMG, 2016).

Despite many children's rights and refugee organisations consistently advocating the need for guardians to act for trafficked UMC, the UK government has long disagreed (Stoyanov, 2012). They believed a guardianship scheme was unnecessary because they thought adequate arrangements already existed for the children's care and protection (Crawley, 2006; Stoyanov, 2012; Bokhari, 2012). However, as has been demonstrated throughout this study, this is not always the case. As discussed in section 5.1, immigration law enforcement that holds some UMC in detention centres because of age discrepancies and illegal status, or deports them to their country of origin without safety assessments, does not consider the child's best interests by treating them as migrants, regardless of the rights they have as children and the legal obligation the UK has to uphold them (McLeigh, 2013). Furthermore, the prosecution-based approach, which has led to child victims of trafficking being criminalised still occurs (Amahazion, 2015) (see section 4.1), many others not being identified (see chapter 3) and/or believed by authorities (see section 3.2), or going missing from local authority care (see section 4.5).

This evidence shows the impact of policy responses in practice can be inadequate and highlights the ineffectiveness of the asylum system for protecting trafficked UMC, and without consideration for children's agency as rights bearers. It emphasises the need for ICTAs to fill a gap in the best interest determination in their asylum outcome and to ensure that they are treated primarily as children (Bhabha, 2004; Stoyanov, 2012; Crawley, 2006). The Immigration Law Practitioners' Association (ILPA) describes the lack of guardianship as a 'desperate lacuna, affecting support entitlements as well as the child's ability to pursue the claim to asylum' (2006: 7). Crawley (2006) has the same concerns and proposes that a guardian would be able to provide the essential link between the different service agencies, to which migration control mechanisms can prevent access, and would be able to support the child through the complex legal processes. Indeed, one of the harshest immigration enforcement mechanisms for an UMC claiming asylum is the lack of legal representation in a system designed for adults (McLeigh, 2013). The children's ambiguous legal status may also lead to social workers not giving sufficient attention to the legal issues of migration law, and there is evidence that they can be reluctant to support these children in applying for refugee status (Martin *et al*, 2011). It is therefore essential that UMC are guided by a trained guardian who knows about child trafficking and who can advocate in their best interests and advise them (UNICEF UK, 2016; Deveci, 2012). This can be achieved throughout all immigration

and criminal justice proceedings, with the guardian representing the child during immigration assessments, in court and due process protections (Stoyanov, 2012; McLeigh, 2013).

From 2002, immigration rules were amended to enable immigration staff to interview UMC over the age of 12 about their asylum applications (Crawley, 2010). Although the Committee on the Rights of the Child require interviews to be conducted in a child-friendly and gender-sensitive manner in a safe environment, this does not always happen, particularly when immigration officers have a migrant first perspective (McLeigh, 2013; Crawley, 2010). This is despite the fact that section 55 of the Borders Citizenship and Immigration Act 2009 give the UKVI the duty of promoting the protection and welfare of children arriving in the UK (Stoyanov, 2012). Crawley's (2010) research focuses on the experiences of UMC during asylum interviews and reveals that they are predominantly subjected to an invasive immigration approach without their voices being heard. Many examples in her study describe the children becoming upset and confused because the interviewers lacked an appropriate response. One very distressing case was an interview with an unaccompanied 14-year-old boy from Rwanda whose age was disputed as soon as he arrived in the UK. He told the immigration officers that when he was 10-years-old his mother was decapitated in front of him and that he had witnessed the massacre of the rest of his family. He stayed with his uncle who was then killed by the Rwandan Patriotic Front, after which they took him to prison where he was beaten every day until he was rescued by a woman who knew his mother. The young boy reported that while he was telling his story the interviewers kept laughing at him and saying, 'Why are you crying? This won't help you' (Crawley, 2010: 165). He was also put in a room by the same officers without being told he was there to apply for asylum. On the basis of inconsistencies in his account of his experiences, his claim for asylum was refused.

This is a prime example of a migrant child being treated as a migrant and not a child. He was treated as a passive victim of oppressive policies with no voice in the decision-making process of his asylum case, and with no one hearing his voice, stemming from a culture of disbelief (Maegusuku-Hewett *et al*, 2007; Pearce *et al*, 2013). This demonstrates the point Crawley made about immigration officers not having the expertise needed for child protection (see section 5.1). It also emphasises why guardians must be available to all trafficked UMC to intervene, so that interviews are not biased in the best interests of the Home Office which appears to favour the UK immigration policy agenda, but that children are heard in their own best interests and supported and protected under a rights-based, child-

first approach (Crawley, 2010, 2006). Dobson (2009) also recognises that the perspectives of migrant children must be understood for their needs and views to be fully realised: they must be respected as thinking individuals and decision-makers. Under a child-protection framework and child welfare legislation, social work practitioners should follow this participation agenda in statutory practice (Kelly, 2012; Maegusuku-Hewett and Tucker, 2013).

There is some evidence of practitioners in Wales who challenge the differences between immigration and 'best interests' of the child by questioning asylum policy that does not rest easily with their professional ethics (Dunkerley *et al*, 2005). However, in general, meetings between the allocated social worker and UMC are all too infrequent, and a lack of resources can affect the level of care that can be provided (Pearce *et al*, 2013; Crawley, 2006). As mentioned in section 4.5, if there is a lack of resources, the child can be passed from one agency to another, which is particularly dangerous if the child does not have a legal guardian as advocate (Pearce *et al*, 2013). Thus the role of an ICTA is wider than a social worker's as he/she would be responsible for ensuring the child's welfare needs and protection are in place within the context of their status determination by immigration and the courts (Crawley, 2006). In addition, ICTAs would communicate with the trafficked child on a regular basis, monitoring them and preventing them disappearing and being re-trafficked (Finch, 2016). Until they are fully implemented across England and Wales, it is difficult to know how ICTAs would work with social workers. Finch (2016) recommends that the guardianship service should be independent of child protection and immigration services to ensure that no conflict of interests arises with the role of social workers. Likewise, section 48 of the Modern Slavery Act requires other professionals to give 'due regard' to the ICTA's functions and to provide him or her with access to the information needed to carry out those functions (Modern Slavery Act 2015). In this respect, other professionals should give consideration to an ICTA's opinions and decisions and share relevant information with them in order to facilitate a fuller implementation of trafficked UMC's rights (Finch, 2016; Martin *et al*, 2011). The role of the Guardian could help traverse 'cracks' between current immigration/criminal justice policy and child welfare policy, ensuring that the government's national and international obligations towards this most vulnerable group of children are upheld (Martin *et al*, 2011; Crawley, 2006).

Chapter 6: Discussion

The intention of this study was to find out how effective UK policy is in practice for UMC trafficked into slavery. Although the law states that this group of children should be identified, protected and supported within a child-first, human rights based framework, the literature review showed that this does not always occur in practice. Findings revealed significant factors that impact on the success of policy responses, such as the treatment of UMC as migrants first and foremost rather than as children, by those with a duty of care. This calls into question the intentions and adequacy of policy, the effectiveness of practice and the repercussions upon this vulnerable group of children. It was ascertained that legislation alone cannot create change; it can only come about through the implementation of consistent and effective practice, guided by a child-centred approach. However, as emphasised throughout this study, professionals working in England and Wales face challenges in responding to protection of trafficked UMC within the confines of child welfare, criminal justice and immigration.

6.1 The implications of identifying trafficked UMC

The under-identification of child victims of trafficking is a global human rights concern (Warria *et al*, 2014), and as evidenced in the literature review, this is significant in England and Wales. Consequently, these children are not protected or adequately assisted as are their human rights (Pearce, 2011; Amahazion, 2015). It was found that difficulties for practitioners in identifying trafficked UMC stemmed from victims' reluctance to disclose, due to fear of authorities and deportation, of reprisals from traffickers, and also language barriers (Kelly, 2012; Bokhari, 2008). It is therefore clear that awareness training in anti-trafficking for first responders is essential for early and accurate victim identification, thus preventing victims slipping through the protection and support gap. The result of increased awareness training was evidenced by more NRM referrals being made, particularly by immigration officers. However, this somewhat contradicts the argument embedded in this study that immigration policies and practice are preoccupied with treating UMC as migrants first rather than children (NCA, 2017b; Crawley, 2006). Nevertheless, the identification measures set out in the Modern Slavery Act are not effectively implemented in practice because the referrals are only a fraction of the estimated total number of the trafficked child population (Haughey, 2016). Moreover, the concern as to the suitability of the UKVI as CA in the decision-making process

was found to be strongly disputed among researchers and NGOs, who doubt the NRM is fit for purpose with the belief that immigration procedures take precedence over child protection (Jones, 2012; ATMG, 2010; Crawley, 2006; Hynes, 2010). This drew attention to the existing conflict between immigration and anti-trafficking policy objectives, with the UKVI responsible for trafficking identification despite their limited expertise in using a child-centred approach (Jones, 2012). As well as immigration officers, the study revealed that social workers do not always identify UMC as victims of trafficking because of the existence of a 'culture of disbelief' (Pearce *et al*, 2013).

Pearce *et al's* (2013) research offered valuable insights into the disbelief and mistrust amongst practitioners of trafficked child victims that appear to arise from the confusion as to whether child trafficking is an immigration issue or a child protection concern, resulting in children not being identified and their right to protection and provision not met (Crawley, 2006; Hynes, 2015; Dennis, 2007; Warria *et al*, 2014; Kohli, 2007). This was particularly apparent when evaluating age in the identification of older UMC (Crawley, 2006; CdeBaca and Sigmon, 2014). The consequences of incorrectly identifying children as adults not only disregards their rights as children, but puts them at risk of further harm and indicates that legislation designed to protect them is not applied in practice (Crawley, 2006, 2007; Jordan *et al*, 2013; Maegusuku-Hewett and Tucker, 2013). Assessing the age of UMC whilst also trying to identify them as potential victims of trafficking seems to be a tremendous challenge for social workers, yet their professional judgement is relied upon for the outcome of individual cases (Crawley, 2007; Rigby, 2011; Crawley and Kelly, 2012, Gower, 2011; Ishola, 2012). For this reason, it was recognised to be particularly important that for the identification process to be effective, practitioners listen and believe the accounts of UMC within a trusting relationship in order to facilitate disclosure of 'thicker' stories to break down 'the wall of silence' (Pearce *et al*, 2013; Hynes, 2015).

6.2 Practice and policy application in the protection and support of trafficked UMC

Despite the legal obligation to protect human rights, the literature review showed this is not fully and consistently implemented in UK practice (Lee, 2011; UN, 2000). It was evident that trafficked UMC continue to be criminalised by the immigration and criminal justice systems. This is exemplified by the Vietnamese migrant children working as slaves on

cannabis farms, who are put in young offenders' institutes and then deported back to Vietnam without any support or protection in place (McClenaghan, 2016). It shows that the Modern Slavery Act, in which the trafficked victim's rights to protection and support are paramount, is not being fulfilled and no consideration given to the child's best interests. Moreover, it appears that when UMC are treated as perpetrators rather than victims of trafficking crimes, not only are the systems failing to protect them but are responsible for exposing them to further risk of exploitation and abuse from traffickers (Reid and Jones, 2011; McLeigh, 2013). It was found from the literature analysis that there is similar concern about the repatriation of trafficked UMC, which should only occur if care arrangements in the country of deportation are safe and adequate (Home Office, 2010). Again, it was revealed that the UK government is failing to comply with its own anti-trafficking policies which prioritise the protection and needs of migrant children, by forcibly deporting them without assessing their safety on return (Kohli, 2011; Goodey, 2008; McLeigh, 2013). Thus, it can be argued that immigration and law enforcement continue to dominate the current response to trafficking, and in the process these policies can expose UMC to further harm by traffickers (O'Connell Davidson, 2013).

There is also evidence which indicates that social workers, legally bound to safeguard and promote the welfare of UMC in their care, find it difficult to fulfil their duty in practice because of the gap in service provision, most notably specialist mental health services and safe accommodation (Bokhari, 2008; Deveci, 2012). Many researchers stated that these services were desperately needed by this vulnerable group of children, who have been severely traumatised by trafficking and who go missing from inadequate accommodation (Zimmerman *et al*, 2006; Chase *et al*, 2008; Reed and Fazel, 2012; CdeBaca and Sigmon, 2014; Rigby, 2011; Pearce *et al*, 2013; Pearce, 2012; Beddoe, 2007). A lack of resources and funding by the UK government is a major stumbling block and one of the greatest challenges for practitioners in effectively protecting and supporting these children (Bokhari, 2012; Hynes, 2015). It has been suggested that policy is to blame for this lack of service provision for trafficked UMC compared with that received by UK child citizens. As proposed by O'Connell Davidson (2013) and Pearce (2011), policy is informed by the concept of the 'normative child', to which UMC do not conform, resulting in their particular needs not being adequately met (Pearce, 2011; O'Connell Davidson, 2013). This view is confirmed by referring to the Modern Slavery Act, where there is no mention of special measures for victim-support services (Modern Slavery Act 2015); indeed, the Palermo Protocol itself, on

which all anti-trafficking policy is based, does not address victims' health needs (Hynes, 2010; Pearce, 2011).

For these reasons, the UK's child protection system can be argued to be inadequate for the protection and support of UMC trafficked into slavery, and highlights an emerging gap in welfare policy (Kelly and Hodal, 2016). In practice this is most notable when the 'hot potato' effect makes these children invisible in the system. Social workers do not always want the responsibility of safeguarding them, knowing resources are limited, of preventing them going missing or of finding them when they have disappeared (Pearce 2011; Rigby, 2011; Pearce *et al*, 2013). It became apparent from the literature reviewed that the only way for policy and practice responses to be effective is for practitioners to work within a multi-agency framework, spreading responsibility by sharing knowledge, skills and assessments (Pearce *et al*, 2013).

6.3 The outcome of the discursive discourse of 'child first and migrant second' for trafficked UMC

The literature-based evidence highlights the opposing stances of UK child welfare and immigration-criminal justice policy and practice. Regardless of the human rights imperative to protect trafficked victims as represented in the Modern Slavery Act, it is apparent that immigration policies tend to take precedence over child protection legislation, leading to harmful consequences for the children's safety and well-being (Hynes, 2015; Crawley, 2006; Amahazion, 2015; Rigby, 2011; McLeigh, 2013; Bokhari, 2008). This is demonstrated by the use of detention centres for age-disputed trafficked UMC, their criminalisation and repatriation, and the poor treatment they can receive by immigration officers during assessment interviews (McLeigh, 2013; O'Connell Davidson, 2011; Crawley, 2006, 2007; Crawley and Kelly, 2012; Hynes, 2010; Kohli, 2006; Bhabba, 2004; Maegusuku-Hewett and Tucker, 2013; Finch, 2012). These findings emphasise the ineffectiveness of the 'children first' policy and calls into question the intentions of the immigration-criminal justice system when dealing with UMC trafficked into slavery (McLeigh, 2013). The Modern Slavery Act, for example, states that those who offend as a result of their exploitation should not be treated as guilty (section 45), yet it seems that this anti-trafficking legislation is not being fully implemented in practice by the criminal justice-immigration control mechanisms, the 'best

interests of the child' continuing to be ignored (Modern Slavery Act 2015; Pearce *et al*, 2013; Jones, 2012; Crawley, 2006).

This study has identified the harmful consequences of treating trafficked UMC as migrants first and foremost, allowing them to fall through the welfare gap of child protection and support, and leaving them vulnerable to the exploitation of traffickers. It has also emphasised the challenge of forced migration to the UK's response to migrant protection, as recently highlighted by the end of the Dubs amendment scheme (Crawley, 2006 Amahazion, 2015; Rigby, 2011; Hynes; 2015; Maegusuku-Hewett and Tucker, 2013; Betts, 2009; Pearce *et al*, 2013; BBC News, 2017). This policy response was heavily criticised and revealed that the UK government failed to comply with their own domestic policies and EU and international law regarding the UNCRC (BBC News, 2017). By critically analysing the available literature, it was revealed that researchers and NGOs believe migration and law enforcement continue to dominate current responses to trafficking, despite the prominence given to the protection and needs of victims in current anti-trafficking policy (Goodey, 2008; Crawley, 2006; Maegusuku-Hewett and Tucker, 2013; Betts, 2009; Pearce *et al*, 2013; Jones, 2012; Amahazion, 2015; Rigby, 2011; Hynes; 2015; O'Connell Davidson, 2011, 2013; McLeigh, 2013; Bokhari, 2008; Castles *et al*, 2003; Ishola, 2012; Norris, 2008; Dona and Veale, 2011; Stoyanov, 2012; UNICEF UK, 2016; ATMG, 2010; UN, 2000). It appears therefore, that if the child's best interests are to be consistently and adequately met in child welfare and immigration-criminal justice practice, then the system of guardianship may be the answer (Hynes, 2015; Modern Slavery Act 2015).

This initiative, backed by numerous recommendations, has shown that the government has finally acknowledged the benefits of ICTAs in protecting and supporting trafficked children (COE, 2005; Hynes, 2015; Stoyanov, 2012; Crawley, 2006; Bokhari, 2012). However, the length of time for this to be implemented across England and Wales has caused concern (ATMG, 2016). Comments on this delay, noted in the literature review, suggest that it is only when each of these children receives an ICTA to advocate and safeguard their best interests and rights, their protection, support and legal entitlement will be realised (UNICEF UK, 2016; Deveci, 2012; Pearce, 2011; Amahazion, 2015). It is expected that ICTAs will ensure practitioners and all agencies treat trafficked UMC with a child-centred approach and thus the policy response will move away from an immigration and prosecution-based perspective (Bhabha, 2004; Stoyanov, 2012; Crawley, 2010; 2006; Amahazion, 2015).

Chapter 7: Conclusion

The aim of this dissertation has been to critically evaluate policy and practice responses in England and Wales to UMC trafficked into slavery. Key issues have emerged from the literature-based review: identification, protection and support for victims, and the 'child first migrant second' debate. The findings of this study are presented along with recommendations where appropriate.

Chapter 3 explains the importance of identifying UMC trafficked into slavery, and reveals that this can only be achieved if the NRM is fit for purpose, first responders being trained in identification awareness and practitioners adopting a child-centred approach (Pearce *et al*, 2013; Pearce *et al*, 2009; Rigby, 2011; Haughey, 2016; Hynes, 2015). It has been shown that the identification process exposes whether policies endorse a human rights, victim-centred approach, and are effective in implementing protection measures (Pearce *et al*, 2013; Rigby, 2011). The latest statistical evidence shows that referrals to the NRM have increased from 2015 to 2016, suggesting that identification measures in the Modern Slavery Act 2015 are being followed (NCA, 2017b). However, the study has found that these children continue to be significantly under-identified, a mere 'tip of the iceberg' compared to the estimated total number of trafficked child victims (NCA, 2017b; Haughey, 2016). Consequently, the majority of these children are not being given the protection or support they need and are legally entitled to (Hynes, 2015; Refugee Council, 2013; Jones, 2012; Pearce, 2011; Amahazion, 2015).

It was therefore concluded that first responders must have essential training in identifying victims of trafficking early and accurately to prevent them becoming invisible within the system and at risk of further harm (Haughey, 2016; Pearce *et al*, 2013; Pearce, 2011; Amahazion, 2015). Only by doing this will the NRM be fit for purpose and a durable solution found for identifying and protecting trafficked UMC (UNICEF UK, 2016). It is anticipated that this will be seen once the Home Office reforms to the NRM are fully implemented across the UK (UNICEF UK, 2016). Indeed, a reform which allowed social work practitioners more control in the NRM CA decision-making process, could resolve the contention outlined in this study, decisions currently being based on immigration policies rather than on the welfare of the child (Home Office, 2014b; Crawley, 2006; Rigby, 2011; Pearce *et al*, 2013; Hynes, 2015). However, it remains to be seen if this redress of balance between immigration and

child protection in the NRM will encourage child victims to disclose their trafficking experiences, thus aiding identification and a more reliable NRM (ATMG, 2014; UNICEF UK, 2016; Pearce *et al*, 2013; Home Office, 2016b). If this proves to be the case, statistics will be more accurate in quantifying the extent of human trafficking which could in turn improve policy (Pearce *et al*, 2013). However, it was found that many researchers and NGOs conclude that the government's commitment to a victim-orientated policy approach is inadequate and does not comply with best practice (Hynes, 2015; Crawley, 2006; Westwood, 2010; Kelly, 2012; Ishola, 2012; ATMG, 2010; Jones, 2012; Rigby, 2011). This was particularly evident when critically evaluating the age of older UMC in victim identification (CdeBaca and Sigmon, 2014; Rigby, 2011; Daniel, 2012).

Strong evidence suggested that the age of many adolescent UMC is disputed these days particularly because of the significant increase in adult migrants entering the UK, who challenge the political and practical response (Betts, 2009; Crawley and Kelly, 2012). However, it has been determined that if a trafficked UMC is incorrectly identified as an adult there can be detrimental consequences for the child by being placed in an adult detention centre, housed with adults or criminalised (Crawley, 2006; Franklin and Doyle, 2013; Bokhari, 2012; Maegusuku-Hewett and Tucker, 2013). This has proved extremely challenging for practitioners and indicates that child protection legislation can neglect the needs of older children due to the idealised western conception of childhood, allowing them to fall through the protection gap (Crawley, 2006, 2007; Bikhari, 2008; Rigby, 2011; Pearce *et al*, 2013; Westwood, 2010; O'Connell Davidson, 2013). If these laws are undermined by professionals failing in their legal duty to identify and protect these children, specialist anti-trafficking training must be made compulsory so that all first responders practice efficiently and consistently (Maegusuku-Hewett and Tucker, 2013; Franklin and Doyle, 2013, Pearce *et al*, 2013). However, as Hynes (2015), Pearce *et al* (2013), Crawley (2006) and others conclude, it is essential that practitioners attending this training must follow through with a child-centred approach rather than an immigration response, to enable the earliest possible identification for safeguarding procedures to be put in place.

This study has also discovered that effective child-centred practice can be negated by the 'culture of disbelief', frequently permeating practitioners' responses to trafficked UMC (Pearce *et al*, 2013; Dennis, 2007). After all, as asserted throughout this study, child trafficking is child abuse and a human rights issue in which practice must always be in the child's best interests (Pearce *et al*, 2013). It may be concluded that if UMC are to be

successfully identified as victims of trafficking into slavery and existing service provision accessed, social workers must challenge the 'culture of disbelief' by supporting these children to break through the 'wall of silence' (Pearce *et al*, 2013; Hynes, 2015). As Pearce *et al's* (2013) significant findings show, this can be achieved by practitioners developing a caring and secure relationship with these children, by listening to them and believing their 'thin' stories, so that they feel confident enough to disclose their 'thicker' accounts (Kohli, 2006). It also brings to light the fact that policies and procedures are not enough on their own, but that a positive, trusting relationship is paramount for effective practice (Pearce *et al*, 2013).

Chapter 4 endorses the fact that without identification of trafficked UMC, their right to protection and support cannot be given (Rigby, 2011; Pearce, 2011; Jones, 2012). In addition, a key finding was the inference that policies to protect and support these children are not fully and consistently implemented in practice (Lee, 2011; Rigby, 2011; Bokhari, 2012; Pearce *et al*, 2013). This first became apparent when reviewing the protection of their human rights. Despite a strong policy response advocating the rights of trafficked migrant children and the protection of their best interests, there is evidence of continuing criminalisation and repatriation of these children, revealing that policy is undermined by poor and inadequate practice (McLeigh, 2013; Maegusuku-Hewett and Tucker, 2013; McClenaghan, 2016; Bhabba, 2004). It appears that the government departments involved in prosecuting victims of trafficking, which exposes them to further harm from traffickers, are failing to comply with their own well-defined policies (Reid and Jones, 2011; McLeigh, 2013; Goodey, 2008). It can therefore be concluded that if trafficked UMC continue to be deported, more attention to policy and research is needed if the government are to take responsibility to protect and support these children, and practitioners to effectively safeguard them and uphold their rights (Pearce, 2011; Goodey, 2008; Kohli, 2011; McLeigh, 2013). It is recommended that assessments on follow-up and outcome on return to the children's country of origin should be made to include practitioners' preparations before they leave, and the adequacy of reception arrangements on arrival (O'Connell Davidson, 2011; Kohli, 2011; Finch, 2012). This would prevent immigration policies competing with their own welfare objectives (WSMP, 2012; Pearce *et al*, 2013). Furthermore, the research has made evident that children's agency as rights bearers must be understood and acted upon, if they are to be effectively protected and supported (Bhabba, 2004). Ultimately, it is in the children's best interests to have their voices

heard and to express their views on matters affecting them (Kelly, 2012; Maegusuku-Hewett and Tucker, 2013; Finch, 2012; UNICEF NY, 2006).

Likewise, this is also fundamental when considering the provisions of support services, particularly in meeting their psychological needs. Trafficked UMC should be given the opportunity to participate in the decision-making process, and in doing so, improve the existence and development of appropriate services (Westwood, 2010; Hopkins, 2008). As O'Connell Davidson (2013) remarks, their needs can only be met if their complex stories of migration are told, and as Pearce *et al*, (2013) assert, when their trafficking experiences are listened to and believed. Yet, overall findings from existing policy and practice revealed that this does not happen, and therefore specialist care in the form of mental health services does not meet their support needs (Rigby, 2011; Pearce, 2012, 2011; Beddoe, 2007; Hynes, 2010; Westwood, 2010; Oram *et al*, 2011). This inadequate outcome in service provision has drawn attention to a key deficit in the Modern Slavery Act, in that it does not set out any measures for mental health services (Modern Slavery Act 2015). The evidence provided by researchers in this study confirms that UMC trafficked into slavery suffer poor mental health as a result of their abusive experiences (Chase *et al*, 2008; Reed and Fazel, 2012; CdeBaca and Sigmon, 2014; Zimmerman *et al*, 2006). Hence, the UK government must acknowledge the deficiency in mental health provision that greatly hinders professionals in effectively supporting these children, and the necessity for providing funding for these services across the UK where UMC have settled (Devici, 2012; Rigby, 2011; Pearce *et al*, 2013; Pearce, 2012; Beddoe, 2007; Raval, 2007). To be effective and accessible to this group of children, CAMHS workers need to develop specialist outreach and detached service provision (Pearce *et al*, 2013). An exemplar model would be the school-based Haven Project in Liverpool (Pearce *et al*, 2013; Chiumento *et al*, 2011). In addition to supporting these needs, mental health workers, social workers and language interpreters should be trained to understand the psychological needs of trafficked children within their own cultural context (Pearce *et al*, 2013; Raval, 2007). It was also clear from the research that policies designed to protect these children by the provision of appropriate and secure accommodation, consistently fail to protect them (Larkin, 2015; Chase and Statham, 2005; Pearce *et al*, 2013; Bokhari, 2012; Kelly and Hodal, 2016).

These findings exposed significant concerns that trafficked children of all ages are not receiving their right to safe accommodation, and revealed that many go missing permanently from local authority care, leaving them vulnerable to re-trafficking (Norris, 2008; Simon *et*

al, 2016; Beddoe, 2007; Kelly and Hodal, 2016). The obvious conclusion is that the UK's child welfare system is not adequately protecting and supporting this extremely vulnerable group of children. To achieve the outcomes of welfare legislation for trafficked UMC, the government must extend investment into safe and appropriate accommodation (Kelly and Hodal, 2016; Simon *et al*, 2016; Pearce *et al*, 2013). In addition, recommendations given in this study for expanding the child protection system should be followed: specific training to be given to practitioners; improved recording and sharing of information; reporting of children who go missing using a co-ordinated multi-agency approach; and the availability of more foster placements with specialist trained foster carers (Kelly and Hodal, 2016; Pearce *et al*, 2013, Pearce, 2012; Rigby, 2011; Bokhari, 2008; Kelly, 2012). If child welfare legislation cannot be put into effective practice in these ways, the 'hot potato effect' will continue, the children being hidden, going missing, and their traffickers not brought to justice (Pearce *et al*, 2013; Pearce, 2011; Bokhari, 2012; Norris, 2008; Simon *et al*, 2016; Beddoe, 2007; Kelly and Hodal, 2016; Hynes, 2010; Goodey, 2008).

Chapter 5 addresses further findings of the literature review, which suggest that despite the progress of anti-trafficking policy responses to UMC in the UK, immigration-criminal justice policies tend to take precedence over child welfare policies (Hynes, 2015; Crawley, 2006; Amahazion, 2015; Rigby, 2011; McLeigh, 2013; Bokhari, 2008). Criminalisation, repatriation, use of adult detention centres, and most recently the end of the Dubs amendment scheme can all result in disregard for the safety and well-being of these children (McLeigh, 2013; Lee, 2011; McClenaghan, 2016; Bhabba, 2004; Maegusuku and Tucker, 2013; Kohli, 2011; Reed and Fazel, 2012; Finch, 2012; Ishola, 2012; Crawley, 2006; Bokhari, 2008; Pearce *et al*, 2013; BBC News, 2017). The treatment of trafficked UMC as migrants first – with emphasis on their citizen status – instead of child-victims of a harrowing crime does not prioritise the 'child's best interests' principle (Crawley, 2010; 2006; Pearce *et al*, 2013). Consequently, immigration policies challenge not only immigration officers' responses to trafficked UMC but also the responses of social work practitioners, as illustrated by Pearce *et al's*, (2013) 'culture of disbelief'. Accordingly, if the best interests of the child cannot be consistently met in child welfare or immigration-criminal justice practice, it can be concluded that ICTAs within a system of guardianship could be the solution (Hynes, 2015; Stoyanov, 2012; Modern Slavery Act 2015; UNICEF UK, 2016; Deveci, 2012).

This alternative role would have new implications for policy and practice by challenging the way trafficked UMC are perceived and currently treated (Kelly and Bokhari, 2012; Modern

Slavery Act 2015; Halvorsen, 2002; Stoyanov, 2012). Clearly, forced migration challenges the political and practical UK response to migrant child protection against trafficking and its prevention, and has demanded the immigration-criminal justice system to compete against the social welfare system (Betts, 2009; Crawley, 2006, Pearce *et al*, 2013). For this reason, ICTAs could provide the answer to diffusing the tension by effectively implementing policies, such as the Modern Slavery Act, to ensure that the best interests of trafficked UMC will be upheld, and their protection and support needs met (UNICEF UK, 2016; Deveci, 2012; Pearce, 2011; Amahazion, 2015). Once they have been fully rolled out across England and Wales, it will become clear whether a child-first, rights-based approach will truly take precedence in practice (ATMG, 2016; Crawley, 2010, 2006).

To conclude, this critical evaluation of policy and practice responses in England and Wales to UMC trafficked into slavery has exposed a contradiction between criminal justice and immigration control with the aims and objectives of the social welfare system, resulting in a barrier to effective and consistent implementation of anti-trafficking policies in practice (Crawley, 2006; Maegusuku-Hewett and Tucker, 2013). In theory, the Modern Slavery Act does offer a long-lasting solution to trafficked UMC, but a child protection, non-prosecution response must be fully implemented in practice to accurately identify and protect these victims (Haughey, 2016; UNICEF UK, 2016). As emphasised during this study, this can only be achieved if all professionals involved with these children receive compulsory anti-trafficking awareness and specialist training, and adopt a multi-agency approach (Crawley and Kelly, 2012; Gower, 2011; Pearce *et al*, 2013). This training should also include how to engage with exploited unaccompanied migrant adolescents, particularly relevant when identifying them via age assessments (Pearce *et al*, 2013). It is essential that attention in policy should also be given to the resources available to meet their needs, and must include the provision of mental health services and secure accommodation for all trafficked UMC (Rigby, 2011; Pearce *et al*, 2013; Bokhari, 2012).

Certainly the increase of NRM referrals is a step in the right direction, as is the government's decision to include social work practitioners as CA decision-makers, which should allow these children to be treated as children first and migrants second (NCA, 2017b; Home Office, 2016b; 2014; Pearce *et al*, 2013; Crawley, 2006), and raise awareness that trafficking is a child protection not an immigration issue (Pearce *et al*, 2013). But it takes time for new policies to become fully effective in practice and it remains to be seen whether the immigration-prosecution response continues to dominant and whether criminal and

immigration law enforcement agencies can work with ICTAs and child welfare to allow the child-centred, victim-led, human-rights approach, to take precedence and flourish, thus breaking the trafficking cycle (UNICEF UK, 2016; O'Connell Davidson and Farrow, 2007; Crawley, 2006). This would afford future research considerable scope to critically evaluate policy and practical responses for trafficked UMC in the UK post-Brexit, after article 50 of the Lisbon Treaty negotiations come to an end in March 2019 (Asthana *et al*, 2017). For it is only when UK government policy-makers follow through on human-rights rhetoric about UMC trafficked into slavery, and when practitioners advocate children's active agency and their stories believed, that policy and practice responses can place the child first and foremost in the processes of identification, protection and support (Amahazion, 2015; Warria *et al*, 2015, Hynes, 2015; Maegusuku-Hewett *et al*, 2007; McLeigh, 2013; Lee, 2011; Crawley, 2006; 2010).

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