

# Guidance for the Competent Authorities

---

Scope of the document.....	4
Introduction .....	5
Council of Europe Convention .....	5
The National Referral Mechanism .....	5
The UKHTC Competent Authority .....	6
The UKBA Competent Authority .....	6
Trafficking definition .....	7
The Convention .....	7
Coercion .....	8
Deception .....	9
Consent .....	9
Children .....	9
Sexual Exploitation .....	11
Forced Labour .....	12
Domestic servitude .....	12
Smuggling or trafficking .....	12
Myths about human trafficking .....	13
Seeking out information.....	14
Receiving a referral .....	15
Routing .....	15
Last minute claims to be a victim of trafficking.....	15
Acknowledging a referral.....	15
Sharing information with the police.....	15
Secure Accommodation and Article 12 Entitlements.....	16
Transport.....	17
Individuals charged with criminal/immigration offences .....	17
Children.....	18
Interviewing.....	18
Serving decision letters .....	18
Statutory duty to safeguard and promote the welfare of children in the UK.....	18
Victims with dependants.....	19
Age disputed cases .....	19
Reasonable grounds consideration .....	20
The two stage process .....	20

Standard of proof .....	20
Credibility .....	21
Level of detail.....	22
Mitigating circumstances.....	22
Potential prosecution of trafficker .....	23
Gathering further information .....	23
Individuals not in the UK.....	23
When trafficking is distant in time/historic claims .....	23
When trafficking is removed through location .....	26
Reasonable Grounds (RG) Outcomes .....	27
RG Outcome - person not accepted as a potential victim .....	27
RG Outcome - person accepted as a potential victim .....	27
RG Outcome - case suspended.....	28
Status interviews .....	28
Appeals against a decision.....	29
Conclusive Decision consideration.....	30
Gathering information .....	30
Interviewing under the NRM .....	30
Asylum interview .....	31
Standard of proof .....	31
Immigration Decision .....	31
Cases referred by the UKHTC .....	32
Children .....	32
Improper claims .....	32
Requests for extensions of the 45 day reflection period .....	33
Conclusive Decision Outcomes.....	34
Conclusive Outcome - Not Trafficked.....	34
Conclusive Outcome – Trafficked.....	34
Conclusive Outcome - case suspended .....	35
Victims who are assisting with Police enquiries from UK .....	35
Victims who are assisting with Police enquiries from abroad .....	36
Victims who qualify for another form of leave .....	36
Victims who are not assisting with Police enquiries and are not eligible for a grant of leave .....	36
Appeals against a decision.....	37
Assisted Voluntary Returns .....	38
Trafficking Indicators .....	39

<b>Victim’s willingness to cooperate.....</b>	<b>40</b>
<b>Self-identification .....</b>	<b>41</b>
<b>File management and data handling .....</b>	<b>42</b>
<b>Confidentiality and data protection .....</b>	<b>42</b>
<b>Storing, transmitting and access to trafficking case information.....</b>	<b>42</b>
<b>Consideration Minutes .....</b>	<b>42</b>
<b>Recording details on CID .....</b>	<b>42</b>
<b>Trafficking file .....</b>	<b>43</b>
<b>References .....</b>	<b>44</b>
<b>Useful Contracts .....</b>	<b>45</b>

## Scope of the document

---

This guidance provides assistance to Competent Authority decision makers to help them:

- Consider victim status by make reasonable grounds and conclusive decisions under the National Referral Mechanism (NRM)
- Ensure victim's rights are protected
- co-operate with partners in the NRM, such as police, Local Authorities and NGO support providers

[Back to contents](#)

## Introduction

---

Trafficking in human beings is an abhorrent crime where victims may be coerced, deceived or forced into exploitation by those who crudely and inhumanely seek to profit in some way from their suffering. Staff should be aware that the UK Border Agency may be the first point of contact a victim of trafficking has with an official agency in the UK.

[Back to contents](#)

### Council of Europe Convention

The Council of Europe Convention on Action Against Trafficking in Human Beings is a comprehensive piece of international law focusing mainly on the protection of victims of trafficking and the safeguarding of their rights. It also aims to prevent and combat trafficking, promote international co-operation in this field and to prosecute traffickers.

The Government ratified the Council of Europe Convention on Action Against Trafficking in Human Beings on 17 December 2008 and implemented it from 1<sup>st</sup> April 2009. This represents a milestone in our fight against trafficking. It protects victims and improves our enforcement capabilities.

The Council of Europe Convention on Action Against Trafficking in Human Beings defines trafficking in human beings as:

**“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”**

[Back to contents](#)

### The National Referral Mechanism

As part of our implementation of the Council of Europe Convention, we have created a National Referral Mechanism. The National Referral Mechanism is a victim identification and support process which is designed to make it easier for all the different agencies that could be involved in a trafficking case – e.g. police, UKBA, local authorities and NGOs – to co-operate; to share information about potential victims and facilitate their access to advice, accommodation and support.

Decisions about who is a victim of trafficking are made by trained specialists in designated ‘Competent Authorities’.

[Back to contents](#)

## **The UKHTC Competent Authority**

The UK Human Trafficking Centre (UKHTC) hosts one such Competent Authority. The UKHTC Competent Authority deals with all cases involving a UK or EEA national. They also act as the first point of contact for referrals made by external agencies such as the police, local authorities etc. If the UKHTC receives a case involving a national who is subject to immigration control, they will refer the case to a UKBA Competent Authority.

[Back to contents](#)

## **The UKBA Competent Authority**

Linked but separate Competent Authorities sit in UKBA for situations where trafficking is raised as part of an asylum claim or in the context of another immigration process.

[Back to contents](#)

# Trafficking definition

---

## The Convention

The Council of Europe Convention<sup>1</sup> on Action against Trafficking in Human Beings requires us to take a victim-centred approach to tackling all types of trafficking. Human trafficking is a criminal offence and may be linked to organised crime. One of the primary principles of the UK's approach to tackle human trafficking (including ratifying the Convention) is to provide services to help victims recover and access justice. The Convention is relevant to UKBA because human trafficking frequently overlaps with existing areas of responsibility such as asylum and human rights and their associated processes.

The definition of trafficking of adults is:

“Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or the use of force or other forms of coercion, or abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of benefits to achieve the consent of a person having control over another person, for the exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practises similar to slavery, servitude or the removal of organs.”<sup>2</sup>

So the essence of trafficking, broadly speaking, is that the person is coerced or deceived into a situation where they are exploited. It consists in a combination of three basic components – an **action** (eg recruitment); by a **means** (eg threat of force, or fraud); for the purpose of **exploitation** (a category of mistreatment with a high threshold, eg prostitution of others)

‘Trafficking in human beings’ is defined in Article 4(a) as being a combination of the following three constituent elements where:

- the person has been subject to the act of recruitment / transportation / transfer / harbouring or receipt;
- by means of threat or use of force or other form of coercion / of abduction / of fraud / of deception / of abuse of power / of a position of vulnerability / of giving or receiving payments or benefits to achieve the consent of a person having control over another person;
- for the purpose of exploitation

The explanatory report to the Convention, at paragraphs 75 and 76, makes clear that all of these three elements must be present (with the exception of where children are involved as the ‘means’ element is not required). As set out at paragraph 100 of the explanatory report, only then can a person meet the definition of being a victim of trafficking. Conversely, the definition of trafficking is not met where the constituent elements occur in isolation.

It should also be remembered that the Convention envisages that a person is a ‘victim’ even if the exploitation has not yet occurred (e.g. because of a police raid before this happens). This is

---

<sup>1</sup> [http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Convntn/CETS197\\_en.asp#TopOfPage](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Convntn/CETS197_en.asp#TopOfPage)

<sup>2</sup> As provided in the Council of Europe Convention on Action against Trafficking in Human Beings which originates from Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and Children supplementing the UN Convention Against Transnational Organised Crime. The trafficking protocol otherwise known as the Palermo Protocol was signed by the United Kingdom on 14 December 2000 and ratified on 9 February 2006.

because, under the definition of trafficking, trafficking occurs once certain acts are carried out *for the purpose of exploitation*. Therefore, it is the purpose which is key, rather than whether or not exploitation is actually present. Even if we are able to intervene and prevent exploitation from taking place in the UK, victims may have experienced serious trauma in their home country or en route to the UK and may still be in need of support.

Further UNHCR guidelines of April 2006 on international protection state that “An important aspect of this definition is an understanding of trafficking as a process comprising a number of interrelated actions rather than a single act at a given point in time. Once initial control is secured, victims are generally moved to a place where there is a market for their services, often where they lack language skills and other basic knowledge that would enable them to seek help. While these actions can all take place within one country’s borders, they can also take place across borders with the recruitment taking place in one country and the act of receiving the victim and the exploitation taking place in another. Whether or not an international border is crossed, the intention to exploit the individual concerned underpins the entire process.”<sup>3</sup>

[Back to contents](#)

## Coercion

Physical coercion refers to the threat of the use of force/the actual use of force against the victim, or their family members. Physical coercion could also take the form of more subtle measures of control (e.g withholding travel or immigration documents).

Psychological coercion refers to the threat or the perceived threat to the victim’s relationships with other people. An obvious example of psychological coercion is blackmail, but many other scenarios are possible such as forcing someone to pay an excessive amount of money for substandard accommodation, making significant deductions from an individual’s ‘salary’, threats of rejection from/disapproval by a peer group/family, or even just anger or displeasure by the person considered to be a partner by the victim. There does not necessarily have to be a direct personal relationship; psychological coercion could refer to wider issues such as social stigma (particularly relevant in cases involving sexual exploitation or other forms of sexual violence).

Psychological coercion could also take the form of ‘grooming’, where vulnerable individuals are enticed over time to participate in activity where they may not be entirely willing participants (for example the ‘boyfriend’ method is fairly common in sexual exploitation). Some victims may experience Stockholm syndrome where due to unequal power, victims create a false emotional or psychological attachment to their controller. In both of these situations the individuals can often first appear to be ‘willing participants’.

There are also the more complex cases where victims have been trafficked and subjected to exploitation in their own countries and then ‘sold’ into similar industries or ‘work’ in the United Kingdom. An example of this may be where a child has been sexually exploited in a home country and then trafficked to the UK as an adult to be exploited in prostitution. Again at first it may appear that the individual is a willing participant but the continuum of control and coercion should be taken into consideration.

Questions that may help Competent Authorities to uncover whether someone is being or has been coerced could include:

---

<sup>3</sup> ‘The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked’ UNHCR April 2006, p5



- Can you leave the residence/place of work whenever you want?
- Do you have to ask anyone's permission to visit the shops, a doctor...etc?
- Do you have your own key to the residence?
- Do you have control over post addressed to you, or does someone else read it?
- Does your employer pay salary into your own bank account to which only you have access?
- Did you buy the SIM card for your mobile yourself?
- Can you change the SIM card of phone number whenever you want?
- Do you control your own passport/travel document?<sup>4</sup>

Other more subtle indicators may include: the victim has few (if any) social networks in their living environment; lack of knowledge of local environment (e.g. location of shops, travel mechanisms...etc); frequent change of residence; and limited contact with family/friends in home country.

[Back to contents](#)

## Deception

An example of deception may be that false, inaccurate, or misleading information is provided by the recruiter/employer to the worker. An individual who ends up being exploited through prostitution may have been originally under the impression that there were legitimate education or employment opportunities (e.g. in the service industry, as a cultural dancer, childcare etc). However there are also cases where individuals have been aware that they will be working in the sex industry in the UK but the conditions of the environment, particularly the degree of control (over freedom and earnings) were not known prior to arrival.

## Consent

It is important to note that the consent of a victim of trafficking to the intended exploitation is irrelevant where the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person are used.

[Back to contents](#)

## Children

Any child moved into a situation of exploitation, or for the purposes of exploitation, is considered to be a trafficking victim, whether or not they have been forced or deceived. For further information on identifying trafficked children decision makers should refer to Department for Education and Home Office Guidance 'Safeguarding Children who may have been trafficked'.<sup>5</sup> In Scotland decision makers should refer to Scottish Government guidance Safeguarding Children in Scotland who may have been Trafficked.<sup>6</sup>

<sup>4</sup> Guide to identification of possible victims of trafficking Koordineringsenheten for Ofre for Menneskehandel, Norway, November 2008

<sup>5</sup> Working together to safeguard children - Safeguarding children who may have been trafficked [http://publications.teachernet.gov.uk/eOrderingDownload/DCSF\\_Child%20Trafficking.pdf](http://publications.teachernet.gov.uk/eOrderingDownload/DCSF_Child%20Trafficking.pdf)

<sup>6</sup> Safeguarding Children in Scotland who may have been Trafficked <http://www.scotland.gov.uk/Publications/2009/02/18092546/0>

If the individual is a child the relevant local authority Children's Services must be immediately informed (if they haven't been already).

Most children are trafficked for financial gain. This can include payment from or to the child's parents. In most cases, the trafficker also receives payment from those wanting to exploit the child once in the UK.

Traffickers specifically target impoverished communities in order to exploit their vulnerability. Poor and displaced families may entrust the care of their children to traffickers who promise to provide them with education or skills training, but ultimately exploit them<sup>7</sup>

It is important to realise that parents and relatives may be involved in the exploitation of the child, and that children are likely to be very loyal to their parents or those that care for them. It cannot be expected that the child, on his or her own initiative, will seek to be protected against such persons.

Children who are in a trafficking situation are often extremely reticent with information, and often relate their experiences in an inconsistent way or with obvious errors. More often than not this will be because their stories are composed by others and learnt.<sup>8</sup>

A number of children arrive in the UK accompanied by adults who are either not related to them or in circumstances which raise child protection concerns. For example, there may be little evidence of any pre-existing relationship or even an absence of any knowledge of the sponsor. There may be unsatisfactory accommodation arranged in the UK, or perhaps no evidence of parental permission for the child to travel to the UK or stay with the sponsor. These irregularities may be the only indication that the child could be a victim of trafficking. Joint Home Office and Department for Education guidance to practitioners, issued in 2007, covers these issues, and those of identifying child victims, in greater detail.<sup>9</sup> This guidance contains practical advice and indicators for assisting identification of potential child victims. Child-friendly procedures should be applied at all times<sup>10</sup>.

Some accompanied children may apply for asylum claiming to be unaccompanied, after being told by their trafficker that by doing so they will be granted permission to reside in the UK and be entitled to claim welfare benefits.<sup>11</sup>

Children trafficked into the country may be registered at a school for a term or longer, before being moved to another part of the UK or abroad. This pattern of registration and de-registration may be an indicator that a child has been trafficked. It has been identified as a particular concern in schools which are situated near ports of entry, but officers should be alert to this possibility in all schools. However, officers should always bear in mind that not all children who go missing from education have been victims of trafficking. For example, there may be instances of children

---

<sup>7</sup> 'Human Trafficking', Handbook for the Protection of Internally Displaced Persons, UNHCR, Dec 2007  
<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4790cbc02&page=search>

<sup>8</sup> Guide to identification of possible victims of trafficking Koordineringsenheten for Ofre for Menneskehandel, Norway, November 2008

<sup>9</sup> Working together to safeguard children - Safeguarding children who may have been trafficked  
[http://publications.teachernet.gov.uk/eOrderingDownload/DCSF\\_Child%20Trafficking.pdf](http://publications.teachernet.gov.uk/eOrderingDownload/DCSF_Child%20Trafficking.pdf)

<sup>10</sup> The process of obtaining information and data from potential child victims of trafficking (the so-called forensic interview) should be undertaken in a child-sensitive manner, taking into consideration their age and maturity. For a detailed synopsis of this, please see pages 119-133 of the UNICEF guidelines at: [http://www.unicef.org/ceecis/0610-Unicef\\_Victims\\_Guidelines\\_en.pdf](http://www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf)

<sup>11</sup> Working together to safeguard children - Safeguarding children who may have been trafficked  
[http://publications.teachernet.gov.uk/eOrderingDownload/DCSF\\_Child%20Trafficking.pdf](http://publications.teachernet.gov.uk/eOrderingDownload/DCSF_Child%20Trafficking.pdf)

from communities that move around – Gypsy, Roma, traveller or migrant families – who collectively go missing from school.<sup>12</sup>

There will sometimes be difficulties establishing the age of a potential child trafficking victim and in such cases Competent Authorities should follow the UKBA guidance on assessing age.<sup>13</sup> Cases where age cannot be established should continue to be given the benefit of the doubt and be treated as if they were children.

The NSPCC Child Trafficking Advice and Information Line offers direct assistance to professionals in statutory and non-statutory services responsible for children who show signs of having been trafficked and will offer advice on how their needs can be addressed and the statutory duties that local authorities have in regard to safeguarding children from harm. It also offers guidance by telephone and a case consultancy service by appointment. The Advice Line number is 0800 107 7057.

[Back to contents](#)

## **Sexual Exploitation**

This is a crime that impacts many victims of trafficking, though primarily on women and children. Most female victims of trafficking identified in the UK are exploited in prostitution against their will. Many are beaten, raped and abused. They go abroad based on false promises of good jobs and economic opportunities, often out of ambition to earn money and make a better life for their children and family. Young women are at greatest risk. Their youth makes them more desirable to traffickers looking for young girls to service their male clientele.

The forcible or deceptive recruitment of women and children for the purposes of forced prostitution or sexual exploitation is a form of gender related violence.<sup>14</sup>

Trafficked women have very different experiences while in the trafficking situation. Some are held captive, unremittingly assaulted and horribly violated. Others are less abused physically, but are psychologically tormented, and live in fear of harm to themselves and their family members. There is not a typical experience of trafficking, however, and the way in which different persons describe their experiences means that those with a duty to identify trafficked persons must not rely on victims to self-identify in explicit or obvious ways.

It is worth noting that sexual exploitation can also occur with men but there is currently only limited evidence to suggest that there are adult male victims of sexual exploitation in the UK.

[Back to contents](#)

---

<sup>12</sup> Working together to safeguard children - Safeguarding children who may have been trafficked  
[http://publications.teachernet.gov.uk/eOrderingDownload/DCSF\\_Child%20Trafficking.pdf](http://publications.teachernet.gov.uk/eOrderingDownload/DCSF_Child%20Trafficking.pdf)

<sup>13</sup> Assessing age  
<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/assessing-age?view=Binary>

<sup>14</sup> Stolen Smiles: a summary report on the physical and psychological health consequences of women and adolescents trafficked in Europe <http://www.lshtm.ac.uk/hpu/docs/StolenSmiles.pdf>

## Forced Labour

Both children and adults may be forced to work in illegal sweatshops, as agricultural and construction workers and in many other diverse forms of work. They are exploited and deprived of the most basic human rights.

As with other forms of exploitation, a substantive threshold needs to be met before our obligations under the Convention are triggered:

In relation to the European Convention of Human Rights, the European Court of Human Rights in interpreting “forced labour” took as a starting point the definition in the ILO Convention concerning Forced or Compulsory Labour (No.29) of 29 June 1930:

**“All work or service which is exacted from any person under the menace of any penalty and for which the person has not offered himself voluntarily.”**

The European Court then held that for forced labour, there must be work (a) exacted under the menace of any penalty, which is (b) performed against the will of the person concerned i.e. for which the person has not offered themselves voluntarily. This definition is a useful indication of the scope of this concept for the purposes of human trafficking. Therefore, forced labour cannot be equated simply with low wages or poor working conditions. Nor does it cover situations of pure economic necessity, as when a worker feels unable to leave a job because of the real or perceived absence of employment alternatives.

[Back to contents](#)

## Domestic servitude

Domestic servitude often involves people working in a household where they are ill treated, humiliated and subjected to exhausting working hours. It occurs when domestic workers have their rights violated as they are forced to live and work under unbearable conditions for little or no pay - until they escape or are rescued <sup>15</sup> A common indicator is withholding of passports or information about their rights as workers or visitors in the UK.

The problems of domestic workers held in servitude are compounded by the fact that it is often impossible for them to leave their employers and seek help. Abusive employers create physical and psychological obstacles by, for example, instilling fear in the domestic slave by threatening them – or their relatives - with further abuse or deportation, or by withholding their passport <sup>16</sup>

[Back to contents](#)

## Smuggling or trafficking

The purpose of human smuggling is to move a person across a border illegally, and is regarded as a violation of state sovereignty. The purpose of human trafficking is to exploit a human being for gain or other benefits and is regarded as a violation of that person's freedom and integrity.

A number of factors can be identified which help distinguish between smuggling and trafficking. Firstly, a victim's entry into a state can be legal or illegal in the case of trafficking, whereas

---

<sup>15</sup> <http://www.unodc.org/unodc/en/frontpage/2009/December/domestic-service-or-domestic-slavery.html>

<sup>16</sup> <http://assembly.coe.int/Documents/WorkingDocs/doc04/EDOC10144.htm>

smuggling is characterised by illegal entry. Secondly, trafficking can take place both within and across national frontiers, whereas international movement is required for smuggling. Thirdly, in the case of adults trafficking is normally carried out with the use of coercion and/or deception, whereas smuggling is not, indicating that the latter is a voluntary act on the part of those smuggled. Trafficking also involves subsequent exploitation of people, while the services of smugglers usually end when people reach their destination.

It should be appreciated that the distinction of smuggling and trafficking can be blurred. There are certainly 'pure' cases of trafficking and smuggling - of children kidnapped without their parents' consent, of migrant workers defrauded from the outset or, at the other end of the spectrum, of completely transparent cross-border transportation agreements where a fee is mutually agreed and the relationship between transporter and transported ends upon arrival. However at the point of departure and at multiple stages of the journey, it may well be unclear which category – trafficking or smuggling – is at issue. Most transported undocumented migrants appear to consent in some way to an initial proposition to travel but frequently *en route* or on arrival in the destination country circumstances change.<sup>17</sup>

[Back to contents](#)

### Myths about human trafficking

It is important to be aware of a number of myths and issues of incomplete understanding relating to human trafficking:

**Myth:** The person did not take opportunities to escape so is not being coerced.

**Reality:** Remaining in an exploitative situation could indicate a willingness to remain there and/or an absence of coercion. But there are many reasons why someone may choose not to escape an exploitative situation: e.g. fear of reprisal, vulnerability, Stockholm Syndrome (psychological dependency on the person exploiting them), lack of knowledge of environment.

**Myth:** British nationals cannot be victims of human trafficking.

**Reality:** British nationals can and have been victims of human trafficking.

**Myth:** Crossing a border is required in order to be trafficked.

**Reality:** Trafficking does not have to occur across borders, it can occur within a country.

**Myth:** Human trafficking is a necessary evil in some cultures and so must be accepted.

**Reality:** Irrespective of cultural practices, human trafficking is a crime in the United Kingdom.

**Myth:** It cannot be human trafficking when organiser and victim are related or married/co-habiting/lovers.

**Reality:** Close relationships are often used to exploit and control others. There have been numerous incidents where 'boyfriends' have groomed women into sexual exploitation or family members have colluded (intentionally or unintentionally) in the exploitation. Many of these relationships will have indicators of domestic abuse as well.

**Myth:** A person is not a victim of trafficking when he or she says that he or she has a better life than previously.

---

<sup>17</sup> Smuggled or trafficked? by Jacqueline Bhabha and Monette Zard <http://www.fmreview.org/textOnlyContent/FMR/25/02.doc>

**Reality:** Some people are willing to tolerate their situation because they may perceive it as a 'stepping stone' to a better future and may also compare it more favourably to experiences at home<sup>18</sup>. It doesn't mean that they are not a victim of trafficking.

**Myth:** A person is not a victim of trafficking when he or she rejects offers of help.

**Reality:** It is not uncommon for victims to initially reject offers for assistance and help. This is not a situation that is unique to victims of these crimes but due to the nature of human trafficking victim self identification and early engagement with the authorities and other support organisations remains low.

[Back to contents](#)

### Seeking out information

Competent Authorities should understand that many exploited persons do not trust or are afraid of the police or other organisations purporting to assist them. They may therefore not be willing to provide statements to the police. In such circumstances NGOs may be able to provide more information on the individual's situation and due weight should be given to this supporting evidence.

It is important that decision makers collaborate with all relevant agencies that have dealings with the potential victim in order to gather all the relevant information.

---

<sup>18</sup> OSCE (2007) Report on Civil Society Meeting, Warsaw, 'The NRM Approach to Trafficking and its Application to Trafficking for Labour Exploitation', p4

## Receiving a referral

---

### Routing

When a first responder (FR) suspects that a person they have encountered may be a potential victim of trafficking (PVoT), they will contact the Asylum Routing Team (ART), or Asylum Intake Unit (AIU) if the case meets the criteria for the Fast Track process. These teams will identify the most appropriate Competent Authority (CA) to deal with the case. This will depend on whether the person is suitable for detention (or Fast Track), a third country case or where they are accommodated.

[Back to contents](#)

### Last minute claims to be a victim of trafficking

Should a claim to be a potential victim of trafficking be submitted when Removal Directions are set against that person, then that application will be carefully considered by the appropriate CA.

Where Removal Directions are set and imminent, officers should follow existing procedures for referring last minute claims to OSCU who will act as the appropriate CA and consider the case and respond in writing to the claimant or their legal representative. If OSCU CA considers that there are reasonable grounds to believe the claimant is a PVoT, then OSCU will defer removal directions, issue the reasonable grounds decision (as detailed later in this document) and refer the case to ART for allocation to the most appropriate CA to make the conclusive decision.

[Back to contents](#)

### Acknowledging a referral

On receipt of the referral form, the CA should check that the case has already been entered on the UKBA database (CID) and that it is noted that there is a barrier to removal whilst the case is under consideration. The FR should have entered the case on CID already but if not, the CA should enter case details.

The CA must acknowledge the referral form on receipt by sending an acknowledgement letter ([UKBA NRM 01](#)) to the FR and copy to UKHTC. The CA should then enter the date the referral was received and acknowledgement despatched on the UKBA database (CID).

If the referral is received from the Asylum Screening Unit (ASU), the FR would not require an acknowledgement, as ASU would have no further involvement. In such instances the acknowledgement form should be sent to UKHTC only

[Back to contents](#)

### Sharing information with the police

A potential victim of trafficking is a potential victim of a crime. Trafficking is a very serious crime, punishable by up to 14 years in prison. Wherever possible, allegations of trafficking should be passed to the police as soon as the information is known to UKBA.



Potential victims are under no obligation to cooperate with the police themselves and some potential victims may not want the police to be involved at all. This should be carefully considered. In some cases the police may not pursue a case unless the individual engages with them directly. It is not for the Competent Authority to press the police to pursue a criminal investigation or convince the potential victim to cooperate. In such cases the CA should minute the file with the outcome.

It is essential that the police are made aware of all child trafficking cases and it is the Competent Authority's responsibility to ensure the police have been alerted. In most regions, the responsibility will fall to the police's child protection or public protection units.

It may also be beneficial for the Competent Authority to discuss a case with the police in order to gather additional information to help with the RG decision

All disclosures must be made in accordance with the law, in particular the Data Protection Act (1998). You may need to seek advice before disclosing any information.

[Back to contents](#)

## **Secure Accommodation and Article 12 Entitlements**

All victims are entitled to standards of living capable of ensuring their subsistence. Appropriate and secure accommodation must be offered to all victims who are entering a recovery and reflection period. If an individual needs accommodation while their trafficking case is being considered then this needs to be provided also. The UK Human Trafficking Centre, +44 (0)114 252 3891, can advise on making arrangements.

Victims are also entitled to:

- access to emergency medical treatment;
- translation and interpretation services, when appropriate;
- counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;
- assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
- access to education for children.

Victims who are not housed in specialist accommodation (including those housed by NASS) may require outreach support to fulfil their entitlements under Article 12 of the Convention. The UK Human Trafficking Centre can again advise on such arrangements.

CAs must note the potential victim's current address, or the support provider/ scheme under which they are housed (e.g witness protection) on the trafficking file and inform UKHTC after a RG or CD has been made using the UKBA NRM 09 form. This should include details of the type of accommodation such as NASS, support provider, friend, relative, partner etc. If an individual who is not accommodated by a specialist support provider notifies the CA of a change of address during the NRM process, the CA should inform the UKHTC of this change of address. All such information must be kept and transported securely – see Storing, Transmitting and Access to Trafficking Case Information for further details.

[Back to contents](#)



## **Transport**

When a potential victim is passed from UKBA care, CAs must ensure that any transport arranged is appropriate and gender sensitive. Victims should not be made to travel alone.

[Back to contents](#)

## **Individuals charged with criminal/immigration offences**

The situation a victim of trafficking was found in may implicate them in a criminal/immigration offence. Where the Competent Authority has made a Reasonable Grounds or Conclusive Decision that they are a victim of trafficking they should ensure that those pursuing any action for offences committed (UKBA, Police, CPS) are aware of the identification decision. The CPS has issued detailed guidance on the circumstances prosecutors must consider when defendants charged with criminal offences might be trafficked victim.

[Back to contents](#)

# Children

---

## Interviewing

Interviewing children suspected or known to be trafficked should be kept to a minimum. Where victim status needs to be established under the Convention these children should, where possible, be interviewed by specialist trained child protection police or social work professionals.

The CA should avoid interviewing a child specifically for the purpose of reaching a decision under the NRM if there are specialists in other agencies capable of doing so, or if the trafficking issues have already been clarified as part of the asylum process. If further information is required to make an NRM decision, the CA should request this information from the First Responder. If further information is still required, the CA should consider commissioning the Local Authority or police to interview the child on their behalf.

[Back to contents](#)

## Serving decision letters

Under no circumstances should a decision letter or other trafficking papers be served on a child. All trafficking papers need to be served on the child's appointed representative or the Local Authority.

[Back to contents](#)

## Statutory duty to safeguard and promote the welfare of children in the UK

Effective from 2 November 2009, Section 55 of the Borders, Citizenship and Immigration Act 2009 introduced a statutory duty for the Home Secretary to make arrangements to ensure that UKBA functions (and services carried out by third parties on UKBA's behalf) *are discharged having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom.*

This statutory duty extends to UKBA staff and those acting on behalf of UKBA when carrying out immigration functions in relation to children within the UK. As a matter of policy, UKBA staff working overseas are also expected to abide by the spirit of the new duty. Therefore, those encountering children (or those whose age is doubtful but are being treated as children) who may be victims of trafficking must have regard to the detailed guidance provided in this instruction and elsewhere, as part of these arrangements.

All staff dealing with children should also check they are familiar with the general approach described in the separate guidance - [Arrangements to Safeguard and Promote the Welfare of Children for those Exercising UK Border Agency Functions](#). It describes the relationship between carrying out UKBA's chief functions - including immigration control and achieving the departure of those with no legal basis of stay - and the new statutory duty.

The general guidance outlines some key principles (taken from the previous *Code of Practice*) that need to inform UKBA actions:

- in accordance with the UN Convention on the Rights of the Child, the best interests of the child will be a primary consideration (although not necessarily the only one) when making decisions about his or her future.

- no child should be discriminated against through being a child, or on grounds of gender, race religion, disability, sexual orientation or culture.
- the views and wishes of the child should be sought and taken into account whenever decisions affecting them are made. This should be done in a way that takes account of the child's age and maturity.

The general guidance interprets UKBA's contribution *to safeguarding and promoting the welfare of children* as being concerned with ensuring good treatment and interactions with children through the immigration process and exercising vigilance to identify children who may be at risk of harm. It does not impose any new functions or override existing functions. In summary, staff must be as responsive as possible to the needs of the children involved, without over-riding the purpose of their work.

Applying the detailed guidance in this instruction will enable immigration officers, case owners and other UKBA staff to demonstrate that the child's welfare has been taken account of where there is reason to believe they may have been a victim of trafficking.

[Back to contents](#)

### **Victims with dependants**

Some victims of trafficking will have dependants. Should a Competent Authority decide to grant leave or temporary admission to the main applicant, the same permissions should also be granted to any dependants who are already in the UK, unless there are reasons why this would not be appropriate.

### **Age disputed cases**

In cases where a potential victim's age is disputed competent authorities should follow standard UKBA [policy on assessing age](#)

[Back to contents](#)

# Reasonable grounds consideration

---

## The two stage process

The Council of Europe Convention on trafficking has a two stage process for identifying victims of trafficking in which the 'reasonable grounds' test acts as an initial filter to a fuller more conclusive decision. Once a positive 'reasonable grounds' decision is made; the individual is granted a 45 day reflection/recovery period. This temporary status provides the conditions for a fuller evaluation to decide if the person was a victim at the date of reasonable grounds decision. The CA will have the discretion to extend the recovery and reflection period beyond 45 days where circumstances warrant. Similarly the decision maker can curtail the reflection period and immigration status if it is found that victim status is being claimed improperly.

[Back to contents](#)

## Standard of proof

The Convention has three primary aims. To offer protection for victim's rights, to combat trafficking and to promote international co-operation. All three Convention aims should be taken into consideration when considering victim status.

Having received a referral, a Competent Authority shall apply a 'reasonable grounds' test to decide whether a person is a victim of trafficking. The 'reasonable grounds' test has a low threshold.

The test that should be applied is whether the statement "I suspect but cannot prove" would be true and whether a reasonable person would be of the opinion that, having regard to the information in the mind of the decision maker, there were reasonable grounds to believe the individual concerned had been trafficked. Reasonable suspicion can never be supported on the basis of personal factors alone (e.g. the appearance of the suspected victim) without reliable supporting intelligence or information or some specific behaviour by the person concerned. It should normally be connected to precise and up to date intelligence/information.

If a person is a victim of trafficking then they may also be the victim of a crime. Competent Authorities are therefore entitled to explore information about the alleged offence as part of the reasonable grounds assessment. Trafficking offences in the UK are contained in the following legislation:

- Sections 57-59 of the Sexual Offences Act 2003 and Section 4 of the Asylum and Immigration (Treatment of Claimants) Act 2004 criminalise trafficking

It is not necessary to **prove** that an offence has taken place or for there to be an ongoing criminal investigation.

Every effort should be made by the Competent Authority to secure all available information from the First Responder, support provider, police or local authority (in the case of children), But if there is insufficient evidence to conclude that the reasonable grounds test is met then the Competent Authority must make a negative decision.

A first responder or support provider may be in a position to be able to provide information that goes well beyond the required proof. In these circumstances the Competent Authority should

advise the first responder that the reasonable grounds test is met and that any further information will be taken into account when making a subsequent 'conclusive decision'. Some of the indicators on the referral form may not be apparent on the initial encounter but will become clear during subsequent interviews at a safe location (such as a Police Station) with an interpreter. Competent Authorities should be mindful of any ongoing process which may be able to provide additional information.

The 'reasonable grounds' decision has consequences for the person in terms of protection and potential further stay in the UK. It may be subject to external scrutiny and judicial review. The decision should be of the highest possible standard, taking into account the expert views of those surrounding the individual. Where the decision maker is not sure they should seek guidance and assistance from others and commission more information from the first responder or support provider.

Although police and intelligence reports can provide objective evidence to strengthen a claim, due weight should also be given to the reports and views of local authority children's services or the organisation supporting an individual who may have spent most time with the potential victim and established a degree of trust. The CA should also take into account any medical reports submitted, particularly those from qualified health practitioners.

[Back to contents](#)

## **Credibility**

Before making any assessment of credibility, decision makers may find it helpful to apply the definition at the start of the guidance to the set of facts as presented by the First Responder and make a decision as to whether the individual situation matches the definition. Competent Authorities should utilise published and recognised reports which address the propensity of trafficking in the home country. The decision maker should then move on to assessing whether those facts are credible. If they fit the definition and the account is credible to the required standard of proof (reasonable grounds), the individual should be recognised as being a victim of trafficking.

The nature of trafficking and the trauma it can cause should lead decision makers to be cautious in discounting potential victims due to lack of co-operation or initial reluctance to disclose the full facts of their case. Moreover as a result of trauma, victims in some cases might not be able to recall concrete dates and facts and in some cases their initial account might contradict their later statement. This is often connected to their traumatic experience. However, the need to be sensitive does not remove the need to assess all information critically and objectively. This includes considering the credibility of a case.

In assessing the credibility of the case of a potential victim of trafficking decision makers must assess the credibility of material facts about past and present events that go to the core of the decision that an individual is a victim of trafficking. Credibility findings should be focused upon material facts that are serious and significant in nature. It is generally unnecessary, and sometimes counter-productive, for the decision maker to focus upon minor or peripheral facts that are not material to the claim.

Assessing a claim's credibility inevitably involves an element of subjectivity on the decision maker's part. The danger is that a decision maker's subjective interpretation of a claim can lead to unfounded assumptions based not on objective information but on the individual's own experiences and beliefs, undermining the balance and fairness of an assessment. To ensure

impartiality a second case worker should review the NRM decision and that second case worker should not be directly involved in the case's asylum decision.

The decision maker should assess whether the material factual claim is coherent and consistent with any past written or verbal statements, and consistent with claims made by witnesses and with any documentary evidence submitted in support of the claim. It is for the decision maker to assess how well the evidence submitted fits together and whether or not it contradicts itself.

Where there is insufficient evidence to support a claim that the individual is a victim of trafficking (for example where the case is lacking key details without valid reason, such as who trafficked them or where they were exploited) the Competent Authority is entitled to question whether the reasonable grounds threshold is met.

Subject to mitigating circumstances (see below) where an assessment of credibility undermines an individual's account to the point that the reasonable grounds standard of proof can no longer be met the decision maker should conclude that the subject is not a victim of trafficking according to the Convention.

[Back to contents](#)

### **Level of detail**

The level of detail with which a potential victim of trafficking presents their claim about the past and present is a factor which may influence a decision maker when assessing credibility. It is reasonable to assume, subject to mitigating circumstances (see below), that a Potential Victim of Trafficking relating an experience that occurred to them will be more expressive and include sensory details such as what they saw, heard, felt or thought about an event, than someone who has not had this experience.

It is also reasonable to assume, subject to mitigating circumstances (see below), that a potential victim who has experienced an event will be able to recount the central elements in a broadly consistent manner. A potential victim's inability to remain consistent throughout their written and oral accounts of past and current events may lead the decision maker not to believe the claim.

The decision maker may refer back to the police or other expert witnesses for clarification if there are any inconsistencies in the claim.

[Back to contents](#)

### **Mitigating circumstances**

In assessing the credibility of a claim, decision makers should be aware that there may be mitigating reasons why a potential victim of trafficking is incoherent, inconsistent or delays providing details of material claimed facts. These reasons should be taken into account when considering the credibility of a claim. Such factors may include the following (the list is not exhaustive): mental, psychological, or emotional trauma, inability to articulate, mistrust of authorities, feelings of shame, painful memories particularly those of a sexual nature.

A key symptom of post-traumatic stress is avoidance of trauma triggers, or of those things that cause frightening memories, flashbacks or other unpleasant physical and psychological experiences. Because of these symptoms a person may be unable to fully explain their experience until a minimum of psychological stability has been achieved. Later disclosure should

not be seen as necessarily manipulative or untrue, but in many cases is the result of an effective recovery period and the establishment of trust with the person to whom they are disclosing.

[Back to contents](#)

### **Potential prosecution of trafficker**

Whether an alleged trafficker is being prosecuted may be of relevance but the decision to identify a victim (either preliminary or conclusively) is not dependent on there being a criminal investigation, or on whether or not the victim cooperates in the criminal proceedings.

Decision makers need to be aware that any deliberations that are made could be subject to disclosure in any subsequent prosecution for trafficking. Where an individual is being treated by the police as a potential victim and/or witness, decision makers should ensure lines of communication with the Senior Investigating Officer (police) are kept open. The decision as to whether there is enough evidence to prove that an individual is a victim rests with the Competent Authority but officers must be alert to the impact that the decision may have not only on the victim but on a criminal investigation and the criminal justice process.

[Back to contents](#)

### **Gathering further information**

In some cases an initial referral may contain insufficient evidence. The Competent Authority should proactively seek out information that could prove useful in establishing if there are reasonable grounds. The Competent Authority should discuss the case with the relevant agencies and establish plans to gather more information, including via interview.

When deciding children's cases it is essential for the Competent Authority to develop good working relations with local authority social workers and other practitioners who have worked on the referral.

As soon as there is sufficient information for a Competent Authority to make a decision that reasonable grounds exist for treating a person as a trafficking victim then a decision should be made, even if it is likely further information will be available at a later stage.

[Back to contents](#)

### **Individuals not in the UK**

A person presenting themselves as a victim must be physically in the United Kingdom in order to be capable of receiving protection and assistance from a Competent Authority in the UK under the Convention.

[Back to contents](#)

### **When trafficking is distant in time/historic claims**

Very few trafficked persons are still in a trafficking situation at the time of referral into the NRM because in order to be referred they must have escaped or been rescued from the trafficking environment. Many victims will continue to suffer the effects of their ordeal long after they have

left it. A gap between the trafficking situation and referral should therefore be seen as normal and is not in itself reason to conclude that an individual should not be treated as a victim.

But there may be instances where a Competent Authority believes someone may have been a victim of trafficking, but at the time their case is referred, concludes on the facts of the case that the person is no longer in need of the protection or assistance offered under the Convention because the individual's circumstances have changed so much since the trafficking occurred. A negative decision in such cases would not be denying that someone may have been a victim of trafficking in the past, simply that at the time of assessment they did not meet the Convention criteria or need the protection or assistance that it can afford.

There are a number of factors that may be relevant to consider when deciding whether a person can be considered to be a victim for the purposes of the Convention at the point that the case was referred to a Competent Authority for a decision. The Convention and explanatory report are vague as to the application of timeframes of the constituent elements of trafficking when considering eligibility. However, it is usual policy and practice for the provision of services for victims of crime to be based on an assessment of individual need. Therefore as one of the aims of the Convention is to offer protection to victims it is appropriate to consider if the person needs protection or assistance under the Convention at the time that the referral is made.

Based on an assessment of the individual circumstances of the case it may be reasonable to conclude that where a person has been free from their traffickers for a long period of time and has recovered and moved on with their life, then they no longer require the protection afforded by the Convention. Support for this approach is provided by considering the rationale for the provision of a recovery and reflection period for victims as set out in Article 13 of the Convention and as expanded upon in the explanatory report to the Convention.

It is relevant to consider whether:

- i. the person was under the influence (either directly or indirectly) of traffickers at the point at which they came to your attention;
- ii. the person requires a period to recover from the influence of traffickers;
- iii. the person has suffered physical or emotional wounds from the trafficking experience and requires time to recover;
- iv. the person requires a period of time in which to decide whether to co-operate with the authorities in respect of a trafficking related criminal investigation.

This is intended to be an illustrative list of factors. It is not exhaustive and it will be necessary to consider all of the person's circumstances in the context of the general spirit of the Convention at the time a case is referred into the NRM. It may be the case that if only one of these factors is present the person will need the protection of the Convention and that should be reflected in the decision.

In cases where there is police or support provider involvement, the Competent Authority will need to consult with these parties to get a full picture of the person's circumstances.

Some example scenarios

#### Scenario 1

The individual may have been trafficked into the UK at some point in the past. However, the person managed to escape the trafficking situation. Some members of his or her family may have come to join him or her and they may have made a new life for themselves.



### Consider

- Has the person been free from traffickers for a long period of time at the point of referral?
- Has the person established a safe family life since escaping his/her exploitation?
- Had the person managed to support himself/herself during that period independent of the trafficker(s)?
- Has the person brought himself/herself to the authorities' attention for reasons unconnected to the alleged trafficking conduct – for instance when s/he was no longer self-sufficient?

### Scenario 2

The individual travelled through another country where one or more of the three constituent elements of trafficking took place. They were then trafficked to the UK and were exploited for three months before being helped to escape by a UK national. The individual stayed with friends for a couple of months before they were referred to a third-sector support agency. Through the support of the third-sector organisation the individual came to the attention of the authorities. The third-sector organisation carried out an assessment and reports that the individual has high health, emotional and psychological support needs.

### Consider

- Could the time-delay in the referral be attributed to fear and the impact of the exploitation?
- Has the individual got support and health needs as a result of their experience?

This policy is intended to assist case owners in determining whether there are reasonable grounds to believe someone *is* a victim in need of the Convention's protection. It is only likely to be relevant in cases where significant time has elapsed since the trafficking offence occurred and the circumstances of the individual have changed considerably.

In high harm cases Competent Authorities need to carefully consider the victim's longer term physiological and health impacts. If the individual has not been free from their traffickers for a significant amount of time and has not fully recovered/ moved on with their life, then victim status should not be denied on this basis of the claim being historic.

This policy is principally for application at the reasonable ground stage. It should only be applied at the conclusive grounds stage if further evidence has come to light to suggest that at the time of referral the person had moved on/ been free from their traffickers for longer than originally thought, or where in light of the further evidence it is acknowledged that Convention obligations should not have been triggered at the reasonable grounds stage. This could be because for example the individual has since acknowledged in an interview that they are not a victim of trafficking.

Competent Authorities will need to take into account Article 15 of the Convention which deals with the right of victims to compensation from the perpetrators. The fact that someone is seeking compensation or has received compensation will be relevant to the consideration but does not in itself merit victim status. What redress is being sought; the type of grounds and how credible the claim is should be taken into account.

[Back to contents](#)

## When trafficking is removed through location

A migrant who claims to have been exploited overseas but travelled independently of any alleged trafficker to the UK over a period of time passing through a number of other countries is likely to be far removed from their trafficking situation and therefore very unlikely to benefit from being considered under the Convention.

However, it is entirely possible that someone who has fled to the UK to escape a current trafficking situation will still be traumatised by their experience and, unless the case meets Dublin II arrangements, will need to be afforded the help and protection in the UK that is offered under the Convention.

In such cases Competent Authorities will also need to ensure that our obligations under Article 27 are met by passing any details of the alleged crime to the Party in the territory in which the offence was committed.

### An example scenario

An individual may have travelled from a country where one or more of the three constituent elements of trafficking took place. To reach the UK the individual escaped their situation and fled. The individual travelled through a number of countries before arriving in the UK. When identified by a first responder it was reported that the individual travelled to the UK of their own free will and had not experienced exploitation in the UK.

### Consider

- Is the person still under the influence of the trafficker?
- Does the person require time to recover from their trafficking ordeal?
- Has the person got support and health needs as a result of the exploitation?

It should be noted that a person presenting themselves as a victim must be physically in the United Kingdom in order to be capable of receiving protection and assistance from a Competent Authority in the UK under the Convention.

[Back to contents](#)

## Reasonable Grounds (RG) Outcomes

---

The CA has 5 working days from the receipt of the referral to reach a decision. Where a case needs to be fast tracked, e.g. the person may be detained, the CA is expected to treat the case as a priority and reach the decision as soon as possible.

Competent Authorities will need to be mindful that victim services providers will need to prepare the individual for any outcome and that the decision may also directly impact on a criminal investigation.

[Back to contents](#)

### RG Outcome - person not accepted as a potential victim

If the Competent Authority concludes that the person is not accepted as a victim of trafficking, before releasing the decision the CA must discuss the decision with interested parties such as the support provider, police, First Responder or Local Authority (in the case of children) to ensure that all information has been gathered. If there is no subsequent information the CA must update CID with RG outcome refused, complete the decision letter ([UKBA NRM 04](#)) and issue to the person concerned (via their appointed representative). This must include a full and detailed consideration explaining the reason for the decision. The CA should then notify the FR, the support provider, the Police (where appropriate) and LA (in the case of children) using the decision notification form ([UKBA NRM 05](#)). UKHTC must then be notified of decision using form [UKBA NRM 09](#).

If the case has any outstanding immigration action that needs to be concluded, it is a local decision as to who should continue with the consideration of the case e.g. whether the CA would deal if there were an outstanding asylum application or if it should be sent to the relevant workflow manager to reallocate the case.

CAs need to have all necessary information before making a negative decision. In cases where it's likely that the person will be refused, an interview will need to be conducted, unless all of the relevant questions have been asked as part of the asylum process, or we've commissioned another frontline agency or the support provider to ask the questions on our behalf.

CA action is then complete.

[Back to contents](#)

### RG Outcome - person accepted as a potential victim

If it is decided that there are reasonable grounds to accept the person is a potential victim of trafficking (PVoT), the CA must update CID with RG outcome accepted, complete the decision letter ([UKBA NRM 03](#)) and issue to the person concerned (via their appointed representative). A consideration minute explaining the reason for the decision must be drawn up and placed on file. This should not be sent to the victim. The FR, support provider, the Police (where appropriate) and LA (in the case of children) should then be notified of the decision using the decision notification form ([UKBA NRM 05](#)). UKHTC must then be notified of decision using form [UKBA NRM 09](#).

The 45 day reflection period is then initiated.

If the PVoT is in detention they will normally need to be released on temporary admission /temporary release (TA/TR), unless in the particular circumstances, their detention can be justified on grounds of public order. The decision letter advises the person that they have been granted 45 days for recovery and reflection on TA/TR to remain in the UK whilst a conclusive decision is made on their case; it does not confer any leave to enter or remain. Along with the decision letter, the CA should issue a revised IS96 (or IS248 if an in-time in-country case) granting TA/TR for 45 calendar days from the date of the letter. This should cover where the person will need to report i.e. the Local Enforcement Office or Local Immigration Team/Reporting Centre in the area where they are accommodated, how often they will need to report and when. Each case should be considered on a case by case basis but it is expected that there will be a low frequency reporting regime for these cases, which should be staggered to avoid any traffickers identifying reporting patterns.

CAs should take in to account any temporary admission/release that may already have been granted and advise the local immigration office of the status of the case and instruct them to amend the status as appropriate. TA/TR will not be granted to someone who already has valid leave to remain in the UK for 45 days or more, but in such cases the Competent Authority must still serve the positive RG decision and acknowledge that the individual has been granted 45 days for recovery and reflection. The recovery and reflection period is a legal concept that triggers certain rights and measures under the Council of Europe Convention and in no circumstances should a identified victim be denied these rights.

With Detained Fast Track cases, DFT will pass the case on to a non-detained CA at this point for the conclusive grounds decision to be made, unless there are exceptional reasons why this is not possible.

Where appropriate, in non-asylum cases the CA should use the UKBA NRM 06 series to notify the person that they may be eligible for alternative permissions for leave.

If any of the parties consulted require feedback on the conclusive decision, it may be worth clarifying at this stage how they would prefer this e.g. copy of the letter or phone call and note the agreed means on file and CID.

[Back to contents](#)

### **RG Outcome - case suspended**

In a small proportion of cases individuals will go missing. Where trafficking indicators are present, but are insufficient to reach the standard of proof of reasonable grounds to believe, and it is not possible for further information to be gathered because the individual is missing Competent Authorities should register the case as a 'suspension of consideration'. It is necessary to ensure that the case is flagged on CID as having had the issue of trafficking raised so that the individual would be recognised as possibly at risk should they be encountered again.

[Back to contents](#)

### **Status interviews**

If a PVOT is not known to UKBA, an initial status interview needs to be conducted in order to establish a person's identity, nationality or citizenship and their immigration status in the UK. As the reflection period is granted by means of temporary admission, we can only grant this if the

person is on our system and we have been able to confirm their identity. In such instances status interviews need to be prioritised so they do not delay the release of the reasonable grounds decision.

The tone of the interview should be relaxed and conversational. Questions should be limited to those necessary to establish the individual's method of entry and immigration status. The issue surrounding the subject of trafficking may arise at this time but this is not the purpose of the interview and no specific questions should be asked regarding the exploitation suffered. Where it is appropriate to serve illegal entry papers, it should be emphasised to the individual that they are NOT about to be removed from the UK, but that they are being considered within the trafficking process and until that process is complete no removal action will take place.

In exceptional circumstances, there is some flexibility in our approach and Competent Authorities can issue their decisions before a status interview has taken place - if there are particular circumstances where it would be appropriate to do so.

[Back to contents](#)

### **Appeals against a decision**

The Council of Europe Convention, upon which our victim care arrangements are based, does not require Parties to have an appeal process. The only means of challenging a NRM decision is by way of Judicial Review.

For JRs against NRM decisions lodged in England and Wales, cases should be handled by JRU following standard procedure. For Northern Ireland and Scotland cases caseworkers should liaise with their regional Litigation Team.

[Back to contents](#)

## Conclusive Decision consideration

---

### Gathering information

During the 45 day reflection period the CA should carry out any evidence gathering and further enquiries required. The CA must consult with any relevant agencies, such as the police, children's services, and the support provider, to reach a conclusive decision on whether the person has been trafficked.

Although police and intelligence reports certainly strengthen a claim, due weight should also be given to reports submitted by recognised support providers and children's services. The CA should also take into account any medical reports submitted, particularly those from qualified health practitioners.

[Back to contents](#)

### Interviewing under the NRM

The CA should consider the need to interview the person. It may be the case that the information submitted on the individual's situation is so compelling that an interview is not necessary. Alternatively the information provided may be slim or contradictory, in which case an interview may help to clarify things.

The Competent Authority should balance the benefits of an interview against the potential detriment it could cause and should be particularly mindful that it may re-traumatise the individual. In all circumstances Competent Authorities should attempt to gather all available information before deciding to interview and should not normally conduct an NRM interview during the first 30 days of the recovery and reflection period, unless there are strong reasons why this would be appropriate.

It may be possible to clarify the trafficking issues as part of the asylum process or the CA may wish to commission the support provider or police to ask questions on their behalf.

If an NRM interview is necessary, this should be conducted by an officer trained in interviewing in accordance with existing policy<sup>19</sup>. CAs should consider allowing the support provider to sit in on the interview and should give all persons interviewed the opportunity to indicate preference on the gender of the UKBA representative who will conduct the interview. Any prior request made by an applicant for a gender specific case owner and interpreter for the substantive interview will be met under normal circumstances. Where a request for a gender specific case owner is made by the applicant on the day of the interview, such requests will be met as far as is operationally possible. Although preferences indicated may not be accommodated for operational reasons, CAs should also try to accommodate any other requests, such as a gender preference of the interpreter and the location of the interview.

CAs should be aware of the fact that the presence of children in an interview situation can hamper the ability and willingness of women to disclose information about their experiences,

---

<sup>19</sup> Interview policy

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/theasyluminterview/guidance/conductingtheasyluminterview.pdf?view=Binary>

especially when these have been of a violent or sexual nature. Arrangements should be made to allow for this.

In criminal trials evidence from witnesses must be given independently and therefore officers must take care not to offer, or appear to offer, potential inducements to the victim. Any form of inducement might undermine the credibility of evidence obtained and adversely affect the prosecution's ability to bring cases to court.

The Competent Authority should minute the file to indicate whether there is sufficient information to make a conclusive decision or whether an interview was needed.

[Back to contents](#)

## **Asylum interview**

Where the individual has made an asylum claim, UKBA should carry out the asylum interview in line with normal procedure. Trafficking victims that have claimed asylum are entitled, as other claimants, to have a speedy resolution to their asylum claim. Asylum interviews can normally be conducted within the prescribed time limits, although some victims may be highly vulnerable and there may be circumstances in which it would be right to delay the interview. Each case should be considered on its individual merits and close liaison with support providers is essential.

Competent Authorities should be aware that the asylum interview may provide information that will be of interest to the conclusive trafficking decision. It may also be possible to clarify trafficking issues as part of the asylum process.

[Back to contents](#)

## **Standard of proof**

At the conclusive decision stage, CAs should consider whether, on the balance of probability, there is sufficient information to conclude that the individual is a victim of trafficking.

Balance of probabilities essentially means trafficking as defined by the Convention is more likely than not to have happened. Decision makers should be satisfied that on the evidence available, the event is more likely to have happened than not. This standard of proof does not require the decision maker to be certain that the event did occur.

Decision makers should weigh up the probability of trafficking as defined by the Convention having taken place. They will need to consider the entire trafficking process, which comprises of a number of interrelated actions rather than whether a single act has taken place at a given time. Weighing the strength of indicators or evidence presented is a matter of common sense and logic based on the particular circumstances of each case.

[Back to contents](#)

## **Immigration Decision**

If an immigration decision concludes that the person should not remain in the UK, no detention or removal action should be taken against the person before a conclusive decision has been made on the trafficking aspect.



The person may at any point decide that they do not wish to remain in the UK, in which case they should be advised of the assisted voluntary programmes available.

If a positive immigration decision is made prior to day 45 such as the grant of refugee status, Humanitarian Protection, or Discretionary Leave, then this should be served immediately.

[Back to contents](#)

## **Cases referred by the UKHTC**

Where UKHTC received the original referral and made the reasonable grounds decision they will transfer the case to UKBA to make the conclusive consideration in cases where there is also an immigration issue that needs to be resolved.

In these cases, they will contact:

- The Third Country Unit (TCU) where the person meets the criteria for consideration on third country grounds
- Asylum Intake Unit (AIU) where the person still meets the criteria to be detained through the Detained Fast Track (DFT) Process
- Asylum Routing Team (ART) for other asylum or non-asylum issues,

The CA will then be responsible for making the conclusive decision, if there are any handover issues they should contact UKHTC to discuss.

It is important that decision makers collaborate with all relevant agencies who have dealings with the potential victim in order to gather all the relevant information.

[Back to contents](#)

## **Children**

Most reports to the Competent Authority on cases where the potential victim is under 18 will come from a local authority which has accepted responsibility for their care. This is because the first duty on all organisations where a child is at risk of harm is to refer them to a local authority which then has a statutory responsibility to “safeguard and promote their welfare”. The first responder, in these cases, is likely to be a local authority social worker acting on behalf of their local authority and on behalf of the Local Children Safeguarding Board or equivalent.

Trafficking referrals to the competent authority do not alter in any way the existing statutory obligations around child protection. Referrals may be made in parallel with the local authority’s consideration of the urgent protection needs of the child.

[Back to contents](#)

## **Improper claims**

Article 13 (3) of the Council of Europe Convention on Action against Trafficking in Human Beings allows us not to observe the period of reflection if grounds of public order prevent it or if it is found that victim status is claimed improperly. This provision aims to guarantee that victims’ status will not be illegitimately used and as such where there is firm objective evidence that an improper claim has been made, a negative conclusive decision should be issued as soon as this



becomes known and the period of reflection curtailed for this reason. The officer should also initiate immediate withdrawal of the temporary release/admission and start appropriate action. However any outstanding leave due to another immigration application may continue to run. This category should not however be applied lightly. If there is any doubt then standard processes should be followed and the 45 day recovery and reflection period observed.

It is also possible that individuals that have initially claimed to be a victim of trafficking could be involved in the trafficking of others. These cases should immediately be referred to the police for appropriate action.

[Back to contents](#)

### **Requests for extensions of the 45 day reflection period**

In order to ensure that the person has sufficient time for reflection and that a decision can be made by day 45, the CA should set a review date for day 30 to monitor progress on the case and check on the target for conclusion. It may be that the person requires a further period of recovery, in which case the CA should consider whether an extension of TA/TR is appropriate.

CAs should be aware that the specific circumstances of the individual may necessitate more than the 45 day period. Decision makers should take any further representations on extensions and consider whether an extension is appropriate. Likely reasons for the extension include: health issues; mental health/psychological issues (including post traumatic stress disorder); and high levels of victim intimidation.

By day 30 the Competent Authority should be gathering information to make the conclusive grounds decision. As part of this, decision makers should proactively contact the support provider, the first responder, the investigating police force and the Local Authority (in the case of children) to consider whether an extension of the reflection period is warranted. The victims themselves are unlikely to be in position to make an informed judgement on their own.

If an extension is to be granted the decision maker should minute the file explaining the reason for the extension, update CID, and then advise the individual (via their appointed representative).

If an extension is not to be granted then the file should be minuted and a letter should be sent to the individual (via their appointed representative) explaining the reasons for refusal, copied to interested parties.

[Back to contents](#)

## Conclusive Decision Outcomes

---

Competent Authorities will need to be mindful that victim support will need to prepare the individual for any outcome and that the decision may also directly impact on a criminal investigation.

[Back to contents](#)

### Conclusive Outcome - Not Trafficked

If the Competent Authority concludes that the person is not considered to be a victim of trafficking, before releasing the decision the CA must discuss the decision with interested parties such as the support provider, police, First Responder or Local Authority (in the case of children) to ensure that all information has been gathered.

If no further information requires consideration, the CA must update CID with the conclusive decision outcome as refused, complete the decision letter ([UKBA NRM 08](#)), which must include a full and detailed consideration explaining the reason for the decision, and issue to the person concerned (via their appointed representative). This letter will ask if there are any other reasons why the person should remain in the UK and if there are none, offer assistance in making a voluntary return. Normal immigration procedures will then apply as there will no longer be a barrier to removal on the grounds of trafficking. Any other reasons that are raised will require consideration in line with existing procedures for handling further representations. The CA should then arrange for any outstanding immigration activities to be completed in line with normal procedures and the case can be allocated to an appropriate case owner to conclude any immigration action i.e. pass the case to the relevant area to deal with securing the person's immigration status, voluntary return, enforced removal etc.

The CA should then notify the FR, the support provider, the Police (where appropriate) and LA (in the case of children) using the decision notification form ([UKBA NRM 05](#)). UKHTC must then be notified of decision using form [UKBA NRM 09](#).

CAs need to have all necessary information before making a negative decision. In cases where it's likely that the person will be refused, an interview will need to be conducted, unless all of the relevant questions have been asked as part of the asylum process, or we've commissioned another frontline agency or the support provider to ask the questions on our behalf.

[Back to contents](#)

### Conclusive Outcome – Trafficked

If the Competent Authority conclusively finds that the person is a victim of trafficking, the CA must update CID with CD outcome accepted, complete the decision letter (version will depend on whether leave is granted or not) and issue to the person concerned (via their appointed representative). A consideration minute explaining the reason for the decision must be drawn up and placed on file. This should not be sent to the victim. The FR, support provider, the Police (where appropriate) and LA (in the case of children) should then be notified of the decision using the decision notification form ([UKBA NRM 05](#)). UKHTC must then be notified of decision using form [UKBA NRM 09](#).

If a Competent Authority conclusively finds that a person is a victim of trafficking then the person concerned must be given a positive decision. Victims are not obligated to cooperate with the police at any stage in the NRM process. Although an active police investigate/ CPS prosecution would give weight to a claim, a victim who is not willing to cooperate with the police should not be penalised and as such their cooperation should have no bearing on the Reasonable Grounds or Conclusive Grounds decisions.

[Back to contents](#)

### **Conclusive Outcome - case suspended**

In a small proportion of cases individuals will go missing from care. Where trafficking indicators are present, but are insufficient to reach the standard of proof of balance of probabilities, and it is not possible for further information to be gathered because the individual is missing, Competent Authorities should register the case as a 'suspension of consideration'. It is necessary to ensure that the case is flagged on the system as having had the issue of trafficking raised so that the individual would be recognised as possibly at risk should they be encountered again.

[Back to contents](#)

### **Victims who are assisting with Police enquiries from UK**

Due to our obligations under the Council of Europe Convention on Action against Trafficking in Human Beings, we have agreed that in those instances where a victim has agreed to co-operate with the police, we will grant them a period of 12 months discretionary leave specifically to assist with police enquiries. This may be extended where it is felt necessary, e.g. where a criminal prosecution takes longer than expected and the police have confirmed/requested that an extension is required.

Where the outcome is that the person is recognised as a victim of trafficking (VOT) and has agreed to assist with Police enquiries the Police need to make a formal request for the person to be granted leave to remain on this basis.

Where DL is appropriate, it should be granted for exactly 12 months, which does not offer a right of appeal, on a UK Residence Permit (UKRP) in their passport or on an Immigration Status Document. To issue the UKRP refer to existing guidance found in [Implementing Substantive Decision](#) and [UKRP vignette production from CID](#). This should be reviewed a month before it is due to expire to consider whether any further applications have been lodged by the subject which might lead to an extension of stay or whether voluntary return assistance etc is required).

The CA should issue a positive conclusive decision using UKBA NRM 07 along with the immigration decision, to the person and notify all relevant parties and update CID with the outcome.

If a victim who is cooperating with the Police also qualifies for another form of leave then the more generous grant of leave should be issued.

[Back to contents](#)

## Victims who are assisting with Police enquiries from abroad

CAs should also bear in mind that there may be some individuals who have expressed a willingness to assist the authorities with their enquiries but who may still wish to return home. In such situations consideration should be given as to whether the individual could assist the authorities with their investigations and participate in any future legal proceedings from abroad through the use of video conferencing and web links.

Where the outcome is that the person is considered a victim of trafficking, and they are assisting with Police enquiries, but does not wish to remain in the UK, the CA must issue the positive conclusive decision using UKBA NRM 07 to the person (via their appointed representative) and notify all relevant parties and update CID with the outcome. The CA should then arrange for any outstanding immigration activities to be completed in line with existing immigration procedures and the person should be given advice on assistance with voluntary returns.

[Back to contents](#)

## Victims who qualify for another form of leave

Victims whose stay in the UK may be necessary due to their personal circumstances, such as family and health needs, should be considered for [Discretionary Leave](#) (DL) in line with existing policy. Unless further information has come to light, it is not necessary to reconsider a grant of Discretionary Leave if this has already been considered in conjunction with a related claim, such as asylum.

Where DL is appropriate it should be issued on a UK Residence Permit (UKRP) in their passport or on an Immigration Status Document. To issue the UKRP refer to existing guidance found in [Implementing Substantive Decision](#) and [UKRP vignette production from CID](#). In non-asylum cases UKBA NRM 09 should be used instead of ASL 2155. This should be reviewed a month before it is due to expire to consider whether any further applications have been lodged by the subject which might lead to an extension of stay or whether voluntary return assistance etc is required). The CA must issue the positive conclusive decision using UKBA NRM 07 along with the immigration decision, to the person (via their appointed representative), notify all relevant parties, and update CID with the outcome.

If a victim who is cooperating with the Police also qualifies for another form of leave then the more generous grant of leave should be issued.

[Back to contents](#)

## Victims who are not assisting with Police enquiries and are not eligible for a grant of leave

Individuals who are conclusively found to be victims trafficking, but who are not assisting with Police enquiries and are not eligible for a grant of leave, must still be issued with a positive conclusive grounds decision.

We would expect victims who do not have a right to remain in the UK to then return home giving due regard to Article 16(2) of the Convention which states “When a Party returns a victim to another State, such return shall be with due regard for the rights, safety and dignity of that

person and for the status of any legal proceedings related to the fact that the person is a victim, and shall preferably be voluntary.”

The CA should issue the positive conclusive decision to the victim (via their appointed representative) using UKBA NRM 07. The letter needs to explain the reasons why they do not qualify for leave. This letter will ask if there are any other reasons why the person should remain in the UK and if there are none, offer assistance in making a voluntary return. Normal immigration procedures will then apply and the case can be allocated to an appropriate case owner to conclude any immigration action.

The CA should then notify all relevant parties and update CID with the outcome.

[Back to contents](#)

### **Appeals against a decision**

The Council of Europe Convention, upon which our victim care arrangements are based, does not require Parties to have an appeal process. The only means of challenging a NRM decision is by way of Judicial Review.

[Back to contents](#)

## Assisted Voluntary Returns

---

Decision makers should be mindful that individuals may at any point wish to return home. All potential victims of trafficking should be informed of the opportunity to make a voluntary return.

### AVRIM

The Assisted Voluntary Returns for Irregular Migrants (AVRIM) programme is particularly aimed at those who have been smuggled or trafficked into the UK. This programme is run in partnership with the International Organization of Migration (IOM) who liaises with the applicant. The AVRIM scheme provides IOM assistance at the port of departure in the UK and assistance with immigration upon arrival in the country of origin if requested. It also meets the cost of a flight to the applicant's country of origin and onward domestic transportation. In some cases IOM will arrange referral to appropriate NGOs in the country of origin for victims of trafficking. Certain cases may also be eligible for some reintegration assistance to help with small business start up, vocational training or further education courses.

### VARRP

The Voluntary Assisted Return and Reintegration Programme (VARRP), also run in partnership with the IOM, offers assistance for asylum seekers who want to return permanently to their country of origin. The VARRP is open to asylum seekers of any nationality, whose asylum claim is under one of the following criteria:

- Waiting for a decision from UKBA
- Refused by UKBA
- Appealing against the asylum decision
- Given Exceptional Leave to Remain

### AVRFC

Assisted Voluntary Return for Families and Children (AVRFC), also run in partnership with the IOM, offers assistance to non-EEA families and children (under 18) who want to return permanently to their countries of origin – whether they have ever claimed asylum or have not.

Further information on all three programmes can be obtained from the IOM website at [www.iomlondon.org](http://www.iomlondon.org)

It is important that victims are as engaged in the process of return as soon as possible as this will facilitate their return and empower them to take control once returned.<sup>20</sup>

---

<sup>20</sup> 'Listening to Victims Experiences of identification, return and assistance in South-Eastern Europe' ICPMD, 2007  
[http://www.icmpd.org/768.html?&tx\\_icmpd\\_pi2\[document\]=593&cHash=6688569e46](http://www.icmpd.org/768.html?&tx_icmpd_pi2[document]=593&cHash=6688569e46)

## Trafficking Indicators

---

Competent Authorities should refer to the Indicators of Trafficking section of the UKBA guidance “Victims of Trafficking: guidance for frontline staff”

## Victim's willingness to cooperate

---

It should be recognised in the assessment process that victims may not be willing to fully disclose the details of their experience on first contact due to fear of retribution from their traffickers or mistrust of those trying to help. It should also be recognised that there may be an inability and/or an unwillingness of exploited persons to perceive themselves as 'victims'. For many individuals they may perceive their situation as temporary and partly attributed to their lack of knowledge in understanding the country or labour market<sup>21</sup>.

It should be noted that some exploited persons may be viewed as 'colluding' with their 'employer' in their illegality, for instance accepting the 'cover' of the person exploiting them from the immigration authorities. Such 'relationships' can add to confusion when attempting to identify individuals as victims of trafficking<sup>22</sup>.

Agencies may also find that people are willing to tolerate their situation because they may perceive it as a 'stepping stone' to a better future and may also compare it more favourably to experiences at home<sup>23</sup>. In this situation decision makers should consider objective indicators such as the seizure of identity documents or use of threats by the employer/exploiter. Such indicators will facilitate in the identification of a trafficking situation.

It is not uncommon for victims to feel both relief at having been identified and yet fear and suspicion toward an identifying front line statutory responder, particularly from the police or immigration services. This is often linked to their fear of being returned to their trafficking situation, many having been told by their traffickers that the authorities would simply return them should they try to escape. It is also not uncommon for negative feelings (fear and suspicion) to give way to those of relief once the victim felt safe and came to trust the identifying officer.<sup>24</sup>

For some victims, the identification and referral process may mimic aspects of what had happened to them during trafficking — promises of help and a good life, movement by persons they did not know, being taken to unknown locations where "everything would be fine" and "they would be taken care of". As such, for many trafficked persons the identification process itself appears suspicious, particularly when viewed through the lens of someone who is already stressed, frightened and confused.<sup>25</sup>

In most trafficking situations, agents know or can easily discover personal information about the victim, his/her home, family and friends. It is very common for agents and employers to use threats against their family, especially children, in order to manipulate and control the person.<sup>26</sup> The fear of reprisal will have a huge impact on whether a potential victim of trafficking is willing to cooperate.

---

<sup>21</sup> OSCE (2007) Report on Civil Society Meeting, Warsaw, 'The NRM Approach to Trafficking and its Application to Trafficking for Labour Exploitation', p3

<sup>22</sup> OSCE (2007) Report on Civil Society Meeting, Warsaw, 'The NRM Approach to Trafficking and its Application to Trafficking for Labour Exploitation', p3

<sup>23</sup> OSCE (2007) Report on Civil Society Meeting, Warsaw, 'The NRM Approach to Trafficking and its Application to Trafficking for Labour Exploitation', p4

<sup>24</sup> 'Listening to Victims Experiences of identification, return and assistance in South-Eastern Europe' ICPMD, 2007 [http://www.icmpd.org/768.html?&tx\\_icmpd\\_pi2\[document\]=593&cHash=6688569e46](http://www.icmpd.org/768.html?&tx_icmpd_pi2[document]=593&cHash=6688569e46) p57

<sup>25</sup> 'Listening to Victims Experiences of identification, return and assistance in South-Eastern Europe' ICPMD, 2007 [http://www.icmpd.org/768.html?&tx\\_icmpd\\_pi2\[document\]=593&cHash=6688569e46](http://www.icmpd.org/768.html?&tx_icmpd_pi2[document]=593&cHash=6688569e46) p60

<sup>26</sup> Anti-Slavery International (2005) 'Protocol for identification and assistance to Trafficked Victims and Training Kit' p20



To side-step national laws, traffickers may become less physically aggressive or when the trafficked person is a woman, they may become romantically 'involved', or even marry them in order to legalise their status, or provide her with small sums of money.<sup>27</sup>

Individuals who are in a trafficking situation may be extremely reticent with information, and may tell their stories with obvious errors. It is not uncommon for traffickers to provide 'stories' for victims to tell if approached by the authorities and the errors or 'lack of reality' may be because their initial stories are composed by others and learnt.<sup>28</sup> Victim's early accounts may also be affected by the impact of trauma. In particular victims may experience Post Traumatic Stress Disorder which can result in symptoms of hostility; aggression; difficulty in recalling details or entire episodes of the worst events; and difficulty concentrating.<sup>29</sup> Further information on how trauma can affect victims can be obtained via the 'Stolen Smiles' link in the Reference section.

[Back to contents](#)

## Self-identification

Self-identification might be difficult, especially in cases where a position of social vulnerability has been abused by traffickers. In addition, there are many barriers for victims to come forward such as fear for reprisals against them or their children or families, fear for deportation, or the situation of dependency in which they find themselves.

Stigma is recognised as an obstacle to self-identification. Knowledge and understanding of trafficking is limited and most individuals will associate the term "trafficking" with prostitution. It is important to recognise that many victims of trafficking do not perceive themselves as "victims" but rather as migrants who happen to be in a "difficult" situation. Anti-Slavery International stated in 2002 that "Wrong expectations of how a 'victim' should behave often leads to misinterpretations by both the authorities and service providers, which may often shift blame on to the trafficked person".<sup>30</sup>

'Victim of human trafficking' within the identification context is a legal concept that triggers certain rights and measures under the Council of Europe Convention. It is not a quality, condition or attribute of a person. It is the authorities who have the responsibility of verifying a person as a 'victim of human trafficking' and it should not be expected that the person himself or herself must feel or behave as a 'victim' (in the sense of being totally dependent on help and protection from someone else).<sup>31</sup>

Officers should not be wholly reliant on someone who is adamant they are not a victim of trafficking. Self-identification or otherwise should be considered with the factual evidence within which that individual was found. Officers should therefore avoid direct questions such as 'Are you a victim of trafficking' and rely on investigative lines of questioning to establish the likelihood that the individual has been trafficked.

[Back to contents](#)

---

<sup>27</sup> Anti-Slavery International (2005) 'Protocol for identification and assistance to Trafficked Victims and Training Kit' p20

<sup>28</sup> Guide to identification of possible victims of trafficking Koordineringsenheten for Ofre for Menneskehaneel, Norway, November 2008

<sup>29</sup> Guide to identification of possible victims of trafficking Koordineringsenheten for Ofre for Menneskehaneel, Norway, November 2008

<sup>30</sup> Anti-Slavery International (2002): Human traffic, human rights: redefining victim protection, London, p33

<sup>31</sup> Guide to identification of possible victims of trafficking Koordineringsenheten for Ofre for Menneskehaneel, Norway, November 2008

## **File management and data handling**

---

### **Confidentiality and data protection**

Victims will have been in situations where contact with outsiders is handled with suspicion and in some circumstances endangers the health and safety of themselves or their loved ones. Careless handling of personal information greatly increases that risk. Inter-agency cooperation is essential in correctly identifying and sufficiently supporting victims but the data that gets transferred between agencies must be heavily protected.

Confidentiality is an important condition in work with victims of trafficking. Victims have information about criminals who have trafficked and exploited them and this makes the individual vulnerable. Competent Authorities must not disclose the PVoT's address, support arrangements or other details that may compromise the PVoT's safety to anyone who is not directly involved in the case.

[Back to contents](#)

### **Storing, transmitting and access to trafficking case information**

All trafficking paperwork should, at a minimum, be given the Government marking "Restricted". [Government guidance](#) on handling such information must be adhered to.

[Back to contents](#)

### **Consideration Minutes**

In all cases Competent Authorities must record how the case progresses and ensure they keep a detailed minute of their decision. In particular, a comprehensive assessment of how the individual's situation meets/ does not meet the definition of a trafficked victim is essential.

There should also be references to documents considered including any NGO submitted papers and the Competent Authority should indicate the weight given to the information provided.

The minute should be named and dated.

Decision makers should also ensure relevant databases such as UKBA's CID system, UKHTC systems and any local spreadsheet are updated at each stage of the case.

[Back to contents](#)

### **Recording details on CID**

CAs should not record anything on CID that may compromise the person's safety, such as the PVoT's address.

The CA should record any case outcome on CID using the trafficking case types (RG decision), (conclusive decision) and (date of referral). CAs should follow local processes for recording other information on CID in relation to the case's progression.

[Back to contents](#)

## Trafficking file

A trafficking file must be kept. At regional discretion, this may be stored as a subfolder of the asylum case file. On the conclusion of a case, all trafficking case files must, at a minimum, contain:

- The First Responder Referral form
- Reasonable Grounds decision letter
- Reasonable Grounds decision consideration minute
- Confirmation that accommodation has been offered to potential victim (where the reasonable grounds was positive)
- Conclusive grounds decision letter (where the case has progressed to conclusive grounds)
- Conclusive grounds decision consideration minute (where the case has progressed to conclusive grounds)
- Notice to UKHTC (UKBA NRM 09)

[Back to contents](#)

## References

---

The Convention

<http://conventions.coe.int/Treaty/EN/Treaties/Word/197.doc>

UK Human Trafficking Centre

<http://www.soca.gov.uk/about-soca/about-the-ukhtc>

The POPPY project

[http://www.eaves4women.co.uk/POPPY\\_Project/POPPY\\_Project.php](http://www.eaves4women.co.uk/POPPY_Project/POPPY_Project.php)

The TARA Project (Scotland)

<http://www.saferglasgow.com/services/reducing-violence-against-women/tara.aspx>

Anti-Slavery international <http://www.antislavery.org/>

Gangmasters Licensing Authority (GLA) <http://www.gla.gov.uk/index.asp?id=42>

Kalayaan <http://www.kalayaan.org.uk/>

Chapter 9 of the Enforcement Guidance

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/oemsectiona/chapter9?view=Binary>

UNHCR guidelines on International Protection

<http://www.unhcr.org.au/UNHCRguidelinesonInternationalProtection.shtml>

HMG 'Safeguarding Children who may have been trafficked' Dec 2007

[http://publications.teachernet.gov.uk/eOrderingDownload/DCSF\\_Child%20Trafficking.pdf](http://publications.teachernet.gov.uk/eOrderingDownload/DCSF_Child%20Trafficking.pdf)

Safeguarding Children in Scotland who may have been Trafficked 2009

<http://www.scotland.gov.uk/Publications/2009/02/18092546/0>

Stolen smiles: a summary report on the physical and psychological health consequences of women and adolescents trafficked in Europe

<http://www.lshtm.ac.uk/hpu/docs/StolenSmiles.pdf>

NSPCC National Child Trafficking Advice and Information Line (CTAIL) for professionals

[http://www.nspcc.org.uk/Inform/resourcesforprofessionals/ctail/child\\_trafficking\\_advice\\_and\\_information\\_wda77600.html](http://www.nspcc.org.uk/Inform/resourcesforprofessionals/ctail/child_trafficking_advice_and_information_wda77600.html)

Online trafficking toolkit

<http://frontline.cjsonline.gov.uk/guidance/victims-and-witnesses/trafficking-of-people/>

Trafficking guidance for UKBA frontline staff

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/trafficking-guidance?view=Binary>

## Useful Contracts

For advice on trafficking matters contact the UK Human Trafficking Centre on 0114 252 3891

[Back to contents](#)

## Document Control

### Change Record

Version	Authors	Date	Change Reference
1.0	CPU	13/10/2010	Document created