



Home Office

# Victims of modern slavery – Competent Authority guidance

Version 3.0

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# About this guidance

This guidance gives information for staff in Competent Authorities in the Home Office and UK Human Trafficking Centre (UKHTC) to help them decide whether a person referred under the National Referral Mechanism (NRM) is a victim of modern slavery (including human trafficking) in England and Wales, or is a victim of trafficking in Scotland and Northern Ireland. It reflects relevant provisions of the Modern Slavery Act 2015 and the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

This guidance comes into effect on 21 March 2016 and will apply to all decisions made on or after that date.

This guidance is to help staff in Competent Authorities:

- decide whether a person is a victim of modern slavery because they are either:
  - a victim of human trafficking
  - a victim of slavery, servitude, or forced or compulsory labour (identified in England or Wales)
- ensure victims' rights are protected
- co-operate with partners in the NRM (for example, the police, local authorities, National Crime Agency and non-governmental organisations)

This guidance in respect of trafficking references is based on the Council of Europe Convention on Action Against Trafficking in Human Beings (the Convention), which focuses on:

- protecting victims of trafficking and safeguarding their rights
- preventing trafficking
- promoting international co-operation on trafficking
- prosecuting traffickers

To find out more about this treaty see the [Council of Europe Convention on action against trafficking in human beings](#).

The Convention requires the UK 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 tackling human trafficking is to provide services to help victims recover and access justice.

As part of implementing the Convention, the government created the National Referral Mechanism (NRM) in 2009.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email Asylum strategy and trafficking team at Asylum Policy.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email Guidance – making changes.

## Clearance

Below is information on when this version of the guidance was cleared:

- version 3.0
- published for Home Office staff and other competent authority staff on 21 March 2016

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### Official – sensitive: start of section

- The information on this page has been removed as it is restricted for internal Home Office use only.

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### Official – sensitive: end of section

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## Changes from last version of this guidance

- updated references on Scottish legislation
- added references to three additional first responders
- added a link to guidance on keeping records for criminal investigations
- added guidance on illegal adoption
- added guidance on withdrawing from the NRM
- added references to Immigration Rule relating to Overseas Domestic Workers who are victims of modern slavery
- updated references to the NRM pilot
- amended the guidance on using a second pair of eyes
- updated guidance on police referrals
- added references to the duty to notify
- updated guidance on reconsiderations
- clarification that a victim may be asked to account for inconsistencies in writing
- added guidance on disclosure of updated referral forms
- updated guidance on discretionary leave including fee policy
- added guidance on obtaining postal consent
- added references to the Human Tissue (Scotland) Act 2006
- added guidance on unaccompanied children
- amended guidance on the content of positive reasonable grounds letters

- clarification that the competent authority should ask the police to notify the CPS of NRM decisions
- updated references to the NHS regulations

This version of the guidance comes into effect on 21 March 2016 and will apply to all decisions made on or after that date.

#### **Related content**

[Contents](#)

# Introduction to modern slavery

Modern slavery is a serious and brutal crime in which people are treated as commodities and exploited for criminal gain. The true extent of modern slavery in the UK, and indeed globally, is unknown. Modern slavery, in particular human trafficking, is an international problem and victims (who may be European Economic Area (EEA) or non-EEA nationals) may have entered the UK legally, on forged documentation or clandestinely, or they may be British citizens living in the UK.

Modern slavery includes human trafficking, slavery, servitude and forced and compulsory labour. Exploitation takes a number of forms, including sexual exploitation, forced manual labour and domestic servitude, and victims come from all walks of life. For more information, see [‘What is modern slavery?’](#).

Victims may be unwilling to come forward to law enforcement or public protection agencies, not seeing themselves as victims, or fearing further reprisals from their abusers. Victims may also not always be recognised as such by those who come into contact with them.

The scale of modern slavery in the UK is significant. Modern slavery crimes are being committed across the country and there have been year on year increases in the number of victims identified. Work by the Home Office Chief Scientific Adviser has estimated that in 2013 there were between 10,000 and 13,000 potential victims of modern slavery in the UK.

In few other crimes are human beings used as commodities over and over again for the profit of others. Victims endure experiences that are horrifying in their inhumanity. The UK is determined to protect vulnerable people from exploitation and provide enhanced support to victims.

## **Related content**

[Contents](#)

# The legal framework on modern slavery

This page tells you about the legal framework on modern slavery, including human trafficking.

## International framework

The UK government signed the Council of Europe Convention on Action against Trafficking in Human Beings on 23 March 2007. The Convention was ratified by the UK on 17 December 2008, and came into force on 1 April 2009. This led to the creation of the UK's National Referral Mechanism (NRM) in 2009.

The NRM is a victim identification and support process. It is designed to make it easier for all the different agencies that could be involved in a trafficking case (for example, the police, Home Office – including Border Force, UK Visas and Immigration and Immigration Enforcement – the National Crime Agency, local authorities, and non-governmental organisations) to co-operate, share information about potential victims and facilitate their access to advice, accommodation and support.

The Convention requires that potential victims of trafficking are provided with a period of a minimum of 30 days recovery and reflection, during which they will receive support, including accommodation, subsistence and access to relevant medical and legal services, and potential eligibility for discretionary leave if they are recognised as a victim. The UK provides this support to potential victims referred to the NRM for a longer period of 45 days.

## Domestic framework and the Devolved Administrations

The Modern Slavery Act received royal assent on 26 March 2015 since which time the majority of provisions in that act have come into force in England and Wales. This includes a number of provisions extending existing support for victims of human trafficking to victims of slavery, servitude and forced and compulsory labour.

In 2014, the Home Secretary committed to extending the support offered through the NRM, including accommodation and subsistence, to victims of all forms of modern slavery. This change in the NRM for supporting cases identified in England and Wales came into force on 31 July 2015. In Scotland and Northern Ireland, however, only trafficking cases (rather than all modern slavery cases) are processed through the NRM.

The Human Trafficking and Exploitation (Scotland) Act was passed by the Scottish Parliament on 1 October 2015.

Victims of slavery, servitude and forced and compulsory labour who are conclusively recognised as such by the NRM will be eligible for discretionary leave based on the

same criteria as victims of human trafficking, and this provision applies across the UK.

**Related content**

[Contents](#)

# The Modern Slavery Act 2015

This page tells you about the Modern Slavery Act 2015.

The Modern Slavery Act received royal assent on 26 March 2015 since which time the majority of provisions in that act have come into force in England and Wales. This includes a number of provisions extending existing support for victims of human trafficking to victims of slavery, servitude and forced and compulsory labour.

These provisions apply to England and Wales only. Further details can be found in this [circular on the Modern Slavery Act 2015](#).

A number of similar measures were introduced in Northern Ireland through the [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015](#).

The Human Trafficking and Exploitation (Scotland) Act was passed by the Scottish Parliament on 1 October 2015.

## **Related content**

[Contents](#)

# National referral mechanism (NRM) review and pilots

This section tells you about the NRM review and pilots.

The [interim review of the national referral mechanism for victims of human trafficking](#) was published on 11 November 2014 and recommended that the support system for identifying and supporting victims of people trafficking should be overhauled.

The key recommendations of the report include:

- extending the NRM to cover all adult victims of modern slavery
- strengthening the first responder role – the point when potential victims are first identified and referred by creating new anti-slavery safeguarding leads, supported by increased training and feedback
- streamlining the referral process by removing the ‘reasonable grounds’ decision once the successful implementation of accredited slavery safeguarding leads has occurred – allowing direct referral to specialist support for potential victims
- establishing new multi-disciplinary panels, headed by an independent chair, with a view to ceasing the sole decision making roles of UKVI and the UK human trafficking centre (UKHTC)
- creating a single case working unit within the Home Office to replace the current caseworking units in the National Crime Agency and UK Visas and Immigration

The Home Secretary welcomed the findings of this report, which acknowledges that there is no simple, one size fits all approach. She stated that she would carefully consider all of the recommendations and set out the government’s response in the Home Office’s Strategy on modern slavery, which was published on 28 November 2014.

## Future changes to the NRM

Changes to the NRM (in light of the review report above) are being piloted in West Yorkshire police force area and the South West (Avon and Somerset, Devon and Cornwall, Dorset, Wiltshire and Gloucestershire police force areas) from 31 July 2015. If you are dealing with a case from these areas you must refer to the relevant guidance for the pilot.

## What do frontline staff need to know about the pilot? (Cases identified in West Yorkshire and South West England only)

Frontline staff will need to continue to identify potential victims of modern slavery in the 2 pilot areas of West Yorkshire and the South West of England. The non-pilot process will continue to operate in the rest of the UK.

In pilot regions Slavery Safeguarding Leads (SSLs) will be responsible for the reasonable grounds decision in pilot cases. From November 2015, instead of sending the referral form to the UKHTC, frontline staff need to send it to a SSL in pilot cases.

The SSL will make the reasonable grounds decision and refer the potential victim in pilot cases for support if appropriate, including accommodation, but frontline staff should still arrange emergency medical treatment and/or emergency police assistance where appropriate.

**In pilot cases involving potential child victims, the local authority will be notified by frontline staff. The SSL should confirm that this has been done.**

New multi-disciplinary panels have replaced the UKHTC and UKVI Competent Authority in pilot areas and make the conclusive grounds decision on whether the person is a victim of modern slavery. They are supported by a new Case Management Unit who might contact frontline staff for further information.

The Home Office will continue to take any relevant immigration and asylum decisions in pilot and non pilot cases.

Contact details of SSLs in each location are being collated.

If you are unsure whether a location is within the pilot locations, you can check the postcode or place name of a police force area on the [police website](#).

## Which cases fall into the NRM pilot?

Cases will be referred to the NRM pilot via SSLs where either the frontline worker or the potential victims is located in one of the 2 pilot regions at the point of referral.

Scenario	Pilot case?
Potential victim has been physically encountered by a frontline worker within one of the pilot regions.	Yes.
Potential victim has had case referred to a frontline worker within the pilot region. The frontline worker has not physically encountered the potential victim, who is located outside of the pilot region (eg Leeds asylum hub), but is the first frontline worker to identify the person as a potential victim.	Yes.

Scenario	Pilot case?
Potential victim is physically located in one of the pilot regions. They are identified by a frontline worker with responsibilities for the pilot area, who is physically located outside of the pilot area (eg the Salvation Army helpline based in Birmingham, the Cardiff asylum hub which is responsible for the South West).	Yes - in these cases referral must still be made via an SSL within the pilot regions, not UKHTC.
Individual encounters frontline worker in the pilot region, but then leaves the area and is identified as a potential victim by another frontline worker, also not in the pilot area (eg potential victim encounters the police in pilot area but NRM referral is not made, they leave the area and then claim asylum outside of the pilot areas when the NRM referral is made).	No – the referral is made to UKHTC using non pilot process. The SSL is not involved.

### **Exclusions from the pilot process**

Cases that are within immigration detention, the prison estate, or that are being managed by Home Office Criminal Caseworking Directorate will be excluded from the pilots. They should be referred to UKHTC and will continue to be managed by existing Competent Authorities within the Home Office.

### **Related content**

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# Key steps in the National Referral Mechanism process

This section provides you with a summary of the key steps in the National Referral Mechanism (NRM) process.

## Current process from 31 July 2015 (in cases outside the NRM pilot)

To establish whether a person is a victim of any form of modern slavery (including trafficking) identified in England and Wales or a victim of trafficking in Scotland and Northern Ireland, 2 decisions are made:

1. A reasonable grounds decision to establish whether someone is a potential victim.
2. A conclusive grounds decision on whether they are in fact a victim.

These decisions are currently made by Competent Authorities within the UK Human Trafficking Centre (UKHTC) and the Home Office.

The location of the victim when they are identified determines whether they are classed as a case identified in England, Wales, Scotland or Northern Ireland.

The key steps in the NRM process are as follows:

**1. Identify a potential victim of human trafficking in any part of the UK (or slavery, servitude, or forced or compulsory labour where identified in England or Wales) and refer to the NRM. See [Referrals to the National Referral Mechanism \(NRM\)](#).**

- First Responders, who are specified statutory authorities and Non-Governmental Organisations, have a responsibility to identify potential victims and refer cases to the UKHTC Competent Authority of the NRM

**2. Reasonable Grounds decision made by the Competent Authority to determine whether it either:**

- suspects but cannot prove this person is a potential victim of human trafficking on any UK referral
- suspects but cannot prove this person is a victim of slavery, servitude, or and forced or compulsory labour where identified in England or Wales)
- concludes there are not Reasonable Grounds to believe this individual is a victim of any form of modern slavery

'Suspect but cannot prove' is a relatively low threshold, lower than the criminal standard of proof, or Conclusive Grounds test. See [Making a Reasonable Grounds decision](#).

**If there is a positive reasonable grounds decision the person is given a 45 day recovery and reflection period and support** relating to the immediate and ongoing needs of the potential victim **while the Competent Authority makes a substantive conclusive grounds decision.**

This reasonable grounds decision should be made within 5 working days of referral to the NRM where possible.

The reasonable grounds decision acts a filter for referring potential victims to the NRM based on the information available at that time. This will be followed by a substantive conclusive grounds decision on whether someone is formally recognised as a victim, with a higher threshold.

### **3. Conclusive Grounds decision made by the Competent Authority**

The conclusive grounds decision should generally be made after 45 calendar days. See [Making a Conclusive Grounds decision](#).

The test to use for the conclusive grounds decision is whether, 'on the balance of probabilities', there are sufficient grounds to decide that the individual being considered is a victim of human trafficking in any UK referral (or slavery, servitude, or forced or compulsory labour where identified in England or Wales). This threshold is higher than the reasonable grounds test, but lower than the criminal standard of proof.

The Competent Authority must first decide whether there are sufficient grounds to decide that the individual is a victim of trafficking.

For cases identified in England and Wales, if there are not sufficient grounds, then the Competent Authority must go on to consider if there are sufficient grounds to decide that the individual is a victim of slavery, servitude, or forced or compulsory labour.

Following a positive conclusive grounds decision, in relevant cases the Home Office Competent Authority will make a further decision on whether an individual qualifies for a grant of discretionary leave, in line with the Convention and the UK Government's commitment to extend this provision to victim of slavery, servitude and forced and compulsory labour across the UK. See [When to grant discretionary leave after a positive conclusive grounds decision](#).

For details of the process relating to discretionary leave where UKHTC is the competent authority see [Considering EEA nationals for discretionary leave](#).

#### **Related content**

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# Competent Authorities

Decisions about who is recognised as a victim of modern slavery or trafficking are made by trained specialists in designated Competent Authorities.

## Who are the Competent Authorities and which cases do they consider?

The UK Human Trafficking Centre (UKHTC) within the National Crime Agency and the Home Office are the UK's 2 designated Competent Authority decision makers under the National Referral Mechanism (NRM) (excluding for pilot cases – see [Future changes to the NRM](#)).

## The UK Human Trafficking Centre

All referrals to the NRM from first responders must be sent to UKHTC initially. UKHTC also manages the data on NRM referrals.

UKHTC makes reasonable and conclusive grounds decisions on all cases involving:

- a UK national
- an European Economic Area (EEA) national (except where there is a live immigration issue)

When UKHTC receives a referral relating to an EEA or non-EEA national who is subject to immigration control, they will refer the case to the Home Office Competent Authority, who will make the reasonable and conclusive grounds decisions.

If a case involves a non-EEA national with no active immigration issues, UKHTC also refers the case to the Home Office Competent Authority who will make the reasonable and conclusive grounds decision.

## The Home Office

Modern slavery may be raised as part of an asylum claim, or another immigration process. The Home Office therefore has a number of Competent Authorities. These currently include:

- UK Visas and Immigration NRM HUB (Leeds (England cases))
- Cardiff (Wales cases)
- Glasgow (Scotland and Northern Ireland cases)
- Third Country Unit
- Detained Asylum Casework
- Criminal Casework (dealing with deportation cases relating to EEA and Non EEA nationals)

### Related content

[Contents](#)

# Referrals to the National Referral Mechanism (NRM)

This section gives information for Competent Authority staff about how a potential victim of modern slavery is referred to them and what they must do when they receive a referral.

## How does the Competent Authority receive a referral?

The UK Human Trafficking Centre (UKHTC) Competent Authority currently receives a referral from a first responder.

First responders are designated organisations which can refer potential victims of modern slavery in the UK into the NRM. First responders are:

- The Home Office
- Local authorities
- Health and Social Care Trusts (HSC Trusts)
- Police
- POPPY Project
- National Crime Agency (NCA)
- Trafficking Awareness Raising Alliance (TARA)
- Migrant Help
- Kalayaan
- Gangmasters Licensing Agency
- Medaille Trust
- Salvation Army
- Barnardo's
- National Society for the Prevention of Cruelty to Children (NSPCC).
- Unseen UK
- New Pathways
- BAWSO
- Refugee Council

When a first responder suspects a person is a potential victim of modern slavery, they will contact the UKHTC, who will log the referral.

The UKHTC will either decide the case or, if the referral is for the Home Office, they will send it to the most appropriate Competent Authority within the Home Office to determine.

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**Official - sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use only.

## How does the Competent Authority acknowledge a referral?

The UKHTC and Home Office Competent Authority process for acknowledging a referral is set out below.

When staff at the UKHTC and Home Office Competent Authority receive the referral form they must:

1. Check the referral form has a signature for adults and check there is sufficient information on their case before sending the appropriate acknowledgement.
  - if a potential victim is referred to the NRM but consent has not been obtained eg because a case was identified on the basis of papers rather than face-to-face at an interview or other encounter; a postal consent form can be used by the Competent Authority to obtain consent from the potential victim
  - separate postal consents forms are to be used for:
    - England and Wales
    - Scotland and Northern Ireland
2. Check that the case has been entered on the Home Office database (CID) by the first responder (special conditions tab - special needs type – PVoT case) and if not then set this up **[Home Office only]**.
3. Check that a barrier to removal has been raised on CID by the first responder and if not set this up **[Home Office only]**.
4. Acknowledge they have received the referral form by sending an acknowledgement letter: NRM 01 Acknowledge Referral (ICD.4046 on CID Doc Gen). This acknowledgment letter should be sent to:
  - the First Responder (unless it is the Asylum Intake Unit) **[UKHTC and Home Office]**

- the Salvation Army for cases in England and Wales where the adult has consented to support, Trafficking Awareness Raising Alliance (TARA) and Migrant Help in Scotland or Migrant Help or Women's Aid in Northern Ireland, where the adult has consented to support and is a victim of human trafficking. **[UKHTC and Home Office]**
  - copied to UKHTC by email (Email UKHTC NRM mailbox) **[Home Office only]**
5. Set up the RG case type with a start date consistent with that given by UKHTC. **[Home Office only]**
  6. Record on CID the date the referral was received and when you despatched the acknowledgement. **[Home Office only]**
  7. Make sure the responsible Local Authority is aware of a child referral from the first responder. **[UKHTC and Home Office]**

## The duty to notify

From 1 November 2015, specified public authorities have a duty to notify the Secretary of State of any person encountered in England and Wales who they believe may be a victim of slavery or human trafficking.

Therefore certain frontline staff who encounter a potential victim of modern slavery are required to notify the Home Office under Section 52 of the Modern Slavery Act.

This requirement applies to the police, Local Authorities, the National Crime Agency and the Gangmasters Licensing Authority.

UK Visas and Immigration, Border Force and Immigration Enforcement must also comply with the duty as a matter of Home Office policy.

It applies to potential victims identified in England and Wales only.

This duty is intended to help build a more comprehensive picture of the nature and scale of modern slavery.

For further information, please see the [Duty to notify](#) guidance, available on GOV.UK.

### What does the duty to notify mean in practice?

There are 2 ways to satisfy the duty to notify depending on whether a case has been referred to the NRM or not:

1. Sending an NRM referral form to UKHTC

When you refer a potential victim to the NRM, you must send an NRM referral form to UKHTC at email address [UKHTC](#). and this will satisfy the duty to notify.

As children do not need to consent to enter the NRM you must always use this method to satisfy the duty to notify in cases involving children.

Once you have referred a case to the NRM in the normal way you **do not** need to send a copy of the form to the [duty to notify mailbox](#).

## 2. Sending an MS1 form to a dedicated mailbox

You should not refer a potential victim of modern slavery to the NRM where an adult does not consent to the referral. In those cases you must complete an [MS1 form](#) and send it to the [duty to notify inbox](#) to satisfy the duty to notify. The MS1 form should be completely anonymous if the potential victim does not consent to their details being shared.

A duty to notify referral should not be relied upon to safeguard victims. Existing safeguarding processes should still be followed in tandem with a notification.

### **Timescales for satisfying the duty to notify**

If you are using the NRM Referral form you should send this to UKHTC as soon as practicable.

If you are sending the MS1 form to the duty to notify mailbox you should do this as soon as practicable. Unless there are exceptional circumstances, this should be within a month of encountering a victim.

## **Ensuring victims can access secure accommodation and support**

Potential victims of human trafficking (ie those with a positive reasonable grounds decision) are entitled to 45 days supported recovery and reflection period. First responders and Competent Authority staff must ensure that this support is provided following a positive reasonable grounds decision. This provision is extended to all potential victims of modern slavery in England and Wales with a positive reasonable grounds decision. Support is provided to those who request it.

In most cases, this will be (where they are eligible) provided following a positive reasonable grounds decision, but in cases where an individual is destitute it may be provided from the day of referral.

Requests for support must be made:

- in England and Wales to:
  - the Salvation Army through their 24 hour Referral Line: 0300 303 8151
- in Scotland:
  - follow local arrangements with Trafficking Awareness Raising Alliance (TARA) 0141 276 7724 or Migrant Help 07837 937737 or 07789 791 110
- in Northern Ireland:
  - for male potential victims of human trafficking, follow local arrangements with Migrant Help 013 0420 3977 or 07766 668 781

- for female potential victims of human trafficking contact Women's Aid 028 9024 9041

For children, requests for support must always be made to the Local Authority children's services at the earliest opportunity, i.e. by the first responder when making the referral to the NRM. For more information about contacting local authorities, see Local Authority children's services.

In Northern Ireland, contact must always be made with the relevant Health and Social Care Trust Children's Services.

The NHS Charging Regulations in Wales, Scotland and Northern Ireland exempts victims and suspected victims of human trafficking from charges for specified NHS hospital treatment. The NHS Charging Regulations in England exempts victims and suspected victims of modern slavery (which includes human trafficking, as well as slavery, servitude or forced or compulsory labour) from charges for specified NHS hospital treatment.

Suspected victims are those to whom the Competent Authorities have issued a reasonable grounds decision. For more details of the provision in each part of the UK see:

- [Provision of Health Services to Persons Not Ordinarily Resident Regulations \(Northern Ireland\) 2015](#)
- [National Health Service \(Charges to Overseas Visitors\) Regulations 2015](#)
- [The National Health Service \(Charges to Overseas Visitors\) \(Scotland\) Regulations 2008](#)

Further details are in the National Health Service (Charges to Overseas Visitors) Regulations 1989 taking into account all other amending Regulations made since affecting Wales.

Spouses, civil partners and dependent children of those potential victims exempt under the above regulations may also be exempt from National Health Service (NHS) charges for hospital treatment in certain circumstances.

Some services or treatments are exempt from charges and available on the NHS to all people, including potential victims of trafficking or modern slavery, regardless of immigration status including:

- accident and emergency services (not including emergency treatment if admitted to hospital)
- family planning services (this does not include termination of pregnancy)
- treatment for most infectious diseases and sexually transmitted infections where specified
- (England only) treatment required for a physical or mental condition caused by torture, female genital mutilation, domestic violence or sexual violence (this does not apply if the patient has come to the UK for the purpose of seeking that

treatment). However, anyone that presents in such circumstances in Scotland would receive NHS treatment regardless of their ability to pay.

Potential victims of human trafficking across the UK are also entitled to:

- translation and interpretation services (when appropriate)
- counselling and information in a language they can understand (particularly regarding their legal rights and the services available to them),
- help to make sure their rights and interests are presented and considered at appropriate stages of criminal proceedings against offenders
- access to education for children

Potential victims who are not housed in specialist accommodation (including those housed by asylum support) must still be offered outreach support to make sure their entitlements are met under Article 12 of the Council of Europe Convention on Action against Trafficking in Human Beings. The support providers listed above can again advise on these arrangements.

### **Related content**

[Contents](#)

# Assessment of modern slavery by the Competent Authority

This section provides you with definitions of modern slavery, including human trafficking, slavery, servitude and forced or compulsory labour.

It addresses some of the myths about modern slavery and clarifies that human smuggling is not the same as human trafficking.

## Myths about modern slavery

Competent Authority staff must be able to separate myth from reality relating to modern slavery and its victims.

<b>Myth</b>	<b>Reality</b>
The person did not take opportunities to escape so is not being coerced.	<p>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, for example:</p> <ul style="list-style-type: none"> <li>• fear of reprisal for the person or for family members at home</li> <li>• vulnerability</li> <li>• Stockholm syndrome (psychological dependency on the person exploiting them)</li> <li>• lack of knowledge of their environment</li> <li>• grooming</li> <li>• belief that the trafficker or modern slavery facilitator will fulfil their promise</li> <li>• fear of witchcraft</li> <li>• violence or threats of violence not knowing how and where to seek help</li> </ul>
UK nationals cannot be victims of modern slavery.	UK nationals can and have been victims of modern slavery.
Crossing a border is required in order to be trafficked.	Trafficking does not have to occur across borders; it can occur within a country.
Modern slavery is a necessary evil in some cultures and so must be accepted.	Abusive people may use 'culture' as a justification for modern slavery or trafficking other human beings. Modern slavery is a crime in the UK and child modern slavery is child abuse, not a

<b>Myth</b>	<b>Reality</b>
	'cultural' issue.
It cannot be modern slavery when organiser and victim are related, married, living together or lovers.	Close relationships are often used to exploit and control others. This is especially relevant in child modern slavery. There have been numerous incidents where 'boyfriends' have groomed women and children into sexual exploitation or family members have colluded (intentionally or unintentionally) in the exploitation.
A person is not a victim of modern slavery when they say they have a better life than previously.	Some people are willing to tolerate their situation because they may perceive it as a 'stepping stone' to a better future and may compare it favourably to experiences at home. This doesn't mean they are not a victim of modern slavery.
A person is not a victim of modern slavery when they reject an offer of help.	It is not uncommon for victims to reject offers of help at first. This is not unique to victims of modern slavery.

## What is modern slavery?

Modern slavery encompasses:

- human trafficking
- slavery, servitude and forced or compulsory labour

In all UK referrals, the Competent Authority must consider whether the person is a victim of human trafficking. In England and Wales, if someone is found not to be a victim of trafficking, the Competent Authority must go on to consider whether they are the victim of another form of modern slavery, which includes slavery, servitude and forced or compulsory labour.

## Human trafficking (to be considered in all cases identified in the UK)

The essence of human trafficking is that the victim is coerced or deceived into a situation where they are exploited. Article 4(a) of the Council of Europe Convention on Action against Trafficking in Human Beings (the Convention) defines 'human trafficking' 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.’

Human trafficking consists of 3 basic components:

- action
- means
- exploitation

As noted in the [Office of the United Nations High Commissioner for Refugees \(UNHCR\) guidelines](#) on international protection:

‘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.’

Components of adult trafficking	What it means
Action	recruitment, transportation, transfer, harbouring or receipt, which includes an element of movement whether national or cross-border;  which is achieved by a...
Means	threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability;  for the purpose of...
Exploitation	eg sexual exploitation, forced labour or domestic servitude, slavery, financial exploitation, illegal adoption, removal of organs)

All 3 components must be present in an adult trafficking case. However, in a child trafficking case the ‘means’ component is not required as they are not able to give informed consent.

Child human trafficking will therefore consist of 2 basic components: ‘action’ and ‘exploitation’.

Components of child trafficking	What it means
Action	recruitment, transportation, transfer,

	harbouring or receipt, of child which includes an element of movement whether national or cross-border
Exploitation	eg sexual exploitation, forced labour or domestic servitude, slavery, financial exploitation, illegal adoption, removal of organs of child

The definition of trafficking is not met unless all the constituent components are there, even if one or more is present.

## Guidance on the components of human trafficking (cases identified in the UK)

As explained above, human trafficking consists of 3 basic components:

- action
- means
- exploitation

### Action

To be a victim of human trafficking, the person needs to be subjected to the act of either:

- recruitment
- transportation
- transfer
- harbouring
- receipt

As noted in the Office of the United Nations High Commissioner for Refugees (UNHCR) guidelines on international protection:

‘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.’

### Means

An **adult** victim of human trafficking must have been subject to a ‘means’ – the threat or use of force or other form of coercion to achieve the consent of a person having control over another person.

The **apparent** consent of a victim to be controlled and exploited is **irrelevant** when one or more of the following has been used to get that consent:

- the threat or use of force
- abduction
- fraud
- deception
- the abuse of power or of a position of vulnerability
- the giving or receiving of payments or benefits

It is not necessary for there to have been 'means' for a child to be a victim, because children cannot give informed consent. Any child who is recruited, transported, or transferred for the purposes of human trafficking is considered to be a potential victim, whether or not they have been forced or deceived. See [Child victims](#) for further guidance on handling a child's case.

A potential victim of trafficking who may have been a victim as a child, but only identified and referred into the NRM after reaching adulthood is treated under child criteria in assessing whether they were trafficked. The practical effect of this is that they do not have to meet the means test.

Different types of **means** that may be present in human trafficking cases are explained below.

### Trafficking: means – deception

An example of deception may be that the recruiter or employer has provided the worker with maliciously false, inaccurate, or misleading information. For example, a person who ends up being exploited through prostitution may originally have been under the impression there were legitimate education or employment opportunities (for example in the service industry, as a dancer, or for childcare).

There are also less straightforward cases, for example where people have been aware they would be working consensually in the sex industry in the UK but they were misled as to the conditions of the environment, particularly the degree of control (over freedom and earnings) before they arrived. Where the situation such individuals find themselves in amounts to exploitation, this could be a modern slavery case.

### Trafficking: means – physical coercion

Physical coercion refers to the threat of the use of force or the actual use of force against the victim of trafficking or their family members. Physical coercion could also be more subtle measures of control, for example withholding travel or immigration documents.

## Trafficking: means – psychological coercion

Psychological coercion refers to the threat or the perceived threat to the victim's relationships with other people. Examples of psychological coercion include:

- blackmail
- ritual oaths – there is evidence to suggest witchcraft or ritual oaths can also be used to make children fearful and compliant
- forcing someone to pay an excessive amount of money for substandard accommodation
- making significant deductions from an individual's 'salary'
- threats of rejection from, or disapproval by, a peer group, family

There does not necessarily have to be a direct personal relationship in psychological coercion. It could refer to wider issues, for example social stigma. This is particularly relevant in cases involving sexual exploitation or other forms of sexual violence. Other examples include:

- grooming - where vulnerable individuals are enticed over time to take part in activity in which they may not be entirely willing participants (for example, a trafficker may present themselves as a 'boyfriend' in a sexual exploitation case)
- 'Stockholm syndrome' – where due to unequal power, victims create a false emotional or psychological attachment to their controller

In both of these examples the individuals can often first appear to be 'willing participants'. Due to their age and dependent status, children are especially vulnerable to physical and psychological coercion.

## Trafficking: means – complex cases

There are also more complex cases where victims have been trafficked and subjected to exploitation in their own countries, and after escaping their situation travel to the UK to continue working in similar industries without such obvious control over movement or freedom.

An example of this may be where a child has been sexually exploited in their home country and then travels to the UK as an adult to work in prostitution. At first it may appear the individual is a willing participant, but you must consider any progression of control and coercion when you make your decision.

## Exploitation

To be a victim, someone must have been trafficked for the **purpose of** 'exploitation' which may take the form of either:

- sexual exploitation
- forced labour or services
- slavery or practices similar to slavery
- servitude
- forced criminality
- removal of organs (also known as organ harvesting)

## Trafficked for the ‘purpose of exploitation’ – what if someone hasn’t yet been exploited?

Under the Convention, a person is a ‘victim’ even if they haven’t been exploited yet, for example because a police raid takes place before the exploitation happens.

This is because, under the definition of trafficking, trafficking occurs once certain acts are carried out for the purpose of exploitation. So, it is the **purpose** which is key, rather than whether or not exploitation has actually occurred. Even if the UK authorities intervene and prevent exploitation taking place in the UK, victims may have experienced serious trauma in their home country or on the way to the UK and may still be in need of support.

## Trafficking: exploitation – sexual exploitation

In the most cases involving human trafficking for the purpose of sexual exploitation, the victim is female; however, it is important to be aware that there are also male victims.

## Female victims of sexual exploitation

The majority of female victims of trafficking identified in the UK are exploited through prostitution. Many are beaten, raped and abused. They may 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 or family.

The forcible or deceptive recruitment of women and girls for forced prostitution or sexual exploitation is a form of gender-related violence. For more information on gender related violence, see:

- [Violence against women and girls](#)
- [Stolen Smiles: a summary report](#)

There is no typical experience of people who have been trafficked for sexual exploitation. Some are held captive, assaulted and violated. Others are less abused physically, but are psychologically tormented, and live in fear of harm to themselves and their family members. The way in which different people describe their experiences means you must not rely on victims to self-identify in explicit or obvious ways.

## Male victims of sexual exploitation

Male victims of sexual exploitation may have additional barriers to disclosure. There is currently a limited research base to assess the exact extent of adult male sexual exploitation.

## Child victims of sexual exploitation

Please refer to the detailed guidance regarding children who are being sexually exploited. See [Safeguarding children from sexual exploitation](#).

## Trafficking: exploitation – forced labour

Forced labour is not restricted to a particular sector of the labour market but cases have been identified in these sectors:

- manufacturing
- food processing
- agriculture
- hospitality

For forced labour within the home, see the [domestic servitude](#) section.

As with other forms of trafficking related exploitation, a high level of harm and control or coercion is needed to trigger the UK's obligation under the Council of Europe Convention on Action against Trafficking in Human Beings.

Forced labour represents a severe violation of human rights and is a restriction of human freedom.

The International Labour Organisation (ILO) defines forced work as:

‘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’.

This definition is a useful indication of the scope of forced labour for the purposes of human trafficking. *Siliadan v France* 2005 (Application no. 73316/01) European Court of Human Rights took this as the starting point for considering forced labour threshold and held that for forced labour, there must be work:

- exacted under the menace of any penalty which is performed against the will of the person concerned, that is, for which the person has not offered themselves voluntarily

Forced labour cannot be equated (considered) simply with either:

- working for low wages and/or in poor working conditions
- 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

For more information on the indicators of trafficking, see the Human Trafficking – guidance for frontline staff.

## Trafficking: exploitation – forced criminality

Forced criminality is understood as the exploitation of a person to commit:

- pick-pocketing
- shop-lifting
- drug cultivation
- other similar activities which are subject to penalties and imply financial gain

As noted in European Directive 011/36/EU, these must be understood as a form of forced labour or services as defined in the [1930 ILO Convention \(No. 29\) concerning Forced or Compulsory Labour](#).

Therefore, the exploitation of a person for criminal activity only falls within the scope of the definition of trafficking in human beings when all the elements of forced labour or services occur.

## **Trafficking: exploitation – removal of organs (organ harvesting)**

This type of trafficking involves exploiting people by their internal organs, which are used for transplant. Traffickers can force or deceive their victims into giving up an organ. Organs commonly traded are kidneys and liver, but any organ that cannot regenerate and can be removed and re-used could be the subject of this illegal trade.

The [World Health Organization \(WHO\)'s Guiding Principles on Human Organ Transplantation \(1991\)](#) states the commercialisation of human organs is 'a violation of human rights and human dignity'.

Section 3 of the [Human Tissue Act 2004](#) requires 'appropriate consent' for organ donation. Section 33 of this act outlines the restriction on transplants involving a live donor. Section 3 of the Human Tissue (Scotland) Act 2006 provides that a part of a deceased person's body can be removed after that person's death and used for all or any of the purposes of transplantation, research, education, training or audit.

The EU Organ Directive (2010/53/EU) requires organ donation to be voluntary and unpaid. However, compensation may be granted to make good the expenses and loss of income related to the donation, but avoids any financial incentive.

The Council of Europe Convention against trafficking in human organs, once it has been adopted by the committee of ministers, will be the first legally binding international instrument devoted solely to organ trafficking.

## **Trafficking: exploitation – domestic servitude**

Domestic servitude often involves people working in a household where they are:

- ill treated
- humiliated
- subjected to exhausting working hours
- forced to live and work under unbearable conditions
- forced to work for little or no pay

The problems of domestic workers held in servitude are made worse by the fact it is often very difficult 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.

Children living in domestic servitude may not see it as exploitation because they may have been used for domestic servitude in their home countries and it may appear like an extension of the same arrangement. Some children may have been groomed and see the domestic servitude as normal work they have to do in return for food and lodgings. There is evidence to suggest if children are kept in domestic servitude by powerful members of their community or family members they are unable to report the abuse due to the psychological control. For more information on psychological coercion see [Trafficking: means – psychological coercion](#).

For more information on domestic servitude, see the [United Nations Office on Drugs and Crime - Domestic 'service' or domestic slavery?](#)

## Human smuggling is not human trafficking

The Competent Authority must not confuse human trafficking with human smuggling. Human smuggling is also called people smuggling.

Human smuggling occurs when an individual seeks the help of a facilitator to enter the UK illegally, and the relationship between both parties ends once the transaction ends. Many of those who enter the UK illegally do so by this route. **Human smuggling is not a form of modern slavery.**

The purpose of **human smuggling** is to move a person across a border illegally, and it is regarded as a violation of state sovereignty. The purpose of **modern slavery** is to exploit the victim for gain or other benefit and is regarded as a violation of that person's freedom and integrity.

There are several factors which help distinguish smuggling and modern slavery (trafficking):

- with trafficking, a victim's entry into a state can be legal or illegal but smuggling is characterised by illegal entry
- trafficking can take place both within and across national borders but international travel is required for smuggling
- in the case of adults, trafficking is carried out with the use of force and/or deception – smuggling is not, which indicates it is a voluntary act on the part of those being smuggled
- trafficking involves the intended exploitation of people on arrival while the services of smugglers usually end when people reach their destination and the transaction ends

## Unclear cases

Trafficking victims may indeed start out believing that they are being smuggled, will have control over how their debt is repaid and will be free to go about their business once the agreed fee has been settled. Some may well end up in a potentially exploitative situation, where they are debt bonded and forced to work to pay off their

'debts', which in many cases are increased by their trafficker over time to retain control over them.

As noted in '[Smuggled or Trafficked?](#)' by [Jacqueline Bhabha and Monette Zard](#) staff in the Competent Authority must appreciate that in some cases the distinction of smuggling and trafficking can be blurred. There are certainly 'pure' cases of trafficking and smuggling. For example, there may be trafficking cases where children are kidnapped without their parents' consent, or in which migrant workers are defrauded and forced from the outset.

At the other end of the spectrum, there are 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.

In less clear cases, the Competent Authority must consider the information in this section of the guidance and use their judgment in order to reach a decision.

### Unclear cases: illegal adoption

Not every illegal adoption would be considered exploitation. A child might, for example, be sold or adopted illegally but not exploited. The purposes of baby-selling and human trafficking/modern slavery are not necessarily the same.

Some people assume that baby-selling for adoption is a form of human trafficking because it results in a profit by selling another person. However, illegally selling a child for adoption would not constitute trafficking where the child itself is not to be exploited. Baby-selling generally results in a situation that is non-exploitative with respect to the child. Where the 'parents' are looking to adopt the child and give it a loving home it should be considered as an illegal adoption case but not a case of trafficking or modern slavery.

Trafficking/modern slavery, on the other hand, implies exploitation of the victims. If an adopted child is subjected to coerced labour or sexual exploitation, then this can meet the exploitation element of human trafficking/modern slavery. Where the child is given to 'parents' via illegal adoption who intend to exploit the child then this may fall under an exploitation purpose that would be considered as an element of trafficking or modern slavery.

In some cases where the baby is forcibly removed from the mother, or the mother is forced or exploited to give birth, the mother may be a victim of trafficking or modern slavery.

## Slavery, servitude and forced or compulsory labour (cases identified in England or Wales)

Modern slavery includes trafficking, but also encompasses cases of slavery, servitude and compulsory labour. Some people may not be victims of human trafficking, but are still victims of modern slavery. In England and Wales, Competent Authority decision makers must decide whether, if someone is not a victim of trafficking, they are nonetheless a victim of another form of modern slavery. This section gives guidance on those cases.

In addition to victims of trafficking, modern slavery includes:

- victims of slavery
- victims of servitude
- victims of forced or compulsory labour

Slavery, servitude and forced or compulsory labour may also be present in trafficking cases. However, not every person who is exploited through forced labour has been trafficked. For example in some cases, a person may have been seriously exploited, but there was no action (element of movement), which means they do not meet the definition of a trafficking victim. In such cases protection and support is still available through the NRM where the person is a victim of slavery, servitude, or forced or compulsory labour in England and Wales, and discretionary leave may be available across the UK.

Slavery, servitude and forced or compulsory labour are prohibited by Article 4 of the European Convention on Human Rights and illegal across the UK, but each jurisdiction has its own legislative framework of prohibitions. For the purposes of the NRM the UK recognises that slavery, servitude and forced or compulsory labour have the same meaning as they do under Article 4 of the European Convention on Human Rights. This ensures a consistent approach for victims across the UK.

## Modern slavery: forced or compulsory labour (victim not trafficked)

UN Convention No. 29 concerning forced or compulsory labour defines 'forced or compulsory labour' as 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'.

Labour is the provision of any service, not just manual labour. 'Penalty' may go as far as physical violence or restraint, but it can also take subtler forms of a psychological nature, such as threats to denounce victims to the police or immigration authorities when their employment status is illegal. Consent is a factor in forced and compulsory labour, but a victim may have given consent in a situation where they felt they had no viable alternative, in which case they could still be subject to forced or compulsory labour.

For a person to be a victim of forced or compulsory labour there must have been 2 basic components:

- means
- service

Means	Threat of penalty – eg threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability.
Service	As a result of the means an individual provides a service for benefit, eg begging, sexual services, manual labour, and domestic service.

However, there does not need to be a means used for children as they are not able to give informed consent.

Child forced or compulsory labour (victim not trafficked as there has been no element of movement) will therefore consist of one basic component: service.

Service	A child provides a service for benefit, eg begging, sexual services, manual labour, and domestic service.
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Where a case meets the test for forced and/or compulsory labour, they would receive a positive conclusive grounds decision. The concepts of servitude and slavery are explained below for completeness.

For more information, see the [Convention](#) and [explanatory report](#).

### Modern slavery: servitude

‘Servitude’ means an obligation to provide a service that is imposed by the use of coercion.

Servitude is an ‘aggravated’ form of forced or compulsory labour. The fundamental distinguishing feature between servitude and forced or compulsory labour is in the victim feeling that their condition is permanent and that the situation is unlikely to change.

### Modern slavery: slavery

The 1926 Slavery Convention defines slavery as ‘the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised’.

This concept of ownership is what makes slavery distinct – for example a situation where an individual was being controlled by another would not meet this threshold, unless there was clear evidence the person was being used as a commodity. It is a form of servitude with the additional concept of ownership.

#### Related content

[Contents](#)

# The components of modern slavery: slavery, servitude and forced or compulsory labour

This section gives further guidance on the components that apply to victims of slavery, servitude and forced or compulsory labour where the victims have not been trafficked. Because slavery and servitude are more serious forms of forced and compulsory labour, once the Competent Authority has determined whether an individual is a victim of this form of exploitation they can make the NRM decision.

This includes further guidance on the components of:

- means
- service

## The components of modern slavery – slavery, servitude and forced or compulsory labour: means

For an individual to be a victim of slavery, servitude and forced or compulsory labour where the victims have not been trafficked, they must have been subject to a means, or threat of penalty through which that service was derived.

The UN Convention No. 29 concerning forced or compulsory labour defines 'forced or compulsory labour' as 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'.

'Penalty' may go as far as physical violence or restraint, but it can also take subtler forms of a psychological nature, such as threats to denounce victims to the police or immigration authorities when their employment status is illegal. Consent is a factor in forced and compulsory labour, but a victim may have given consent in a situation where they felt they had no viable alternative, in which case they could still be subject to forced or compulsory labour.

Slavery, servitude or forced or compulsory labour must include this threat of penalty.

Deception must of itself constitute a threat of penalty to establish means.

Different types of **means** that may be present in modern slavery cases are explained below.

### Modern slavery: means – physical coercion

Physical coercion refers to the threat of the use of force or the actual use of force against the victim of modern slavery or their family members. Physical coercion could also be more subtle measures of control, for example withholding travel or immigration documents.

## Modern slavery: means – psychological coercion

Psychological coercion refers to the threat or the perceived threat to the victim's relationships with other people. Examples of psychological coercion include any of the following:

- blackmail
- ritual oaths – there is evidence to suggest witchcraft or ritual oaths can also be used to make children fearful and compliant
- forcing someone to pay an excessive amount of money for substandard accommodation
- making significant deductions from an individual's 'salary'
- threats of rejection from, or disapproval by, a peer group, family
- 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 in psychological coercion. It could refer to wider issues, for example social stigma. This is particularly relevant in cases involving sexual exploitation or other forms of sexual violence.

Other examples include:

- grooming – where vulnerable individuals are enticed over time to take part in activity in which they may not be entirely willing participants (for example the 'boyfriend' method is fairly common in sexual exploitation)
- 'Stockholm syndrome' – where due to unequal power, victims create a false emotional or psychological attachment to their controller

In both of these examples the individuals can often first appear to be 'willing participants'. Due to their age and dependent status children are especially vulnerable to physical and psychological coercion.

## Modern slavery: means – complex cases

There are also more complex cases where victims have been a victim of modern slavery and subject to exploitation in their own country, and after escaping their situation travel to the UK to continue working in similar industries without such obvious control over movement or freedom.

An example of this may be where a child has been sexually exploited in a home country and then travels to the UK as an adult to work in prostitution. At first it may appear the individual is a willing participant but you must consider any progression of control and coercion when you make your decision.

## Slavery, servitude and forced or compulsory labour: service

For a person to be a victim of slavery, servitude, or forced or compulsory labour where the victims have not been trafficked, there must have been a service derived via the threat of penalty.

The UN Convention No. 29 concerning forced or compulsory labour defines 'forced or compulsory labour' as 'all work or service which is exacted from any person under

the menace of any penalty and for which the said person has not offered himself voluntarily'. Labour is the provision of any service, not just manual labour.

'Service' or labour includes: forced labour, domestic servitude, sexual services and forced criminality. These forms of service could take place in a variety of industries or in private homes.

Servitude and slavery are more serious forms of forced or compulsory labour. For the purposes of the NRM you will only need to determine whether an individual has been the victim of slavery, servitude, or forced or compulsory labour. Definitions for servitude and forced or compulsory labour are within [Slavery, servitude and forced or compulsory labour \(cases identified in England or Wales\)](#).

### **Related content**

[Contents](#)

# Child victims

This section tells you about child victims of modern slavery, and how to deal with cases of potential child victims.

## Determining whether a child is a victim of modern slavery

To determine whether a child is a victim of modern slavery, Competent Authority staff need knowledge and understanding about child victims of modern slavery, as characteristics and issues may be different to adult victims.

In cases of potential child victims, you must remember that it is not possible for a child to give informed consent, so you do not need to consider the means used for the exploitation – whether they were forced, coerced or deceived etc. You must also keep in mind the child's:

- added vulnerability
- developmental stage
- possible grooming by the perpetrator

No child's case should be considered without contacting individuals who specialise in children from a Local Authority.

Like victims of other forms of child abuse, a child who is a victim of modern slavery will describe the behaviour that has to be assessed against indicators of child abuse and modern slavery. Children may not be familiar with the words 'slavery' or 'trafficking' or be able to label their experience as abuse.

Where an adult is referred to the National Referral Mechanism (NRM) on the basis of modern slavery that took place when they were a child, see [Potential child victims of modern slavery who are now adults](#).

## Duty to refer child victims to the Local Authority

Modern slavery is child abuse and requires a child protection response.

Potential victims under 18 years of age should be immediately referred to the relevant Local Authority children's services (or the Health and Social Care Trust Children's Services in Northern Ireland) by the Competent Authority if they haven't been referred already by the first responder.

The relevant police force must be informed and involved, so you should discuss this with the Local Authority to be clear who will take responsibility for involving the police.

## Identifying potential child victims of trafficking

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:

- no evidence of parental permission for the child to travel to the UK or stay with the adult
- little or no evidence of any pre-existing relationship with the adult or even an absence of any knowledge of the accompanying adult
- evidence of unsatisfactory accommodation arranged in the UK

These irregularities may be the only indication that the child could be a victim of trafficking and/or modern slavery. As noted in the guide to identification of possible victims of trafficking (Koordineringsenheten for Ofre for Menneskehaneel, Norway, November 2008), children who are in a trafficking situation are often very reluctant to give 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 made up by their trafficker or modern slavery facilitator.

Children under 18 travelling unaccompanied by adults or with an adult who is not their parent should not be assumed to be victims of modern slavery just based on this factor alone, as their situation may be perfectly legitimate or unrelated to modern slavery. If a child referral is made where no indicators are present the Competent Authority should ask frontline staff to make additional enquiries as appropriate, which might establish whether or not any indicators of modern slavery are present.

## Consent of child victims

As explained above, any child who is recruited, transported, transferred, harboured or received for the purposes of exploitation, or is directed to perform labour is considered to be a potential victim of modern slavery, whether or not they have been forced or deceived. This is because it is not considered possible for children to give informed consent.

Staff in the Competent Authority must consider any child who has been recruited, transported, transferred, harboured or received for the purpose of exploitation, as a victim of trafficking and/or modern slavery, whether or not they have been forced or deceived.

Where an adult was trafficked or a victim of modern slavery as a child, but only referred to the NRM in adulthood, they will be assessed against the child criteria for the purposes of determining whether they a victim of trafficking/modern slavery but as they are an adult at the time of the referral, they must consent to their case being referred to the NRM.

## Financial gain involving child victims

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 to exploit their vulnerability. Poor and displaced families may hand over care of their children to traffickers who promise to provide them with a source of income, education or skills training, but ultimately exploit them.

Parents and relatives may also be involved in the exploitation of the child. The children are likely to be very loyal to their parents or carers so you must not expect them, of their own initiative, to seek protection against such people. For more information, see the [UNHCR Handbook](#) for the protection of internally displaced persons.

## School registration

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 situated near ports of entry, but you must be alert to this possibility in all schools.

However, you must always bear in mind not all children who go missing from education have been victims of trafficking. For example, there may be instances of children from communities that move around – Gypsy, Roma, traveller or migrant families – who collectively go missing from school. For more information, see:

- [Safeguarding children who may have been trafficked](#)
- [Safeguarding children in Scotland who may have been trafficked](#)

## Child victims who claim asylum

Some children who are under the control of a trafficker may say they are unaccompanied when claiming asylum. They might have entered the UK with a trafficker who may or may not be a family member. In such cases the trafficker may have told the child that by doing so they will be granted permission to stay in the UK and be entitled to claim welfare benefits.

## Potential child victims of modern slavery who are now adults

In some cases, a potential victim of modern slavery may have been a victim as a child, but only identified and referred into the NRM after reaching adulthood. In these circumstances, the Competent Authority should treat the potential victim as having been a child at the time of the modern slavery incident and follow the guidance covering children within the NRM decision making process. This means assessing the case as if they were a child to make a reasonable grounds and conclusive grounds decision.

However an adult who enters the NRM who may have been a victim as a child would be treated as an adult for the purposes of support, services and safeguarding, for the purposes of requiring consent to enter the NRM and for immigration leave purposes.

## Establishing age

In some cases a person referred to the NRM may claim to be a child but it is suspected that they are an adult.

It is sometimes difficult to establish the age of a potential child trafficking or modern slavery victim where there is a dispute over age.

In such cases the Competent Authority and other agencies within the NRM will continue to treat the individual as a child until age is established. However, whether an individual is a child or an adult must be established before the Competent Authority reaches its conclusive grounds decision. The first responder should have commissioned an age assessment where appropriate. The Competent Authority should check whether this has been commissioned.

There is guidance on assessing the age of a potential child modern slavery victim on Horizon.

Where an age assessment has been conducted by the Local Authority and has determined that the potential victim is an adult, the Competent Authority must seek consent from the potential victim to remain in the NRM before the case is progressed any further.

It may be the case that the potential victim challenges the outcome of an age assessment. The Competent Authority must accept the determination of the Local Authority until such time as any challenge is concluded.

### **Further guidance on child victims**

There is information on the Competent Authority's statutory duty to safeguard and promote the welfare of children and on interviewing children on Horizon.

There is further guidance available for [first responders dealing with child cases](#).

The Child Trafficking Advice Centre (CTAC), part of the National Society for the Prevention of Cruelty to Children (NSPCC), operate a child trafficking advice and information line which offers direct assistance to professionals dealing with children who show signs of having been trafficked.

They have a national remit and are staffed by qualified social workers and a police liaison officer. They can offer staff in the Competent Authority advice on how to address the child's needs and your statutory duties in regard to safeguarding children from harm. It also offers guidance by telephone and a case consultancy service by appointment in addition to free training on child trafficking. The advice line number is 0808 800 5000.

### **Related content**

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# Indicators of trafficking/modern slavery

This section tells Competent Authority staff about the behaviours a victim may demonstrate, to help them consider a potential victim's case.

Victims may:

- be reluctant to come forward with information
- not recognise themselves as having been trafficked or enslaved
- may tell their stories with obvious errors

It is not uncommon for traffickers or modern slavery facilitators to provide stories for victims to tell if approached by the authorities. Errors or lack of reality **may** therefore be because their initial stories are composed by others and learnt.

Victims' 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
- difficulty concentrating

Child victims may find it hard to disclose information, as the traffickers or modern slavery facilitators may have given them inaccurate information about the role of authorities, and they may have had bad experiences with corrupt authorities in their home country or during their journey.

See [Victims of modern slavery – guidance for frontline staff](#) for more information on:

- why victims may be reluctant to disclose information/don't self identify
- obstacles to victims coming forward
- victims' willingness to co-operate

## Related content

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# Self-identification

This section explains how self-identification as a victim of modern slavery must be considered when reviewing a potential victim's case.

The Competent Authority must not rely solely on a person self-identifying, but explore objective supporting evidence. Self-identifying or otherwise must be considered with the factual evidence.

Whether or not someone identifies themselves as a victim, the Competent Authority must consider if there are objective signs. Such indicators will help the Competent Authority identify potential victims of modern slavery. It is important that the Competent Authority does not rely on victims to identify themselves, but instead knows how to recognise and identify the signs of modern slavery. For more information on what to look for, see [Assessment of modern slavery by the Competent Authority](#).

## **Related content**

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# The 2 stage National Referral Mechanism consideration process

This section explains the 2 stage National Referral Mechanism (NRM) process for identifying victims of trafficking, stipulated by the Council of Europe Convention on Action against Trafficking in Human Beings.

## Part 1

The first part is the Reasonable Grounds test, which acts as an initial filter to identify potential victims.

## Part 2

The second is a substantive Conclusive Grounds decision as to whether the person is in fact a victim. This 2 stage test covers all human trafficking cases in any part of the UK (and slavery, servitude, or forced or compulsory labour in England or Wales).

## Making a Reasonable Grounds decision

### Timescales

The expectation is that the Competent Authority will make a reasonable grounds decision within 5 working days of the NRM referral being received at the UK Human Trafficking Centre (UKHTC) where possible.

Reasonable grounds decisions for cases in immigration detention will be considered as soon as possible.

If the potential victim is the subject of criminal proceedings, it is important that the reasonable grounds decision is made before the court hearing to prevent confusion with remand processes. Staff in the Competent Authority must find out the date of any court hearing.

In some cases dealt with by criminal casework, a person may already have been convicted and sentenced when criminal casework receives the referral.

## Standard of proof for Reasonable Grounds decision

### The Reasonable Grounds test

This is designed to determine whether someone is a potential victim. When the Competent Authority receives a referral, they must decide whether on the information available it is reasonable to believe that a person is a victim of the crime of human trafficking (in Scotland and Northern Ireland) or modern slavery (in England and Wales).

The test the Competent Authority must apply is: whether the statement 'I suspect but cannot prove' (the person is a victim of human trafficking in Scotland and Northern

Ireland, or the person is a victim of modern slavery which includes human trafficking or slavery, servitude, or forced or compulsory labour in England or Wales):

- is true
- whether a reasonable person having regard to the information in the mind of the decision maker, would think there are reasonable grounds to believe the individual had been a victim of human trafficking or modern slavery

**For England and Wales cases:** indicators of all forms of modern slavery are likely to be similar – it may not be initially clear to the Competent Authority whether a potential victim has been subject to human trafficking or slavery, servitude, or forced or compulsory labour. So to reach a positive reasonable grounds decision the Competent Authority just needs to determine that, on the information available, it is reasonable to believe that a person is a victim of the crime of modern slavery; the Competent Authority does not need to distinguish at the reasonable grounds stage which form of modern slavery they have experienced.

Reasonable suspicion would not normally be met on the basis of an unsubstantiated claim alone, without reliable, credible, precise and up to date:

- intelligence or information
- evidence of some specific behaviour by the person concerned

Where reliable, credible, precise and up to date intelligence, information or evidence is present, it must be considered in reaching a reasonable grounds decision.

## Evidence gathering

The reasonable grounds decision has consequences for the potential victim in terms of protection and support (and potential further stay in the UK if they are subject to immigration control). The Competent Authority decision may be subject to external scrutiny and judicial review so it must be of the highest possible standard, taking into account the expert views of those surrounding the individual.

If staff in the Competent Authority are unsure about their decision, they must seek guidance and assistance from their Competent Authority lead and request more information from the first responder or support provider.

## When the Competent Authority doesn't need further evidence

In some cases the Competent Authority may have enough evidence to make a positive reasonable grounds decision.

A first responder or support provider may be in a position to provide information that meets or goes beyond the required standard of proof for the reasonable grounds test. In these circumstances the Competent Authority must advise the first responder that:

- the case meets the Reasonable Grounds test

- any further information will be taken into account for the conclusive grounds decision

The Competent Authority must make a positive decision as soon as they have sufficient information to decide there are reasonable grounds to believe the person is a victim of modern slavery, even if it is likely further information will be available at a later stage.

## **When the Competent Authority may need to make further enquiries**

Where it appears that the reasonable grounds test may be negative, the Competent Authority must contact the first responder and/or support providers, police and Local Authority as appropriate to discuss their decision and give them the opportunity to provide any further information/evidence that may be available. This includes any known evidence highlighted by the first responder and/or support providers which has not yet been sent to the Competent Authority.

Where a decision may be negative the Competent Authority should make reasonable enquiries in a collaborative manner with agencies involved in the case, bearing in mind the relatively low threshold of the reasonable grounds test as well as the limited 5 working days timescale in which they are expected to make a decision where possible.

## **Where there is evidence the person may be a victim of crime at the Reasonable Grounds stage**

If a person is a victim of human trafficking (in Scotland and Northern Ireland) or modern slavery (in England and Wales) then they are a victim of a crime.

The Competent Authority can explore information about the alleged offence in consultation with Intel (in Home Office cases) or the police, as part of the reasonable grounds assessment.

Prior to the commencement of Part 1 of the Modern Slavery Act 2015 trafficking offences in the UK were contained in the following legislation:

- Sections 59a of the Sexual Offences Act 2003 (as amended by the Protection of Freedoms Act) and Section 4 of the Asylum and Immigration (Treatment of Claimants) Act 2004 (as amended by the Protection of Freedoms Act)
- Section 22 Criminal Justice (Scotland) Act 2003 (as amended by Section 46 of the Criminal Justice and Licensing (Scotland) Act 2010)
- Section 47 Criminal Justice and Licensing (Scotland) Act 2010

Part 1 of the Modern Slavery Act 2015 introduces the consolidated slavery and trafficking offences, tougher penalties and sentencing rules, ensures the main offences are subject to the toughest asset recovery regime under the Proceeds of Crime Act 2002, introduces bespoke slavery and trafficking reparation orders, and provides for the detention and then forfeiture of vehicles, ships and aircraft used for the purposes of trafficking.

It is not necessary to prove that an offence has taken place, or for there to be an ongoing criminal investigation to find that an individual is a victim of human trafficking (in Scotland and Northern Ireland) / modern slavery (in England and Wales) in need of protection.

If however, the Competent Authority has considered the facts and/or consulted with the police and there is no evidence of either a crime having been committed or that there are grounds to suggest the person needs time to decide whether to cooperate in a criminal investigation, the Competent Authority is entitled to consider such findings as part of their Reasonable Grounds assessment.

## Interviews at the Reasonable Grounds stage

At the Reasonable Grounds stage, the decision may be more likely to be based on evidence gathered from the first responder rather than through an interview process given the limited 5 working days timescale in which the Competent Authority is expected to make a decision where possible which might not allow time for interviews. In some cases that might also be an inappropriate time to carry out a formal interview.

For assessing credibility during the NRM process please see [How to assess credibility when making a reasonable grounds or conclusive grounds decision](#).

## Negative decisions

If after contacting the first responder, support provider, police or Local Authority (in the case of children) there is not enough information or evidence to conclude that the reasonable grounds or conclusive grounds test is met, the Competent Authority is entitled to make a negative decision.

## Recording the Reasonable Grounds decision

As part of the Competent Authority decision making process, staff at the Competent Authority must keep a detailed consideration minute.

When issuing a negative decision the Competent Authority must use this consideration minute as the basis for dealing with the key points in their decision.

When issuing a positive decision, the Competent Authority must keep this minute on file.

The consideration minute must include all of the following:

- immigration history and case summary
- objective information on country in question
- findings of fact with detailed reasoning (clear credibility findings including reference to which events the Competent Authority accepts took place and which events the Competent Authority does not accept took place)
- why the definition of human trafficking or modern slavery is or is not met in respect of a reasonable grounds test

- decision outcome
- date of decision

Where the assessment of credibility undermines an individual's account to the point that the reasonable grounds standard of proof can no longer be met, the Competent Authority must conclude that the subject is not a victim of human trafficking or modern slavery.

### **Quality assuring the reasonable or conclusive grounds decision (second pair of eyes)**

To make sure the decision taken is in line with policy, a second caseworker or manager who has appropriate experience in human trafficking or modern slavery work, must review a negative National Referral Mechanism (NRM) decision. Details of the officer responsible for the second pair of eyes review must be recorded on CID (Home Office only) and the file (Home Office and UKHTC).

If it is a Home Office case the second caseworker or manager must not be directly involved in the case's asylum decision.

The Competent Authority may undertake a second pair of eyes review of positive NRM decisions if they wish, but they are not obliged to do so provided there are sufficient alternative local quality assurance measures in place.

#### **Related content**

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# Actions for Home Office and UKHTC if the Reasonable Grounds decision is positive

## **Action 1: provide the potential victim with support if they want it for a minimum of 45 days during a recovery and reflection period**

If the Competent Authority makes a positive reasonable grounds decision, the individual must be given support if they want it during a 45 day recovery and reflection period. This temporary period provides the conditions for a full evaluation to conclusively decide if the person was a victim of human trafficking or modern slavery at the date of the reasonable grounds decision. This is a not an immigration decision.

The recovery and reflection period is a legal concept that triggers certain rights and measures under the Council of Europe Convention on Action against Trafficking in Human Beings and in no circumstances should the Competent Authority deny an identified victim these rights where the victim indicates they want them. This recovery and reflection period is being extended to cover positive Reasonable Grounds decisions in all modern slavery cases in England and Wales.

## **Action 2: record the decision**

Update CID with 'PVOT outcome accepted'. **(Home Office action only)**.

The Competent Authority should draft a minute explaining the reasons for the positive reasonable grounds decision and keep it on file.

They should not send the minute of reasons to the victim.

Complete the decision letter.

The Home Office and UKHTC use the same decision letters:

- UKBA NRM 03 (ICD.4048 on CID Doc Gen)

## **Action 3: notify the victim of the decision**

Issue the decision letter (NRM03) to the adult victim concerned through their appointed representative, where applicable (or Local Authority in the case of a child victim).

The Competent Authority must not serve a decision letter or other human trafficking or modern slavery papers on a child under any circumstances. All human trafficking or modern slavery papers must be served on the child's appointed representative or the Local Authority.

## **Action 4: notify agencies of the decision**

The Competent Authority must notify the following of their decision using UKBA NRM 05 (ICD.4050 on CID Doc Gen):

- the first responder (all cases)
- the support provider (all supported adult cases and family cases) and the Salvation Army if supported in England and Wales), TARA or Migrant Help if the adult is being supported in Scotland or Migrant Help or Women's Aid if the adult is being supported in Northern Ireland)
- the Local Authority (in the case of children where the relevant NRM 03 letter is used instead)

If the Home Office is the Competent Authority they should also notify the UK Human Trafficking Centre (UKHTC) of their decision in all cases using UKBA NRM 09 (ICD.4460 on CID Doc Gen) (**Home Office action only**).

**Action 5: notify agencies of the decision where there are criminal proceedings**

If the potential victim is the subject of criminal proceedings several agencies need to be notified as soon as the reasonable grounds decision is made.

The Competent Authority must ensure that the police (National Human Trafficking Unit in Scotland) are notified of the positive reasonable grounds decision as soon as they make it.

The Competent Authority must use notification letter UKBA NRM 05 (ICD.4050 on CID Doc Gen) for the police or contact them by email or telephone as appropriate.

Generally the Competent Authority should ask the police to notify prosecutors (the Crown Prosecution Service (or the Crown Office and Procurator Fiscals Service in Scotland or Prosecution Service in Northern Ireland) of the positive reasonable grounds decision as soon as they make it.

## Home Office Competent Authority next steps for live immigration cases following a positive Reasonable Grounds decision

If the Home Office is the Competent Authority they will need to consider additional next steps in live immigration cases once a reasonable grounds decision has been taken.

This section does not apply to UKHTC. Pilot panel decisions with live immigration issues will need to be referred to the Home Office to take appropriate immigration steps.

**Action 6: consider whether to grant temporary admission/temporary release to the victim**

The Home Office will consider whether they need to grant temporary admission (TA) or temporary release (TR) to a person who will have a 45 day recovery and reflection period.

A grant of TA or TR is not a grant of leave to enter or remain in the UK.

If the person does not have a valid form of leave, the Home Office will grant a 45 day period of TA or TR to allow for the recovery and reflection period.

Some people within the NRM process will not require a grant of TA or TR, for example where they already have a grant of leave valid for 45 days or more. See [Granting temporary admission \(TA\) or temporary release \(TR\) extensions](#).

Where a person is serving a custodial sentence they cannot be released from that sentence as a result of the NRM process.

The Home Office does not grant TA or TR in deportation cases.

For information on detained cases see [Consider whether a potential victim can be released from detention](#).

The Home Office must take into account any TA or TR 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.

The TA or 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 Home Office must still serve the positive reasonable grounds decision and acknowledge that the individual has been granted 45 days for recovery and reflection.

With the decision letter, the Home Office must also issue a revised IS96 (or IS248 if the application was made in-time, in the UK) granting TA or TR for 45 calendar days from the date of the letter. This must cover:

- where the person will need to report to, for example either the:
  - local enforcement office
  - reporting centre in the area where they are accommodated
- how often they will need to report and when

IS96 and IS 248 can be downloaded from CID Doc Gen.

Guidance on the discretion to extend the recovery and reflection period beyond 45 days where circumstances warrant is at [Requests to extend the 45 day recovery and reflection period](#).

Guidance on curtailing the recovery and reflection period and immigration status if it is found that victim status is being claimed improperly is at the section on [improper claims](#), below

**Action 7: consider whether a potential victim can be released from detention**

If the potential victim of trafficking or modern slavery is in immigration detention they will normally need to be released on TA or TR by the Home Office 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 or TR to remain in the UK whilst a conclusive grounds decision is made on their case. This does not grant any leave to enter or remain.

Therefore a detained person is usually released from immigration detention if they receive a positive reasonable grounds decision and where they are released, the Competent Authority which dealt with persons case whilst detained must pass the case on to a non-detained Competent Authority (UKVI) at this point for the conclusive grounds decision to be made unless there are exceptional reasons why this is not possible.

**Action 8: liaise with asylum decision makers to ensure any negative asylum decision is not made until after the Conclusive Grounds decision has been taken**

If the reasonable grounds decision is positive, the Home Office should not take any negative asylum decision until the conclusive grounds decision is made, as it may have a bearing on the asylum claim.

**Related content**

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# Granting temporary admission (TA) or temporary release (TR) extensions

This section provides guidance on considering when to extend the 45 day recovery and reflection period.

Where the Home Office is the Competent Authority, if an additional recovery and reflection period is granted, they may need to consider whether to extend TA or TR where it has already been granted as appropriate. See [Granting an extension of the recovery and reflection period](#) for more details.

## Granting an extension of recovery and reflection and extensions of Temporary Admission/Temporary Release

If the Home Office decides to grant an extension to recover and reflect they must:

- note the file explaining the reason for the extension
- update CID
- advise the individual (through their appointed representative as appropriate), support provider (if applicable) and the UKHTC

### Related content

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# Actions for the Competent Authority if the Reasonable Grounds decision is negative

If the Competent Authority decides that there are not reasonable grounds to accept the person is a potential victim of human trafficking or modern slavery, they will not offer support for a 45 day recovery and reflection period and the Home Office will not consider or grant them TA or TR.

## Actions for Home Office and UKHTC where the reasonable grounds decision is negative

### Action 1: record the decision

Update CID with 'PVoT outcome refused'. **(Home Office action only)**

The Competent Authority should draft a minute explaining the reasons for the negative reasonable grounds decision and keep it on file

They must also send the minute of reasons to the victim.

Complete the decision letter.

The Home Office and UKHTC use the same decision letter:

- UKBA NRM 04 (ICD.4049 on CID Doc Gen)

### Action 2: notify the victim of the decision

Issue the decision letter NRM 04 including consideration minute to the adult victim concerned through their appointed representative, where applicable (or Local Authority in the case of a child victim).

The Competent Authority letter must include full details of what they have considered and explain their decision.

The Competent Authority must not serve a decision letter or other human trafficking or modern slavery papers on a child under any circumstances. All human trafficking or modern slavery papers must be served on the child's appointed representative or the Local Authority.

### Action 3: notify agencies of the decision

The Competent Authority must notify the following of their decision using UKBA NRM 05 (ICD.4050 on CID Doc Gen):

- the first responder (all cases)

- support provider (all supported adult cases and family cases) and the Salvation Army if supported in England and Wales), TARA or Migrant Help if the adult is being supported in Scotland or Migrant Help or Women's Aid if the adult is being supported in Northern Ireland)
- the Local Authority (in the case of children) where the relevant NRM 03 letter is used instead)

If the Home Office is the Competent Authority they must also notify the UK Human Trafficking Centre of their decision in all cases using UKBA NRM 09 (ICD.4460 on CID Doc Gen). **(Home Office action only)**

#### **Action 4: notify agencies of the decision where there are criminal proceedings**

If the potential victim is the subject of criminal proceedings several agencies need to be notified as soon as the reasonable grounds decision is made.

The Competent Authority must ensure that the police (National Human Trafficking Unit in Scotland) are notified of the negative reasonable grounds decision as soon as they make it.

The Competent Authority must use notification letter UKBA NRM 05 (ICD.4050 on CID Doc Gen) for the police or contact them by email or telephone as appropriate.

Generally the Competent Authority should ask the police to notify prosecutors (the Crown Prosecution Service (or the Crown Office and Procurator Fiscals Service in Scotland or Prosecution Service in Northern Ireland) of the negative reasonable grounds decision as soon as they make it.

### **Home Office Competent Authority next steps for live immigration cases following a negative Reasonable Grounds decision**

If the Home Office is the Competent Authority they will need to consider additional next steps in live immigration cases once a reasonable grounds decision has been taken.

This section does not apply to UKHTC. Pilot panel decisions with live immigration issues will need to be referred to the Home Office to take appropriate immigration steps.

#### **Action 5: take decisions on any live application such as an asylum claim, as appropriate.**

The Home Office Competent Authority may make an asylum decision for any outstanding asylum claim at the point a negative reasonable grounds decision is taken. Other outstanding immigration applications can be concluded.

#### **Related content**

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# Next steps for the Competent Authority if a Reasonable Grounds decision is suspended

In a small proportion of cases people who are being processed through the National Referral Mechanism (NRM) will go missing. Competent Authority staff in the Home Office and UK Human Trafficking Centre (UKHTC) must, however, still make a decision on the case and copy it to all relevant parties if sufficient information is available to make the decision.

If someone who has claimed asylum goes missing it may be appropriate to treat their claim as withdrawn. See the Asylum Instruction, 'Withdrawing asylum claims' for further details.

In cases where human trafficking or modern slavery indicators are present but are insufficient to reach the standard of proof of reasonable grounds, and it is not possible to gather more information because the individual is missing, the Competent Authority must take the following actions:

**Action 1:** report the potential victim of human trafficking or modern slavery as a vulnerable missing person to the police and arrange for a missing person marker to be added to the police national computer (PNC).

**Action 2:** notify the following that the case has been suspended:

- first responder
- the support provider (all supported adult and family cases) (and the Salvation Army if support was being provided in England and Wales)
- the Local Authority (in the case of children)

**Action 3:** if the potential victim is the subject of criminal proceedings, several agencies need to be notified as soon as the reasonable grounds decision is suspended.

The Competent Authority must ensure that the police (National Human Trafficking Unit in Scotland) are notified of the suspended reasonable grounds decision as soon as they make it.

Generally the Competent Authority should ask the police to notify prosecutors (the Crown Prosecution Service (or the Crown Office and Procurator Fiscals Service in Scotland or Prosecution Service in Northern Ireland) of the suspended reasonable grounds decision as soon as they make it.

## **Home Office action only:**

Only Home Office staff must:

- register the case as a 'PVoT suspended absconder' on CID

- ensure that the case has been flagged on CID as having had the issue of human trafficking or modern slavery raised so the person is recognised as potentially at risk if they are encountered again

See the link to the non-compliance and absconder process instruction for further information.

### **Related content**

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# Making a Conclusive Grounds decision

When a Competent Authority makes a positive reasonable grounds decision, at the end of the recovery and reflection period they then have to conclusively decide whether the individual is a victim of human trafficking (Scotland and Northern Ireland) or modern slavery (England and Wales).

The Competent Authority is responsible for making a conclusive decision on whether, 'on the balance of probabilities', there are sufficient grounds to decide that the individual being considered is a victim of human trafficking or modern slavery. We refer to this as the Conclusive Grounds decision.

## Scotland and Northern Ireland

The Competent Authority's consideration of the case in Scotland and Northern Ireland considers whether there are sufficient grounds to decide that the individual is a victim of trafficking.

There are therefore 2 potential outcomes for each case:

- the individual is recognised as a victim of human trafficking; or
- there is insufficient evidence to recognise the individual as a victim of human trafficking

## England and Wales

The Competent Authority's consideration of the case in England and Wales is in 2 parts:

1. Are there sufficient grounds to decide that the individual is a victim of trafficking?
2. If not, are sufficient grounds to decide that the individual is a victim of slavery servitude, or forced or compulsory labour?

There are therefore 3 potential outcomes for each case:

- the individual is recognised as a victim of modern slavery (human trafficking)
- the individual is recognised as a victim of modern slavery (slavery, servitude or forced and compulsory labour)
- there is insufficient evidence to recognise the individual as a victim of modern slavery, including trafficking

## Timescale for Conclusive Grounds decision

The expectation is that a Conclusive Grounds decision will be made as soon as possible following day 45 of the recovery and reflection period. There is no target to make a conclusive grounds decision within 45 days. The timescale for making a conclusive grounds decision will be based on all the circumstances of the case.

## Standard of proof for Conclusive Grounds decision

At the conclusive grounds decision stage, the Competent Authority must consider whether, 'on the balance of probabilities', there is sufficient information to decide if the individual is a victim of human trafficking or modern slavery.

## The balance of probabilities

The 'balance of probabilities' essentially means that, based on the evidence available, human trafficking or modern slavery is more likely than not to have happened. This standard of proof does not require the Competent Authority to be certain that the event occurred.

In reaching their decision the Competent Authority must weigh the balance of probabilities by considering the whole human trafficking or modern slavery process and the different and interrelated actions that need to have taken place. To make their decision, they must weigh the strength of the indicators or evidence presented, including the credibility of the claim, and use common sense and logic based on the particular circumstances of each case. See [Assessment of modern slavery by the Competent Authority](#).

## Evidence gathering

Competent Authority staff may need to gather more information to make a conclusive grounds decision.

The Competent Authority must make every effort to secure all available information that could prove useful in establishing if there are conclusive grounds.

If they cannot make a conclusive grounds decision based on the evidence available, they must gather evidence or make further enquiries during the 45 day recovery and reflection period.

The Competent Authority must gather this information, where appropriate, from:

- the first responder
- support provider
- police
- Local Authority (in the case of children)

Some of the indicators on the referral form may not be apparent on the initial encounter but will become clear during subsequent interviews with an interpreter and/or at a safe location (for example in a police station). The Competent Authority must be mindful of any ongoing process which may be able to provide additional information.

Police and intelligence reports relating to the alleged crime can provide objective evidence to strengthen a claim. The Competent Authority must also give due weight to the reports and views of:

- Local Authority children's services (for child victims)

- the organisation supporting the individual

The Competent Authority must also take into account any medical reports submitted, particularly those from qualified health practitioners. See [View of experts during the NRM process.](#)

## When is the adult potential victim of modern slavery interviewed?

Interviews are more likely to be relevant to a conclusive grounds decision rather than a reasonable grounds decision.

Trafficking or modern slavery interviews do not have to be carried out with potential victims in all NRM cases. When the Competent Authority is considering the evidence it may be the case that the information submitted on the individual's situation is so compelling that an interview is not necessary or it may be possible to clarify the modern slavery issues as part of the asylum process by asking relevant questions during an asylum interview. (See [Asylum/modern slavery interviews.](#))

If the information provided is slim or contradictory, an interview may help to clarify things – for example by allowing the potential victims to comment on any inconsistencies. A victim might also be asked to account for inconsistencies by other methods such as in writing.

The Competent Authority must note the case file and/or CID (in Home Office cases) as to whether there was sufficient information to make a conclusive decision or whether an interview is needed.

Before they proceed, the Competent Authority must balance the benefits of an interview against the potential risks in terms of potentially re-traumatising the victim.

They must always attempt to gather all available information before deciding to interview.

The Competent Authority should carefully consider the timing of any interview including whether an interview during the 45 day recovery and reflection period is not appropriate based on the facts of the individual case, balanced with the need not to unduly delay decision-making.

Some victims may be highly vulnerable and there may be circumstances in which it would be right to delay the interview. If a victim is unable to attend an interview due to their psychological instability or other compassionate circumstance, then their legal representative should write to the Competent Authority to explain the reasons for this and provide a realistic timescale as to when they can be interviewed and documentary evidence should be provided from a qualified practitioner in all cases. It is the Competent Authority's discretion as to whether the interview is delayed or not.

Where the Competent Authority have questions that need to be put to a potential victim but there are concerns that the individual may be re-traumatised, the

Competent Authority must consider submitting questions in writing via the support provider, police or Local Authority (in the case of children).

The Competent Authority in seeking to arrange an interview will determine who is best placed to carry out an interview of the potential victim, and whether it would be beneficial for the support provider to be present during the interview. The Competent Authority will expect the person designated to carry out the interview to look at whether any other arrangements need to be considered for example in respect of whether the potential victim has a preference regarding the gender of the interviewer and interpreter.

Under normal circumstances the person designated to carry out the interview should meet a prior request for a gender specific case owner and interpreter for the interview. Where a request for a gender specific interviewer is made by the applicant on the day of the interview, the request must be met as far as is operationally possible. If the potential victim's preference cannot be accommodated for operational reasons, the person designated to carry out the interview must try to accommodate any other requests, for example, a gender preference for the interpreter. But again this will be subject to what is operationally possible.

## **The presence of children in interviews**

The presence of children in an interview situation can hamper the ability and willingness of women to disclose information about their experiences, especially when these have been of a violent or sexual nature. The person designated to carry out the interview must make arrangements to allow for the interview to take place in private.

## **Interview transcript**

The interviewer must keep a verbatim (word for word) record of the interview and keep a copy on file or follow any updated guidance on recording of interviews as appropriate.

If the interview is conducted by a Home Office officer they must be trained in interviewing in accordance with existing policy.

Where the Competent Authority is criminal casework, interview arrangements may differ.

## **Interviews and criminal trials**

Where a witness in an ongoing prosecution needs to be interviewed for the purposes of the NRM, the interview should be carried out by an officer who is achieving best evidence (ABE) trained (the national protocol for interviewing children and vulnerable adults who are part of a criminal investigation). Alternatively, the Competent Authority may wish to commission the police to ask any outstanding questions on their behalf.

In criminal trials, evidence from witnesses must be given independently and therefore the Competent Authority must take care not to offer, or appear to offer, potential inducements (incentives) 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.

## Interviewing children

Interviewing children suspected or known to be trafficked must be kept to a minimum. Where you need to establish victim status under the Council of Europe Convention on Action Against Trafficking in Human Beings, where possible, the child should only be interviewed by either:

- trained specialist child protection police
- social work professionals

As the Competent Authority, you must avoid interviewing a child specifically for the purpose of reaching a decision under the NRM if either:

- there are specialists in other agencies capable of doing so
- the modern slavery issues have already been clarified as part of the asylum process

If you need more information to make an NRM decision, the Competent Authority must request this information from the first responder. If more information is still required, you must consider asking the Local Authority or police to interview the child on your behalf.

If you have to interview potential child victims of modern slavery yourself, you must do so in a sensitive manner which takes into account their age and maturity.

For more information on interviewing children, see guidance on Asylum interviews.

Only officers who have received appropriate training (currently level 3 minors training) can deal with child cases.

For assessing credibility during the NRM process please see [How to assess credibility when making a reasonable grounds or conclusive grounds decision](#)

### Related content

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# Recording the Conclusive Grounds decision

In Scotland and Northern Ireland there are 2 potential outcomes on the case:

- the individual is recognised as a victim of human trafficking or
- there is insufficient evidence to recognise the individual as a victim of human trafficking

In England and Wales there are 3 potential outcomes on the case:

- the individual is recognised as a victim of modern slavery (human trafficking)
- the individual is recognised as a victim of modern slavery (slavery, servitude or forced and compulsory labour)
- there is insufficient evidence to recognise the individual as a victim of modern slavery

When the Competent Authority comes to a decision they must consider that victim service providers need to prepare the person for the outcome and that the decision may directly impact on any criminal investigation.

## **Related content**

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# Next steps for the Competent Authority if the Conclusive Grounds decision is positive

## Actions for Home Office and UKHTC if the Conclusive Grounds decision is positive

### **Action 1: record the decision**

Update CID with either 'VOT DL granted' (in cases where the Victim of Trafficking (VOT) is assisting police, 'VOT DL granted (personal circumstances)' or 'VOT no leave to be granted'. **(Home Office action only)**

The Competent Authority must draft a minute explaining the reasons for the positive conclusive grounds decision and keep it on file.

They must not send the minute of reasons to the victim.

**In Scotland and Northern Ireland** the decision minute must clearly indicate that the outcome being made in the case is 'recognised as a victim of human trafficking'.

**In England and Wales** the decision minute should clearly indicate which of the 2 outcomes are being made on the case, either:

- recognised as a victim of modern slavery (human trafficking).
- recognised as a victim of modern slavery (slavery, servitude or forced and compulsory labour)

Complete the decision letter.

The Home Office and UKHTC use the same decisions letters: NRM 07

### **Action 2: notify the victim of the decision**

Issue the decision letter NRM 07 to the adult victim concerned or through their appointed representative, where applicable (or Local Authority in the case of a child victim).

The Competent Authority must not serve a decision letter or other human trafficking or modern slavery papers on a child under any circumstances. All human trafficking or modern slavery papers must be served on the child's appointed representative or the Local Authority.

### **Action 3: notify agencies of the decision**

The Competent Authority must notify the following of their decision using NRM 05:

- the first responder (all cases)

- support provider (all supported adult cases and family cases) and the Salvation Army if supported in England and Wales), the Trafficking Awareness Raising Alliance or Migrant Help if the adult is being supported in Scotland or Migrant Help or Women's Aid if the adult is being supported in Northern Ireland)
- the Local Authority (in the case of children) where the relevant NRM 03 letter is used instead)

If the Home Office is the Competent Authority they should also notify the UK Human Trafficking Centre of their decision in all cases using UKBA NRM 09 (ICD.4460 on CID Doc Gen). **(Home Office action only)**

**Action 4: notify agencies of the decision where there are criminal proceedings**

If the potential victim is the subject of criminal proceedings several agencies need to be notified as soon as the conclusive grounds decision is positive.

The Competent Authority must ensure that the police (National Human Trafficking Unit in Scotland) are notified of the positive reasonable grounds decision as soon as they make it.

The Competent Authority must use notification letter UKBA NRM 05 for the police or contact them by email or telephone as appropriate.

Generally the Competent Authority must ask the police to notify prosecutors (the Crown Prosecution Service (or the Crown Office and Procurator Fiscals Service in Scotland or Prosecution Service in Northern Ireland) of the positive reasonable grounds decision as soon as they make it.

**Home Office Competent Authority next steps for live immigration cases following a positive Conclusive Grounds decision**

If the Home Office is the Competent Authority they will need to consider additional next steps in live immigration cases once a conclusive grounds decision has been taken.

This section does not apply to UKHTC. Pilot panel decisions with live immigration issues will need to be referred to the Home Office to take appropriate immigration steps.

**Action 5: make a decision on any outstanding asylum claim**

Many victims of human trafficking or modern slavery also make asylum claims. These are usually non EEA nationals although not always.

The Home Office may make a positive decision on an asylum claim whilst a person is being considered under the NRM process although it is not obliged to do so.

The Home Office should not make negative decision on an asylum claim whilst a person is being considered under the NRM process. Once a conclusive grounds decision has been taken, any outstanding claim for asylum should be decided.

If a person seeks to rely on being a victim of human trafficking or modern slavery as part of their asylum claim, the information and evidence gathered during the NRM process and the findings in respect of whether a person is a victim of human trafficking or modern slavery will inform the asylum process.

Asylum processes which need to take place prior to taking a decision on asylum but fall short of the decision itself can also be carried out during the NRM process to ensure that asylum decisions do not encounter significant and unjustified delays. The outcome of the reasonable or conclusive grounds decision is not indicative of the outcome of any asylum claim. A positive or negative reasonable or conclusive grounds decision on modern slavery does not automatically result in asylum being granted or refused. This is because the criteria used to grant asylum is not the same as the criteria used to assess whether a person is a victim of modern slavery.

The conclusive grounds decision will be included in any outstanding asylum decision made after that decision as a finding of fact on whether the person was a victim of human trafficking or modern slavery or not; unless information comes to light at a later date that would alter the finding on human trafficking or modern slavery.

Every asylum claim must be considered on its merits and in line with existing guidance.

**Action 6: consider whether the victim is eligible for discretionary leave**

If the Home Office is the Competent Authority, a positive conclusive grounds decision does not result in an automatic grant of immigration leave.

However the Home Office will consider whether a grant of discretionary leave is appropriate following a positive conclusive grounds decision. This consideration will happen automatically where the individual has received a positive conclusive grounds decision from the Home Office.

See discretionary leave policy instruction and [When to grant discretionary leave after a positive Conclusive Grounds decision](#) for further details.

Where the person has an outstanding asylum claim see [section on Make a decision on any outstanding asylum claim](#).

## When to grant discretionary leave after a positive Conclusive Grounds decision

A person who is accepted as a victim of modern slavery by any Competent Authority in the UK (which includes human trafficking and slavery, servitude and forced or compulsory labour) will not be granted leave solely as a direct result of that decision unless they meet the relevant criteria see [Criteria for granting Discretionary Leave to Remain](#). There is no automatic grant of leave to remain if there is a finding of fact that a person is a victim of human trafficking or slavery, servitude and forced or compulsory labour.

There are no grounds under the Immigration Rules on which to grant leave on the basis of modern slavery (which includes human trafficking or slavery, servitude and forced or compulsory labour) except where a person is eligible for leave under the [Immigration Rules relating to Overseas Domestic Workers](#) – see [Applications under the Immigration Rules for Overseas Domestic Workers](#). However some people who receive a positive conclusive grounds decision on human trafficking or modern slavery under the NRM may be eligible for a grant of discretionary leave outside of the Immigration Rules for reasons set out in [When is discretionary leave to remain relevant?](#). Further periods of discretionary leave outside the Immigration Rules may be granted where the individual continues to meet the eligibility criteria set out in the discretionary leave policy but this is not on a route to settlement.

## When is discretionary leave to remain relevant?

Someone will not normally qualify for a grant of leave solely because they have been identified as a victim of human trafficking or slavery, servitude and forced or compulsory labour – there must be compelling reasons based on their individual circumstances to justify a grant of discretionary leave, where they do not qualify for other leave on any other basis such as asylum or humanitarian protection.

The Home Office will consider whether a grant of discretionary leave is appropriate following a positive conclusive grounds decision. This consideration will happen automatically where the individual has received a positive conclusive grounds decision from the Home Office under the criteria relating to personal circumstances, helping police with enquires, and pursuing compensation detailed below once a positive conclusive grounds decision is issued. The police need to make a formal request to the Home Office competent authority where the police are asking for discretionary leave be granted to the individual under the helping police with their enquiries criteria.

Only the Home Office Competent Authority has an immigration function and other Competent Authorities like UKHTC cannot determine eligibility for or issue discretionary leave. This means that an automatic consideration of discretionary leave does not take place where UKHTC has taken a positive conclusive grounds decision, but those cases can still be granted discretionary leave under this policy where they or the police request discretionary leave on their behalf from the Home Office directly.

Where an individual receives a positive conclusive grounds decision from another competent authority, for example the UKHTC then that individual will need to apply to the Home Office if they are seeking discretionary leave under this policy and relying on the criteria relating to personal circumstances, or pursuing compensation.

Where an individual receives a positive conclusive grounds decision from another competent authority, for example the UKHTC, then the police rather than the individual will need to make a formal request to the Home Office competent authority where the police are asking for discretionary leave be granted to the individual under the criteria of helping the police with their enquiries.

Applications for further discretionary leave can be made by the individual under this policy under the criteria relating to personal circumstances, and pursuing compensation detailed below. Extensions are not considered automatically but must be applied for regardless of which Competent Authority took the positive conclusive grounds decision.

The police rather than the individual will need to make a formal request to the Home Office competent authority under this policy where the police are asking for further discretionary leave to be granted to the individual under the criteria of helping the police with their enquiries. This might be sought if a criminal prosecution takes longer than expected and the police request that the individual be granted further discretionary leave in order to remain in the UK as a witness in the investigation.

For further advice on cases relating to Scotland and Northern Ireland see [Section below on Victims of modern slavery in Scotland and Northern Ireland – Discretionary Leave.](#)

## Criteria for granting Discretionary Leave to Remain

A grant of discretionary leave will be considered where the Competent Authority has conclusively identified (with a positive conclusive grounds decision) that an individual is a victim of trafficking (within the meaning of Article 4 of the Council of Europe Convention on Action against Trafficking in Human Beings) and either:

- they have particularly compelling personal circumstances which justify a grant of discretionary leave to allow them to remain in the UK for a temporary period of time
- they need to stay in the UK in order to pursue a claim for compensation against their traffickers (the fact that someone is seeking compensation will be relevant to the consideration but does not in itself merit a grant of leave - leave must only be granted where it would be unreasonable for them to pursue that claim from outside the UK)
- the victim needs to stay in the UK to assist with police enquiries (the victim needs to have agreed to cooperate with the enquiry, and the police must make a formal request for them to be granted leave on this basis)

Each case must be considered on its individual merits and in full compliance with the UK's obligations under EU Directive 2011/36 on preventing and combating trafficking and the Council of Europe Convention on Action against Trafficking in Human Beings.

As a matter of policy a grant of discretionary leave will be also considered where the Competent Authority has conclusively identified an individual as a victim of slavery, servitude and forced or compulsory labour but where they have not been trafficked. This means that anyone with a positive conclusive grounds decision on the basis of modern slavery can be considered for discretionary leave.

The modern slavery victims who were not trafficked have to meet the same criteria to be granted discretionary leave due to personal circumstances, pursuing compensation (but against their modern slavery facilitators rather than traffickers) or assisting police with their enquiries. Where leave is being requested on the basis of assisting the police with their enquiries, the police must make the request that leave be granted on this basis.

## Personal circumstances

When a victim receives a positive conclusive grounds decision, it may be appropriate to grant a victim of modern slavery a period of discretionary leave to remain in the UK if their personal circumstances are compelling, in line with Article 14 of the Council of Europe Convention on Action against Trafficking in Human Beings. This must be considered in line with the discretionary leave policy.

Personal circumstances might mean for example, to allow them to finish a course of medical treatment that would not be readily available if they were to return home. Such leave would normally be granted for the duration of the course of treatment or up to 30 months, whichever is shorter.

## Victims who pursue compensation

When a victim receives a positive conclusive grounds decision, it may be appropriate to grant a victim of modern slavery a period of discretionary leave to remain in the UK to pursue compensation in line with Article 15 of the Council of Europe Convention on Action against Trafficking in Human Beings which deals with the right of victims to compensation from traffickers.

It may be appropriate to grant a confirmed victim of modern slavery who has been trafficked discretionary leave where it is clear that they need to stay in the UK on the grounds that they are pursuing a claim for compensation against their traffickers.

The same approach will apply as a matter of policy to a confirmed victim of modern slavery who has not been trafficked. It may be appropriate to grant a confirmed victim of modern slavery who has not been trafficked a period of discretionary leave where it is clear that they need to stay in the UK on the grounds that they are pursuing a claim for compensation against their facilitators.

The fact that someone is seeking compensation through the civil courts does not in itself merit victim status or a residence permit. When determining whether to grant a residence permit the Home Office must consider:

- the type of compensation being sought
- the grounds of the claim
- how credible the claim is for example does the compensation claim relate to the claim of trafficking/slavery accepted or rejected by the a competent authority, is the victim claiming compensation for an injury (eg and seeking the cost of medical treatment) when the competent authority is aware that the victim incurred such costs or did not incur such costs, or the competent authority is

has seen or not seen evidence that the victim suffered an injury – other issues might also be relevant to credibility

- the likely length of the claim
- whether the person needs to be physically in the UK for the duration of their claim - in some instances it may be more appropriate to facilitate return to the UK nearer to the hearing date or to arrange video conferencing facilities

## Victims who are helping police with their enquiries

When a victim receives a positive conclusive grounds decision, it may be appropriate to grant a victim of modern slavery a period of discretionary leave to remain in the UK in line with the Council of Europe Convention on Action against Trafficking in Human Beings (the Convention), where a victim has agreed to cooperate with police enquiries.

In every case where a person is conclusively found to be a victim of human trafficking or slavery, servitude and forced or compulsory labour and has agreed to assist with police enquiries from the UK, the police must make a formal request for them to be granted leave to remain on this basis. Further periods of discretionary leave may be granted where necessary, for example, where a criminal prosecution takes longer than expected and the police have confirmed this and requested an extension.

Requests for discretionary leave, or further periods of discretionary leave on this basis, should be made by the investigating police force, rather than the victim or their representatives. Legal representatives should not make an application for leave to remain on the basis that their client is a witness in an ongoing investigation.

There is no set format in which the police need to make such a request. The police should not complete an application form. They can for example send an email to the Home Office Competent Authority. Requests from the police should be sent to:

- For non EEA cases the request from the police should go to the NRM team in UK Visas and Immigration or Immigration Enforcement who made the positive conclusive grounds decision.
- For EEA cases the request from the police should be sent to the following mailbox for cases in England, Scotland and Northern Ireland. [Mailbox for police requests for DL for cases in England, Scotland and Northern Ireland](#)
- For EEA cases the request from the police should be sent to the following mailbox for cases in Wales. [Mailbox for police requests for DL for cases in Wales.](#)

If the police make a request before a conclusive grounds decision is taken, they should be notified that no decision on whether to grant discretionary leave will be taken before a conclusive grounds decision is taken.

After the police make a request, the Competent Authority may seek further information from the confirmed victim such as asking them to complete an

application form (the FLR(O) or FLR(DL) as appropriate) and return it to the Competent Authority.

## Considering EEA nationals for discretionary leave

The policy approach in relation to personal circumstances, pursuing compensation and helping the police with their enquiries, also applies to eligible EEA nationals who are unable to exercise free movement rights. EEA nationals, who are identified as victims of modern slavery (human trafficking or slavery, servitude and forced or compulsory labour), retain the ability to exercise free movement rights in accordance with EU Regulations.

However, there may be some circumstances in which the victim of modern slavery is unable to exercise their free movement rights. In such circumstances a confirmed victim of modern slavery who is an EEA national might seek discretionary leave under this Competent Authority guidance to be read in line with the discretionary leave policy.

The Home Office should consider whether a grant of discretionary leave is appropriate where it takes a positive conclusive grounds decision for an EEA national. This consideration will happen automatically where the individual has received a positive conclusive grounds decision from the Home Office under the criteria relating to personal circumstances, helping police with enquiries, and pursuing compensation detailed below once a positive conclusive grounds decision is issued. The police need to make a formal request to the Home Office competent authority where the police are asking for discretionary leave be granted to the individual under the helping police with their enquiries criteria.

Where an EEA national receives a positive conclusive grounds decision from another competent authority e.g. UKHTC then that individual will need to apply to the Home Office if they are seeking discretionary leave under this policy and relying on criteria relating to personal circumstances, or pursuing compensation. They should use [form FLR \(O\)](#) to do so.

Where an EEA national receives a positive conclusive grounds decision from another competent authority for example UKHTC then the police rather than the individual will need to make a formal request to the Home Office competent authority where the police are asking for discretionary leave be granted to the individual under the helping police with their enquiries criteria. For the mailboxes to be used by the police to make a request see: [Victims who are helping police with their enquiries](#)

The same approach to fees and fee waivers set out in this guidance in relation to victims who seek discretionary leave will also apply to EEA nationals who seek discretionary leave from the Home Office. See [Process for initial considerations of discretionary leave](#) and [Process for further requests for discretionary leave](#).

## Period of discretionary leave grants

The period of leave will depend on the individual facts of the case and should be for the amount of time required, without further grants of discretionary leave being

necessary in most cases. However, leave should normally be granted for a minimum of 12 months, and normally no more than 30 months. However, shorter or longer periods may be granted if the facts of the case justify it in accordance with the discretionary leave guidance.

Once the leave expires, a further period of leave may be granted subject to the following process (see [Process for further applications for discretionary leave](#)), whether by formal request from the police or via an application form from the individual victim as appropriate and paying the fee as specified in this guidance. Where they continue to meet the relevant criteria under the policy further leave may be granted.

Where someone is granted an initial period of discretionary leave this does not necessarily mean they are entitled to further leave or settlement.

Further details on granting or refusing discretionary leave and the duration of leave can be found in the discretionary leave guidance.

## Process for initial considerations of discretionary leave

There is no fee for an initial consideration of discretionary leave where a victim of modern slavery has a positive conclusive grounds decision from NRM as the fee is waived.

The person will not need to fill in an application form to be considered under the discretionary leave policy on the basis of modern slavery where the Home Office has taken the positive conclusive grounds decision. However where this person has agreed to assist with police enquiries from the UK, the police must make a request for them to be granted leave on this basis.

A person with a positive conclusive grounds decision who has claimed asylum will also receive an automatic consideration for discretionary leave on the basis of modern slavery if they are not granted asylum or humanitarian protection or leave on the basis of their family or private life. However where this person has agreed to assist with police enquiries from the UK, the police must make a request for them to be granted leave on this basis.

Some confirmed victims considered by UKHTC will have status in the UK e.g. some will be British citizens or may have limited leave in another capacity and therefore don't need discretionary leave if they wish to remain in the UK. However some confirmed victims considered by UKHTC may want discretionary leave under this policy.

A person will need to fill in an application form for consideration of discretionary leave on the basis of modern slavery where another Competent Authority such as UKHTC (not the Home Office) took the positive conclusive grounds decision in their case and they are relying on criteria relating to personal circumstances, or pursuing compensation. Generally the form they should complete is the [form FLR \(O\)](#) for non-asylum cases or the [form FLR \(DL\)](#) for failed asylum claimants.

However where this person has agreed to assist with police enquiries from the UK, the police must make a request for them to be granted leave on this basis. In those police request cases those individuals with a confirmed decision from UKHTC should not submit an application form as the police should instigate any discretionary leave process. For the mailboxes to be used by the police to make a request see: [Victims who are helping police with their enquiries](#)

After the police make a request, the Competent Authority may seek further information from the confirmed victim such as asking them to complete an application form (the FLR(O) or FLR(DL) as appropriate) and return it to the Competent Authority.

## Process for further requests for discretionary leave

If discretionary leave is granted on the basis set out in this guidance, any request for further discretionary leave must be made using the relevant application form available on GOV.UK.

### Which form to use?

Forms are subject to change, the most up to date version is available on GOV.UK.

A person refused asylum and granted discretionary leave on the basis of modern slavery must apply on [form FLR \(DL\)](#) for further leave on the basis of modern slavery.

A person who has never claimed asylum but was granted discretionary leave on the basis of modern slavery must apply on [form FLR \(O\)](#) for further leave on the basis of modern slavery.

The only exception to this will be where the police make a formal request to the Competent Authority for discretionary leave to be extended. In such cases an application form should not be submitted as the police should instigate the discretionary leave process. For the mailboxes to be used by the police to make a request see: [Victims who are helping police with their enquiries](#)

After the police make a request, the Competent Authority may seek further information from the confirmed victim such as asking them to complete an application form (the FLR(O) or FLR(DL) as appropriate) and return it to the Competent Authority.

A person granted discretionary leave on the basis of modern slavery who wants to apply for leave to remain on any other basis, for example family life, must apply on the relevant form. See [GOV.UK](#) for current forms and any fees that may apply.

## Fee policy for extending discretionary leave

There is no fee for an initial consideration of discretionary leave where a victim of modern slavery has a positive conclusive grounds decision from NRM as the fee will be waived.

The fee for requests for further discretionary leave from victims with a positive conclusive grounds decision from the NRM will continue to be waived in the following circumstances:

- they qualify to extend their discretionary leave based on the criteria set out in this guidance (eg compelling personal circumstances; to pursue a claim for compensation against their traffickers; or to assist with police enquiries) and
- they have not yet accrued 30 months' discretionary leave since leaving the NRM

Requests for further discretionary leave for victims with a positive conclusive grounds decision from the NRM will be subject to a fee (the leave to remain fee) in the following circumstances:

- where they have already accrued 30 months' discretionary leave since leaving the NRM
- they do not qualify for a fee waiver on the basis of destitution or exceptional circumstances

## Summary of policy on fees for victims of trafficking/slavery in discretionary leave cases

Initial discretionary leave consideration: fee waived automatically

Further grant of discretionary leave (if total discretionary leave granted since the beginning of process is less than 30 months): fee waived automatically

Further grant of discretionary leave (if applicant has already had 30 months discretionary leave and wants more leave) - one of the following options applies:

- leave to remain fee applies if applicant does not seek and/or qualify for a fee waiver
- fee waiver if destitute or exceptional circumstances apply – if they meet fee waiver criteria the fee for the discretionary leave consideration will be waived

This criteria applies to victims of trafficking/slavery who have had a positive conclusive grounds decision from the National Referral Mechanism. They have to meet criteria set out in this guidance to qualify for discretionary leave.

## How does a victim of trafficking or slavery qualify for a fee waiver in further discretionary leave cases?

A victim of trafficking or slavery who is seeking further discretionary leave where they have already accrued 30 months discretionary leave since leaving the NRM will need to meet the same fee waiver criteria as applies to Article 8 applicants.

This criteria provides that applicants will qualify for a fee waiver only where they can demonstrate on the basis of evidence provided that

- they are destitute
- they would be rendered destitute by payment of the fee
- there are exceptional circumstances relating to their financial circumstances and ability to pay the fee such that the fee should be waived in their case (notwithstanding the fact that the evidence does not demonstrate that they are destitute or would be rendered destitute by payment of the fee)

For more information, please see the [guidance on this fee waiver](#).

[Form Appendix 1 FLR\(FP\) FLR\(O\)](#) must be completed if a victim wants to apply to waive their fee if they have already accrued discretionary leave beyond 30 months.

Form Appendix 1 does not need to be completed in cases where further discretionary leave is sought and request for further leave will not exceed 30 months in total since leaving the NRM.

### Case studies

Example 1: The victim is granted 6 months discretionary leave to assist police with their enquiries. The police request an extension of discretionary leave for a further 12 months. The fee for both of these discretionary leave considerations will be waived as together they total less than 30 months leave. They do not need to complete a fee waiver request form.

Example 2: The victim is granted 12 months discretionary leave to assist police with their enquiries. The police request an extension of discretionary leave for a further 12 months. Both of these discretionary leave considerations will have the fee automatically waived as together they total less than 30 months leave. They do not need to complete a fee waiver form.

Example 3: The victim is granted discretionary leave of 30 months due to their personal circumstances. This initial consideration will automatically have the fee waived.

If they seek further discretionary leave this would be exceed 30 months so they will have to complete an application form and pay a fee unless they qualify for a fee waiver. If they want to rely on a fee waiver they would also have to complete a fee waiver form (in addition to the application form) so that their ability pay the fee based on the fee waiver criteria can be assessed.

The guidance and forms on fee waivers are currently being updated to refer to victims of trafficking or slavery.

Decisions about whether to apply a fee waiver will not be taken by the Competent Authority in the Home Office. They will be taken by other staff in UK Visas and Immigration. At the time of publication this was OLCU for failed asylum seekers and Sheffield casework in other cases.

## **Victims of modern slavery who enter the NRM in Scotland and Northern Ireland**

A victim of human trafficking in Scotland and Northern Ireland with a positive conclusive grounds decision will fall to be considered under the discretionary leave policy above.

However, modern slavery cases outside human trafficking cannot receive a positive decision when considered by the NRM in Scotland and Northern Ireland. It is possible that a potential victim of modern slavery outside human trafficking would still be referred to the NRM by a first responder but they cannot obtain a positive reasonable grounds or from the NRM and therefore will not get a conclusive grounds consideration from the NRM or they will receive a positive reasonable grounds decision but cannot get a conclusive grounds consideration from the NRM.

If the Competent Authority considers they were not trafficked but that they would have received a positive reasonable grounds decision in England and Wales because their circumstances can meet the definition of slavery, servitude and forced or compulsory labour, the Competent Authority will not issue a positive reasonable grounds decision. They would have to issue a negative reasonable grounds decision.

However the Competent Authority should go on to consider whether they would have received a positive conclusive grounds decision in England and Wales because their circumstances can meet the definition of slavery, servitude and forced or compulsory labour.

The Competent Authority should issue a negative conclusive grounds decision. If the Competent Authority considers they would have received a positive conclusive grounds decision in England and Wales they should notify the victim that this is the case.

Where the Home Office is the Competent Authority they will go on to consider the case under the discretionary leave policy except that the requirement to have received a positive conclusive grounds decision will be replaced by a requirement that the Competent Authority considers they would have received a positive conclusive grounds decision in England and Wales as a victim of slavery, servitude and forced or compulsory labour.

Where UKHTC is the Competent Authority the above process should be followed except that the onus will be on the individual or the police to seek discretionary leave from the Home Office using the processes outlined elsewhere in this guidance.

If discretionary leave is granted on this basis, the process above for requesting extensions must be followed. The same approach to fees and fee waivers set out above should apply. See:

- [Process for initial considerations of discretionary leave](#)
- [Process for further requests for discretionary leave](#)

## Victims of modern slavery who do not enter the NRM in Scotland and Northern Ireland

A person in Scotland and Northern Ireland who is not referred to the NRM but considers themselves to be a victim of modern slavery outside human trafficking will not benefit from the discretionary leave policy for victims of slavery, servitude and forced or compulsory labour whilst their case remains outside the NRM.

They may wish to contact frontline staff to see if they are content to refer their case to the NRM due to the circumstances of their case such as the presence of relevant indicators.

## Issuing Discretionary Leave

See '[Issuing the discretionary leave decision](#)' for details on issuing discretionary leave.

### **Action 7: Conclude outstanding immigration issues**

The Home Office Competent Authority will arrange for any outstanding immigration considerations (for example outstanding immigration casework, voluntary return or enforced removal) to be completed in line with normal procedures by passing the case to the relevant team once the conclusive grounds decision has been taken. In some cases an application will need to be made for leave to be considered.

### **Action 8: Inform the victim about a voluntary return**

As potential victims may wish to return home at any point, the Home Office must inform them of the opportunity and options available to make a voluntary return. Support providers may also discuss this with the potential victim. It is important that you involve victims in the process of return as soon as possible as this will aid their return and empower them to take control once they have returned.

The exact voluntary return programmes available may vary from time to time so potential victims should be provided with details of any relevant Assisted Voluntary Returns programmes available at the relevant time. Not all schemes will apply to all potential victims for example in criminal cases.

There may also be voluntary return packages available specifically for trafficking victims in which case the Home Office must inform the victim.

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# Next steps for the Competent Authority if the Conclusive Grounds decision is negative

The Competent Authority must have all necessary information before making a negative decision. Before the Competent Authority decides that there are not conclusive grounds to accept a person as a victim of trafficking or modern slavery, they must discuss the case with the relevant interested parties to make sure that all available information has been gathered, for example:

- the support provider
- the police
- First Responder
- Local Authority (in the case of children)

In cases where it is likely that the person will be refused, the Competent Authority should interview the potential victim, unless either:

- all of the relevant questions have been asked as part of the asylum process
- you have commissioned another frontline agency or the support provider to ask any outstanding questions on your behalf

If the Competent Authority decides that there are not conclusive grounds to accept the person is a victim of human trafficking or modern slavery, the Competent Authority must not offer any further support for a further recovery and reflection period (including further Temporary Admission (TA) or Temporary Release (TR) in order to receive support as a victim).

## Actions for Home Office and UKHTC where the Conclusive Grounds decision is negative

### Action 1: record the decision

Update CID with the conclusive outcome 'Not Trafficked'. (**Home Office action only**).

The Competent Authority should draft a minute explaining the reasons for the negative conclusive grounds decision and keep it on file

They must send the minute of reasons to the victim.

The decision minute should clearly indicate the outcome being made on the case:

**Scotland and Northern Ireland** – insufficient evidence to recognise the individual as a victim of human trafficking.

**England and Wales** - insufficient evidence to recognise the individual as a victim of modern slavery.

Complete the decision letter.

The Home Office and UKHTC use the same decision letter: UKBA NRM 08 (ICD 4056 on CID Doc Gen).

The decision letter should include a full and detailed consideration explaining the reason for the decision in every case.

**(Home Office only)** Where the Home Office is a Competent Authority and there is a live immigration case the decision letter should also offer assistance in making a voluntary return (if there are no reasons to remain).

### **Action 2: notify the victim of the decision**

Issue the decision letter (NRM 08) including minute of reasons to the adult victim concerned or through their appointed representatives, where applicable (or Local Authority in the case of a child victim).

The Competent Authority must not serve a decision letter or other human trafficking or modern slavery papers on a child under any circumstances. All human trafficking or modern slavery papers must be served on the child's appointed representative or the Local Authority.

Live immigration cases will contain further details in Home Office decision letters.

### **Action 3: notify agencies of the decision**

The Competent Authority must notify the following of their decision using NRM 05:

- the first responder (all cases)
- support provider (all supported adult cases and family cases) and the Salvation Army if supported in England and Wales), TARA or Migrant Help if the adult is being supported in Scotland or Migrant Help or Women's Aid if the adult is being supported in Northern Ireland)
- the Local Authority (in the case of children)

If the Home Office is the Competent Authority they should also notify the UK Human Trafficking Centre of their decision in all cases using UKBA NRM 09 (ICD.4460 on CID Doc Gen). **(Home Office action only)**

### **Action 4: notify agencies of the decision where there are criminal proceedings**

If the potential victim is the subject of criminal proceedings several agencies need to be notified as soon as the conclusive grounds decision is made.

The Competent Authority should ensure that the police (National Human Trafficking Unit in Scotland) are notified of the conclusive grounds decision as soon as they make it.

The Competent Authority must use notification letter UKBA NRM 05 for the police or contact them by email or telephone as appropriate.

Generally the Competent Authority should ask the police to notify prosecutors (the Crown Prosecution Service (or the Crown Office and Procurator Fiscals Service in Scotland or Prosecution Service in Northern Ireland) of the conclusive grounds decision as soon as they make it.

## Home Office Competent Authority next steps for live immigration cases following a negative Conclusive Grounds decision

If the Home Office is the Competent Authority they will need to consider additional next steps in live immigration cases once a negative conclusive grounds decision has been taken.

This section does not apply to UKHTC. Pilot panel decisions with live immigration issues will need to be referred to the Home Office to take appropriate immigration steps.

### **Action 5: process any outstanding asylum/immigration applications**

If the Home Office is the Competent Authority a positive conclusive grounds decision does not result in an automatic grant of immigration leave. The person may have an outstanding asylum claim or other application outstanding which should be determined.

Only those with a positive conclusive grounds decision may go on to be considered for discretionary leave based on criteria set out in the trafficking Convention. Those with a negative conclusive grounds decision will not receive a consideration based on this criteria. But see [Victims of modern slavery who enter the NRM in Scotland and Northern Ireland](#) for an exception to this approach in specified cases.

### **Action 6: inform the victim about a voluntary return**

As potential victims may wish to return home at any point, the Home Office must inform them of the opportunity and options available to make a voluntary return. Support providers may also discuss this with the potential victim. It is important that you involve victims in the process of return as soon as possible as this will aid their return and empower them to take control once they have returned.

The exact voluntary return programmes available may vary from time to time so potential victims should be provided with details of any relevant Assisted Voluntary Returns programmes available at the relevant time. Not all schemes will apply to all potential victims eg in criminal cases.

There may also be voluntary return packages available specifically for trafficking victims, in which case the Home Office must ensure that the victim is informed of these.

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# Next steps for the Competent Authority if the Conclusive Grounds decision is suspended

In a small proportion of cases people who are being processed through the National Referral Mechanism (NRM) will go missing. Competent Authority staff in the Home Office and UK Human Trafficking Centre (UKHTC) must, however, still make a decision on the case and copy it to all relevant parties if sufficient information is available.

## Actions for Home Office and UKHTC

In cases where human trafficking or modern slavery indicators are present but are insufficient to reach the standard of proof of 'on the balance of probabilities' and it is not possible to gather more information because the individual is missing, the Competent Authority must take the following actions:

**Action 1: report the potential victim of modern slavery as a vulnerable missing person to the police and arrange for a missing person marker to be added to the police national computer (PNC).**

**Action 2: notify the following that the case has been suspended:**

- first responder
- the support provider (all supported adult and family cases) (and the Salvation Army if support was being provided in England and Wales)
- the Local Authority (in the case of children)

**Action 3: If the potential victim is the subject of criminal proceedings several agencies need to be notified as soon as the Conclusive Grounds decision is suspended.**

The Competent Authority must ensure that the police (National Human Trafficking Unit in Scotland) are notified of the conclusive grounds suspension decision as soon as they make it.

Generally the Competent Authority should ask the police to notify prosecutors (the Crown Prosecution Service (or the Crown Office and Procurator Fiscals Service in Scotland or Prosecution Service in Northern Ireland) of the conclusive grounds suspension decision as soon as they make it.

**Home Office action only:**

- register the case as a 'PVoT suspended absconder' on CID
- ensure the case is flagged on CID as having had the issue of human trafficking or modern slavery raised so the person is recognised as potentially at risk if they are encountered again

See the non-compliance and absconder process instruction for further information.

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# Appeals against a reasonable grounds or Conclusive Grounds decision

Where an individual considers the Competent Authority has made a decision incorrectly, an individual can challenge that decision by way of Judicial Review. However, it may be appropriate for the Competent Authority to reconsider a decision.

## Reconsideration of a Reasonable Grounds or Conclusive Grounds decision

If a first responder or support provider wishes to submit additional evidence, or they raise specific concerns that the decision is not in line with published guidance, the Competent Authority must look at whether they wish to reconsider the decision. This is not a formal right of appeal and the decision should only be reconsidered where there are grounds to do so.

This informal arrangement does not extend to other parties such as legal advisors and non governmental organisations outside the NRM. However those third parties could ask a support provider or first responder involved in the case to request a reconsideration. A support provider or first responder is not obliged to consider that request or provide reasons for not making a reconsideration request.

If a legal representative or non governmental organisation outside the NRM requests a reconsideration from the Competent Authority they should be notified that:

‘Our policy in the published competent authority guidance clearly set outs that reconsideration requests of NRM decisions may only be made by first responders or support providers involved in the case. You are not the first responder or support provider involved in this NRM case so under the published guidance we cannot reconsider the NRM decision based on your request. There is no breach of our policy as you are not entitled to make a reconsideration request in our guidance.

It is open to you to request a reconsideration via a first responder or a support provider involved in the case. If a support provider or first responder submits a reconsideration request in this case it may be considered in line with the published guidance’.

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**Official – sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use only.

**Official – sensitive: end of section**

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# Improper claims

Article 13 (3) of the Council of Europe Convention on Action against Trafficking in Human Beings allows for the 45 day period of recovery and reflection not to be observed if either:

- grounds of public order prevent it
- it is found that victim status was claimed improperly

The second provision above prevents the illegitimate use of victim status. As such, where there is firm objective evidence that an improper claim has been made, as soon as this becomes known, the Competent Authority must:

- issue a negative Conclusive Grounds decision
- curtail any remaining period of recovery and reflection

**Home Office action only:** Where the Home Office is the Competent Authority they will take action to withdraw Temporary Admission (TA) or Temporary Release (TR).

If there is firm objective evidence that an improper claim has been made, as soon as this becomes known, where the Home Office is the Competent Authority they will begin immediate withdrawal of the TA or TR and start appropriate action (if the person has any outstanding leave due to another immigration application this may continue to run unless found to have been claimed improperly also).

The Competent Authority must not however take this action lightly. If they have any doubt they must follow standard processes and observe the full 45 day recovery and reflection period.

It is also possible that an individual who initially claimed to be a victim of human trafficking or modern slavery could be involved in the trafficking of others. These cases must immediately be referred to the police or the Home Office criminal investigation team of Immigration Enforcement for appropriate action.

Where a Competent Authority has made a positive conclusive grounds decision, but information later comes to light which suggests that the decision was flawed, the Competent Authority should consider whether revocation is appropriate. If it is determined that it is appropriate to revoke the conclusive grounds decision, the Competent Authority caseworker must write to the individual concerned, advising them that the decision has been revoked and the reasons for this.

**Home Office action only:** if the individual has been issued a period of discretionary leave, the Competent Authority must consider whether curtailment of this leave is appropriate. See [Improper claims](#) on when the Home Office Competent Authority may curtail leave.

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# Monitoring case progress during the 45 day recovery and reflection period

## 30 day review

To make sure the potential victim has sufficient time for recovery and reflection and that a conclusive grounds decision can be made as near as possible to day 45 (although that may not be possible in every case), you must set a review date for day 30 to:

- monitor progress on the case
- check it is on target for a conclusive decision

Up to day 30 (and beyond where appropriate) the Competent Authority must be gathering information to make the conclusive grounds decision. As part of this, they must contact the:

- support provider
- first responder
- investigating police force where relevant (or National Human Trafficking Police Unit in Scotland)
- Local Authority (in the case of children)

## Requests to extend the 45 day recovery and reflection period

A potential victim's specific circumstances could mean they need more than 45 days to recover and reflect. If representations are made for more time, you must consider whether an extension is appropriate. The length of extension will be considered on a case by case basis depending on the facts of the individual case.

Contacting the agencies listed above will help the Competent Authority decide if an extension of the recovery and reflection period is warranted. Likely reasons for an extension include:

- serious health issues
- severe mental health or psychological issues (including post traumatic stress disorder) requiring a longer period of recovery and reflection
- high levels of victim intimidation

## Granting an extension of the recovery and reflection period

If the Competent Authority decides to grant an extension to recover and reflect you must:

- update CID and explain the reason for the extension on the file
- advise the individual (through their appointed representative if applicable), support provider and the UK Human Trafficking Centre (UKHTC)

## Reviewing the extension of the recovery and reflection period

Where the 45 day recovery and reflection period has been extended the Competent Authority, first responder and support provider must keep the extension under review. Delaying the conclusive decision unnecessarily may have consequences for the wellbeing of the victim, and for the UK in terms of support costs.

It is the responsibility of the Competent Authority to make sure they correctly review the extension and at the correct intervals. The extension must be reviewed either:

- every 28 calendar days
- when there is a change in the victim's circumstances

When completing an extension review, the Competent Authority must consider all the circumstances of the case to make sure the extension continues to be appropriate. They must contact the:

- support provider (all supported adult and family cases)
- investigating police force or (National Human Trafficking Unit, Police Scotland)
- Local Authority (in the case of children)

**Home Office action only:** If the person needs a further period of recovery and reflection the Home Office must consider whether an extension of Temporary Admission (TA) or Temporary Release (TR) is appropriate. See section above.

Even if a person does not require a further period of recovery and reflection the Compete Authority may need more time to make a conclusive grounds decision in order to gather information or due to administrative delays associated with that consideration process. In such cases the Home Office may where appropriate consider whether an extension of TA or TR is appropriate.

## Record keeping of extensions

The Competent Authority must minute the extension review on the case file.

**Home Office action only:** Where the Home Office is the Competent Authority they must also minute the extension review on CID.

Their review must include the potential victim's:

- name
- date of birth
- nationality
- date of the Reasonable Grounds decision
- calendar days since the Reasonable Grounds decision
- a summary of contact with the following since the last review:
  - the support provider
  - first responder
  - investigating police force (or National Human Trafficking Unit, Police Scotland)

and Local Authority (in the case of children)

- a summary of progress of the victim since last review including reference to any mental health issues or compassionate circumstances
- a brief action plan setting out what steps will be taken in the next period to progress the case
- a recommendation clearly stating the argument for making the conclusive grounds decision or extending the recovery and reflection period further

## Refusing to grant an extension

If the Competent Authority decides not to grant an extension they must:

- make a note on the file and/or CID
- send a letter to the individual (through their appointed representative if appropriate) explaining the reasons for refusal
- send copies of the letter to the following as appropriate
- support provider (where supported)
- first responder
- investigating police force where relevant (or National Human Trafficking Police Unit in Scotland)
- Local Authority (in the case of children)

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# Withdrawing from the NRM

An adult may decide they want to leave the National Referral Mechanism before they receive a reasonable grounds or conclusive grounds decision. Sometimes those adults are leaving the UK via a voluntary return.

If an adult leaves the UK prior to receiving a reasonable grounds decision from the NRM the Competent Authority may treat this as a withdrawn case. The Competent Authority should notify the support provider and first responder that the case has been treated as withdrawn from the NRM where appropriate.

If an adult wishes to withdraw from the NRM after they receive a positive reasonable grounds decision (or if they are in the UK and wish to withdraw prior to receiving this decision) they should write to the Competent Authority expressing their wish to withdraw or use a consent to withdraw from the NRM template form. The Competent Authority should notify the support provider and first responder of the decision to withdraw where appropriate. A person who withdraws from the NRM will not receive any further decisions or support from the NRM and their case will be regarded as concluded. This does not prevent a person being re-referred to the NRM in the future.

Children may not generally withdraw from the NRM. If a Competent Authority receives a rare request from a local authority or embassy, for example seeking a child be withdrawn from the NRM, the case should be referred to policy for advice.

Sometimes an adult has not withdrawn from the NRM and has not notified the Competent Authority that they have left the UK but the Competent Authority has strong evidence that an adult has left the UK and there is no evidence they plan to return at this time. They may for example be notified by a support provider that the adult has left the UK with no evidence they plan to return.

In the scenario above the Competent Authority should proceed to take any outstanding NRM decisions in the case. Even though the victim may no longer be seeking support from the NRM, taking a decision will allow statistics to be captured on the extent of modern slavery in the UK and may assist in ongoing criminal prosecutions as well as civil claims that might be brought by the victim in the future. If the victim cannot be notified of their decision as they are no longer in the UK, the Competent Authority should notify the support provider and first responder of the decision and any other relevant parties where appropriate.

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# How to assess credibility when making a Reasonable Grounds or Conclusive Grounds decision

Competent Authority staff need to assess whether a potential victim's account of modern slavery is credible when making a reasonable grounds and conclusive grounds decision. This includes potential victims of human trafficking in any part of the UK (or slavery, servitude, or forced or compulsory labour in England or Wales).

## Assessing credibility – general

Competent Authorities are entitled to consider credibility as part of their decision making process at both the reasonable grounds and conclusive grounds stages. When Competent Authority staff are assessing the credibility of an account, they must consider both the external and internal credibility of the material facts.

If they fit the definition of human trafficking or modern slavery, there is reliable supporting evidence and the account is credible to the required standard of proof, the Competent Authority should recognise the person as being a victim of human trafficking or modern slavery.

In cases of child trafficking, the Competent Authority must keep in mind the child's:

- added vulnerability
- developmental stage
- possible grooming by the traffickers and modern slavery facilitators

## Assessing credibility: material facts

In assessing credibility the Competent Authority should assess the material facts of past and present events (material facts being those which are serious and significant in nature) which may indicate that a person is a victim of human trafficking or modern slavery. It is generally unnecessary, and sometimes counter-productive, to focus on minor or peripheral facts that are not material to the claim.

The Competent Authority should assess the material facts based on the following:

- are they coherent and consistent with any past written or verbal statements?
- how well does the evidence submitted fit together and does it contradict itself?
- are they consistent with claims made by witnesses and with any documentary evidence submitted in support of the claim or gathered during the course of your investigations?

Where there is insufficient evidence to support a claim that the individual is a victim of modern slavery (for example where the case is lacking key details, such as who exploited them or where the exploitation took place) staff at the Competent Authority are entitled to question whether the reasonable grounds or conclusive grounds

threshold is met. However, you must also consider whether you need more information.

## **Assessing credibility – detail and consistency**

### **Level of detail**

The level of detail with which a potential victim presents their claim is a factor when the Competent Authority assesses credibility. It is reasonable to assume that a victim giving an account of their human trafficking or modern slavery experience will be more expressive and more likely to include sensory details (for example what they saw, heard, felt or thought about an event) than someone who has not had this experience.

Where there is insufficient evidence to support a claim that the individual is a victim of human trafficking or modern slavery the Competent Authority is entitled to question whether the reasonable grounds or conclusive grounds threshold is met. However, they must also consider whether they need more information.

### **Consistency**

It is also reasonable to assume 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 Competent Authority to disbelieve their claim. However, before the Competent Authority come to a negative conclusion, they must first refer back to the first responder or other expert witnesses to clarify any inconsistencies in the claim.

Due to the trauma of human trafficking or modern slavery, there may be valid reasons why a potential victim's account is inconsistent or lacks sufficient detail.

## **Assessing credibility – considering gender and culture**

Competent Authority staff need to know how to consider gender and cultural issues in considering credibility.

When making reasonable grounds and conclusive grounds decisions the Competent Authority must take into account the individual position and personal circumstances of the person and consider culture and gender issues.

Men and women from the same country of origin may have different experience due to their cultural, ethnic, gender and sexual identity. Women may be unable to disclose relevant details due to cultural and social norms.

## **Assessing credibility – mitigating circumstances**

Competent Authority staff need to know about the mitigating circumstances which can affect whether a potential victim's account of human trafficking or modern slavery is credible.

When the Competent Authority assesses the credibility of a claim, there may be mitigating reasons why a potential victim of human trafficking or modern slavery is incoherent, inconsistent or delays giving details of material facts. The Competent Authority must take these reasons into account when considering the credibility of a claim. Such factors may include, but are not limited to, the following:

- trauma (mental, psychological, or emotional)
- inability to express themselves clearly
- mistrust of authorities
- feelings of shame
- painful memories (including those of a sexual nature)

Children may be unable to disclose or give a consistent credible account due to additional factors such as:

- their age
- the on-going nature of abuse throughout childhood
- fear of traffickers or modern slavery facilitators, violence, or witchcraft

## Delayed disclosure

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 they have achieved a minimum level of psychological stability. The Competent Authority must not view a delay in disclosing of facts as necessarily manipulative or untrue. It may be the result of an effective recovery and reflection period and the establishment of trust with the person to whom they disclose the information.

## Difficulty recalling facts

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 may be connected to their traumatic experience. However, the need to be sensitive does not remove the need to assess all information critically and objectively when the Competent Authority considers the credibility of a case.

## Assessing credibility – potential prosecution of traffickers or facilitators of modern slavery

Competent Authority staff need to know about how prosecution of traffickers or facilitators of modern slavery impacts reasonable grounds and conclusive grounds decisions.

When the Competent Authority is deciding whether there are reasonable or conclusive grounds that a person is a victim of trafficking or modern slavery, their decision may be influenced by whether the alleged trafficker or facilitator or modern slavery is being prosecuted. However, their decision must not be dependent on:

- there being a criminal investigation

- whether the victim cooperates in any criminal proceedings

The victim identification process is independent of any criminal proceedings against those responsible for the human trafficking or modern slavery. The criminal standard of proof, that is 'beyond all reasonable doubt', is higher than that of the reasonable or conclusive grounds test.

## Disclosure

The Competent Authority must be aware that any deliberations could be subject to disclosure in any subsequent prosecution for trafficking or modern slavery, as well as in any future judicial review or other litigation relating to the trafficking decision. Where an individual is being treated by the police as a potential victim and/or witness, they must make sure lines of communication with the senior investigating police officer 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. The Competent Authority 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.

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# View of experts during the National Referral Mechanism (NRM) process

## Evidence from Local Authorities and support organisations

Although police and intelligence reports can provide objective evidence to strengthen a claim, the Competent Authority must give due weight to the reports and views of the:

- Local Authority children's services (for child victims)
- organisation supporting the individual

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

These organisations may have spent most time with the potential victim and established a degree of trust. Exploited people often don't trust or are afraid of the police or immigration officials. They may therefore not be willing to provide statements to law enforcement. In such circumstances non-governmental organisations may be able to provide more information on the individual's situation and you must consider any such supporting evidence. The Competent Authority must also take into account any medical reports submitted, particularly those from qualified health practitioners.

## Weight to give to expert reports

Potential victims of modern slavery may rely on documentary evidence to support their claim in the NRM.

Experience and qualifications of the individual providing the supporting evidence will be relevant in considering what weight to attach to an expert report and every case must be considered on its merits. However if there are clear, robust reasons why the reasonable or conclusive grounds test is not met, there is no requirement to accept the assessment of an expert report simply because it states the reasonable or conclusive grounds test is met.

The individual writing the report may not have access to the full range of information available to the Competent Authority and all relevant evidence, including any documentary evidence, must be considered when making a reasonable or conclusive grounds decision.

Where an expert report is considered when assessing a claim under the NRM, and other information is available, all the information and relevant reports should be considered. If there are several expert reports all must be taken into account. A decision should not rely on an expert report alone without considering all relevant

information. A decision should not rely on an expert report without making independent enquiries into the potential victim's circumstances and credibility. Where a potential victim of modern slavery relies on medical evidence it should be from a medical practitioner who is qualified in the appropriate field including information such as the relevant physical or mental condition, when that condition has been diagnosed and why that condition or any treatment relating to it is relevant to human trafficking or modern slavery.

Any evidence supplied must be capable of being verified by the Competent Authority where appropriate.

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# Assessing victims who were exploited overseas or historic claims in the UK (historic claims)

A person who claims to have been trafficked or exploited overseas who subsequently travels to the UK of their own accord, independent of their alleged trafficker, and passes through a number of countries on the way, may still be considered to be a victim of trafficking for the purposes of the Council of Europe Convention on Action against Trafficking in Human Beings (the Convention) provided they satisfy all 3 elements of trafficking mentioned in Guidance on the components of human trafficking (cases identified in the UK).

This is because, although they may be far removed from their trafficking situation, they may still have been subjected to exploitation and may therefore be considered a victim of trafficking under the Convention. They may also still be traumatised by their experience.

Equally a person may have been exploited in the UK some time ago and still be traumatised by their experience.

These scenarios are often referred to as historic claims as they might be referred to the National Referral Mechanism (NRM) long after the exploitation has ended.

However, if the experience took place some time ago, or if support could be accessed in another country, the Competent Authority is entitled to take those factors into account in determining whether the victim requires a grant of leave in the UK due to compelling personal circumstances (see [When to grant discretionary leave after a positive conclusive grounds decision](#)).

Unless the individual has made an asylum claim that falls under the arrangements provided by the Dublin III Regulation (EU) No 604/2013 and another European Union (EU) member state or Iceland, Norway, Switzerland or Liechtenstein is responsible for examining the asylum claim, a Competent Authority must offer the potential victim support and protection in the UK under the Convention while their trafficking or modern slavery case is considered within the NRM. For more information see the latest guidance on Dublin III.

With these cases the Competent Authority must pass any details of the alleged trafficking or exploitation to the NRM Intelligence Hub so they can consider raising it with the authorities in the country where the offence was committed. This is to make sure the Home Office's obligations under Article 27 of the Convention are met.

## **Example scenario**

Consider this situation:

- a person has travelled from a country where one or more of the 3 components of trafficking took place (for information on the 3 components, see [Guidance on the components of human trafficking](#))
- they escaped their situation and fled
- the person 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 been exploited in the UK

Consider whether the person:

- is still under the influence of the trafficker
- needs time to recover from their trafficking ordeal
- has support and health needs as a result of the exploitation

A person who presents themselves as a victim must be physically in the UK in order to receive National Referral Mechanism (NRM) related protection and assistance under the Convention.

[See Potential child victims of modern slavery who are now adults](#) for more information.

#### **Related content**

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# Consulting with and sharing information with the police during the NRM process

A potential victim of modern slavery is a potential victim of a crime. All cases should be referred to the police - either on the victim's behalf where they consent, or as a third party referral where they do not.

The Modern Slavery Act 2015 contains 2 main modern slavery offences punishable by up to life imprisonment:

- slavery, servitude and forced or compulsory labour
- human trafficking

The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 also established new offences of human trafficking and slavery, servitude and forced or compulsory labour, punishable by up to life imprisonment.

Staff in the Competent Authority must refer all allegations to either:

- the local police force where the alleged exploitation took place
- the National Human Trafficking Unit (in Scotland)
- a Home Office criminal and financial investigations team (which includes seconded police officers) as appropriate

All cases referred to the Competent Authority must be referred to the police by the Competent Authority taking the reasonable grounds decision where a referral to police has not already taken place.

In cases where there is an immediate threat to the potential victim a referral to the police should already have been made by the first responder/frontline worker. Where this has not happened and the Competent Authority considers there is an immediate threat to the potential victim, the Competent Authority must refer a case to the police as soon as the information is known to the Home Office or UK Human Trafficking Centre (UKHTC). Where there is not an immediate threat, the case should be referred to the police by the Competent Authority following the Reasonable Grounds decision. The referral to the police should include the outcome of the Reasonable Grounds decision, the minute/reasons for the decision and the NRM referral form.

Where a positive Reasonable Grounds decision has been made, the police must record the case as a crime and a crime reference number must be shared with the Competent Authority to add to the case file. When providing the crime reference number to the Competent Authority the police should, wherever possible, indicate if an investigation is underway or likely to be undertaken. This will help to inform the

Competent Authority of any evidence that may support the conclusive grounds decision or a consideration of discretionary leave.

Where a negative Reasonable Grounds decision is made it is at the discretion of the police whether there is evidence of an alternative crime that warrants recording and any subsequent investigation.

When making a referral to the police the Competent Authority should send the information to the police force where they think the exploitation took place. If they do not know where the exploitation occurred or if the exploitation occurred overseas, the case should be referred to the police force in the area where the victim currently lives (or where they were encountered if their residence is unknown).

When sharing information with the police, the Competent Authority should be aware that:

- 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
- in some cases there may be few details provided but it is not for the Competent Authority to seek to filter the cases which are likely or unlikely to be of interest to the police – the police will decide which cases they wish to investigate and as such all cases must be referred to allow the police to make that assessment
- in some cases the police may not pursue a case unless the individual engages with them directly – it is not for staff in the Competent Authority to press the police to pursue a criminal investigation or convince the potential victim to cooperate, however, staff in the Competent Authority must note the outcome of the referral to the police on the file
- it may also be helpful to discuss a case with the police to gather any additional information to help with the conclusive grounds decision

All NRM cases should be referred to the police – either on the victim's behalf where they consent to this information being provided to the police, or as a third party referral where they do not, provided this can be done in a way which is compliant with the Data Protection Act 1998 and does not breach any duty of confidentiality owed to the victim under the common law.

Once received, the Competent Authority is entitled to process information in accordance with the Data Protection Act 1998 and where appropriate refer this information to the police to support the detection and prevention of crime. The Competent Authority does not require consent from the victim to do so. The intention is to do this in all cases referred into the NRM where there has not already been a police referral.

Any information staff at the Competent Authority disclose must be in accordance with the law, in particular the Data Protection Act (1998).

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# Criminal investigations and prosecutions – impact on NRM decision-making

Although an active police investigation (or Crown Prosecution Service (CPS) or Crown Office and Procurator Fiscal Service (COPFS) prosecution) may give weight to a claim of trafficking or modern slavery offences, potential victims are not obliged to cooperate with the police at any stage in the National Referral Mechanism (NRM) process.

When considering the case you must not penalise a potential victim who is unwilling to cooperate with the police. Where you are considering a case with an ongoing investigation, you should liaise with the police to establish when an appropriate point to make a conclusive grounds decision would be taking into account timescales for decision-making, given any additional information the investigation might provide.

Staff in the Competent Authority must be aware that the Criminal Procedures and Investigations Act 1996 (CPIA) places a requirement on the police and/or investigating body to record, retain and reveal to the prosecutor material obtained in a criminal investigation and which may be relevant to the investigation, and related matters or any person being investigated, or to the surrounding circumstances of the case, unless it is incapable of having any impact on the case.

Where there is any doubt about the relevance of the material that is held by the Competent Authority it should be retained and may be used a part of a criminal investigation. Material is either unused or relevant. For more information about disclosure and retention of material including definitions of unused or relevant material see the disclosure guidance on Horizon.

## Child modern slavery cases

It is essential the police are made aware of **all** child modern slavery cases so you must make sure they have been alerted. In most regions, the Competent Authority will need to alert your local police force's child protection or public protection unit or the National Human Trafficking Unit in Scotland.

All agencies must ensure that child protection duties and legislation are observed and followed. For more information and guidance, see:

- [Safeguarding children who may have been trafficked](#)
- [Safeguarding children in Scotland who may have been trafficked](#)

## Individuals charged with criminal or immigration offences

The situation a potential victim of modern slavery is found in may implicate them in a criminal or immigration offence.

If staff at the Competent Authority have made a reasonable grounds or conclusive decision that the person is a potential victim or victim of modern slavery the Competent Authority must ensure that the police (National Human Trafficking Unit in Scotland) are notified of the decision as soon as they make it.

Generally the Competent Authority should ask the police to notify prosecutors (the Crown Prosecution Service (or the Crown Office and Procurator Fiscals Service in Scotland or Prosecution Service in Northern Ireland) of the decision as soon as they make it.

The CPS has issued detailed guidance on the circumstances prosecutors must consider when defendants charged with criminal offences might be victims of trafficking.

A new statutory defence for victims in the Modern Slavery Act and the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 also strengthens protections against inappropriate prosecution of victims of slavery and trafficking for crimes committed as part of their exploitation.

For more information, see:

- [CPS guidance on human trafficking and smuggling](#)
- [COPFS guidance on human trafficking](#)

Where there is reasonable suspicion a child who has committed a crime may have been trafficked and exploited as a victim of modern slavery, the Competent Authority must take a child welfare response. The immediate priority in such cases is to safeguard and promote the welfare of the child. All relevant assessments, including those undertaken by the NRM, must be completed promptly to allow the police and CPS, COPFS or the Public Prosecution Service for Northern Ireland to take an informed decision on whether to progress the charges against the child.

It is vital that contact is made with the police to make sure children who may have been victims of modern slavery can be properly assessed before charges being brought or court proceedings conclude.

Generally the Competent Authority should ask the police to notify prosecutors (the Crown Prosecution Service (or the Crown Office and Procurator Fiscals Service in Scotland or Prosecution Service in Northern Ireland) of any updates from the NRM as soon as they make it.

For more information, see:

- [Safeguarding children who may have been trafficked](#)
- [ACPO Lead's position on Child Protection and Cannabis Cultivation on Children and Young People Recovered in Cannabis farms](#)

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# Sharing information with the CPS during the NRM process

Staff at the Competent Authority may need to share information with the Crown Prosecution Service (CPS), Crown Office and Procurator Fiscal Service (COPFS) or Public Prosecution Service for Northern Ireland when a potential victim referred to the National Referral Mechanism (NRM) is being prosecuted.

When a potential victim of human trafficking or modern slavery referred to the NRM is being prosecuted by the CPS, staff the Competent Authority must make sure, where possible, that the NRM decision is made before the court hearing.

The Competent Authority must ensure that the police (National Human Trafficking Unit in Scotland) are notified of the decision as soon as they make it.

Generally the Competent Authority should ask the police to notify prosecutors (the Crown Prosecution Service (or the Crown Office and Procurator Fiscals Service in Scotland or Prosecution Service in Northern Ireland) of the decision as soon as they make it.

The decision to prosecute is a discretionary one taken by the CPS, COPFS or Public Prosecution Service for Northern Ireland but making a NRM decision as soon as possible and informing the police and asking them to notify the CPS, COPFS or Public Prosecution Service for Northern Ireland will make sure they can take an informed decision on whether to proceed with the prosecution.

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# File management and data handling during the NRM process

## Confidentiality and data protection

Victims will have been in situations where contact with outsiders has been handled with suspicion. They may be concerned about risks to their health and safety. 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 human trafficking or modern slavery. Victims have information about criminals who have trafficked and exploited them and this may make them vulnerable. The Competent Authority must not disclose to anyone other than the police and those directly involved in the case the potential victim's address, support arrangements or any other details that may compromise their safety.

Where a notification of a decision is sent to a potential victim the Competent Authority should not send this to an address where the victim was known to have been exploited. Notification of a decision must always be sent to a potential victim at a safe address.

## Storing, transmitting and access to modern slavery case information

All modern slavery paperwork must, at a minimum, be given the government marking of 'official-sensitive'. More information on handling and protectively marking secure documents can be found on Horizon.

## Consideration minutes

In all cases the Competent Authority must record how the case progresses and keep detailed notes of their decisions. It is essential that they make a comprehensive written assessment of how the person's situation meets or does not meet the definition of a trafficked or modern slavery victim. In their assessment they must refer to the documents submitted in support of the referral (for example those submitted by non-governmental organisations) and show the weight they have given to the information.

The Competent Authority must also make sure that relevant databases are updated at each stage of the case, for example:

- the Home Office's CID
- the UK Human Trafficking Centre's systems
- any local spreadsheets

### Home Office action only:

Record the following details on CID:

- date of referral
- the case outcome using the relevant modern slavery case type:
  - (reasonable grounds decision)
  - (conclusive grounds decision)
- any other information in relation to the case's progression (follow local processes for recording)

The Home Office must not however, record anything on CID that may compromise the person's safety.

## Human trafficking or modern slavery file

A human trafficking or modern slavery file must be kept by Competent Authority staff in the Home Office and UKHTC.

**Home Office action only:** At regional discretion, this may be stored as a subfolder of the asylum case file.

When human trafficking or modern slavery cases are concluded, all human trafficking or modern slavery case files must, at a minimum, contain:

- first responder referral form
- reasonable grounds decision letter
- reasonable grounds decision consideration minute
- confirmation that the decision has been checked and signed off by a second pair of eyes as appropriate
- 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 UK Human Trafficking Centre - UKBA NRM 09 (ICD.4460 on CID Doc Gen) **(Home Office action only)**
- notice to the support provider or Local Authority
- details of police or criminal and financial investigations team referral

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# Disclosure of positive Reasonable Grounds and Conclusive Grounds decisions

As indicated above, Competent Authorities should not routinely provide a copy of the decision minute for a positive reasonable grounds or positive conclusive grounds decision to the victim.

The guidance below does not apply to negative reasonable grounds or negative conclusive grounds decisions which must be disclosed.

## Disclosure of completed referral forms

Competent Authorities should not routinely provide a copy of a completed referral form to the victim. This is because there may be sensitive information included in the form that it is not appropriate to disclose. Although the form includes information about the potential victim, it should not be assumed that they 'own' this information. Any disclosure request will need full consideration and therefore this should be done via a subject access request.

## Subject access requests

Decision minutes are considered to be within the scope of personal information. As such, the victim is entitled to make a subject access request to obtain this information, in accordance with Section 7, the Data Protection Act 1998 (DPA).

Any requests for decision minutes from victims or their legal representative should be considered as a subject access request and dealt with in accordance with Home Office Guidance on requests for personal information.

All subject access requests should be in writing, and should specify that the victim is seeking a copy of the consideration minute which accompanies their NRM decision.

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**Official – sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use only.

The Competent Authority or Central Team must respond to the subject access request within 40 days.

### **Tribunal requests**

Rule 45 of the tribunal procedure rules enables the tribunal to give directions to the parties relating to the conduct of any appeal or application. This may include directions providing for a party to provide further details of his case or any other information which appears to be necessary to the determination of the appeal.

Even where it is the view of the Competent Authority that the content of the minute will not add anything in terms of merits of this individual's asylum claim, the fact that the decision letter is complemented by a fuller record of the decision-making process, and the evidence relied on which underpins that and has not been disclosed, may be sufficient for someone to argue that its content 'appears to be necessary to the determination of the appeal'.

In addition, Rule 50 of the tribunal procedures rules provides tribunals with the ability to issue a summons requiring a witness to attend and answer any questions, or produce any documents in their custody or under their control, relating to any matter in issue in an appeal.

As such, Competent Authorities should provide copies of decision minutes to the Tribunal where instructed to do so.

Those minutes should be carefully examined and, where appropriate, redacted accordingly. Home Office guidance on redaction is available on Horizon.

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# Home Office role within and outside the NRM – immigration aspects related to the current process

This section of the guidance provides more information about the Home Office's immigration role within and separate to the NRM where a person's claims to be a victim of human trafficking or slavery, servitude and forced or compulsory labour.

The Home Office is one of the Competent Authorities that processes cases through the NRM. Most of the cases are handled in UK Visas and Immigration (UKVI) within the Home Office.

Home Office staff, for example within Border Force, Immigration Enforcement and UKVI, also identify and refer cases to the NRM.

The Home Office is the only Competent Authority which also performs immigration functions, eg the decision whether to issue a residence permit for reasons set out in the Convention after someone has had a positive conclusive grounds decision.

The Home Office also performs functions which are separate to its role as a Competent Authority but which relate to that role. For example:

- applying its policy to release potential victims of human trafficking or modern slavery from immigration detention unless there is a public order reason not to do so
- processing asylum claims where a person claims to be a victim of human trafficking or modern slavery after they have had their final decision from the NRM
- processing other immigration claims where a person claims to be a victim of human trafficking or modern slavery
- supporting voluntary returns where a person claims to be a victim of human trafficking or modern slavery

## Home Office Immigration role in the NRM process

There are some immigration functions which the Home Office may perform during the NRM process.

### Assistance with evidence gathering via interviews

#### Asylum/modern slavery interviews

NRM decisions and Asylum decisions are 2 distinct and separate decisions. However an asylum interview may provide information that is also of relevance to the NRM decision where trafficking or modern slavery issues are clarified and investigated as part of the asylum process. There may therefore be good reasons to

conduct a single interview in asylum claims relating to a person within the NRM process but this is not always possible.

Where the Home Office is the Competent Authority UKVI staff may be asked to conduct an asylum interview for cases where there is an ongoing National Referral Mechanism (NRM) consideration.

Where a potential victim of human trafficking or modern slavery has made an asylum claim, the Home Office should carry out the asylum interview according to normal procedures. Potential victims of human trafficking or modern slavery who have claimed asylum are entitled, as other claimants, to have a quick resolution to their asylum claim.

An asylum interview for a person within the NRM process may be conducted before a conclusive grounds decision is taken unless there is a good reason not to do conduct an interview at that time. This might for example be due to trauma or a medical condition. The Competent Authority will consider any request to delay an interview.

However the Home Office should not take an asylum decision unless the potential victim has had a negative reasonable grounds decision and should not take a negative asylum decision until the potential victim has had a conclusive grounds decision from the NRM.

There is information on conducting asylum interviews on Horizon.

Those conducting an asylum interview with a person referred to the NRM need to be aware of the following in respect of modern slavery:

- they must ensure that the applicant's future fear which can be multi faceted in cases involving human trafficking or modern slavery, is fully established and understood including fear of past traffickers, fear of being trafficked by new traffickers, a fear of being ostracised by society or disowned by family or any other future fears
- they must ensure that all significant inconsistencies are put to the applicant at interview
- interviews must also explore issues such as establishing nationality, and fully address sufficiency of protection and internal relocation where appropriate and ensure that this consideration is tailored to the situation faced by victims of trafficking or modern slavery and ensure the obtain sufficient information about those involved in trafficking the applicant or facilitating modern slavery

## Status interviews

Where the Home Office is the Competent Authority they may interview potential victims of human trafficking or modern slavery to establish identity and immigration status.

If a potential victim of human trafficking or modern slavery is not known to the Home Office, the Competent Authority must arrange for an initial status interview to be conducted by a warranted immigration officer to establish the person's:

- identity
- nationality or citizenship
- immigration status in the UK

When it is decided that there are reasonable grounds of human trafficking or modern slavery, temporary admission can only be granted if the person's identity is confirmed and they have been logged on the Home Office system (CID). In such cases, the Home Office must prioritise the status interview so it doesn't delay the reasonable grounds decision.

## Conducting the status interview

Where the Home Office conducts a status interview they must keep the tone of the interview relaxed and conversational and limit their questions to those necessary to establish the person's identity, method of entry and immigration status. The issues surrounding the subject of human trafficking or modern slavery may arise at this time but as this is not the purpose of the interview, they must not ask specific questions about the exploitation suffered. Where it is appropriate to serve illegal entry papers, they must emphasise that the potential victim:

- is not about to be removed from the UK
- is being considered within the NRM process
- will not be considered for removal until that process is complete

In exceptional circumstances, the Competent Authority may issue a reasonable grounds decision before a status interview has taken place. Staff at the Competent Authority must only do this where there are particular circumstances where it would be appropriate to do so and after discussing with their Competent Authority lead.

## Assistance with evidence gathering (other)

At any time in the NRM process Home Office staff may gather evidence from Home Office records on immigration history.

However initial checks would usually be done before a reasonable grounds decision is taken as it will be relevant to establish a person's identity and immigration status before considering a grant of Temporary Admission (TA) or Temporary Release (TR). It will also assist if not yet known to establish that a person is in immigration detention, or has a pending immigration or asylum claim or whether there is no live immigration issues in the case.

Checks on immigration history may also be needed at any time during the process to check facts.

## Not detaining or removing potential modern slavery victims

If a potential victim of modern slavery has an existing immigration case which concludes that they cannot remain in the UK, no removal action will be taken by the Home Office before a conclusive grounds decision has been made on their human trafficking or modern slavery case within the NRM process and they will not be detained save in limited circumstances i.e. where their detention is necessary on grounds of public order.

## Assisted Voluntary Returns (AVR)

If the person decides at any point in the NRM process that they do not wish to remain in the UK, the Competent Authority must advise them of the assisted voluntary programmes available at the relevant time. They should be notified of any programmes specifically aimed at victims of modern slavery. See the Assisted Voluntary Returns guidance for more information.

The Competent Authority must still make a decision on the case and copy it to all relevant parties if sufficient information is available. In cases where modern slavery indicators are present but are insufficient to reach the standard of proof of reasonable grounds, and it is not possible to gather more information because the individual has left the UK the Competent Authority must suspend the decision and then follow the guidance for [withdrawn cases](#).

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# Other issues relevant to immigration

## Other applications under the Immigration Rules

A grant of leave under the Immigration Rules is not considered automatically at the end of the National Referral Mechanism (NRM) process.

If an individual wants to remain for a reason covered by the Immigration Rules they must make an application using the relevant application form and by paying any fee that applies.

If a fee waiver policy applies to the relevant route, the applicant must fall under the criteria of that policy to be eligible.

If an applicant has made an application before or during the NRM process under the Immigration Rules for example on the basis of work, study, family or private life this application should be processed in line with the relevant rules and guidance once a conclusive grounds decision has been taken.

These applications will not be considered by the Competent Authority but by the relevant teams responsible for processing such cases.

## Applications under the Immigration Rules for Overseas Domestic Workers

Section 53(1) of the Modern Slavery Act 2015 provides that the Immigration Rules must make provision for leave to remain in the UK to be granted to an overseas domestic worker who has been determined to be a victim of slavery or human trafficking.

These new Immigration Rules in paragraphs 159I to 159K came into force on 18 October 2015 and amendments to them come into force on 6 April 2016.

The purpose of these provisions is to enable overseas domestic workers who have been determined to be a victim of slavery or human trafficking to continue to work as a domestic worker, and to change employer, for a period of time in order to be able to earn some money to assist in rebuilding their lives when they return overseas.

It is intended that these provisions will operate alongside, and not instead of, existing arrangements under which discretionary leave may be granted to those determined to be victims of slavery or human trafficking where there are compelling personal circumstances; to pursue a claim for compensation; or to assist with police enquiries.

The Immigration Rules currently implement section 53(1) by creating a category of leave under which a person who has previously been granted leave to enter or remain as a domestic worker in a private or diplomatic household may be granted leave to remain for up to 6 months where they have been the subject of a positive  
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conclusive grounds decision under the National Referral Mechanism. From 6 April 2016 the period of leave which may be granted under these provisions will be increased to 2 years.

Where the initial period of leave granted is for less than the maximum possible, it will be possible to grant a subsequent extension of stay in this category to allow the individual to complete the maximum period in this category.

A domestic worker granted leave to remain under these provisions will be permitted to take employment as a domestic worker in a private or diplomatic setting. It is assumed that a person applying under these provisions may not have a prior offer of employment at the point at which they apply.

The rules remove the requirement for an application to be accompanied by a passport in cases where the applicant's passport has been retained by their previous employer or other person in circumstances which have led to the applicant being the subject of a positive conclusive grounds decision.

The General Grounds for Refusal of an application for leave to remain as set out in paragraph 322 of the Immigration Rules shall not apply to applications under this category, except insofar as they provide for refusal on grounds of making false representations in connection with the application; failure to produce within a reasonable time information required in support of the application or to comply with a request to attend an interview; where the applicant is the subject of a deportation order; and grounds relating to criminal conduct or a threat to security.

If the Competent Authority makes a positive conclusive grounds decision and the victim is a person who has previously been granted leave to enter or remain as a domestic worker in a private or diplomatic household, they may apply under these rules.

If the Competent Authority knows that a victim who is being a positive conclusive grounds decision may be eligible for these rules the Competent Authority should include a reference to the relevant rules and the time line for making an application under that rule in the positive conclusive grounds decision letter.

A confirmed victim of trafficking or modern slavery must apply under the Overseas Domestic Worker rule within 28 days of a positive conclusive grounds decision from the NRM or other outstanding decision.

Applications should be made on application form FLR(O). A fee is waived for an application under this rules provision.

Applications under this Immigration Rule will not be considered by the Home Office Competent Authority but Temporary Migration caseworkers in Sheffield. The relevant team in Sheffield will, when in receipt of an application under the new Rules, check with the Competent Authority that the latter has no outstanding action in respect of the applicant such as an outstanding NRM decision, discretionary leave decision or asylum decision before processing the application.

Where a victim who is eligible for the new overseas domestic worker rule receives a positive conclusive grounds decision, the Competent Authority should proceed to undertake a discretionary leave consideration. However if the victim falls for refusal under the discretionary leave policy set out in this guidance, it is open to the victim to then apply under the new overseas domestic worker rule for victims of trafficking/modern slavery if they are eligible. When notifying the victim that they do not qualify for discretionary leave as the criteria are not met, the Competent Authority should notify any relevant victim about the existence of the overseas domestic worker rule for victims of trafficking/modern slavery.

If the victim who is being considered by the NRM applies under the new overseas domestic worker rule for victims of trafficking/modern slavery before they receive either a positive or negative conclusive grounds decision or a discretionary leave consideration from the Competent Authority, temporary migration caseworkers should not proceed to take a decision on the application as an overseas domestic worker until all NRM decisions including any discretionary consideration have concluded.

If a victim has applied under the new overseas domestic worker rule for victims of trafficking/modern slavery, if they have a pending asylum claim, that asylum claim should be considered first, before any application under the new overseas domestic worker rule is processed.

If the victim has been granted leave or refused leave under the new overseas domestic worker rule for victims of trafficking/modern slavery there is no bar to them seeking discretionary leave based on the criteria set out in this guidance when their leave under those Immigration Rules has expired, or when their application for leave under those Immigration Rules is refused – eg if they are now pursuing their traffickers for compensation. They will need to apply to the Home Office Competent Authority directly seeking a fresh discretionary leave consideration.

No enforcement action should be taken against such an overseas domestic worker in respect of his or her remaining in the United Kingdom beyond the time limited by his or her leave to enter or remain, or breaching a condition of that leave relating to his or her employment, if he or she did so because of the matters relied on as slavery or human trafficking. Statutory guidance on the issue of enforcement action in such cases can be found on Horizon.

In Third Country Unit cases if they refuse and certify an asylum claim but the person applies under the new Overseas Domestic worker rule, the Overseas Domestic worker application would act as barrier to removal whilst that application was considered. Casework guidance on the rule can be found on Horizon.

## **Where the victim may qualify for more than one type of leave**

If a victim has a positive conclusive grounds decision and has applied for, and qualifies for more than one type of leave, the Home Office must issue the more generous grant of leave.

## Granting leave in Criminal Casework

A potential or confirmed victim of human trafficking or modern slavery might request leave in a criminal case. Where the Competent Authority is Criminal Casework, leave can only be granted with the authority of the Grade 3 who must give authority for deportation not to be pursued.

## Granting leave to children after the NRM process has concluded

If a child found to be a victim of human trafficking or modern slavery applies for any leave to remain the issue of children's best interests must be considered before deciding whether to grant leave.

Children who have received a positive conclusive grounds decision (ie that they are a victim of human trafficking or modern slavery) have a number of different pathways:

- they can be considered for a grant of discretionary leave to remain under the criteria in [When to grant discretionary leave after a positive conclusive grounds decision](#)
- if they have made a claim for asylum this will be processed at an appropriate time

## Requests for indefinite leave to remain

There is no requirement under the European Convention to issue indefinite leave to remain (ILR) to confirmed victims and the threshold for a grant of ILR outside the Immigration Rules is a high one.

Any request for ILR from a person who has had a conclusive grounds decision from the NRM should be considered in line with the approach to ILR set out in the discretionary leave guidance. Every case will be considered on its merits.

## Where a person is not eligible for a grant of leave after a Conclusive Grounds decision

Where a conclusive grounds decision is made (whether positive or negative) and the person is not eligible for a grant of leave they should be offered assistance in making a voluntary return.

Normal immigration procedures will apply as there will no longer be a barrier to removal on the grounds of human trafficking or modern slavery. Any other reasons that are raised must be handled in line with existing procedures for handling further representations.

Victims who do not have a right to remain in the UK are expected to return home.

The Home Office must however give consideration to Article 16(2) of the Council of Europe Convention on Action against Trafficking in Human Beings 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.’

## Victims who are assisting with police enquiries from abroad

There may be some people who have expressed a willingness to assist the police with their enquiries but who still wish to return home. In these situations the Home Office Competent Authority must consider:

- whether the person could help the police and participate in any future legal proceedings remotely (from overseas)
- if they will require temporary leave to return to the UK

Where such a person is conclusively found to be a victim of trafficking or modern slavery, you must:

- issue the positive conclusive decision to the person (or their appointed representative) using decision letter UKBA NRM 07 (ICD.4055 on CID Doc Gen)
- notify all relevant parties and update CID with the outcome
- arrange for any outstanding immigration activities to be completed in line with existing immigration procedures
- advise the person about Assisted Voluntary Returns

## Is there an Immigration right of appeal relating to an immigration decision taken after the Conclusive Grounds decision has been taken?

There is no automatic right of appeal if after a decision is made under the NRM, no limited leave is granted by the Home Office.

A person might be able to appeal to the First-tier tribunal (Immigration and Asylum Chamber) in some circumstances depending on the application they have made outside the NRM, for example:

- if their asylum claim is refused
- if a human rights claim is refused
- they have been refused a residence document under the European Economic Area (EEA) Regulations

In some cases a refusal to grant immigration leave might attract an administrative review.

The above is intended as a summary, See [Appeal against a visa or immigration decision](#) on GOV.UK for further details.

### Related content

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# Last minute claims to be a victim of human trafficking or modern slavery

When removal directions are due to be carried out on an individual and they make a late claim to be a victim of modern slavery, the Home Office must carefully consider the claim.

Where removal directions are set and imminent, you must follow existing procedures and refer the case to the operational support and certification unit (OSCU) who:

- act as the Competent Authority
- respond to the claimant or their legal representative

If the OSCU Competent Authority considers there are reasonable grounds to believe the claimant is a potential victim of human trafficking or modern slavery, they:

- defer removal directions
- issue the reasonable grounds decision
- refer the case to the most appropriate Competent Authority to make the conclusive decision

## **Related content**

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## Information sharing with Intel

Where the Home Office is the Competent Authority staff must refer every case which enters the NRM to Intel at the reasonable grounds stage regardless of outcome.

At the conclusive grounds stage the original referral to Intel needs to be updated, unless there are grounds to do so earlier such as the receipt of additional information.

Staff should follow local guidance on how to make the referral.

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**Official – sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use only.

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**Official – sensitive: end of section**

## Information sharing with RALON

Where the Home Office is the Competent Authority staff may need to share information with the risk and liaison overseas network (RALON) where it appears a victim or trafficker entered the UK on a genuine visa.

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**Official – sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use only.

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**Official – sensitive: end of section**

## Abuse of a UK visa route

Where the Home Office is the Competent Authority and identify a potential victim or suspected trafficker has entered the UK on a genuine visa they must immediately inform RALON.

**Related content**

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## Contact for further information

Competent Authority staff need to know who to contact for more help with a specific case involving victims and potential victims of human trafficking or modern slavery.

If they have read the relevant guidance and still need more help with this category, they must first ask their Competent Authority Lead.

If the question cannot be answered at that level, the Competent Authority Lead may contact policy for advice.

### **Related content**

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# Issuing discretionary leave

If the Home Office decides the person is a victim of human trafficking or modern slavery and requires discretionary leave (DL) they must:

- issue the positive conclusive grounds decision using the letter 'NRM 07 Positive CD' (ICD.4055 on CID Doc Gen) to the person (through their appointed representative)
- grant discretionary leave in line with Home Office discretionary leave policy
- notify all relevant parties
- update CID with the outcome, either:
  - VoT DL Granted (personal circumstances)
  - VoT DL Granted should be used for those who have been granted DL based on assisting the police with their enquiries

Where discretionary leave is appropriate, the Home Office must issue a Biometric Residence Permit (BRP) where guidance requires this to be issued.

## Issuing discretionary leave to dependents of victims

If the victim of human trafficking or modern slavery (called VoT below) is granted discretionary leave their dependents (partners and children) can be granted discretionary leave in line. The process for granting discretionary leave to dependents for the Home Office Competent Authority is set out below.

1. Add each dependant to **GCID** under one of the following case types:
  - DEP O18 (BRP) (Dep Child) (except paras 317-322) – LTR (this option allows children over the age of 18 to be granted in line)
  - DEP Children (BRP) (except paras 296-303) – LTR
  - DEP Spouses (BRP) (except paras 277-289) – LTR
2. Link each of the above to the VoT's ('main applicant's') case type (PVoT Conclusive Grounds) – to do this you must:
  - go into the VoT's CG case type in GCID
  - click on 'Case Creation/Link/Unlink'
  - select the first spare line of the 'Linked Cases' section
  - click on 'Link Case' at the bottom of the screen (this will take you back to the search screen)
  - search for the dependent you require, then double click on their BRP case type (this should insert the dependant's case type into the 'Linked Cases' section)
  - repeat for each dependent
3. Outcome the VoT's case (DL granted – personal circumstances/DL granted). This is the option used when the VoT is co-operating with police enquiries in the UK.
4. Outcome each dependant (DL granted) in line with dates of the VoT.

## Process for further applications for discretionary leave

1. Request for further DL received and approved.
2. New case type CID case type (App for further leave DL/HP) for main applicant (prior to leave expiring is fine).
3. Check that personal details are correct eg the address.
4. Add each dependant (where applicable) to **GCID** under one of the following case types:
  - DEP O18 (BRP) (Dep Child) (except paras 317-322) – LTR
  - DEP Children (BRP) (except paras 296-303) – LTR
  - DEP Spouses (BRP) (except paras 277-289) – LTR
5. New BRP letters issued.
6. Once enrolled, case outcomes entered, appropriate expiry date and new cards requested.
7. Old BRP card(s) to be returned prior to new card been issued.

### Related content

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