



Home Office

National Referral Mechanism Pilots: Multi-Disciplinary Panel guidance

Version 2

2 June 2016

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This guidance is only relevant to potential victims identified in the NRM pilot locations - West Yorkshire police force area and the South West (Avon and Somerset, Devon and Cornwall, Dorset, Wiltshire and Gloucestershire police force areas). Cases outside of these locations will be managed through the existing process, as set out in the existing NRM Competent Authority guidance, here https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450842/Competent_authority_guidance_v2_0_ext.pdf.

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1. Overview

This guidance is only relevant to potential victims identified in the NRM pilot locations - West Yorkshire police force area and the South West Region (Avon and Somerset, Devon and Cornwall, Dorset, Wiltshire and Gloucestershire police force areas). Cases outside of these locations will be managed through the existing process, as set out in the existing NRM Competent Authority guidance - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450842/Competent_authority_guidance_v2_0_ext.pdf.

1.1. Purpose of the guidance

This guidance provides information to members of multi-disciplinary panels (“the panels”) to help them to decide whether a case referred into the NRM and subsequently sent to a panel conference involves a victim of modern slavery.

This guidance in respect of trafficking references is based on the Council of Europe Convention on Action Against Trafficking in Human Beings (the Convention) (see link below) 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. This approach is also taken in relation to victims of other forms of modern slavery.

1.2. 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 EEA or non EEA nationals) may have entered the United Kingdom legally, on forged documentation or clandestinely, or they may be British citizens living in the United Kingdom.

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.

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, Professor Bernard Silverman, has estimated that in 2013 there were between 10,000 – 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.

1.3. Background to the NRM

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 reflection and recovery, 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.

From 31 July 2015, the support offered through the NRM for individuals identified in England and Wales was extended to victims of all forms of modern slavery (human trafficking, forced and compulsory labour, slavery and servitude). In Scotland and Northern Ireland, however, only trafficking cases (rather than all modern slavery cases) will be processed through the NRM.

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.

1.4. NRM review and pilots

The review of the National Referral Mechanism for identification and support of victims of human trafficking was published on 11 November 2014 and recommended that the system should be overhauled. The full report is available here:

<http://webarchive.nationalarchives.gov.uk/20141202113128/https://nrm.homeoffice.gov.uk/documents/2014/11/nrm-final-report.pdf>.

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 Slavery Safeguarding Leads, supported by increased training and feedback;
- streamlining the referral process;

- establishing new multi-disciplinary panels, headed by an independent chair, with a view to ceasing the sole decision-making roles of UKVI and the UKHTC; and
- creating a single case working unit within the Home Office to replace the current case-working units in the National Crime Agency and UK Visas & Immigration

The Home Secretary welcomed the findings of this report which acknowledge that there is no simple, one size fits all approach. She carefully considered all of the recommendations in the report and set out the Government's response in the Home Office's Strategy on Modern Slavery, which was published on 28 November 2014.

In August 2015 the Home Office, in consultation with civil society and operational delivery partners, launched a pilot to test these recommendations in two locations – West Yorkshire police force area and the South West Region (Avon and Somerset, Devon and Cornwall, Dorset, Wiltshire and Gloucestershire police force areas).

2. The NRM pilot process

2.1. Decisions within the NRM process

Once a victim has been referred to the NRM, two decisions are made: To establish whether a person is a victim of any form of modern slavery (including trafficking) identified in England and Wales two decisions are made by the relevant Competent Authority:

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.

1. 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.

If there is a positive reasonable grounds decision the person is given a 45 days 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.**

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.

2. Conclusive Grounds decision made by the Competent Authority

The conclusive grounds decision should generally be made after 45 calendar days.

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 modern slavery. 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.

2.2. Existing process

Currently, to establish whether an individual is a victim of human trafficking two decisions are made – the first is a reasonable grounds decision which is a lower threshold indicating where an individual may be a victim of trafficking and is made within five days of referral – the second is a conclusive grounds decision which is made after 45 days. These decisions are currently made by competent authorities within the UK Human Trafficking Centre and the Home Office. Referrals to the NRM can be made by ‘First Responders’ from specified Non-Government Organisations and public authorities. For further information on the existing NRM process, please see the wider competent authority guidance.

2.3. Pilot process

Local agencies and authorities have a key role in identifying, referring and supporting potential victims of human trafficking and other forms of modern slavery, and the NRM review recommended enhancing the role of local areas in this process. The pilots will establish two new roles to do this:

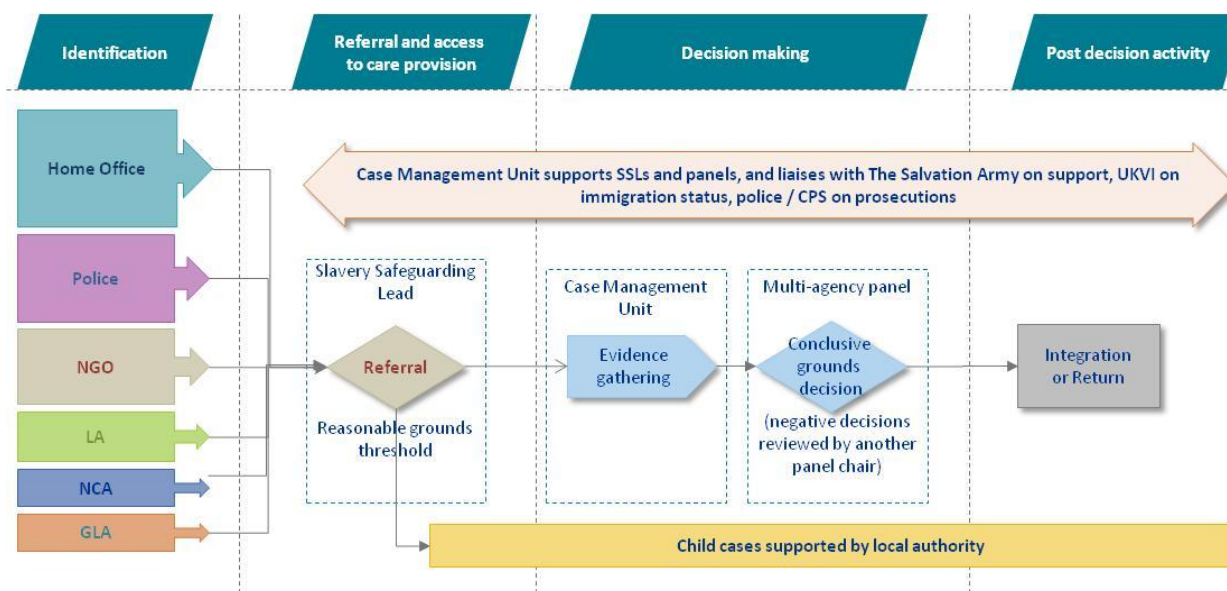
Slavery Safeguarding Leads (SSL) – a number of individuals from local statutory agencies will be identified as Slavery Safeguarding Leads in the pilot areas to accept referrals and make decisions on individuals as to whether they suspect but cannot prove they are a victim of modern slavery. SSLs will be the competent authorities responsible for the reasonable grounds (RG) decision in pilot areas. SSLs will be introduced into the pilot areas in November 2015.

Regional multi-disciplinary panels (‘the panel’) – these panels will be comprised of a number of representatives from statutory agencies (local authorities, police, NHS, UK Visas and Immigration) and non-governmental organisations, and will be chaired by an individual appointed by the Home Office. The panels will make conclusive grounds (CG) decisions on whether an individual is a confirmed victim of modern slavery. The chairs of the panels will also be responsible for reviewing negative CG decisions made by other pilot panels. Panels will be the competent authorities for the conclusive grounds decision in pilot areas.

UK Visas and Immigration will then consider whether individuals who have been positively identified as a victim of modern slavery qualify for Discretionary Leave in line with published guidance.

The new process will be supported by a central Case Management Unit (CMU) who will receive cases from SSLs and then prepare the case file and coordinate panel meetings in order for them to make a conclusive grounds decision.

Process map



2.4. Which cases will fall to the pilot

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

Scenario	Pilot case?
Potential victim has been physically encountered by a frontline worker within one of the pilot locations.	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 (e.g. Leeds asylum hub), but is the first frontline worker to identify the person as a potential victim	YES.
Potential victim is physically located in one of the pilot location. They are identified by a frontline worker with responsibilities for the pilot area, who is physically located outside of the pilot area (e.g. the TSA 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 workers 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 (e.g. potential victim encounters the police in pilot area, but NRM referral not made. They leave the	NO.

area and then claim asylum outside of the pilot areas when the NRM referral is made).	
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Exclusions: 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 and will continue to be managed by existing Competent Authorities within the Home Office.

3. Panel specific guidance

3.1. The role and responsibilities of the panel

Multi-disciplinary panels will be comprised of a range of representatives from relevant agencies, organisations and partners, including NGOs, with a background or relevant interest in modern slavery issues and in protecting vulnerable individuals. The purpose of multi-disciplinary panels is to ensure that decisions about potential victims of modern slavery are made following input from a range of individuals with relevant experience and knowledge in the area. Multi-disciplinary panels will ensure that wider experience is used to reach a more informed decision.

Each panel will ideally be made up of approximately six members representing the range of disciplines required to make decisions on specific cases. For example, in cases involving a child, child focussed NGOs and relevant local authority personnel will be invited to participate in the panel. In cases where there is a live immigration issue UK Visas and Immigration will be invited to attend, or cases involving a specific exploitation type relevant NGOs or experts will be in attendance at the panel. A minimum of five members (including the chair) should be available for the panel to convene. In circumstances where late withdrawals of panel members mean that less than five are available, a decision will be made between MSU and the panel chair as to whether the panel proceeds. Steps should be taken to ensure that this is an exceptional occurrence. Where a panel consists of fewer than six members, care should be taken to ensure the full range of disciplines is represented on the panel to reach an informed decision.

Panel conferences will generally be held virtually. Panel chairs will be given access to conference call facilities to host a panel conference call to discuss and make decisions on the cases referred to the panel by the CMU. The frequency of panel conferences will be dependent upon the volume of cases requiring decisions. However, we expect panels to be convened every 2 weeks to ensure that decisions can be made quickly on cases once appropriate levels of information are available. Panels will not be mutually exclusive and will consider cases from both pilot regions. Attendance at panel conferences will be rotated to maintain flexibility.

To support the delivery of the pilot, three panel chairs have been appointed. The CMU will arrange a suitable date and time for the conference call to be held with one of the appointed chairs for each panel discussion to be held, at least two weeks in advance. The CMU will identify 8-10 panel members who are available to participate in the conference call (panel representation will be determined by availability and ensuring that panels have balanced representation from the range of disciplines required). The CMU will contact the panel members and confirm their availability. Panel chairs and panel members will be given at least 10 working days notice to participate in a panel conference call. Files on each case will be provided to panel members 5 working days in advance of the conference. However, where urgent decisions are required a panel may be expected to convene at short notice. The CMU will endeavour to keep this to a minimum.

Panels may need to be held on a more regular basis where there is a fluctuation in volumes or the number of cases in warrants additional panel conferences. These will be agreed between the Chair, panel members and the CMU in advance. In addition, panel chairs and panel members will be encouraged to meet face-to-face at least once every 6 months.

Where the panel chair is unexpectedly unavailable they will inform the CMU at the earliest opportunity. The CMU will seek to identify an alternative panel chair, or the panel discussion will be reconvened at a different time. Panel members who have been selected to sit on a particular

panel must advise the CMU if they are subsequently unable to participate. This is to ensure that the required number of panel members are available to proceed.

Panels will be expected to assess and make Conclusive Grounds decisions on all cases referred to it for discussion at a particular panel conference. The maximum number of cases the panel will be expected to make decisions on in any one conference call is 12. We expect conference calls to last no more than three hours in total, depending on the complexity of cases submitted for a decision. The number of cases to be considered by a panel at each conference will depend on the complexity of the cases. Consideration of complexity of the case will be taken into account by CMU in organising the calls to avoid overly lengthy conference calls. The volume of cases per panel conference and length of calls will be kept under review during the pilot to ensure there is sufficient time to consider cases. CMU will seek feedback from panel members and chairs on the pilot process.

The panel chair is responsible for leading the panel to reach a decision on each case presented. In some cases there may be disagreement among panel members on whether an individual is a potential victim of modern slavery. Any decision by the panel must be supported by more than 50% of the panel members. Where the panel is equally split and cannot make a decision about a particular case, the Chair has the authority to make the final decision.

If the panel members unanimously agree that there is insufficient information to make a conclusive grounds decision the case must be returned to the CMU giving clear reasons as to why a decision could not be reached and setting out what further information or evidence is required.

The panel chair is responsible for recording all decisions made by the panel. This includes information setting out the reasons for making a positive or negative decision. The chair will confirm the number of panel members (including themselves) in attendance at the panel and annotate the consideration minute indicating the number of members supporting the decision. The panel chair must ensure that all documentation is returned to the CMU for recording purposes within two days of the panel meeting.

Decisions made by the panel will be subject to a random sample check by the CMU to ensure consistency and appropriateness of decision making. Decision making will also be overseen by the NRM Steering Board to ensure that the process is fit for national roll out. Negative decisions made by a panel will be automatically reviewed by an alternative panel chair to ensure that the correct process has been followed.

Panel members will receive training prior to making any decisions and will have access to guidance setting out their roles and responsibilities.

3.2. Role of the Home Office panel member

In addition to their role as a panel member to help decide whether an individual is a victim of modern slavery, following a positive Conclusive Grounds decision, the Home Office panel member will make a further consideration after the panel on whether the individual qualifies for Discretionary Leave or nominate another suitable person in UKVI to take that decision if appropriate. They will also make this consideration where the alternate panel chair overturns a negative decision. See 'Section 10 - Consideration of Discretionary Leave' for more information.

3.3. Travel and expenses

The panel chair is a paid role, but for other members it is a voluntary role. The Home Office will reimburse reasonable travel and subsistence costs for panel members, but anticipate that these should be low as ordinarily regular panel meetings will be held virtually.

For details of the policy and process for claiming expenses please see the Inland Travel Manual in the guidance folder on MoveIT. If you are unsure whether you are able to claim expenses for something, please contact the CMU.

4. Preparing for the Case Conference

This section explains the actions the panel must undertake before the case conference is convened.

4.1. Confirming case conference availability

The CMU in the Home Office will gather information and evidence on the cases that have been referred to them for consideration, following a positive reasonable grounds decision. Once the CMU determine that there is sufficient evidence on a case they will prepare it for consideration by the panel. Meetings will be virtual and secure telephone conferencing details will be provided. Panels will be scheduled 10 working days in advance, and digital files will be provided 5 working days in advance.

Panel members must confirm their availability for conferences and ensure they have time to read through the cases prior to the conference. The panel cannot decide on a case where there are less than five panel members, panel members must, therefore, it is therefore critical that panel members alert the CMU urgently where they are unable to attend a panel, so a replacement representative can be sought.

4.2. Review of the decision-making file

Panel members are expected to read all decision-making files prior to the panel sitting, considering all the facts of each case sufficiently to contribute effectively to the panel discussion.

Digital case files will be shared securely via the MoveIT platform. Each panel member should have access to this system, which will notify a nominated email inbox when new information is received. The information in the case file will be mostly marked as official-sensitive. Please refer to the information management section (section 15) for details of how this information should be stored and shared.

The information presented in a case file will depend on the nature of the case, but may include:

- Case summary by CMU (in all cases);
- NRM form (in all cases);
- Reasonable grounds decision minute (in all cases);
- Report from social services (will be requested in children's cases);
- Report from the police / police interview (will be requested where there is police activity on a case);
- Asylum interview (where the interview has taken place);
- Records of immigration history (where relevant)
- Evidence provided by support providers;
- Evidence provided by legal advisors;
- Medical reports.

4.3. How to use MoveIT:

The MoveIT portal is the secure file transfer system which will be used to facilitate the transfer of the PV case file to the panel. The system will allow internal and external users to share files securely

Via MoveIT panel members can download the case file on to their computer. It will only be possible for panel members to download data from the Move IT portal, not to upload any data. Once the panel has met and decisions have been made, members will be required to destroy the relevant case file within 24 hours. The CMU will email panel members to confirm all files have been deleted, and panel members must reply to confirm this action has been completed.

Panel members will receive files through the MoveIT platform. The files for each panel sitting will be stored in a specific folder on the Move IT system. The CMU will notify panel members of the name of the folder that they need to refer to for their particular panel. Panel members must not download any other case files stored in other folders, they are only permitted to download files for their particular panel sitting. The data downloaded on MoveIT will be monitored by CMU. Any breach of this protocol may result in the individual being removed from the panel process.

4.4. Conflict of interest

There may be situations where a panel member feels there is a conflict of interest in considering a particular case, for example, if a panel member has an existing relationship with a PV that would make it difficult to act impartially.

If a panel member or chair considers that they may have such a conflict of interest on a case, they should highlight this to the CMU at the earliest opportunity, setting out the basis on which there may be an actual or perceived conflict of interest. The CMU will then consider whether it is still appropriate for the panel member to be an active member of the decision making panel for that case.

If a panel member has specific concerns about another panel member's conflict of interest on a case, they should also flag this to CMU at the earliest opportunity.

5. The Case Conference

This section gives information for panels when deciding whether there are conclusive grounds to show that a person is a victim of modern slavery.

5.1. The Reasonable Grounds test

For a case to be considered by the panel, the potential victim must have already received a positive Reasonable Grounds decision from the relevant Slavery Safeguarding Lead (or existing Competent Authority in the early stages of the pilots).

In the pilot locations Reasonable Grounds decisions will be made by SSLs at the point they refer cases into the NRM. The test applied at the reasonable grounds stage is:

- whether the statement 'I suspect but cannot prove (the person is a victim of modern slavery)' is true, and
- 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 modern slavery.

There are three potential outcomes at the reasonable grounds stage:

- Recognised as a potential victim of human trafficking;
- Recognised as a potential victim of slavery, servitude and forced or compulsory labour; or
- Not recognised as a victim of any form of modern slavery.

This is a low threshold, lower than the criminal threshold or conclusive grounds test. For more information on how the Reasonable Grounds decision is made, see the Slavery and Safeguarding Leads guidance.

5.2. The Conclusive Grounds test

The panel is responsible for making a conclusive grounds decision on whether, on the balance of probabilities, there are sufficient grounds to determine that the individual under consideration is a victim of modern slavery. This is referred to as the Conclusive Grounds decision.

The panel's consideration of the case is in three parts: 1) is there sufficient information to make a decision; 2) are there sufficient grounds to decide that the individual is a victim of trafficking; and if not, 3) are sufficient grounds to decide that the individual is a victim of slavery servitude, or forced or compulsory labour. There are therefore four potential outcomes for each case:

- recognised as a victim of modern slavery (human trafficking);
- recognised as a victim of modern slavery (slavery, servitude or forced and compulsory labour);
- insufficient grounds to recognise the individual as a victim of modern slavery; or
- further information to be requested from CMU

5.3. Considering the case at the conference

The Panel Chair will seek the views of all panel members on each case, setting out the information they considered went towards and against the individual being a victim of human trafficking, and

subsequently other forms of modern slavery. Each panel members should provide their initial assessment of the case. Where there is a clear majority and no unresolved issue to explore, then the panel can agree the outcome of the case. If there is not a clear outcome then the chair will lead a discussion and then decide the case based on the majority view (with the chair having the deciding vote if the panel is hung).

The panel chair will complete a consideration minute for each case noting:

- Which panel members supported the decision;
- The key points in support of the decision reached; and
- Any key challenges raised to the decision reached.

The points to be recorded in the consideration minute will be agreed in the conference.

This minute must be detailed and fully cover all points as it will be relied on in the event of any legal challenge. Where credibility is not accepted, the minute must include clear justification for any negative credibility findings, and detail which events the panel accept took place and which they do not. The consideration minute must be sent to the CMU, copying in panel members, within two working days of the conference. Panel members can highlight any concerns regarding the accuracy of the note with the chair and the CMU, which will be recorded on the file. CMU will communicate with the panel chair if there is any conflict between the two accounts that may require an amendment to the decision letter.

Where a case file contains insufficient information the chair must submit a request to CMU within 2 working days highlighting what information is required and why the absence of this information prevented a decision from being made. This will assist CMU in gathering further information. The case will then be heard at a later panel, but it may not contain the same members.

5.4. Administrative review of negative decisions (panel chair only)

Under the pilots, all negative decisions will automatically be reviewed by another independent panel chair to ensure quality and consistency of decision making.

The CMU will provide a copy of the decision minute and decision making file within 2 days and the chair will have 3 working days to consider the case. This consideration will have two stages – whether the correct process was followed and, if not, whether the correct decision was reached.

Correct process:

The panel chair will look at all evidences/docs submitted with the case, then consider the negative decision in light of whether there was any:

- Failure to follow processes/guidance; or
- Failure to properly consider information/reach an unreasonable decision on the information to hand.

Correct decision:

Where the chair finds the correct process was not followed, he must reconsider the case in the round, using the balance of probabilities and all available information (see 'Making the Conclusive Grounds decision').

The panel chair must minute their consideration on the case review consideration minute and send it to CMU who will issue the decision (or pass on to UKVI for a Discretionary Leave decision where

this is relevant – see below). The review decision minute must be detailed and fully cover all points as it will be relied on in the event of any legal challenge.

5.5. Decision on Discretionary Leave

UKVI will continue to act at the Competent Authority for decisions on grants of Discretionary Leave (DL) in line with the Convention (and the extension of this provision to all victims of modern slavery). A UKVI representative will be present at any conferences with cases that require consideration of discretionary leave as a member of the Panel, and following the case conference UKVI will communicate their decision on DL eligibility to the CMU within five working days.

This UKVI representative will also make the Discretionary Leave decision on a case that has had a negative decision overturned by an alternate panel chair in the administrative review. See section 10 for further guidance on making this decision, or refer to the general Competent Authority guidance.

6. Guidance on the Conclusive Grounds assessment

This section gives information for panels when deciding whether there are conclusive grounds to show that a person is a victim of modern slavery.

The Reasonable Grounds test

For a case to be considered by the panel, the PV must have already received a positive Reasonable Grounds decision from the SSL (or existing Competent Authority in the early stages of the pilots).

In the pilot locations Reasonable Grounds decisions will be made by SSLs at the point they refer cases into the NRM. The test applied at the reasonable grounds stage is:

- whether the statement 'I suspect but cannot prove (the person is a victim of modern slavery)' is true, and
- 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 modern slavery.

There are three potential outcomes at the reasonable grounds stage:

- Recognised as a potential victim of human trafficking;
- Recognised as a potential victim of slavery, servitude and forced or compulsory labour; or
- Not recognised as a victim of any form of modern slavery.

This is a low threshold, lower than the criminal threshold or conclusive grounds test. For more information on how the Reasonable Grounds decision is made, see the Slavery and Safeguarding Lead training.

The Conclusive Grounds test

The panel is responsible for making a conclusive decision on whether, on the balance of probability, there are sufficient grounds to determine that the individual under consideration is a victim of modern slavery. We refer to this as the Conclusive Grounds decision.

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

In reaching their decision the Panel 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 apply common sense and logic based on the particular circumstances of each case.

The panel's consideration of the case is in two parts: 1) are there sufficient grounds to decide that the individual is a victim of trafficking; and if not, 2) are sufficient grounds to decide that the individual is a victim of slavery servitude, or forced or compulsory labour. There are therefore four potential outcomes for each case:

- recognised as a victim of modern slavery (human trafficking);

- recognised as a victim of modern slavery (slavery, servitude or forced and compulsory labour);
- insufficient grounds to recognise the individual as a victim of modern slavery; or
- further information required.

6.1. Myths about modern slavery

Panel members need to be able to separate myth from reality relating to modern slavery and its victims.

Myth	Reality
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"> • fear of reprisal for the person or for family members at home • vulnerability • Stockholm syndrome (psychological dependency on the person exploiting them) • lack of knowledge of their environment • grooming • belief that the trafficker or modern slavery facilitator will fulfil their promise • fear of witchcraft • violence or threats of violence not knowing how and where to seek help
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/trafficking other human beings. Modern slavery is a crime in the UK and child modern slavery is child abuse, not a '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.

6.2. What is modern slavery?

Modern slavery encompasses:

- 1.human trafficking,
- 2.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. 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.

6.3. Human trafficking

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 three basic components:

Action + Means + Exploitation

As noted in the Office of the United Nations High Commissioner for Refugees (UNHCR) guidelines on international protection: <http://www.unhcr.org/443b626b2.html>

‘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.’

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	e.g. sexual exploitation, forced labour or domestic servitude, slavery, financial exploitation, illegal adoption, removal of organs).

All three 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 two basic components

Action + Exploitation

ACTION	recruitment, transportation, transfer, harbouring or receipt, of child which includes an element of movement whether national or cross-border;
EXPLOITATION	e.g. 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.

6.4. Guidance on the components of human trafficking

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

Action + Means + Exploitation

6.4.1. Action

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

- recruitment
- transportation
- transfer
- harbouring, or
- 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.’

6.4.2. 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 in [Section 9](#) 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.

6.4.2.1. 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.

6.4.2.2. 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.

6.4.2.3. 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.

6.4.2.4. 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.

6.5. Exploitation

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

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

6.5.1. 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.

6.5.2. 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.

6.5.3. 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 links below:

- Violence against women and girls
- Stolen Smiles: a summary report.

<https://www.gov.uk/government/policies/violence-against-women-and-girls>

<http://www.lshtm.ac.uk/php/ghd/docs/stolensmiles.pdf>

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.

6.5.4. Male victims of sexual exploitation

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

6.5.5. Child victims of sexual exploitation

Please refer to the detailed guidance regarding children who are being sexually exploited. See link below to Safeguarding children from sexual exploitation.

<https://www.gov.uk/government/publications/safeguarding-children-and-young-people-from-sexual-exploitation-supplementary-guidance>

6.5.6. 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; and
- 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) define 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. The European Court of Human Rights in *Siliadan v France* took this as 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:

- working for low wages and/or in poor working conditions, or
- 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 Frontline Staff guidance.

6.5.7. Trafficking: Exploitation: Forced criminality

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

- pick-pocketing
- shop-lifting
- drug cultivation, and
- 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.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029

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.

6.5.8. 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'.

http://www.who.int/transplantation/Guiding_PrinciplesTransplantation_WHA63.22en.pdf

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.

<http://www.legislation.gov.uk/ukpga/2004/30/contents>

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.

6.5.9. 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; and/or
- 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 [Section above](#).

For more information on domestic servitude, see the link below

- United Nations Office on Drugs and Crime - Domestic 'service' or domestic slavery?

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

6.6. Human smuggling is not human trafficking

The Panel must not confuse human trafficking with 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.

6.7. 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 (see link below), panel members 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, panel members must consider the information in this section of the guidance and use their judgment in order to reach a decision.

[Smuggled or trafficked?](#)
[by Jacqueline Bhabha and Monette Zard](#)

6.8. Slavery, servitude and forced or compulsory labour

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. Panel members 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.

6.9. 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 two basic components:

Means + Service

MEANS	threat of penalty – e.g. 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, e.g.

	begging, sexual services, manual labour, 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 no element of movement) will therefore consist of one basic component:

Service

SERVICE	A child provides a service for benefit, e.g. begging, sexual services, manual labour, domestic service.
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Where a case meets the test for forced / 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 at the links below.

<http://Conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=197&CM=1&CL=ENG>

<http://Conventions.coe.int/Treaty/EN/Reports/Html/197.htm>

6.10.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.

6.11.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.

6.12. Guidance on 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 Panel 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

6.13. Guidance on 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* may be present in modern slavery cases are explained below.

6.13.1. 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.

6.13.2. 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:

- 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, or
- 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.

6.13.3. 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 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 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.

6.14. Modern slavery: 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, forced criminality. These forms of service could take place in a variety of industries or in private homes. For more information on these forms of service see the relevant sections within the human trafficking guidance.

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.

7. Child victims

In order to determine whether a child is a victim of modern slavery panel members need knowledge and understanding about child victims of modern slavery as characteristics and issues may be different to adult victims.

Where a panel is considering the case of a potential child victim, or a historic case where the potential exploitation took place when the adult concerned was a child, then the panel must include a local authority representative with knowledge of children's issues, as well as a representative from an NGO who specialises in child victims of modern slavery.

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, and
- possible grooming by the perpetrator.

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

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 NRM on the basis of modern slavery that took place when they were a child, see [Section 9.7](#) below.

7.1. 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 (Koordineringsenheden for Ofre for Menneskehandel, 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.

7.2. Consent of child victims

As explained above, any child who is recruited, transported or transferred 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.

Panel members 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 are 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.

7.3. 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 link below on UNHCR Handbook for the protection of internally displaced persons.

<http://www.refworld.org/cgi-bin/texis/vtx/rwmain>

7.4. 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 related links:

- Safeguarding children who may have been trafficked, and
- Safeguarding children in Scotland who may have been trafficked.

<http://www.education.gov.uk/consultations/downloadableDocs/Safeguarding%20Children%20who%20may%20have%20been%20Trafficked%20final%20version%2013%2007%2007.doc>

7.5. 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.

7.6. 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 panel 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.

7.7. 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/modern slavery victim where there is a dispute over age.

In such cases the Panel 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 case is sent to the panel for a Conclusive Grounds decision. The front-line worker who encountered the child should have commissioned an Age Assessment where appropriate. The CMU should check whether this has been commissioned.

Guidance on assessing the age of a potential child modern slavery victim can be found at the link below.

<https://horizon.fcgs.gsi.gov.uk/file-wrapper/assessing-age>

Where an Age Assessment has been conducted, by the Local Authority and has determined that the potential victim is an adult, the CMU 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 panel must accept the determination of the Local Authority until such time as any challenge is concluded.

8. Indicators of trafficking/modern slavery

When you are considering a potential victim's case, panel members need to know and understand behaviours which a victim may demonstrate.

Victims may:

- be reluctant to come forward with information;
- not recognise themselves as having been trafficked or enslaved; or
- 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; and
- difficulty concentrating.

Child victims may find it additionally hard to disclose 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.

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

see the Frontline Staff guidance in the MoveIT guidance folder.

8.1. Self-identification

The panel should not rely solely on a person self-identifying, instead the CMU should 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 Panel must consider if there are objective signs. Such indicators will help the Panel identify potential victims of modern slavery. It is important that the Panel does not rely on victims to identify themselves, but instead knows how to recognise and identify the signs of modern slavery.

8.2. Evidence gathering

The CMU may need to gather more information to support the panel in making a Conclusive Grounds decision.

The CMU must make every effort to secure all available information that could prove useful in establishing if there are Conclusive Grounds.

If the CMU consider that a panel 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 CMU must gather this information, where appropriate, from:

- the First Responder;
- support provider;
- police; or
- 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 CMU 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), or
- the organisation supporting the individual.

The Panel must also take into account any medical reports submitted, particularly those from qualified health practitioners.

The case file will clearly document what additional information has been gathered through enquiries, and where information has been requested but not received. It is not always necessary to have information from all relevant organisations to make a decision on the case - panels should bear in mind the 'balance of probabilities' threshold and the merits of the individual case.

8.3. 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/Modern Slavery interviews do not have to be carried out with potential victims in all NRM cases. When the Panel 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.

However, 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. Before they proceed, the CMU 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 CMU 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 based. 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 CMU 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 CMU's discretion as to whether the interview is delayed or not.

Where the CMU have questions that need to be put to a potential victim but there are concerns that the individual may be re-traumatised, the CMU must consider submitting questions in writing via the support provider, police or Local Authority (in the case of children).

The CMU 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 CMU 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 case owner 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.

8.4. Interview transcript

The interviewer must keep a verbatim (word for word) record of the interview and keep a copy on file.

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

A copy of the interview will be provided to the panel for consideration.

8.5. 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 CMU 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 CMU 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.

8.6. Interviewing children

Interviewing children suspected or known to be trafficked must be kept to a minimum. Where the CMU or panel need to establish victim status, where possible, the child should only be interviewed by:

- trained specialist child protection police, or
- social work professionals.

The CMU must avoid interviewing a child specifically for the purpose of reaching a decision under the National Referral Mechanism (NRM) if there are specialists in other agencies capable of doing so, or the modern slavery issues have already been clarified as part of the asylum process.

If the panel need more information to make an NRM decision, the CMU must request this information from the frontline worker who referred the case. If more information is still required, the CMU will consider asking the Local Authority or police to interview the child on your behalf.

If the Home Office has to interview potential child victims of modern slavery, they must do so in a sensitive manner which takes into account their age and maturity. Only officers who have received appropriate training (currently level 3 minors training) can deal with child cases.

8.7. How to assess credibility when making or Conclusive Grounds decision

Panel needs to assess whether a potential victim's account of modern slavery is credible when making a Conclusive Grounds decision.

8.8. 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 the panel 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 / modern slavery, there is reliable supporting evidence and the account is credible to the required standard of proof, the Panel should recognise the person as being a victim of human trafficking / modern slavery.

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

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

8.9. Assessing credibility - Material facts

In assessing credibility the Panel 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 / 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 Panel 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) the panel are entitled to question whether the Conclusive Grounds threshold is met. However, the panel must also consider whether you need more information.

8.10. Assessing credibility – detail and consistency

8.10.1. Level of detail

The level of detail with which a potential victim presents their claim is a factor when the Panel assesses credibility. It is reasonable to assume that a victim giving an account of their human trafficking/ 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/modern slavery the panel are entitled to question whether the Conclusive Grounds threshold is met. However, they must also consider whether they need more information.

8.10.2. 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 Panel to disbelieve their claim.

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

8.11. Assessing credibility – considering gender and culture

Panel members need to know how to consider gender and cultural issues in considering credibility.

When making Conclusive Grounds decisions the panel 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.

8.12. Assessing credibility – mitigating circumstances

Panel members need to know about the mitigating circumstances which can affect whether a potential victim's account of human trafficking/modern slavery is credible.

When the Panel assesses the credibility of a claim, there may be mitigating reasons why a potential victim of human trafficking/modern slavery is incoherent, inconsistent or delays giving details of material facts. The Panel 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, and/or
- fear of traffickers or modern slavery facilitators, violence, or witchcraft.

8.12.1. 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 Panel must not view a delay in disclosing of facts as necessarily manipulative or untrue. It may be the result of an effective recovery period and the establishment of trust with the person to whom they disclose the information.

8.12.2. 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 Panel considers the credibility of a case.

8.13. Assessing credibility – potential prosecution of traffickers/facilitators of modern slavery

Panel members need to know about how prosecution of traffickers or facilitators of modern slavery impacts Conclusive Grounds decisions.

When the Panel is deciding whether there are Conclusive Grounds that a person is a victim of trafficking/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, or
- 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/ modern slavery. The criminal standard of proof, that is 'beyond all reasonable doubt', is higher than that of the reasonable or Conclusive Grounds test.

8.14. Disclosure

The Panel must be aware that any deliberations could be subject to disclosure in any subsequent prosecution for trafficking/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 Panel. The Panel 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.

8.15. View of experts during the NRM process

8.15.1. Evidence from Local Authorities and support organisations

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

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

When the Panel are 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 Panel must also take into account any medical reports submitted, particularly those from qualified health practitioners.

8.15.2. 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 Panel 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 / modern slavery.

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

8.16. 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 three elements of trafficking. 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 NRM long after the exploitation has ended.

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.

8.17.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.

9. Asylum decisions

The asylum decision making process is separate from the NRM, but the panel's decision will be taken into account in any outstanding asylum claim. No action is required by the panel for this to take place.

Many victims of human trafficking/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. The information and evidence gathered during the NRM process and the findings in respect of whether a person is a victim of human trafficking/modern slavery will inform the asylum process, if a person seeks to rely on being a victim of human trafficking/modern slavery as part of that asylum claim.

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/modern slavery or not; unless information comes to light at a later date that would alter the finding on human trafficking/modern slavery.

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

10. Consideration of Discretionary Leave

The UKVI representative on the panel, or a nominated deputy, is responsible for making a discretionary leave decision on relevant cases that the panel has recognised as a victim of modern slavery. Other panel members are therefore not required to take any action.

A positive Conclusive Grounds decision does not result in an automatic grant of immigration leave. However the Home Office should consider whether a grant of Discretionary Leave is appropriate following a positive Conclusive Grounds decision where an individual has requested leave. UKVI staff should refer to the Discretionary Leave policy instruction and the section in this guidance below for further details. <https://horizon.fcgs.gsi.gov.uk/file-wrapper/discretionary-leave>

10.1. When to grant Discretionary Leave after a Conclusive Grounds decision

A person who is accepted as a victim of human trafficking/modern slavery will not be granted leave solely as a direct result of that decision unless they meet the relevant criteria. There is no automatic grant of immigration leave if there is a finding of fact that a person is a victim of human trafficking/modern slavery.

There are no Immigration Rules which grant leave due to human trafficking/modern slavery. However some people who receive a decision on human trafficking/modern slavery under the NRM may be eligible for a grant of Discretionary Leave if they ask for it for reasons set out in this section. In some cases it may be renewable if eligibility criteria continue to be met but is not on a route to settlement.

10.2. 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/modern slavery – 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 such as asylum or humanitarian protection.

As part of the positive Reasonable Grounds decision letter, the potential victim of human trafficking in the UK and modern slavery in England and Wales will be asked if they would like to be considered for Discretionary Leave in the event of a positive Conclusive Grounds decision from the NRM. Where they indicate they would like to be considered for Discretionary Leave this will be considered automatically 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 person will not need to fill in an application form or pay a fee for an initial consideration of Discretionary Leave on this basis. A person who has claimed asylum will also receive an automatic consideration for Discretionary Leave on this basis if they are not granted asylum or humanitarian protection.

If Discretionary Leave is granted on this basis, a request for an extension should in most circumstances be made using an application form and subject to payment of the relevant fee,

unless the application is made within a fee exempt category or they qualify for a fee waiver. The only exception to this will be where the police make an informal request to the Competent Authority for Discretionary Leave to be extended. In such cases an application form should not be submitted and a fee will not be incurred.

Extensions of Discretionary Leave might be sought if a criminal prosecution takes longer than expected and the police have confirmed or requested an extension of the grant of Discretionary Leave.

A grant of Discretionary Leave should be considered where the Competent Authority has conclusively identified an individual as a victim of trafficking (within the meaning of Article 4 of the Council of Europe Convention on Action against Trafficking in Human Beings) and:

- ▶ they have particularly compelling personal circumstances which justify a grant of DL to allow them to remain in the UK for a longer period; or
- ▶ 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); or
- ▶ 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 should 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.

10.3. Personal circumstances

When the Home Office makes a positive Conclusive Grounds decision, it may be appropriate to grant a victim of modern slavery 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 (see link below).

<https://horizon.fcgs.gsi.gov.uk/file-wrapper/discretionary-leave>

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.

10.4. Victims who pursue compensation

Article 15 of the Council of Europe Convention on Action against Trafficking in Human Beings deals with the right of victims to compensation from traffickers. It may be appropriate to grant a victim of modern slavery who has been trafficked Discretionary Leave if 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 to those pursuing a claim for compensation against their modern slavery 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
- the likely length of the claim, and
- 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.

10.5. Victims who are helping police with their enquiries

In line with the Council of Europe Convention on Action against Trafficking in Human Beings (the Convention), the Home Office may grant a period of Discretionary Leave where a victim of human trafficking/modern slavery has agreed to cooperate with police enquiries. Where a person is conclusively found to be a victim of human trafficking/modern slavery and has agreed to assist with police enquiries from the UK, the police must make a request for them to be granted Leave to Remain on this basis. This may be extended where necessary, for example, where a criminal prosecution takes longer than expected and the police have confirmed or requested an extension.

Requests for Discretionary Leave, or renewal 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.

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.

10.6. Considering EEA nationals for Discretionary Leave

The policy approach in relation to personal circumstances, pursuing compensations and helping police with their enquiries applies to eligible EEA nationals who are unable to exercise free movement rights. EEA Nationals, who are identified as victims of human trafficking/modern slavery, retain the ability to exercise free movement rights in accordance with EU Regulations.

However, there may be some circumstances in which the victim is unable to exercise their free movement rights. In such circumstances, you should consider any request for Discretionary Leave in line with this guidance and the Discretionary Leave policy.

10.7.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 renewals being necessary in most cases. However, leave should normally be granted for a minimum of 12 months, and normally not more than 30 months (two and a half years). However, shorter or longer periods may be granted if the facts of the case justify it.

Once the leave expires, a further period of leave may be granted subject to following the process whether by informal request or application form and fee as specified in this guidance. Where they continue to qualify 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 on horizon at the link below.

<https://horizon.fcgs.gsi.gov.uk/file-wrapper/discretionary-leave>

11. Appeals against a conclusive grounds decision

Where applicants wish to challenge a decision made by the panel, they may do so by way of Judicial Review. However, it may be appropriate for a panel chair to reconsider a decision, following liaison with the CMU who will manage any further challenge on a case.

12. Reconsideration of a conclusive grounds decision

If an individual or organisation wishes to submit additional evidence, or they raise specific concerns that the decision is not in line with published guidance, CMU will consider whether the information submitted constitutes new information, or whether there is a substantive challenge to the decision making process. Where this is accepted they will consult the relevant panel chair regarding 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.

13. Notification of the NRM outcome

Following the receipt of the panel decision (and the panel chair review where relevant) the CMU will serve the decision on the applicant and relevant agencies. In children's cases, papers must be served on the child's appointed representative or the Local Authority.

14. Disclosure

The panel discussions will not be recorded verbatim, however a decision minute of each case will be recorded. Any deliberations could be subject to disclosure in any subsequent prosecution for modern slavery and possibly in judicial review proceedings.

The decision as to whether there is enough evidence to prove that an individual is a victim rests with the panel. The panel must be alert to the impact that the decision may have, not only on the victim, but on any criminal investigation and the criminal justice process.

15. Information management

All panel members must agree and sign the Data Sharing Agreement document in order to take up their posts. Please refer to it for further information.

Once data is received by the panel members through the MoveIT portal, they will be responsible for that information and need to follow the below information management rules:

In the office or at home

1. Never access information unless it is part of your job and you have a business need to do so.
2. Observe a clear desk policy and always 'lock' your computer before leaving your desk.
3. Choose your password carefully and never let anyone else know it.
4. If accessing the information from a work based computer, challenge anybody in your building who is not wearing an appropriate security pass.
5. Always make sure you know what classification the information should have and stick to the rules for that level of protection. For this project the classification will be mostly **OFFICIAL - SENSITIVE**

On the move

6. Never take sensitive information (in this context the Case File or any information relating to the deliberation or discussion of the panel) out of the office or home without authority. Never use removable media to store/move this information.
7. Keep your laptop, blackberry, phone and any official papers secure at all times.
8. When working outside ensure that you are not overheard and that information cannot be seen by others.

Sharing data

9. Never give out sensitive information (in this context the Case File or any information relating to the deliberation or discussion of the panel) over the phone or in any other way unless you are absolutely sure who you are giving it to and that they are entitled to that information.
10. Do not send any personal information, or information that could identify the case, by unsecure email. All panel members should be able to download the case file separately from Move IT so there should be no need to send case information between panel members by email. If the panel needs to request further information about the case, or discuss details about the case with CMU, this should be agreed as part of the panel discussion, and then the panel chair should email the CMU from their secure 'gsi' email address.
11. Do not share details of the PV or the case with anyone outside of the Panel Conference and must not attempt to contact the PV whilst their case is being considered.
12. Only open the files on Move IT that are relevant for their panel sitting. CMU can monitor Move IT downloads and will check for unauthorised downloading.

16. Version control and contacts

This page tells you about the current version of the NRM pilot panel member guidance and who to contact if you have any queries.

Contacts

If you have any questions about the guidance then please contact the CMU at NRMpilot@homeoffice.gsi.gov.uk.

Clearance

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

- version 1
- valid from 14 October 2015
- this version approved by Justine Currell, Modern Slavery Unit, Home Office.
- approved on 14 October 2015