



# The Trafficking National Referral Mechanism- the process, completing referral forms and Competent Authority decision making considerations.

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# The NRM process and STANDARD OF PROOF in NRM decision making

**Referral forms available are available on UKBA or UKHTC websites and can only be submitted by First Responders. FRs in Scotland are UKBA, Police, TARA, Migrant Helpline and LAs (when regarding children-via CPT).**

Adults must provide consent to be referred in the form of their signature. All referrals are submitted to UKHTC (see website) and if required they will allocate to the other Competent Authority (CA) UKBA. UKBA is the CA for non EEA foreign nationals. UKHTC is the CA for all British and EEA citizens.

**“Reasonable grounds” is a low standard in initial NRM decisions =suspect but cannot prove.** The initial decision is made within 5 days of receipt. If a positive decision, then a 45 days reflection period is granted.

**The standard for conclusive decision (CD) is the “balance of probabilities” and is a high standard = more likely than not.** Made on or after day 45 of the reflection period.

Therefore evidence on medical (physical and mental health) claim elements @ CD stage is required from medical expert reports: should include diagnosis and prognosis.



# CREDIBILITY consideration in NRM decision making

- Coherent and consistent with previous statements/ with accounts from other witnesses/ objective evidence (including country and expert reports, reports from NGOs, police information – non-exhaustive list).
- Focus should be given to credibility issues that are material, and significant, rather than peripheral to case. **It is often unhelpful to focus on material facts that are not material to the case.**
  
- **Mitigating factors – the victim’s ability to remain consistent throughout their account may be mitigated by very serious factors due to their experiences – mental, psychological, emotional trauma, inability to articulate, mistrust of authorities, feelings of shame (non-exhaustive list).**
  
- Do not make assumptions – CA s should refer back to expert witnesses for further information as necessary and should put any inconsistencies to the PVoT.
  
- CAs must ensure they have all necessary information before making a final decision, bearing in mind the individual’s experience e.g. any expert and/or NRM partners reports that are available.

# KEY FACTORS TO CONSIDER

## and level of detail in referral forms

- Is the individual safe now- is there a current risk?
- Their situation prior to, during and after entry- as trafficking occurs within the UK.
- The individual's own expectations of what was going to happen to him/her (as facilitation/debt bonds aren't automatically trafficking).
- What was the exploitation and the extent of the exploitation? Current and past living & working conditions- pay and poor conditions doesn't equate to trafficking.
- Their freedom of movement and choice? Ability, as well as willingness, to socialise or move on.
- Explore typical daily routine- accommodation, transport to work, how fed, payments.
- Type and extent of threats/coercion involved? Direct and / or indirect.
- How and when they got out of the situation of exploitation- what was different that day that enabled escape? Personal situation since escape-contact?

# Intel- be proactive in identifying and stopping trafficking- level of detail

**Simply because a victim can't name a person or a place does not mean they can't help identify them. It's not always what you ask, but how:**

- **Trafficker(s) - names, nick- names, contact or mobile numbers given, physical description e.g. tattoos, scars?**
- **Gang or associates- as above plus- operational area- how involved what contacts points from when till when what do**
- **Places - often can't name but e.g. can describe entry ports, area (bus colours and numbers), what could see from window and accommodation layout. Names, nationalities and numbers of other victims held with them.**
- **Routes & timelines– of recruitment, entry, internal movement, time at certain locations, escape.**

# CONCLUSIVE DECISIONS – OUTCOMES

## CONCLUSIVE DECISION - NOT TRAFFICKED

### CONCLUSIVE DECISION - TRAFFICKED AND NOT ASSISTING POLICE WITH ENQUIRIES

Not eligible for the 1 year grant of DL to help police investigation/prosecution; but **CA should carefully consider if the VOT is eligible for leave due to their personal circumstances** (e.g. continuing medical treatment etc) but ECHR Art 8 standards apply and expert medical evidence will be required.

### CONCLUSIVE DECISION - TRAFFICKED AND ASSISTING POLICE WITH ENQUIRIES

May be eligible for 1 year grant of DL (renewable after 1 year) depending on circumstances of case

### IMPORTANT NOTE:

AN INDIVIDUAL MAY BE ELIGIBLE FOR A HIGHER TYPE OF LEAVE, SUCH AS ASYLUM, HP or MAINSTREAM DL. IF THEY ARE, THE MORE GENEROUS TYPE OF LEAVE SHOULD BE ISSUED (e.g. a grant of asylum would take precedence over NRM DL).



# HOW TO ACCESS UKBA guidance

UKBA “Victims of Trafficking: guidance for frontline staff” available on <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/trafficking-guidance?view=Binary>

UKBA “Guidance for Competent Authorities” available on <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/competent-guidance?view=Binary>

## UKBA NRM Contacts:

Operational(Referrals)- **Dawn Milne on 0141 555 1514**

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