



Home Office

Identification of victims of trafficking in human beings in international protection and forced return procedures

Home Office Science (Migration and Borders Analysis)

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Executive summary

The UK government takes a firm stance against human trafficking, a brutal form of modern day slavery involving the recruitment, transportation, transfer, harbouring or receipt of persons by use of force, deception and coercion, for the purpose of exploitation. An Inter-Departmental Ministerial Group exists to oversee and co-ordinate anti-trafficking efforts between different government departments, and to ensure implementation of the Government's priorities as set out in the Serious and Organised Crime Strategy¹ published in October 2013. These priorities are:

- prosecute and disrupt people engaged in serious and organised criminality;
- prevent people from engaging in serious and organised crime;
- increase protection against serious and organised crime; and
- reduce the impact of this criminality where it takes place.

The Home Office plays a key role in detecting and identifying trafficking victims. Victims with an irregular migration status are often detected when applying for international protection (asylum in the UK context). Every applicant for international protection undergoes a screening process undertaken by trained staff, who take proactive steps to determine whether an individual might be exhibiting signs of trafficking. Any individual detected to be a potential victim is referred to the National Referral Mechanism (NRM). At this point, their case is considered by a trained specialist known as the Competent Authority and those who meet a 'reasonable grounds' test will receive a 45-day minimum reflection period, during which they will not be removed from the UK or detained, but will receive accommodation and support.

Between the beginning of 2011 and the end of 2012, 2,132 potential victims of trafficking have been referred into the NRM², with numbers increasing between 2010 and 2012³. However, as human trafficking is a hidden crime this will not represent the true numbers of victims or a trend. The systems used to identify victims, and the decisions made by Competent Authority staff are regularly monitored to ensure quality. Recent reviews have resulted in improvements such as broadening the variety of front-line professionals with the authority to refer children to the NRM. The increase in the number of victims identified year on year is likely to be indicative of these improvements in the process.

It is fully appreciated that some victims may be unable or unwilling to come forward for a variety of reasons, for example:

- psychological abuse or threats they may have suffered;
- feeling that they have no need for the services offered by the NRM; or
- concerns that by making themselves known to the authorities, they will be removed.

1 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/248645/Serious_and_Organised_Crime_Strategy.pdf

2 These statistics represent all potential victims of trafficking that are referred to the NRM (includes EU nationals) in 2011 and 2012. Source: <http://www.nationalcrimeagency.gov.uk/publications/15-ukhtc-strategic-assessment-on-human-trafficking-in-2012/file>

3 See Annex 1.

This makes the detection and identification of victims a challenge. Trafficking victims can be identified at any stage of the application process for international protection, including when they have been refused, are in detention, or awaiting forced return. Guidance on detecting victims is given to all immigration staff working in these areas.

The Government has a firm commitment to ensuring staff are trained to the highest possible standards in detecting and identifying victims. This work, however, stretches much further than the process for international protection. Some victims may come into contact with members of the public or other front-line professionals, before or without applying for international protection. To reflect this, a number of other 'first responders' can make a referral of a suspected victim to the NRM, including social workers and the police. Therefore initiatives are also focused at improving training for these groups, as well as on improving public awareness.

Provisions have been in place since 2009, allowing for a grant of discretionary leave to remain for confirmed human trafficking victims where there are exceptional personal circumstances that make it necessary for the individual to remain in the UK. Leave to remain is also considered for confirmed victims willing to co-operate with the police in a criminal investigation into their traffickers, with the aim of increasing the prosecution and conviction of traffickers by improving the quality of evidence available. However, being conclusively identified as a victim of trafficking does not automatically entitle an individual to remain in the UK indefinitely. When the criteria for a grant of asylum or temporary leave to remain are not met, the expectation must be that the victim returns to their home country if they have an irregular immigration status. Repatriation is enforced when deemed safe and appropriate to do so in accordance with the UK's domestic and international obligations.

Section 1: Residence permits, protection statuses and national programmes available to victims of trafficking in Member States

Q1. What residence permit(s) specifically for victims of trafficking in human beings are available in your Member State? (List them here)

Victims of human trafficking can apply for international protection and will be considered in accordance with the 1951 United Nations Convention relating to the Status of Refugees and the European Convention on Human Rights. This may result in a grant of asylum or international protection, which will give the individual leave to remain in the UK.

Additionally, those individuals conclusively confirmed as victims of human trafficking by a Competent Authority, the Home Office in the case of non-European Economic Area (EEA) nationals, may be eligible for a residence permit (known as leave to remain in the UK context). Discretionary leave to remain, issued on a temporary basis is available for the following purposes:

- the victim is co-operating with an on-going police investigation and their presence in the UK is required for this purpose;
- the victim's personal circumstances, although not meeting the grounds for international protection, are so compelling that they justify a grant of discretionary leave to remain in the UK;
- the victim has raised a legitimate claim for compensation through the civil courts and it would be unreasonable for them to be outside of the UK to pursue that claim.

A short form of temporary admission is given to all victims who are given a positive reasonable grounds decision by the Competent Authority (i.e. it is decided there are reasonable grounds to believe they are victims of human trafficking). This is a minimum of 45 days and is known as the 'reflection period'.

Q1a. Are they conditional on co-operation with the authorities?

No. Only leave to remain given for co-operation with a police investigation is conditional on co-operation with the authorities. Leave to remain can be granted for personal circumstances without co-operation as a prerequisite.

Q1b. In which year was it/were they introduced?

Leave to remain granted specifically on the basis that an individual is a victim of human trafficking has been available since 2009.

Q2. Are international protection status(es) granted to third country nationals for the reason of being a victim of trafficking in human beings in your Member State?

If a human trafficking victim lodges a claim for international protection, their claim is carefully considered under the 1951 United Nations Convention relating to the Status of Refugees and the

European Convention on Human Rights (ECHR), as are all claims for protection. This includes an assessment of the country to which a person is to be returned. Current guidance on the process of international protection (known as asylum in the UK context) is available at: <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/asylumprocess/>. A grant of an international protection status will not be given solely on the basis of an individual being a victim of human trafficking, but this may play a part in the claim.

Q2a. If yes, please name which statuses are granted here

Both asylum and humanitarian protection can be awarded to victims of human trafficking. These statuses will be awarded in the same manner as they are awarded to individuals who are not victims of human trafficking.

Q3. Does your Member State have a National Referral Mechanism?

Yes, the UK established a National Referral Mechanism (NRM) in 2009 for the purposes of identifying potential victims, collecting information about them, and also for facilitating their access to support services. There are a number of first responders that can make a referral to the NRM, including immigration staff, local authorities, the police and several non-governmental organisations (NGOs). They are required to complete a referral form, available at: <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre/national-referral-mechanism>

The referral will then be considered by one of the two Competent Authorities – the Home Office or the UK Human Trafficking Centre (UKHTC) – which have five days to make a decision as to whether there are reasonable grounds to believe that the individual has been a victim of human trafficking. During this time the individual receives a minimum 45 day reflection period and can access support services co-ordinated by the Salvation Army in England and Wales and other NGOs in Scotland and Wales. By the end of the recovery and reflection period, the Competent Authority is expected to make a conclusive decision as to whether the individual is a victim of trafficking.

Section 2: Detection, identification and referral of victims in international protection procedures

2.1 Legislative framework

Q4. Are there established mechanisms for detecting and identifying victims of trafficking in human beings in the procedure for international protection?⁴

Yes, the process for detection and identification of potential victims in the procedure for international protection is outlined in protocol and guidance.

In particular, the UK follows the Council of Europe Convention on Action against Trafficking, the 1951 United Nations Convention relating to the Status of Refugees, and the European Convention on Human Rights (ECHR). This is complemented by the following national guidance published by the Home Office:

- human trafficking guidance for front-line immigration staff, available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/cross-cut/protecting-vulnerable/04-victimstrafficking?view=Binary>
- guidance for Competent Authority decision makers, available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/competent-guidance?view=Binary>

Q5. Are there different protocols and/or practices for children and adults?

Yes. The protocol for identifying victims differs for children and adults in that a slightly different definition of human trafficking applies to the two groups.

- The trafficking of adults is essentially the recruitment, movement or receipt of a person by deception or coercion into a situation of exploitation.
- Any child recruited, transported or transferred for the purposes of exploitation is considered a potential victim of trafficking, whether or not they are forced or deceived. This is because it is not considered possible for children to give informed consent.

4 (Member) States should here only refer to mechanisms for detection/identification used in international protection procedures – i.e. they should not refer to those used specifically by law enforcement, NGOs or other persons coming into contact with victims in situations outside of international protection procedures.

There are also several aspects where the practices followed in referring and supporting adult and child victims differ.

- Social services in local authorities are alerted to all potential victims under the age of 18 (or where age is disputed). They take responsibility for the safeguarding of and the provision of support services to this group. For those over the age of 18, however, support services in England and Wales are provided through the Salvation Army, a non-governmental organisation (NGO).
- Where interviews need to be conducted with children, these are generally undertaken by specialist trained child protection police or social work professionals, rather than by Competent Authority staff.
- When children are identified as a potential victim of human trafficking they do not have to give their consent to enter the National Referral Mechanism (NRM). Consent is, however, required from individuals over the age of 18.

At all times, procedures followed with children will be in accordance with the statutory guidance on safeguarding and promoting the welfare of children, available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/legislation/bci-act1/>

Q6. Are there different protocols and/or practices for men and women?

Protocols are the same for men and women. However, victims may request an interviewer of the same gender as part of any screening process and this request will be accommodated where possible.

2.2 Detection and identification of victims

Q7. How are (potential) victims of trafficking in human beings detected in procedures for international protection?

All individuals applying for asylum will go through the asylum screening process, see: <http://www.ukba.homeoffice.gov.uk/asylum/process/screening/>, at which point they will be proactively screened for indicators that they are a victim of human trafficking.

Q7a. How does the screening process work?

The Home Office proactively screens all applicants for indicators of trafficking in human beings. The asylum screening process is undertaken by immigration staff trained in detecting victims of human trafficking, who will take into account whether there are any indicators to suggest that an individual has been trafficked, and whether the individual or their representative claims they have been trafficked.

Guidance on the indications to look for is available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/cross-cut/protecting-vulnerable/04-victimstrafficking?view=Binary>.

If it is suspected that an individual is a victim, a trafficking lead within the Asylum Screening Unit ensures that the case is referred to the NRM.

Q7b. Is there a stage the applicant for international protection can no longer be screened (for example, after the first negative decision)?

No. Potential victims of trafficking can be detected, enter and receive support through the NRM at any stage.

Q8. If the Competent Authority detects that an applicant may be a victim of trafficking in human beings, what are the next steps in terms of assessment?

If any first responder (for example, the Home Office, police, local authorities, some NGOs) detects a potential victim, they will refer them to the NRM. It is at this point that the Competent Authority will make a decision as to whether the person should be recognised as a victim. The Competent Authority has 5 days to decide if there are reasonable grounds to suspect that an individual is a victim, and 45 days to make a final conclusive decision on whether the individual should be confirmed as a victim

Q8a. Does the Member State apply a standard set of indicators to assess whether the person is a (potential) victim? (If yes, please give further details, provided the information is not considered of a sensitive nature. How have these been developed? Are they based, for example, on international standards?)

Yes. The national guidance provided to Competent Authority decision makers when they are assessing if someone should be confirmed as a victim of trafficking can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/competent-guidance?view=Binary>. This guidance is based on the Council of Europe Convention on Action against Trafficking in Human Beings.

Q8b. Are other mechanisms⁵ used by the Competent Authority to assess whether a person detected as a (potential) victim should be identified as such (or referred on to formal identification procedures)?

The Competent Authority will have usually gathered enough information on the case from the initial asylum interview. However, where it is decided that further information is required from the individual, an additional interview may be conducted by the Competent Authority.

Q8c. If, following detection, the third country national concerned is not assessed as a (potential) victim, what happens? Can the third country national seek an alternative assessment elsewhere?

There is no appeal process to challenge a negative grounds decision, at either the reasonable or conclusive grounds stage (and the Council of Europe Convention does not require there to be one). The only means of challenging a decision not to recognise a person as a trafficking victim is to seek a judicial review of that decision.

⁵ E.g. Interviews.

Q9. Have methods for the detection and/or identification of victims in international protection procedures been evaluated in your Member State?

Yes. The UK undertakes a regular audit of NRM decisions made by Competent Authority caseworkers across the Home Office – including those cases where a claim for international protection is also made. There have also been two internal reviews with key partners to confirm that systems are achieving their desired aims:

- to locate and identify trafficked persons and protect their human rights;
- to provide an effective way for them to be referred to support services; and
- to formalise co-operation between all the different agencies that could be involved in a trafficking case.

Additionally, there are standard avenues for appealing immigration decisions and as a result a Competent Authority's decision can be subject to a judicial review.

Q9a. If yes, how well are they considered to be working? Is there any evidence to suggest that (potential) victims are going undetected/unidentified?

The reviews concluded that the NRM was generally achieving its intended aims but identified some specific improvements, which have all now been implemented. These improvements included:

- enhancing the expertise of the NRM's decision makers and increasing the quality and productivity of decision-making;
- raising awareness of the NRM amongst key front-line partners working with children, and extending the list of those who can refer child trafficking victims;
- looking at a new support model to improve services for adult victims.

2.3 Referral

Q10. If an applicant is identified as a (potential) victim, can they access tailored statutory assistance and support whilst remaining in the international protection procedure (i.e. without referral to other procedures)?

Yes, the applicant can access support for victims of trafficking whilst remaining in the international protection procedure. To access trafficking-specific support, the potential victim must be referred to the NRM and receive a positive reasonable grounds decision. Usually, an individual in both procedures will receive accommodation support from the Asylum Support Service but will also be entitled to receive trafficking outreach support via the Salvation Army (in England and Wales)

Q10a. If yes, please briefly describe how the assistance is provided (for example, state programme, access to general state welfare services, government-funded assistance provided by NGOs).

Assistance is provided by the Salvation Army (in England and Wales), an NGO that receives funding from the Government for this purpose. Care may also be provided by other, smaller local charities, funded by the Salvation Army.

Q10b. If yes, describe under what conditions the assistance can be provided (without referral to other procedures) – specifically, does the (potential) victim have to be formally identified by a Competent Authority (for example, law enforcement) in order to access the assistance?

Potential victims will receive assistance once they have received a positive reasonable grounds decision from the Competent Authority. In exceptional circumstances (where the victim would otherwise suffer), support will be provided as soon as a referral to the NRM is made (but will then be withdrawn if a negative reasonable grounds decision is made by the Competent Authority).

Q10c. What mechanisms are in place to facilitate this type of referral (to assistance, whilst remaining in international protection procedures)? Are there any agreements in place? Does it form part of a National Referral Mechanism?

See question 3 for details of the NRM. The victim must be referred to the NRM by a first responder. If any other individual in civil society suspects that someone may be a victim of trafficking, they can access information on the UK Human Trafficking Centre (UKHTC) website, giving details on how to put the potential victim in touch with a first responder who can then make the referral to the NRM.

Q10d. Are there any obstacles to this type of referral?

No.

Q11. If an applicant is identified as a (potential) victim and there is the possibility to change to (or participate in parallel to) procedures as foreseen under Directive 2004/81/EC or national equivalent measures⁶ how does this work in practice?

Applicants can apply for both asylum and trafficking-specific leave to remain in parallel and will normally be granted the more favourable form of leave to remain for which they are eligible, i.e. they will be granted asylum if eligible.

⁶ Denmark, Ireland and the UK have not opted into Directive 2004/81/EC.

Q11a. Does the applicant have to withdraw from the procedure for international protection in order to do so?

No.

i) If no, please elaborate – how does this work in practice? Does the victim have to be formally identified by a different Competent Authority?

For trafficking-specific leave to remain, the applicant will need to be conclusively identified as a victim of trafficking by the Competent Authority (the UKHTC or the Home Office). In cases where there is a linked immigration issue, this will be the Home Office – the same authority that makes grants of international protection.

Q11b. How is referral to the procedure as foreseen under Directive 2004/81/EC organised?

The UK is not signatory to this directive. However, referral to grants of trafficking leave to remain are made in the following ways.

- In the case of leave to remain granted on personal grounds, the victim is given information on their rights and possibilities, but has to initiate the procedure on their own (where applicable with the help of a legal representative).
- In the case of leave to remain granted on the grounds of co-operation with the authorities for a criminal investigation, the authority responsible (the police) contacts the Competent Authority to instigate the decision to issue a residence permit.

Q11d. Can the applicant's dossier/evidence gathered to date in the procedure for international protection (for example, personal interview) be transferred to and used in the new procedure for a reflection period or residence permit as foreseen under Directive 2004/81/EC?

Yes.

Q12. If an applicant is identified as a victim and there is the possibility to change to obtain a residence permit (other than that described in Q11) or international protection status on grounds of being a victim of trafficking in human beings, how does this work in practice?

Please see question 11 for details of how trafficking victims can obtain residence permits and international protection statuses. There are no additional or specific provisions available. It should be noted, however, that all potential victims of trafficking are awarded a 45-day reflection period specific to their victim status, after receiving a decision from the Competent Authority that there are reasonable grounds to think that they are a victim of trafficking.

Q13. Have systems of referral of (potential) victims of trafficking in human beings from international protection procedures to other procedures been evaluated in your Member State?

Individuals can remain in procedures for international protection whilst also being able to access the NRM and discretionary grants of trafficking leave to remain, therefore there is no system of referral from one procedure to another. Please see question 9 for further details on evaluations that the UK has undertaken.

2.4 Detection and identification and referral in relation to Dublin procedures

Q14. If, in accordance with Council Regulation 343/2003, the Competent Authority decides that another Member State is responsible for examining the application for international protection (i.e. Dublin procedures apply) and the applicant is detected as a (potential) victim of trafficking in human beings, does this trigger Article 3(2)⁷ and/or Article 15⁸ of the Regulation – i.e. can the Dublin transfer be suspended?

The UK may choose to exercise the sovereignty clause, Article 3(2), in cases where it is deemed appropriate that the individual remains in the UK. These cases may include individuals who have exceptional personal circumstances, and those co-operating with an on-going investigation against their traffickers.

If yes, please answer the following questions

Q14a. How are (potential) victims subject to Dublin transfers detected? Please specify which applies.

There are no specific processes for identifying potential victims of trafficking subject to the Dublin Regulations. However those subject to Dublin Regulations will already have attended a screening interview for international protection, at which point proactive screening takes place. If after this immigration staff suspect that an individual is a victim, an individual claims to be a victim, or a representative for the individual draws attention to their potential status as a victim then a referral to the NRM can still be made, and this will temporarily halt any transfer on the grounds of the Dublin Regulations, whilst the potential victim receives a minimum 45-day reflection period.

⁷ Article 3(2) states that “each Member State may examine an application for asylum lodged with it by a third country national, even if such examination is not its responsibility under the criteria laid down in this Regulation.”

⁸ Article 15(1) states that, “Any Member State, even where it is not responsible under the criteria set out in this Regulation, may bring together family members, as well as other dependent relatives, on humanitarian grounds based in particular on family or cultural considerations. In this case that Member State shall, at the request of another Member State, examine the application for asylum of the person concerned. The persons concerned must consent.” Article 15(3) refers specifically to unaccompanied minors and states, “If the asylum seeker is an unaccompanied minor who has a relative or relatives in another Member State who can take care of him or her, Member States shall if possible unite the minor with his or her relative or relatives, unless this is not in the best interests of the minor.”

Q14b. If a (potential) victim is detected, what are the next steps in terms of assessment and identification? Is there a specific level of evidence needed to suspend a Dublin II transfer?

As with all other potential victims detected, a referral will be made to the NRM and their case will be considered by a Competent Authority. Whilst a person's trafficking claim is being considered and the potential victim is receiving the recovery and reflection period, they will not be removed from the UK under the Dublin Regulations. The UK may then choose to exercise the sovereignty clause of the Dublin Regulations to prevent transfer for those victims who have conclusively been identified as victims by a Competent Authority. However, cases are considered individually and confirmation as a victim of trafficking will not automatically suspend transfers undertaken on the grounds of the Dublin Regulations. If it was considered that the trafficking victim does not meet the criteria for a grant of discretionary leave to remain and it is not appropriate to remove the case from the Dublin Regulations process then neither article will be triggered and the applicant's case will proceed as normal after the recovery and reflection period.

Q15. If being a victim of trafficking in human beings does not trigger Article 3(2) or Article 15 in your Member State can Dublin II transfers be suspended anyway?

Transfers are suspended temporarily for those trafficking victims given a recovery and reflection period, and this is done without reference to Article 3(2) or Article 15. However, for an individual to be taken out of the Dublin process altogether, Article 3(2), the sovereignty clause, must be used.

Q16. Are third country nationals subject to Dublin procedures informed of possibilities offered under Directive 2004/81/EC or national equivalent measures, or other residence possibilities?

Victims of trafficking whose immigration case falls under the Dublin Regulations are treated in line with the Home Office's policy on the processing of victims of trafficking. This does not include informing any potential victims of trafficking of the possibilities offered by national equivalent measures to Directive 2004/81/EC.

2.5 Future measures

Q17. Are any future measures anticipated in relation to improving or facilitating the detection and identification of victims of trafficking in human beings in procedures for international protection?

There are a range of on-going measures aimed at improving the identification of victims.

Q17a. If yes, please briefly describe the anticipated measures here: what type of mechanisms to be covered, actors involved, etc.

Measures are focused on supporting front-line staff who may come into contact with victims of trafficking and could have a role in improving the identification of victims and referrals to the NRM. The Government is particularly interested in engaging public sector and front-line staff outside of the law enforcement sector who have not traditionally had a big role in this area. The Home Office has recently funded £74,000 to three NGOs – the National Society for the Prevention of Cruelty to Children (NSPCC), Stop the Traffik, and Eaves – for the provision of training to social workers, young offender teams and local government housing and licensing inspectorates. In addition, the Department of Health has developed an identification toolkit in conjunction with Platform 51 (an NGO), which has been rolled out to support public health workers.

Section 3: Detection, identification and referral of victims in forced return procedures

3.1 Legislative framework

Q18. Are there established mechanisms for detecting and identifying victims of trafficking in human beings in forced return procedures?⁹

Yes. There is a standard practice in place, whereby immigration staff who suspect that an individual may be a victim of trafficking will refer the potential victim to the National Referral Mechanism (NRM).

Q19. Are there different protocols and/or practices for children and adults?

Yes, see question five.

Q20. Are there different protocols and/or practices for men and women?

No, see question six.

3.2 Detection of victims

Q21. How are (potential) victims of trafficking in human beings detected, amongst rejected applicants, in forced return procedures?

Rejected applicants in forced return procedures have already been through the international protection application procedure, and thus have already been proactively screened to determine if they are a victim of trafficking. Therefore no further proactive screening takes place. However, all immigration staff coming into contact with rejected applicants are trained in identifying indicators of trafficking and if they suspect that an individual is a potential victim, will make a referral to the NRM.

Q22. If the Competent Authority detects that a rejected applicant may be a victim of trafficking in human beings, what are the next steps in terms of assessment?

They will be referred to the NRM for consideration by the Home Office acting as a Competent Authority.

⁹ (Member) States should here only refer to mechanisms for detection/identification used in forced return procedures – i.e. they should not refer to those used to detect/identify in situations outside of forced return procedures.

Q22a. Does the Member State apply a standard set of indicators to assess whether the person is a (potential) victim?

Yes.

If yes, please give further details, provided the information is not considered of a sensitive nature. How have these been developed? Are they based, for example, on international standards? These indicators are referred to in the following guidance for Competent Authority decision makers: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/competent-guidance?view=Binary>. This is based on the Council of Europe Convention on Action against Trafficking in Human Beings.

Q22b. Are other mechanisms¹⁰ used by the Competent Authority to assess whether a person detected as a (potential) victim should be identified as such (or referred on to formal identification procedures)?

The Competent Authority will have usually gathered enough information on the case from the initial asylum interview. However, where it is decided that further information is required from the individual, an additional interview may be conducted by the Competent Authority.

Q22c. What happens if, following the assessment, the Competent Authority decides that the third country national concerned is not a (potential) victim? Can the third country national seek an alternative assessment elsewhere?

If the Competent Authority delivers a negative grounds decision, at either the reasonable or conclusive ground stage, there is no process for formal appeal. The only way to seek an overturning of the decision is through a judicial review.

Q23. Have methods for the detection and/or identification of victims in forced return procedures been evaluated in your Member State?

The UK's system for detection and identification of trafficking victims works in the same way for potential victims subject to forced return, as for all other victims. Therefore please refer to the answer for question nine.

3.3 Referral

Q24. If a rejected applicant is identified as a (potential) victim and there is the possibility to open up a procedure as foreseen under Directive 2004/81/EC, how does this work in practice?

The rejected applicant will be considered in the same way that all other victims of trafficking are considered; discretionary leave to remain may be issued in some circumstances once the Competent Authority has conclusively identified the individual as a victim.

¹⁰ For example, interviews.

Q24a. Can the rejected applicant (where relevant, with the support of their legal representative) decide whether or not s/he wishes to access the provisions of Directive 2004/81/EC or national equivalent measures?

Yes.

Q24b. How is referral to the procedure as foreseen under Directive 2004/81/EC organised?

(a) The potential victim is given information on their rights and possibilities, but has to initiate alternative procedures on their own or with the help of their legal representative.

Q24c. Can the applicant's dossier/evidence gathered to date by the law enforcement authorities be transferred to and used in the new procedure for a reflection period or residence permit as foreseen under Directive 2004/81/EC?

Yes.

Q25. Have systems of referral of (potential) victims from forced return procedures to other procedures been evaluated in your Member State?¹¹

Please refer to questions 9 and 13.

3.4 Future measures

Q26. Are any future measures anticipated in relation to improving or facilitating the detection and identification of victims of trafficking in human beings in procedures for forced return?

Please refer to question 17.

Q26a. If yes, please briefly describe the anticipated measures here: what type of mechanisms to be covered, actors involved, etc.

As above.

¹¹ For example, if a national referral mechanism or (other) co-ordination mechanism exists, has this been evaluated?

Section 4: Detection, identification and referral of victims by other related actors

4.1 Detection and identification of victims in reception centres/ detention facilities

Q27. How are (potential) victims of trafficking in human beings detected whilst residing in reception centres for applicants of international protection and whilst detained in detention facilities for irregular migrants awaiting return (where these exist in Member States)?

The UK does not have ‘reception centres’ for asylum claimants in a similar manner to other Member States. Detention facilities are used, however, for ‘fast-tracked’ asylum cases where it is anticipated that a decision can be made quickly and the Home Office believes that there may be a risk of the applicant absconding. The Home Office does not fast-track cases where it is believed that the individual could be a victim of human trafficking, and all individuals are proactively checked for indicators during the asylum screening process, before being placed into detention. However, all staff working in detention centres and asylum caseworkers have received training on detecting signs that an individual might be a victim. Additionally, victims can self-report or other ‘actors’ in contact with the victim can draw attention to their potential victimisation.

Q28. Is the practice described above based on established guidelines/ protocol (if yes, please provide a reference/information)

Yes. There are established guidelines that all Home Office staff working in immigration follow in detecting victims. These are available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/cross-cut/protecting-vulnerable/04-victimstrafficking?view=Binary>.

Q29. Are there different protocols and/or practices for children and adults?

Yes, please see question five.

Q30. Are there different protocols and/or practices for men and women?

No, please see question six.

Q31. What are the next steps in terms of assessment and identification?

If any first responder (for example, Home Office staff within a detention centre) detects a potential victim, they will refer them to the NRM. It is at this point that the Competent Authority will make a decision as to whether the person should be recognised as a victim. The Competent Authority has 5 days to decide if there are reasonable grounds to suspect that an individual is a victim, and 45 days to make a final conclusive decision on whether the individual should be confirmed as a victim.

Q31a. Is there a standard set of indicators used to assess whether the suspected victim should be identified as a victim? Please see question 8a.

If yes, please give further details, provided the information is not considered of a sensitive nature.

As above.

Q31b. Are other mechanisms¹² used to assess whether a suspected victim should be identified as such?

Please see question 8c.

4.2 Referral of (potential) victims in reception centres/ detention facilities

Q32. What are the next steps in terms of referral?

Potential victims of trafficking will be referred to the National Referral Mechanism (NRM) in the same manner as all potential victims detected at any stage. In any cases where the Competent Authority decides that there are reasonable grounds to believe that the person is a victim of human trafficking, they are released from detention, unless it is judged that this would pose a threat to public order.

Q33. Have systems of detection and referral by actors in reception centres or detention facilities to procedures for victims of trafficking in human beings been evaluated in your Member State?¹³

The UK's system for detection, identification and referral of trafficking victims works in the same way for potential victims in reception centres and detention facilities, as for all other victims. Therefore please refer to the answers for questions 9 and 13.

4.3 Role of other actors (optional)

Q34. Do other actors coming into contact with applicants and rejected applicants – for example, legal representatives, civil society organisations, medical staff – formally detect (potential) victims amongst third country nationals in international protection and/ or forced return procedures and refer them on to other authorities competent to identify and assist?¹⁴

Yes.

¹² For example, interviews.

¹³ For example, if a National Referral Mechanism or (other) co-ordination mechanism exists, has this been evaluated?

¹⁴ Only describe detection amongst third country nationals in international protection/forced return procedures; not detection in general.

Q34a. If yes, describe the mechanisms for detection.

Some other actors besides the immigration authorities are also defined as 'first responders'. This means that they are also able to refer potential victims of trafficking to the NRM, allowing the potential victim to be formally identified and assisted. First responders outside of immigration services include a number of third sector organisations, for example, the poppy project and the National Society for the Prevention of Cruelty to Children (NSPCC) as well as the police and local authority social workers. It is possible that these actors may come across potential victims of trafficking who have applied for international protection. As of 2013, doctors and other medical staff are not first responders.

Q34b. If yes, describe what happens in terms of referral.

These actors will refer the potential victim to the Competent Authorities via the NRM in the same manner as the immigration staff would – by filling out a referral form.

Section 5: Training

Q35. What guidance and training do Competent Authorities (and optionally other actors) receive regarding the detection and identification of victims? Please specify the following for each type of training described.

Q35a. Content of training, specifically in the following areas.

- i 'Indicators for detecting/identifying victims'. Training is given to Competent Authorities on the indicators for detecting and identifying both adult and child victims of trafficking. The indicators that staff are trained to look out for include a potential victim receiving threats, signs of psychological trauma, having injuries consistent with assault, and not having access to their passport or identity documents.
- ii 'Profiling techniques'. This is not included in Competent Authority training at present.
- iii 'Gender-sensitive approaches for engaging with victims'. This is included in Competent Authority training. In addition, all asylum decision making staff are required to complete a mandatory one-day gender training course, which provides in-depth guidance on how to take a gender-sensitive approach when conducting interviews and making decisions.
- iv 'Building trust and engaging with (potential) victims'. Competent Authority training includes training in interview techniques and building appropriate rapport.
- v 'Others'. Training and guidance provided to competent authorities will also include best practice examples from case studies and National Referral Mechanism (NRM) decision minutes; group discussions; and guest speaker presentations from corporate partner organisations.

Q35b Type of stakeholder trained

All Competent Authority decision making staff attend a two-day course as part of wider asylum training. Staff from the UK Human Trafficking Centre (UKHTC) also attend Home Office Competent Authority training. Immigration staff who are not going to be Competent Authority decision makers are required to complete two mandatory e-learning courses on human trafficking and the NRM.

Q35c. Type of training/guidance (for example, training module, training workshop, examination, guidelines, brochure, other (please describe))

The training is provided as a two-day training workshop, and there is an end of course test.

Q35d. Authority/organisation providing the training

Training is provided by the Asylum Learning and Development team (UK Visas and Immigration, within Home Office).

Q35e. Frequency of the training (for example, annually, one-off, induction training)

Currently (as at July 2013), the requirement is that the training is attended on a one-off basis.

Q35f. Whether the training is obligatory

Competent Authority training is mandatory for all staff who wish to become Competent Authority decision makers, and mandatory for senior staff overseeing their work. Immigration staff who are not going to be Competent Authority decision makers are required to complete two mandatory e-learning courses on human trafficking and the national referral mechanism.

Q36a. Specifically please describe whether your Member State has organised joint training sessions of trainees from different backgrounds – for example, personnel involved in procedures for international protection, forced return and those for victims of trafficking in human beings.

As above, Competent Authority training is provided to immigration staff from various disciplines. To date (July 2013), this has included asylum staff, staff dealing with cases under Dublin procedures and removals staff.

Q36b. Specifically please describe whether your Member State has organised multi-disciplinary training – i.e. as provided by a range of experts.

The training provided by the Asylum Learning and Development team (UK Visas and Immigration, within Home Office) includes guest speakers from the the Serious Organised Crime Agency (SOCA), the Salvation Army, and the National Society for the Prevention of Cruelty to Children (NSPCC).

Section 6: Statistics

This section provides statistics that indicate the scale and scope of (potential) victims detected and identified in procedures for international protection and forced return.

Q37. Has your Member State conducted any research into the scale of victims of trafficking in human beings in international protection procedures and/or procedures for forced return?

Research has been conducted into the scale of victims of trafficking. The UK Human Trafficking Centre (UKHTC) conducted a baseline assessment for 2011, to estimate the number of potential human trafficking victims in the UK. This covers all human trafficking victims, not just those in international protection procedures.

Q37a. If yes, briefly describe it here, providing the reference to the study, its aims, and any key findings relevant to this present study.

The baseline review (2011) collected intelligence from police forces, non-governmental organisations (NGOs) that work with victims of human trafficking, and the Home Office. The report established that the actual number of potential victims during 2011 was 2,077, 46 per cent of these were referred to the National Referral Mechanism (NRM) during that time. The true number of potential victims is likely to be higher still, given that not all that relevant authorities that were contacted to provide evidence did so. Victims may not have been referred for a number of reasons, including withholding their consent, not requiring the support services provided.

This report can be found at:

http://webarchive.nationalarchives.gov.uk/20130703102353/http://www.soca.gov.uk/about-soca/library/doc_download/400-soca-ukhtc-baseline-assessment

Annex 1

Table 1 – Statistics on third-country national victims of trafficking in human beings identified in procedures for international protection and forced return¹⁵

	2008	2009	2010	2011	2012
Number of third-country nationals who have withdrawn from or stopped (EU harmonised) international protection procedures (or – where relevant – have stayed in international protection procedures) ¹⁶ and who have (later) been granted a reflection period as a (potential) victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC, Directive 2011/36/EU or other national provisions).	:	:	:	:	:
Where possible, please disaggregate for:					
<ul style="list-style-type: none"> Gender, age, nationality of the person identified 					

15 : indicates that data is not available. Data included within these tables is published at: <http://webarchive.nationalarchives.gov.uk/20130703102353/http://www.soca.gov.uk/about-soca/about-the-ukhtc/national-referral-mechanism/statistics>

16 The measure provided here depends on the (Member) State's response to Q11a – i.e. whether the applicant has to withdraw from the procedure for international protection in order to be granted a reflection period and/or residence permit under Directive 2004/81/EC.

	2008	2009	2010	2011	2012
<p>Number of third-country nationals who have withdrawn from or stopped (EU harmonised) international protection procedures and who have (later) applied for a (temporary or permanent) residence permit as a victim of trafficking in human beings cooperating with the authorities (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive¹⁷).</p> <p>Where possible, please disaggregate for:</p> <ul style="list-style-type: none"> • Gender, age, nationality of the person identified 	:	:	:	:	:
<p>Number of third-country nationals who have withdrawn from or stopped (EU harmonised) international protection procedures and who have (later) been granted a (temporary or permanent) residence permit as a victim of trafficking in human beings (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).</p> <p>Where possible, please disaggregate for:</p> <ul style="list-style-type: none"> • Gender, age, nationality of the person identified 	:	:	:	:	:

¹⁷ Denmark, Ireland and the United Kingdom are not signatory to and therefore do not transpose Directive 2004/81/EC; however, each of these offers alternative procedures for granting residence permits.

	2008	2009	2010	2011	2012
<p>Number of third-country nationals who have been rejected from (EU harmonised) international protection procedures following a (final) negative decision on their application and who have (later)¹⁸ been granted a (non-EU harmonised) protection status or residence permit (e.g. on humanitarian grounds)¹⁹ as a victim of trafficking in human beings (e.g. due to humanitarian reasons).</p> <p>Where possible, please disaggregate for:</p> <ul style="list-style-type: none"> Gender, age, nationality of the person identified 	:	:	:	:	:
<p>Number of third-country nationals who have been rejected from (EU harmonised) international protection procedures following a negative decision and who have – following official identification procedures - (later) been granted a reflection period as a (potential) victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC or Directive 2011/36/EU or other national provisions).</p> <p>Where possible, please disaggregate for:</p> <ul style="list-style-type: none"> Gender, age, nationality of the person identified 	:	:	:	:	:
<p>Number of third-country nationals who have been rejected from (EU harmonised) international protection procedures following a negative decision and who have – following official identification procedures - (later) been granted a residence permit as a victim of trafficking in human beings (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).</p> <p>Where possible, please disaggregate for:</p> <ul style="list-style-type: none"> Gender, age, nationality of the person identified 	:	:	:	:	:

18 Note: in some (Member) States, where all third-country nationals applying for international protection are assessed against all categories of international protection simultaneously in the same process, this reference to two separate processes may not be relevant. (Member) States with single procedure are not required to provide an answer here, and can state “Not Applicable” in the box.

19 Where possible, please specify the type of protection status / residence permit.

	2008	2009	2010	2011	2012
Statistics on referrals to national referral mechanisms (where existing in (Member) States)					
If an national referral mechanism (NRM) exists in your (Member) State, please provide statistics on:	:	:	:	:	In 2012, for all referrals ²⁰ :
<ul style="list-style-type: none"> Number of third-country nationals referred by the authorities responsible for examining and deciding upon applications for international protection to the NRM 					512 referrals were made by UKBA (The authorities responsible for international protection, enforcing forced returns and managing reception centres)
<ul style="list-style-type: none"> Number of third-country nationals referred by the authorities responsible for enforcing forced returns to the NRM 					254 referrals were made by the police
<ul style="list-style-type: none"> Number of third-country nationals referred by the authorities responsible for managing reception centres to the NRM 					232 referrals were made by NGO's/the third sector
<ul style="list-style-type: none"> Number of third-country nationals referred by civil society to the NRM 					30 by the Serious Organised Crime Agency (SOCA)
<ul style="list-style-type: none"> Number of third-country nationals referred by other actors to the NRM 					158 referrals were made by local authorities
Where possible, please disaggregate for:					
<ul style="list-style-type: none"> Gender, age, nationality of the person identified 					:
Number of third-country nationals who have been granted a (non-EU harmonised) protection status or residence permit as a victim of trafficking in human beings (e.g. due to humanitarian reasons). ²¹	:	:	:	:	:
Number of third-country nationals who have been granted a reflection period as a victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC or Directive 2011/36/EU).	:	:	:	:	:

20 These statistics represent all potential victims of trafficking that are referred to the NRM (includes EU nationals). The source is: http://webarchive.nationalarchives.gov.uk/20130703102353/http://www.soca.gov.uk/about-soca/library/doc_download/474-nrm-provisional-statistics-2012

21 Where possible, please specify the type of protection status.

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Number of third-country nationals who have been granted a residence permit as a victim of trafficking in human beings (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).	:	:	:	:	:																																																																		
Number of third-country nationals referred to procedures for victims of trafficking in human beings through the NRM	:	:	Total: 710 ²² <table border="1"> <thead> <tr> <th>Age</th> <th>%</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Adult</td> <td>74</td> <td>524</td> </tr> <tr> <td>Child</td> <td>26</td> <td>186</td> </tr> </tbody> </table>	Age	%	Total	Adult	74	524	Child	26	186	Total: 946 ²³ <table border="1"> <thead> <tr> <th>Age</th> <th>%</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Adult</td> <td>75</td> <td>712</td> </tr> <tr> <td>Child</td> <td>25</td> <td>234</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th>Sex</th> <th>%</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Male</td> <td>33</td> <td>312</td> </tr> <tr> <td>Female</td> <td>67</td> <td>634</td> </tr> </tbody> </table>	Age	%	Total	Adult	75	712	Child	25	234	Sex	%	Total	Male	33	312	Female	67	634	Total: 1186 ²⁴ <table border="1"> <thead> <tr> <th>Country</th> <th>%</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Nigeria</td> <td>19</td> <td>205</td> </tr> <tr> <td>Vietnam</td> <td>13</td> <td>135</td> </tr> <tr> <td>Albania</td> <td>12</td> <td>128</td> </tr> <tr> <td>Romania</td> <td>7</td> <td>74</td> </tr> <tr> <td>China</td> <td>5</td> <td>55</td> </tr> <tr> <td>Rest</td> <td>44</td> <td>476</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th>Age</th> <th>%</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Adult</td> <td>69</td> <td>813</td> </tr> <tr> <td>Child²⁵</td> <td>31</td> <td>372</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th>Sex</th> <th>%</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Male</td> <td>34</td> <td>400</td> </tr> <tr> <td>Female</td> <td>66</td> <td>786</td> </tr> </tbody> </table>	Country	%	Total	Nigeria	19	205	Vietnam	13	135	Albania	12	128	Romania	7	74	China	5	55	Rest	44	476	Age	%	Total	Adult	69	813	Child ²⁵	31	372	Sex	%	Total	Male	34	400	Female	66	786
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25 This means that the victim was 17 or under at the time of first claimed exploitation. Based on details provided by First Responder on the Referral Form.

