

Child Exploitation and how it connects with Trafficking

July 2022

Barnardo's – what we do

Barnardo's believes in children.

Our vision is a world where no child is turned away.

Our purpose is to transform the lives of the UK's most vulnerable children. We support them, stand up for them and bring out the best in each and every child who needs us the most.

Barnardo's Scotland is a recognised, respected and established charity, and we run more than 122 community-based services working with over 16,500 children, young people and families every year, on a wide range of themes including: child sexual abuse and exploitation, family support, domestic abuse, disability, fostering and adoption, education and employability, substance use and advocacy.

Our services are firmly embedded in their local communities, united by a common focus; improving outcomes for the most vulnerable children.

JustRight Scotland

Scotland's Legal Centre for Justice and Human Rights

Our vision: Collaborative Social Justice

- We use the law to **defend** and **extend** people's rights
- Create collaborative projects – with legal and non-legal partner organisations – that cross disciplines, sectors and borders to pool expertise and resources to meet those gaps

 [@justrightscot](https://twitter.com/justrightscot)

 www.justrightscotland.org.uk



Approach to Assessment Reasonable and Conclusive Grounds

Our session aims

1. Understanding the **Devolving Child Decision – Making Pilot Programme – Decision Making Guidance for Pilot Sites in Scotland** in the context of child protection processes
2. Understanding the importance of the pilot guidance and impact on child protection processes
3. Understanding the **assessment methodology**
4. Understanding how to undertake this **assessment process** within the current child protection processes
 1. What **information/documents** may be needed and when
 2. Key **requirements** of the guidance at each stage
 3. What to **consider** and **record** at each stage.

Multi-agency Assessment Of Reasonable/Conclusive Grounds

It is an Assessment and not a Decision

*“The YPSP will make Reasonable Grounds and Conclusive Grounds NRM Decisions and these will be made as part of the Pilot Programme, **recognising that the ability to make NRM decisions is not a current delegated function to GCC**” (Paragraph 1.88 of the Pilot Guidance)*

It is a Multi-Agency Assessment

*“in identifying human trafficking and exploitation, a **multi-agency assessment** will be undertaken by the Pilot Stage.....having regard to all information. This will include information presented by the child or young person” (Paragraph 1.24 of the Pilot Guidance)*

“the pilot will follow the GIRFEC principles and framework to ensure a holistic assessment of the child or young person” (Paragraphs 1.25 and 1.86 of the Pilot Guidance)

Criminal Justice Process

- The NRM Assessment is completely **independent** of any criminal justice proceedings (*paragraph 1.28 of the Pilot Guidance*).
- Any assessment is **not dependant** on their being any criminal investigation and regardless of whether or not the child or young person co-operates with any criminal investigation (*paragraph 1.27 of the Pilot Guidance*).
- **Timing** – Police should indicate any specific timescales of the criminal justice process (*paragraph 1.53 of the Pilot Guidance*) and an assessment should be considered as a matter of urgency where a child is subject to such proceedings (*Paragraph 1.63 of the Pilot Guidance*)



The Assessment – Methodology

1. Gathering key information/evidence

2. Setting out key background information to the case

3. Considering/Assessing all information critically and objectively bearing in mind the standard of proof

4. Applying the assessment- are the definitions related to human trafficking and exploitation met

5. Reporting on your assessment

The Assessment Methodology – Step 1- Information

- What are the indicators of trafficking and exploitation in the referral form;
- Is there evidence of specific behaviour from the child;
- From social work records;
- Is there any intelligence or information from law enforcement agencies
- Is there anything in terms of risk or profiles from evidence from country of origin (including the UK). By way of example,
 - the US Department of State Trafficking in Person Reports (TIP) are a good reference. They come out each year end of June/start of July - <https://www.state.gov/trafficking-in-persons-report/> and depending on what is put forward, you may need to look at different years.
 - National Crime Agency Strategic Assessment

The Assessment Methodology – Step 1- Information continued

- Is there further information from First Responders, support organisations, and persons involved in assisting the child or young person such as Scottish Guardianship, accommodation providers, carers, health and education
- Expert evidence – this may relate to the nature of the exploitation, country or health.
- What the child says happened - is there evidence/information from the child or young person either directly or via SW, SGS or their lawyer?
- Is there information provided by the Home Office, for example, in relation to an asylum claim;
- Information from any other ongoing process relevant to the current assessment
- Any other relevant information available to the Pilot Site.

The Assessment Methodology– Step 2 – Background

- What are the material facts/information in this case?
- What is it you need to know about past and present events/set down to make an assessment at this stage in this case?
- Paragraph 1.13 of the Guidance – “*Material facts being those which are serious and significant in nature*” and which “*may indicate that a person is a victim of trafficking*”
- For the purposes of the NRM assessment, “*it is generally unnecessary and sometimes counterproductive, to focus on minor or peripheral facts that are not material*” to the claim of human trafficking.

The Assessment Methodology– Step 2 – Background continued

This will depend on each case but could include factors such as:-

- Nationality
- Age
- Background
- Indicators
- Incidents.

The Assessment Methodology – Step 3 - The Assessment

All information must be assessed critically and objectively and it must be clear what you are taking into account in your assessment and why?

Is the information credible (*Paragraphs 1.13-1.23 of the Pilot Guidance*)?

- a. Is information coherent and consistent?
- b. How well does the evidence fit together and does it contradict itself?
- c. Is the information consistent with other evidence
- d. Is there a sufficient level of detail

The Assessment Methodology – Step 3 - The Assessment continued

Information is not coherent, consistent, detailed?

Consider what weight to give to each material part of evidence and what you are relying upon and not.

- a. Have you taken into account **all** relevant and material information (*Paragraph 1.57 of the Pilot Guidance*)
- b. Have you asked for, and taken into account, views of relevant professionals? (*Paragraph 1.33 of the Pilot Guidance*)
- c. Have you taken into account any expert reports, particularly health reports (*Section 1.82 of the Pilot Guidance*).
- d. Have you taken into account objective evidence from a trusted source relating to known or emerging patterns of exploitation as they relate to the case in front of you (*section 1.83 of the Pilot Guidance.*)
- e. Be mindful of any ongoing process which may provide additional information (*paragraph 1.81 of the Pilot Guidance*).

The Assessment Methodology– Step 4 - Definitions

Section 1 of Human Trafficking and Exploitation (Scotland) Act 2015

1. Human Trafficking

- a. Is there evidence of an **action**, taken with a **view to exploitation** that makes this exploitation Human Trafficking?
 - i. Recruitment
 - ii. Transportation
 - iii. Transfer
 - iv. Harboring
 - v. Receipt
 - vi. Exchange or transfer of control over another person

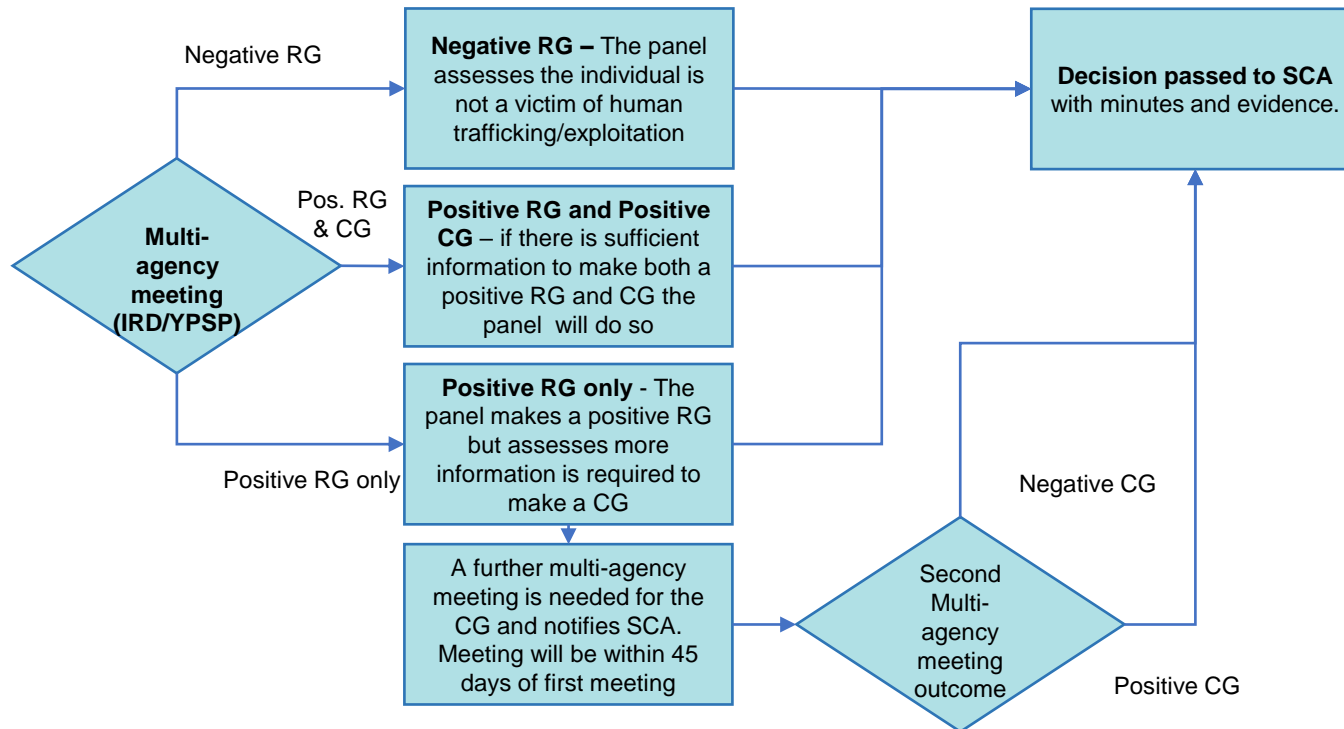
The Assessment Methodology– Step 4 - Definitions

Section 4 Offence, Human Trafficking and Exploitation (Scotland) Act 2015

1. Slavery
2. Servitude
3. Forced or Compulsory Labour

A child cannot consent to their own exploitation

Decision making process map



The Assessment –The Process

1. The Referral

2. IRD and/or Reasonable Grounds Stage
at the earliest opportunity

3. Pre Conclusive Grounds Stage (if relevant)
5 working days before YPSP

4. Conclusive Grounds Stage
45 calendar days from receipt of NRM referral

5. Post assessment – recording and follow-up
1 working day from assessment

1. Referral

1. For the NRM Pilot, there requires to be an **NRM Referral**
2. The Referral could initiate from
 1. An external First Responder Agency via the Home Office/Single Competent Authority
 2. An external agency who may or may not be a First Responder
 3. A multi agency meeting/other child protection process
3. Questions from Practice
 1. Referral from external agency but no NRM Referral?
 2. Can make Reasonable Grounds assessment but no NRM Referral?

“Human Trafficking and exploitation is a child protection issue and children protection procedures will take precedence in any referral in line with National Child Protection Guidance ”

(Paragraph 1.50 of the Pilot Guidance)

The Referral Form

Details of exploitation

- What happened?
- Where were they exploited
- Where are they now?
- Who exploited them?
- What type of exploitation?

Victim details

- Name
- Date of Birth (DoB)
- Gender
- Nationality
- Where they need an interpreter

- The referral will include contact details for clarification purposes or further evidence.

- Other supporting evidence can be submitted by email using the case reference number generated from the referral e.g. interviews, photos, documents etc.

1. Referral

1. Acknowledge Referral (*Child Protection Team*)

2. Arrange IRD meeting as per IRD Guidance (*Social Work Team*)

3. Confirm Date of IRD Meeting to SCA (*Child Protection Team*)

4. Consider/request information required (*Social Work Team*)

2. Reasonable Grounds Stage

Aim of assessment

1. Bearing in mind the low standard of proof, is there some **information** or **intelligence** or **behaviour** that is leading to a **suspicion** of human trafficking/exploitation (*paragraph 1.68 of the Pilot Guidance*)
2. **Majority Assessment** of the grounds is required (2 out of 3)

Standard of proof

- *"I suspect but cannot prove" that a person is a victim of trafficking or slavery, servitude or forced or compulsory labour*
- *"whether a reasonable person, having regard to the information in the mind of a decision maker, would think there are reasonable grounds to believe the individual is a victim of human trafficking or slavery, servitude, or forced or compulsory labour."* (Paragraph 1.66 of the Pilot Guidance)

2. Reasonable Grounds Assessment Stage

1. What information do you have and from where

2. Summarise background

3. Assess material facts/indicators presented

4. Could there be a situation of exploitation/human trafficking

2. Reasonable Grounds – Possible Outcomes

1. Insufficient information to take a decision

2. Negative reasonable grounds

3. Positive reasonable grounds

4. Positive conclusive grounds

2. Reasonable Grounds – Next Steps

1. Insufficient information– Contact FR/SCA and reconvene IRD/convene YPSP

2. Negative reasonable grounds-report outcome to child protection team within one working day of assessment

3. Positive reasonable grounds– consider further information required, report and arrange YPSP within 45 days

4. Positive conclusive grounds

Reasonable Grounds – Cases/Sabrina

Sabrina

- a. an NRM referral is received into the pilot from the asylum part of the Home Office. It contains basic information.
- b. It notes that Sabrina is a 17 year old girl from Eritrea. She fled Eritrea and paid various agents to take her to the UK. She has disclosed physical and sexual abuse from various agents along the route as well as from individuals with a uniform in Libya.
- c. She was located entering into the UK and she has made a claim for asylum. The Home Office doubt her nationality.

Reasonable Grounds – Cases/Trung

Trung

- a. 16 year old Vietnamese boy from poor rural background in Vietnam
- b. Once his carer died, a person in his village arranged for him to travel to Europe for work. The journey was difficult and he was locked up in various places for periods of time. He entered the UK in a boat which was intercepted by a rescue ship. He claimed asylum.
- c. You have the NRM referral, a full statement and interviews from the asylum process. At no point does he disclose exploitation in the UK

Reasonable Grounds – Cases/Kate

Kate has been taken into the care of the local authority following sexual abuse from her family.

Workers have reported she is spending a lot of time alone and on the internet. She has confided to a friend that she has met a boyfriend online. However, her friend is worried and has confided to a worker.

Kate says she is going to see her boyfriend at weekends but she seems to travel to different cities each time. There is also an explicit video of Kate that has appeared on Only Fans and has been shared.

3. Pre Conclusive Grounds Stage

1. Check information requested has been gathered/obtain further information (*allocated SW/TL*)

2. Include view on NRM Assessment within report

3. Ensure attendance of police and health

4. Consider involvement of parents/carers

4. Conclusive Grounds Stage

Aim of assessment

1. At conclusive grounds stage the task is to assess **whether on all the information available** a situation meets the definition of human trafficking and exploitation applying the standard of proof of balance of probabilities (paragraph 1.57 of the Guidance)
2. To make the Assessment, you must “weigh the balance of probabilities by considering the **whole human trafficking and exploitation process** and the different and interrelated actions that need to take have taken place. To make their decision they must weigh the **strength of the information presented** including the **credibility of the information** and use **common sense and logic** based on the **particular circumstances** of each case to form a view as to the credibility of the information presented” (Section 1.77 of the Pilot Guidance)
3. **Majority Assessment** of the grounds is required (2 out of 3)

Standard of proof

*“On the **balance of probabilities**, is this child or young person a victim of trafficking or slavery, servitude or forced or compulsory labour”*

(Paragraph 1.75 of the Pilot Guidance)

4. Conclusive Grounds Assessment Stage

1. What information do you have and from where

2. Summarise background

3. Assess material facts/indicators presented

4. Could there be a situation of exploitation/human trafficking

4. Conclusive Grounds – Possible Outcomes

1. Insufficient information to make a decision

2. Negative conclusive grounds

3. Positive conclusive grounds

4. Conclusive Grounds – Next Steps

1. Insufficient information– report to Child Protection Team and reconvene YPSP within timeframe

2. Negative conclusive grounds- report outcome to child protection team within one working day of assessment

3. Positive conclusive grounds- report outcome to child protection team within one working day of assessment

Conclusive Grounds – Cases/Colin

Colin

1. A 17 year old boy who has been known to social work for a number of years. There are indicators that he is involved in county lines.
2. There are inconsistencies in terms of information he has given to his social worker and the police regarding his whereabouts and who he was with.
3. The police have indicated that he has had freedom of movement, a phone and appears to be recruiting others to the gang.

Conclusive Grounds – Cases/Michael

1. Michael is a 13 year old boy from Nigeria whose school has raised concerns about him being tired. He says he has to help out around the house and this makes him tired.
2. Neighbours have also raised concerns about this boy in terms of his treatment at home. A call to the Home Office creates suspicions as to his visa and the relationships with the people who he lives with who are meant to be his aunt and uncle
3. He is removed from their care. However, he wishes to return. He does not wish to speak to anyone. He says this is better than anything he has known before and he is terrified of being returned to Nigeria.

5. Following Assessment - Recording

Aim of reporting

1. Within **one working day** of assessment taking place
2. Remember, you have made an **assessment**
3. Note the **information/evidence** relied upon, a **summary** of your **reasoning** and **application to the law**
4. Consider carefully what information requires to be **shared** and what **cannot be disclosed** to others through a SAR/other process

5. Following Assessment - Recording template

1. Administrative details
2. Stage of Assessment
3. Assessment Outcome
4. List of Evidence used for the decision
5. Summary of your reasoning – background, assessment of key facts bearing in mind relevant standard of proof and application to law.
6. Details of Exploitation
 - a. If “action” present that makes the case human trafficking –consider under human trafficking only.
 - b. When did the exploitation take place – an indication of all time periods
 - c. Where did it take place – UK, overseas or both
 - i. If UK- details as to the location
 - ii. If oversea- country or countries.

5. Following Assessment – Next Steps

1. Multi-Agency Assessment Panel (MAAP) for negative Conclusive Grounds only

2. SCA issue decision and notify social worker, first responder and police

3. Reconsideration – to SCA who will decide whether pilot/SCA who will reconsider

When to notify Child Protection Team/SCA

1. If a child/young person dies, goes missing or is arrested
2. There is a change in the local authority responsible for the child/young person
3. There is a criminal trial date set ahead of the expected decision date
4. There is any other event that is likely to delay a decision

Resources



The Assessment of reasonable and Conclusive Grounds (Word document)

[Decision making guidance for pilot sites in Scotland](#) (also available in Welsh)

[Devolving child decision making pilot programme: general guidance](#) includes more information about the pilot sites

Handouts



Official

