

Respondent Information Form

Scottish Government Guidance on Support for Adult Victims of Human Trafficking and Exploitation

Please Note: this form must be completed and returned with your response.

Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will still take account of your views in our analysis but we will not publish your response, quote anything that you have said or list your name. We will regard your response as confidential, and we will treat it accordingly.

To find out how we handle your personal data, please see our [privacy policy](#) at the bottom of the page. By submitting your response to Scottish Government you agree to our privacy policy.

1. What is your name?

Niamh Grahame

2. What is your email address?

Your email address will never be published. Your email address will be used if you give permission below to be contacted again in future about this consultation.

niamh@ustrightscotland.org.uk

3. Are you responding as an individual or an organisation?

Individual ☐

Organisation ☒

4. What is your organisation?

If responding on behalf of an organisation, please enter the organisation's name here.

JustRight Scotland

5. The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name ☐
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Information for organisations only:

The option 'Publish response only (without name)' refers only to your name, not your organisation's name. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

6. Do you consent to Scottish Government contacting you again in relation to this consultation exercise?

- Yes ☒
- No ☐

7. I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

You can view the privacy policy here: [Privacy - gov.scot \(www.gov.scot\)](http://www.gov.scot/privacy)

I consent ☒

Questionnaire

Question 1

Does the Guidance clearly set out its purpose and who it applies to? (Section 1 of the guidance)

- ☐ Yes
- ☐ No
- ☒ Undecided

Please give us your views.

In section 1.1, we recommend including a link to relevant guidance or resources that signpost organisations to available support for children. It may also be helpful to outline the approach to age-disputed children, clarifying the presumption of age principle set out in section 12 of the Human Trafficking and Exploitation (Scotland) Act 2015, which applies until an age assessment is carried out by a local authority or otherwise determined. It would be helpful to make reference to the support age-disputed children should be able to access during this period.

Section 1.2 of the Guidance sets out the primary audience is for professionals who provide support as mandated by the legislation. We believe that it would be helpful for alternative materials to be produced for victims and survivors. Please see our response set out in Question 15 with further suggestions on how to make the guidance more accessible.

Question 2

Does the guidance clearly set out the context, including the Human Trafficking and Exploitation (Scotland) Act 2015, subsequent regulations and the 2025 Trafficking and Exploitation Strategy, within which it will operate? (Section 2 of the guidance)

The Human Trafficking and Exploitation (Scotland) Act 2015, subsequent regulations and the 2025 Trafficking and Exploitation Strategy can be found at the following links:

[Human Trafficking and Exploitation \(Scotland\) Act 2015](#)

[The Human Trafficking and Exploitation \(Scotland\) Act 2015 \(Support for Victims\) Regulations 2018](#)

[Scotland's Trafficking and Exploitation Strategy 2025 - gov.scot](#)

- ☐ Yes
- ☐ No
- ☒ Undecided

Please give us your views.

We consider it would be helpful to add reference to relevant international legal instruments including the Council of Europe Convention on Action against Trafficking in Human Beings. We also believe that there should be reference to the Human Rights Act 1998, and particularly section 6 which sets out the duties of public authorities to not act incompatibly with a person's rights under the European Convention on Human Rights.

In Section 2.1, we would suggest that a link is provided to the Lord Advocate's instructions for non-prosecution of victims of human trafficking and that a brief explanation of when the presumption against prosecution of adult victims of trafficking applies is added.

In Section 2.4, the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 should be included in the devolved responsibilities section. In the reserved responsibilities section, it may be useful to explain that applications for compensation as a victim of crime are reserved to the Criminal Injuries Compensation Authority which is a UK Government department.

We also suggest that it would be useful to add a reference to [the Modern Slavery non-statutory guidance](#) produced by the UK Government.

Question 3

Does the guidance clearly explain how to identify and refer a potential victim of trafficking or exploitation to the National Referral Mechanism? (Section 4 of the guidance)?

- ☐ Yes
- ☐ No
- ☒ Undecided

Please give us your views.

Within this section, it should be clear that potential victims of trafficking have a right to access legal advice regarding entry to the NRM, including being informed of their legal rights and entitlements throughout the process. In Section 4.2, it discusses that children do not have to consent to the NRM process. It should be made clear that they are still entitled to legal advice regarding the process. In Section 4.3, it should be noted that legal advice should be provided to a child on consenting to remain in the NRM process.

In Section 4.4, we recommend including information on the process for a survivor to challenge a negative reasonable grounds or conclusive grounds decision. In particular, we recommend adding reference to the ability to submit a reconsideration request; the timeframe for doing so and that legal advice should be sought immediately upon any negative decision being reached.

Question 4

Does the guidance set out clearly the key principles informing adult human trafficking victim support in Scotland? (Section 5 of the guidance)

☐ Yes

☐ No

☒ Undecided

Please give us your views.

In Section 5.1, it should be made clear that any information sharing to improve multi-agency working must be done with the individual's consent.

In Section 5.2, further information should be provided about the referral process for adult support and protection under the Adult Support and Protection (Scotland) Act 2007, including timescales and the responsibilities placed on the local authority. We re-iterate that there it would be helpful to include information regarding age disputed children, particularly in this section, as a person can be treated as an adult at risk of harm from the age of 16.

In Section 5.4, we believe there should be clarification in respect of the support available for those who are unable to access long-term support through other services. We call on the Scottish government to embed a standardised pathway to long-term support within the SAVTS for survivors in this position.

Question 5

Does the guidance set out clearly the accommodation support for adult victims of human trafficking? (Section 6.1 of the guidance)

- ☐ Yes
- ☐ No
- ☒ Undecided

Please give us your views.

We consider that Section 6.1.1 should be amended to state that local authorities may have duties to accommodate families, care leavers and vulnerable adults even where they have a No Recourse to Public Funds condition. Reference should be made to information on human rights assessments in section 11 of the [Migrants' Rights and Entitlements Guidance](#). In addition, we note that this guidance advises that local authorities should consider providing interim support to prevent homelessness while they undertake a human rights assessment.

In Section 6.1.1. it sets out the criteria required for emergency accommodation. It is unclear in the guidance if these criteria are relevant to the accommodation referenced in 6.1.2.

We consider it would be useful for the guidance to make reference to other immigration routes, including work visas. In addition, it would be helpful to address the position of survivors at different stages of making an immigration application or asylum claim. For example, it would be helpful for the guidance to address situations where a person has been recognised as a victim of trafficking while becoming appeal rights exhausted or they wish to re-enter support for any other reason.

Question 6

Does the guidance set out clearly the approach to financial support for adult victims of human trafficking? (Section 6.2 of the guidance)

- ☐ Yes
- ☐ No
- ☒ Undecided

Please give us your views.

In Section 6.2.1, it would be helpful to include information on the payment of the essential living rate if there is a negative reasonable grounds or conclusive grounds decision and a reconsideration request is submitted regarding this decision. We would welcome clarity on when these payments are stopped and how they can be reinstated when a decision is being challenged.

In addition, it would be helpful to include information on how a refusal to provide support can be challenged or reconsidered.

There is also an opportunity in this section to add information about providing financial support for adult dependents.

Question 7

Does the guidance set out clearly the rights and information that should, where relevant, be made available to victims of human trafficking? (Section 6.3 of the guidance)?

☒ Yes

☐ No

☐ Undecided

Please give us your views.

In section 6.3.1 we suggest that the reference to information on legal advice can be more detailed and explicitly state that a potential victim is entitled to legal advice throughout the entire NRM process and for any other legal matters.

Question 8

Does the guidance set out clearly the approach to health and wellbeing for adult victims of human trafficking? (Section 6.4 of the guidance)

☒ Yes

☐ No

☐ Undecided

Please give us your views.

Question 9

Does the guidance set out clearly the approach to translation and interpretation for adult victims of human trafficking? (Section 6.5 of the guidance)

☒ Yes

☐ No

☐ Undecided

Please give us your views.

Question 10

Does the guidance set out clearly the legal assistance that may be available to adult victims of human trafficking? (Section 6.6 of the guidance)

☐ Yes

☒ No

☐ Undecided

Please give us your views.

We consider the term 'legal assistance' could be confusing in this context and would suggest that legal representation (Sections 6.6.1 and 6.6.2) and support for victims of trafficking who are witnesses in criminal proceedings (Section 6.6.3) are separated into two different sections.

We would suggest combining Sections 6.6.1 and 6.6.2 under the heading 'Access to legal representation'. There is currently some duplication with reference to legal aid.

With regards to legal representation, there is no mention in the guidance of what sort of legal representation victims of trafficking may need. We would suggest the first heading should cover this point and mention representation for going through the NRM process, immigration advice, and advice on compensation as common legal matters for which advice may be required. We would also recommend that the guidance directs support providers to discuss making referrals for legal advice for all adult victims.

Question 11

Does the guidance set out clearly information on compensation for adult victims of human trafficking? (Section 6.7 of the guidance)

☒ Yes

☐ No

☐ Undecided

Please give us your views.

Question 12

Does the guidance set out clearly the transition support available to adult victims of human trafficking? (Section 6.8 of the guidance)

☐ Yes

☒ No

☐ Undecided

Please give us your views.

We consider there are two parts of Section 6.8.1 which are unclear. Firstly, it is not clear what it means to be 'supported to exit support within 14 calendar days' of a negative reasonable grounds decision and how this differs from the 'move on support' available following a negative conclusive grounds decision. It would be helpful to clarify what this means in terms of victims' entitlements to support during these periods. Secondly, the support available following a positive conclusive grounds decision could be made clearer. The wording 'can be provided with at least 45 days of move-on support' is confusing. We would recommend that 45 days of move-on support is made the guaranteed minimum in line with the statutory guidance for England and Wales, while retaining the discretion to offer support beyond this point.

We don't think the reference to temporary permission to stay as a victim of trafficking (VTS leave) in Section 6.8.2 on its own is particularly relevant here.

We consider that Sections 6.8.3, 6.8.4 and 6.8.6 would be better placed at another point in the guidance as examples of the sort of support provided in the same way as legal assistance, health and wellbeing and compensation.

Question 13

Does the guidance set out clearly the outreach support available to adult victims of human trafficking? (Section 6.9 of the guidance)

☒ Yes

☐ No

☐ Undecided

Please give us your views.

Question 14

Would additional visual aids (i.e. flow charts or diagrams) be helpful within the guidance?

☒ Yes

☐ No

☐ Undecided

Please give us your views.

We consider it would be helpful to have a clearer flow chart which maps out the support available and the transition points alongside the different stages in the NRM process. The chart on page 16 of the consultation document could be developed to add more detail. It may also be helpful to have some 'case study' examples describing the support provided to a victim of trafficking as they progress through the NRM and beyond. This could be a hypothetical case study or based on a victim who has been supported by the Scottish Government.

Question 15

Is the guidance easy to read, navigate, and understand for all audiences?

☐ Yes

☒ No

☐ Undecided

Please give us your views.

Section 1.2 of the guidance sets out its intended audience as those providing support to victims of trafficking and local authorities. In this regard, we consider the document is structured in a way which is easy to navigate and note that both HTML and PDF versions are available.

Section 1.2 also states that it 'provides important information to victims and survivors who will want to know their rights and the supports available in Scotland.' In this regard, we think the guidance could be improved. We consider it would be beneficial to create a separate guidance document targeted at victims and survivors who are likely to want to know more about what their rights and entitlements are in practice and less about the legislative underpinning for the support. This could be a valuable resource to be shared with victims and survivors prior to them consenting to be referred into the NRM. We consider this guidance document should be drafted in the second person. JustRight Scotland has prepared several ['Know your rights' factsheets](#) for victims of trafficking which could help inform the style and language of an additional guidance document aimed at victims and survivors. We note that the draft guidance has been translated into Vietnamese which we think is a positive step in making the guidance accessible for victims and survivors.

Question 16

Do you have any other comments or suggestions about the guidance?

We note with regret that the consultation focuses on the clarity of the draft guidance and does not invite views on the extent of support provided to victims of trafficking, particularly where there are a number of areas which are still under consideration by the Scottish Government. Notably, the value of the Essential Living Rate for those in catered SAVTS accommodation (section 6.2.1) and the Recovery Rate (section 6.2.2) have not yet been decided. With regards to the former, we recommend that the Scottish Government ties this to the cash value of essential living items not provided in kind. We note that in England and Wales this has been assessed at £15.08 per week. We submit that the Recovery Rate should at least match the 'top-up' payments of £29.75 which were previously paid to victims in Scotland who were in the asylum system or in receipt of benefits during the 90-day period ('the relevant period') following receipt of a positive reasonable grounds decision.

We also note that unlike in England and Wales, the guidance does not guarantee that victims will receive the Recovery Rate until the point at which they receive a conclusive grounds decision. Instead, victims have no guaranteed support period, it being possible for payment of the Recovery Rate to cease even prior to the 90-day relevant period (Section 6.2.2). We submit that the position in Scotland in this regard should at least match the position in England and Wales. We recommend guaranteeing support for at least 90 days or until a conclusive grounds decision is received (whichever is later), following which there should be a guaranteed 45-day period of move-on support which includes a needs assessment to determine whether support beyond that period is necessary based on the victim's particular circumstances.

The Recovery Rate is intended specifically to allow victims to access services and opportunities needed to support their recovery from their trafficking and exploitation experiences. The precarious nature of the support proposed does not coincide with allowing victims the agency to access services in a trauma-informed way or with the Scottish Government's public health approach to trafficking. The public health approach set out in [Scotland's 2025 Anti-Trafficking Strategy](#) works across three levels. The third level, tertiary protection, relates to providing long-term support to victims after trafficking.