

Trafficking toolkit: Specific arrangements for UK Border Agency

CRIMINAL JUSTICE SYSTEM



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SPECIFIC ARRANGEMENTS AND ADVICE FOR UK BORDER AGENCY

Responsibilities of UK Border Agency

Potential victims of trafficking may be identified by staff across the agency from asylum teams to immigration teams, border control and enforcement.

It is the trained Competent Authorities who have the responsibility of verifying a person as a *victim of human trafficking* and it should not be expected that the person himself or herself must feel or behave as a *victim* (in the sense of being totally dependent on help and protection from someone else).

Role of the UK Border Agency in the National Referral Mechanism

If there is any concern that a person may have been trafficked because of either their demeanour, the situation in which they are encountered or any information that they have given, then further enquiries should be made if the person is able to co-operate, or the case should be referred to a higher ranking officer for their opinion. If there are any doubts, contact UKHTC or a local Competent Authority (CA) for advice.

The first responder should refer the case to the CA using the approved referral form. The CA has a target of five working days from the receipt of the referral to reach a decision. Where a case needs to be fast tracked, eg the person may be detained, the CA is expected to treat the case as a priority and reach the decision as soon as possible. Once the decision has been reached as to whether there are reasonable grounds to believe that the person may have been trafficked the CA will notify the decision to the first responder and the victim of trafficking. If they meet the reasonable grounds threshold they will be given a period of 45 calendar days for reflection and recovery, whilst the CA makes a conclusive decision on the case.

For details of how to refer cases UK Border Agency staff should refer to existing guidance.

Referring Children

- > Where there are any child protection concerns the circumstances must be referred to the police and local social services immediately;
- > Where trafficking is also suspected the FR should complete the Local Authorities referral form and provide details of the circumstances of the encounter and reasons for suspecting that the child is a victim of trafficking;

- > The form should be forwarded to the local authority highlighting that as a potential trafficking case it has also been referred to the CA;
- > This form will also act as the child trafficking referral form and should be copied and routed to the CA.

Your role in the process

Identifying victims

Port of Entry

All ports of entry in the UK are potential channels for trafficking victims. Identifying victims at these ports of entry is likely to be difficult as they may not be showing obvious signs of distress.

At this stage the victims may not see themselves as being at risk of harm from the trafficker, or may not consider themselves to be in any danger. However in both scenarios the victim is likely to have been coached with a story to tell the authorities at the border. Children may present themselves with no documentation at border control, having surrendered passports to the trafficker before presenting themselves to claim asylum.

Indicators may be:

- > Possesses money and goods not accounted for;
- > Is unable to confirm the name and address of the person meeting them on arrival;
- > Has had their journey or visa arranged by someone other than themselves or their family;
- > Is accompanied by someone who insists on remaining with the individual at all times;
- > Is withdrawn and refuses to talk or appears afraid to talk to a person in authority;
- > Has a prepared story very similar to those that other victims have given;
- > Does not appear to have money but does have a mobile phone;
- > Is unable, or reluctant to give details of accommodation or other personal details;
- > Has details of a contact they have never met before/has details of contacts sewn into (or attached by another means) clothing.

In country

Indicators may be:

- > Threats or actual physical harm to the worker;
- > Fear of employer;
- > Restriction of movement and confinement to the workplace or to a limited area;
- > Debt bondage: where the person works to pay off a debt or loan, and is not paid for his or her services. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt;

- > Withholding of wages or excessive wage reductions that violate previously made agreements;
- > Retention of passports and identity documents, so that the worker cannot leave or prove his/her identity and/or status;
- > Threat of denunciation to the authorities where the worker has an irregular immigration status.

The relationship between trafficked persons and the trafficker may be very complex. Sometimes victims believe that, after a period of abuse, they will eventually be able to pay off a debt and earn money for themselves. Some think that their trafficker is the only person who can help them; this is particularly applicable to children. Others blame themselves for being naïve, for making a bad decision in the first place or think that their situation could be worse. They may be afraid that they will be stigmatised or seen as *failures* if they return home empty-handed, or that they will be rejected by their families if they have been exploited through prostitution.

Traffickers can also be quick to adapt their behaviour. This includes such methods as: becoming less physically aggressive; becoming romantically *involved* with the victim; arranging a marriage to legalise a victim's status; providing small sums of money; or gradually allowing more freedom of movement.

Assisting the police in enquiries

Due to our obligations under the Council of Europe Convention on Action against Trafficking in Human Beings, we have agreed that in those instances where a victim has agreed to co-operate with the police, we will grant them a period of one year's discretionary leave specifically to assist with police enquiries. This may be extended where it is felt necessary, eg where a criminal prosecution takes longer than expected and the police or CPS have confirmed/requested that an extension is required.

The police will need to make a formal request for the person to be granted leave if they are to cooperate with police enquiries in relation to trafficking; there will be no charge for this service for trafficked cases only.

Article 14 of the Council of Europe Convention on Action against Trafficking in Human Beings states that:

“Each party shall issue a renewable residence permit to victims, in one or other of the two following situations or in both:

- a) The Competent Authority considers that their stay is necessary owing to their personal situation;
- b) The Competent Authority considers that their stay is necessary for the purpose of their co-operation with the Competent Authorities in investigation or criminal proceedings.”

Should Officers require further clarification regarding entry to, extensions of stay in, or deferral of removal from the UK for witnesses they should contact the CA dealing with the case.

Officers should also bear in mind that there may be some individuals who have expressed a willingness to assist the authorities with their enquiries who may still wish to return home. In such situations consideration should be given as to whether the individual could assist the authorities with their investigations and participate in any future legal proceedings from abroad through the use of video conferencing and web links.

Keeping records

All organisations will need to institute extra safeguards for written, electronic and verbally communicated information on trafficked persons.

As trafficked persons are particularly likely to face security risks, be referred to other providers and/or transferred from the original care location (eg, internationally) or participate in one or more legal proceedings, it is especially important to follow good data management procedures to ensure the safety of each individual. Trafficking cases may involve organised criminal groups.

Central to managing information on trafficked persons are: privacy, confidentiality and security.

- > Privacy refers to the individuals' right to control how they provide information, the use of this information and their access to it;
- > Confidentiality indicates the right of individuals to determine who has or does not have access to their individual information and for trafficked persons, suggests the importance of anonymity;
- > Security suggests the need to safeguard individual files against security breaches during data collection, storage, transfer and use.

Personal information must be collected in a private setting. Both the individual and the member of staff must feel safe to speak freely. It is a good idea to ask individuals if they feel comfortable and ready to discuss their case/needs. Consider, for example, whether the individual wants the door open or closed, discourage other staff from interrupting, and turn off your mobile phone.

Obtain informed consent: The fundamental element of *informed consent* is informing, by providing clear and accurate information. Staff should offer information about the scope and purpose of the interview, services that are and are not available and the measures in place to ensure individual privacy and confidentiality.

Data storage

All information gathered from trafficked persons must be considered highly sensitive. In trafficking cases, it may be beneficial for all information to be classified as confidential and coded, rather than using the individual's name. Coding is a particularly useful way to protect individuals, especially when data is shared.

Secure paper files. It is likely that during the course of interactions, paper documents are created. All paper case files:

- > Must be kept secure and under lock and key safe from unauthorized entry;
- > Must never be left unattended on desks, in common areas, etc;
- > Must be disposed of by shredding or through similar disposal method when no longer needed.

Secure electronic files. In addition, electronic information files should be:

- > Stored in a secure information system;
- > Protected by individual passwords with access limited to key staff;
- > Never stored on personal computers or in such data storage devices as USB flash drives, compact discs, etc. Personal information should never be disclosed via email.

Even when coding is used, individuals often can be readily identified by their basic data (demographic background, ethnicity, nationality, date of birth, family data, description of elements of the trafficking process, etc).

File information may be required by law enforcement in relation to a court case against an alleged trafficker. In more sinister situations, traffickers might try to obtain the trafficked person's file information to locate individuals. It is equally important to remember that personal data (name, work location, phone number, etc) of the support provider could also be misused. It is therefore important to follow well-designed data security procedures.

Confidentiality

Anonymity and confidentiality are important conditions in work with victims of trafficking. Victims have information about criminals who have trafficked and exploited them and this makes the individual vulnerable. However, confidentiality cannot be guaranteed in advance by officers and outside of stressing to the victims that the information will be protected, officers should ensure that they record any information that may affect the case.

Evidence from witnesses must be given independently and therefore officers must take care not to offer, or appear to offer, potential inducements to the victim. Any form of inducement might undermine the credibility of evidence obtained and adversely affect the prosecution's ability to bring cases to court.

Information sharing

Victims will have been in situations where contact with outsiders is handled with suspicion and in some circumstances endanger the health and safety of themselves or their loved ones. Careless handling of personal information greatly increases that risk. Inter-agency cooperation is essential in correctly identifying and sufficiently supporting victims but the data that gets transferred between agencies must be heavily protected.

You must obtain the consent of the individual before any referral is undertaken, unless there are child protection concerns or serious concerns over harm to selves or others. If you are referring the individual on to another organisation, you must specify what details you will be passing on. It must be remembered that victims could be extremely traumatised, and having to repeat information to a multitude of organisations will be detrimental to their health and well-being.

Guidelines on what to do if you suspect, or someone discloses that they have been trafficked

Officers need to maintain an active awareness of the vulnerability of the individual and their mental, emotional and psychological state during an interview and endeavour to use non-threatening body language.

Officers should work hard to establish a rapport with victims, making them feel comfortable and at ease. It is not uncommon for victims to feel both relief at having been identified and yet fear and suspicion toward an identifying Officer. This is often linked to their fear of being returned to their trafficking situation, many having been told by their traffickers that the authorities would simply return them should they try to escape. It is also not uncommon for negative feelings (fear and suspicion) to give way to those of relief once the victim felt safe and came to trust the identifying Officer.

Victims of trafficking may be reluctant to go into much detail about the full facts of their case. This may be because of cultural barriers, or simply due to the traumatic or humiliating nature of the treatment they have suffered. If this appears to be the case, interviewing officers should phrase their questions carefully and sympathetically, but should keep in mind the need to get as full an account as they can, while at the same time taking care not to cause undue distress.

Decisions on whether to postpone interviews should be made on a case by case basis, in accordance with existing instructions taking into account the applicants' circumstances.

What support/advice can you offer?

Frontline UK Border Agency staff may be the first external link that the individual has to get out of a very harmful situation. Recognising this and acting accordingly is crucial if UK Border Agency are to play their part in combating human trafficking. Knowing and understanding the indicators of trafficking and applying that knowledge in day to day work will be vital to identifying potential victims of trafficking, and engaging with relevant experts to refer vulnerable individuals on will ensure that the individual is securely and appropriately supported.

UK Border Agency staff should be open to having discussions with other agencies in relation to trafficking and should ensure that they know who within the agency can help with further queries.