

## NRM and Trafficking Legislation for internally trafficked victims of CSE

The Modern Day Slavery Act 2015 reiterates existing powers in relation to Trafficking and Exploitation.

<http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>

This document highlights the key benefits of NRM Trafficked person status for the victim, and in respect of the offender with specific reference to internally trafficked CSE victims. All young people deemed to be at high risk of being sexually exploited, or those being sexually exploited are likely to be eligible for NRM Trafficked status and should be referred as part of the Safeguarding/MASE plan.

NRM referrals can be made by Local Authorities, Police, Health and some Voluntary Sector Organisations. A full list of 'First Responders' and the NRM application form can be found at <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre/national-referral-mechanism>

Under Modern Day Slavery Act 2015, all agencies have a Duty to Notify in relation to anyone who is believed to be a victim of Human Trafficking (including internal trafficking within UK).

You do not need consent from child or parent/ carer to refer someone under 18yrs via NRM for trafficked status –trafficking status can remain in place post 18yrs with the consent of the victim

### NRM advantages - VICTIM

- Identifies that young person is a victim and not a willing, consenting participant.
- Identifies that an offence of Human Trafficking is being or has been committed which should generate a crime report by Police (if the Human Trafficking offence has not previously been subject of a crime report) and instigate a multi-agency safeguarding review for that child, including a review of safeguarding plan including disruption activity.
- Trafficked status renders a defence based on age irrelevant in relation to trafficking offences

- Trafficked status helps to address some of the challenges when dealing with cases that involve young people between the ages of 16 to 18yrs because trafficking legislation defines a child as under 18yrs. With trafficked status, consent becomes less contentious for this age group because age cannot be used as a defence for trafficking offences as a child cannot consent to being trafficked.
- 90 day 'Reflection & Recovery Period' (during which UKHTC/ NCA make a conclusive decision regarding status) supports safeguarding by entitling the young person to access extra services such as counselling and emotional support, safe accommodation (where appropriate) and support around disclosing any offences to the Police. For child victims of trafficking, this is through Children's Services and availability depends on local arrangements and services.
- Helps to identify explanations for the victim's behaviour through control, fear of reprisal and retribution, and trauma
- Under section 45 (4-5) of Modern Slavery Act 2015, a victim of human trafficking should be considered for non-prosecution of offences committed by the victim as part of the trafficking or exploitation process, indeed the act states that "a person is not guilty of an offence" where particular thresholds are met
- Helps to change the dynamic in court by clearly presenting the child as a trafficking victim
- Provides eligibility for special measures in court
- Trafficking prosecutions can be victimless – no requirement for a statement or victim to appear in court. This negates the need for young people to make disclosures.

#### NRM advantages – Offender

- The NRM will identify that an offence of Human Trafficking is being or has been committed – identifies victim and highlights trafficking (eg if a young person is found in a hotel room/ car with older people, consideration can be given to arresting them on suspicion of trafficking offences)
- NRM status of victim makes defence based on age or consent irrelevant providing increased prosecution opportunities for Police
- NRM status has no right to appeal so defence cannot appeal against the decision of NRM status and argue that the young person is not vulnerable or has not been trafficked – cannot say "I don't agree that she is trafficked" as defence.

- Trafficking offences are classified as 'lifestyle offences' for Proceeds Of Crime, meaning assets can be seized under The Proceeds of Crime Act (POCA) upon conviction.
- Proving trafficking offences is usually less complex than proving sexual offences relating to CSE - not reliant upon victim to disclose or give evidence/ age and consent issues are less complex. Although some evidence of sexual activity is required, a disclosure of rape/ sexual assault would not be required to arrest on suspicion of trafficking. For example – a 16yr old victim with NRM status in a hotel room with adults with evidence/ significant suspicion of sexual activity – adults could be arrested on suspicion of trafficking based on suggestion that they arranged, facilitated or provided the means of transport to the hotel.

A few recent examples of convictions under Modern Slavery Act 2015 for Trafficking offences, relating to CSE:

<https://www.west-midlands.police.uk/news/3112/coventry-cse-prisoner-convicted-rape>

<https://coventryobserver.co.uk/news/jailed-coventry-rape-gang-who-trafficked-and-sexually-assaulted-teenage-girls/>

[http://www.cps.gov.uk/news/latest\\_news/two-convicted-of-modern-slavery-act/](http://www.cps.gov.uk/news/latest_news/two-convicted-of-modern-slavery-act/)

<https://www.theguardian.com/uk-news/2017/nov/03/newcastle-men-jailed-sex-grooming-network-operation-sanctuary>