

## National Referral Mechanism (NRM)

### Exploitation and County Lines - Child Victims of Modern Slavery

#### Pan Merseyside Multi Agency Practice Guidance

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Contact: anthonykirk1@wirral.gov.uk

## **1. Introduction**

- 1.1 Child exploitation is a major, cross-cutting issue involving drugs, violence (including sexual violence), gangs, safeguarding, criminal and sexual exploitation, modern slavery, and missing children. Child victims of modern slavery should be referred into the Home Office National Referral Mechanism (NRM).
- 1.2 The identification and response to modern slavery in children - be it county lines, linked exploitation or slavery and servitude; requires coordinated multi agency activity and clear arrangements for how these agencies and organisations work together.
- 1.3 The Home Office updated the Modern Slavery Statutory Guidance in March 2022. This is an essential document for Investigators and safeguarding professionals working with victims of modern slavery.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1059234/Modern\\_Slavery\\_Statutory\\_Guidance\\_EW\\_Non-Statutory\\_Guidance\\_SNI\\_v2.8.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1059234/Modern_Slavery_Statutory_Guidance_EW_Non-Statutory_Guidance_SNI_v2.8.pdf)

## **2. Purpose**

- 2.1 The key focus of this document is to provide background context and practice guidance for frontline practitioners to follow and use as a best practice, when responding to, and safeguarding children linked to modern slavery.
- 2.2 The key objective of this guidance is to increase consistency in understanding, better co-ordinate the response to county lines and improve safeguarding of children who are being exploited.
- 2.3 The main users of this advice may be those staff working in local CE Investigations, complex safeguarding or multi agency exploitation teams. This can be a highly technical and complex area, specialist practitioners and managers across safeguarding partners should use this guidance to generate a deeper personal understanding; and draw upon this to help support and coach their respective colleagues.
- 2.4 In responding to such matters, it is recognised that the focus and attention placed on suspects, perpetrators or those otherwise potentially involved with such matters will safeguard other as yet unidentified children and young people.

## **3. Scope**

- 3.1 This is practice guidance, not statutory guidance. Linked reference material and toolkits are listed throughout and at Appendix E.
- 3.2 This guidance is primarily aimed at the prevailing profile of NRMs within Merseyside. The significant majority of NRMs in the context of this guidance relate to the county lines model of exploitation.
- 3.4 Whilst this guidance provides focus on a typical county lines model of abuse, the principles of identification, coordination and support can be used to support practice decisions and inter agency working across other models of exploitation and abuse that may require NRM consideration.

3.5 Models of exploitation evolve, constantly. Professionals should remain alive to individual circumstances, vulnerabilities, and genders – criminal exploitation does not just happen to males; and may not involve trafficking between counties or cities.

#### 4. **Context**

4.1 The victims of county lines are often children, commonly males aged 15 to 17 years, who are groomed with money, gifts or through sexual and violent relationships, and forced to move, store and deal, drugs. Children as young as 11 years of age have been reported as being exploited. It is important to stress here that child victims can be both male and female.

4.2 Methods of control include:

- Debt bondage, including staged robberies.
- Sexual abuse, particularly against females, including for blackmail and humiliation purposes.
- Violence (real and threatened) is used to coerce victims to become dealers, enforce debts and use victim's accommodation as an operating base.
- Kidnap against victims and their families.

4.3 Merseyside and County Lines Impact

- As of early 2022, the Merseyside region was secondly only to the London area for county line origins. The destinations remain predominantly the North-West.
- The dominant commodities within county lines remain Crack Cocaine and Heroin.
- County lines originating from Merseyside have harm indicators mostly relating to firearms, trafficking, serious violence, and home invasion ('Cuckooing').
- Violence and weapon possession in County Lines continue to be reported, particularly within the younger male cohort operating at street level. Children and young people are largely reported in roles such as runners or dealers.

#### 5. **Child victims of Modern Slavery as Suspects**

5.1 The national approach to youth justice continues to recognise and promote the safeguarding of children as the primary objective, to see *the child first and the offender second*.

5.2 All work by professionals should be child-centred and child-focused. County lines and criminal exploitation cases are extremely nuanced and must be handled on a case-by-case basis.

5.3 Child trafficking and exploitation is often accompanied by various types of control, such as violence, the threat of violence, sexual abuse, alcohol and drug abuse, emotional abuse, manipulation, and imprisonment, to suppress victims and ensure their compliance.

5.4 For that reason, victims may not fully cooperate with an investigation or prosecution for fear of reprisals or because they do not recognise that they are being exploited.

5.5 Offenders may also attempt to abduct or coerce the child whilst criminal proceedings are ongoing, including while the child might be being cared for by the local authority.

5.6 Our investigative strategies are developing to understand this complex interplay; and increased focus is placed upon evidence led investigations. Such investigations would consider information from telecommunications, CCTV, be intelligence led and consider those more

immediate disruption opportunities to mitigate risk to children and young people. This is a balance to be struck on a case-by-case basis and by working in partnership.

- 5.7 Frontline staff should bear in mind that children who are victims of modern slavery can be forced into forms of criminal activity as part of their exploitation. These victims are some of the most vulnerable and least likely to admit their situation to law enforcement due to the threats made on them by the modern slavery facilitators.
- 5.8 In these cases, when the signs are not identified, the young person ends up being charged, prosecuted, and convicted of offences committed whilst being exploited. Often, such children are instructed by their modern slavery facilitators to plead guilty, then when they are released from their sentence they are returned to modern slavery. (See Barnardo's. Appendix E).
- 5.9 Where it is found that the child committed an offence as a direct consequence of their situation, prosecutors should follow the Crown Prosecution Service (CPS) guidance on the approach to prosecuting county lines offences, including a focus on the Modern Slavery Act 2015, and, where appropriate, consider whether there is clear evidence of the statutory defence under Section 45 of the 2015 act. The 2015 Act, states:

**"4 - A person is not guilty of an offence if—**  
**(a) the person is under the age of 18 when the person does the act which constitutes the offence,**  
**(b) the person does that act as a direct consequence of the person being, or having been, a victim of slavery or a victim of relevant exploitation, and**  
**(c) a reasonable person in the same situation as the person and having the person's relevant characteristics would do that act."**

- 5.10 Whilst this act is aimed at prosecutors and law enforcement, the factors under consideration in the guidance should be in the consciousness of other front-line professionals. This will help them identify information which can help prosecutors come to the most appropriate decision. This guidance may be particularly helpful if a professional is acting in an advocacy role on behalf of the child or young person (for example an appropriate adult, social worker, lead professional or other trusted relationship), or preparing a pre-sentence report in the context of a youth justice role. Appendix B has an abridged version of the CPS guidance with pertinent points drawn out for this purpose. (As of December 2021. See live link for updates).

<https://www.cps.gov.uk/legal-guidance/human-trafficking-smuggling-and-slavery>

**See Appendix B: Considerations for prosecutors.**

- 5.11 Collectively, we must be conscious that children who are encountered as suspects, or alleged suspects, are entitled to the same safeguards and protection as any other child, and due regard should always be given to their safety and welfare.
- 5.12 While children may appear to have status in an organised drug dealing network and enjoy the benefits associated with this, we ask that frontline practitioners consider how and why this child became associated with the organised drug dealing network in the first instance. Context is key, this will go beyond the individual circumstances of the arrest or event.
- 5.13 Victims' early accounts may also be affected by the impact of trauma. In particular, victims may experience Trauma Bonding and Post Traumatic Stress Disorder, which can result in symptoms of hostility, aggression, difficulty in recalling details or entire episodes, and

difficulty concentrating. Bonding can see victims feel and display strong connections to their exploiters. This may impact on how victims present and talk of those who are exploiting them.

<https://paceuk.info/child-sexual-exploitation/what-is-trauma-bonding/>

- 5.14 The following factors should be considered:
- **At what age did the child first become associated with the organised drug dealing network and under what circumstances?**
  - **Was the child targeted, groomed and/ or coerced by the organised drug dealing network?**
  - **What associated vulnerabilities may have contributed to this happening?**
  - **Is the child now so entrenched in this lifestyle that they do not present as being a victim?**
- 5.15 Children can be both victims and suspects. Children, especially older children, can often present and be perceived as suspects when in fact they are victims of exploitation, and identification of victims by police and local authorities can be extremely difficult. For this reason, information sharing to establish a richer picture of the child or young person is essential.
- 5.16 Care should be taken not to set out to purposely elicit evidence of offending outside of the criminal justice process. Interviews with young people in the context of their offending come with the safeguarding of legal advice and codes of practice under the Police and Criminal Evidence Act (PACE) 1984. This can be difficult where there is a duality of role – suspect and victim. Early coordination and clarity of professional’s individual roles and boundaries is essential. (See Section 9, Investigations).
- 5.17 Potential victims of modern slavery may not be forthcoming with information and may tell their stories with obvious errors. It is not uncommon for modern slavery facilitators to coach victims or provide stories for victims to tell if approached by the authorities. The errors or lack of reality may be because their initial stories are created by others and learnt. Care is needed to ensure such presentation does not automatically infer a lack of exploitation or compulsion.
- 5.18 The obligations on investigators are to consider all reasonable lines of enquiry, whether it point ‘towards or away’ from the guilt of the person under investigation. This is set out in the legislation and supporting codes of practice under the Criminal Procedures and Investigations Act 1998.
- <https://www.gov.uk/government/publications/criminal-procedure-and-investigations-act-1996-section-231-code-of-practice>
- 5.19 A child first approach must also recognise the risk to other children, young people, and wider society from offenders. This guidance acknowledges that sometimes those offenders are young people; and there are criminal matters for where it is entirely appropriate for young people to enter the criminal justice process. The criminal justice process is geared to consider age, vulnerability, and external influence such as exploitation as mitigation and factors in any offending. (See Section 12.11, below).

## **6. Emerging Issues**

- 6.1 Practitioners should be aware that organised drug dealing networks are now targeting a new demographic of children, often referred to as “clean skins”, who are not previously known to

Police. This can lead to children only first coming to the attention of police or partners at a critical moment.

- 6.2 Practitioners should also note that this is a constantly evolving environment. There is a new term: 'blurred lines' which refers to a situation where gangs and organised drug dealing networks are stopping using certain vulnerable Young Persons because their known vulnerability is attracting additional law enforcement attention.
- 6.3 In the main this is a positive situation from a safeguarding perspective. However, there are instances where these children, having seen the county line tactics and made some contacts, are establishing their own generally more local drug dealing networks, hence the term 'blurred lines'.
- 6.4 The involvement and prevalence of females as victims of criminal exploitation is a gap nationally. There have been instances of females being used to accompany young males to reduce the likelihood of Police attention.
- 6.5 Covid 19 has seen some shift in models, with organisations such as the National County Lines Coordination Centre (NCLCC), Catch 22 and Crest Advisory describing a shift towards using more local young people to run drug grafts. Whilst this may not be as evident in terms of distinct travel and trafficking, there may still be elements of 'slavery and servitude' under Section 1 of the Modern Slavery Act 2015.

## **7. Links to other areas**

- 7.1 The Joint Targeted Area Inspection (JTAI) thematic report on CE recommended that areas work together strategically across regions. It is recognised that where links to other police forces and local authority areas are identified, links are made with professionals within that area who may assist in safeguarding, intelligence building and disruption. This guidance therefore encourages local Child Exploitation teams, Youth Justice, and safeguarding partners to create points of contact with those authority areas where young people have been located.
- 7.2 A challenge exists for the home local authority area professionals to identify appropriate resources to collect and safeguard children when they are outside of their home area (See 7.3, below). The traditional area-based child protection system struggles to address the unique and complex difficulties when children are trafficked or exploited between areas through county lines drug-dealing. Early investigation actions, trigger and recovery arrangements should be considered as part of existing Child Exploitation plans. Recovery may also be considered in missing action plans (OSARAs – Objective, Scan, Analyse, Respond, Assess). Recovery plans formed during live missing episodes or in preparation for those more frequent missing young people should be shared and recorded.
- 7.3 The Serious Case Review for Child C, published in 2020, identified the following factors to consider, which may be relevant when working with other areas and planning for the recovery of young people linked to trafficking.
  - Concept of 'reachable moments' in the safeguarding of adolescents. This may mean when there has been a significant event – such as hospitalisation, or an arrest for matters linked to modern slavery.
  - Arrangements for recovering children from outside of the borough. The use of professionals or commissioned services should be considered and included within

recovery plans. (Merseyside can use St Giles Trust for Rescue and Recovery services. 01513 186 548 is the 24/7 - out of hours contact for this service. Whilst the main times of operation are 10.30-8 weekdays and 10-6 weekends, services are flexible).

- Children who are returned to the borough are brought back by adults with skills relevant to working with children who are being criminally exploited. For example, services like Catch 22, St Giles Trust and others can offer the support of experienced trained professionals to engage and build rapport with young people at this stage.

- 7.4 Professionals should be familiar with the Pan Merseyside Missing from Home Multi Agency Protocol. <https://www.wirralsafeguarding.co.uk/children-who-go-missing/>
- 7.5 It is important to consider liaising with British Transport Police (BTP) if you believe a child is potentially travelling or being trafficked on the trains. They may have useful intelligence as well as be able to support disruption activity. BTP have a dedicated County lines taskforce. Useful generic email addresses to contact for information are the Intelligence Development Officers; [DL-IDO@btp.pnn.police.uk](mailto:DL-IDO@btp.pnn.police.uk) and the Vulnerability Unit [Leeds@btp.police.uk](mailto:Leeds@btp.police.uk)

## **8. Responding to Modern Slavery & NRM Considerations**

- 8.1 This guidance document seeks to identify how the specific harm and risk around modern slavery should be approached within the child protection and safeguarding framework.
- 8.2 It is crucial that a multi-agency approach is taken when events take place that may relate to the slavery or trafficking of children or young people. Working Together (2018) is the overarching guidance for how agencies work together to safeguarding children. This guidance was updated in December 2020 to reference, specifically how safeguarding partners must recognise 'risk outside the home' as well as those risk which may come from within a family. (WT 2018. Page 25: Section 40 and 41). (See also University of Bedfordshire: Contextual Safeguarding. <https://csnetwork.org.uk>)
- 8.3 In March 2020, The National Director for Social Care, Yvette Stanley, provided some guidance on interpreting thresholds, these are critical to starting off on the right foot.

*Agencies need to be flexible and respond quickly to changing risks, so there needs to be careful thought about how to take account of the principles in 'Working together' when the risk is outside of the family environment. The Children's Act 1989 requires local authorities to make enquiries if they believe a child has suffered, or is likely to suffer, significant harm. This applies equally to risks outside the family.*

*'Working together' is clear that a strategy discussion should be held when a child is suspected of suffering, or is likely to suffer, significant harm. This is so that partners can determine the child's welfare and plan rapid action.*

*Our inspection evidence shows that when children are at risk of significant harm outside their families, the same principles apply. What matters is that there is a prompt multi-agency planning discussion between the relevant agencies so that:*

*information is effectively shared, and so that each agency can respond appropriately and no opportunities to act are missed – for example, the police need to determine if they want to investigate a potential offence*

- *thresholds are effectively applied*
- *there is a clear, recorded rationale for next steps*
- *multi-agency actions are identified and agreed in order to intervene promptly to reduce risk*
- *the basis for sharing information is clearly recorded*
- *risks to all children are considered*

8.4 Further guidance on applying threshold in contextual circumstances can be found through Local Safeguarding Partnerships. Risk Outside the Home should still be considered and reflected within Early Help type assessments and plans if the child or young person is appropriately stepped down in the future.

8.5 A concern relating to a child or young person may arise in several different ways.

#### Points of identification

- Missing event(s)
- Arrest/Being found out of area.
- Direct disclosure to a third party or professional.
- Specific intelligence.
- Escalating concerns based on several factors or information.

8.6 Initial response considerations

8.6.1 A 'Child first' response should be adopted. The expectation of professionals involved with any initial response is that the safety and welfare of the child should be a primary concern. Early contact with the local authority area for the child is essential.

8.6.2 Depending on the individual child circumstances, parents, carers, or guardians may be asked to support or undertake the role of an appropriate adult. In some instances, this may be professionals involved with the child, or a local Youth Justice representative.

8.6.3 It is important to identify early indicators of risk towards the child so appropriate threat management and safeguarding can be initiated. This may be the loss of drugs or cash, or the disclosure of information which may increase the risk to that child. (See safety plans and threat management, below. See also Investigations - Section 9.18 & 9.19, below).

8.7 Immediate safeguarding and follow up.

#### Children at risk of significant harm:

- Contact with the appropriate local authority area. This may be through the Emergency Duty Team out of hours, the Safeguarding Hub (MASH) or Integrated Front Door. This should be *followed* by a written child referral, as per local partnership procedures.
- Strategy Discussion. Where there is a need to coordinate around 'Immediate Safeguarding and Protection' – this may require Police Protection Order (PPO) considerations. Agency's responses to securing the immediate safety of any child should not be unduly delayed if there is an immediate risk and action needs to be taken. Strategy discussions can happen when a child is in custody and help inform pre-release risk assessments (Refer to Criminal Justice Board/Police Corporate Criminal Justice guidance). It should be noted that forced internal concealment is a significant personal health risk for the child or young person concerned, this should be reflected in the immediate safeguarding response, custody risk



assessment, medical support and follow up safety planning. Health are a key partner in this first response; and this aspect should not be overlooked when considering overall risk.

- Strategy Meeting. This should be convened as soon as practicable. Consider British Transport Police and other wider stakeholders (Barnardo's, Catch 22) who may assist.
- In the context of this guidance a strategy meeting may initiate a S47 assessment and parallel investigation in respect of the offences of modern slavery.

8.8 Pages 36-48 of Working Together 2018 provide the specific guidance and considerations for professionals.

8.9 The below points should be considered within the context of a strategy meeting linked to the NRM/modern slavery.

- The need for NRM.
- Identify specific professional to collate, submit NRM & timescale\*
- Arrangements to speak with the child and family.
- Consent for NRM. (Children do not have to consent).
- Lines of communications with the child/family (Who is the Lead Professional/Role).
- Are there other linked children? - Wider risk.
- Previous events and Current NRM status. Is this an update or initial submission.
- Threat management considerations/Safety Planning. Especially if there is a financial loss/seizure of evidence and potential exposure of the exploiters through such evidence.

\*Please note Section 4 of the guidance (link below) on who the Home Office will accept referrals from as 'First Responders' <https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales>

8.10 Safety Plans & Threat management

Professionals should consider the following when developing safety plans/Threat Assessments. (See also Merseyside Police Threat Management. Youth Justice Risk, Safety and Wellbeing Policies and Procedures).

- Child (Including any suggestion of forced internal concealment)
- Family
- Locations
- Disruption opportunities.
  - **These can support the safety of the child by making the environment as hostile as possible for potential perpetrators. For example: Early arrest considerations, bail conditions, focused policing activity. (Section 9.18, below)**

(See also Appendix E: Disruption Toolkits and Resources)

## 9. Investigations

9.1 The Home Office guidance from 2016 suggests it is good practice to consult the child when making the NRM referral, explaining the purpose, concerns, benefits, and the possible outcomes. This may present an opportunity to open a conversation and engage.

9.2 Merseyside Police and The Crown Prosecution Service have advised that a separate investigating officer is appointed to exploitation related crimes, this is to ensure roles are clear

around managing the young person as a suspect and that of a potential victim. In Merseyside, primacy for Modern Slavery Crimes in this context will be with PVP CE Teams.

- 9.3 Visits should be carefully planned by professionals in advance. This needs to be given case by case consideration to provide the best chance of engagement with professionals, be they Police, social workers, or other case workers. An immediate joint approach may not necessarily be the best option for potential victim of exploitation as it perhaps would with other models of abuse and child protection matters.
- 9.4 Questions asked and comments made may become relevant in any linked investigations and there may be a conflict for professionals and the child in terms of being able to talk openly for fear of self-incrimination or implicating others. The specific nature of each professional's role and what may be shared should be made clear to the child or young person at the outset.
- 9.5 Care should be taken in the recording and handling of information provided by the young person; or gathered as part of the social care enquiries and ongoing support.
- 9.6 The growing use of third-party material in modern slavery investigations is positive in tackling perpetrators. However, in view of the obligations for disclosure of material in criminal and civil prosecutions, care should be taken when recording material in a child's record. Inappropriate language, opinion not backed by fact or sensitive disclosures made by the child, family or other parties may all become relevant material for the purposes of a prosecution.
- 9.7 Capturing the voice of the child during these early encounters is critical. This may be direct voice or ensuring the presenting factors are recorded – Fear, response to professionals, underlying vulnerabilities. The child's voice is asked for as part of the NRM form. Professionals visiting the child or family should be conscious of these factors, they may be of significance within a subsequent criminal justice process. The lived experience of the child is significant as are wider circumstances surrounding potential modern slavery. Professionals should be conscious of injuries, unreported assaults, threats, and damage to property which may indicate manipulation.
- 9.8 The submission of an NRM will result in the recording of a crime under the Modern Slavery act 2015. This may be a Section 1 (Slavery or Servitude), or Section 2 (Trafficking) offence. Other offences may also be disclosed (For example assaults, sexual offences, threats). Crime recording and investigation will be kept under review by the appointed officer in charge of the investigation and their managers.
- 9.9 Merseyside Police will ensure contact and updates with the victim comply with the Victim Code of Practice. A clear early 'victim strategy', discussed and agreed with partners and Police managers will support investigating officers.
- 9.10 Investigation may be 'Evidence-Led', as referred to in Section 5, above. This means Police would not rely on the support of the victim with a formal statement. Lines of enquiry could be pursued by the using evidence from CCTV, telephone evidence from seized mobile phones, phone data through telecoms applications; and what is termed 'third party material'.
- 9.11 Third Party Material. This can sometimes be hearsay statements provided by professionals working with the family; or those who have received disclosures from the victim. It may also be material contained within the child's record. The use of such material should be carefully considered and partners working around victims of exploitation should have clear case discussions to consider and balance the benefit of use, the necessity to successful prosecution

(criminally or civilly), versus the potential impact on the child, family, and ongoing professional relationships.

- 9.12 The MDS investigating officer will need to link with the investigating officer for matters where the child is a suspect (For example, a Possession with Intent to Supply drugs {PWITS} in another authority area). This is with the purpose of following all reasonable lines of enquiry which may point towards or away from the child's involvement as an offender. This is an obligation on the Police as set out in the Criminal Procedures and Investigation Act 1996.
- 9.13 The Crown Prosecution service and investigators must consider the level of compulsion compared to the seriousness of the offences committed and role the child or young person has played. Seriousness and role may come from the 'suspect' investigation (For example, the drug supply).
- 9.14 It is highly likely that the compulsion aspect will not be disclosed by the child in interview or during a safeguarding conversation in a custody environment given the complex psychological/control or coercion that may be at play between any perpetrator of modern slavery offences and the child.
- 9.15 County lines and exploitation is often controlled by organised criminals, this model is often accompanied by threats, intimidation, and violence (HMG Serious Violence Strategy. Pages 47-50). Adolescents, whether perceived as vulnerable or not, are therefore highly unlikely to offer evidence that may be used against such criminals or indicate they have cooperated with investigators. A lack of engagement with an investigation or unwillingness to disclose modern slavery in interview or safeguarding conversations in custody should not carry undue weight.
- 9.16 Evidence of compulsion may come from the other professionals working around the child and/or family. It may also be inferred from assaults, threats, damage, and intimidation. Communication is therefore necessary in this regard across investigators and professionals.
- 9.17 Care should be taken when professionals are working with vulnerable children and young people and sharing information with wider partners from that relationship. Professionals should be clear with children and young people regards sharing information that helps keep them safe (Safeguarding). Reducing risk of further exploitation may require conversations about modern slavery and county lines, this should be done with the primary objective of reducing risk of harm and increasing resilience and understanding of the child or young person. Whilst this is not the primary intention, such work may naturally result in disclosures or information which could become 'relevant' material for the Police; or just intelligence that helps direct investigations, shapes disruption, or supports safeguarding interventions. Sharing intelligence to tackle county lines is critical, however each agency should consider their own policy, procedures and values when considering what information to share, when and for what purpose. (For 'Intelligence; see Section 13, below). Remember, the context is safeguarding, not surveillance - and this should be clear for all parties involved.
- 9.18 Trafficking can involve forced internal concealment, sexual abuse, violence, and intimidation. The opportunities to intervene early with powers of arrest, search and seizure not only support the investigation of child abuse with evidence led opportunities, but also mitigate the risk to as yet unidentified children. Whilst arrests and disruption may not always lead to charges and conviction, adopting a proactive investigative stance will deter organised criminals from using children. Civil orders may present a more manageable objective and help mitigate risk, sooner. (See Appendix E: Home Office Disruption Toolkit 2019).

- 9.19 Consider central Police resources and tactics that may assist in investigating the wider exploitation and county lines. Project Medusa and the County Lines Link Hub ([The.Link.Hub@merseyside.police.uk](mailto:The.Link.Hub@merseyside.police.uk)) may assist in supporting investigations and mitigating risk. Investigators may wish to consider a victim strategy on pre-planned operations or warrants where there is intelligence to suggest exploitation may be a factor/present. A child first and trafficking aware briefing and approach from the outset may yield early indicators and evidence.
- 9.20 The investigation of modern slavery offences linked to county lines is relatively new. It differs significantly from investigations linked to sexual exploitation for example. Merseyside has had success in securing charges and civil orders linked to modern slavery, especially using information from missing episodes or arrests to support timely telecoms and CCTV work. For advice and support in relation to what works, or contacts for officers with experience who may advise, investigating officers can contact Operation Sanctuary, Project Medusa or Level 3 PVP management.
- 9.21 Where arrests or events are taking place in another local authority/police area, consider links across Safeguarding Partners, Regional Organised Crime Units (ROCU) or Youth Justice Management Boards (for children who may be seen as ‘suspects’ in that area) to help gain support for the local disruption, investigation, and child first approach to the county line. (See Exploited and Criminalised: Barnardo’s 2021. Appendix E).
- 9.22 Safeguarding Partnerships should consider opportunities to publicise successful prosecutions to deter organised criminals from favouring the use of children and vulnerable people.
- 9.23 It is appreciated that GDPR should always be considered and as such some child level documentation may need to be evaluated and potentially redacted in part when sharing with the Single Competent Authority (SCA).
- The 2022 Home Office guidance provides further information on individual agency obligations and considerations: Section 4, Page 45 and Annexe B apply.  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1031731/modern-slavery-statutory-guidance-ew-non-statutory-guidance-sni\\_v2.5-final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1031731/modern-slavery-statutory-guidance-ew-non-statutory-guidance-sni_v2.5-final.pdf)
  - The 2021 Crown Prosecution Service Guidance also provides some guidance as to the use material generated by the SCA in making NRM decisions and how this should be handled as ‘relevant’ material.  
<https://www.cps.gov.uk/legal-guidance/modern-slavery-human-trafficking-and-smuggling>
- 10. Subsequent events (potentially requiring further NRM)**
- 10.1 Where there are subsequent events, that cannot be determined linked to the same ongoing act of exploitation, or the same controlling factor then a subsequent submission to the Single Competent Authority (SCA) may be completed.
- 10.2 This may be by means of direct communication with additional information when an NRM is under consideration, or the submission of a subsequent full NRM. Guidance can be sought from the Barnardo’s Regional Practice Coordinator or advice centre (See section 12.9).

- 10.3 This becomes important when considering the S45 Modern Slavery Act 2015 defence: and surrounding considerations under CPS guidance. There are examples where NRMs have been discounted as they did not solely relate to the events charged or being investigated (or did not contain information pertaining to those events).
- 10.4 Children may not rely on a previous NRM submission and status for a statutory defence if there is no clear relationship between the events giving rise to the initial or prior submission; and the events being considered by investigators or the CPS. This is an evolving area of legal practice and emerging case law. Such events and their impact may of course amount to mitigation.
- 10.5 Where the subsequent matter is thought to potentially be linked to a previous NRM it is considered good practice to ensure the SCA is updated in that regard. The CPS and legal representatives will seek such information when considering charging guidance and statutory defences under S45 of the MSA 2015.

## **11. Role of MACE**

- 11.1 The Pan Merseyside Child Exploitation Protocol sets out the Multi Agency Child Exploitation (MACE) process. The standard MACE agenda provides for oversight of NRMs in each local authority area. Each MACE provides the opportunity for victims of trafficking to have exploitation specific plans reviewed by partners at intervals appropriate to the risk of harm. This includes oversight and coordination around disruption and investigative activity. (Also consider Marthr/Local Partnership Disruption/coordination forums and Local Policing).
- 11.2 It is anticipated that those children subject of an NRM would be referred into the local MACE process. Each area operating under the Pan Merseyside Child Exploitation Protocol should ensure sufficient arrangements are in place for oversight of NRMs, updates and status.
- 11.3 The MACE plan operates across the 4Ps. Prepare, Prevent, Protect and Pursue. The Police Operation Stonehaven (Project Medusa) for example can offer prevention and diversion opportunities specific to county lines. Safeguarding partners have teams, commissioned services, or links to support young people subject to exploitation. Professionals should seek early consultation with local complex safeguarding or exploitation teams and/or CE coordinators in the appropriate home local authority.

## **12. Ongoing support and advocacy**

- 12.1 The Merseyside area is fortunate to receive support from services such as Catch 22, Barnardo's and St Giles Trust amongst others.
- 12.2 Such professionals may be allocated to undertake the role of trusted professional to provide direct work relating to exploitation.
- 12.3 In doing so it may be appropriate to ensure the child has engaged a legal representative and that they understand the significance of the NRM. This is not a direction or indication that a child will not be subject to any charges or prosecuted but should be raised to ensure they are accessing the appropriate legal advice.
- 12.4 Post-conviction there may be a specific request for a report from the youth justice service/youth offending team for the area.

- 12.5 The circumstances relating to compulsion and vulnerability are relevant factors for the Police, CPS (and courts) to consider at all stages of the criminal justice process. If information is presented that may indicate compulsion, this should be brought to the attention of the officer in charge of the investigation for which the child is under investigation. This information should also be shared with the officer investigating modern slavery matters, linked to the NRM. (See Appendix B. CPS Guidance)
- 12.6 Children and young people may choose to share what has happened to them at various points. The CPS and courts will consider the weight of any disclosure against all available material. The context of any disclosure may be as important as the disclosure itself; professionals should ensure this is recorded and communicated clearly.
- 12.7 The Pan Mersey MACE group have suggested that such communication be routed through the investigating officer for the modern slavery matters, ordinarily led by PVP CE Teams.
- 12.8 For modern slavery offences being investigated elsewhere (EG British Transport Police, other force areas), lines of communication should be established and agreed as per the victim strategy (Section 9, above).
- 12.9 Barnardo's: Independent Child Trafficking Guardians (ICTGs)
- 12.9.1 From May 2021; Children and Young People from Merseyside benefit from Barnardo's Independent Child Trafficking Guardians service (Section 48 of the Modern Slavery Act 2015). This is a Home Office commissioned service. The service provides support for all children identified as at risk from Modern Slavery, trafficking, and exploitation; referrals or enquiries to the service should be made as early as possible and can be made prior to the submission of an NRM.
- 12.9.2 Referrals are managed through the ICTG Guardianship Assessment Team. The Guardianship Assessment Team provide an initial triage assessment to better understand the immediate safeguarding needs of the child. They provide safeguarding advice to the referrer and support immediate risk management and safety planning. The Guardianship Assessment Team are the first point of contact for advice & guidance, information about the service and queries regarding possible referrals: 0800 043 4303. Following the completion of initial support by the Guardianship Assessment Team referrals may be passed to a regional worker for ongoing support.
- 12.9.3 In general terms, ICTGs provide direct work and support for children, who do not have someone with parental responsibility in the UK, alongside support, advice and guidance for professionals involved with their care.
- 12.9.4 ICTG Regional Practice Coordinators take a strategic role, working with professionals already supporting children who have been trafficked. The role of the ICTG Regional Practice Coordinator will have a particular focus on children for whom there is someone with parental responsibility in the UK.
- 12.9.5 Referrals forms for Barnardo's can be found at the following link. Please ensure consent is considered with children, young people, and their carers as part of the referral process.
- <https://www.barnardos.org.uk/what-we-do/protecting-children/trafficked-children/ICTG-service-referral-form>

- 12.10 Ongoing investigation issues, NRM updates and victims' status should all be reflected in the ongoing social work or safeguarding assessment and child level plans. Key points such as arrests, charge, investigation closures, or interventions on perpetrators of trafficking linked to a child or young person have potential to impact on them and their safety. It is essential lead professionals stay in communication around such key points to manage the health and wellbeing of linked victims. The plan for each child or young person should include the intention to convene professionals' meetings to plan and manage key events; or specifically state how these will be otherwise managed through local safeguarding governance.
- 12.11 Should a child or young person not be considered a victim of exploitation or trafficking; the criminal justice system can consider their vulnerability and previous offending or history in determining outcomes. Merseyside operates several Youth Justice initiatives aimed at diverting young people from entering the criminal justice system. For further information about diversion support and alternative disposal please contact your local Youth Offending Team (YOT), also referred to as Youth Justice Service (YJS).

### **13. Intelligence**

- 13.1 Intelligence is collected information that is used to build a picture of current trends or patterns, to assist the police to prevent, investigate and disrupt crime.
- 13.2 Intelligence collection is a continuous process, and any intelligence shared will be risk assessed by the police. Information disclosed might not be directly related to the safeguarding of a specific child or young person disclosing it. However, this intelligence may lead to the safeguarding of many others, so should be treated in the same way.
- 13.3 As set out at section 9.17 (above) where possible and safe to do so, professionals should let the child or young person know they are sharing the information and ask for their consent. Where there is no consent, to share confidential information, professionals may lawfully share it if this can be justified in the public interest. A record should be made if this is the case, including rationale for sharing. The Pan Merseyside Child Exploitation Protocol information sharing agreement provides further guidance.
- 13.4 Information and intelligence should be submitted to Police via Tell Us:  
<https://www.merseyside.police.uk/tua/tell-us-about/soh/seen-or-heard/>
- 13.5 Evaluated intelligence should be shared with handling conditions, so safeguarding professionals are clear on what they can do with the information and how to handle and store it. For specific advice professionals should liaise with the Local PVP CE Detective Sergeant.

## **Appendix A: Additional Considerations for NRM and Investigations (NCLCC)**

The below are suggestions on information and evidence may be considered by first responders and investigating officers.

- Any disclosures that the child has made to any other person. (This includes friends, parents, social worker, key workers etc...)
- Has the child made any disclosures at the point of their arrest / to the custody officer etc... or intimated that they are under threat / have been forced to do it?
- Ask the child direct questions in the interview around their situation – Have they been forced to carry drugs? Are they in debt? Have they been coerced?
- Advice for Police - If the child has a legal representative, inform them that you will be asking questions during the interview to determine whether they are a victim of a Modern Slavery offence and that you will be asking questions for the purpose of safeguarding them.
- If the child makes no comment to the above questions in the interview, consider holding a 'safe interview' with them in the company of an appropriate adult to ask these questions. This is solely for the purpose of safeguarding and may best be done by separate officers or staff where appropriate. Non engagement should not infer a lack of exploitation or risk. (See Merseyside Police Guidance Re: Safe Interviews; and Section 5 of this guidance, above)
- Consider the child's demeanour and appearance – Does he / she have any obvious injuries? Does he / she have any signs of gain from the activity (possessions / cash etc...)? Does he / she appear unkempt or unclean – particularly if they have been located away from home?
- Is there any indication that the child has been 'managing' or recruited any other children?
- Has the child had any missing episodes / missed appointments etc...? Are there any disclosures around these episodes or return home interviews that might be relevant to their current situation?
- Was the child arrested in the company of any other people? How did the child behave in front of these individuals? Where any comments made to them? Where they adults or part of an Organised Crime Group?
- Is the child in any debt, or have any disclosures been made around money that they owe?
- Is the child's parent or guardian complicit in their behaviour or suspected of exploiting them?
- Is the child missing a bank card or any other property?
- Have any crimes been recorded at the child's home address or against the child or his/her family members? Could these incidents be linked? (E.g., have these incidents occurred to force them into the activity?)
- Consider what evidence might be available on the child's mobile phone (text messages and social media contact / profiles and status updates – any messages that appear to be threatening, demonstrate any debt owed or indicate role).
- Are there any threat management issues or intelligence regarding their activity?
- Relevant previous criminal history?

Annexe A (Page 76) of the Home Office Guidance may assist professionals when considering indicators of county lines.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1059234/Modern\\_Slavery\\_Statutory\\_Guidance\\_EW\\_Non-Statutory\\_Guidance\\_SNI\\_v2.8.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1059234/Modern_Slavery_Statutory_Guidance_EW_Non-Statutory_Guidance_SNI_v2.8.pdf)

VCL and AN v The United Kingdom should also be considered (See Appendix D) <https://yjlc.uk/resources/legal-updates/vcl-and-v-united-kingdom-positive-step-forward-victims-modern-day-slavery>



### Case Studies

- 1) 17-year-old child is arrested for possession with intent to supply in their home area. There is intelligence indicating that he is involved in drug supply, he has previously been arrested for a similar offence. There is no evidence at this stage that the child has been forced, threatened, or coerced into the activity. **Should an NRM referral be submitted at this point?**

Consider what the purpose of the NRM referral is at this stage. It is not a safeguarding referral. What evidence exists at this stage to suggest that the child is a victim of a Modern Slavery offence?

If there is a lack of evidence, plan to investigate the circumstances further and review your opportunities for obtaining evidence. This could include reviewing the circumstances of the previous arrest and evidence gained during that investigation. When you have a clearer picture of the circumstances you will be better placed as a partnership to decide whether there is a need to submit an NRM referral.

- 2) 16-year-old child is arrested for possession with intent to supply class a drug in their home area. At the point of arrest, he was very anxious and indicated that he was worried about what might happen to him. This is the 2<sup>nd</sup> time the child has been arrested for a drugs offence in the last 2 months. The child is asked relevant questions in interview to establish whether they are a victim of a Modern Slavery offence, the child answers 'no comment'. The child admitted the first offence and received an out of court disposal. There does not appear to have been a thorough investigation into the full circumstances of his first arrest owing to him admitting POCD (although it was a reasonable amount of cannabis, there was insufficient quantity to justify a PWITS investigation). The child's phone was not submitted for examination on the first occasion owing to the matter not being a PWITS investigation and the officer had not considered that he might be a victim of a Modern Slavery offence. A niche check indicates that there have been a couple of incidents of criminal damage at the child's home address in the last 2 months and there is intelligence that he has been associating with OCG members. The child's mother passes comment about the child having been worried about a debt he owes a friend. He has been secretive recently and isn't sleeping well. The reason for the criminal damage is unknown, but a brick was thrown through a window at the address a couple of weeks ago. **Should an NRM be submitted?**

There is clearly more on this occasion that indicates that the child might be a victim of a Modern Slavery offence. There are several lines of enquiry that need to be further investigated, including, including potential to consider submission of the handset seized during the first arrest (if available). An NRM referral should be made at this stage. A Modern Slavery offence would be investigated in parallel alongside the drugs offence.

**\*\*Note that in the examples above the children should be considered as part of the MACE process information and in line with the Pan Merseyside CE protocol\*\***

## **Appendix B: Points to consider from CPS Guidance (Primarily relevant for Police).**

### **Suspects in a Criminal Case who might be Victims of Trafficking or Slavery**

Key points:

- In all cases where a suspect in a criminal case is a potential victim ('PV') of trafficking and/or slavery, prosecutors should adopt a four-stage assessment to ensure that they properly apply the Full Code Test in the Code for Crown Prosecutors.
- Identifying whether a PV is a credible VOT or VOS, or neither, occurs in Stage 1.
- Section 45 is the statutory defence for VOT/VOS under the 2015 Act. Schedule 4 of the 2015 Act lists serious offences to which the defence in section 45 does not apply.
- Identification of a suspect as a VOT or VOS may amount to (1) a reason not to prosecute; (2) mitigation; or (3) a mere excuse; *R v L* [2013] EWCA Crim 991; [2013] 2 Cr. App. R. 23.
- Stage 1 applies whenever possible indicators of trafficking and/or slavery are present. The onus is on prosecutors (as well as the Police, defence and court) to identify indicators of trafficking whether or not the suspect makes any disclosure that they are a PV and whether or not they make any admissions concerning the offence.
- At stage 3 of the four-stage assessment, prosecutors are asked to consider if there is clear evidence of a statutory defence under section 45 of the 2015 Act. Guidance on section 45 is set out here.
- Offences for which section 45 does not provide a defence, prosecutors must still apply Stages 1, 2 and 4 of the assessment.
- Section 45 does not provide a defence to certain serious offences specified in Sched.4 to the 2015 Act.
- Section 45 does not apply to offences committed before 31 July 2015; *R v CS and Le* [2021] EWCA Crim 134. Prosecutors should take particular care when dealing with cases in which the offending behaviour covers a period that straddles this implementation date.
- If a suspect is identified as a credible VOT or VOS, prosecutors must go on to consider Stages 2, 3 (if section 45 applies) and 4 in all cases.

### **A four-stage approach to the prosecution decision**

1. Is there a reason to believe that the person is a victim of trafficking or slavery?  
If yes, move to Question 2  
If not, you do not need to consider this assessment further.
2. Is there clear evidence of a credible common law defence of duress?  
If yes, then the case should not be charged or should be discontinued on evidential grounds.  
If not, move to Question 3.
3. Is there clear evidence of a statutory defence under Section 45 of the Modern Slavery Act 2015?  
If yes, then the case should not be charged or should be discontinued on evidential grounds  
If not, move to Question 4.

4. Is it in the public interest to prosecute? This must be considered even where there is no clear evidence of duress and no clear evidence of a s.45 defence or where s.45 does not apply (because the offence is excluded under Schedule 4).

Prosecutors should consider all the circumstances of the case, including the seriousness of the offence and any direct or indirect compulsion arising from their trafficking situation; see *R v L M & Ors* [2010] EWCA Crim 2327.

### **Credibility assessment**

When assessing credibility, prosecutors should be aware that VOTs and VOSs will frequently make late disclosure about their trafficking circumstances and may give an untrue account, often because they are told what to say by traffickers. See *R v JXP* [2019] EWCA Crim 1280.

### **Is there clear evidence of a Section 45 defence?**

Section 45 of the Modern Slavery Act 2015 created a defence for victims who commit certain offences when they are compelled to do so (in the case of adults) or when they commit them as a direct consequence of being a victim of slavery / exploitation, if a reasonable person, in the same situation with the same “relevant characteristics” would do the relevant act (in the case of children), on or after 31 July 2015.

### **The Public Interest and Compulsion**

‘Compulsion’ includes threats, use of force, fraud and deception, inducement, abuse of power or of a position of vulnerability, or use of debt bondage. It does not require physical force or constraint.

For a child to be a victim of trafficking, the means of trafficking are irrelevant. Where a child is recruited, transported, transferred, harbored, or received for the purpose of exploitation, s/he is a victim of trafficking.

Compulsion is irrelevant insofar as a child’s status as a victim of trafficking is concerned. However, compulsion will be a relevant consideration when considering whether the public interest in prosecuting a child is satisfied. The means of trafficking/slavery (i.e., the level of compulsion) may not be sufficient to give rise to defences of duress or under Section 45 but will be relevant when considering the public interest test.

In considering whether a trafficking/slavery victim has been compelled to commit a crime, Prosecutors should consider whether a suspect’s criminality or culpability has been effectively extinguished or diminished to a point where it is not in the public interest to prosecute.

A suspect’s criminality or culpability should be considered in light of the seriousness of the offence. The more serious the offence, the greater the dominant force needed to reduce the criminality or culpability to the point where it is not in the public interest to prosecute.

**Identification of a suspect as a VOT or VOS may amount to (1) a reason not to prosecute; (2) mitigation; or (3) a mere excuse; *R v L* [2013] EWCA Crim 991; [2013] 2 Cr. App. R. 23.**

### **Duty to make proper inquiries and to refer through the NRM**

In considering whether a suspect might be a victim of trafficking or slavery, as required in the first stage of the assessment, prosecutors should have regard to their duty to make proper inquiries in criminal prosecutions involving individuals who may be victims of trafficking or slavery.

The inquiries should be made by:

- Advising the investigator who investigated the original offence that the suspect's trafficking/slavery situation must be investigated at an early stage if it has not already been done. Note in VCL the ECtHR said that "... the potential scope of [the obligation positive obligation to take operational measures to protect the PVs] extends beyond their identification as victims of trafficking"
- Prosecutors should satisfy themselves that the investigation has been sufficiently thorough and focussed on the circumstances of the PV/suspect to ensure that the PV/suspects' possible rights as a VOT are recognised and protected. However, if there is reliable and admissible evidence which confirms that the suspect is not a victim of trafficking/slavery there is no requirement to do so; and
- Advising the investigator to consider referring the suspect to the NRM for victim identification if this has not already been done in the circumstances set out below. All law enforcement officers can refer potential victims of trafficking/slavery to the NRM.

An NRM referral should always be made:

- unless the law enforcement agency is in possession of clear and sufficient evidence to prove that the suspect is not a victim of trafficking/slavery; or
- unless the prosecutor agrees that the suspect is a VOT/VOS. Where the prosecution agrees that someone is a VOT that concession should be made and there is then no procedural reason to wait for a SCA decision. Prosecutors should make that admission where appropriate.

### **Post-charge trafficking/slavery evidence**

In cases where a decision has already been taken to charge and prosecute a suspect, but further credible evidence comes to light, or the status of a suspect as a possible victim of trafficking/slavery is raised post-conviction, for example in mitigation or through a pre-sentence report, then Prosecutors should seek an adjournment and ensure that the suspect is referred through the NRM and that the steps outlined in Stage 4 above are carried out. Prosecutors should.

1. Ensure that the Defendant's legal representatives are aware of the possibility of there being a defence under Section 45.
2. Request that a plea is not formally entered; and
3. Apply for an adjournment for further investigation into the defendant's possible status as a victim of slavery or trafficking.

**Appendix C: Case Law Briefing: R V Brecani (2021) (Primarily Relevant to the Police)**

Following the decision of the Court of Appeal in the important case of R v Brecani, the Senior Policy Advisor, Strategy and Policy Directorate (CPS HQ) has provided an explanatory note about the case and its implications for the police:

In short, it reverses the following aspects of DPP v M. The Court of Appeal disagreed with the Divisional Court in DPP v M [2020] EWHC 3422 and found [at paragraph 54] that:

- I. Case workers in the Single Competent Authority (SCA) cannot give opinion evidence in a trial on the question whether an individual was trafficked or exploited.
- II. SCA caseworkers cannot be treated as experts in criminal proceedings simply from the fact that they held the job of case worker.
- III. None of the requirements of Criminal Procedure Rules 19 (CrimPR 19), were complied with.

(CRIM PR19 advises that the duty of an expert witness is to help the court to achieve the overriding objective by giving opinion, which is objective and unbiased, in relation to matters within their expertise. This is a duty that is owed to the court and overrides any obligation to the party from whom the expert is receiving instructions. It also obliges all experts to disclose to the party instructing them anything (of which the expert is aware) that might reasonably be thought capable of undermining the expert's opinion or detracting from their credibility or impartiality).

Whilst prosecutors still need information / evidence to disprove s45 to the criminal standard, the findings of DPP v M is now overturned.

In short, the court's findings (for DPP V M, below) are no longer relevant:

- i) The SCA decision is admissible in criminal proceedings as expert evidence.
- ii) In practical terms, the minute of the SCA decision will be introduced by agreed fact under s.10 CJA 1967.
- iii) A defendant can successfully discharge the evidential burden to raise all of the elements of the s.45 defence without giving evidence:

However, the following findings in DPP v M will still be relevant:

The weight of a conclusive grounds SCA decision will vary. The prosecutor will be in a position to assess the weight of the decision, just as the prosecutor can assess the weight of other evidence relevant to the issue of a defendant's status as a victim of trafficking or exploitation.

The SCA decision is not determinative. The decision made by a prosecutor as to whether the defendant has satisfied the evidential burden and, if so, whether the prosecution can disprove the statutory defence will depend on an assessment of all of the available material.

The seriousness of the offences will be a significant consideration when determining what a reasonable person would have done where the defendant is an adult.

The District Judge / jury is entitled to consider the findings of the SCA decision maker and assess the extent to which they were supported by evidence.

**Note regarding engagement with the SCA:**

The process of decision making by the SCA can be expedited if they have been regularly and fully updated on the investigation process and kept informed of the details of the OIC, so that during case preparation they can make contact and exchange information and request updates. It is, therefore, important for the investigator to maintain regular contact with the SCA regarding the case, especially following personnel changes or significant investigative events. The SCA should be updated immediately if someone is remanded into custody, providing the CTL expiry date and court hearings and trial date.

Any information considered sensitive that is provided to the SCA should be clearly marked, “not for further disclosure unless authorised by the police OIC.” This will prevent any subsequent disclosure to the potential victim, or their legal representative, in the event of a negative conclusive grounds’ decision.

**Appendix D: Case Law. VCL and AN v The United Kingdom (Primarily relevant to the Police).**

February 2021, the European Court of Human Rights (ECHR) decision concerned two separate criminal prosecutions of children in 2009. Aged 15 and 17 at the time, both were found working in sophisticated cannabis factories and subsequently charged with drug related offences. In both cases, following advice from their lawyers, guilty pleas were entered. Both applicants sought to appeal their convictions and the appeal process is detailed in the judgment of the ECHR. Despite findings by the competent authority that both children had been exploited, and several reviews, the Crown proceeded with the case against them.

In its judgment, the ECHR reviewed our domestic legislation, case law and international law. It concluded that whilst it is clear that no general prohibition on prosecuting victims, or potential victims, of trafficking can be construed from any international instrument (para. 158), in certain circumstances, the prosecution of victims, or potential victims, of trafficking may be at odds with the state's duty to take operational measures to protect them when they are aware, or ought to be aware, of circumstances giving rise to a credible suspicion that an individual has been trafficked (para.159).

**The Court concluded that early identification as to whether or not a defendant has in fact been trafficked is of paramount importance (para. 160). As soon as the authorities are aware of circumstances giving rise to a credible suspicion that an individual suspected of committing a criminal offence may have been trafficked or exploited, he or she must be promptly assessed by individuals trained and qualified to deal with victims of trafficking. The Court went on to say that 'given that an individual's status as a victim of trafficking may affect whether there is sufficient evidence to prosecute and whether it is in the public interest to do so, any decision on whether or not to prosecute a potential victim of trafficking should – insofar as possible – only be taken once a trafficking assessment has been made by a qualified person. This is particularly important where children are concerned (para161)'. This reinforces the Court of Appeal decision in R v EK [2018] EWCA Crim 261.**

The judgment makes clear that where the Competent Authority has concluded that an individual is a victim of trafficking, the prosecution would have to have clear reasons for rejecting the Competent Authority's opinion. Those reasons must be consistent with the definition of trafficking contained within the Palermo Protocol and the Anti-Trafficking convention. Focusing on matters that have already been considered by the Competent Authority, such as absence of physical injury or inconsistencies in the individual's account, is insufficient.

## **Appendix E: Further Reading, Supporting Material & References**

Home Office: Modern Slavery Statutory Guidance (V 2.8 March 2022).

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1031731/modern-slavery-statutory-guidance-ew-non-statutory-guidance-sni\\_v2.5-final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1031731/modern-slavery-statutory-guidance-ew-non-statutory-guidance-sni_v2.5-final.pdf)

Local Government Association. Tackling Child Exploitation: Resources Pack (August 2021).

<https://www.local.gov.uk/publications/tackling-child-exploitation-resources-pack#foreword>

County Lines Exploitation: Practice Guidance for YOTs and frontline practitioners (October 2019)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/839253/moj-county-lines-practical-guidance-frontline-practitionerspdf.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/839253/moj-county-lines-practical-guidance-frontline-practitionerspdf.pdf)

Government Guidance on the Joint Targeted Area Inspection (JTAI) of multi-agency responses to criminal exploitation (March 2022).

<https://www.gov.uk/government/publications/joint-targeted-area-inspection-of-the-multi-agency-response-to-the-criminal-exploitation-of-children>

Ofsted (March 2020): Leadership direction on safeguarding thresholds and Working Together

2018/Risk outside the Home <https://socialcareinspection.blog.gov.uk/2020/03/06/dealing-with-risks-to-children-outside-the-family-home/>

DfE (2020) Working Together 2018 (See Section 40 & 41):

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/942454/Working\\_together\\_to\\_safeguard\\_children\\_inter\\_agency\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942454/Working_together_to_safeguard_children_inter_agency_guidance.pdf)

Home Office: Child Exploitation Disruption Toolkit (April 2019).

<https://www.gov.uk/government/publications/child-exploitation-disruption-toolkit>

North Yorkshire Safeguarding Partnership Advice on Disruption.

<https://www.safeguardingchildren.co.uk/Resources/nwg-child-exploitation-disruption-toolkit/>

The National Child Safeguarding Practice Review Panel: It Was Hard to Escape (March 2020).

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/870035/Safeguarding\\_children\\_at\\_risk\\_from\\_criminal\\_exploitation\\_review.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/870035/Safeguarding_children_at_risk_from_criminal_exploitation_review.pdf)

Barnardo's Exploited and Criminalised (Oct 2021):

<https://www.barnardos.org.uk/sites/default/files/2021-10/Exploited%20and%20Criminalised%20report.pdf>

Children First: Youth Justice Board Strategic Plan 2021-24:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/966200/YJB\\_Strategic\\_Plan\\_2021\\_-\\_2024.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/966200/YJB_Strategic_Plan_2021_-_2024.pdf)

CPS guidance on Modern Slavery and Human Trafficking (December 2021).

<https://www.cps.gov.uk/legal-guidance/modern-slavery-human-trafficking-and-smuggling>

VCL and AN v UK (2021): Case Law.

<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-207927%22%5D%7D>

R v Brean (2021): Case Law. <https://www.bailii.org/ew/cases/EWCA/Crim/2021/731.html>