

MODERN SLAVERY AND HUMAN TRAFFICKING Referral Pathways



MODERN SLAVERY & HUMAN TRAFFICKING - REFERRAL PATHWAYS

INTRODUCTION

Victims of modern slavery and human trafficking should be given protection, provided with the help they need to recover from their experiences and gain access to the justice they deserve.

Referral pathways provide an understanding of the current system in place to help victims and what everyone's responsibilities are.

Welsh Government, The Modern Slavery Unit within the Home Office, National Crime Agency and a number of other organisations have produced guidance and process charts that are aimed at those who may come across a potential victim of modern slavery or human trafficking. Therefore to avoid repetition and make use of expert advice this document will link to national documents and organisations for further information.

This document should be read alongside the Wales Safeguarding Procedures 2019 and the Wales Modern Slavery Pathway 2020, which this pathway will sit behind as a local ratified pathway.

<https://www.safeguarding.wales/>

THE PALERMO PROTOCOL

The Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime (also known as the Palermo Protocol) is the internationally accepted definition of human trafficking. This Protocol (which is in force) was signed by the United Kingdom on 14 December 2000 and ratified on 9 February 2006. It provides a definition of trafficking which has since become a widely accepted standard and used in other international instruments. It also outlines protection for victims.

Article 3 of the Protocol defines trafficking as: (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs; (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used; (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article; (d) "Child" shall mean any person under eighteen years of age.

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DEFINITION

The term 'modern slavery' captures a whole range of types of exploitation, many of which occur together. These include but are not limited to:

- Sexual exploitation: This includes but is not limited to sexual exploitation and abuse, forced prostitution and the abuse of children for the production of child abuse images/videos. Whilst women and children make up the majority of victims, men can also be affected. Adults are coerced often under the threat of force, or other penalty.
- Domestic servitude: This involves a victim being forced to work, usually in private households, performing domestic chores and child care duties. Their freedom may be restricted and they may work long hours often for little pay or no pay, often sleeping where they work.
- Forced labour: Victims may be forced to work long hours for little or no pay in poor conditions under verbal or physical threats of violence to them or their families. It can happen in various industries, including construction, manufacturing, laying driveways, hospitality, food packaging, agriculture, maritime and beauty (nail bars).
- Criminal exploitation: This is the exploitation of a person to commit a crime, such a pick pocketing, shop-lifting, cannabis cultivation, drug trafficking and other similar activities.
- Other forms of exploitation may include organ harvesting, forced begging, forced benefit fraud, forced marriage and illegal adoption. Organ harvesting is the removal of human organs from the living or the deceased donors where the removal is performed without the free informed and specific consent of the living or deceased donor, or in the case of the deceased donor, without the removal being authorised under its domestic law (ECAT). Victims are trafficked in order to sell their body parts and organs for transplant.



AWARENESS

Modern Slavery is complex, varied and hard to detect. The more people who can recognise and report Modern Slavery, the more effectively victims can be safeguarded and traffickers brought to justice. All agencies should ensure that their staff are aware of the signs that could indicate that a person is at risk from modern slavery and how to report this to the appropriate agency.

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POSSIBLE INDICATORS OF MODERN SLAVERY

Signs of various types of slavery and exploitation are often hidden, making it hard to recognise potential victims. Victims can be any age, gender or ethnicity or nationality. People can be trafficked within the UK as well as from outside.

Whilst by no means exhaustive, this is a list of some common signs: Individual's/Individuals'

- Working but gets little or no payment for the work.
- Do not have access to their passport or ID.
- Movements are closely monitored and restricted.
- Are harmed or deprived of food, water, sleep, medical care or social interaction.
- Exhibit unusually fearful or anxious behaviour. Avoidance of eye contact, appearing frightened or hesitant to talk to strangers. Fear of law enforcers.
- Not allowed or able to speak for themselves (a third party may insist on being present and/or translating).
- Show signs of physical and/or sexual abuse, physical restraint, confinement, or torture.
- Few or no personal possessions.
- Wear the same clothes day in day out or clothes that are inappropriate for the work being done.
- Poor living conditions.
- Living and working at the same place.
- Unusual travel times: Possibly dropped off and collected for work on a regular basis either very early or late at night.
- Isolation from the community.
- Seeming under the control or influence of others.
- Perceives themselves to be in debt to someone else or in a situation of dependence.

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POSSIBLE INDICATORS OF MODERN SLAVERY AND TRAFFICKING SPECIFIC TO CHILD VICTIMS

- No access to or absent parent or legal guardian.
- A child is being cared for by an adult that is not their parent or legal guardian. Be aware of unregulated private fostering arrangements.
- A number of unrelated children found at one address.
- Brought or moved from another country.
- They may not know where they are.
- Frequent movement of children from a premises.
- Often hidden from universal services – no school: no GP.
- An unrelated or a new child discovered at an address.
- With an adult, but unclear/concerning relationship.
- With an adult who speaks for the child.
- Caring for children/excessive domestic work.
- Missing, altered or false documentation.
- Possess unaccounted for money or goods or required to earn a minimum amount of money every day, or pay off an extortionate debt.



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SAFEGUARDING CHILDREN/YOUNG PEOPLE

Child trafficking and modern slavery are child abuse. The provisions of the Wales Safeguarding Procedures 2019 must be followed.

Whenever someone becomes concerned that a child has suffered, or is likely to suffer, significant harm, they have a duty to report this to the Local Authority's Children's Services.

If the concern is raised at a port of entry then immigration service should without delay, contact the Children's Services for the local area serving the port of entry.

If the child is already in the country, the referral must be made to the Children's Services for the area in which the child resides/is found.

Practitioners should not do anything which would heighten the risk of harm to or abduction of the child. Where a child has been trafficked, the enquiry/assessment should be carried out immediately as the opportunity to intervene is very narrow. Many trafficked children go missing from care, often within the first 48 hours. Provision may need to be made for the child to be in a safe place before any enquiry/assessment takes place and for the possibility that they may not be able to disclose full information about their circumstances immediately.

In line with the Wales Safeguarding Procedures 2019 the Local Authority's Children's Services will convene a strategy meeting within one day of the decision that there is reasonable cause to suspect that the child has or is likely to suffer significant harm because of modern slavery or trafficking. The Strategy meeting must:

- Share information - this will involve Immigration, the Police, Children's Services and any other relevant professionals;
- Develop a strategy for making enquiries into the child's circumstances, including consideration of a video interview;
- Develop a plan for the child's immediate protection, including the supervision and monitoring of arrangements (for Looked After Children this will form part of the care and support plan);
- Agree what information can be given about the child to any enquirers; and
- Agree what support the child requires.

Professional interpreters should be used where Welsh or English is not the child's preferred language. Under no circumstances should the interpreter be the sponsor or another adult purporting to be the parent, guardian or relative.

Independent Child Trafficking Guardians (ICTG) provided by Barnardo's - A referral for an Independent Child Trafficking Advocates (ICTAs) is a statutory requirement under the Modern Slavery Act 2015 section 48 when there is suspicion or evidence that a child is at risk of or has experienced trafficking &/or Modern Slavery.

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On completion of a Section 47 Enquiry under the Children's Act 1989 (timescale 10 working days) a meeting should be held with the social worker, their supervising manager, the referring agency as appropriate, the Police and other relevant professionals to decide on future action. Further action should not be taken until this meeting has been held and multi-agency agreement obtained to the proposed plan, including the need for a Child Protection Conference and Care and Protection Plan.

In cases where a child displays indicators that they may have been trafficked, whether from overseas or within the UK practitioners should also refer the case to the relevant competent authority by submitting a National Referral Mechanism referral form. All children under the age of 18 must be referred.

Children at risk of modern slavery and trafficking need:

- Professionals to be informed and competent in matters relating to trafficking and exploitation;
- Someone to spend sufficient time with them to build up a level of trust;
- To be interviewed separately. At no stage should adults purporting to be the child's parent, sponsor or carer be present at interviews or at meetings to discuss future action;
- Safe placements where children are victims of organised trafficking operations their whereabouts to be kept confidential;
- Legal advice about their rights and immigration status;
- Discretion and caution to be used in tracing their families;
- Risk assessment made of the risk they would face if repatriated;
- Accommodation under Section 76 Social Services and Wellbeing Act 2014 or an application to court where legal orders are required to safeguard the child.
- The child should be offered an Independent Visitor and, if they decline, their reasons should be recorded. Any Independent Visitor appointed should have appropriate training and demonstrate an understanding of the needs faced by unaccompanied or trafficked children.



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SAFEGUARDING ADULTS AT RISK OF MODERN SLAVERY

Relevant statutory guidance and national procedures identifies Modern Slavery as a form of abuse or neglect¹.

There is a twofold duty to report:-

- a) Anyone who encounters a potential victim has a duty to report to a 'first responder'.
- b) A concern that an adult is at risk because of modern slavery and trafficking would also trigger the duty to report under s128 Social Services and Wellbeing Act. Therefore whenever someone becomes concerned that an adult may be at risk from modern slavery and trafficking they must report this to the Local Authority's Adult Social Care service in line with the Wales Safeguarding Procedures 2019.

If the concern is raised at a port of entry then immigration service should without delay, contact the Adult Social Care service for the local area serving the port of entry.

If the adult is already in the country, the report must be made to the Adult Social Care service for the area in which they reside/is found.

Reports should be made to the Local Authority Adult Social Care services as they are both first responders and have duties under s126 Social Services and Wellbeing Act 2014 to undertake enquiries to ascertain whether an adult is at risk of abuse, harm or neglect. All Local Authority staff are first responders and if they encounter an individual at risk of exploitation are responsible for the National Referral Mechanism and the Duty to notify.

Due to the significant risk level involved from modern slavery such a report will warrant a response under s126 of the Social Services and Wellbeing Act Wales and the Wales Safeguarding Procedures 2019 Adult at Risk process and the Wales Modern Slavery Victim Pathway instigated.

CONSENT

Before submitting a safeguarding report the consent of the adult at risk from modern slavery should be sought. If there is doubt as to whether they have capacity to consent to the safeguarding process a capacity assessment should be completed. If the adult lacks capacity a best interest decision should be made. If the adult has capacity and does not consent to the safeguarding process then the concern should be submitted only if public interest or vital interest considerations apply. It should be noted that even in the absence of the consent of an adult with capacity, North Wales Police should be notified on 101. If the potential victim is in danger or requires immediate assistance contact the police on 999.

¹Working Together to Safeguard People: Volume 6 - Handling Individual Cases to Protect Adults at Risk (Statutory Guidance Welsh Government) lists the Modern Slavery Act 2015 as relevant legislation. The Wales Safeguarding Procedures list modern slavery as behaviour that could place the adult at risk of abuse or neglect.

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TIMELY ACTION

Practitioners should not do anything which would heighten the risk of harm or abduction to the adult at risk. Prompt decisions are needed to avoid the risk of the adult at risk moving/ being moved again: the opportunity to intervene is very narrow. Provision may need to be made for the adult at risk to be in a safe place before any enquiry/assessment takes place and for the possibility that they may not be able to disclose full information about their circumstances immediately. Some circumstances may require immediate attention as this may be the one chance to intervene.

The Local Authority Adult Social Care Service will ensure that a lead worker is nominated within 24hrs to coordinate multi-agency working to

- Meet the person's initial needs - food, clothing, rest, medical etc.
- Mitigate initial risks so they feel safe

Professional interpreters should be used where Welsh or English is not the adult at risk's preferred language.

S126 ENQUIRIES

Local authorities must make enquiries, or cause others to make them, to establish whether the adult

- Has care and support needs
- May be experiencing, or is at risk of, abuse, and
- As a result of those needs is unable to protect themselves from either the risk of, or the experience of, abuse.

The Local Authority can delegate the enquiry to relevant partners who must comply unless to do so is incompatible with their own duties. This includes third sector partners.

The objectives of an enquiry are to:

- Establish facts
- Ascertain the adult's views and wishes (and provide Professional Advocacy if required to enable the individual to participate and to be heard)
- Assess their need for protection, support and redress
- Manage the risks and to focus on what the individual wishes to achieve, helping them to understand actions taken
- Secure outcomes in a safety plan that are tailored to what enhances their choice and control around safety, risks, wellbeing and their relationships

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S126 ENQUIRIES & MODERN SLAVERY

At times information gathering following a safeguarding report will conclude that the section 126 duty to enquire is not met because the concern raised with the local authority does not relate to:

- An adult at risk
- An issue of abuse or neglect as defined within the statutory provision.

However, the basic principle of this agreed regional pathway is that due to the significant risk level and the nature of modern slavery and trafficking a proportionate s126 enquiry will be undertaken to decide what, if any, action is required to prevent or stop abuse or neglect and if so by whom. The local authority may do so if it believes it is proportionate to do so, and it will promote the adult's wellbeing and support a preventative agenda. The Wales Safeguarding Procedures 2019 also provide for the adult at risk's wishes to be overridden in some circumstances. The following are relevant examples:

- There is high risk to the health and/or safety of the individual
- Others, including children or other adults, may be at risk
- A crime is suspected or may have been committed against the adult
- Coercion

The reasons for a decision to override the adult at risk's wishes must be recorded.

A safeguarding enquiry into modern slavery will also need:

- To recognise the sensitive nature and issues involved in working with adults who are at risk from modern slavery, and who may be best to respond.
- A shared and effective multi-agency approach between all relevant agencies, which includes the police, around co-ordination of risk, safety planning and criminal investigations.
- To work with the adult at risk of modern slavery to identify, support and manage their expectations and focus on their desired outcomes.
- To consider wellbeing and prevention alongside any enquiry actions.
- To consider the breadth of remedies available to the adult at risk of modern slavery. This includes a multi-agency approach to achieve a place of safety.
- To remember that disclosure from an individual can take time, and relies on a relationship of trust and safety being established. To consider the impact of coercion and control on capacity and decision making – see below.
- To consider obstacles to self-identification as victims – see below

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Impact of coercion and control on capacity and decision making

- Control and Coercion is a key element of Modern Slavery.
- Consent victims have given to their treatment will be irrelevant where they have been coerced, deceived or provided with payment or benefit to achieve that consent.
- Makes the person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.
- The key question is “but for” the control and coercion, would the person be able to weigh the relevant information. If the answer is “yes” – then they do not lack capacity under the Mental Capacity Act but may be a vulnerable adult who cannot give true, valid and legal consent due to undue influence, duress or coercion.

Obstacles to self-identification by victims of modern slavery

- They may not have an awareness of trafficking or modern slavery or perceive themselves to be exploited.
- May have entered the country illegally.
- Sometimes exploitation may not have yet occurred and so the individual may be wholly unaware of what is intended for them.
- Coached with a story to tell the authorities and warned not to disclose any detail beyond the story, as this would lead to them being deported/in trouble.
- Their experience of authority in their country of origin is such that they do not trust the police or other statutory agencies.
- The identification and referral process may mimic aspects of what had happened during trafficking (for example, promises of help and support and of a ‘better life’, movement by persons the individual does not know, being taken to unknown locations and/or being ‘taken care of’).
- Their circumstances, even under exploitation, may compare more favourably to the individual’s experiences at home.
- They are under duress or threat, either to themselves or to their families.
- Individuals who may have a cognitive deficit/early stages of dementia.

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FOLLOWING ON FROM THE S126 ENQUIRY

If the s126 enquiries conclude reasonable cause to suspect that an adult is at risk of abuse from modern slavery, a strategy discussion/ meeting by telephone, video-conferencing or face-to face will take place. Relevant agencies must participate including the Modern Slavery MARAC Coordinator and Police. The purpose is to determine action to be taken to ensure the safety, care and support needs of the adult are met. The Local Authority Adult Social Care service is responsible for calling this meeting and keeping a record of the meeting. Wales Safeguarding Procedures 2019 will be followed: part 3.2 and part 4.

The Social Service and Wellbeing Act 2014 is clear about the criteria to be met for adult safeguarding and many victims of modern slavery may not have care and support needs. Victims may also be able to make decisions for themselves under the Mental Capacity Act even though exploitation involves coercion and control. However, the people concerned may need support.

In these circumstances a referral must be made to the Regional Slavery Marac. This is a multiagency meeting to agree safeguarding actions, and with the support of the MARAC Coordinator and other agencies, decide if a referral to the National Referral Mechanism is required. It is victim-focused and prioritises safeguarding and a needs based approach to supporting victims.

NATIONAL REFERRAL MECHANISM (NRM)

Professionals (including the police, social workers, immigration and relevant support organisations) working together to identify and safeguard potential victims should be familiar with the National Referral Mechanism.

From 1 November 2015, specified public authorities have a duty to notify the Secretary of State of any individual encountered in England and Wales who they believe is a suspected victim of slavery or human trafficking.

The ‘duty to notify’ provision is set out in Section 52 of the Modern Slavery Act 2015. This duty is intended to gather statistics and help build a more comprehensive picture of the nature and scale of modern slavery.

The National Referral Mechanism (NRM) is a gateway for locating and identifying potential victims of modern slavery and ensuring that they receive the appropriate protection, support, accommodation and advice. It is designed to facilitate all agencies which could be involved in a modern slavery case to share information about and assist potential victims. Recording and investigating responses to the National Referral Mechanism is essential to assist with national mapping, identifying hot spot locations, highlighting intelligence on source countries, and to address immigration support issues.

Any potential child victim must be referred into the National Referral Mechanism automatically. Adults must give their consent for their information to be shared for referral to the National Referral Mechanism as it is a voluntary process.

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If the adult victim declines the National Referral Mechanism a duty to notify (DtN) must still be completed, under the Modern Slavery 15 under Section 52a. The first responder must still make a notification to the National Referral Mechanism for statistical purposes using a form which does not require information that could identify the victim.

There is also an expectation that when children/young people reach 18 that they should be asked if they wish the National Referral Mechanism to transfer over into the adult National Referral Mechanism arena. If they decline then the National Referral Mechanism may not proceed.

Certain organisations are termed 'first responders' in relation to the National Referral Mechanism process. These are organisations with a responsibility to identify and refer potential adult or child victims of modern slavery. In Wales, the statutory first responders are:

- Local Authorities
- The Police Force
- National Crime Agency (NCA)
- UK Border Force, Immigration Enforcement & the NRM Hub
- The Gangmasters & Labour Abuse Authority (GLAA)

Non-Government first responders in Wales:

- BAWSO
- New Pathways

Other first responders in the UK include Salvation Army, the National Society for the Prevention of Cruelty to Children (NSPCC), and Barnardo's, Migrant Help, Welsh Refugee council

There are five main stages in identifying a potential victim and their subsequent journey through the National Referral Mechanism. These include

- Identification of a potential victim
- Referral into National Referral Mechanism by a first responder
- Reasonable grounds decision by a Single Competent Authority (SCA)
- Support for victims with a Positive Reasonable Grounds Decision for a minimum period of 30 days for Recovery and Reflection
- Conclusive grounds decision by a Single Competent Authority (SCA) a minimum of 30 days after the Positive Reasonable Grounds Decision.

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USEFUL INFORMATION

<https://www.gov.uk/government/publications/modern-slavery-how-to-identify-and-support-victims/modern-slavery-statutory-guidance-for-england-and-wales-under-s49-of-the-modern-slavery-act-2015-and-non-statutory-guidance-for-scotland-and-northe#annex-f-detail-of-support-available-for-adults-in-england-and-wales>

<https://www.local.gov.uk/topics/community-safety/modern-slavery>

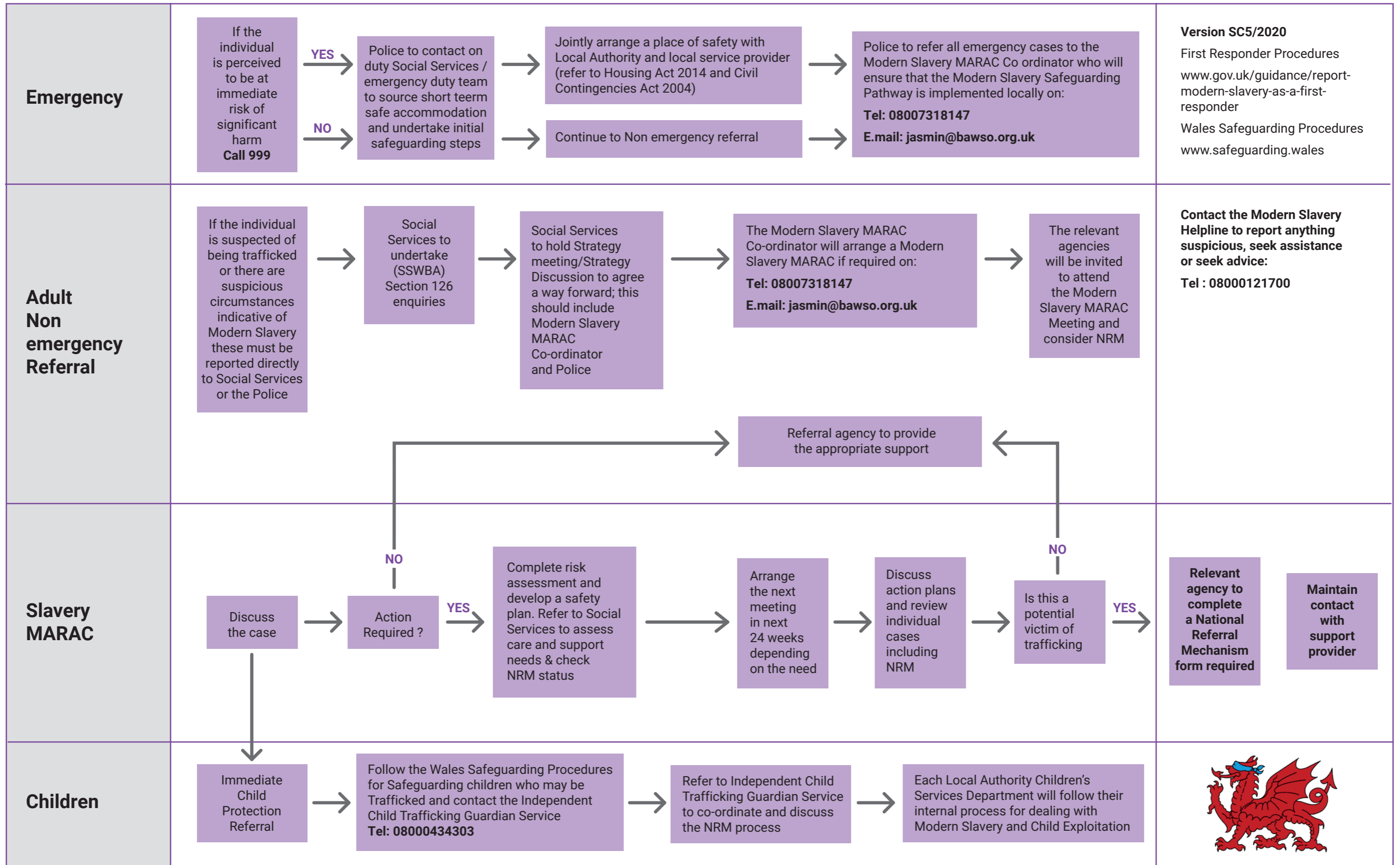
<https://www.antislaverycommissioner.co.uk/media/1201/modern-slavery-a-council-guide.pdf>

<https://gov.wales/modern-slavery-guidance-professionals>

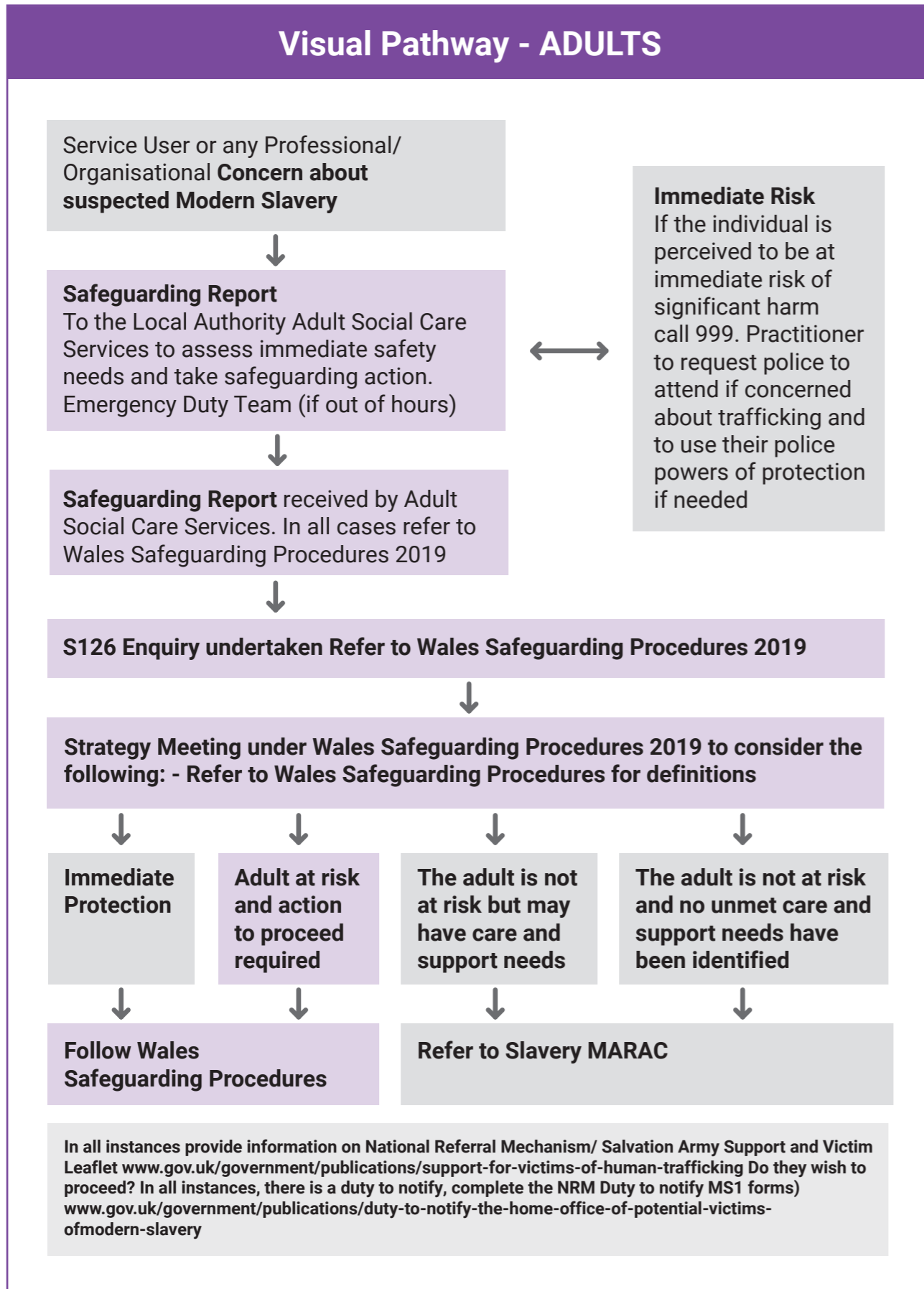
<https://gov.wales/wales-modern-slavery-safeguarding-pathway>

<https://www.modernslavery.gov.uk/start>

<https://www.gov.uk/guidance/report-modern-slavery-as-a-first-responder>



Appendix 2



Appendix 3

