



Proposal for a Revised National Referral Mechanism (NRM)

For Adults

September 2014

**The Anti Trafficking
Monitoring Group**

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Preface

The Anti-Trafficking Monitoring Group (ATMG) monitors the UK's compliance with, and implementation of, the 2005 Council of Europe Convention on Action against Trafficking in Human Beings, as well as the EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. The ten organisations belonging to the ATMG are:

AFRUCA (Africans Unite Against Child Abuse)

Amnesty International UK

Anti-Slavery International

Bawso

ECPAT UK

Helen Bamber Foundation

Kalayaan

POPPY Project (of Eaves Housing for Women)

TARA project (Trafficking Awareness Raising Alliance, of Community Safety Glasgow (CSG))

UNICEF UK

In addition, the ATMG works closely with the Human Trafficking Foundation.

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Introduction

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A National Referral Mechanism (NRM) should be a framework within which state actors fulfil their obligations to protect and promote the human rights of all trafficked persons¹, including British nationals, working in collaboration and partnership with civil society.

The NRM currently in operation in the UK is not such a framework. As shown in this report and evidenced in previous ATMG research, the system is at best flawed, at worst discriminatory. As a result, it is systematically failing to protect victims' rights.

The Anti-Trafficking Monitoring Group (ATMG) proposes replacing the current system for adults with one of the two following alternative models. The models are victim-centred and adopt a human-rights based approach, drawing on the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking².

A separate model has been created for children to complement the child protection systems already in place. When the age of the potential victim is uncertain and there are reasons to believe that the individual is a child, they should be treated as a child until it has been conclusively proven otherwise³. The procedures in the ATMG's proposed NRM for children should be followed until such time.

In line with the scope of the Modern Slavery Bill⁴, the ATMG proposes that these models encompass victims of all forms of modern slavery rather than just those who have been trafficked. The NRM must be placed on a statutory footing in the Modern Slavery Bill, including the right of those referred to appeal negative reasonable and conclusive grounds decisions and the right of access to legal aid funding for such appeals, to ensure that public authorities take their role in it seriously and are accountable.

The success of the NRM in achieving its objective to protect and promote the rights of victims of modern slavery will be largely dependent on the provision of adequate state funding. It is imperative that sufficient budget is made available for the development and operation of the decision-making body, the roll out of training for its staff and for First Responders, and the necessary victim support services.

The ATMG has proposed two models for the operation of the NRM for adults; one with a centralised governmental body that will act as the 'Competent Authority', and the other which will operate at the regional level through 'Multi-Agency Safeguarding Hubs' (MASH), or equivalent multi-agency bodies, in line with the model proposed for children. The ATMG believes that both are viable, and each may offer certain benefits over the other. These differences have been considered and presented at the end of this document (p. 23-24).

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¹See OSCE Permanent Council Decision No.557, OSCE Action Plan to Combat Trafficking in Human Beings, PC.DEC/557, 24th July 2003, Part V.3.

²OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, May 2002, E/2002/68/Add.1. Available at: <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

³This 'presumption of age' provision stems from international legislation, including in Article 10(3) of the Council of Europe Trafficking Convention (2005) and Article 13(2) of the EU Trafficking Directive (2011/36).

⁴Modern Slavery Bill, June 2014 <http://www.publications.parliament.uk/pa/bills/cbill/2014-2015/0008/15008.pdf>

Any NRM model put in place must incorporate the following key principles:

- Adopt a human-rights based approach that has the best interests of the victims at its heart
- Be non-discriminatory; identification and support provision must not be conflated with or affected by the person's nationality or immigration status
- Adhere to the principle of informed consent throughout
- Allow for a formal right of appeal to negative decisions to protect against erroneous decision-making
- Involve a wide-range of skilled and experienced professionals, from statutory agencies, civil society and other relevant organisations, working collaboratively to share information and provide the best safeguarding solutions.

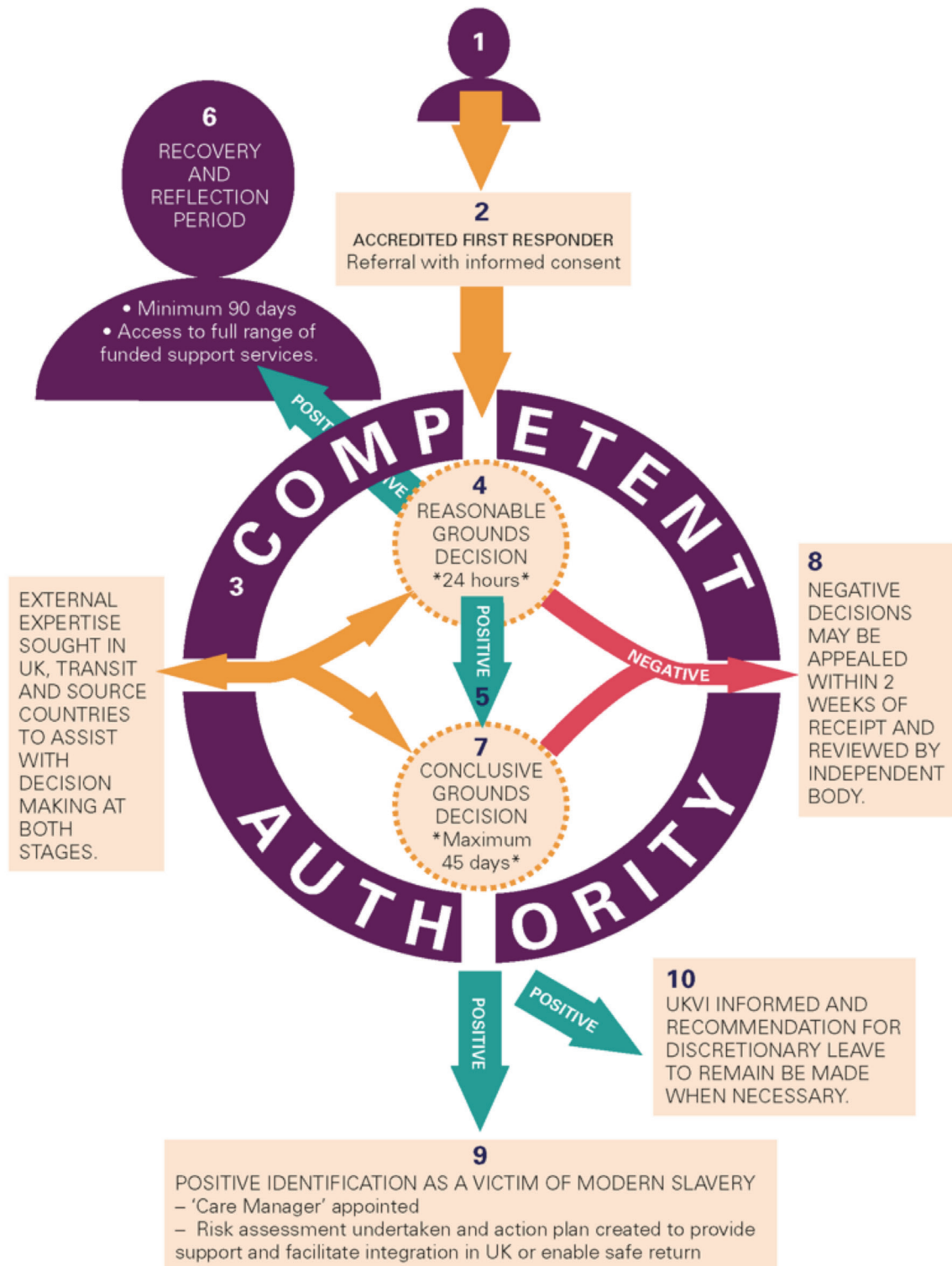
Model 1: Centralised

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A central governmental body (the 'Competent Authority'), **one which has no responsibility for deciding on an individual's immigration or asylum status**, will be responsible for making both the reasonable and conclusive grounds decisions, and for arranging and overseeing victim care. This Competent Authority will **convene staff experienced and trained in modern slavery, victim identification and care**. Staff will be seconded from a range of different professional backgrounds, including social services, police, probation, health, as well as NGOs (who do not act as service providers) to assist in the collaborative decision-making process. The Competent Authority will have access to, and the power to call upon, different experts to assist in the decision-making when necessary. Clear procedural protocols and MoUs must be drawn up between these services to ensure consistency and accountability in the decision-making and service provision.

The infographic overleaf visually depicts the different actors and stages in this proposed NRM model, and the various pathways through it. Brief explanations of these actors/stages are provided in its key, with further details provided on subsequent pages.

Model 1: Centralised



Key to Model 1

1. All potential victims of modern slavery, not just those who have been trafficked, should be referred. Before referral, they should be informed of the NRM process and its potential outcomes. Once referred, they should be regularly updated on the progress made in the decision-making.

2. First Responders are responsible for identifying and referring potential victims to the Competent Authority. They may be public authorities or non-governmental organisations (NGOs). All First Responders must be accredited; having completed comprehensive, accredited training on victim identification and support.

3. The 'Competent Authority' will be a central governmental body, one which has no responsibility for deciding on an individual's immigration or asylum status, and will convene staff from a range of different professional backgrounds who are experienced and trained in modern slavery, victim identification and care.

4. Reasonable grounds decisions should be made within 24 hours using the *'I suspect but cannot prove that the individual is a victim of modern slavery'* test. Competent authority staff should collaborate on the decision-making in each case and external expertise be garnered where required.

5. Positive reasonable grounds decisions: The individual referred and the First Responder should be immediately notified. The 'Recovery and Reflection' period (see (6)) and the conclusive grounds decision (see (7)) will then commence.

6. Recovery and Reflection period: Access to a range of funded support services in this period, following a needs assessment, should be granted to the individual for a minimum of 90 days following the receipt of a positive reasonable grounds decision.

7. Conclusive grounds decisions should be made within 45 days and use the *"It is more likely than not that the individual is a victim of modern slavery"* test. Decision-making must be a collaborative process between Competent Authority staff, and further information garnered from additional external sources to assist in the decision-making process.

8. Negative reasonable and conclusive grounds decisions may be appealed within 2 week of their receipt and reviewed by an independent body. Until completion of the appeal decision, the individual should have continued access to the necessary support.

9. Positive identification of a victim of modern slavery: A Social Worker will be assigned as their 'Care Manager' to facilitate their long-term support, either in the UK, or for their Safe Return to their home country, and maintain contact with them as long as the individual requires.

10. The Competent Authority must also inform UKVI of the decision, together with a recommendation for discretionary leave to be granted for victims who are third country nationals and EU/EEA nationals who are not exercising their treaty rights at the time of the decision.

Stage 1: Identification

First Responders are responsible for identifying and referring potential victims of modern slavery to the Competent Authority. Public authorities who may encounter victims of modern slavery, such as local authorities, the police and prison services, will act as First Responders. However, all public authority staff who make such referrals must first complete comprehensive, accredited training on victim identification. Non-governmental organisations (NGOs) who wish to act as First Responders must also have completed the same, accredited training and illustrate proven expertise in modern slavery. The training is to be developed in consultation with civil society, and delivered by the Competent Authority.

Those who hold First Responder status should be regularly reviewed by an independent body, such as the Anti-Slavery Commissioner, to ensure that the necessary standards of victim identification are being upheld and the integrity of the system maintained.

First Responders who encounter a potential victim of modern slavery are to make a written referral to the Competent Authority. It is imperative that the individual to be referred gives their informed consent to the referral. Government funding should be made available to pay for interpreters prior to a referral being made to ensure their client fully understands the process and potential consequences of the referral.

The First Responder must, with the individual's consent, proactively work to contact other organisations and bodies relevant to the individual's case to request information to include in, and strengthen, the referral.

If the individual being referred is held in police custody or detention, **the decision to prosecute should be stayed** until after the receipt of a conclusive grounds decision, and if an appeal against a negative decision has been lodged, until this appeal has been determined.

Those referred to the Competent Authority must be given the opportunity to provide confidential feedback on this mechanism and the support received. This feedback should be collated by the Competent Authority and regularly reviewed by an independent body, such as the Anti-Slavery Commissioner.

The standard of proof for this reasonable ground stage decision is *'I suspect but cannot prove that the individual is a victim of modern slavery'*. Given this low standard of proof and the proven expertise of First Responders in victim identification, the 'suspect but cannot prove test' will be satisfied and a positive reasonable grounds decision granted in the overwhelming majority of cases. This decision should be made as soon as possible, ideally within 24 hours. The default response by the Competent Authority on receipt of a referral will be to issue a positive reasonable grounds decision unless it is manifestly clear and beyond reasonable doubt that there are no reasonable grounds that the case should proceed to the conclusive grounds stage.

In exceptional cases, where the Competent Authority deems that the standard of proof has not been met, they must contact the First Responder immediately to request more information regarding the referral, as well as contact relevant experts (such as experienced NGOs or country specialists) who may be able to provide advice on the case. If, after making this contact, the 'suspect but cannot prove test' has still not been met a negative reasonable grounds decision should be reached (See Stage 1b below).

If the individual referred presents as extremely vulnerable and does not have safe accommodation to reside in whilst the reasonable grounds decision is being made, emergency housing should be provided for them.

a. Should a positive reasonable grounds decision be reached:

Once a positive reasonable grounds decision has been reached the Competent Authority must immediately inform, in writing, the referring First Responder and person referred. The 'Recovery and Reflection' period will then commence (see Stage 2 below).

b. Should a negative reasonable grounds decision be reached

The Competent Authority, after gathering and assessing the information available to apply the 'suspect but cannot prove test', may come to the decision that the individual is not a victim of modern slavery.

Should such a negative reasonable grounds decision be reached, a full and detailed explanation is to be given to the individual as to the reasoning behind the decision. The individual may then request reconsideration of the decision by the Competent Authority and may provide further information and evidence to support their request to be considered as a victim should such information be available. Legal aid funding should be made available to support the individual in making this request.

A First Responder may refer an individual more than once to the Competent Authority in cases where new indicators come to light or their understanding of the individual's situation changes. An initial negative reasonable grounds decision must not prejudice a subsequent decision, nor must a decision to delay in the referral being made.

On reconsideration, should a positive decision be reached by the Competent Authority, they must inform the individual and the First Responder and undertake the steps in Stage 1(a).

Should a negative decision be again made, the individual may appeal this decision (as soon as possible and within two weeks of its receipt unless otherwise agreed with the Competent Authority) and ask for it to be reviewed by an independent body, such as an independent appeals judge or other tribunal. Support should continue until a decision is made, and if an appeal is lodged, until the appeal has been determined. If the Competent Authority has a reason to suspect that the person is a victim of another form of crime (e.g. domestic violence, sexual abuse), they should, with informed consent, make a referral to another appropriate agency. Regardless of the absence of a positive reasonable grounds decision, the needs of the individual who has been subjected to abuse/a victim of crime should remain paramount, to prevent secondary and repeat victimisation, intimidation and retaliation.

Stage 2: 'Reflection and Recovery' period

The purpose of this period is to provide immediate protection for the individual away from the influence of their exploiters, protection from detention and deportation, and time to consider their future options. Access to a range of funded support services in this period should be granted to allow the individual to obtain respite from their experiences and allow them to decide whether or not to cooperate with the authorities in the prosecution of their exploiters.

An individual needs assessment will be undertaken by the Competent Authority, through liaising with the First Responder and other relevant organisations, to enable the provision of support measures which address their specific needs. Each individual shall be issued with a booklet explaining their rights and entitlements during the reflection period,⁵ which will be explained to them by the First Responder with the assistance of an interpreter if required. The support provider should revisit the

⁵For an example of good practice see the booklet issued by Coordination Unit for Victims of Human Trafficking (KOM) in Norway. Available here: https://www.politi.no/vedlegg/rapport/Vedlegg_398.pdf

booklet with the individual throughout the Reflection and Recovery period. The Competent Authority will facilitate access to, at a minimum, all of the following support measures, as required, for a minimum period of 90 days:

- Appropriate and secure gender-specific accommodation which includes access to cooking facilities
- Health care services, including necessary medical treatment and psychological assistance
- Counselling and information
- Legal advice
- Support and counselling for returning to their country of origin in cooperation with other organisations
- Translation and interpretation services
- Financial assistance capable of ensuring their subsistence
- Access to education for children
- Access to English language classes
- Advice on their rights and interests in participating in criminal proceedings to enable them to make an informed decision about cooperating with authorities
- Support and assistance in seeking compensation
- Access to employment (for EEA nationals, if appropriate)
- Childcare
- Safe and appropriate transportation to accommodation (whatever time the accommodation is needed)
- Access to a mobile phone and if requested, and internet

**The uptake of the above support should be made on a consensual basis and should not be made conditional on the individual's willingness to participate in criminal proceedings. The lack of uptake of any support measure should not be used as justification for the issuing of a negative conclusive grounds decision.*

The accommodation provider or, where no accommodation has been taken up, government-funded outreach support, will assess the ongoing needs of the individual at regular intervals throughout the reflection period to ensure that the support provision is still appropriate. This assessment will be fed back to the Competent Authority.

During the reflection period the individual will be assisted by the accommodation provider (or, where no accommodation has been taken up, government-funded outreach support) in collaboration with other agencies as appropriate to understand their rights and potential options, and begin the process of their sustained recovery. The options to be discussed include:

- Whether their rehabilitation to the fullest extent possible would be best in the UK or best in their home country (including the details of the safe return).
- The procedure and potential consequences in cooperating with the UK authorities in investigations against their exploiter.

Should the individual wish to return immediately to their home country, counselling should be provided and a risk assessment undertaken (see section on 'Safe Return' below on page 12).

Stage 3: Conclusive grounds decision

During the Recovery and Reflection period the Competent Authority will proactively gather further information relating to the referral from the First Responder and other relevant agencies and experts, from the UK and the source and transit countries as necessary.⁶

The Competent Authority will make the conclusive grounds decision within 45 days. Should the information-gathering process exceed 45 days (for instance, due to delays in obtaining evidence from the home country or obtaining expert advice), the person referred and the accommodation provider, should be informed immediately.

The standard of proof at this stage will be *“It is more likely than not that the individual is a victim of modern slavery”*. The burden of proof rests on the Competent Authority to establish/investigate whether or not the individual has been identified as a victim of modern slavery.

Where the individual referred is subject to immigration control, any determination of any right to asylum, Humanitarian Protection or other leave to remain should be stayed until a conclusive decision has been made to avoid conflation of the two processes.

a. Should a positive conclusive grounds decision be reached:

The Competent Authority must inform the person referred and the First Responder of their decision as soon as possible.

As part of the decision-making process the Competent Authority must consider the options available and action to be taken to protect the individual and promote their welfare in the short and long term. A risk and needs assessment should be undertaken, including the eventuality of their safe return. A written action plan should be created for the individual, which includes recommendations to specific support services as to the involvement that may be required of them.

The action plan must cover the support required should the individual's personal situation be best met by recovery in the UK to facilitate their social inclusion and gradual long-term independence. See stage 4 on *‘Support following a positive conclusive decision’ on Page 11*. The action plan should also include details of the arrangements that will need to be made and the organisations involved, both in the UK and in the home country, for the individual's safe return, should they choose it. See section 5 on *‘Safe Return’ on Page 12*.

Disruption to service provision following the Recovery and Reflection period should be avoided if the action plan has identified a continuing need for support. A Social Worker will be assigned as the individual's ‘care manager’ to promote their long-term welfare. The care manager will keep in regular contact with the individual to assess their needs and facilitate their integration into mainstream services, as long as is required by the individual.

⁶See OSCE, 2013, *Trafficking in Human Beings Amounting to Torture and other Forms of Ill-treatment*, p. 113 <http://www.osce.org/cthb/103085?download=true>

The Competent Authority must also inform UKVI of the decision, together with a recommendation for discretionary leave⁷ to be granted for victims who are third country nationals and EU/EEA nationals that are not exercising their treaty rights at the time of the decision. The recommendation will detail the reasons for this recommendation, based on the outcomes of the individual's needs assessment.

If the individual then wishes to apply for asylum, they may request that the risk and needs assessment undertaken by the Competent Authority, which includes consideration of their safe return, be passed on to UKVI to support their claim.

b. Should a negative conclusive grounds decision be reached:

The Competent Authority must inform the person referred and the First Responder of their decision, as well as UKVI, as soon as possible.

The individual may appeal this decision (as soon as possible and within two weeks of its receipt unless otherwise agreed with the Competent Authority), in which case it to be reviewed by an independent body, such as an independent appeals judge or other tribunal. Until this decision is made, and if an appeal is lodged until the appeal has been determined, the individual will have continued access to the support services available during the 'Recovery and Reflection' period. Where possible, the process will be inquisitorial rather than adversarial and consistent with a victim-centred approach. It should be borne in mind that the individual may be a victim of criminal abuse even if they are not judged to be a victim of modern slavery.

If the original negative conclusive grounds decision is overturned by the appeals judge, the procedures in stage 3 (a) should be followed.

If the independent body agrees that the negative conclusive grounds decision is correct, that the individual is not a victim of modern slavery, the individual should be given a 'grace period' of 28 days to exit the services. The appeal judge's decision must be made without prejudice to any applications made in other jurisdictions (e.g. for asylum or Humanitarian Protection).

Stage 4: Support following a positive conclusive decision

Should an individual receive a positive conclusive grounds decision, the Competent Authority must discuss with them the action plan created, which will detail the short and long-term options available to them. The individual should be allowed sufficient time to make an informed and considered decision about their future once all relevant information on the various options available to them has been provided.

⁷ At present the test for discretionary leave for victims of trafficking is that "the individual's personal circumstances...are so compelling that it is considered appropriate to grant some form of leave" (see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/312346/discretionaryleave.pdf). This use of the term 'so compelling' sets the threshold too high. The policy should be amended and brought into line with Article 14 (1)(a) of the Council of Europe Trafficking Convention which asserts that the State "shall issue a renewable residence permit to victims" if "the competent authority considers that their stay is necessary owing to their personal situation". The 'personal situation' requirement is further detailed in paragraph 184 of the Explanatory Note which states that "[it] takes in a range of situations, depending on whether it is the victim's safety, state of health, family situation or some other factor which has to be taken into account." 'Safety' clearly indicates that risk on return should be considered without the need for (but not precluding access to) an asylum claim. The risk of re-trafficking is a particular concern and the burden is on the State to determine, on a balance of probabilities, that re-trafficking is unlikely to take place in the foreseeable future. This will require consideration of the likelihood of long term reintegration. 'Family' is indispensable to reintegration. If appropriate connections with the family cannot be re-established then a grant of leave should be considered.

Should they wish to return to their country of origin, the steps in the 'Safe Return' section below should be followed.

Should the individual's personal situation be such that a period of leave to remain in the UK is recommended, they should be supported, as required, in:

- Finding appropriate, long-term accommodation
- Accessing healthcare services, including long-term psychological support and counselling
- Understanding their residency rights in the UK
- Applying for asylum
- Family reunification
- Accessing the labour market
- Receiving welfare benefits
- Enrolling in English language classes
- Enrolling their accompanying children in school
- Seeking compensation
- Establishing contact with support networks
- Participating in criminal proceedings against their traffickers/exploiters
- Addressing their long-term safety needs

The care manager will be responsible for their continued support and facilitating their integration into UK society. The care manager should maintain regular contact with the individual as long as it required by the individual. The Competent Authority will be regularly updated by the care manager on this contact and the support needs of the individual. The care manager may choose to increase the frequency of contact for particularly vulnerable individuals, for instance those with children.

Stage 5: Safe Return⁸

Should an individual wish to return to their country of origin, the individual's desire to return should be evaluated by the care manager, and the support required for their return and reintegration determined. This support in the country of destination should include:

- Shelter
- Financial and material support
- Medical support
- Legal and administrative support (e.g. legal counselling to assist in the access to compensation)
- Assistance with economic reintegration (vocational training, further education)
- Travelling support (including accompanied return)
- Establishing appropriate contacts (family/friends) within the country of origin.

⁸This section has been based on the 'Quality standards for risk assessment and the safe return and reintegration of trafficked persons' drafted by LEFÖ, Austria. The full text can be read here: http://www.ungift.org/doc/knowledgehub/resource-centre/CSOs/Lefoe_RueckkehrFrauenhandel_ENGLISH.pdf. The 'Guiding Principles on Human Rights in the Return of Trafficked Persons' as set out by the OSCE (<http://www.osce.org/odihr/124268>) must be adhered to throughout.

A further risk assessment should be undertaken by the care manager and should include liaising with the victim themselves (with informed consent), relevant expert NGOs, governmental authorities in the country of origin, local NGOs and international organisations. The assessment should:

- Consider the risk and needs assessment and action plan created by the Competent Authority⁹
- Consider the history of the trafficked person (risk in the context of the individual's history, risks caused by the trafficking process, risk of stigmatisation)
- Research additional sources (such as country information reports, research on possible contact persons in country of origin, information from specialised NGOs)
- Create a security plan in collaboration with the trafficked person and governmental authorities (to include assessment of where safe resources can be found, safe transport and transfer, data protection against stigmatization, safe reintegration within the community and labour market, avoidance of perpetrators).

Based on the outcomes of the above counselling and risk assessment, an individual action plan should be drafted. In some cases safe return may not be possible; for instance, due to fears of the individual's physical safety in the country of origin or their potential exclusion from family and other psycho-social support mechanisms as a result of their experiences. Should the individual still wish to leave the country of destination then the option of resettlement in a third country should be discussed.

Following completion of the safe return process, contact (subject to informed consent which should be tested from time to time to ensure that it endures) should be maintained with the returned person to ensure their continued safety and reintegration.

In the event that return presents real risks which were not considered when the individual's personal situation was assessed then the question of a (further) period of leave to remain should be considered.

⁹Or the MASH (see Model 2 on page 15).

Model 2: Multi Agency Safeguarding Hubs

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This second model aligns closely with that proposed in the ATMG's children's NRM; embedding the NRM process within local authorities, with the decision-making and victim care oversight being undertaken by Multi-Agency Safeguarding Hubs ('MASH'), or equivalent multi-agency bodies.

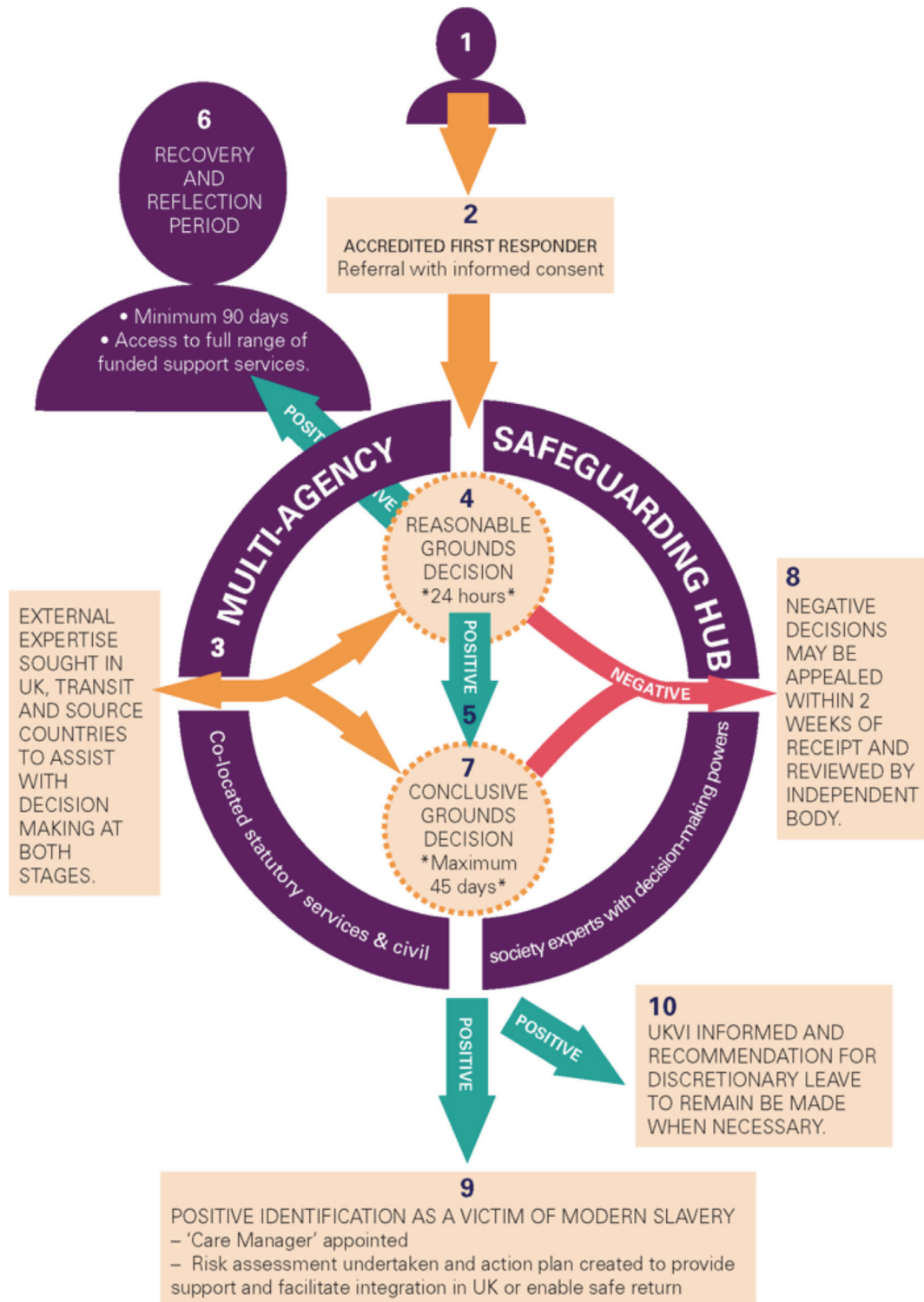
The MASH model has been established in numerous local authority areas across the UK already. Some deal exclusively with children's referrals whereas others deal with both children and adults, such as the MASH in Staffordshire & Stoke-on-Trent and Norfolk. **The ATMG envisages that each local authority would have similarly functioning MASH structures in place which would eventually process both child and adult NRM referrals.** In Norfolk, for example, it is understood that all trafficking concerns currently go through the MASH, with the MASH quality-assuring all NRM referral forms.

These MASH bring together and co-locate professionals from a range of relevant statutory services such as police, health, social care, as well as 'virtual' members from other relevant services and organisations, such as housing and expert NGOs. The number and type of MASH members will differ between local authority areas due to the differing needs of the local population. However, it is important that each MASH has representation from third-sector organisations who are experienced in identifying and supporting victims of modern slavery. **MASH members must be trained in identifying indicators of human trafficking and other forms of modern slavery, and understanding the support and protection needs of victims.** The hub would require an integrated and secure (firewalled) IT system to enable the fast transfer of sensitive case data between members, as well as the development of information-sharing protocol between MASH in other local authorities.

It is important that the NRM is placed on a statutory footing in the Modern Slavery Bill, to make sure that frontline practitioners understand the role they must play in identifying victims of Modern Slavery and making referrals into the NRM. Statutory guidance must be produced which details the roles of local authority staff in this process, including MASH members, and the procedures to be followed for referrals and victim support.

The infographic overleaf depicts the actors and stages involved in this NRM model. Further details of these stages/actors are provided on subsequent pages.

Model 2: Multi-Agency Safeguarding Hubs



Key to Model 2

1. All potential victims of modern slavery, not just those who have been trafficked, should be referred. Before referral, they should be informed of the NRM process and its potential outcomes. Once referred, they should be regularly updated on the progress made in the decision-making.

2. First Responders are responsible for identifying and referring potential victims to the multi-agency safeguarding hub. They may be public authorities or non-governmental organisations (NGOs). All First Responders must be accredited; having completed comprehensive, accredited training on victim identification and support.

3. Each local authority 'Multi-Agency Safeguarding Hub' will bring together and co-locate professionals from a range of relevant statutory services such as police, health, and social care, as well as 'virtual' members from other relevant services and organisations, such as housing and expert NGOs. MASH members must be trained in identifying indicators of human trafficking and other forms of modern slavery, and understanding the support and protection needs of victims.

4. Reasonable grounds decisions should be made within 24 hours using the '*I suspect but cannot prove that the individual is a victim of modern slavery*' test. MASH staff should collaborate on the decision-making in each case, and additional external expertise (from outside the MASH) be garnered where required.

5. Positive reasonable grounds decisions: The individual referred and the First Responder should be immediately notified. The 'Recovery and Reflection' period (see (6)) and the conclusive grounds decision (see (7)) will then commence. The MASH will be responsible for coordinating the ongoing support and safeguarding.

6. Recovery and Reflection period: Access to a range of funded support services in this period, following a needs assessment, should be granted to the individual for a minimum of 90 days following the receipt of a positive reasonable grounds decision.

7. Conclusive grounds decisions should be made within 45 days and use the "*It is more likely than not that the individual is a victim of modern slavery*". Decision-making must be a collaborative process between MASH staff, and further information garnered from additional external sources to assist in the decision-making process.

8. Negative reasonable and conclusive grounds decisions may be appealed within 2 week of their receipt and reviewed by an independent body. Until completion of the appeal decision, the individual should have continued access to the necessary support.

9. Positive identification of a victim of modern slavery: A Social Worker will be assigned as their 'Care Manager' to facilitate their long-term support, either in the UK or for their Safe Return to their home, and maintain contact with them as long as the individual requires.

10. The MASH must also inform UKVI of the decision, together with a recommendation for discretionary leave to be granted for victims who are third country nationals and EU/EEA nationals that are not exercising their treaty rights at the time of the decision.

Stage 1: Identification

As in the first model proposed, First Responders, both public authorities and accredited NGOs, are responsible for identifying and referring potential victims of modern slavery into the NRM.

First Responders who encounter a potential victim of modern slavery are to make a written referral to the MASH within their local authority who will make the Reasonable grounds, '*I suspect but cannot prove that the individual is a victim of modern slavery*', decision. The MASH will make this decision as soon as possible, ideally within 24 hours¹⁰.

If the individual being referred is held in police custody or detention, **the decision to prosecute should be stayed** until after the receipt of a conclusive grounds decision, and if an appeal against a negative decision has been lodged, until this appeal has been determined.

Those referred to the MASH must be provided with the opportunity to provide confidential feedback on this mechanism and the support received. This feedback should be collated by the Competent Authority and regularly reviewed by an independent body, such as the Anti-Slavery Commissioner.

If the MASH deems that this standard of proof has not been met, they must contact the First Responder to request more information regarding the referral, as well as contact relevant experts (such as experienced NGOs or country specialists) who may be able to provide advice on the case. In addition, advice from other experts (such as expert NGOs who have experience working with victims from certain source countries) may be necessary to assist in the decision-making process. If the 'suspect but cannot prove test' has still not been met following this contact a negative reasonable grounds decision should be reached (See Stage 1b below).

a. Should a positive reasonable grounds decision be reached:

If a positive reasonable grounds decision has been reached the MASH must immediately inform, in writing, the referring First Responder and the person referred, providing the latter with a booklet which explains their rights and entitlements during the Recovery and Reflection period¹¹, which will be explained to them by the First Responder with the assistance of an interpreter if required. The support provider should revisit the booklet with the individual throughout the Reflection and Recovery period. The MASH are responsible for coordinating the ongoing support and safeguarding. See Stage 2 below.

b. Should a negative reasonable grounds decision be reached

The MASH, after gathering and assessing as a group the information available to apply the 'suspect but cannot prove test', may come to the decision that the individual is not a victim of modern slavery. Should a negative decision be reached and the MASH has a reason to suspect that the person is a victim of another form of crime (e.g. domestic violence, sexual abuse), the MASH will, with informed consent, make a referral to the Safeguarding Adults team and other relevant services within the local authority for further assessment and support.

¹⁰One London MASH has reported categorising referrals according to risk in order to prioritise cases, with decision on the highest risk category being taken within 4 hours.

¹¹For an example of good practice see the booklet issued by Coordination Unit for Victims of Human Trafficking (KOM) in Norway. Available here: https://www.politi.no/vedlegg/rapport/Vedlegg_398.pdf

The individual referred should be informed of the negative decision immediately. They may request reconsideration and provide further information and evidence to support their request. A First Responder may refer an individual more than once to a MASH in cases where new indicators come to light or their understanding of the individual's situation changes. An initial negative reasonable grounds decision must not prejudice a subsequent decision.

Should a positive decision then be reached on reconsideration by the MASH they must inform the individual and the First Responder and undertake the steps in Stage 1a of this model.

If the negative decision is reissued by the MASH, the individual may appeal this decision (as soon as possible and within two weeks of its receipt unless otherwise agreed with the MASH), and ask for it to be reviewed by an independent body, such as the Local Government Ombudsman¹², independent appeals judge or other tribunal. Support should continue until this decision is made and if an appeal has been lodged, until this appeal is determined.

Stage 2: 'Reflection and Recovery' period

The MASH will undertake an individual needs assessment, through liaising with the First Responder and other relevant agencies, to enable the provision of support measures which address their specific needs. They will facilitate access to, at a minimum, all of the following support measures, as required, for a minimum period of 90 days:

- Appropriate and secure gender-specific accommodation*
- Health care services, including necessary medical treatment and psychological assistance
- Counselling and information
- Legal advice
- Support and counselling for returning to their country of origin in cooperation with other organisations
- Translation and interpretation services
- Financial assistance capable of ensuring their subsistence
- Access to education for children
- Access to English language classes
- Advice on their rights and interests in participating in criminal proceedings to enable them to make an informed decision about cooperating with authorities
- Support and assistance in seeking compensation
- Access to employment, if appropriate
- Childcare

**Due to fears of the risk of reprisals from their trafficker/exploiter, it may be safer to house the individual in accommodation located outside of the local authority boundary. The MASH should collaborate with MASH in other local authorities to locate appropriate accommodation.*

¹²<http://www.lgo.org.uk/>

Members of the MASH will communicate regularly with the accommodation provider, or government-funded outreach support if no accommodation has been taken up, throughout the reflection period to assess the ongoing needs of the individual to establish whether the support provision is still appropriate.

During the reflection period the individual will be assisted by the MASH and the accommodation provider, in collaboration with other agencies as appropriate, to understand their rights and potential options, and begin the process of their sustained recovery¹³. The options to be discussed include:

- Whether their rehabilitation to the fullest extent possible would be best in the UK or best in their home country (including the details of the safe return)
- The procedure and potential consequences in cooperating with the UK authorities in investigations against their exploiter.

Should the individual wish to return immediately to their home country, counselling should be provided and a risk assessment undertaken (see section on 'Safe Return' on page 12).

Stage 3: Conclusive grounds decision

During the Recovery and Reflection period the MASH will proactively gather further information relating to the referral from the first responder and other relevant agencies and experts, from the UK and the source and transit countries as necessary.

The MASH will make the conclusive grounds decision within 45 days. Should the information-gathering process exceed 45 days (for instance, due to delays in obtaining evidence from the home country or obtaining expert advice), the person referred and the accommodation provider, should be informed as soon as this is known.

The standard of proof at this stage will be *"It is more likely than not that the individual is a victim of modern slavery"*. The burden of proof rests on the MASH to establish/investigate whether or not the individual has been identified as a victim of modern slavery.

Where the individual referred is subject to immigration control, any determination of any right to asylum, Humanitarian Protection or other leave to remain should be stayed until a conclusive decision has been made to avoid conflation of the two processes.

a. Should a positive conclusive grounds decision be reached:

The MASH must inform the individual and the accommodation provider of their decision as soon as possible.

As part of the decision-making process the MASH must consider the options available and action to be taken to protect the individual and promote their welfare in the short and long term. A risk and needs assessment should be undertaken, including the eventuality of their safe return. A written action plan should be created for the individual, which includes recommendations to specific support services as to the involvement that may be required of them.

¹³See OSCE, 2013, Trafficking in Human Beings Amounting to Torture and other Forms of Ill-treatment, p. 113 <http://www.osce.org/cthb/103085?download=true>

The action plan must cover the support required should the individual's personal situation be best met by recovery in the UK to facilitate their social inclusion and gradual long-term independence. See section on 'Support following a positive conclusive decision' (on page 11). The action plan should also include details of the arrangements that will need to be made and the organisations involved, both in the UK and in the home country, for the individuals safe return, should they choose it. See section on 'Safe Return' (on page 12).

Disruption to service provision following the Recovery and Reflection period should be avoided if the action plan has identified a continuing need for support. A 'care manager', a Social Worker, will be assigned to the individual to promote their long-term welfare. The care manager will keep in regular contact with the individual to assess their needs and facilitate their integration into mainstream services, as long as is required by the individual. The MASH will be regularly updated by the care manager on this contact and the support needs of the individual.

The MASH must also inform UKVI of the decision, together with a recommendation for a discretionary leave¹⁴ to be granted for victims that are third country nationals and EU/EEA nationals that are not exercising their treaty rights at the time of the decision. The recommendation will detail the reasons for this recommendation, based on the outcomes of the individual's needs assessment.

If the individual then wishes to apply for asylum, they may request that the risk and needs assessment undertaken by the Competent Authority, which includes consideration of their safe return, be passed on to UKVI to support their claim.

b. Should a negative conclusive grounds decision be reached:

The MASH must inform the individual and the referring First Responder of their decision, as well as UKVI, as soon as possible.

The individual may choose to appeal this decision (as soon as possible and within two weeks of its receipt unless otherwise agreed with the MASH), in which case the decision will be reviewed by an independent body, such as the Local Government Ombudsman, independent appeals judge or other tribunal. Whilst this decision is being reviewed, the individual will have continued access to the support services available during the 'Recovery and Reflection' period. Where possible, the process will be inquisitorial rather than adversarial and consistent with a victim centred approach. It should be borne in mind that the individual may be a victim of criminal abuse even if they are not judged to be a victim of modern slavery.

If the original negative conclusive grounds decision is overturned, the procedures in stage 3a should be followed.

If the independent body agrees that the negative conclusive grounds decision is correct, that the individual is not a victim of modern slavery, the individual should be given a 'grace period' of 28 days to exit the services.

If the individual consents, the MASH may pass the file on to UKVI who would then consider whether or not the victim was also a refugee/in need of Humanitarian Protection.

¹⁴See Footnote 7 on page 10.

The ATMG has considered below the potential benefits and drawbacks of adopting each of these models.

Benefits: Centralised Model	Benefits: MASH Model
<p>This model more closely resembles the NRM currently in existence, requiring fewer structural changes at the regional level to implement.</p> <p>Decision-making and safeguarding decisions would be coordinated within one organisation, enabling greater consistency.</p> <p>Collaborative decision-making between the range of professionals convened in the Competent Authority, and access to external expertise where necessary, will minimise the number of erroneous decisions.</p> <p>This central body will process both child and adult referrals, meaning that all case data would be held within the same central database allowing for simpler abstraction and analysis, and external oversight.</p>	<p>The MASH structure has been shown to result in: more accurate decisions and assessments of risk and need; more efficient decision-making and safeguarding; reduced duplication of work and repeat referrals; and improved communication and understanding of professions involved in the MASH¹⁵. As such, the development of MASH in all areas of the UK will be beneficial, not only for those who are positively identified as victims of modern slavery, but also those who were referred due to other safeguarding concerns. Should an individual not be found to be a victim of modern slavery, their needs as a victim of crime or other abuse will still be met through the MASH.</p> <p>The professionals involved in each MASH will be knowledgeable of the appropriate support services available in their local area.</p> <p>The creation of MASH will result in the training and upskilling of professionals across all regions of the UK, and serve to increase awareness of modern slavery at a local level.</p> <p>Managing both child and adult cases, the MASH will prevent the disruption of support for children who transition to adulthood throughout the process or who have had their age disputed.</p>

¹⁵The findings from a recent (July 2014) Home Office funded project to review the multi-agency safeguarding models (of MASH) currently in place can be viewed here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338875/MASH.pdf

Drawbacks: Centralised	Drawbacks: MASH
<p>The decision-makers are viewed as being remote from those referring and those being referred. As such there may be a lack of trust in the system and a reluctance to refer and/or maintain contact with the Competent Authority once the referral has been made.</p> <p>As a centralised body, the competent authority may not be aware of all of the support services/organisations available within the individual's local area, and therefore unable to provide access to the most appropriate support.</p> <p>If not sufficiently resourced, there is a danger that the volume of referrals, combined with organisational bureaucracy, may result in delays in decision-making.</p> <p>The training and upskilling of staff at a local level will not be prioritised to ensure they are able to accurately identify and safeguard victims of modern slavery.</p> <p>Unless clear information-sharing protocols between the Competent Authority, First Responder and other relevant support agencies are created and implemented, the Competent Authority is at risk of becoming an isolated body which acts as the gate-keeper for information on cases.</p>	<p>MASH do not exist currently exist in every local authority, and not all those in existence take both adult and child referrals. The roll-out of this model will require time and resources, and the necessary buy-in from agencies involved, to become embedded.</p> <p>Due to the large number of separate MASH, there is considerable risk of inconsistency in decision-making.</p> <p>There is a danger that some MASH will be overburdened compared to others due to their geographical location and the ability of local services to identify and support victims.</p> <p>Information-sharing protocol, both within and between MASH, will require development to ensure consistency and best practice.</p>

The Anti-Trafficking Monitoring Group monitors the UK's compliance with, and implementation of, the 2005 Council of Europe Convention on Action against Trafficking in Human Beings, as well as the EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. The ten organisations belonging to the ATMG are:

AFRUCA (Africans Unite Against Child Abuse)

Amnesty International UK

Anti-Slavery International

Bawso

ECPAT UK

Helen Bamber Foundation

Kalayaan

POPPY Project (of Eaves Housing for Women)

TARA project (Trafficking Awareness Raising Alliance, of Community Safety Glasgow (CSG))

UNICEF UK

www.antislavery.org/atmg

**The Anti Trafficking
Monitoring Group**