



Guidance on referrals and Safeguarding processes when dealing with a Child Victim of Modern Slavery

Version 1

June 2020

Accessibility Compliant

Handling instructions: using the government security classification (GSC) this document and the data referred to has been classified with a handling code of **official**. This document should not be altered or amended without prior agreement from the report owner the Modern Slavery and Organised Immigration Crime Unit. email modernslavery@devonandcornwall.police.uk

Contents

| | |
|--|---|
| 1. Introduction..... | 2 |
| 2. Children’s social care and NRM referrals | 2 |
| 3. How to make a referral to local authority children’s social care | 3 |
| 4. Section 47 strategy discussions..... | 3 |
| 5. The section 45 Modern Slavery Act defence..... | 4 |
| Appendix A - Working together to safeguard children 2018 - strategy discussions..... | 5 |
| Appendix B - Myth-busting guide to information sharing | 8 |

1. Introduction

This document provides simple guidance on the referrals and subsequent safeguarding pathways that need to be followed when dealing with a Child or Young Person who you have identified as a potential victim of Modern Slavery.

In all cases you are required to make a referral to Children’s Social Care, which in most cases will trigger a multi-agency meeting under Section 47(1) Children Act 1989, commonly known as a section 47 strategy discussion. The meeting will assess the risk to the child and plan for ongoing and longer term safeguarding arrangements. Alongside this, there is a mandatory requirement for a National Referral Mechanism (NRM) submission to be made to the Home Office.

The attached guidance will now take you through each of those steps.

2. Children’s social care and NRM referrals

It is important the referral to Children’s Social Care is done immediately to ensure the child is subject to statutory safeguarding through the local authority.

Working Together to Safeguard Children (WTSC) 2018 –describes the statutory responsibilities for agencies involved with child safeguarding. It states: **“Anyone who has concerns about a child’s welfare should make a referral to local authority children’s social care and should do so immediately if there is a concern that the child is suffering significant harm or is likely to do so...”**

A child who is a potential victim of modern slavery or trafficking will almost certainly be suffering or be likely to suffer significant harm. A referral to the local authority is therefore required.

The National Referral Mechanism (NRM) provides support for potential victims of modern slavery and trafficking. If a police officer/member of staff suspects a child is a potential victim, then an NRM submission **must be** made irrespective of the views of the child, you therefore do not need their consent.

By allowing the strategy discussion to occur first, a more detailed picture of the child and a plan of the proposed safeguarding activity can be added to the NRM submission. The strategy discussion can also decide and direct the most appropriate agency to complete and submit the NRM. It needs to be clear that

OFFICIAL

updating the Single Competent Authority (who receive the NRM) is an ongoing process, therefore the referring person should be the person within the agency having the most ongoing contact with the child.

In areas around the UK where there are child advocates e.g. the Independent Child Trafficking Guardian (ICTG) service, they can provide good guidance on completing an NRM.

3. How to make a referral to local authority children's social care

As stated, it is important for you to make a referral to Children's Social Care before the submission of an NRM. As this statutory process will ensure immediate safeguarding of the child, which is paramount in any case. There is not a single national referral system so you will need to follow your own local process.

Referrals will generally be made through a local child safeguarding hub / unit (these can be known as a Multi-Agency Safeguarding Hub or MASH in many force areas).

Each local authority children's social care will have a duty team during office hours and an out of hours emergency team, so they are available 24/7.

Local Public Protection / Safeguarding Units and Force Control Rooms should hold the contact numbers, which are also generally available online. It is possible that local instructions may require an urgent telephone referral to be made to children's social care, this is often followed with a written referral to the hub/unit etc.

It is probable due to the level of risk to the child that a section 47 strategy discussion will be convened, this requires a number of agencies including the police to provide details of the information held for the child to ensure a full picture of risk is understood, allowing a plan to be agreed for immediate and ongoing safeguarding.

4. Section 47 strategy discussions

A strategy discussion is a meeting held in person or over the telephone convened by children's social care, which includes representation from police and a health practitioner, but other agencies can also be included. Information regarding the child will be shared by all participating and a decision made if a full section 47 enquiry should be undertaken.

Working Together 2018 formally describes strategy discussions and the relevant extract is included at [Appendix A](#).

It is essential officers/staff share as much information held by police as possible. Working Together 2018 describes information sharing and includes the following:

Sharing information enables practitioners and agencies to identify and provide appropriate services that safeguard and promote the welfare of children.

Data protection legislation is a barrier to sharing information

No – the Data Protection Act 2018 and GDPR do not prohibit the collection and sharing of personal information, but rather provide a framework to ensure that personal information is shared appropriately.

Personal information collected by one organisation/agency cannot be disclosed to another

No – this is not the case, unless the information is to be used for a purpose incompatible with the purpose for which it was originally collected. In the case of children in need, or children at risk of significant harm, it is difficult to foresee circumstances where information law would be a barrier to sharing personal information with other practitioners.

The common law duty of confidence and the Human Rights Act 1998 prevent the sharing of personal information

No – this is not the case. In addition to the Data Protection Act 2018 and GDPR, practitioners need to balance the common law duty of confidence and the Human Rights Act 1998 against the effect on individuals or others of not sharing the information. (See [Appendix B](#) for Full Myth-busting Guide to Information Sharing)

Difficulties have arisen where the child lives in one local authority area but has come to notice in another. In Modern Slavery and Human Trafficking incidents this is often the case where a child is a potential victim of criminal exploitation in a County Lines environment, e.g. a child from Hounslow, London is found in a town in Gloucestershire.

Section 47(1) Children Act 1989 states:

Where a local authority—

(a) are informed that a child who lives, or is found, in their area—

(i) is the subject of an emergency protection order; or

(ii) is in police protection;

(b) have reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm,

The authority shall make, or cause to be made, such enquiries as they consider necessary to enable them to decide whether they should take any action to safeguard or promote the child's welfare

Whilst this may appear straightforward, in the example above the Gloucestershire local authority are unlikely to have any knowledge of the child whilst the Hounslow authority may have a wealth of knowledge. Ultimately it is for the two authorities to decide who takes the responsibility for the case. It is important in such a situation that when making the referral, be it written or verbal, police include information regarding the home address of the child, to enable the local authority where the child was found to contact the local authority where the child lives.

5. The section 45 Modern Slavery Act defence

Section 45 Modern Slavery Act 2015 provides a statutory defence for victims of Modern Slavery and Human Trafficking where they have committed some criminal offences including possession and possession with intent to supply controlled drugs.

When a child potential victim of slavery or trafficking claims the section 45 defence or it appears to an officer that the child may be entitled to claim the defence, it is essential that this information is included in the referral and a subsequent NRM submission.

Appendix A - Working together to safeguard children 2018 - strategy discussions

Strategy discussion

Whenever there is reasonable cause to suspect that a child is suffering or is likely to suffer significant harm there should be a strategy discussion involving local authority children's social care (including the residential or fostering service, if the child is looked-after), the police, health and other bodies such as the referring agency. This might take the form of a multi-agency meeting or phone calls and more than one discussion may be necessary. A strategy discussion can take place following a referral or at any other time, including during the assessment process and when new information is received on an already open case.

Purpose:

Local authority children's social care should convene a strategy discussion to determine the child's welfare and plan rapid future action if there is reasonable cause to suspect the child is suffering or is likely to suffer significant harm.

Strategy discussion attendees:

A local authority social worker, health practitioners and a police representative should, as a minimum, be involved in the strategy discussion. Other relevant practitioners will depend on the nature of the individual case but may include:

- the practitioner or agency which made the referral.
- the child's school or nursery.
- any health or care services the child or family members are receiving.

All attendees should be sufficiently senior to make decisions on behalf of their organisation and agencies.

Strategy discussion tasks:

The discussion should be used to:

- share available information.
- agree the conduct and timing of any criminal investigation.
- decide whether enquiries under section 47 of the Children Act 1989 must be undertaken.

Where there are grounds to initiate an enquiry under section 47 of the Children Act 1989, decisions should be made as to:

- what further information is needed if an assessment is.

- already underway and how it will be obtained and recorded.
- what immediate and short-term action is required to support the child, and who will do what by when.
- whether legal action is required.

The timescale for the assessment to reach a decision on next steps should be based upon the needs of the individual child, consistent with the local protocol and no longer than **45 working days** from the point of referral into local authority children's social care.

The principles and parameters for the assessment of children in need at chapter 1 paragraph 40 should be followed for assessments undertaken under section 47 of the Children Act 1989.

Social workers should: Convene the strategy discussion and make sure it:

- considers the child's welfare and safety, and identifies the level of risk faced by the child.
- decides what information should be shared with the child and family (on the basis that information is not shared if this may jeopardise a police investigation or place the child at risk of significant harm).
- agrees what further action is required, and who will do what by when, where an EPO is in place or the child is the subject of police powers of protection.
- records agreed decisions in accordance with local recording procedures.
- follows up actions to make sure what was agreed gets done.

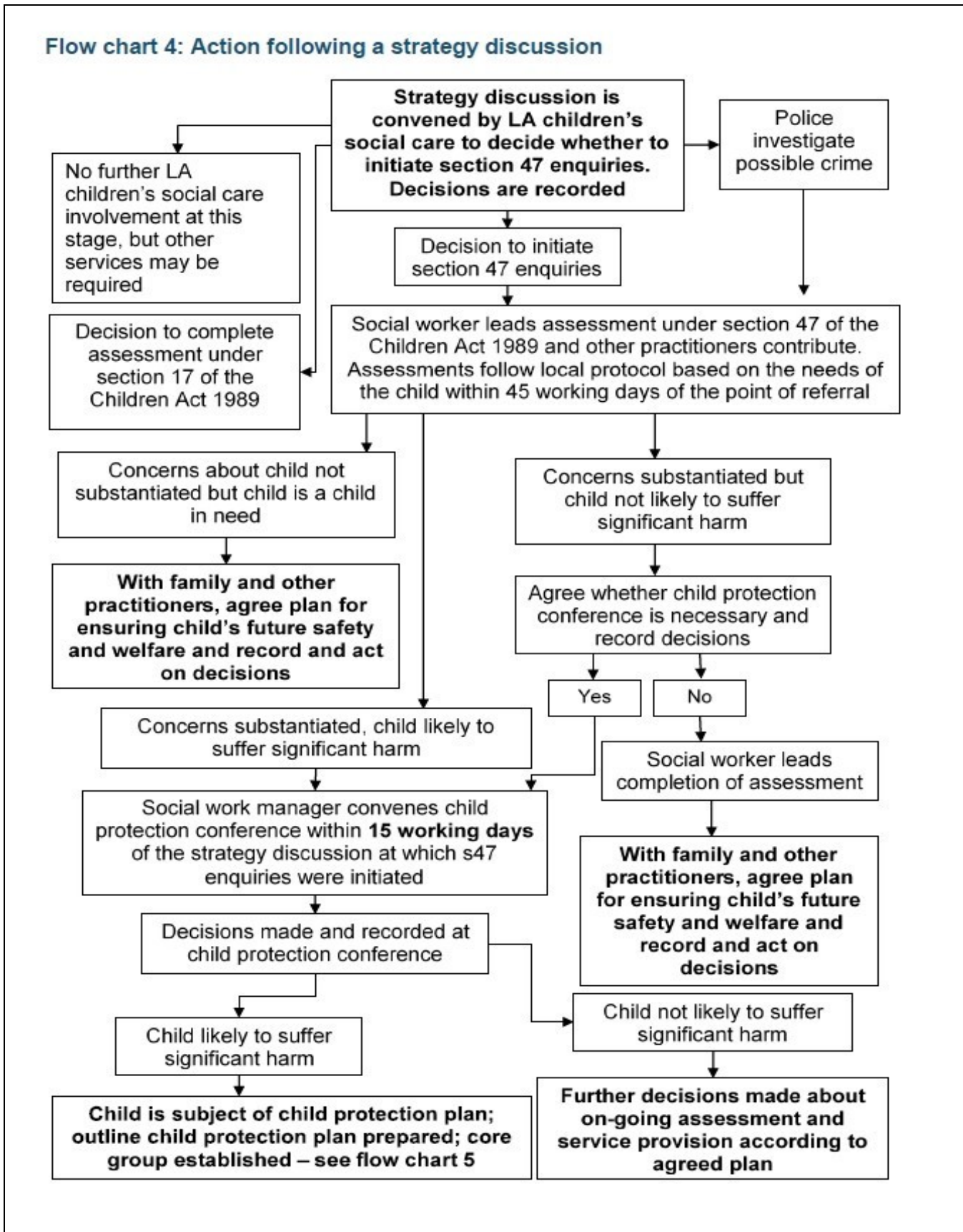
Health practitioners should:

- advise about the appropriateness or otherwise of medical assessments, and explain the benefits that arise from assessing previously unmanaged health matters that may be further evidence of neglect or maltreatment.
- provide and co-ordinate any specific information from relevant practitioners regarding family health, maternity health, school health mental health, domestic abuse and violence and substance misuse to assist strategy and decision making.
- secure additional expert advice and support from named and/or designated professionals for more complex cases following preliminary strategy discussions.
- undertake appropriate examinations or observations, and further investigations or tests, to determine how the child's health or development may be impaired.

The police should:

- discuss the basis for any criminal investigation and any relevant processes that other organisations and agencies might need to know about, including the timing and methods of evidence gathering.
- lead the criminal investigation (local authority children's social care has the lead for the section 47 enquires and assessment of the child's welfare) where joint enquiries take place.

Flow chart 4: Action following a strategy discussion



Appendix B - Myth-busting guide to information sharing

Sharing information enables practitioners and agencies to identify and provide appropriate services that safeguard and promote the welfare of children. Below are common myths that may hinder effective information sharing.

Data protection legislation is a barrier to sharing information

No – the Data Protection Act 2018 and GDPR do not prohibit the collection and sharing of personal information, but rather provide a framework to ensure that personal information is shared appropriately. In particular, the Data Protection Act 2018 balances the rights of the information subject (the individual whom the information is about) and the possible need to share information about them.

Consent is always needed to share personal information

No – you do not necessarily need consent to share personal information. Wherever possible, you should seek consent and be open and honest with the individual from the outset as to why, what, how and with whom, their information will be shared. You should seek consent where an individual may not expect their information to be passed on. When you gain consent to share information, it must be explicit, and freely given. There may be some circumstances where it is not appropriate to seek consent, because the individual cannot give consent, or it is not reasonable to obtain consent, or because to gain consent would put a child's or young person's safety at risk.

Personal information collected by one organisation/agency cannot be disclosed to another

No – this is not the case unless the information is to be used for a purpose incompatible with the purpose for which it was originally collected. In the case of children in need, or children at risk of significant harm, it is difficult to foresee circumstances where information law would be a barrier to sharing personal information with other practitioners.

The common law duty of confidence and the Human Rights Act 1998 prevent the sharing of personal information

No – this is not the case. In addition to the Data Protection Act 2018 and GDPR, practitioners need to balance the common law duty of confidence and the Human Rights Act 1998 against the effect on individuals or others of not sharing the information.

IT Systems are often a barrier to effective information sharing

No – IT systems, such as the Child Protection Information Sharing project (CP-IS), can be useful for information sharing. IT systems are most valuable when practitioners use the shared data to make more informed decisions about how to support and safeguard a child.