

Practitioner Guidance on Criminal Exploitation

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Table of Contents

Forewords.....	2
1. Introduction.....	5
2. What is Criminal Exploitation?.....	5
3. What is human trafficking and why is this relevant when talking about criminal exploitation?.....	10
4. Recognising and understanding the complexity and impact of Criminal Exploitation.....	12
5. What does Criminal Exploitation look like in practice?.....	14
6. Whom does Criminal Exploitation affect?	18
7. Who is perpetrating Criminal Exploitation?	20
8. Identifying Criminal Exploitation	21
9. The Legislation and policy context of Criminal Exploitation in Scotland.....	23
10. A shared responsibility – getting it right for everyone	24
10.1 Reporting concerns.....	25
10.2 The National Referral Mechanism.....	27
Appendix 1 - Divert 3 Membership.....	31
Appendix 2 - Glossary of Terms.....	32
Appendix 3 – Indicators.....	34

Forewords

As the Chair of Scotland's Serious Organised Crime Taskforce, I warmly welcome this Practitioners' Guidance on Criminal Exploitation. I want to thank colleagues across the Divert Strand of the SOC Taskforce involved in producing what I believe will be a key and much needed resource.

Organised crime remains a serious threat to us all and we pay for it every day, either directly as victims or indirectly by paying for the services – such as police, prosecution, the health services - that respond to it.

I want to see a Scotland where we all work together to reduce the harm caused by organised crime. Harm reduction will benefit our communities, businesses and every one of us.

This paper comes at a crucial time, when Scotland is adopting new legislative approaches to children's care and wider justice policies, while honouring its commitment to 'Keep the Promise' following the independent care review.

We should all want Scotland to be leading the way when it comes to tackling criminal exploitation. To shine a bright light to ensure that criminal exploitation can no longer hide in plain sight.

This document aims to maximise Scotland's coordinated and joined up response to all exploited individuals, making it easier for practitioners across Scotland to support children, young people and vulnerable adults who have been victims of exploitation.



A handwritten signature in black ink, appearing to read 'Angela Constance'.

Angela Constance
Cabinet Secretary for Justice and Home Affairs
Chair of the Serious Organised Crime Taskforce

Practitioner Guidance on Criminal Exploitation

I believe that this guidance will give professionals from across multiple agencies more comprehensive knowledge, understanding and develop that wider perspective needed about criminal exploitation.

Understanding exploitation of individuals should not merely be about recognising the characteristics of those people who are vulnerable to abuse. It also requires gaining a wider perspective of the contexts, relationships and situations in which exploitation is likely to occur.

Young people with the highest and most complex needs seem to be the most vulnerable to being involved in the criminal justice system. I know that young people involved in offending or other harmful behaviours is a symptom of other issues in their wider life, usually something which needs a whole-system approach to address. Child victims of criminal exploitation are often punished or seen as perpetrators when what they need is our care and protection.

I have seen too many times the negative impact that serious organised crime wreaks on society – families destroyed by substance abuse, parents indebted to loan sharks, housing schemes controlled by career criminals and young people's potential crushed as they become chained to these gangs.

It means Scotland needs to be smart on crime, and smarter in tackling the causes of crime. We need to invest in programmes that stop young people becoming involved and exploited into offending behaviour while also supporting programmes that divert those other individuals already exploited by gangs and entangled in criminal networks and activities.

It is therefore essential that frontline public professionals, such as NHS staff, the police force, and school staff recognise the signs and have a shared knowledge of criminal exploitation.

I know the work of the Serious Organised Crime Taskforce will help Scotland realise a vision where all individuals are free from criminal exploitation. This guidance will take us one step further in that journey. And I hope it will spark debate and discussion while helping bring about positive working practices to offer care and support for those who are being criminally exploited and those who may be vulnerable to exploitation.

Practitioner Guidance on Criminal Exploitation



Paul Carberry

Paul Carberry

Chief Executive, Action for Children
Chair of SOC Taskforce Divert Strand

1. Introduction

1. Serious organised crime is about generating wealth at the expense of other people. It includes drug dealing, counterfeit goods, money laundering, human trafficking and cybercrime. Scotland has a Serious Organised Crime Strategy, overseen by the Serious Organised Crime Taskforce, which aims to reduce the harm caused by serious organised crime by ensuring all partner agencies work together. The strategy has 4 key objectives; to Divert, Deter, Detect and Disrupt serious organised crime. The Divert objective has 3 key priorities, one of these is to divert people on the cusp of serious organised crime – children, young people and adults. The Divert 3 subgroup has developed this guidance to support a shared understanding of criminal exploitation to help assist with early identification of those at risk from serious organised crime. It is worth noting that this document also applies to criminal exploitation which is not linked to serious organised crime. Membership of the Divert 3 subgroup can be found in appendix 1 on page 31.

2. What is Criminal Exploitation?

2. Whilst there are many forms of exploitation that share similar indicators this guidance will focus on criminal exploitation of children and adults (vulnerable and non-vulnerable). Criminal exploitation of children (under 18 years) or vulnerable adults (18 years and over) is when an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive the child or vulnerable adult into criminal

activity, for the financial or other advantage of the exploiter.¹ Criminal exploitation of non-vulnerable adults (18 years and over) is similar, but there may not be any significant power imbalance. It involves an individual or group subjecting the adult to force, threats or deception to induce them to become involved in criminal activity, for the financial or other advantage of the exploiter. A victim may have been criminally exploited, even if the criminal activity they engage in appears consensual. The fact that someone is a child or an adult with vulnerabilities may make them more at risk of being exploited and drawn into criminal activity than others. A useful summary of what is meant by child criminal exploitation can be found in Part 4 of The National Guidance for Child Protection in Scotland (2021). Many of the factors highlighted in the National Child Protection Guidance are relevant to all individuals at risk of exploitation and are highlighted in this document.

3. Scotland's primary legislation in relation to trafficking and exploitation is the Human Trafficking and Exploitation (Scotland) Act 2015. This legislation created two new offences; human trafficking (section 1) and slavery, servitude and forced or compulsory labour (section 4), providing law enforcement agencies with greater powers to tackle human trafficking and exploitation and offering enhanced protection for victims. There may be novel situations that do not fit neatly within the scope of this legislation and Police Scotland may need to consider alternative existing legislation or common law offences.

4. This legislation is different to the Modern Slavery Act introduced by the UK government in 2015 (only applicable in the main to England and

¹ This is consistent with the definition contained at paragraph 4.193 of the National Guidance for Child Protection in Scotland 2021.

Wales). The term modern slavery has no globally agreed legal definition, it is an umbrella term that is used to cover a range of exploitative practices including human trafficking, slavery, servitude and forced or compulsory labour. Regardless of jurisdiction, the exploitation of individuals should be seen as a violation of human rights.

5. Criminal exploitation takes a variety of forms, but always involves the exploitation of an individual to engage in criminal activity for the benefit of the exploiter. It often involves some form of exchange where a victim is asked or told to do something in exchange for something they want or need. It is irrelevant whether the person consents to any part of the relevant action (see section 3 below), therefore a person receiving something in exchange for their involvement does not mean that they are not a victim of exploitation.

6. In relation to children, the UNCRC Article 19 details

“1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”.

7. The criminal exploitation of children must therefore be viewed as a cause of significant harm and trigger child protection processes in accordance with Part 3 of the National Guidance for Child Protection in Scotland (2021).

8. For the purposes of this document, a broad definition of ‘vulnerable adult’ is used to reflect that there is potential for any adult to become at greater risk of criminal exploitation, whether they fall within the statutory definition of a “vulnerable adult” or “adult at risk”. There are also definitions in legislation of “vulnerable adult” and “adults at risk” which practitioners should be aware of, and these are outlined below.

9. The Human Trafficking and Exploitation (Scotland) Act 2015 (Section 3(8)(a)(ii)), defines a “vulnerable adult” with regards to securing services and benefits as an adult whose ability to refuse to be used for a purpose within subsection (7)(a), (b) or (c) is impaired through mental or physical illness, disability, old age or any other reason.

10. The Adult Support and Protection (Scotland) Act 2007 (Section 3(1)) defines “adults at risk” as adults who meet all the following criteria:

- they are unable to safeguard their own well-being, property, rights or other interests;
- they are at risk of harm; and
- because they are affected by disability, mental disorder, illness or physical or mental infirmity they are more vulnerable to being harmed than adults who are not so affected.

11. For those adults, who are unable to safeguard their own interests and are at risk of harm and are more vulnerable due to these listed circumstances, the Adult Support and Protection (Scotland) Act 2007: Code of Practice (updated 2022) should be followed. It should be noted that Adult Support and Protection legislation applies to people 16 years of age and above.

12. Criminal exploitation usually involves an imbalance of power due to age, gender, cognitive ability, physical strength, status or access to money. Children and young people can be particularly vulnerable as targets of criminal exploitation, as exploiters assume that they are less likely to be detected in such activity and/or receive lesser penalties if caught. Exploiters employ a range of tactics, which they adapt to the individual they are seeking to exploit and may involve providing the victim with something they want or need. This exploitation will often target emotional, physical, and material needs to entice individuals to engage in criminality to achieve the perceived 'gain'. Control may be exerted in a number of ways but can include violence or the threat of violence to force individuals to comply and engage. It is worth emphasising again that a person receiving something in exchange for their involvement will not necessarily preclude them from being a victim of criminal exploitation. It is also worth highlighting that many over 18 will have been recruited into organised crime activity through exploitation prior to them turning 18, and the vulnerabilities that led them into initial involvement may still be prevalent. The vulnerability of older young people and young adults should therefore be noted.

13. Physical contact between victim and perpetrator may not be necessary, the use of increasingly sophisticated technologies offers an alternative means for exploitation to take place, creating physical distance, and at times reducing the need for physical contact. The National Crime Agency Intelligence Assessment (2017) highlights the increasing number of children and young adults becoming involved in technology-assisted crimes, who would not usually be at risk of involvement in more traditional forms of criminal behaviour.

3. What is human trafficking and why is this relevant when talking about criminal exploitation?

14. Human trafficking and exploitation is the commodification and abuse of people for gain. It is a gross abuse of human rights, happens globally and harms individuals and communities across the world, including in Scotland. Not all cases of human trafficking or exploitation are easy to understand or detect and often the crime may look like something else, such as people smuggling, dealing drugs or working illegally. Some forms of criminal exploitation may be relevant to an offence of human trafficking. Criminal exploitation is not currently a criminal offence but is a component part of the offence of human trafficking.

15. Under the Human Trafficking and Exploitation (Scotland) Act 2015, trafficking involves a person taking a relevant action and doing so with a view to another person being exploited. Relevant action means an action which is ANY of the following:

- a) The recruitment of another person;
- b) The transportation or transfer of another person;
- c) The harbouring or receiving of another person;
- d) The exchange or transfer of control over another person; or
- e) The arrangement or facilitation of any of the actions mentioned in a) to d).

16. It is irrelevant whether the person consents to any part of the relevant action.

17. The second part of the offence relates to exploitation. The person doing the relevant action must either be doing so with the intention of exploiting the other person or, in the knowledge that the person is likely to be exploited. Section 3 of the Act provides that the following four types of exploitation are relevant for the purposes of the human trafficking offence: a) Slavery, servitude and forced or compulsory labour; b) Prostitution or sexual exploitation; c) Removal of organs; d) Securing services and benefits. Exploitation must fall within the definition outlined in section 3 of the Act for there to be a criminal offence in terms of section 1 of the 2015 Act. For further information on the four types of exploitation, please see Part One of the [Guide to the Act](#) (2017).

18. There are some common misconceptions that for trafficking to exist international/domestic borders need to have been crossed. Movement of a victim is not required at all for trafficking to exist. As outlined in paragraph 15, the relevant action may be the recruitment of another person, or the exchange or transfer of control over another person.

19. In addition to the offence of human trafficking, the Human Trafficking and Exploitation (Scotland) Act 2015 contains a separate offence of slavery, servitude and forced or compulsory labour. This is set out in section 4 of the Act. A person commits an offence where they know or ought to know that they are holding another person in slavery or servitude. A person also commits an offence where the person knows or ought to know that they are requiring another person to perform forced or compulsory labour.

20. Section 4 of the Act makes it clear that when deciding whether the offence has been committed, then the personal circumstances of a person which may make them more vulnerable (for example the person being a child), are to be taken into account. It also provides that the fact that a person consents to being treated in this way does not mean that the offence has not been committed.

4. Recognising and understanding the complexity and impact of Criminal Exploitation

21. Criminal exploitation is often not obvious, and in many circumstances, individuals may not be immediately identified as exploited. Ongoing work is required to ensure the earliest identification of exploited individuals that includes professionals working together to share relevant information and intelligence. Furthermore, exploited individuals may recruit others for the exploiters and/or may take on this role themselves, thus individuals can present dual roles of both being exploited and exploiting others. This can add complexity to law enforcement agencies, welfare, and other services who are responding to the many facets of criminally exploited individuals. Responses are often further complicated when individuals do not view themselves as being exploited. This can be particularly challenging where serious harm or criminal behaviour has resulted.

22. Exploiters can adopt a range of roles in grooming others into criminal exploitation such as an authority figure to look up to, a mentor, a dominant and persistent figure or potentially a romantic interest. The relational aspect of exploitation seeks to create a sense of loyalty, and brother/sisterhood to the exploiters by their grooming behaviour.

Children, young people and adults may struggle to see the exploitative nature of their relationship and feel that they have gained 'friends' or 'family' that care for them. Fear and shame may also be used and play complex roles within these relationships. This may involve the loss of these new relationships, status, power or connections as well as the threat of physical or sexual violence to them or those they care about and/or threats of exposing the individuals for activities they have already engaged in to secure ongoing co-operation.

23. The relationship between the exploiter and the exploited can often appear consensual, providing a challenge to professionals seeking to identify the issue. Even in these circumstances, safeguarding responses should be triggered. Victims of exploitation may not see themselves as exploited or admit to their exploitation.

24. The Lord Advocate's Instructions for the non-prosecution of victims of human trafficking apply to the often complex and challenging circumstances outlined in this section. If there is sufficient evidence that a person aged 18 or over has committed an offence and there is credible and reliable information to support the fact that the person:

1. Is a victim of human trafficking or exploitation (as defined in the 2015 Act);
2. Has been compelled to carry out the offence; and
3. The compulsion is directly attributable to being the victim of human trafficking or exploitation,

then there is a strong presumption against prosecution of that person for that offence. Greater awareness of these instructions could encourage victims to come forward.

24. For children under 18 different considerations apply, namely that if the child has committed an offence and there is credible and reliable information to support the fact that the child:

1. Is a victim of human trafficking or exploitation (as defined in the 2015 Act); and
2. The offending took place in the course of or as a consequence of being the victim of human trafficking or exploitation,

then there is a strong presumption against prosecution of that child for that offence. There is no need to consider whether the child was compelled in any way to commit the offence.

25. Exploited individuals can also find themselves exploiting others at the same time they are being exploited and may be used to bring others into the network. These individuals must continue to be seen as victims, with justice and welfare services responding appropriately to this complex challenge regardless of their age but particular care should be taken when dealing with victims of exploitation who are under 18.

5. What does Criminal Exploitation look like in practice?

26. There are many different crimes that involve criminal exploitation. The types of activity individuals may be exploited to participate in include, but are not limited to, trafficking, county lines, sexual

exploitation, forced labour, cuckooing, moving and storing drugs, money and weapons. It can also include involvement in acquisitive crimes such as shoplifting and other types of theft, pickpocketing, fraud, working in cannabis farms, and using violence to threaten others. Certain types of activity may be greater indicators of exploitation however, any indicator or concern must be investigated to ensure appropriate disruption action is taken both by law enforcement regarding those behind the exploitation and by welfare agencies to reduce the opportunity for exploitation to occur. Coercion, intimidation, violence (including sexual violence) and weapons are commonplace alongside criminal exploitation. See appendix 2 at page 32 for a glossary of terms commonly used.

27. The term ‘on the cusp’ of involvement in serious organised crime is often used but is a complex term to define. Decisions need to be made on a case-by-case basis, based on the evidence available. Professionals need to be curious and open minded as to what is going on for an individual and why they may have engaged in the behaviour which has brought them to their attention. Regardless of whether an individual is harmed or causes harm, if they have been exploited to do so, then they may also be a victim and the Lord Advocate’s instructions for non-prosecution of victims of human trafficking may apply.

28. It is critical that professionals are aware of the indicators of criminal exploitation and take appropriate action to support safeguarding of children, young people and adults. The following examples illustrate the types of scenarios that could indicate an individual is being exploited:

- A 14-year-old has recently changed their peer group and now spends time with older peers in the community. They have become

more secretive around family and attend school with a new mobile phone, trainers and a tracksuit saying they were presents from friends. Any time the mobile phone rings they become agitated and aggressive towards family members who might challenge them about the change in behaviour.

- A 17-year-old living in homeless accommodation has been caught in possession of class A drugs and large quantities of unexplained money.
- A 21-year-old with substance use issues has people to stay in their house and has claimed they are friends who give drugs in return for free accommodation.
- A 36-year-old who is recruited for their specialist skills in IT to defraud individuals by hacking bank accounts. They have a gambling addiction to pay for so feel they have no option.
- A 16-year-old who appears to be in a relationship with a man who is known in the area for drug dealing. The 16-year-old will sleep with other men to "help" the boyfriend to pay off his drug debt and has delivered packages of drugs to other areas in the city when he has asked them to.
- A 19-year-old has opened a bank account for a friend who needs to keep money aside. In return, they are given some cannabis for which they do not need to pay. They have been threatened not to tell anyone about the bank account and have heard what happens to "grasses".
- A 13-year-old has been found in a different city after being asked by a friend to get on a train to drop something off. They have done this before in the local neighbourhood but not further afield. They were told not to look in the bag, or to stop and speak to anyone on

the way there. The individual did try to say no but were encouraged to do it as they had “done it before and were good at being discreet”. A mobile phone was provided so they could be contacted by the friend who would provide instructions on arrival.

- A 15-year-old is dealing drugs. They do not view themselves as exploited as they are choosing to do it. They have been told that if they do not continue to sell drugs for the dealer then their family will come to harm.
- A 37-year-old vulnerable adult is being persuaded to hold stolen goods in their accommodation, threatened with physical and sexual harm if they do not comply.
- A 13-year-old has been breaking into houses. Their uncle tells them the houses to break into and when. They break into the houses to steal car keys to assist with theft of high value cars.
- A 12-year-old is charged with wilful fire raising. They told a teacher they had been offered £20 by a local “crime lord”.
- A group of 14-year-olds are picked up individually for stealing high value perfume from a shop. Professionals have raised question as to whether they were coerced into stealing to order.
- A 16-year-old child from Vietnam with no family connections to the area, is found in an abandoned building (bando) watering cannabis plants. They have limited understanding of the location and those that had asked them to stay there.
- A 15-year-old who has been encouraged to sign up to Snapchat’s new Snap map feature, they are not aware this feature enables the “groomer” to monitor their movements in real time.

29. These examples illustrate some of the types of criminal exploitation that may exist. Where serious organised crime groups or

organised networks are involved, they are constantly evolving and adapting in the pursuit of profit and power. This can be reflected in changes in how they target, coerce, force and manipulate as well as the type of criminal activity they seek to engage people in. Therefore, it is important that we keep pace with an ever-changing landscape.

6. Whom does Criminal Exploitation affect?

30. Children, young people and adults from any background can be criminally exploited. Communities can also be targeted and be vulnerable to the harms of organised crime.

31. Particular social groups might be targeted to avoid detection, e.g. some perpetrators might target older, neglected children who they consider less likely to be reported missing, children not in education or excluded, care experienced young adults, individuals who are homeless, individuals with learning disabilities or those with mental health and/or substance use issues, individuals with their own tenancy that are isolated and can be easily cuckooed. However, the grooming of affluent children attending private schools, or of professionals has also been reported. Criminal gangs may consider these groups as less likely to be identified as engaging in criminal activity or have specific skills or contacts they can utilise. Within national forums, agencies have also reported increasing identification of involvement of girls and young women, perpetrators may believe these groups are less likely to be identified as being involved in criminality. All forms of exploitation including financial and sexual should be considered if there is indication of exploitation taking place. It should not be assumed that one form of exploitation occurs in isolation.

32. For communities, organised crime groups are more likely to target areas of social and economic deprivation where they can exploit levels of poverty, marginalised and isolated individuals, cultivating environments that benefit their functioning. Research commissioned by the Scottish Government Community Experiences of Serious Organised Crime (2018) highlights the critical role of supporting communities to become more resilient to the harms of serious organised crime.

33. To better understand how an individual or community may be affected, contextual safeguarding can be a useful approach to consider. This is an approach which has been used predominately with children and not yet explored for adults. Contextual Safeguarding is an approach which seeks to identify and respond to harm and abuse that individuals experience outwith their family environment. A traditional focus on the child and their family, which does not consider the relevance of wider relationships and the location of harm, may not be sufficient in managing presenting behaviours or reducing contextual risks. This harm can be experienced in communities, social clubs, schools, between peers and in online forums. Identifying an individual's personal strengths should also be considered within this approach as a way of promoting resilience to exploitation. All professionals working within a child protection context should follow the GIRFEC framework and their local child protection procedures ([Getting it right for every child \(GIRFEC\) - gov.scot \(www.gov.scot\)](https://www.gov.scot/Topics/childrenandyoungpeople/girfec)). Contextual Safeguarding should be seen as a complementary support to existing procedures.

7. Who is perpetrating Criminal Exploitation?

34. The Scottish Multi-Agency Strategic Threat Assessment (2022) indicates that there are currently 97 active, also referred to as “mapped”, serious organised crime groups operating in Scotland. This number will frequently change depending on evolution of new groups as well as successful disruption of existing groups.

35. Most of these groups are involved in the production, procurement, and distribution of controlled drugs, with other activities involving county lines and human trafficking. There are no areas of Scotland immune to the impacts of serious organised crime with groups found in all areas of Scotland.

36. Serious organised crime groups are typically hierarchical and model themselves on business-like structures. Groups are generally made up of individuals with differing skills and abilities, with varying degrees of responsibility. Commonly, those higher up the hierarchy are less detectable, providing a significant challenge in identifying and disrupting those perpetrating harm.

37. Those criminally exploited are more likely to be detected by agencies, specifically law enforcement, as they carry out lower level but higher risk activity. Organised crime groups can create a base in their chosen area, usually by taking over the homes of vulnerable adults. This is often referred to as “cuckooing”. Those who have their homes cuckooed are coerced or manipulated by threats, violence or debt bondage. They will likely have regular contact with perpetrators and may

also have friends and family threatened should they try to avoid engagement.

38. It is worth repeating that not all criminal exploitation is linked to serious organised crime. Perpetrators can be individuals who exploit children or adults within their families or communities. The identification of these victims, and the response, should be the same.

8. Identifying Criminal Exploitation

39. Identifying criminal exploitation is the responsibility of all agencies and professionals who have duties for the care and protection of children and adults. Early and proactive identification can assist with preventing criminalisation of victims and further exploitation. Communities offer a wealth of knowledge and information that can support this process and should be included when developing local responses to criminal exploitation. Exploitation is often unrecognised or detected due to the exploitative nature of the relationships which requires individuals to conceal and hide their involvement from authorities.

40. The following examples can act as a guide for professionals in identifying exploitation, see appendix 3 at page 34 for a list of indicators:

- Increased/unexplained material wealth
- Debt/financial difficulties /poverty
- Individuals travelling to different areas/locations that they would not usually visit
- Changes to networks/peer groups who may be linked to criminality

- Receiving increased numbers of texts/phone calls from unknown callers
- Appearing agitated and nervous about answering calls/texts/going out
- Persistently going missing or returning late
- Leaving the house at odd times of day or night that is out with usual routine
- Substance misuse issues
- Increased offending with offences potentially linked to serious organised crime
- Individual traits – seeking a sense of status, reputation, power, acceptance
- Isolation and few positive relationships
- Serious violence
- Anti-social and/or pro-criminal attitudes
- Low self-esteem
- Low levels of empathy that are not developmentally expected
- Increased use of social media with different profiles
- Possession of 'burner' phones
- Experiencing threats, intimidation
- Associating in different areas/location/"going out of town"
- Deterioration in mental health
- Self-harm
- Criminal charges that suggest a level of sophistication in planning or dealing that seem advanced for that individual
- More frequent contact with police
- Coming into contact with police when there has been no previous involvement

- Family or family connections involved in organised crime.

41. It is critical to understand that the presence of indicators does not explicitly indicate exploitation is taking place and should be understood within and across the wider context of each individual and their relationships with their family, community and peers etc.

In addition, it is not helpful to view these as a cumulative scorecard where the more factors identified the higher the likelihood of criminal exploitation taking place. The presence of one indicator may be sufficient to suggest someone is being criminally exploited and could also be a significant threat of harm to themselves or others as a result of this. It is about ensuring criminal exploitation is a consideration that is investigated, either evidenced or ruled out thus ensuring appropriate legal safeguards are in place concerning rights, processes and appropriate and proportionate care and protection actions taken.

9. The Legislation and policy context of Criminal Exploitation in Scotland

42. There is a range of legislation and policy in Scotland which aims to protect victims of criminal exploitation.

43. The Human Trafficking and Exploitation (Scotland) Act 2015 is a key piece of legislation to consider when responding to those who have been criminally exploited. Instructions have been published by the Lord Advocate, as required by section 8 of the 2015 Act. These instructions cover any situation where a person is reported to the Crown Office and Procurator Fiscal Service (COPFS) for a criminal offence where there is credible and reliable information that exploitation or trafficking has led to

the individual committing the offence. The instructions referred to in part 2 detail the circumstances in which there is a strong presumption against prosecution for both children and adults.

44. Working alongside the Human Trafficking and Exploitation (Scotland) Act 2015 is the Fourth Annual Progress Report 2020 – 2021 which was published in 2022, the intention is to publish the Fifth Annual Progress Report in Spring/Summer 2023. The main action areas of the strategy are:

1. Identifying and supporting victims to safety and recovery;
2. Identifying perpetrators and disrupting their activity; and
3. Addressing the conditions, both local and global, that foster trafficking and exploitation.

10. A shared responsibility – getting it right for everyone

45. Safeguarding individuals at risk of exploitation is everyone's job. Early identification and support for those at risk of criminal exploitation are crucial. Local child and adult protection guidance must be followed where there is concern about criminal exploitation. Where an adult is not assessed as “at risk” as per adult support and protection legislative criteria, but there are concerns they are nevertheless at risk, contact should be made with the police. All agencies have a responsibility to ensure staff are aware of the signs of criminal exploitation and know what to do when they have concerns.

10.1 Reporting concerns

46. Sharing relevant information is an essential part of protecting children and adults from harm. Practitioners and managers in statutory services and the voluntary sector should all understand when and how they share information. Practitioners must be supported and guided in working within and applying the law through organisational procedures and supervisory processes. Within agencies, data controllers and information governance leads should ensure that the systems and procedures for which they share accountability provide an effective framework for lawful, fair and transparent information sharing. Inter-agency information sharing principles are provided in Part 1 of the [National Guidance for Child Protection in Scotland 2021](#) and in the [GIRFEC information sharing practice guidance](#).

47. Where there is a child or adult protection concern, relevant information should be shared with police or social work without delay, provided it is necessary, proportionate and lawful to do so. The lawful basis for sharing information should be identified and recorded.

48. Under 18 years – Concerns about the possible harm to a child from abuse, neglect or exploitation should always be shared with police or social work, without delay. The National Guidance states that:

“Child trafficking and exploitation is abuse, and an immediate child protection response is required, and an inter-agency referral discussion (IRD) should be undertaken when there is reason to believe a child may have been trafficked or exploited.”

Therefore, Child Protection procedures should be initiated via an IRD as described in Part 3 of the Guidance, upon any report of exploitation

relating to a child under the age of 18 years. Appendix H of the National Guidance for Child Protection in Scotland (2021) is a checklist to support efficient communication of essential information.

49. Concerns about an adult at risk should be reported to the local authority, without delay. All matters are dealt with sensitively and confidentially, and support given if required. Details of each local authority can be found on the Getting Help page of the [Act Against Harm](#) website. For further information see the Duty to refer and co-operate, and the Referral Process sections of the Adult Support and Protection code of practice referenced earlier in this paper.

50. The definition of an adult at risk is an individual aged 16 or over, who is unable to safeguard their own well-being, property, rights or other interests, who is at risk of harm, and who is affected by a disability, mental disorder, illness or physical or mental infirmity, making them more vulnerable to harm than those who are not so affected. As other legislation and provisions exist which include age thresholds up to age 18 years (and sometimes up to age 26 years or even beyond), support under these other provisions may be more appropriate for some young persons. For example, where a young person under 18 is at risk of harm, The National Guidance for Child Protection in Scotland (2021) is relevant for reference, alongside local procedures for sharing information across children's and adult services. Practitioners should pay particular attention to the needs and risks experienced by young people in transition from youth to adulthood, who may be more vulnerable to harm than others. This means that situations may arise, particularly for 16- and 17-year-old young people, where engagement from services for both children and adults is appropriate.

10.2 The National Referral Mechanism

51. The National Referral Mechanism (NRM), established in 2009, is the Global framework for identifying and referring potential victims of trafficking and ensuring that they receive the appropriate support in furtherance of the Council of Europe Convention on Action against Trafficking in Human Beings (2005). It is a process to identify and safeguard individuals who have been or where there is a suspicion of them having been trafficked. There is a system of First Responder Organisations who are authorised to refer potential victims into the NRM. First Responder Organisations include Police Scotland, Local Authorities, Gangmasters and Labour Abuse Authority, Migrant Help, Barnardo's, Trafficking Awareness Raising Alliance (TARA) and certain parts of the Home Office including UK Visas and Immigration, Border Force and Immigration Enforcement.

52. The high-level role of First Responder Organisations includes:

- Identify potential victims of human trafficking and exploitation and recognise the indicators of exploitation;
- Gather information to understand what has happened to them;
- Refer victims into the NRM; and
- Provide a point of contact for the Competent Authorities within the Home Office to assist with the Reasonable Grounds and Conclusive Grounds decisions and to request a reconsideration.

53. First Responders complete a single online referral form that can be accessed from any location in the UK and can be used in cases

involving both adults and children. As the purpose of sharing information to the NRM is to safeguard victims of trafficking, children do not need to consent to enter the NRM. It is however good practice to inform the child, to explain the NRM process, and refer to child protection procedures, unless doing so could place the child at risk. Informed consent is required to be sought for those aged 18 years and over. If consent is not given to refer the adult to the NRM, police should still be contacted if there are any immediate risks or dangers. For adults at risk of harm, chapter 3 of the [Adult Support and Protection \(Scotland\) Act 2007 Code of Practice](#) provides information on consent and information sharing.

54. The [NRM Toolkit for First Responders in Scotland](#) was developed to help improve the formal identification of victims through the NRM in Scotland and ensure that both frontline staff and potential victims are clear on the process and potential outcomes of this pathway to identification and protection. The toolkit is designed to promote a trauma-informed approach to supporting adult and child survivors in Scotland.

55. NRMs ensure that all presumed or identified victims of trafficking within the jurisdiction of a state have their rights respected regardless of their background, nationality, activities they may have been involved in, or their willingness to co-operate with law enforcement agencies. This includes those who are trafficked domestically (within the borders of one country) as well as transnationally (across international borders) and online (cyber-trafficking within the borders of one country or across international borders).

56. On 7 March 2023, the UK Government introduced the Illegal Migration Bill. Amongst other measures, the Bill seeks to prevent victims of trafficking who are deemed to have entered the UK ‘illegally’ from accessing the safety and support currently available, both in Scotland and the wider UK. **This guidance is therefore subject to change.**

57. The Scottish Government is committed to the incorporation of the United Nations Convention on the Rights of the Child (UNCRC) to the maximum extent possible into Scots Law. At every point of engagement with children, a rights-respecting approach must be adopted. All articles of the UNCRC are interconnected, have equal weighting and must be upheld for all children regardless of their involvement in criminal behaviour. Article 19 of the UNCRC says that States Parties shall take all appropriate measures to protect children from exploitation and gives children the right to support under Article 19 (2). Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention. This includes identification, reporting, referral, investigation, treatment and follow up of instances of child maltreatment described, and, as appropriate for judicial involvement.

58. All responses must be informed by relevant legislation and guidance, including:

- National Guidance for Child Protection in Scotland (2021)
- Adult Support and Protection (Scotland) Act 2007
- Adult Support and Protection (Scotland) Act 2007 – Code of Practice
- Human Trafficking and Exploitation (Scotland) Act 2015

- [The Human Trafficking and Exploitation \(Scotland\) Act 2015 – A Guide](#)
- [National Referral Mechanism Toolkit March 2021.pdf](#) (migrationscotland.org.uk)
- [National referral mechanism guidance: adult \(Northern Ireland and Scotland\) - GOV.UK](#) (www.gov.uk)
- [Getting it right for every child \(Updated 2022\)](#)
- [Human Trafficking and Exploitation Guidance for Scottish Local Authorities](#)

Appendix 1 - Divert 3 Membership

City of Edinburgh Council

Scottish Government – Organised Crime Unit, Child Protection and Youth Justice

Community Justice Scotland (CJS)

Police Scotland National Serious Organised Crime Interventions Unit

Children and Young People's Centre for Justice (CYCJ)

Barnardo's Scotland

Action for Children

Scottish Prison Service (SPS)

British Transport Police (BTP)

Education Scotland

Secure Care

Crown Office and Procurator Fiscal Service (COPFS)

Scottish Children's Reporter Administration (SCRA)

Appendix 2 - Glossary of Terms

Bando – Abandoned building such as a house, pub or shop where drugs are sold or manufactured.

Burner Phone - A “burner phone” is a cheap, prepaid mobile phone that can be destroyed or discarded when no longer required, therefore they are often used to evade detection by authorities.

Burner SIM - A “burner SIM” is a related term, and refers to a cheap, prepaid SIM card that can be inserted into another phone. The SIM card may be used for a limited period and not linked to a person’s true identity.

Competent Authorities – The SCA and Immigration Enforcement Competent Authority (IECA) sit within the Home Office and consider cases of potential victims referred to the NRM. The Competent Authorities operate a two-stage decision-making process to determine whether an individual is a victim of modern slavery.

County Lines - The 2018 Home Office Serious Crime Strategy states the NPCC definition of a County Line is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs into one or more importing areas (within the UK), using dedicated mobile phone lines or other form of “deal line”.

Cuckooing – This is the act of taking over a person's home; often by exploitation, force, coercion, intimidation, bribery, initial payment or promise of payment or violence. Victims are often targeted due to disability, ill health or substance use. The home then becomes a safe house, providing accommodation, a place to deal drugs from and a place to store weapons and drugs etc. This gives the Serious and Organised Crime group a local base from which to operate, and bases are disposable/quickly changeable.

Forced Labour – This is defined by the European Convention on Human Rights. In summary it is where an individual is exploited for a perpetrator’s gain via forced or compulsory labour, regardless of the human cost to the victim. Common sectors where individuals are exploited for labour include agriculture, seafood/ fishing industry, car washes, restaurants/ takeaways, hospitality, construction, factories, delivery drivers.

Human Trafficking - Human trafficking and exploitation is the commodification and abuse of people for gain. It is a gross abuse of human rights, happens globally and harms individuals and communities

across the world, including in Scotland. Not all cases of human trafficking or exploitation are easy to understand or detect and often the crime may look like something else, such as people smuggling or working illegally. The Human Trafficking and Exploitation (Scotland) Act 2015 sets out two criminal offences: human trafficking, and slavery, servitude and forced or compulsory labour.

National Referral Mechanism (NRM) - The NRM is the UK-wide framework through which potential victims of trafficking in the UK are identified, so that they can be supported and protected. It is a particular process to be followed when it is suspected that an adult or a child might be a victim of trafficking. Only designated First Responders can make a referral into the NRM.

Snapchat Snap map – This is a location-sharing feature on the social media platform called Snapchat. It allows a person to easily meet up with friends in real life, by sharing their current location, which then appears to friends on a map and updates when Snapchat is open.

Trap house - A building used as a base from where drugs are sold and sometimes manufactured. This may be cuckooed addresses or abandoned buildings “bandos”.

Trapping - The act of selling drugs. Trapping can refer to the act of moving drugs from one town to another or the act of selling drugs in one town.

Appendix 3 – Indicators

About the individual...

- Distressed behaviour
- Secretive
- Tiredness
- Withdrawn
- Missing episodes
- Checking phone frequently
- More than one phone
- Physical injuries
- New items/money
- Travelling out with area
- New friends/associates
- Access to substances

In the community...

- Increased activity at addresses
- Accents that are not local
- Different vehicles
- Signs of drug dealing
- Anti-social behaviour
- Fighting
- Children travelling alone
- Cuckooing
- Increase/change in drug supply
- Frequent deliveries (takeaways/packages)

Cuckooing indicators might include:

- Increase in people visiting address, including unusual times and vehicles
- Anti-social behaviour
- Usual occupant no longer at address, or is less visible
- Increase in substance use within or around the address
- Occupant appears anxious or distressed
- Barricades within the address (may take excessively long to open the door or communicate through letter box)
- Bags of clothing or bedding around the property
- “Weapons” within the property



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