

FACTSHEET 4: DISCRETIONARY LEAVE TO REMAIN AND LEAVE TO REMAIN

If an overseas domestic worker is conclusively identified as a victim of trafficking and/or modern slavery (receives a positive Conclusive Grounds decision), they may be granted Discretionary Leave to Remain or Further Leave to Remain.

DISCRETIONARY LEAVE TO REMAIN

The Single Competent Authority (SCA) will consider whether to issue a grant of **Discretionary Leave to Remain** in the UK.

Sometimes this decision comes shortly after a positive conclusive grounds' decision, however at times there may be a wait.

Victims of trafficking who have also claimed asylum should NOT have to wait for the outcome of their asylum case before the SCA makes a decision whether to grant discretionary leave to remain.

If you receive a decision from the SCA that says they have decided to wait for the outcome of your asylum claim before making a decision whether to grant discretionary leave, you should discuss this with your lawyer.

An individual will be eligible for a grant of Discretionary Leave in the following circumstances:

- If it is necessary owing to a person's personal circumstances. The decision makers "aim should be to protect and assist the victim and to safeguard their human rights".
- To victims who are helping police with their enquiries
- If it is necessary for a person to pursue compensation

In order to decide whether you fall within one of these categories, you need to provide the SCA information or evidence. See **FACTSHEET 2: LEGAL REPRESENTATION** , which describes the types of evidence which you may want to submit.

FURTHER LEAVE TO REMAIN AS A DOMESTIC WORKER

A victim who originally entered the UK on a domestic worker visa or to work for a diplomat as their domestic worker, but does not qualify for **Discretionary Leave to Remain**, may want to apply for **further leave to remain as a domestic worker**. This is provided for by section 53 of the Modern Slavery Act 2015 and is set out at paragraph 159I of the Immigration Rules:

Application for Leave to Remain in the UK as an overseas domestic worker who has been the victim of slavery or human trafficking

If an individual has received a positive conclusive grounds' decision, but has not been granted Discretionary Leave to Remain, they may be eligible for a grant of Leave to Remain.

A person who last entered the UK on an Overseas Domestic Worker Visa can apply to the Home Office for a visa for up to 2 years to remain in the UK as a domestic worker. There is no fee for this application.

The application needs to be made to the Home Office within 28 days of the conclusive grounds' Decision. They do not need an employer at the time they apply for their visa. However, they will need to demonstrate that they will not be reliant on public funds.

Before the 2 year grant of leave to remain expires, they will be expected to leave the UK unless they can demonstrate another reason why they should be allowed to remain.