

FACTSHEET 2: LEGAL REPRESENTATION

Once you are in the NRM, you are entitled to assistance with finding legal representation.

You will need an **immigration lawyer** to advise and represent you with respect to your NRM referral because the information included in the referral will not usually explain the full extent of the difficulties you have experienced. You may also want to supplement the referral, with evidence which may not have been available to you at the time you made the referral. You may also need advice about making other applications that need to be made alongside the NRM referral.

You may also have other lawyers helping you with other aspects of your case (for example a criminal lawyer or compensation lawyer).

This factsheet explains why it is important victims have an immigration lawyer represent them in their claim.

LEGAL AID

If you receive a positive Reasonable Grounds decision, providing you satisfy the financial eligibility criteria, you can access publicly funded legal advice (legal aid). This means you do not have to pay for your legal advice, the government will do so. This is confirmed at paragraph 32 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

You will need to provide evidence of your financial circumstances, when your solicitor is assessing your eligibility.

Access to publicly funded legal advice (legal aid) is not limited to asylum applications but also stand-alone trafficking claims, and other immigration applications you may want to make.

This is confirmed at paragraph 32 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO):

Victims of trafficking in human beings

32(1) Civil legal services provided to an individual in relation to an application by the individual for leave to enter, or to remain in, the United Kingdom where—

(a) there has been a conclusive determination that the individual is a victim of trafficking in human beings, or

(b) there are reasonable grounds to believe that the individual is such a victim and there has not been a conclusive determination that the individual is not such a victim.

PROVIDING FURTHER EVIDENCE IN THE NRM

The initial NRM referral only provides an outline of the abuse and exploitation experienced by victims. This, in part, is because the online referral form only allows the First Responder to include a limited amount of information.

Before a **conclusive grounds'** decision is made by the Single Competent Authority (SCA), the solicitor advising the individual should consider what further information should be submitted to supplement the initial referral. This could include the following:

- A detailed statement supplementing the initial referral, setting out the difficulties experienced and impact of this experience. The initial NRM referral should always be reviewed before taking such a statement.
- Are there photographs of any injuries, bruises or scars?
- Any messages from their employer, which corroborate some aspects of the account
- Can anyone corroborate the account because they have witnessed the ill treatment suffered. If yes, can they provide a supporting letter or statement?
- Medical evidence that captures the impact of their experience
 - documenting any physical injuries
 - recording any mental health issues
 - records details of any medical treatment being received, and medication being taken.
- Information regarding any police investigation or civil claims
- Letters from any support organisations
 - Setting out any needs identified
 - What support is currently being provided?
 - How long would this support be needed?
 - What will be the impact on the person if this support is terminated?

This is not an exhaustive list. The information available to you or the information that is relevant will vary from case to case, so you need to actively consider all aspects of the case you are dealing with.

This information is relevant to the conclusive grounds decision because it will help the Single Competent Authority (SCA) determine if the victim's account is credible. This information is also relevant to the SCA's decision whether to grant the individual Temporary Permission to Stay for Victims of Human Trafficking or Slavery (see **FACTSHEET 4: TEMPORARY PERMISSION TO STAY FOR VICTIMS OF HUMAN TRAFFICKING OR SLAVERY AND LEAVE TO REMAIN**).

ASYLUM AND DOMESTIC WORKERS

Victims of trafficking / modern slavery may well have a claim for international protection in the UK under the Refugee Convention 1951 and/ or the Human Rights Act 1998. Some possible issues to consider are:

- whether the individual would be persecuted by their employers or traffickers on return to their country of origin.
- whether there is a risk of the individual being re trafficked or vulnerable to re exploitation as a victim of modern slavery because of the nature of their circumstances in their country of origin or their personal characteristics.

There may be other difficulties an individual would face on return to their country of origin. Your lawyer should take instructions on this from you and then consider them within the context of the country conditions.

They should then go on to consider whether the facts of the case satisfy the remaining criteria of the Refugee Convention or Human Rights Act.

LEAVE TO REMAIN AS A DOMESTIC WORKER WHO HAS BEEN THE VICTIM OF MODERN SLAVERY

A victim who originally entered the UK on a domestic worker visa or to work for a diplomat as their domestic worker, who has gone through the NRM and been issued with a positive **conclusive grounds'** decision but does not qualify for **Temporary Permission to Stay for Victims of Human Trafficking** or Slavery, has the right to apply for **leave to remain as a domestic worker who is a victim of modern slavery**.

This is provided for by section 53 of the Modern Slavery Act 2015. This was set out at paragraph 159I of the Immigration Rules, but since 6 May 2021 can be found in "Immigration Rules Appendix Domestic Worker who is a Victim of Modern Slavery:

Application for Leave to Remain in the UK as an overseas domestic worker who is a victim of modern slavery

If an individual has received a positive **conclusive grounds'** decision, but has not been granted **Temporary Permission to Stay for Victims of Human Trafficking**, 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.