Domestic workers who are victims of slavery or human trafficking
Version 4.0
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About this guidance

This guidance tells you how to consider applications for leave to remain for domestic workers who are the victims of slavery or human trafficking under paragraphs 159I to 159K of the Immigration Rules.

Contacts
If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then contact: Economic Migration Policy.

If you notice formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email: Guidance – making changes

Clearance
Below is information on when this version of the guidance was cleared:

- version 4.0
- published for Home Office staff on 07 April 2017

Changes from last version of this guidance
This guidance has been made in line with changes to the Immigration Rules coming into force on 6 April 2016, and which increase the period of leave which is to be granted in this category from 6 months to 2 years.

Related content
Contents
Modern Slavery
Domestic workers who are victims of slavery or human trafficking

This page tells you about the legislation for domestic workers who are the victims of slavery or human trafficking.

 Paragraphs 159I to 159K provide for non-EEA (European Economic Area) nationals who have both:

- previously been admitted to the UK as a domestic worker
- subsequently been the subject of a positive conclusive grounds decision by the competent authority under the National Referral Mechanism

 to be granted leave to remain for a period of up to 2 years on conditions which permit them to take employment as a domestic worker.

A non-EEA national who has been the subject of a positive conclusive grounds decision under the National Referral Mechanism may qualify for a grant of discretionary leave outside the Immigration Rules (see Discretionary leave). The purpose of the provisions at paragraphs 159I to 159K of the Immigration Rules is to provide for a grant of leave to an overseas domestic worker who does not qualify for a grant of discretionary leave. The competent authority will normally have considered whether a grant of discretionary leave can be made at the point that it makes a conclusive grounds decision.

Applications for leave to remain as a domestic worker who is the victim of slavery or human trafficking will be made on form FLR(IR). Such applications are not subject to a fee.

There is separate guidance on the circumstances in which enforcement or curtailment action cannot be taken in respect of overseas domestic workers who may have been the victims of slavery or human trafficking in Modern slavery.

Related content

Contents
Domestic workers who are victims of slavery or human trafficking: consider LTR

This page tells you how to consider domestic workers for leave to remain if they have been victims of slavery or human trafficking.

Before you consider an application for leave to remain as a domestic worker who is the victim of slavery or human trafficking you should first establish that the applicant is not the subject of any other application or consideration for leave to remain by the competent authority. You must contact the NEYH Region NRM competent authority inbox.

The requirements for granting leave to remain to a domestic worker who is the victim of slavery or human trafficking are that the applicant both:

- does not fall for refusal on general grounds as set out in Part 9 of the Immigration Rules (see below)
- meets the requirements of paragraph 159I of the Immigration Rules (see below)

You may waive the requirement that an application must be accompanied by an original valid passport, travel document or national identity card where the Secretary of State considers there to be good reason beyond the control of the applicant why the document cannot be provided. The Immigration Rules (paragraph 34(5)(c)) specify that the fact that the document has been retained by a previous employer or other person in circumstances which led to the applicant being the subject of a positive conclusive grounds decision constitutes such a reason.

General grounds for refusal

Under the Immigration Rules, only the following provisions of paragraph 322 apply in the case of an application for leave to remain as a domestic worker who is the victim of slavery or human trafficking:

- where either:
  - false representations have been made or false documents or information have been submitted (whether or not material to the application, and whether or not to the applicant's knowledge)
  - material facts have not been disclosed, in relation to the application or to obtain documents from the Secretary of State or a third party required in support of the application (paragraph 322 (1A))
- the applicant is, at the date of application, the subject of a deportation order or a decision to make a deportation order (paragraph 322 (1B))
- the undesirability of permitting the person concerned to remain in the UK in the light of their conduct (including convictions which do not fall within paragraph 322(1C), character or associations or the fact that they represent a threat to national security (paragraph 322 (5))
• it is undesirable to permit the person concerned to enter or remain in the UK because, in the view of the Secretary of State either:
  o their offending has caused serious harm
  o they are a persistent offender who shows a particular disregard for the law (paragraph 322 (5A))
• the applicant has failed to produce within a reasonable time information, documents or other evidence required by the Secretary of State to establish their claim to remain under these rules (paragraph 322 (9))
• failure, without providing a reasonable explanation, to comply with a request made on behalf of the Secretary of State to attend for interview (paragraph 322 (10))

You must not refuse an application for leave to remain as a domestic worker who is the victim of slavery or human trafficking on the basis of any other grounds set out in paragraph 322.

Requirements of paragraph 159I
To qualify for a grant of leave to remain, a domestic worker who is the victim of slavery or human trafficking must meet the following requirements:

Previous category of stay
The applicant’s most recent grant of leave to enter or remain in the UK must have been as one of the following:

• a domestic worker in a private household
• a Tier 5 (Temporary Worker) migrant on the basis of a certificate of sponsorship issued in the International Agreement subcategory which confirmed that the applicant was being sponsored as a private servant in a diplomatic household
• the holder of discretionary leave following a positive conclusive grounds decision under the National Referral Mechanism, and where the person previously had leave as a domestic worker who is the victim of slavery or human trafficking

Positive conclusive grounds decision
The applicant must be the subject of a positive conclusive grounds decision made by a competent authority under the National Referral Mechanism. The applicant will be asked to provide a copy of the competent authority’s letter notifying them of the decision with their application. If the letter is not provided, or if there are doubts about its authenticity, you can ask the competent authority to verify that the applicant is the subject of a positive conclusive grounds decision (see above for contact details).

Date of application
Except where the applicant is applying to extend a previous grant of leave to remain as a domestic worker who is the victim of slavery or human trafficking or is applying following a period of discretionary leave, the application must either:

• be made within 28 days of the positive conclusive grounds decision being notified to the applicant
• or if the applicant either:
  o had an outstanding application for leave to remain on the date that they were
    notified of the positive conclusive grounds decision
  o makes an application for (or is being considered for a grant of) leave to
    remain on some other basis within 28 days of that date
    be made within 28 days of the outcome of that application or consideration
    being notified to the applicant

The purpose of this 28-day rule is to make sure that those notified of a positive
conclusive grounds decision do not remain in the UK for an extended period before
seeking to regularise their position under these provisions. You should apply the 28-
day rule sensibly and proportionately.

**Maintenance and accommodation**
The applicant must be able to maintain and accommodate themselves without
recourse to public funds. There is no set level of funds required for an applicant to
show this. A person granted leave to remain as a domestic worker who is the victim
of slavery or human trafficking will be permitted to take employment as a domestic
worker. They are not, however, required to demonstrate that they have an offer of
employment at the point at which they apply. Given the purpose of the route, it is not
appropriate to refuse an application of leave to remain in this category simply
because the applicant does not provide evidence of employment and in the absence
of evidence of employment, you may take into account any other evidence of funds,
including evidence of support being provided by a third party (such as a charity).

**Related content**
- Modern Slavery
Domestic workers who are victims of slavery or human trafficking: grant LTR

This page tells you about how to grant domestic workers who have been victims of slavery or human trafficking leave to remain (LTR).

You can grant LTR for up to a maximum of 2 years.

You may only grant a further extension of stay in this category if either of the following apply:

- the applicant was initially granted less than 2 years as a domestic worker who is the victim of slavery or human trafficking, and the extension grants the applicant the balance of the 2 year maximum period of leave
- the applicant has previously been granted discretionary leave having been the subject of a positive conclusive grounds decision made by a competent authority under the National Referral Mechanism, and the sum of the previous period of discretionary leave and the new grant of leave does not exceed 2 years.

The GCID case type for this category is Overseas Dom Wkr (VOT) – LTR. Endorsement remarks on GCID are ‘RESTRICTED WORK PRIV/DIPLOMATIC HOUSEHOLD ONLY and NO PUBLIC FUNDS’.

Related content
Contents
Modern Slavery
Domestic workers who are victims of slavery or human trafficking: refusing LTR

This page tells you about how to refuse domestic workers who have been victims of slavery or human trafficking leave to remain (LTR).

You must refuse leave to remain as a domestic worker who is the victim of slavery or human trafficking if the applicant does not meet all the requirements of paragraph 159I of the Immigration Rules, or if one of the relevant general grounds for refusal applies.

Refusal wordings are set out below. This is not an exhaustive list. You must use these paragraphs in combination with any other appropriate wordings if, for example, you are also refusing on general grounds.

<table>
<thead>
<tr>
<th>Reason and paragraph</th>
<th>Suggested wording</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not previously granted leave as a domestic worker (paragraph 159I(i))</td>
<td>“...but the Secretary of State is not satisfied that your most recent grant of leave to enter or remain was granted as a domestic worker in private household, as a private servant in a diplomatic household, or as a domestic worker who is the victim of slavery or human trafficking.”</td>
</tr>
<tr>
<td>Not the subject of a positive conclusive grounds decision (paragraph 159I(ii))</td>
<td>“...but the Secretary of State is not satisfied that you have been the subject of a positive conclusive grounds decision under the National Referral Mechanism.”</td>
</tr>
<tr>
<td>Application not made within 28 days (paragraph 159I(iii))</td>
<td>“...but the Secretary of State is not satisfied that your application was made either within 28 days of the positive conclusive grounds decision been notified to you, or within 28 days of the outcome of an application for leave to remain on another basis being notified to you.”</td>
</tr>
<tr>
<td>Maintenance and accommodation (paragraph 159I(iv))</td>
<td>“...but in view of [insert details of reasons for refusal] the Secretary of State is not satisfied that you can maintain and accommodate yourself without recourse to public funds.”</td>
</tr>
</tbody>
</table>

Related content

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Modern Slavery