



## A guide to assisting survivors of modern slavery in the asylum system: **their rights to support**

In partnership with

**ASAP**

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DEFENDING ASYLUM SEEKERS  
LEGAL RIGHTS TO FOOD AND SHELTER

**ATLEU**  
ANTI TRAFFICKING AND  
LABOUR EXPLOITATION UNIT

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# Glossary

## Asylum support

Home Office accommodation and financial support provided to asylum seekers and some refused asylum seekers.

## Claims against public authorities lawyer

A lawyer who works on cases requiring action against a public body with the power to prosecute, detain or imprison. This would usually cover a claim for compensation from this type of body.

## Community care lawyer

A lawyer that helps with cases about someone's health and social care needs, for example, securing appropriate care from a local authority.

## Competent Authority

The name of a government body that is responsible for making a decision that someone is a victim of modern slavery.

## CG

Conclusive Grounds decision (second stage decision by the government that someone is a victim of modern slavery)

## ECAT

Council of Europe Convention on Action against Trafficking in Human Beings

## ECF

Exceptional case funding – a form of discretionary legal aid where not having a free lawyer would breach your human rights or EU rights.

## ECHR

European Convention on Human Rights

## EU Trafficking Directive

Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.

## First Responder

A statutory or non statutory body that is authorised to refer someone into the NRM. A full list is [here](#).

## HRA

Human Rights Act 1998

## IECA

Immigration Enforcement Competent Authority – one of the two Competent Authorities that makes decisions that someone is a victim of modern slavery but only for a specific cohort of people, including individuals who are detained or in prison, who are facing deportation action in the community or are in the inadmissibility process.

## IMA

Illegal Migration Act 2023

## Move-on period

A period of move-on support under the MSVCC follows a positive or negative conclusive determination by the relevant competent authority that the individual is or is not recognised as a victim.

## MSA

Modern Slavery Act 2015

## MSVCC

Modern Slavery Victim Care Contract – the contract between the Home Office and the Salvation Army to provide support for survivors of modern slavery. It came into force in 2021. The Salvation Army is the Primary Contractor with the Home Office. It provides support directly and subcontracts to other suppliers across the country to deliver support and satisfy their responsibilities under the contract. The Home Office is ultimately responsible for the support provided, the decisions taken, and the data held by those delivering services under the MSVCC.

## NABA

Nationality and Borders Act 2022

## NRM

National Referral Mechanism (the government system for identification and support of victims of modern slavery)



**NRM support worker**

Support worker subcontracted to deliver services for the Home Office under the MSVCC, within the NRM system, within safe houses and to people living outside safe houses on an 'outreach' basis.

**PNC Check**

Police National Computer check (a criminal records check on a central database storing police force information about convictions and cautions).

**Public lawyer**

A lawyer that works on cases to do with the conduct of public bodies. There is a specific category of legal aid for public law. Judicial reviews can be done by public lawyers.

**Recovery Needs Assessment (RNA)**

Assessment to establish need for NRM support beyond 45 days post positive CG decision.

**Recovery Period**

The period of time from a positive RG decision being made to a CG decision being made (minimum of 30 calendar days).

**RG**

Reasonable Grounds decision (first stage/gateway decision by the government that someone is a victim of modern slavery).

**SCA**

Single Competent Authority – one of the two Competent Authorities that makes decisions that someone is a victim of modern slavery for adults and children, for anyone that is not within the IECA cohort.

**SG**

Modern Slavery Act Statutory Guidance

**SSHD**

Secretary of State for the Home Department, the government minister responsible for the Home Office.

**TSA**

The Salvation Army (the organisation contracted by the Home Office to deliver support to survivors of modern slavery and a First Responder into the NRM).

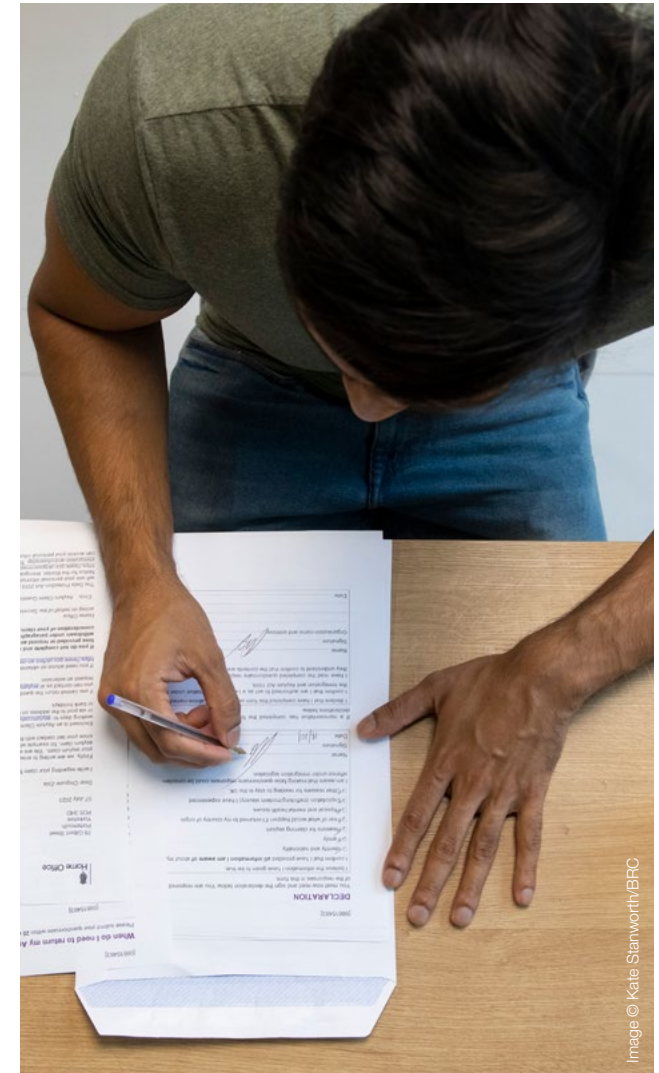


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# 1 Introduction

**This guide is written for those assisting adult survivors of modern slavery in the asylum system. It explains the entitlements to support for a survivor of modern slavery, how to access them, and how they interact with the asylum support system. The focus of this guide is accessing support for survivors of modern slavery who have concurrent asylum claims.**

Many survivors of modern slavery also make asylum applications, which is why it is important to be aware of asylum support and support specific to being a survivor of modern slavery. The scope of this guide is support for survivors of modern slavery in England and Wales. Scotland and Northern Ireland have separate support provisions, and these are not covered here.

## Health warning

The law and guidance is correct at the time of writing. Please make sure you double check if there have been any changes at the time you are using this document. [See Disclaimer on page 66.](#)

## 1.1. Terminology

The terms ‘survivor’ and ‘victim’ are both used in this report. The latter is primarily used to indicate the formal status conferred on an individual by the state.

The term ‘survivor’ is used more broadly and refers to people who have experienced trafficking and/or modern slavery.

The term ‘victim’ is used in legislation, guidance, and Home Office documents.

## 1.2. What are a survivor’s rights to support?

Survivors of modern slavery should be provided with support and accommodation in relation to their individual recovery needs. This right starts once there are reasonable grounds to believe the person is a victim.<sup>1</sup>

It should be provided for as long as it is necessary to assist victims in their recovery, and the provision of support and accommodation should not depend on a victim’s willingness to cooperate in criminal proceedings.<sup>2</sup> In the UK, those rights are accessed through the NRM.

## 1.3. The legal framework – a short overview

Modern Slavery survivors’ rights to accommodation and support derive from a combination of international and domestic law: [ECAT](#), the [Human Rights Act 1998](#), which incorporates the [ECHR](#) into UK law and the [EU Trafficking Directive](#)<sup>3</sup>.

The government has published statutory guidance ([SG](#))<sup>4</sup> which sets out how survivors should be identified and supported. ECAT has not been formally incorporated into UK law. However, the SG is intended to implement ECAT and this has been confirmed by the courts and Parliament.<sup>5</sup>

If the government does not correctly apply its own guidance, and this has consequences for an individual, this could form the basis of a legal challenge to assist them. The SG is intended to set out the assistance and support on offer to victims of modern slavery, taking into account the rights set out in ECAT and the EU Trafficking Directive.<sup>6</sup> Refer to Chapter 8 and Annex F of the SG for detail about support provisions for survivors.

<sup>1</sup> ECAT Article 10(2) | <sup>2</sup> ECAT Article 12(6) | <sup>3</sup> There are some parts of the EU Trafficking Directive that the courts have considered and so do remain part of our law, although technically it is no longer in force following EU Withdrawal Act. | <sup>4</sup> The government is required to publish this guidance under s.49 of the Modern Slavery Act 2015. | <sup>5</sup> See the [Explanatory Notes to the Nationality and Borders Act](#) re s.61 and the [Explanatory Guidance](#) for s.49 of the Modern Slavery Act 2015. ECAT has also informed the courts’ interpretation of Article 4 ECHR. | <sup>6</sup> [Explanatory notes to section 49, Modern Slavery Act 2015](#). After Brexit, it has not been possible to rely directly on the EU Trafficking Directive unless the rights it sets out have been retained in UK law, and it has now been [disapplied by the Nationality and Borders Act](#). This will impact support, but the Directive has informed the development of cases about support for survivors. In practice, most rights under the Directive relating to support are covered by ECAT and the ECHR.

### 1.4. The legal foundation for survivors' entitlement to support – ECAT

When advocating for a survivor to access their support entitlements, understanding the relevant provisions of international and human rights law is an important tool and can be helpful to refer to alongside the statutory guidance.

#### Article 12 of ECAT sets out what a victim is entitled to expect from the government:

1. Each Party shall adopt such legislative or other measures as may be necessary **to assist victims in their physical, psychological and social recovery**. Such assistance shall include at least:
  - a standards of living capable of ensuring their subsistence, through such measures as: **appropriate and secure accommodation, psychological and material assistance**;
  - b access to emergency medical treatment;
  - c translation and interpretation services, when appropriate;
  - d counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;
  - e assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
  - f access to education for children.
2. Each Party shall take due account of the victim's **safety and protection needs**.  
...
7. For the implementation of the provisions set out in this article, each Party shall ensure that services are provided on a **consensual and informed basis**, taking due account of the **special needs of persons in a vulnerable position** and the rights of children in terms of accommodation, education and appropriate health care. **[our emphasis]**

**The Explanatory Report to ECAT is helpful to refer to as it expands on what the state's duty under Article 12 looks like. It explains:**

Victims who break free of their traffickers' control generally find themselves in a position of great insecurity and vulnerability [para 146].

The type of accommodation someone receives will depend on the survivor's personal circumstances and safe houses are especially suitable because of their staffing and purpose to ensure survivors feel secure [para 154].

Services should be provided on an informed and consensual basis [para 171].

The UK is responsible for ensuring that victims get the assistance they are entitled to [para 149].

The government should cooperate with NGOs and civil society organisations [para 167]. The duty to cooperate can be useful to rely on when a survivor may be involved with the local authority, allowing you to remind the government that they must work with organisations supporting the survivor to find a solution and take account of their views.



Image © Kate Stanworth/BERC

### S64 NABA

S64 NABA updates the Modern Slavery Act (MSA) and requires the government to secure necessary assistance and support to an identified potential victim in their recovery period. But under this new provision support will be ‘necessary’ if the Secretary of State considers it *“necessary for the purpose of assisting the person receiving it in their recovery from any physical, psychological or social harm arising from the conduct which resulted in the positive reasonable grounds decision in question.”*

Contrast this to Article 12(1) of ECAT: *“Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery.”*

This move away from the language used in ECAT marks a potentially significant change. Not only does this change introduce the word ‘harm’ to the test, which potentially creates an evidential burden on the individual, it also seeks to narrow the provision of support to meet only needs which have arisen from the individual’s modern slavery experience and may overlook pre-existing vulnerabilities that pushed someone into exploitation.

The Explanatory Report to ECAT makes clear that ECAT sets out minimum assistance measures, and states can grant additional ones (rather than

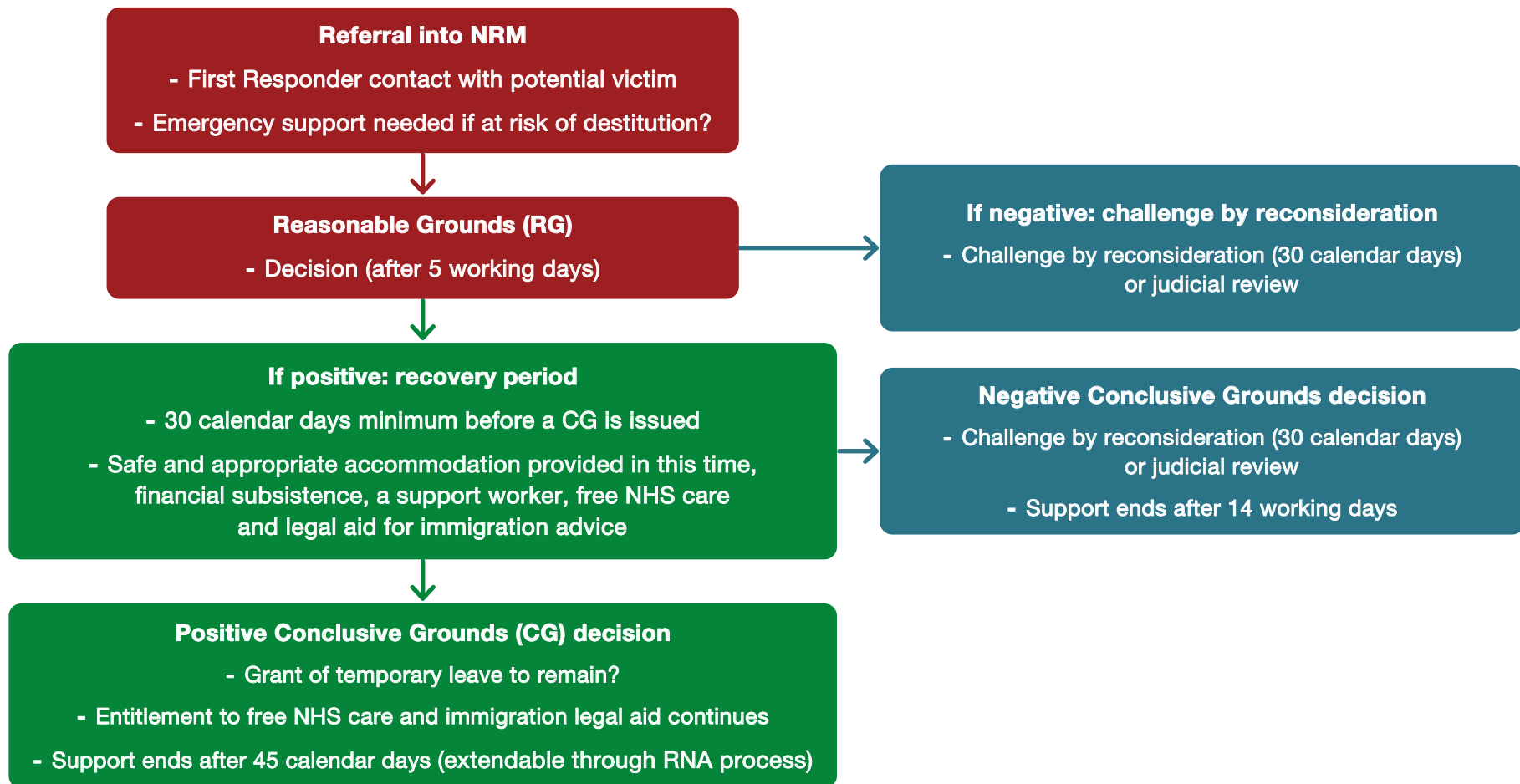
narrow them). [para 151] We have seen this test come into the SG in relation to additional recovery costs but not the rest of support.

### 1.5. ECHR

[Article 4 of the ECHR](#) aims<sup>7</sup> to assist victims in their recovery. The European Court of Human Rights has confirmed<sup>8</sup> measures that are reasonably expected of the state following an Article 4 duty being triggered include helping victims in their physical, psychological and social recovery.



## 1.6. The process for identifying victims of modern slavery



The **NRM** is the government's framework for identifying and supporting victims of modern slavery. It was introduced in 2009 to enable the government to meet its obligations under ECAT.

**First Responders** are the organisations authorised to refer individuals into the NRM, when they see indicators which suggest that someone is a victim of modern slavery. First Responders include public authorities, such as the police and local authorities, as well as some non-statutory organisations such as The Salvation Army (TSA) and Barnardo's.<sup>9</sup> A referral into the NRM raises a barrier to someone's removal from the UK [14.45, 14.188 SG].

**Competent Authorities** are responsible for making decisions about whether someone is a victim of modern slavery. There are two Competent Authorities: the Single Competent Authority (SCA) and the Immigration Enforcement Competent Authority (IECA). Identification as a victim of modern slavery is a two-stage decision process.

**Reasonable Grounds** decision is the first stage decision that someone is a victim of modern slavery. The test should have a lower threshold than the second stage decision. The decision maker should consider whether they agree there are reasonable grounds to believe, based on all available general and specific evidence but falling short of conclusive

proof, that a person is a victim of modern slavery (human trafficking or slavery, servitude, or forced or compulsory labour).

**Conclusive Grounds** decision is the second stage and final decision on whether someone is a victim of modern slavery. The test at this stage is on the balance of probabilities there is sufficient information to conclude that modern slavery has happened.

**Recovery Period** is the time between a positive RG decision being received and a CG decision being made. During this time the individual cannot be removed from the UK and is entitled to support (unless they are disqualified from support). The purpose is to allow the individual to escape the control of the trafficker and for the competent authority to gather further evidence.

**Reconsideration** is the name of the process by which a negative RG or CG decision is reviewed. A request for a reconsideration can be made by survivors themselves, by First Responders, by the organisation contracted to provide the NRM support under the Modern Slavery Victim Care Contract, by agencies outside the MSVCC and solicitors [14.216 SG]. If MSVCC subcontractors refuse a survivor's request they should document why that is and get authorisation from the Home Office first [14.222 SG].



Photo © shapecharge/stock

<sup>9</sup> A full list of First Responders is available here: [www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales#first-responder-organisations](https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales#first-responder-organisations)

## 2 How does a survivor access NRM support?

### 2.1. The Modern Slavery Victim Care Contract

Support for survivors of modern slavery is provided by the Home Office through a contract called the MSVCC.

### 2.2. Before a Reasonable Grounds decision

#### General information

The Modern Slavery Helpline is a service run by the charity Unseen, which takes calls 24/7 on 08000 121 700. Interpreters are provided. A survivor can speak to someone on that service to find out more about their entitlements if they decide to enter the NRM. If a survivor does not have access to support, they can contact the Modern Slavery Helpline directly and ask to be connected with a First Responder for a referral into the NRM.

The Modern Slavery Helpline will act as a link to first responders apart from TSA (who ask to be contacted directly and not through the Modern Slavery Helpline). A survivor can contact TSA directly and ask that they refer them into the NRM by calling their referral helpline which is open 24/7: **0800 808 3733**. Interpreters are provided.

This is just one way to access information about the NRM. A [First Responder](#) will also be able to give information about the process.

#### Legal advice

At the moment, there is no automatic right to legal aid for advice from a lawyer about the NRM. If a survivor already has a legal aid lawyer working on a case that is linked to trafficking, the lawyer could provide advice on the NRM. A survivor could apply for ECF to speak to a lawyer about their options, unless they already qualify for legal aid another way (for example, having a claim for asylum where trafficking is part of the claim).

It is worth checking that a legal aid lawyer will have space to take the case before applying, or if they might do the application for legal aid for the survivor. In practice, many lawyers do not feel able to do these applications because of the time involved and the risk they will not get paid.

### 2.3. Assisting a survivor with referral into NRM

There are several [First Responders](#) who can make a referral into the NRM. This includes statutory first responders such as the police or a local authority. There are also NGOs who are first responders. Survivors, especially those with insecure immigration status or where threats of immigration enforcement have been used as a means of coercion, may be deterred from entering the NRM if this involves contact with a statutory First Responder such as the police or a local authority which might do a check on their immigration status.

The Salvation Army or other NGO First Responders can provide alternatives. If a survivor cannot access any First Responder at all, or one they feel safe and comfortable enough to approach, they could ask a public lawyer to advise on challenging a lack of access to suitable agencies.

### TSA – one of the biggest NGO First Responders:

TSA Volunteer First Responder Service can be contacted by email: [NRMreferral@salvationarmy.org.uk](mailto:NRMreferral@salvationarmy.org.uk) with a request that they make a referral into the NRM. The email should explain why there is no one else who can make the referral (e.g. no local authority involvement, no police case, no application before the Home Office). They have a referral and consent form to complete but these are not online, so in the absence of these give as much detail as you can in an email. If the survivor would like support from the NRM, put that request in the same email and specify if emergency support is needed, or just support after a positive RG (in a safe house or outreach).

TSA will expect other designated First Responders (including the Home Office if there is an outstanding asylum claim) to have been approached about a referral first if they have had any prior involvement with the survivor. It is therefore advisable to show evidence that this has been attempted before turning to TSA.

TSA operate during office hours only.

A Response Coordinator will action the referral upon receipt, and they can also make a request for support for the survivor, within TSA.





## 2.4. Accessing support before a Reasonable Grounds decision

Support is not usually provided until an RG decision is made. However, it is possible for some survivors to access support after an NRM referral has been made, but before an RG decision has been received. This request can be made by the First Responder at the same time as the NRM referral. Alternatively, the request can be made by contacting TSA directly on their 24/7 free number (open 365 days a year): **0800 808 3733**.

Support and emergency accommodation can be provided before an RG decision has been made where the survivor is destitute or at risk of destitution, is not eligible for Local Authority support, or where the available Local Authority support is not suitable. [15.5 SG]

The test for destitution is set out in [specific guidance for modern slavery victims](#) which mirrors the test for [asylum support](#).<sup>10</sup> This requires consideration of whether someone has adequate accommodation or cannot meet their essential living needs. However, if an individual is unsafe, for example, because they are in a situation of exploitation or their location is known by their trafficker, there may be a case to argue for claiming emergency accommodation and support to be provided by the Home Office under Article 4 ECHR.

## 2.5. Negative Reasonable Grounds decision

A reasonable grounds decision should be provided within 5 working days of a referral into the NRM [7.6 SG], although survivors do experience longer waiting times than this.

If the survivor had been supported prior to the RG decision being made and they then receive a negative RG decision they will be provided with accommodation and/or support for a further 14 working days [7.8 SG] after a full decision (ie including reasons) is given to the survivor<sup>11</sup> (and that period can be extended [15.174]).

Requests for a reconsideration of the negative RG decision can be made during this support period. Reasons for extensions of support might typically be because the reconsideration is pending or because of imminent destitution if support stops. [SG 15.184]

If a lawyer challenges a negative RG decision by way of judicial review, they can request that MSVCC support be ordered by the court to continue as part of the judicial review claim (this is called applying for 'interim relief').

## 2.6. Positive Reasonable Grounds decision and entering the recovery period

If the RG decision is positive, the survivor enters their 'recovery period' where they can access support if they want it. TSA is the gateway to support under the MSVCC. TSA will contact the survivor to set up support and undertake an initial risk assessment. An interpreter should be provided if one is needed.

The survivor should have been asked if they were in need of support when the referral into the NRM was made. To make arrangements, TSA will call the survivor from an unknown number. If the survivor does not pick up, they may try again on several occasions at different times of the day or attempt contact via a legal representative if these details are known, or attempt contact via the First Responder. It is therefore important to tell the survivor to keep their phone charged and be ready to answer unknown numbers at this stage.

Financial support will not be paid if a survivor cannot be contacted. If TSA cannot reach the survivor after two attempts, they will close the referral for support. If the potential survivor later makes contact, where the TSA made reasonable attempts to contact them, payments will be backdated to the date the person re-established contact and not the date of the positive RG, if they

<sup>10</sup> See also Asylum Support Appeals Project ('ASAP') Factsheet: [Proving Destitution](#). | <sup>11</sup> Email from TSA to ATLEU 02.05.23

go on to enter support. [15.69 SG] If a survivor has not been contacted by TSA within 48 hours of agreeing to enter MSVCC support, the survivor or their legal representative (or a support worker) should contact TSA on 0800 808 3733. [15.71 SG]

A survivor may change their mind about accessing support when they are in the NRM. If they initially decline to have support but later decide they would like accommodation and/or outreach support, then this can be set up by contacting TSA by using the Helpline number (0800 808 3733) or support email address ([mstsupport@salvationarmy.org.uk](mailto:mstsupport@salvationarmy.org.uk)).

It is a good idea to attach anything showing eligibility for support to the email, for example, a positive RG. If they are accessing outreach support but would like to have accommodation, the request to switch into safe house accommodation can be actioned by the NRM support worker on their behalf.

## 2.7. Conclusive Grounds decision

A CG decision should be made after 30 calendar days but in practice it can take much longer. Support for adults, after a positive RG decision has been made, should be provided for at least 30 calendar days [7.8 SG] or until a CG decision is made.<sup>12</sup>



Image © Anna Hughes/BFC

<sup>12</sup> NABA s.61(3) states that the recovery period will end 30 days after a positive reasonable grounds decision or with the date of the conclusive grounds decision, whichever is the later.

## 3 What does NRM support and accommodation look like?

### 3.1. The 3 components of NRM Support

#### Survivors can expect:

- Accommodation in a safe house (or other appropriate accommodation provided by the Home Office)
- Subsistence payments
- NRM support workers to provide advocacy and assistance to access other services.

The Salvation Army has produced [a leaflet](#) about what to expect from support in the NRM. There are translations [here](#).

### 3.2. Support from an NRM Support Worker

Support is provided by NRM support workers in a safe house or on an 'outreach' basis. Outreach support is the term used for support services provided to those who are not in MSVCC accommodation.

Outreach support should include the same support a survivor in an NRM safe-house will get except for the accommodation related elements [15.45 SG]. Outreach support is available, along with financial subsistence, to survivors in non MSVCC (including asylum support accommodation) during their time in the NRM [15.17 SG].

Survivors also have other entitlements that come with having a positive RG and entering their recovery period, including free NHS care.

#### 3.2.1. Risk and needs assessments

Several risk and needs assessments are carried out during the recovery period. Survivors should be aware of these steps so they can voice their views and request copies of the assessments, if they would find that helpful:

- An Initial Risk Assessment is carried out for all individuals at the point they are referred into the MSVCC for support. This will be carried out by TSA [8.7/8.11-8.12 SG].
- The NRM support worker will carry out a Preliminary Risk Assessment for anyone referred to outreach support, in order to identify any further immediate welfare needs [8.7/8.13/8.14 SG].
- The NRM support worker will conduct a Full Risk assessment for everyone accessing support, including those in NRM accommodation and those in receipt of outreach support. This includes a more detailed assessment of safeguarding needs as well as material and welfare needs, which should be continuously reviewed during a survivor's recovery period [8.7/8.16 SG].
- Needs-Based Assessment – an assessment for all potential victims in the recovery period which will identify the support required to address the needs of the potential victim at the RG stage. The SG says needs should continue to be reviewed throughout

the victim's time in support as appropriate [8.7 SG].

- A Journey Plan will be completed to cover the support a survivor needs to recover in their recovery period and after a CG in their 'move-on period', to track how they will move towards independence outside of MSVCC support. This is informed by the Needs-Based Assessment [8.24-8.26 SG]. TSA says this will be reviewed with the survivor at least every month.

It is very important for an NRM support worker to know about key information to meet the survivor's support needs. However, a survivor may not feel comfortable telling their story to someone new, especially if they have recently done this through the NRM referral process or to a lawyer. They may also not want to explain everything about their past to someone providing support, differentiating the types of relationship they have with certain people. Ask the survivor what they feel comfortable to share, reassure them they can disclose at their own pace, and ask if you can provide information for them and what they would like you to pass on. In practice, NRM support workers may not have access to the NRM referral form, reasonable grounds decision or any other information that was submitted with the referral and welcome being given information that lets them support the survivor better. Ask any existing lawyer to brief the new NRM support worker,

for example, sharing documents like a witness statement or medical report, if the survivor consents. You could assist the survivor by requesting a copy of their file from the competent authority as soon as possible after a positive RG to pass on to an NRM support worker or lawyer if one is yet not in place: SCA – [SCADisclosures@homeoffice.gov.uk](mailto:SCADisclosures@homeoffice.gov.uk) or IECA – [IECADisclosures@homeoffice.gov.uk](mailto:IECADisclosures@homeoffice.gov.uk).

If someone meets the statutory test for disability under the Equality Act 2010, namely they have a physical or mental impairment that has a ‘substantial’ and ‘long-term’ negative effect on their ability to do normal activities, this should be taken into account by the Home Office, TSA and support workers in the support journey. This includes a mental health condition that is disabling. The Equality Act 2010 prohibits discrimination by failing to make ‘reasonable adjustments’ to avoid disadvantage. The duty to do this includes thinking ahead to take reasonable steps that will prevent a substantial disadvantage experienced by a disabled person because of a particular provision or practice, compared with someone who is not disabled. When it comes to support, this is important to be aware of early, to flag up how someone’s disability affects their needs and what they need in their particular circumstances, so they are not disadvantaged. A good starting point is asking the person what helps them most, but also using your observations and experience on what might help, discussing those needs with the survivor, and with their consent, raising it with an NRM support worker.

### Needs assessments – what do they cover?

The SG says a needs assessment is to identify the detailed support needs of the potential victim or victims (and their dependents) while they are in the MSVCC. This is carried out by the NRM support worker with all potential victims. They should consider:

- physical (including sexual) health needs
  - psychological and emotional needs
  - cultural and spiritual needs
  - practical needs, including but not limited to the need for material assistance, interpretation services
  - if there is a requirement to access legal advice and representation
  - if there is a requirement to access other advice and assistance
  - arrangements for meeting welfare needs and payment of subsistence
  - if any dependents should be referred to the NRM in their own right
  - access to education for school-aged dependents
  - the production of a journey plan with the potential victim or victim.
- [8.19 SG]

Any supporting evidence or information from third parties should be taken into account during the needs assessment.



### 3.3. NRM Accommodation

#### 3.3.1. Eligibility for MSVCC accommodation

The Home Office will only provide MSVCC accommodation if the needs based and risk assessment process determines that it is necessary. This will usually be because of a threat to safety or a direct risk of re-exploitation from their exploiters. This is not the test in ECAT and risks overlooking a more general risk of re-exploitation. However, the guidance does acknowledge there may be other reasons why MSVCC may be necessary, for example, because someone is destitute or needs a single occupancy room or single sex accommodation. [15.14 SG] This shows the Home Office has a wider discretion, and you do not need to limit yourself to the examples given in the SG when arguing for suitable accommodation via the MSVCC.

The Home Office states that if there is a need for MSVCC accommodation for a reason other than risk from traffickers, they may not provide accommodation through the MSVCC, if an existing accommodation provider can address the need. [15.16 SG] This is considered in more detail in the paragraph on 'Existing accommodation'.

Survivors often have needs for accommodation that go beyond a risk from traffickers and MSVCC accommodation may be best to meet those needs.

MSVCC accommodation is allocated primarily on needs [15.18 SG]. It is important to discuss the survivor's specific circumstances with them, then you can be clear in advocacy about why their needs are best met under the MSVCC. For example, is access to on site staff in the day or overnight or having regular staff input and assistance important to the client? Is the confidentiality of address important to their feelings of security? Go back to the duties under [Article 12 ECAT](#), for the government to assist victims in their physical, psychological and social recovery, providing appropriate and secure accommodation.

#### 3.3.2. Types of accommodation

NRM accommodation is provided through safe houses across England and Wales, either directly by TSA or through a MSVCC subcontractor. Safe houses accommodate a small number of people at once. They are usually self-catering, although catered accommodation is provided for individuals who are unable to prepare their own food.

A safe house can be single sex accommodation or accommodation that includes families or mothers and children. ATLEU understands that safe houses may also mean men and women are housed in the same flat, sharing a corridor. Safe house accommodation can be provided by private landlords. The addresses of safe houses are not

disclosed. There may be security. They are staffed by NRM support workers who might be on site during the day and possibly overnight, depending on the MSVCC provider.

MSVCC support providers may give an emergency contact for out of hours support at nights and weekends if the safe house does not have out of hours staff on site. Because of the need to keep residents secure and protected, safe houses have rules that might include curfews, and not giving out the address of the location to allow friends to visit, or for post to be received directly at the location (instead of via the MSVCC provider office or a PO box).

The needs and characteristics of other survivors in MSVCC accommodation will be considered and if a survivor is a risk to others they will not be placed in shared MSVCC accommodation and will be given 'alternative' accommodation. [15.20 SG].

Alternative accommodation mentioned in the guidance is not intended to mean hotels but accommodation as defined in the contract. Accommodation provided to survivors under the MSVCC is operationally understood by the SCA to be in safehouses, unless there is an emergency. Every route should be explored to find alternative accommodation e.g. other safehouses or statutory services.

Any alternative used long-term, for example, a hotel bedroom for more than 48 hours, is not viewed by the SCA as acceptable. Where there is a valid reason why a survivor cannot be placed in a safehouse, the SCA and MSVCC supplier will work to consider suitable options through a case conference<sup>13</sup> 199 unique service users resided in alternative accommodation across 2023, with 56 for more than 350 days.<sup>14</sup> Provision such as this may be colloquially referred to as 'non contract accommodation' although that is not a term found in the SG.

The Home Office says that a survivor's accommodation needs are kept under review throughout their time in MSVCC support and at any stage they can be moved out, if their needs have changed and they no longer require this and where alternative 'suitable' accommodation is available. The MSVCC support provider should work with the survivor on a move. [15.21 SG] As always, a survivor should have input into the process and be able to ask for copies of assessments and decisions made about them.

### 3.3.3. Criminal Record Checks prior to entry

The Home Office asks for criminal record checks, known as PNC (Police National Computer) checks, to be done before anyone is admitted into MSVCC

accommodation. This is not in published guidance but should be explained early on to the survivor. If there is a risk they will be destitute because of a delay in processing a PNC check or may go back to exploitation, the duty lies with the Home Office (via TSA) to provide and fund accommodation pending any more permanent solution being found.

Whilst there is a reason for a PNC check, in terms of managing risk, the Home Office should still ensure that someone needing accommodation is assisted, even if this requires funding the accommodation placement elsewhere. If a survivor is reluctant to undergo a PNC check at all, explore this with them and ask TSA to put in writing to the survivor why this check is necessary.

### 3.3.4. Location of accommodation

Survivors need to be aware that NRM accommodation can be located anywhere in England and Wales and they cannot choose where they are located based on personal preference [15.19 SG].

It is a good idea to explicitly give survivors examples about what moving anywhere in England and Wales means in practice, explaining how far away a new location may be from one that is familiar. A survivor will not be placed in an area where they are judged to be at risk. Anyone who has been exploited (even historically) in London, could be moved out of

London entirely. However, if the whole of London was deemed to be a risk area, a survivor may wish to consult a lawyer about their options to challenge this. Any risk to them in London should be weighed against relevant factors about why they may need to live there, for example, to access their existing support network (which may give them greater protection from exploitation rather than moving them away from London).

A decision to accommodate will be made quickly with a short turnaround for a move. It is not easy to get accommodation in a particular place, but it is possible. If a survivor does not have a safe and appropriate alternative, it may be preferable for them to accept the offer of a safe house place then advocate for relocation to somewhere with a bedspace in a more suitable location.

If they need to remain in a certain place and can do so safely, without detriment or cost to themselves, they may choose to attempt to argue for location in a different area while in existing accommodation. However, if moving to inappropriate or unsafe accommodation would pose a risk to the survivor's wellbeing, it may not be reasonable to expect them to move. They will need good evidence of the likely harms that will result from moving. If in doubt, always seek the advice of a public law or housing lawyer before turning down an offer of NRM accommodation.

<sup>13</sup> Instruction pursuant to the MSVCC from Head of SCA Contracts and Service Delivery with effect from 09.11.23 | <sup>14</sup> Annex B to FOI response to ATLEU, 27.02.24

An initial risk assessment should be conducted before making a decision about a move, and the record of this can be requested from TSA. Decisions should not be made on a blanket basis, without considering the individual facts of a survivor's case.

When arguing against a particular location, the key is to be specific, with supporting evidence from as many different sources as possible. This should include information about why a move will impact the survivor's particular recovery needs; why it will impact the best interests of children; and why remaining in a certain area will not put them at risk [15.18 SG], for example, if a risk in London is identified and the person wishes to challenge this decision it would be worth exploring whether the exploitation was historic, the trafficker is deceased, is in prison or is overseas. However, professionals should be careful not to minimise risk, if it is present.

A medico legal report or detailed letter from a clinical professional may be necessary if a survivor has particular health needs that are met in one location which cannot be met elsewhere (for example, because a relationship of trust that has been built up with a therapist will be broken by moving out of the area). Help with travel can be requested for journeys to appointments that relate to the survivor's needs for recovery.

This might be provided through Salvation Army volunteers or if the Home Office grants funds to purchase tickets [15.164-15.167 SG]. Tell the client this so they are prepared and see if they would be happy with travelling back to the service (so travel assistance is all that needs to be requested). However, a survivor may be told by an NHS professional that they will not be permitted to provide a service even if the survivor can travel back into the area, because of the move. It is important to note that most specialist trauma services only assist those residing in their catchment areas. Survivors should be prepared that location requests are hard to succeed on, but requests can still be made. The survivor can be referred to a public legal aid lawyer for advice on a challenge if a request to remain in a particular location is refused.

MSVCC support providers should keep a survivor's needs (including about accommodation) under review throughout their time in NRM support [8.7 SG] so this means there are opportunities to revisit what is being provided.



Image © Kate Stanworth/BRC

### 3.3.5. Transport to NRM accommodation

Initial transport to NRM accommodation will be provided by the MSVCC [15.13 SG]. Transport will be provided to asylum support accommodation if the person is being moved from MSVCC accommodation into asylum support. Anecdotally, this may be in a black taxi. If a survivor has a lot of items to transfer, they should be aware space may be limited. Transport is also offered on a quick turnaround so someone should be primed from the point of referral if they may need time to pack. Survivors should be reminded that TSA will contact them from an unknown number with details of travel arrangements.

#### Practical tip

**Here is a basic framework for a request to locate a survivor in a particular place, which should be adapted in line with your organisational guidance on providing support letters or correspondence. You should read over the contents with the survivor before submitting it to ensure they are happy with the request.**

Send to [mstsupport@salvationarmy.org.uk](mailto:mstsupport@salvationarmy.org.uk) or with the initial referral to the First Responder. If an NRM support worker is already in place, use the content to ask if they can make a request for relocation to TSA. (TSA is likely to say the current support provider must make the request.)

*Dear Sir/Madam,*

*[Insert details about the survivor: name, date of birth, nationality, any reference numbers held]*

*I am writing about my client [name]. I attach a form of authority. My client wishes to have support under the NRM if they are granted a positive RG. This request is for accommodation to be provided in [location].*

**About you:** *explain your qualifications and credentials, including any experience in working with survivors. Explain how long you have worked with the survivor, including remote and in person attendances, and if you feel you have built up a relationship of trust for the survivor to disclose to you.*

**Needs:** *explain any risks to the client in the current chosen location e.g. did exploitation occur there before, how many years ago was this, has the client lived safely since then, is the client aware of the exploiter leaving the area?*

*Is the current accommodation unsafe, inappropriate or unavailable meaning the client needs to be accommodated by TSA.*

*Why the client wishes and needs to remain in the particular location requested – e.g. length of residence there, community ties, undergoing a course of treatment that will cease if they are moved out of area so cannot travel back to access it, relationship of trust with any professionals or services that are currently being accessed that are important for their recovery, vulnerability to re-exploitation and whether relationships or services in the requested area are protective factor against that.*

*Attach supporting evidence if possible, even brief, from anyone accommodating the client if they can no longer stay there, or the police or other professionals who can confirm it is not appropriate, or a local authority confirming housing assistance cannot be provided due to immigration status if this has been sought. Also, evidence that goes to location. Approach professionals or community services (eg GP, mental health practitioner, other support worker, school, religious institution) assisting the client or client's children. Ask if they would be willing to confirm any of the points below:*





Image © vgajic/istock

- *Who they are and their qualifications*
- *The relationship and service already being given to the client including duration*
- *If they can continue delivering a service to the client if the survivor is moved of area*
- *If in their opinion it would cause any detriment to the health or wellbeing of the client or the best interests of their children if they are moved. Do they consider that this person is vulnerable to re-exploitation in general and would moving away from trusted support/services increase risk of re-exploitation?*
- *If they consider the current accommodation is unsuitable for the client.*

**Impact on the client:** *detail your view about the impact on the client e.g. on physical and mental health, potential willingness to engage with the NRM and any services if the request is refused. Explain any concerns you have about their vulnerability, risk of re-exploitation or risk of harm to themselves if this is relevant.*

**Our request:** *please can you locate our client within [insert area]. Please can you ensure this is single sex [delete as applicable]. If there is no current safe house bed at present, we ask you to fund suitable accommodation until a place becomes available. If you decline to do this, please can you provide your decision in writing and a copy of all risk and needs assessments conducted to date for my client.*

*If you need any other information I would be happy to provide it. Thank you very much for considering this request.*

*Yours faithfully*

*[Name]*

### 3.3.6. Existing accommodation

If the Home Office is satisfied that existing accommodation is 'secure and appropriate' the survivor will 'usually' continue to stay there unless a risk or needs based assessment shows they need to move [15.15, 15.32 SG]. In practice, this is likely to mean that unless specific concerns are voiced about the current accommodation, and particularly if that accommodation is being provided by a local authority (for example, under the Care Act), they will not be moved.

The Home Office says that alternative suitable accommodation may include asylum support accommodation [15.15 SG]. It also says, if the victim is already in asylum support, they will continue to remain in asylum accommodation and receive the support provided to asylum seekers until a decision is made on their asylum case [15.195 SG].

If a survivor is living with friends or family, the guidance is clear that accommodation will be suitable if it is 'secure, appropriate, and adequately furnished' [15.15 SG]. If a survivor is living with others and not getting 'appropriate' provision, they should be entitled to accommodation as well, for example if they are sofa surfing or living with friends and family who do not have adequate space.

Survivors' views should be taken into account when deciding if they should move into MSVCC accommodation [15.18-19 SG]. It is important for survivors to know that they can request an up-to-date needs assessment and that they should be consulted in its preparation.

It might be that a local authority is providing accommodation to a family under s.17 of the Children Act 1989. The s.17 duty is owed to the child, rather than the adult. If a parent is referred into the NRM and received a positive RG and wants to access support, the local authority would need to update the child in need assessment to determine whether support could be met by the MSVCC for the child's needs.

If the only reason that the household is being supported under s.17 is a lack of accommodation, the local authority could enquire about whether the Home Office could accommodate, as s.17 accommodation is usually considered to be a last resort. Children's services have a duty to a child in need to promote wellbeing and a homeless child is a child in need. If a local authority ends support without a lawful child in need assessment and without confirmation from the MSVCC that accommodation would be provided in the alternative a survivor may want to take legal advice on challenging the decision.

If a survivor felt that MSVCC accommodation would better meet their needs, they should make that request, with as much detail as possible and any supporting evidence they have. A survivor can access advice from a housing community care or public lawyer in this situation if needed (whether they want to move or stay put).

### 3.3.7. Funding for accommodation to meet a survivor's needs

If a survivor is not entitled to welfare support through the benefits system, the Home Office will be the public authority responsible for providing them with accommodation. The Home Office can make accommodation available outside their contract. If the Home Office does not have accommodation that is suitable for a survivor through the MSVCC, for example, if the survivor has needs that cannot be met within available safe house places or needs to be in a location where there is not currently a safe house bed. In these situations, the Home Office will need to fund appropriate accommodation.

Article 12 ECAT requires that the state provide appropriate and secure accommodation to victims, but it does not specify that such accommodation must be in a safe house. What is appropriate and safe depends on the needs of the individual.

The Home Office (or the Home Office via TSA) may seek to assert that another public authority is responsible for providing accommodation. For example, where a survivor presents with needs that cannot be met in MSVCC accommodation, the Home Office may consider the individual should be looked after by the local authority under the Care Act 2014.

A survivor may wish for support to access legal advice in these circumstances, but in the meantime, it is possible to argue that the Home Office has a duty to cooperate with those parties to achieve a solution, and to fund accommodation in the interim by emailing [MSTsupport@salvationarmy.org.uk](mailto:MSTsupport@salvationarmy.org.uk). A specialist public or housing/community care lawyer can provide advice about whether a legal challenge is possible if a survivor is left without suitable accommodation for their needs.

ATLEU has experience of the Home Office agreeing to pay for a survivor's accommodation with a charity post CG, pay arrears of service charge for accommodation and the ongoing service charge so a survivor would not be evicted from local authority accommodation, and funding local authority accommodation for clients when this met their needs.

### 3.3.8. When someone is in detention

- The MSVCC does not provide support to people in immigration detention.
- A Modern Slavery Needs Assessment should be carried out if someone has a positive RG and continued detention is being considered. Their recovery needs should also be kept under review.<sup>15</sup>
- If someone is put in immigration detention, the support they can get in that context has been considered appropriate in the past.<sup>16</sup> However, someone's needs should still be considered on a case-by-case basis and can be monitored by external support professionals in discussion with the survivor, to see what they are getting in practice and whether it is adequate.
- Where someone has been detained in conditions similar to a removal centre or prison as part of their modern slavery experience, or where there is a risk of sharing accommodation or being in proximity to any alleged perpetrators of modern slavery, this must be taken into account by Home Office staff. Where someone raises concerns about the suitability of their accommodation, the Home Office caseworker must look into this further, to ensure appropriate accommodation is provided.

Where release is recommended, there should be a release assessment, so that someone can be released safely. [Home Office guidance on the detention of survivors](#) explains that after someone gets a positive RG, if release is recommended, the work to plan safe release should include making a referral to TSA where the potential victim of modern slavery gives their consent, for ongoing assessment of their recovery needs and to determine eligibility for MSVCC support.

TSA should then liaise with the Home Office case worker to ensure a smooth transition. This may include carrying out an initial Risk Assessment before they are released and putting a plan in place to manage any safeguarding risks upon release.

Guidance also tells Home Office caseworkers to be mindful not to release the potential victim of modern slavery back to the control of their potential trafficker particularly if the proposed release address is the place of encounter or their last known address, and ensure that lawyers are told about release. (If someone does not consent, release should still be done safely and in line with guidance.)

When someone gets a positive CG and has no recourse to public funds, but is facing release, they may be in the position of needing to request re-entry into MSVCC support, especially if they are at risk

<sup>15</sup> <https://assets.publishing.service.gov.uk/media/6634b264cf3b5081b14f30fa/Adults+at+risk+Detention+of+victim+of+modern+slavery.pdf> p.10 | <sup>16</sup> [www.baillii.org/ew/cases/EWCA/Civ/2018/1070.html](http://www.baillii.org/ew/cases/EWCA/Civ/2018/1070.html)

of destitution. This can be a very difficult period, and a support professional can help advocate for risk assessments to be done prior to release and before eligibility for re-entry into MSVCC support is considered (if the person has already used up their recovery period within the MSVCC before).

Home Office guidance does say that where a survivor is given temporary permission to stay post positive CG, they should be released. The Home Office caseworker should plan to effect safe release, including by making a referral to The Salvation Army, where the survivor consents, for assessment of their recovery needs and to determine eligibility for support.

If someone is given temporary leave, they will be eligible for public funds and be able to work, but they may still need help from a support worker and should be able to access MSVCC support if they have not already had it, or if their needs support that.

If a survivor's needs are not being met in detention or you fear they will not be released with appropriate support, seek legal advice and support from one of the excellent charities specialising in work with detained people.

### 3.3.9. Survivors on bail or release on licence from immigration detention

[ASAP's advice line](mailto:casework@biduk.org) or Bail for Immigration Detainees ([casework@biduk.org](mailto:casework@biduk.org)) may be able to assist with queries relating to asylum support and bail. Detention Action provides emotional and practical support to people in detention and are also experts in working with survivors of trafficking.

The MSVCC will provide accommodation to survivors seeking bail or release on licence from immigration detention, even if they are on electronic monitoring (also known as a 'tag'), if a needs or risk assessment shows a need for this, *"owing to a risk to their safety from their traffickers"* [15.23 SG].

Where someone seeking bail or release on licence from immigration detention has a need for MSVCC accommodation that is not due to a risk to their safety, they will not get accommodation from the MSVCC if they are eligible for or can access other accommodation, like asylum support accommodation or S10 support. But if they are not eligible for other accommodation, or cannot access something suitable, the Home Office accepts that *"MSVCC accommodation should be provided"* [15.24 SG]. The right to support is broader than a risk to safety from someone's traffickers, and a

survivor's safety and protection needs should be properly taken into account across a wide range of personal circumstances. If the survivor's needs would be best met within MSVCC accommodation and this is refused under the policy, they may wish to seek legal advice to understand if a challenge is possible. If they are assessed as posing a risk to staff or residents in MSVCC accommodation they will be given other, non-shared accommodation [15.25 SG].

### 3.3.10. Support in prison

Survivors in prison do not access support under the MSVCC. [The government has produced guidance on assisting survivors in prison.](#) This includes provision on needs assessments, liaison between prison staff and partners including the Salvation Army for community support for survivors before they are released from prison and information on bail applications.

A survivor who is in the criminal justice system seeking bail or wanting release from prison, or someone granted a suspended sentence or community order, may be able to get accommodation through asylum support, the MSVCC or the Prison and Probation Service Community Accommodation Service (but for a [foreign national](#) in Tier 2 of this service, they need



to not be in breach of immigration laws other than overstaying their leave to enter or remain and have the funds to pay the rent/service charge or be able to claim housing benefit) [15.26 SG].

If you are seeking bail through the criminal court, the victim must apply to the court before or at the bail hearing, to request that the MSVCC address is not read out in open court or released to the media, then provide the order confirming the address will be withheld to the TSA, before any accommodation is provided [15.30 SG].

The MSVCC can accommodate someone in the criminal justice system even when they are on an electronic tag, if the risk or needs-based assessment identifies a need for MSVCC accommodation “*primarily owing to a risk to their safety from their exploiter*” [15.27 SG].

If they need it for other reasons, and are not eligible for or cannot access other accommodation, MSVCC accommodation should be provided [15.28 SG].

If they might pose a risk to other residents or staff they will be given non shared accommodation, except if they are on an electronic tag with a GPS unit to monitor them at home, and then the prison and probation service need to find an alternative [15.29 SG].

### 3.3.11. Challenging accommodation decisions

Accommodation may be refused, for example because the survivor is considered to already be in appropriate and secure accommodation or be eligible for an alternative form of accommodation, or because the survivor’s needs are considered too complex or behaviour too challenging for a safe house. Accommodation may be unsuitable or unsafe. For any accommodation issue that the survivor is not happy with, these steps help:

- Make a note as soon you can of any conversation where accommodation was discussed and the name of the person you spoke to.
- Obtain confirmation of the decision or position on accommodation from the TSA in writing (usually in an email) even if it was initially communicated orally. Send a request to: [mstsupport@salvationarmy.org.uk](mailto:mstsupport@salvationarmy.org.uk), copied to [mst@salvationarmy.org.uk](mailto:mst@salvationarmy.org.uk) if urgent.
- When you email TSA, ask them to reconsider their position. Provide any additional supporting evidence that is relevant e.g. updated medical information, recommendations from professionals working with them, evidence they cannot be accommodated elsewhere.

- It will also be helpful to obtain a copy of any case notes, risk and needs assessments and journey plans from TSA. Email [mstsar@salvationarmy.org.uk](mailto:mstsar@salvationarmy.org.uk), attaching a consent form, and asking for expedition if the matter is urgent. In practice, obtaining copies of documents held by TSA can take time and it may be necessary to proceed without the documents but requesting them early can help you later.
- For unresolved and urgent situations a legal aid public law or housing solicitor may be able to advise on the survivor’s entitlements. Challenges made by these lawyers would be by a process called ‘judicial review’. This is usually a slow process from start to finish, so when the survivor has an urgent unmet need for support, it is often advisable for the lawyer to apply to the High Court for an emergency order requiring the Home Office to immediately provide accommodation for the duration of the court case. Doing this is called applying for ‘interim relief’.

### 3.4. Financial support

Financial subsistence can be paid to survivors from the point they receive a positive RG decision. Survivors should be asked if they want support at the point of the NRM referral.

Support can be backdated to the point of RG, if TSA has not made reasonable attempts to contact the individual to set up support [15.69 SG]. For those receiving pre-RG support, if support was requested at the point of referral, a survivor is entitled to support from that point, if they meet the qualifying test in the SG. The money is paid onto a pre-payment card provided to those supported under the MSVCC. This is separate to the ASPEN card used for asylum support.

#### 3.4.1. How much does a survivor get?

The financial support is broken into two components:

##### Essential Living Rate

To meet weekly essential living needs e.g. (food, clothing, and toiletries) [15.51-15.52 SG]. This is paid in the following amounts:

- **£49.18 per week**
- **£15.30 per week** for victims living in catered MSVCC accommodation (i.e. £49.18 minus the cash value of items such as food and drink provided in-kind through catered MSVCC accommodation).
- **Nothing** if someone is already receiving support for their living needs through asylum support, under Schedule 10 or Universal Credit, or if they have too much income to be eligible for Universal Credit.

##### Recovery Rate

To assist with their social, psychological, and physical recovery from their modern slavery experience (i.e. to assist a victim to access services that facilitate their recovery, to assist a victim in accessing health, fitness, or wellness classes, to help fund additional weekly transport and communication costs, or other recovery related costs). [15.53 SG]

This is:

- **£26.47 for everyone.**

All of these financial subsistence rates also apply for emergency pre RG support, except for the recovery rate, which applies from the date of a positive RG [15.67 SG].

### 3.4.2. Survivors in receipt of asylum support

Support rates for adult survivors in the NRM who are on asylum support (s95/s98/s4):

- For survivors in receipt of s95 and s4 support, essential living needs are met through an asylum support payment of £49.18 per week.<sup>18</sup> For people on s95, the money is loaded onto an ASPEN card which can be used to withdraw cash from a cash machine. For people on s4, the money is on an ASPEN card that cannot be used to withdraw cash, but can be used to pay for food, clothing and toiletries.
- MSVCC payment of £26.47 per week in addition to their asylum support. This is made on a separate pre payment card which is just for MSVCC financial support. [15.53/15.61 SG]

The Essential Living Rate will not be paid to potential or confirmed victims where they are already receiving support for their living needs through asylum support or support under Schedule 10 of the Immigration Act 2016. [15.52/15.60 SG]

This means when an asylum seeker is in full-board accommodation (i.e. initial accommodation) the survivor will not get the Essential Living Rate. However, due to delays in moving people on from initial accommodation, many asylum seekers remain

in initial full-board accommodation after being granted s95. At that point, they then receive £8.86 per week in cash for essential living items that are not met by the accommodation provider (e.g. clothing, non-prescription medicine, travel).

The money will be paid on an ASPEN card or in cash if the ASPEN card has not been received yet. Asylum seekers on s98 support (i.e. who are still waiting for a decision on a s95 application) do not get these payments.

Asylum seekers on any type of asylum support would receive the MSVCC top up of £26.47 for their recovery needs. [15.61 SG]

If someone is in receipt of s95, they can also apply for additional support known as 's96(2) support' on form ASF2<sup>19</sup>. If the Home Office thinks that the circumstances of a particular case are exceptional, they can provide further support to the individual and their dependents, for example, in the form of cash, 'in kind' support, or through changes to their accommodation.



Image © Claudia Janke/BFC

<sup>18</sup> [www.gov.uk/asylum-support/what-youll-get](https://www.gov.uk/asylum-support/what-youll-get) | <sup>19</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/598944/Applications-for-additional-support-v1\\_0.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/598944/Applications-for-additional-support-v1_0.pdf)

**What you will get from the MSVCC – adults**

<b>Your situation</b>	<b>Per week</b>
Safe house resident (self catered)	<b>£75.65</b>
Safe house resident (catered accommodation)	<b>£41.77</b>
Asylum seeker on asylum support or schedule 10 support	<b>£26.47</b>
Outreach support (and other accommodation)	<b>£75.65</b>
On Universal Credit or not entitled to UC as too much income	<b>£26.47</b>

It is important to note that the Recovery Rate is often stopped once a survivor receives a positive CG. This decision can be challenged through the RNA.

**3.4.3. Requesting more money**

The cost of living crisis has made meeting essential needs harder, and paying for items associated with recovery needs, for example, travel fares, phone credit or better quality food for medical needs. To address a shortfall in either living costs or payments relating to recovery needs, it is possible to help a survivor to ask for more money. To manage expectations, it is likely this will be difficult, and it is possible that some needs may be met with support 'in kind' (with items being provided to meet the need) rather than with additional cash.

Any chance of success would only come with good supporting evidence, ie medical, from a support worker or receipts for expenses they have to show their weekly budget exceeds what they are given. When a survivor has any needs assessment with TSA, their exact living situation should be recorded by the support worker, including any lack of external help to buy food and cover living costs or costs associated with their recovery needs as a survivor.

If their needs are not being met, a survivor can request additional financial support. The request can be made by the MSVCC support provider, or by someone external to the MSVCC. If a request is refused, a referral can be made to a public lawyer to consider a challenge to that decision.

**3.4.4. Additional NRM payments – children and maternity****During maternity [15.59 SG]:**

Survivors who are not on asylum support can expect to receive:

- A weekly payment of £5.25 (as a pregnant woman)
- A one-off maternity grant of £300 per expected child, for expectant mothers within 8 weeks of the expected due date or an individual who has a dependent child less than 6 weeks old when they enter NRM support. Individuals who are eligible for a maternity grant from the asylum support system, are not eligible to receive this grant in respect of the child concerned. The asylum support maternity payment for people on s4 and s95 support is £300 as well so no top up should be needed but the SG says the Home Office will top up the payment under the MSVCC if they get less than £300 from asylum support. Feedback has been given that an application must be made by the end of the year the child was born. However, that can be challengeable, for example, if the survivor was not told about making an application or helped to do it at the time.



**For asylum seekers:**

- Potential and confirmed victims who are also receiving asylum support will not receive any financial support through the MSVCC in respect of pregnancy payments, as support for dependents will be met through the asylum support system through payments, in kind-assistance, or a combination of payments and in-kind assistance. [15.62 SG]

**For survivors with child dependents [15.57 SG] the MSVCC support rates are:**

Survivors who are not on asylum support can expect to receive:

- £49.18 per week for each child dependent (adjusted to £15.30 in catered MSVCC accommodation).
- Additional weekly payments per child under a certain age:
  - £9.50 per week for a child until their first birthday.
  - £5.25 per week for a child from the day after their first birthday until their fourth birthday

**For asylum seekers:**

- Financial support rates for dependents will not be paid where the victim is receiving payments or in kind assistance for the living needs of their

dependents through asylum support. Potential and confirmed victims receiving S10 support are eligible to receive support for dependents provided any dependents needs are not met through S10 support. [15.56/15.62 SG]

*Who is a child dependent?* A child is considered a survivor's dependent if the victim has parental and financial responsibility for meeting the child's living needs. Dependent payments will cease from the day a dependent turns 18 and the dependent who has turned 18 will not receive any further financial support from the MSVCC. [15.57 SG] Payments are by child and not per parent (e.g. if the child has two parents under the MSVCC). [15.58 SG]

*Does your child live with you?* A survivor will not get the dependent payment where they are not living with the child or where the other parent is already getting help for the child e.g. via asylum support or Universal Credit. There may be a case for getting the payment if the survivor can show they need to financially support the child even if they are not living with them. [15.58 SG]

An unaccompanied child survivor of modern slavery (whether they have claimed asylum or not) is assisted by the local authority (rather than the Home Office). [9.20-21 SG].

**3.5. Material help**

Survivors can access material assistance from their MSVCC support provider like hygiene products and items for babies until they get their first subsistence payment [15.72-73 SG], three sets of clothing [15.75 SG] and bottles and equipment for bottle feeding babies [15.74 SG].

**3.6. Additional recovery costs**

Further down the line, survivors can also access direct funding for additional support related to assisting their recovery from their modern slavery experience. [15.215 SG] This could cover a range of things like travel, childcare and replacement ID costs. Private counselling can be requested when a GP or medical professional recommends it, and they are not financially benefitting, and it's not available through the NHS or cannot be accessed via the NHS in a reasonable timeframe [15.217 SG].

What is key is that the costs must help someone access a provision or service:

- *“that is related to, and will assist with, recovery from their modern slavery experience that led to their positive Reasonable or Conclusive Grounds decision but is not already met by the victim's recovery needs financial support payment.”* AND

- “is not already available to them through other support structures, including MSVCC support, or wider government support they are entitled to.” [15.126 SG]

### How can this work in practice?

When seeking private counselling for those under the MSVCC, it might be helpful to note that anecdotally ATLEU have heard that TSA may report that the Home Office ask for evidence from the GP that states:

1. The survivor has requested support via the NHS and has been placed on the waitlist (it is helpful to have a date when this happened but confirmation is acceptable for now)
2. The survivor is asking for counselling due to modern slavery related trauma. This must be confirmed in writing.

In practice, this is very difficult to obtain if the survivor is understandably not in a place where they feel ready to share this information with the GP or even with the person supporting them. How to approach this in advocacy with your request:

- Highlight the impracticability of getting detail in a medical letter before someone can access the treatment that allows them to safely disclose their trauma.

- Ask the client if they feel able to confirm (without detail) that they wish for this treatment because it is linked to their trafficking experience – then record that in the medical letter or a letter from the support worker.

### 3.7. Troubleshooting

Issues may arise with aspects of support. If problems arise:

- If an NRM support worker is in place, ask them or anyone else in their team to help take action.
- If there is no NRM support worker in place or they cannot be contacted, call TSA contact centre on 0800 808 3733. Follow up a call in writing by emailing TSA support email: [mstsupport@salvationarmy.org.uk](mailto:mstsupport@salvationarmy.org.uk). There is no separate email for escalations.<sup>20</sup> TSA has confirmed that all issues would need to be resolved by the referrals team who monitor this inbox between 8am and 12am.
- Follow up on communication if no response has been received, by phone but also in an email to confirm a phone conversation so there is a record.
- If needed, there is also an email for complaints: [MSTComplaints@salvationarmy.org.uk](mailto:MSTComplaints@salvationarmy.org.uk). Ask for it to be considered urgently.

- Request a copy of any decision, risk and needs assessment affecting the decision on support by contacting [MSTSAR@salvationarmy.org.uk](mailto:MSTSAR@salvationarmy.org.uk). Ask for this on an expedited basis if the matter is urgent. This will help inform your casework and be useful for a lawyer if one needs to be involved. They may not be provided quickly and an early request can help the case move faster if legal proceedings are necessary.

- If the survivor continues to be without a service or suitable provision, a support worker may ask any existing lawyer to raise this as a legal case or refer to a public lawyer to support the survivor to access their entitlements. They can email: [MSTClientLegal@salvationarmy.org.uk](mailto:MSTClientLegal@salvationarmy.org.uk).

Some areas of practice are not set out in the SG. There is no published timeframe for when an NRM support worker will be allocated after an initial referral, especially to begin substantive work for the individual rather than act as a ‘holding support worker’ pending someone being allocated who can begin detailed work.

TSA advise that, on entering outreach support, the survivor can expect to be contacted within 48 hours and 24 hours if an urgent need has been identified by the Referrals Officer. There is no published timeframe on how long it will take for a new MSVCC provider

<sup>20</sup> Conversation between TSA and BRC 30/11/22 and email from TSA to BRC dated 28/03/23

to contact the survivor and take over support if a survivor is moved between providers. TSA advise that if the move is from one safe house to another, the survivor will be met by the support provider unless the transfer takes place in the early hours, which should only happen in exceptional cases.

If the transfer is between outreach providers, TSA advise the survivor should be contacted by the new provider within 5 working days unless TSA have specified that contact needs to be made at an earlier date for any reason. If support is transferred to a different MSVCC provider, a new payment card will be issued. There is a two week timescale for the survivor to spend or remove funds from the existing payment card prior to this being cancelled. The provider must manually cancel the old card, it is not automatic.

On entering MSVCC support, a survivor should be provided with a move in service pack containing all the information they need about their support. This should include orientation to the accommodation, policies and procedures, house rules and appropriate signposting to the location of any local amenities.

It should also include details for their support worker, complaints processes and escalation routes in case of problems. The Move In pack is not provided in different languages however, where required, information should be conveyed to survivors in a language they understand.<sup>21</sup>

It is not clear what information survivors should receive about alternative contacts in an organisation if an allocated NRM support worker is unavailable, when this is provided, and if it is provided in writing in a language the survivor understands. There are no specific contact emails to address a problem with a payment card or to sort out missing payments or to address problems with accommodation or with other residents. For any gaps or wherever a problem arises, follow the steps above to troubleshoot.

If you have capacity for this, keep a note of any trends you notice in decision making. If you feel a response is not reasonable or is causing practical issues for you or barriers to accessing recovery, it can be helpful to have a record of how a policy is being implemented for the purpose of escalation.

### 3.8. Grants

The Salvation Army Survivors Support fund can help survivors with costs they need to rebuild their lives or live independently e.g.: to access training, education or employment; to set up home; pay rent deposits; fund groups and projects for the benefit of several people in the service. Someone in the MSVCC can apply, whether you have a positive RG or CG. A survivor can apply for up to 2 years after getting a positive CG.

The Human Trafficking Foundation operates a Trafficking Survivor Emergency Support Fund with small one-off grants when no other funding is available. They request that applications are made to the TSA fund first if someone is getting support under the NRM or has had a positive CG in the last 12 months. They would only exceptionally fund needs that can be met by TSA.

### 3.9. Backpayments

The Home Office has acknowledged that certain people have missed out on subsistence payments they were entitled to, either because they were getting alternative sources of income or because they were in initial asylum accommodation before the policy change which occurred on 28.08.20 (as detailed in the case [R\(on the application of JB\) v SSHD \[2021\] EWHC 3417 \(Admin\)](#)) and led to some survivors not receiving their full entitlements at the time.

Backpayments can be claimed [by completing a form and sending it to the Home Office](#) by post or email: [VCCbackpayments@homeoffice.gov.uk](mailto:VCCbackpayments@homeoffice.gov.uk).<sup>22</sup>

A survivor may need to request a reimbursement of support in other situations. For example, if they requested support when they entered the NRM and this was not set up until later (they may also have a claim for compensation against the Home Office and can take advice from a 'claims against public authorities' legal aid lawyer about this).

Requests can be made by a survivor themselves, with the help of a support worker, but if this is unsuccessful, a public lawyer or 'claims against public authorities' [legal aid lawyer](#) may be able to advise about the prospects of a challenge to that decision. If someone receives a backpayment of NRM support while they are in receipt of asylum

support, this should be treated as disregarded income,<sup>23</sup> as the component they receive by way of reimbursement should just relate to recovery needs rather than essential living costs.

### 3.10. Withdrawing from support

Survivors have the right to withdraw from support at any time. Withdrawing from support is not the same as withdrawing from the NRM identification process. This can be done by contacting TSA on [mstsupport@salvationarmy.org.uk](mailto:mstsupport@salvationarmy.org.uk).

If a survivor exits support voluntarily and later chooses to re-enter support before a CG decision is made, financial payments will resume from the re-entry date and not be backdated to the date they exited support. [15.70 SG]

### 3.11. Disqualifications

The government can disqualify victims from protection because they are considered to be a threat to public order or to have claimed to be a victim in 'bad faith'.<sup>24</sup> If someone is disqualified they will lose:

- Support in the NRM
- Protection from removal from the country
- The right to get a decision on leave

- The right to get a CG decision. [14.242/14.298-14.299 SG]

#### 3.11.1. Threat to public order

Disqualification from help as a survivor because you are said to be a threat to public order (sometimes called 'POD' for short) can affect different groups. The most common situation that caseworkers are likely to see is someone being considered for disqualification on the grounds of public order after getting at least a 12 month sentence or an offence not covered by the MSA defence. However, for completeness, s.63(3) of NABA<sup>25</sup> sets out when someone will be considered a threat to public order 'in particular':

- they have been convicted of a terrorist offence
- they have been convicted of any other offence listed in Schedule 4 to the MSA anywhere in the UK or of a corresponding offence anywhere in the world (i.e. any offence to which the s.45 MSA defence does not apply)<sup>26</sup>
- they are subject to a Terrorism Prevention and Investigation Measures notice
- there are reasonable grounds to suspect the person is or has been involved in terrorism-related activity
- the person is subject to a notice under Part 2 of the National Security Act 2023
- the person is subject to a temporary exclusion

<sup>22</sup> There was a [separate backpayment scheme](#) for people on asylum support who had reductions in their NRM subsistence in 2018 but the contacts are no longer operational so we recommend using the [VCCbackpayments@homeoffice.gov.uk](mailto:VCCbackpayments@homeoffice.gov.uk) for any request for financial subsistence owed to the survivor. | <sup>23</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1032155/Assessing\\_destitution.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1032155/Assessing_destitution.pdf) p14 | <sup>24</sup> S63(1) NABA | <sup>25</sup> [www.legislation.gov.uk/ukpga/2022/36/section/63](http://www.legislation.gov.uk/ukpga/2022/36/section/63) | <sup>26</sup> [www.legislation.gov.uk/ukpga/2015/30/schedule/4](http://www.legislation.gov.uk/ukpga/2015/30/schedule/4)



order imposed under s.2 of the Counter-Terrorism and Security Act 2015

- there are reasonable grounds to suspect that the person is or has been involved in foreign power threat activity
- the person is a foreign criminal within the meaning of s.32(1) of the UK Borders Act 2007, which refers to 'automatic' deportation for foreign national criminals<sup>27</sup> (ie. anyone who is not British or Irish and who is convicted in the UK of an offence and sentenced to imprisonment for at least 12 months.)
- the Secretary of State has made an order in relation to the person under s.40(2) of the British Nationality Act 1981 depriving them of citizenship
- the Refugee Convention does not apply to the person by virtue of Article 1(f) of the Convention
- the person 'otherwise' poses a risk to the national security of the UK.

The SG does not set out the process for managing disqualification requests regarding national security and states that separate guidance will be available to Home office staff dealing with disqualification requests for that group.

The Competent Authority will decide if the need for modern slavery specific support outweighs the threat to public order. [14.252 SG]

A request for someone to be disqualified can be made after an NRM referral and positive RG, but could be made after a positive CG or a grant of temporary leave too. [14.239 SG] If a survivor is told that the Competent Authority is 'minded' to disqualify them, British nationals and people not in detention have a window of 10 working days to reply with other information that might include the risk of re-trafficking they face if they lose support. [14.256 SG]

Extensions can be granted in exceptional circumstances. [14.258 SG] For people in immigration detention or prison, the 10 working days window does not apply if the Competent Authority thinks there is enough information to make a decision. [14.260 SG]

The Competent Authority will then make a decision whether someone should be disqualified, taking the starting point that they are a threat to public order if they meet the definition. They need to consider if the person's need for modern slavery specific protections outweighs the threat to public order they apparently pose. There is a high bar for the need for modern slavery protections or support to outweigh

the threat to public order, with more weight given to the public interest in disqualification [14.267 SG]

This is a difficult area and it is best that someone get legal representation to advise them as soon as possible if they are contacted about potential disqualification. We acknowledge that this will be hard in practice. Immigration lawyers could do this work under legal aid because the work they would be doing would be to help someone be able to get a conclusive grounds determination as a victim of trafficking (and with disqualification, survivors are excluded from identification too).

A 'public' lawyer cannot help respond to a 'minded' to letter from the Home Office, because of the scope of what this type of legal aid covers. They could advise on a potential challenge once a decision is made.

If a lawyer cannot be found, and there are concerns about the decision, someone supporting the survivor may wish to help them to respond to a request for information but should only do this very carefully, without going into details about their experience, keeping to what is already known and accepted by the SCA.

<sup>27</sup> [www.legislation.gov.uk/ukpga/2007/30/section/32](http://www.legislation.gov.uk/ukpga/2007/30/section/32)

**If supporting a survivor to respond, you may wish to:**

- Explain steps taken to find a lawyer and that it has not been possible to find one.
- Highlight that without legal aid, a lawyer, and help to go through all potentially relevant documents (which they might not have seen if held by the government) the survivor should not be prejudiced because they cannot comment on what is there.
- Include any information that shows why the survivor is a low risk to the public.
- Set out any support needs they have, and why these are linked to their exploitation.
- Explain any reasons why they would face a risk of re-trafficking if support is lost.
- Set out any vulnerabilities. For example, could their age or health mean they will be at risk if they are disqualified?
- Check whether they were forced to commit the offence and may need advice on a criminal appeal even if late. [Can you refer them for advice on appeal now?]

There is more information on what decision makers look at in the guidance at 14.275-14.278 SG, including assessing re-trafficking risk from 14.276.

If someone is in MSVCC accommodation and is disqualified from support, they will get up to 14 working days of move-on support from the date of receipt of the decision unless the level of public order harm *“necessitates immediate withdrawal of that support”* [14.288 SG].

There is no right of appeal or reconsideration and the way to challenge the decision is by judicial review. The survivor can contact a public lawyer for this purpose. If someone is facing termination of support, this could expedite how a challenge to the disqualification is dealt with as a judicial review.

### **3.11.2. Bad faith**

‘Bad faith’ disqualification is when someone is considered to have claimed to be a victim of modern slavery in bad faith where they, or someone acting on their behalf, have knowingly made a dishonest statement in relation to being a victim of modern slavery, so they are disqualified from support as a result [14.296 SG].

A decision can be made after a positive RG or even after a positive CG [14.302 SG].

If a survivor is told the Competent Authority is minded to disqualify on bad faith grounds, they will have the chance to give explanatory evidence [14.308 SG] within 10 working days [14.31 8 SG]. Extensions can be granted in exceptional circumstances. [14.319 SG] Decision makers will balance the case for disqualification against explanations for gaps in evidence and a ‘lack of credibility’ [14.309 SG].

See the SG at 14.310-14.216 for how evidence and explanations for gaps in evidence or a lack of credibility will be evaluated and types of evidence that may be considered as part of an assessment of whether an individual has allegedly claimed to be a victim in bad faith.

There is no right of appeal or reconsideration [14.328 SG] so the remedy for survivors who are given decisions like this will be judicial review and they can contact a public lawyer if they need legal support.

## 4 NRM support after a Conclusive Grounds decision

### 4.1. The Recovery Needs Assessment (RNA)

MSVCC support (ie: accommodation, financial, support worker and any other material or practical assistance) is not intended to be long term, with the SG stating the MSVCC “operates as a bridge, to lift adult victims out of a situation of exploitation and to set them on a pathway to rebuilding their lives”. [8.6 SG]

If a survivor receives a positive CG, the MSVCC support they are currently getting will continue for 45 calendar days from the date of a decision. [7.12 SG] This can be extended through a process called the RNA. The government has accepted that where an individual receives a positive CG, support in all its forms under the MSVCC will continue on a needs basis, and that such support cannot be limited by time alone.<sup>28</sup>

For example, if someone has a positive CG but has not been granted leave, they may still need help from a support worker and continuing financial assistance or accommodation under the MSVCC (depending on what they are getting at the time) to allow them to safely move on to the next stage, like claiming benefits or getting into work. The RNA procedure is used as a means to transition the person from MSVCC support to alternative support. The assessment and decision should be carefully

considered to ensure the survivor’s needs have been identified and can be met by alternative support.

#### 4.1.1. Making requests

Under the [RNA guidance](#), NRM support workers can request further support for survivors for up to six months at a time but requests are frequently made for shorter periods and the SCA also may reduce the time requested for support in their decision. It is in the best interests of the survivor to have the longest period of support available to them for example, if they are waiting for a decision on leave to remain and so have no permission to work or access to benefits.

Short term grants of support are stressful for survivors, with the uncertainty of not knowing how long they are guaranteed to have help from a support worker, or a place in a safe house and financial support. Anecdotal evidence from support workers operating within the MSVCC is that the first RNA is likely to be granted but subsequent ones are more difficult, and also that it is always better to ask for two months (rather than longer) then complete another RNA after that.

The request for support is prepared by the MSVCC support provider and contains within it a ‘transition plan’ for the survivor. The RNA process will look at the areas of accommodation, financial support and support worker contact to decide if any support in these areas should continue.

If someone is already in receipt of asylum support they are still eligible for support under the RNA procedure, as long as they need it to meet a recovery need. However, if the survivor is eligible for asylum support but has not yet applied this will usually be considered by the Home Office as an alternative to MSVCC support and a reason to eventually exit them from the MSVCC.

The RNA is submitted with supporting evidence (eg about the status of an immigration case or housing application) to the TSA for ‘quality control’ then passed to the SCA as decision maker (even when the IECA is the decision maker for RG and CG decisions). However, a survivor should:

- Know it is happening, be involved and have input into the process, and consent to what is put forward, in line with the principles of informed consent.
- Be asked to work with the support worker to identify their ongoing recovery needs and to develop appropriate recommendations for their transition plan to assist their recovery, taking into account the survivor’s views and preferences ‘where possible’. [p.10 RNA guidance]
- Be given a copy of the resulting decision and the form that was prepared. [p.35 RNA guidance]

Preparing RNA requests is time consuming for NRM

<sup>28</sup> After the case of *R (on the application of) NN and LP v Secretary of State for the Home Department* (CO/1039/2019, CO/1040/2019)

support workers, who must often deal with requests for additional information from the SCA. People working with the survivor external to the NRM can help the process by providing as much supporting evidence as possible about the survivor's current situation and needs. If they have capacity for this, an external support professional or lawyer can also request to sit in the RNA assessment and any discussion about support that takes place between the survivor and their MSVCC support worker, in order to offer moral support, provide relevant information, and understand what has been said, both to support the survivor and refer back to (for example, any discussion about moving into asylum support and whether survivors are aware they can explain why their needs are not met by doing this).

#### 4.1.2. Needs arising from modern slavery

Support can be terminated if the SCA determines the support requested is not required to meet ongoing recovery needs arising from modern slavery experiences. If a survivor's needs cannot be specifically linked to their recovery, their support will end. [p.7 RNA guidance] For example, it will not be enough to argue that a survivor who is eligible for asylum support accommodation requires safe house accommodation unless it can be linked to their recovery needs ie protection from risk of re-trafficking.

In practice, this means that the support (accommodation, financial support and help from a support worker) can be brought to an end very quickly after the RNA decision, so survivors should be prepared that this may happen.

#### Accommodation

The RNA guidance says that accommodation through the MSVCC is for individuals who require a “*high level of security and access to support workers*” [p.12 RNA guidance]. This creates a higher threshold compared to the initial considerations given to access MSVCC accommodation when someone first enters the NRM. The Home Office gives these examples of when accommodation may be deemed necessary for a survivor's recovery:

- an ongoing need to safeguard victims from exploitation reoccurring
- to provide a secure base from which victims can start to rebuild their lives and become more self-sufficient following exploitation
- as a stepping stone to longer term stability
- to facilitate access to other services to assist with recovery needs arising from their modern slavery experiences. [p.12 RNA guidance]

Referring to Article 12 of ECAT (see 1.4) and the breadth of needs covered there (physical,

psychological and social) can help when a support worker in or outside the NRM is writing reasons to go with the request. Looking for additional supporting evidence about what other professionals think would best serve the person's recovery needs, for example, from a GP or therapist, can also help.

The RNA guidance says accommodation will only be provided “*while arrangements are made for them to transition to other suitable accommodation where possible*”. [p.12 RNA guidance]

During the RNA process, some survivors may be told by the competent authority that they are expected to apply for asylum support. MSVCC support workers may be likely to explore this with the survivor while preparing an RNA.

A survivor may want to apply for asylum support. If they do not, any suggestion they should move should only be done with their informed consent, if they are eligible and in line with their needs.

The RNA guidance says that the RNA is meant to establish what accommodation options are ‘available and accessible’ and assessments should be made on a ‘case-by-case basis’. Asylum support accommodation ‘may be’ suitable if someone is also claiming asylum. [p12 RNA] These words can help. If someone has been told they must apply for asylum





support without having their entitlements explained or needs considered, this could be challengeable.

A survivor may not have any outstanding asylum claim or be ready to make further submissions, and/or be a person without recourse to public funds, who cannot work, so would be destitute if exited from support. If they have an undetermined application for temporary leave as a survivor of trafficking, and asylum support is not something they are eligible for and would not meet their needs, this could support them staying in MSVCC accommodation.

If in doubt on whether someone is entitled to asylum support, speak to their immigration lawyer (to understand what stage their case has reached, which is relevant to whether someone can apply for asylum support or not) and contact [ASAP's advice line](#). Someone being potentially able to apply for asylum support does not mean they actually are eligible, and it also does not mean their needs will be met by asylum support.

### Financial support

Survivors can have financial support granted to cover the Essential Living Rate and/or the Recovery Rate. The Recovery Rate is only granted if it can be shown this is for assisting the survivor to access services that “*facilitate their recovery from their modern slavery experience*”.

Specific examples of travel and communication needs and costs relating to organised health, fitness, and wellness classes beneficial for recovery are given. (p14 RNA) In practice, it is very difficult to get the Recovery Rate without evidence of actual dates of appointments and expenditure, but if the SCA is unreasonable in their assessment of the evidence, then legal advice can be sought.

Asylum support payments are meant to cover essential living needs and should not be assumed to meet the recovery element of someone's support, for example, to fund phone credit or data that is specifically for communicating with a therapist, or travel fares to counselling appointments. The [UKVI website](#) explains essential living costs provided under asylum support are for “*things you need like food, clothing and toiletries*”.<sup>29</sup>

The RNA provides that the government must ensure that survivors do not suffer a gap in the provision of support while they wait for the outcome of benefit applications [p.14 RNA guidance] so this can be relied on, even after a survivor receives a biometric residence permit and before they transition into mainstream benefits.

### ‘Engagement’

The RNA guidance says if a survivor “*is eligible for other support but is not engaging with the steps*

<sup>29</sup> See also: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1032155/Assessing\\_destitution.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1032155/Assessing_destitution.pdf) p14 example 3

*identified in their transition plan to access this other support, ongoing MSVCC support may not be agreed, even where this would result in support being fully withdrawn*". [p24 RNA guidance]

The guidance states that if a survivor "does not engage with their transition plan, assistance will not be provided indefinitely". However, the guidance reminds that some survivors need a higher level of support than others and what is reasonable to move them on depends on a victim's individual circumstances. [p24 RNA guidance]

If a survivor is told by the competent authority they are eligible for asylum support so are expected to look into applying for it, a caseworker may wish to check the following:

- Are they eligible?
- Were they given the chance to explain where their needs would be best met?
- Are they aware that applying for asylum support involves their informed consent? The RNA guidance itself says that the RNA is a 'consent-based' process. [p24 RNA guidance]

The RNA guidance also says a reason for exit may be if there are "no good reasons that prevent the victim taking the necessary steps to pursue the exit pathway". [p25 RNA guidance] Circumstances

deemed not to be good reasons include personal preferences for MSVCC "over other suitable alternatives, for example a preference for remaining in MSVCC accommodation leading to the victim refusing to sign paperwork to apply for alternative accommodation or rejecting suitable alternative accommodation". [p25 RNA guidance]

A key word here is 'suitable'. What meets the survivors' needs and is suitable for them? Have they been advised they can gather evidence to explain those needs, and is the support worker helping them do that?

Since this section about engagement has been introduced in the guidance, ATLEU has seen anecdotal evidence that the SCA can recommend in an RNA decision that the support worker enables the survivor to make an application for schedule 10 support during the next period of support under the MSVCC, and support workers can feel there is a risk that if this (or any other asylum support application recommended by the SCA) is not done, then the survivor could be considered to be not engaging with the service and exited on this basis.

Anecdotal evidence is that these recommendations can be made for people who are not clearly eligible for that form of asylum support without explanation of the basis of the recommendation. A survivor could

be supported to put clarifying questions about such a recommendation to the SCA themselves and, if they wish, to access legal advice about options to challenge a recommendation if they have concerns.

In addition, support workers should be alive to the potential for crossing over into giving immigration advice and making representations that relate to someone's status when helping them apply for schedule 10 support.

An [interim factsheet](#) by ASAP and Refugee Action notes that the OISC has not yet come to a formal conclusion about whether assisting someone to apply for schedule 10 support requires regulation. However, the factsheet notes that there are questions on immigration bail on the application form and how a request to vary bail conditions would appear to require regulation, and suggests workarounds when completing the form.

It is also relevant that the application form for schedule 10 support involves questions that relate to whether someone is able to return to their country of origin, as part of whether they are entitled to the support.

Establishing that is regulated work a survivor does not understand what they should do or how to complete the form, they should be assisted to obtain immigration advice.

Being compelled to submit the form without advice is not a lack of engagement with a process, and it is valid to explain this to the SCA with reference to the RNA guidance on eligibility for other support and good reasons that prevent someone taking other steps. These good reasons could include that those supporting the survivor are not regulated to provide immigration advice or services.

If survivors are not able to access immigration advice on a recommendation to apply for schedule 10, this point can be made to the SCA with evidence of attempts to find immigration lawyers, and perhaps with a request made for the SCA to fund the advice as an additional recovery cost, to obtain a service that relates to assisting with their recovery [15.215 SG].

### Exit date

Regardless of the exit date on the RNA decision, if the support worker has submitted a further RNA, before the exit date, the support provided should continue until the SCA issues its new decision and it is communicated to the survivor. [p.32 RNA guidance].

### 4.1.3. Challenging an RNA decision

The SCA can find any of the following after consideration of the RNA submission:

- Recommendation fully agreed
- Recommendation not agreed
- Recommendation partially agreed
- Return a decision which differs from the recommendation provided – for example, a decision maker may agree to the type of support recommended but disagree with the duration recommended.

The survivor should be given a copy of the decision and form prepared. [p.26 RNA guidance] If this has not happened, remind the MSVCC provider of the guidance and ask for a copy as soon as possible.

If an RNA is negative in any part (accommodation/ financial subsistence or support worker involvement), a reconsideration request can be submitted within 28 calendar days of the decision notification.

It should be noted that although a support worker or survivor can request reconsideration, it must be channelled through TSA. [p.35 RNA guidance] TSA will ensure as part of their quality control function that the reconsideration request contains new evidence/information for the SCA to make a

decision on. If TSA is satisfied, it will submit the request for reconsideration on behalf of the support worker or survivor. Only TSA can submit the request to the SCA.

The SCA will then consider whether new information has been presented to trigger a reconsideration of the original decision and particularly if the information provided is:

- new (not existing at the time of the original decision)
- specifically relating to the individual's recovery needs arising from their modern slavery experiences.

The SCA is the final decision maker. If it decides that material new information has been presented by TSA it will follow the standard decision making process and issue a new decision.

Where the SCA has accepted and is considering the reconsideration request, the victim will remain in support until the reconsideration decision is issued.

A public lawyer can help a survivor to challenge a decision to terminate any aspect of the survivor's support if the survivor will have an unmet recovery need and be destitute, referring to [ECAT and their rights under ECHR](#). A survivor can be referred to a public lawyer for support to challenge the RNA as soon as possible, even if the survivor does not have

a copy of the reasons for the decision. The lawyer may be able to assist with a challenge where:

- 28 days have passed.
- TSA will not request reconsideration or the SCA will not carry it out.
- There is no new information but the decision is flawed, for example, it does not take relevant material into account or was not rational.

If the decision is not challenged, or reconsideration is not accepted or is unsuccessful, the survivor must exit the service no later than 9 working days after receipt of the RNA decision or at the end of their minimum post-CG 45 calendar day move-on period, whichever is later [p.9/36 RNA guidance].

## 4.2. 'Reach in'

After the survivor leaves mainstream MSVCC support, if they have a positive CG they can access a different service that has been called 'reach-in support'. The main example of this support provided by the government is the provision of information and signposting about other services [8.32 SG]. The service was conceived of as '[light touch](#)' with a phone number that survivors could call for help.

The service is delivered by [different organisations](#) who work under a Home Office contract. A survivor

can self-present to access this service or be referred by any professional by contacting TSA on 0800 808 3733 or [emailing them a referral form](#) [8.33 SG].

## 4.3. Reinstatement and extensions of support

### 4.3.1. Reinstatement of support for survivors with a positive CG ('re-entry')

It is possible to request re-entry into the main MSVCC support service for a survivor with a positive CG only, after NRM support has been terminated. However, they will need to demonstrate why they need it and a connection to their modern slavery experience. Survivors can self-refer to the SCA by emailing: [nrm@modernslavery.gov.uk](mailto:nrm@modernslavery.gov.uk) or calling the NRM Duty Line: **0300 0724 345** [8.34 SG].

The process can be complicated to navigate in practice and has a number of steps [8.34-8.36 SG].

- The survivor contacts the SCA to self-refer. (Or a lawyer or support professional can help them do this)
- If the person is considered "*eligible to be considered for re-entry*", the SCA will send a Support Referral to TSA.
- TSA then contacts the survivor to complete a re-entry request form.

- The SCA then assesses the information provided on the re-entry request form "*as to whether the need for support outlined should be met by the MSVCC*". If the SCA determines that the MSVCC should provide the support requested AND the support need is linked to their modern slavery experience, the SCA will approve the victim to be re-entered into support. (If they think it does not need to be met by the MSVCC or cannot be then the survivor will not re-enter).
- After the person is approved for re-entry, but before actually entering support, risk and initial needs assessments will be conducted by TSA.

The process can be time consuming and a survivor may need professional involvement to ensure that their request is processed.

A survivor can get advice from a public lawyer if they are refused re-entry into main MSVCC support or experience difficulty getting support quickly.

### 4.3.2. Extensions of support

If a survivor receives a negative RG, negative CG, disqualification on grounds of public order or bad faith, their support will continue for 14 working days [8.38 SG]. Support can generally be extended after negative decisions on a case by case basis on the request of a support provider. The guidance says



this cannot be done by a lawyer [15.174 SG].

If a support worker refuses to make the request the survivor can complain by informing the support worker that they want to do this [15.176 SG]. The Home Office says support workers must explore all options to transition to alternative support before extending, and take into account Home Office guidance on assessing destitution. They also say it may be appropriate to signpost to voluntary returns to discuss this option [15.177 SG].

Remember that the Home Office should not limit itself to particular reasons when extending support. The guidance states *“The SCA considers extension requests on a case-by-case basis”* [15.175 SG].

Use the guidance and remind the Home Office of its discretion, and how it should not be artificially limited. The guidance says an extension may be ‘generally’ agreed (ie not exclusively) if an individual is taking steps to move on from MSVCC support such as applying for other support they are entitled to, or if they do not have any other support options.

**The guidance says reasons for a grant would include ‘but are not limited to’ these situations:**

- Would be destitute without support at the end of the move-on period because they are not eligible for and would not have the means to access

alternative adequate accommodation and/or financial support to meet their essential living needs (refer to the [‘Assessing Destitution Guidance’](#)).

- Has applied for asylum support, state benefits, or other support they can apply for and has provided evidence that their application has been delayed through no fault of their own and they cannot access other interim support such as a Universal Credit advance payment.
- Has leave/right to remain in the UK and has applied for and is awaiting key documentation to enable them to access services necessary for transitioning to alternative support services (such as ID documentation or a biometrics card).
- Has leave/right to remain in the UK and is waiting for confirmation of state support.
- Is returning to their country of origin but is awaiting key documents or appropriate travel arrangements to enable this.
- Has exceptional physical or mental health needs that mean they are delayed in being able to apply for alternative support options and require temporary ongoing support beyond the end of the move-on period whilst they access other support.
- Is waiting for a Competent Authority to determine if it will reconsider a decision [15.184 SG].



### The Home Office is unlikely to grant if:

- The requested support is provided to assist an individual's recovery from modern slavery, or where what is requested could be provided through another service, or where the individual is not engaging with the move-on process but has alternative support options.
- The individual chooses to delay or not apply for support they can apply for (for example asylum support or Universal Credit and benefits).
- The individual is refused another form of support due to noncompliance with the terms on which that support is provided and they could access this support by complying with its terms to avoid destitution [15.186 SG].

Someone can be exited before the extension date if they are already able to transition to alternative support [15.185 SG]. Also, beware that the guidance says a survivor will still need to exit support even if a reconsideration request is pending unless the extension request is made 'and approved' [15.187 SG]. It is only if the competent authority agrees to reconsider and the person is 'still in' support, that they are not expected to exit [15.188 SG]. This part of the guidance seems to be limiting the Home Office's own discretion, which is seen as quite broad at 15.184, and if someone is

about to be exited into destitution, and may face risk of exploitation, refer them immediately to a public lawyer if you are concerned that the competent authority may not make decisions promptly.

Given the short time period before eviction, this remedy of an extension and waiting for a decision will often not meet the survivor's needs. When supporting a survivor faced with a support worker maintaining a refusal, we recommend making a direct request for an extension to the MSVCC support provider and TSA as soon as the need becomes known, with reference to any alternative options (or lack of them), the destitution guidance, the requirements for the extension request at 15.184 SG.

If a survivor is facing imminent eviction, request support from the MSVCC support provider/TSA to continue pending processing of the extension request, particularly if the survivor has not been able to access necessary support in the 14 working day period, or was not served with all their decision documentation before the 14 working days began.

A complaint can be made simultaneously if the survivor wishes to do this. If a prompt reply is not received to requests made, it is appropriate to refer to a public lawyer for legal advice. If a lawyer considers there is merit to proceed with a judicial review, requesting a court order to direct that support

continues (known as interim relief) may be necessary.

If someone has been disqualified from the NRM on the grounds of public order or bad faith, they cannot get support. Support can only be extended in this situation if the person would be:

- destitute and unable to meet their essential living needs at the end of the move-on period (14 working days from receipt of a decision unless public order reasons require immediate withdrawal [14.288]).
- Have applied for asylum support, state benefits, or other support they can apply for and have provided evidence that their application has been delayed through no fault of their own and they cannot access other interim support such as a Universal Credit advance payment. They will not generally be considered destitute if they have the means to access adequate accommodation or financial support eg by applying for asylum support [15.190 SG].
- have exceptional physical or mental health needs that mean they are delayed in being able to apply for alternative support options and require temporary ongoing support beyond the end of the move-on period whilst they access other support [15.189].

### 4.3.3. Reconsiderations

If someone gets a negative CG they will stop getting the Recovery Rate of MSVCC support even if their Essential Living Rate is extended [15.55 SG].

If the competent authority agrees to reconsider a negative CG the survivor should go back into NRM support. [14.225 SG] The potential victim will be paid the Recovery Rate again, backdated to the date the Recovery Rate payment ceased, provided an extension request had been submitted and approved and they did not exit support. [15.55 SG] The Home Office says where the potential victim has already left support, their support needs may need to be assessed before re-entering support [14.225 SG].

Actioning a return to support may require proactively connecting the Competent Authority and TSA, for example, by copying both parties into the same email to ask the Competent Authority to confirm to TSA that reconsideration has been accepted. TSA can be contacted to reinstate support after a request for a reconsideration is accepted on [mstsupport@salvationarmy.org.uk](mailto:mstsupport@salvationarmy.org.uk).

If the survivor needs support pending a decision on whether to reconsider or pending a new RG decision, ask for an extension of MSVCC support if they are still within it via the MSVCC support provider, or with the reconsideration request. If

they are not in MSVCC support, ask for emergency support to be put in place on the same basis as pre-RG support (because there is a risk of destitution).

If the reconsideration request is refused or another negative decision is made, it is possible to request support pending the outcome of a challenge by way of judicial review. A lawyer can request a direction that support be provided as part of a judicial review if a challenge to the negative decision is taken forward.

### 4.4. Additional recovery periods

There is no automatic entitlement to an additional recovery period when a second RG decision is made.

This situation may not come up for a lot of people but it was introduced fairly recently by the last government so is something to be aware of.<sup>30</sup>

#### Who does it affect?

It will impact those who are deemed to have raised new incidents of exploitation after they have gone through the NRM before.

There is a presumption against an extra period of recovery and support via the MSVCC when:

- The person has a previous positive RG and CG; and
- A further positive RG is made based on an

incident that wholly predates the previous RG [14.83 SG].

It should not affect those requesting reconsiderations of negative RG decisions as this is not a 'further' decision, but the reopening of an old decision.

#### What is the impact?

If the competent authority decides not to grant another recovery period, the person will:

- Will not have the right to assistance and support under the MSVCC.
- Not be protected from removal.
- Cannot be considered for temporary leave.
- Will not get a CG decision [14.84 SG].

The guidance goes further than the statute and if someone gets an additional recovery period decision like this, they should immediately take legal advice on their entitlements from a public lawyer.

#### What is the process?

A decision should be made as close as possible to the further RG. [14.85] The Competent Authorities will issue a notification letter that says why someone might not get another recovery period. The survivor has 10 working days to provide evidence if they think they should get this period [14.87].

During the 10 working days, the survivor will not get any support unless they are already in emergency accommodation [14.88] or in the RNA process following a CG decision [14.89].

It is assumed that the survivor's recovery needs about all past periods of exploitation have been assisted already in the recovery period they have had before, unless it can be shown otherwise [14.92].

As a minimum, the survivor needs to provide written testimony supported by corroborating evidence, where reasonably possible. E.g. evidence from a medical professional or evidence of threats of re-exploitation.

This will obviously not be possible for most people but the guidance does say that what they can be expected to produce should be viewed proportionate to the time they are given to get it [14.93].

The Competent Authorities will be looking at whether the survivor has recovery needs arising from physical, psychological and/or social harm that relate directly to the specific period of exploitation that resulted in the further RG [14.108 SG].

A survivor and people that are supporting with should seek help from a lawyer if they have one, but try to provide as much detail as they can about the

recovery needs they still have and say why that is, even in a letter from a support professional writing down what they want to say on the form they will be provided with. For example:

- Why was the last recovery period not enough to help them with the period of exploitation they have been referred into the NRM for now?
- Was the support they received in the past effective?
- What has happened since they were in the NRM before that led to this new disclosure coming up about other past exploitation and how has it affected them?
- What are their support needs in terms of accommodation, finance and access to other services?
- Do they need to access legal advice?
- Are they helping with an investigation or prosecution?
- Have they found this limited window to fill in the form and get other evidence difficult and why?
- Do they have any vulnerabilities that make it harder for them to reply in any detail?
- Why would 'reach-in' support not be enough to help them now?

- Could they access the help they need in another country (if they are in fear of return there, that will not be enough, but do they have an asylum case ongoing, do you know anything about the country's support provision that can be referred to)?

### How to challenge

There is no right of appeal or reconsideration and the decision can only be challenged through judicial review so the person will need a referral to a public lawyer [14.118-14.119].

### What next?

If the Competent Authority decides in their favour, support will start. [14.115 SG] If the decision goes against them, they can still access 'reach-in' support. If they are in emergency accommodation they will be exited after 14 working days of move on support [14.117, 14.120 SG].

## 5 Crossover with asylum support

### 5.1. The asylum support process

Asylum support is Home Office accommodation and financial support provided to asylum seekers and some refused asylum seekers. [The Asylum Support Appeals Project](#) has factsheets explaining different types of asylum support and the Home Office gives an overview on their website. If destitute, asylum seekers receive a form of support called s95 and refused asylum seekers receive s4, if they are eligible.

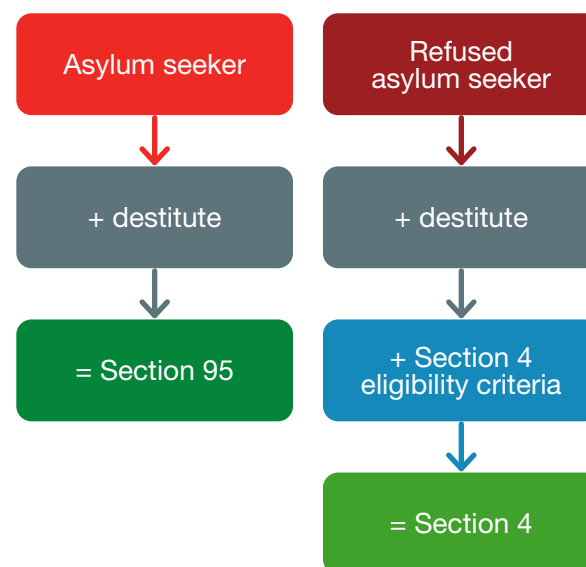
S95 support can take the form of subsistence only (i.e. cash only support), or if the asylum seeker needs somewhere to live during their asylum claim, accommodation and subsistence support. Financial support under s95 is loaded onto a debit card called the ASPEN card each week, which can be used to get cash from a cash machine.

S4 is not available as 'subsistence only' support, so financial support is only provided if accommodation is accepted too. S4 financial support is not provided in cash, so money cannot be withdrawn from a cash machine. The funds are still accessed on the ASPEN payment card but only when using this to buy things at retail outlets which accept visa payments.

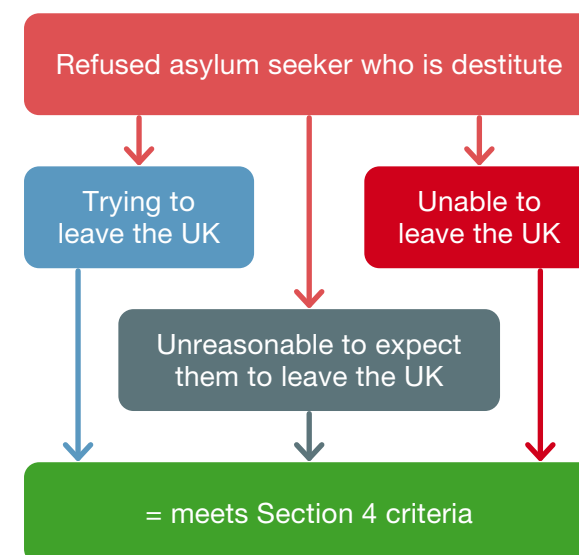
Applications are made to the Home Office. The Asylum Support Tribunal hears appeals against S95 and S4 refusals and discontinuations of support.

ASAP has a helpful outline of the difference between s95 and s4 support:

Asylum support overview



Section 4 – does your client meet S4 eligibility criteria?





## Eligibility for Section 4 support

*Reg 3 (2) The Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005*

- a. Taking all reasonable steps to leave the UK
- b. Unable to leave the UK by reason of a physical impediment to travel or for some other medical reason
- c. Unable to leave the UK because in the opinion of the Secretary of State there is currently no viable route of return available
- d. Has made an application for Judicial Review which has been granted permission to proceed
- e. The provision of accommodation is necessary for the purpose of avoiding a breach of a person's Convention rights.

## 5.2. The difference between MSVCC and asylum support

The aims and objectives of asylum support are different to the support for those who are survivors of modern slavery.

Asylum support alleviates the effects of destitution and engages with Article 3 of the ECHR, which is a human rights provision that says no one should face torture, or inhuman or degrading treatment or punishment. The courts have found that denying support to destitute asylum seekers whose claims are outstanding, constitutes 'inhuman and degrading treatment', in breach of Article 3, as they are not allowed to work and would otherwise be faced with street homelessness.

Support while someone is in the NRM, provided under the MSVCC, is about ensuring someone's subsistence but is also about helping survivors in their recovery and to take control of their lives again. It engages duties under Article 4 ECHR, to protect survivors of modern slavery. The standards of living should also look at what is 'appropriate and secure' accommodation and psychological and material assistance.

When deciding on appropriate support for survivors, the starting point should be their needs rather than their immigration status. Although survivors will need their essential living needs met, like everyone else, the support and accommodation they receive should also serve their recovery needs.

For some people, asylum support may be safe and appropriate, but for others it is not. What is important are the facts of each individual survivor's case, and how their needs can be met. These facts are drawn out by talking to the individual, understanding their history and push factors into exploitation, and being alive to the potential for re-exploitation if they are not supported adequately, then documenting that in letters of support, and potentially backing it up with evidence from medical professionals if there are physical or mental health needs that are unfulfilled.

Each survivor needs a proper needs assessment, that involves the survivor and allows them to feed in information from different sources in support.

### 5.3. When a survivor is already in asylum support

#### 5.3.1. Accommodation

If a survivor is already in asylum support accommodation when they enter the NRM, government policy says they will usually remain there. The Home Office guidance says: *“If the victim is already in asylum support, they will continue to remain in asylum accommodation and receive the support provided to asylum seekers until a decision is made on their asylum case”* [15.195 SG]. However, this would be unless a needs-based assessment reveals a need to move into MSVCC accommodation [15.15 / 15.32 SG].

A survivor's views and needs should also be taken into account when the Home Office decides whether to place them in MSVCC accommodation [15.19 SG].

Someone may have needs that cannot be met in asylum accommodation, that require them to be accommodated through the MSVCC. For example, they may need single sex accommodation with better security and access to staff than provided in asylum support accommodation. Supporting evidence to show this, like a GP letter, medico legal report, or even the opinion of an experienced professional in a letter or email, is important.

#### When advocating for a survivor:

Check if needs assessments have been done, how they were done (ask the survivor if they were involved and if they felt their wishes were taken into account), and what needs have been documented.

If you are not sure, ask for copies from the TSA/NRM support worker or by asking for an expedited subject access request for these specific documents (email: [mtsar@salvationarmy.org.uk](mailto:mtsar@salvationarmy.org.uk)).

Ask Migrant Help if they will move the individual to meet their needs. If they refuse, pursue safe house accommodation arguing the survivor's needs cannot be met in asylum support. (email: [CoC@migranthelpuk.org](mailto:CoC@migranthelpuk.org)).

Ask TSA (or go via the NRM support worker if one is in place) to reconsider, setting out what has happened, the wishes and needs of the survivor and your recommendation for what is best for the survivor's recovery with reference to your own experience working with this client and the client group. Email TSA directly: [mstsupport@salvationarmy.org.uk](mailto:mstsupport@salvationarmy.org.uk).

#### 5.3.2. Outreach support

A survivor may be in s98 asylum support accommodation<sup>31</sup> (which is the initial accommodation someone receives while an application for s95 support is being fully assessed, and before long term accommodation can be arranged). While in initial asylum support accommodation a survivor can access financial support under the MSVCC for their recovery needs, and an NRM support worker on an outreach basis.

When the survivor moves, TSA will be responsible for ensuring a transition to a new NRM support provider who can provide them with outreach support. The payments under the MSVCC should also continue as normal. In practice, people working with survivors outside the MSVCC have reported problems experienced by survivors when moving between support providers within the NRM (for example, delays with the allocation of a new support worker, not knowing who to contact about problems such as payment cards not working). See the 'Troubleshooting' section.

<sup>31</sup> [www.asaproject.org/resources/library/factsheets](http://www.asaproject.org/resources/library/factsheets)

## 5.4. When a survivor is not yet in asylum support

### 5.4.1. The decision to apply

Survivors who are entitled to claim asylum support can do this while they are in the NRM. It is vital to understand what someone wants, what they need and if they consent to a change in support.

The guidance says that a survivor ‘will’ transition into asylum accommodation if they have an active asylum claim and would otherwise be destitute and their needs can be met in asylum accommodation [15.193 SG]. The guidance says: *“If a victim claims asylum and applies for asylum support after having entered MSVCC accommodation, they may move into asylum accommodation if appropriate, as determined through the Needs-Based assessment”* [15.33 SG].

Article 12 ECAT requires that the state provide appropriate and secure accommodation to victims, but it does not specify that such accommodation must be in a safe house. What is appropriate and safe will depend on the needs of the individual. In some cases, an individual’s needs may be such that only safe house accommodation will be appropriate and safe/secure.

If someone decides to apply, asylum support is on a no choice basis, including location. Specific needs should be set out in the asylum support application form (the ASF1), and there is a duty on the Home Office to provide adequate accommodation, appropriate for the individual.<sup>32</sup> Therefore, for example, families and some single asylum support recipients are housed on their own, but the overwhelming majority are in shared houses. This is known as ‘dispersal accommodation’. And, currently, many are remaining for long periods in hotels, due to a shortage of dispersal accommodation. Asylum support might be right for some survivors, but not necessarily for all.

### 5.4.2. Informed consent

A survivor must give informed consent to an application for asylum support. No decision to apply for asylum support should be made on a survivor’s behalf.

The Slavery and Trafficking Survivor Care Standards 2018 form a basis for the Care Quality Commission’s inspection framework for safe house provision and outreach support, and an appropriate pathway for provision that is victim-centred, tailored to someone’s specific individual risks and needs and provided in collaboration with the individual. Considering all aspects of their wellbeing [1.1.3] is a core principle of the standards.

They make clear that it is not empowering to push survivors to take decisions without advice and support, and understanding their rights and entitlements [1.1.4].

Services must strive to do no further harm to survivors and ensure all support is provided in a way that is respectful of survivor’s needs for safety, respect, acceptance and complies with the Trauma-Informed Code of Conduct, [1.1.9] which makes clear that all services should be supplied with informed consent [e.g. 15.1].

<sup>32</sup> [www.gov.uk/government/publications/asylum-accommodation-requests-policy](https://www.gov.uk/government/publications/asylum-accommodation-requests-policy)

### 5.4.3. Asylum support vs NRM accommodation

The primary benefit of asylum support accommodation is that it can offer a greater level of independence and a different mix of residents. The survivor will not be subject to the same rules that can apply in a safe house environment, and a more regular presence of staff to monitor compliance and behaviour. If the survivor does not get on well with staff in the safe house, being in that space may be difficult for them.

Survivors in a safe house may have experienced considerable trauma and be waiting for therapy or not yet feel able to engage with it if immigration status is insecure, meaning a greater potential for strain on personal relationships if mental health conditions are triggered.

Disadvantages of asylum support accommodation include: some accommodation has quality issues,<sup>33</sup> or initial asylum accommodation can be mixed sex, and this may be inappropriate for a survivor. As mentioned above, thousands of people are currently accommodated in hotels for lengthy periods of time.

Asylum accommodation might also mean a move away from social connections and services that the survivor has begun to access which help

with their recovery and wellbeing as it is offered on a no choice basis. If a survivor is in London and the South East, it is more likely that there will be fewer local options for local asylum support accommodation.

Most asylum support accommodation will not have on-site staff, but if the survivor has an NRM support worker they may be able to access the provider's out of hours contact or the potential to access emergency support from staff.

### 5.4.4. Remaining in a safe house if you have an asylum claim

If a survivor has an active asylum claim, the SG says they 'will' transition into asylum accommodation if they would otherwise be destitute and their needs can be met in asylum accommodation [15.193 SG].

The key words here are those about whether needs can be met. In practice, this means that survivors may be told they should make asylum support applications while they are in safe house accommodation.

In ATLEU's experience this could happen as soon as they have made an asylum claim, and sometimes much later, after they have been in safe house accommodation for some time while an asylum claim has been pending. If there is any suggestion made that a survivor 'has' to move to asylum

support simply because they have made an asylum claim, this is not correct.

The NRM support worker should be carrying out an individualised needs assessment with a survivor and discussing a change of support with them before an application is made. An NRM support worker or anyone assisting the survivor outside the MSVCC process can push back against a direction that asylum support must be applied for by ensuring the survivor's needs are assessed first.

Needs can always be re-assessed and a request made to return to safe house accommodation if someone is moved to asylum support accommodation, but in practice, this can be difficult after the move happens. Survivors and people working with them should be alive to this so survivors are prepared to access help if an application for asylum support is suggested and they do not want this or think it meets their needs.

If applying for asylum support is suggested to a survivor, they should be supported to know the importance of having their needs assessed before a decision is made, to be aware of the tests for both MSVCC and asylum support, to know the importance of their own consent, and their ability to have any external support present in any meeting about moving to asylum support that they would like.

<sup>33</sup> See, for example: [www.ucl.ac.uk/oe/news/2022/jun/poor-housing-conditions-contributes-asylum-seekers-marginalisation-uk](http://www.ucl.ac.uk/oe/news/2022/jun/poor-housing-conditions-contributes-asylum-seekers-marginalisation-uk), <https://researchbriefings.files.parliament.uk/documents/SN01909/SN01909.pdf>



Survivors may need help to obtain supporting evidence from people working with them, including their GP or counsellor, to show their needs and any impact of a move into asylum support accommodation on them. This just does not just mean obtaining evidence to show why a move of location would affect them but the impact of a change to their living environment and the support they obtain within a safe house setting.

In ATLEU's experience it is a good idea to request copies of notes of conversations or assessments and relevant correspondence or applications quickly if a move is suggested. This could help to make sure that clarifications can be made to the record of a discussion if needed, and understand what has happened.

Survivors can seek legal advice about a decision for them to move to asylum support accommodation from a public law solicitor if they would like this.





#### 5.4.5. Changes to an initial needs assessment

A survivor has an initial assessment which should identify their need for safe house accommodation and needs should be kept under review [8.7 SG/15.21 SG], which can work in their favour.

Has anything changed since the previous assessments that their needs were met by being in the safe house? If their needs have been met by a safe house while they have had an asylum claim outstanding, what has changed to now prompt any suggestion that they should be moved?

The Asylum Support Tribunal hears appeals against Home Office decisions to discontinue or refuse Section 4 or Section 95 asylum support. Tribunal decisions are not binding, and each case is considered individually on its facts. However, arguments made by the Home Office in these cases and the reasoning of judges are instructive. Survivors should not be made to feel they must leave MSVCC accommodation if asylum support accommodation would not meet their needs.

#### Case study

A survivor appealed against the refusal of s4 asylum support in 2017 after the Home Office found the survivor was not destitute. The Appellant was in safe house accommodation and receiving financial support under the NRM as someone with a positive RG decision. The survivor had no timeframe for when he would be required to leave his safe house accommodation or stop receiving his weekly financial allowance, so the Home Office did not accept he was destitute for the purposes of asylum support (as he would not be homeless within 14 days).

In that case, an NRM support provider gave evidence that they were under “*considerable pressure to move recipients of NRM accommodation onward*” and it was ‘usual practice’ to apply for asylum support where applicable. However, they agreed that the survivor would be allowed to remain in the MSVCC accommodation until a decision was made on a CG. The Judge found that the survivor was not destitute as it was unlikely the survivor’s application to be recognised as a victim of trafficking would be concluded for approximately eight weeks and it was unlikely the support provider would require the survivor to leave before that decision was made.<sup>35</sup> Therefore the appeal was dismissed.

<sup>35</sup> AS/17/11/37550. 14.12.17 A similar finding was made in a s.4 appeal when someone was accommodated within an NRM safe house in AS/18/02/37800. Statements of Reasons are available on request from the Asylum Support Tribunal: [asylumsupporttribunals@justice.gov.uk](mailto:asylumsupporttribunals@justice.gov.uk)

#### 5.4.6. NRM delays

There can be long delays in the NRM decision making process<sup>36</sup> and this may affect how someone makes decisions about transitioning to asylum support. Historically, it has been the experience of the anti-trafficking sector that if someone is in the NRM and has an outstanding asylum claim, they will experience additional delay on their trafficking decision. The Home Office's Modern Slavery Unit<sup>37</sup> confirmed a change to the SG which would address this.

The SG now has 'prioritisation criteria' to make faster decisions on some cases. Recent anecdotal evidence from ATLEU suggests that some cases receive a decision faster than others but it is not clear if this is due to the application of the prioritisation criteria in the SG. (On 8 October 2024, the Home Office also updated the SG to include this line: *"Where there are Home Office operational priorities relating to a cohort of cases, consideration will be given to operational handling being specific to (the) one competent authority those cases pertain to."* [4.15 SG])

The meaning of 'operational priorities' is not clear. Anecdotal experience is that cases originally allocated to the SCA are now being moved to the IECA, even when the case does not fall within IECA cohort criteria at 4.14 SG.

Survivors could request clarification in writing of why their case is being moved. It is worth being clear why a particular case is being moved, particularly in line with NRM statistics on poorer outcomes from the IECA overall.<sup>38</sup>)

#### 5.4.7. Proving destitution<sup>39</sup>

When assessing destitution, the Home Office and Asylum Support Tribunal should be applying the statutory destitution test.<sup>40</sup> There is not a special destitution test when applying for asylum support for survivors. The statutory test is that the person does not have access to 'adequate accommodation' or cannot meet their 'essential living needs' now or within the next 14 days.

For the purpose of asylum support, NRM subsistence payments must be treated as disregarded income. If someone transitions into receiving asylum support payments, their essential living needs will be met by asylum support, and they will then get a top up with an NRM subsistence payment. Home Office policy gives examples of income which may be disregarded, when assessing if a person is destitute (and therefore qualifies for asylum support)<sup>41</sup>:

*"Where the person is receiving separate support from the Salvation Army or its subcontractors on behalf of the Home Office because they are a potential or confirmed victim of modern slavery. The weekly cash allowance provided to victims takes into account, where appropriate, that the person's essential living needs are being met under sections 95, 98 or 4 of the 1999 Act and is provided for other purposes."*

<sup>36</sup> In Q3 of 2024, the SCA took an average of 817 days to make a CG decision, IECA took 1455 Tables 40 and 41 available at [national-referral-mechanism-statistics-uk-quarter-3-2024-jul-to-sep-tables.ods](https://national-referral-mechanism-statistics-uk-quarter-3-2024-jul-to-sep-tables.ods) (accessed on 16/11/24) | <sup>37</sup> Email 09.03.22: "On 1 February we published an update to the Modern Slavery Statutory Guidance (version 2.6) to reflect the changes to the Modern Slavery Victim Care Contract (see above) and to provide clarity for decision making by asylum case workers by deleting paragraph 14.208. The deleted paragraph could have been misinterpreted to imply that asylum decision making could not progress until a Conclusive Grounds decision had been made in the NRM. No such barrier was intended in policy and it has been removed accordingly." | <sup>38</sup> NRM statistics 2023: "Of the 9,825 decisions issued this year, 7,745 were issued by the SCA and 2,080 by the IECA (data tables 29 and 30); 76% (5,911) of decisions issued by the SCA were positive and 30% (617) of conclusive grounds decisions issued by the IECA were positive." NRM statistics July-September 2024: "Of the 5,188 decisions issued this quarter, 3,531 were issued by the SCA and 1,657 by the IECA (data tables 36 and 37); 72% (2,526) of conclusive grounds decisions issued by the SCA were positive and 11% (179) of conclusive grounds decisions issued by the IECA were positive." | <sup>39</sup> [www.asaproject.org/resources/library/factsheets](https://www.asaproject.org/resources/library/factsheets) | <sup>40</sup> [www.asaproject.org/resources/library/factsheets](https://www.asaproject.org/resources/library/factsheets) | <sup>41</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1181067/Assessing\\_destitution.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1181067/Assessing_destitution.pdf) p.14

## Case studies about the destitution test in practice

### Case study: need to access NRM accommodation if it is on offer

In an appeal against a refusal of s4 asylum support, the Home Office argued that the outreach payment the Appellant received (then only £35/week) was sufficient (ie for her essential living needs) and she was not homeless because she was living with a friend.

In this case, accommodation came under the spotlight, as the survivor wished to remain in a particular city and the NRM support provider did not have space in their safe house in that location. The Judge accepted the survivor's current accommodation was inadequate but remitted the appeal back to the Home Office to confirm if the Appellant was eligible to apply for MSVCC accommodation (which she would have been as someone who had a positive RG and was waiting for a CG).

If the survivor was then informed she was eligible the survivor would need to explain why she was not doing this or accepting accommodation from it via the NRM. The Judge emphasised that s4 accommodation is on a 'no choice' basis.<sup>43</sup> If the Appellant could not show the NRM accommodation was unsuitable and she was entitled to move to another safe house, she would not have had a strong argument to say she was destitute for the purposes of s4 support.

### Case study: post CG support come to an end and no other support? – meets the destitution test

In 2020, a survivor with a positive CG was refused s95 support. She had no leave to remain and an outstanding asylum claim. Her support had been extended through the RNA process while she applied for s95 support. The Home Office decided the Appellant was entitled to housing and financial support from the Salvation Army and there was no evidence that she had been asked to leave her NRM funded accommodation or that the support from her MSVCC support provider had come to an end.

The NRM support provider provided evidence that their support had come to an end and the Judge agreed that the Appellant was destitute as she was not permitted to work or access public funds and had no other accommodation available to her.<sup>44</sup>

You may be working with a survivor who has been working, even in conditions of exploitation, and so has been earning. If this is money they will have available to them in the next 14 days, this can be taken into account when assessing eligibility for asylum support<sup>45</sup>, meaning they may not qualify.

If the survivor has a bank account, the Home Office will want to look at 6 months of bank statements, among other evidence.<sup>46</sup>

<sup>43</sup> AS/18/01/37708 09.02.18 Statements of Reasons are available on request from the Asylum Support Tribunal: [asylumsupporttribunals@justice.gov.uk](mailto:asylumsupporttribunals@justice.gov.uk) | <sup>44</sup> AS/20/11/42624 11.12.20 Statements of Reasons are available on request from the Asylum Support Tribunal: [asylumsupporttribunals@justice.gov.uk](mailto:asylumsupporttribunals@justice.gov.uk) | <sup>45</sup> [www.legislation.gov.uk/uksl/2000/704/regulation/6/made](http://www.legislation.gov.uk/uksl/2000/704/regulation/6/made) | <sup>46</sup> See ASAP factsheet: [www.asaproject.org/resources/library/factsheets](http://www.asaproject.org/resources/library/factsheets)

#### 5.4.8. Barrier to removal

If an individual has an asylum claim and they are destitute they are entitled to s95 asylum support. Refused asylum seekers face a harder test to obtain s4 asylum support, needing to show as part of that test their inability to leave the UK. All destitute refused asylum seekers with a barrier to leaving the UK (for example, an outstanding application with the Home Office) are entitled to s4 support.

If someone has been referred into the NRM and is waiting for an RG decision, is within their recovery period, or is accessing post CG support under the MSVCC, this should usually be accepted as a legal obstacle to removal for the purposes of accessing s4 asylum support.<sup>47</sup> Although if someone has been referred into the NRM and needs emergency accommodation because they are destitute, it may be quicker and more appropriate for their needs for them to access MSVCC emergency accommodation through a request to TSA, rather than applying for s4 support.

There is no interim accommodation pending a decision on an application for s4 support, unlike s95 support applications.

The Asylum Support Tribunal has accepted that having a reconsideration of a negative decision about whether someone is a victim of modern slavery or not

pending before the Home Office means a survivor cannot be removed from the UK, supporting a grant of s4 support.<sup>48</sup> The barrier comes from the Home Office agreeing to reconsider either the RG or CG, not from the reconsideration request alone.

#### 5.4.9. Schedule 10 support for survivors on immigration bail

Support for people on immigration bail is provided by the Home Office in limited circumstances under Schedule 10 of the Immigration Act 2016.<sup>49</sup> This might be helpful for survivors who are treated as ‘absconders’ by the Home Office, for example, because they have been re-trafficked after making their initial asylum claim, leading to their initial claim being withdrawn.<sup>50</sup>

The Home Office does not consider them to be asylum seekers or refused asylum seekers, so these people should apply for Schedule 10 support,<sup>51</sup> unless they would like to be accommodated in a safe house and this is better for their needs.

If someone whose asylum claim had been withdrawn makes further submissions then applies for s4 support, it is likely to be refused by the Home Office. However, on appeal, Asylum Support Tribunal judges may remit the appeal back to the Home Office for it to consider whether to grant s95 support. They may also allow the appeal and

award s95 support. They take this approach if they consider that the Home Office has not followed its own procedure on asylum claim withdrawals, as set out in asylum policy instructions. In these cases, they find that the appellants can still be defined as ‘asylum seekers’ and so eligible for s95 support.<sup>52</sup>

The Judges are not awarding s4 because they do not accept that a withdrawn claim can be viewed as a ‘rejected’<sup>53</sup> claim so the appeal will be dismissed, unless s95 can be granted.

The Home Office says that if a survivor is already in suitable accommodation provided through schedule 10 support, they will usually remain there (unless MSVCC accommodation is identified as necessary through the needs-based or risk assessments) [15.15-16, 15.32 SG].

#### 5.4.10. Inadmissibility

Asylum seekers may be told by the Home Office that their case is being investigated, to decide if it will be ‘inadmissible’ in the UK. If the claim is decided to be inadmissible, the Home Office will not consider it and could try to remove the individual.<sup>54</sup>

If an asylum seeker is referred into the NRM, the Home Office says *“it will usually be appropriate to pause inadmissibility action until the consideration of whether or not the person is a victim of modern slavery has been completed.”*<sup>55</sup> For the purposes

<sup>47</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1083561/Section\\_4\\_2\\_policy\\_and\\_process.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1083561/Section_4_2_policy_and_process.pdf) p13 | <sup>48</sup> AS/18/01/37719 06.02.18 Statements of Reasons are available on request from the Asylum Support Tribunal: [asylumsupporttribunals@justice.gov.uk](mailto:asylumsupporttribunals@justice.gov.uk) | <sup>49</sup> [www.asaproject.org/resources/library/briefing-notes](http://www.asaproject.org/resources/library/briefing-notes) | <sup>50</sup> [www.asaproject.org/resources/library/briefing-notes](http://www.asaproject.org/resources/library/briefing-notes) | <sup>51</sup> <https://assets.publishing.service.gov.uk/media/67112a54b40d67191077b2eb/Immigration+bail.pdf> p94 | <sup>52</sup> [www.bailii.org/ew/cases/EWHC/Admin/2025/694.html](http://www.bailii.org/ew/cases/EWHC/Admin/2025/694.html) | <sup>53</sup> [www.legislation.gov.uk/ukpga/1999/33/section/4\\_s4\(2\)\(b\)](http://www.legislation.gov.uk/ukpga/1999/33/section/4_s4(2)(b)) | <sup>54</sup> Home Office guidance on this issue is [here](#) and a guide from Right to Remain is [here](#). | <sup>55</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1084315/inadmissibility.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1084315/inadmissibility.pdf) p.37

of support, this should mean that NRM financial payments continue and so does s95 asylum support. If an inadmissibility decision was made, s95 support would end and it would be up to the individual to apply for s4 support if they met the criteria for that. For more information or to discuss your client's circumstances in relation to asylum support, please contact [ASAP's advice line](#).

If you would like to talk about inadmissibility action and how it might affect a survivor's immigration case, contact [ATLEU's advice line](#).

#### 5.4.11. After moving

If a survivor is moved from a safe house into outreach support because they have accommodation outside the MSVCC, for example, asylum support accommodation, they should undergo relevant assessments after the move.

There is a requirement that the support worker does a needs assessment if someone goes into asylum support accommodation [15.194 SG] In ATLEU's experience, support workers who are allocated to survivors (even within safe houses) are not given sight of the NRM referral form, the reasonable grounds decision and may not have any relevant correspondence.

In practice, a new support worker may not know about information held by a previous support worker. It is a good idea to prepare a survivor to be ready to say they are not willing to discuss something that may re-traumatise them, and ask the support worker to obtain notes and records from the previous support provider, or contact other third parties for information and documents so they do not have to repeat themselves.

Ask any lawyer the client has to share key documents like statements or medical reports with a new NRM support worker. Tell a new NRM support worker about the client's needs for interaction like gender preferences or interpreter requirements.

In ATLEU's experience, because of limited staffing, some survivors may find they are allocated an interim support worker who will not begin any substantive work with them, pending assignment of a permanent support worker.

That process of assignment may take weeks, so we recommend advocacy with the support provider from the start to ask them to work with the survivor and asylum support accommodation provider to ensure that a survivor's needs are met, referrals made into new services and risks mitigated.

#### 5.4.12. Other help

The Asylum Support Appeals Project (ASAP) runs an [advice line](#) for refugee community organisations and other voluntary agencies who are advocating on behalf of asylum seekers about their asylum support and asylum support appeals.

They cannot give immigration advice or speak to individual asylum seekers directly. The number is **020 3716 0283** (open Mondays, Wednesdays and Fridays 2-4pm). They have [resources](#) online to explain more about asylum support and asylum support appeals.

You can also register for their [eLearning](#) modules which cover a range of issues relating to asylum support and asylum support appeals. They also have information on the appeals process written directly for appellants [www.asaproject.org/guides](http://www.asaproject.org/guides).



## 5.5. Permission to work

Adult survivors who have the right to work should be allowed to do this while they are in the NRM. [15.109 SG] Having the right to work is important for many survivors who spend long periods waiting for decisions through the NRM and asylum system.

A survivor may already have the right to work from a previous grant of leave to remain (but potentially no recourse to public funds). They may gain the right to work because their asylum claim has been pending for a year or more, or on discretionary grounds as a survivor of modern slavery.<sup>56</sup>

Survivors of modern slavery who have no right to work can ask for permission to work to be granted on a discretionary basis at any time, and in any capacity. The government accepts that the primary objectives of ECAT are relevant to considering this request for permission to work, particularly in relation to physical, psychological, and social recovery.

If an asylum seeker asks for permission to work because their asylum case has been pending for 12 months, this will be granted subject to occupations on the ‘[Immigration Salary List](#)’ for any application after 4 April 2024. The inclusion of care work on the list has opened the possibility of employment up to more people seeking asylum.

### 5.5.1. The impact of work on asylum support<sup>57</sup>

Survivors must be prepared to lose all or part of their asylum support package if they start working, as they may no longer be statutorily destitute for the purposes of asylum support. When someone has a change of circumstances because they have started work, the asylum seeker must tell the Home Office about their earnings immediately. An investigation into a report of changed circumstances must be concluded before asylum support is terminated or suspended.<sup>58</sup>

If someone’s earnings are below the destitution threshold, but above subsistence rates, subsistence financial support will be stopped, and contributions towards accommodation are likely to be asked for. When deciding if support will be discontinued, the Home Office will assess destitution by looking at the income a person has available for their essential living needs or accommodation for 56 days<sup>59</sup> (disregarding payments received under the MSVCC which are for recovery needs).<sup>60</sup>

### 5.5.2. The impact of work on MSVCC payments

Survivors may lose the Essential Living Rate element of their MSVCC financial payment if they work.

On 08.01.24, the government introduced the wording highlighted in red to the SG:

*“15.52. The Essential Living Rate will not be paid to potential or confirmed victims where they are already receiving support for their living needs through asylum support or support under Schedule 10 of the Immigration Act 2016 (see here), or the Universal Credit Standard Allowance (see here), or if they have too much income to be eligible for Universal Credit.”*

Eligibility for welfare benefits is a complex area. The Home Office’s Modern Slavery Unit sent this about their approach in relation to this addition on 01.02.24:

- *“Support providers are not being required to carry out a new financial assessment or their own means-test on victims to determine if they are eligible for Universal Credit or to implement this change.*
- *Universal Credit helps people who are working towards their living costs, including where an individual has a low income, and reduces in relation to how much they earn through employment. Support workers help victims to apply for Universal Credit.*
- *The guidance update is consistent with our existing needs-based approach to support and means that if a victim applies for Universal*

<sup>56</sup> <https://assets.publishing.service.gov.uk/media/671765d7583ef2380ad99881/Permission+to+work+and+volunteer.pdf> p17 | <sup>57</sup> AASAP’s Effect of Income Breifing is available on their resources page [www.asaproject.org/resources/library/factsheets](http://www.asaproject.org/resources/library/factsheets) | <sup>58</sup> <https://assets.publishing.service.gov.uk/media/66c345b967dbaeb97a13e3a2/Ceasing+Section+95+Support+Instruction.pdf> p8 | <sup>59</sup> [www.legislation.gov.uk/uk/si/2000/704/regulation/7/made](http://www.legislation.gov.uk/uk/si/2000/704/regulation/7/made) Regulation 7(b) | <sup>60</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1032155/Assessing\\_destitution.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1032155/Assessing_destitution.pdf) p14

*Credit, the Modern Slavery Victim Care Contract (MSVCC) would not provide the Essential Living Rate (ELR) if:*

- *Their application is assessed and subsequently not agreed by the Department for Work and Pensions because they are earning too much; or*
- *Their Universal Credit payments are stopped due to an increase in their income.*
- *The ELR is not paid because the victim has a sufficient income through employment to meet their essential living needs. All potential victims of modern slavery will continue to receive the Recovery Rate.*
- *If a victim's circumstances were to change, for example if they suddenly lost their job, they would be supported to apply or reapply for Universal Credit and would be eligible for the ELR from the MSVCC (provided they were not receiving Universal Credit).*
- *Monitoring a victim's changing circumstances with them through their Journey Plan in this way is a key part of an MSVCC support worker's role and means support adjusts when a victim's financial circumstances change.*<sup>61</sup>

From the Home Office clarification of approach, no support worker should be conducting a means test to determine whether someone may have too much income from work to qualify for Universal Credit. If a survivor starts work, they should be advised about how this could impact their access to the Essential Living Rate. However, if they see any reduction in their Essential Living Rate, they should ask immediately how this was calculated, who did it, for the decision and calculation to be set out in writing and to have confirmation of how they can challenge the decision if they do not agree.

They may wish to request a repayment of support if a means test has been conducted by a support worker when this is not required by the Home Office and take advice on the decision to reduce support from a public lawyer. Caseworkers may wish to record this data to determine if there are trends about how the rule is being applied across MSVCC providers which can be fed back to the Home Office to ensure survivors are not at risk of destitution as a result of errors which need to be corrected.

### **Impact of work on legal aid**

If a survivor begins work, it may also impact their eligibility for legal aid. They can ask their lawyer how this might affect a legal aid calculation or do their own check [here](#).



<sup>61</sup> Email from MSU to ATLEU 01.02.24 | <sup>62</sup> See also ASAP Factsheet – [www.asaproject.org/uploads/Factsheet\\_15\\_-\\_Suspending\\_delaying\\_or\\_reducing\\_s95\\_payments.pdf](https://www.asaproject.org/uploads/Factsheet_15_-_Suspending_delaying_or_reducing_s95_payments.pdf)

## 5.6. Compensation awards

### 5.6.1. Impact on support and eligibility for legal aid

Survivors may receive compensation while they are in receipt of subsistence through the NRM or asylum support money. They should take advice from their compensation lawyers early in the legal process about the potential impact of an award on their entitlements, and this advice can be kept under review as the legal case develops.

The Essential Living Rate of MSVCC financial support would hopefully not be affected by a compensation award in line with the Home Office approach set out at section 5.5.2 above, but if it is, take advice. The Recovery Rate should be unaffected as it is not means tested. For accommodation, advice could be taken from a specialist compensation lawyer and a public lawyer if the survivor is told an existing safe house place will be terminated.

For asylum support, survivors should make sure the Home Office is aware of the award so they cannot be said to have concealed the funds and be subject to suspension or discontinuation of asylum support, and possible claw back of previous payments.<sup>62</sup> This is a complicated area. Depending on the size of the award, the asylum seeker may no longer satisfy the destitution test for asylum support.

Under that test, all income that a person can be “reasonably be expected to have”<sup>63</sup> is taken into account and all assets that are available or could reasonably be expected to be available (including cash and savings)<sup>64</sup> in the next 56 days.<sup>65</sup> The amount the person has is then compared to the amount they would need, in order to support themselves for the next 56 days.

If the funds are being held by the individual’s lawyer, this could still be considered available for the purposes of asylum support. It is not clear if money that is put in a ‘personal injury trust’ (where money is held on the individual’s behalf, in a specially designated bank account, if it has been received as a result of an injury) is considered available for the purposes of asylum support.

For welfare benefits, an award for personal injury should not be considered as part of a means assessment by the DWP in the first 52 weeks after receipt (although a survivor should still tell them about it). After this time, the amount may be considered as capital for the purpose of assessment for the benefit, so the individual may no longer be eligible for the benefits they were receiving.<sup>66</sup>

If personal injury compensation is held in a personal injury trust, the value of the award is disregarded in relation to most types of means

tested benefits. It is best practice to consider setting up a trust as soon as possible.

If the survivor is getting legal aid, for example, from an immigration lawyer as their asylum case has not concluded, the Legal Aid Agency has a discretion to discount personal injury awards obtained via the Criminal Injuries Compensation Scheme.

A support worker should make sure the legal aid lawyer is aware the Criminal Injuries Compensation Scheme award is due to come in so the lawyer can consider the impact on legal aid entitlement and make arguments for the exercise of discretion.

Where compensation is obtained from another forum it may be possible to discount this for legal aid purposes and the survivor should take advice from their lawyer at the point where the award is being negotiated, to understand the implications of any payment.

It is worth noting, in case this becomes relevant, that the work to set up a personal injury trust is not covered by legal aid so there will be a fee charged for the service. There are Trust lawyers who specialise in doing this work, as well as some financial advisors.

<sup>63</sup> [www.legislation.gov.uk/ukxi/2000/704/regulation/6/made](http://www.legislation.gov.uk/ukxi/2000/704/regulation/6/made) Regulation 6(4) | <sup>64</sup> *Ibid*, Regulations 6(4) and 6(5) | <sup>65</sup> [www.legislation.gov.uk/ukxi/2000/704/regulation/7/made](http://www.legislation.gov.uk/ukxi/2000/704/regulation/7/made) Regulation 7(b) | <sup>66</sup> <http://athub.org.uk/knowledge-base/blogs-compensation/#impact-of-cica-awards-on-benefits>

## 6 Legal aid

### 6.1. Finding legal aid lawyers

An MSVCC support provider should help the survivor to access legal aid advice for their legal problems they have. There are only certain areas covered by legal aid. The Legal Aid Agency has a tool that goes over different areas of work for non-criminal problems and lets a survivor check if they meet the financial test for legal aid. Follow the steps [here](#). The Legal Aid Agency has a [directory](#) to find a legal aid lawyer for any type of legal problem covered by legal aid. ATLEU hosts a [referral portal](#) where support workers can put a request for advice for immigration, housing, support or compensation problems and it will be seen by different lawyers.

### 6.2. Difficulties accessing advice

If support workers are experiencing problems finding lawyers or issues with capacity, this can be reported directly to the Legal Aid Agency by emailing their Service Development team (for example, what you have been told about why lawyers cannot take the case, how long you have been looking and how far away from the survivor, the impact on the survivor and you). Email [contactcivil@justice.gov.uk](mailto:contactcivil@justice.gov.uk). The Legal Aid Agency will not be able to find a lawyer for the survivor but they will be informed about the problem in the area, which is relevant to improvements for the future, for example, whether new lawyers need to be asked to undertake work locally.

### 6.3. Evidencing Means

A survivor will usually be asked to provide evidence of their asylum support by a legal aid lawyer. This can be requested from Migrant Help: [proofofsupport@migranthelpuk.org](mailto:proofofsupport@migranthelpuk.org).

The letter that shows proof of support will only state that the survivor is on asylum support and not how much the person is getting. This is fine if someone is on s95 or s4 for immigration cases at initial advice stage and the appeal Tribunal but not for cases in the higher courts (like judicial review) or for any other type of law. For any case where the lawyer needs to know specific amounts, they can refer to the current rates of asylum support on the [Home Office website](#) or a support worker can write how much the survivor is getting in a letter.

A lawyer does not need to wait for this letter to start work. They can do a 'full means assessment' and fill in all the income and capital parts of a legal aid form, with a letter of support from anyone working with the survivor to confirm their understanding of the client's income (including receipt of asylum support) over the month before the lawyer started work. If the survivor is getting MSVCC support their support worker can provide a letter confirming how much their payments have been and over what time period.

### MSVCC support and legal aid

From 20 November 2024, MSVCC payments will not be taken into account for civil or criminal legal aid.<sup>67</sup> This means both Essential Living Rate and Recovery Rate payments.

Here are a few examples of some areas where survivors may need legal aid advice.

### 6.4. Immigration and Asylum advice

A common issue that comes up is survivors being told they need to claim asylum before speaking to a legal aid lawyer. Survivors are entitled to legal aid for advice on asylum claims, including before they claim asylum. The lawyer can get paid under legal aid for this advice even if the client does not want the lawyer to carry on the case after the asylum claim is made, for example, if the client is dispersed. If a support worker is told a legal aid file cannot be opened before a claim is made, they can explain the client's entitlement to advice.

Ultimately, it might be better to look elsewhere if a lawyer says they cannot do the work. If that is the case, the support worker can also follow the steps under 'Difficulties accessing advice'.

<sup>67</sup> [www.gov.uk/government/news/changes-to-civil-and-criminal-financial-eligibility-tests](https://www.gov.uk/government/news/changes-to-civil-and-criminal-financial-eligibility-tests)

**Email to a solicitor about advice before making an asylum claim** (if advised the survivor must claim asylum before accessing advice)

*Thank you for considering this referral.*

*We are not qualified to provide asylum or immigration advice so cannot advise the client whether they have grounds to claim to asylum. We respectfully request a consultation on behalf of our client for advice on their options in relation to immigration and protection, taking into account their history of trafficking.*

*As a potential victim of trafficking within the NRM with a positive RG decision they have an entitlement to advice under paragraphs 32 or 32A of Schedule 1, Part 1 of LASPO 2012. If it can be helpful, a document clarifying that a survivor can receive legal aid advice on identification through the NRM and on any immigration application if they have a positive RG or CG is [here](#).*

*Any pre-asylum claimant is also entitled to a consultation for advice prior to making an asylum claim under LASPO Schedule 1 Part 1 paragraph 30. We understand that legal aid providers can claim up to £100 inclusive of disbursements under the Immigration Specification para 8.106 if pre-asylum claim advice is given and no claim is made or the client ceases to instruct them, but could provide this advice as part of a normal fixed fee case as well (if the client then goes on to claim asylum).*

*However, as our client has a positive RG advice can be provided on any immigration application the client may wish to make without being subject to the £100 legal aid threshold if no asylum claim is made so we hope you will consider them and be able to assist.*

*Our client is on a low income and we can help to provide supporting evidence about that if you can take the case, to satisfy the financial test for legal aid.*

*Our client is not able to make a decision at the moment about whether an asylum claim is right for them without accessing legal advice. We would be very grateful if you could help.*

Another frequent query is whether survivors can get advice on immigration applications that are not about asylum. If a survivor has a positive RG or CG they can get legally aided advice on any immigration application, including discretionary leave to remain as a survivor of trafficking, a family or private life claim, a European Settlement Scheme application or Overseas Domestic Worker leave to remain application.

The Legal Aid Agency produced a guidance document to clarify survivors rights to legal aid. If support workers find that lawyers are not aware of this, they can send the guidance document to the lawyer or these parts of the law about legal aid: [section 32](#) and [section 32A](#) of LASPO.



### 6.5. Public law advice

If a survivor experiences problems in accessing their support and accommodation entitlements, any lawyer who does 'public' law can advise on a potential challenge. Some immigration and housing lawyers do this type of work too.

A decision by either of the competent authorities or the Salvation Army acting on behalf of the Home Office contract is a decision by a public body that a public lawyer can advise on. Public lawyers undertake 'judicial reviews' where a judge reviews a decision that is considered unlawful, and action must be taken promptly and no later than 3 months from the date of decision. This means referrals should always be made as soon as possible.

Issues that a public lawyer could help with include:

- Negative identification decisions – challenge by way of judicial review or requests for reconsideration
- A refusal by the Salvation Army to provide urgent accommodation (e.g. when pre RG)
- Challenges to the decision not to provide sufficient financial subsistence
- A refusal to locate the survivor in accommodation suitable to their needs or fund alternative accommodation that meets their needs in a particular location

- Suitability of accommodation or support provided through the MSVCC or asylum support
- Challenges to the termination or reduction of support after an RNA e.g. while waiting for a decision on leave, while presenting with other important needs or before alternative safe accommodation has been secured
- Challenging a refusal to reinstate support after a survivor has exited the MSVCC before or post CG
- Challenging a refusal to pay backdated support

### 6.6. Housing advice

A housing lawyer can help with issues around asylum support accommodation and other housing issues such as homelessness.

A useful resource to find a specialist lawyer to assist, especially in London, is the Housing and Immigration Group (HIG), an informal group of people working for migrants in the field of housing and social assistance. Southwark Law Centre are the administrators for HIG. Referrals can be sent to the administrators to post. For the email addresses of the current administrators, contact ATLEU at [referrals@atleu.org.uk](mailto:referrals@atleu.org.uk).

### 6.7. Compensation

Survivors can claim compensation in different ways, whether this is an application for criminal injuries compensation or a claim against their trafficker.

When it comes to support, a 'claims against public authorities' lawyer might be able to help give advice on whether a compensation claim is possible where there has been a failing by a public body, like the Home Office. Some issues they could look at include:

- Challenging a refusal to pay backdated support.
- Challenging a failure to refer for support and put support in place despite a request for this.
- Challenging a failure to provide support or assistance in prison.

## 7 Grants of leave to remain

**Some survivors are granted temporary leave to remain as survivors of modern slavery ('VTS'), which should always come with recourse to public funds. This used to be called discretionary leave to remain. VTS can be granted for different lengths of time, up to 30 months.**

In practice, it is difficult to obtain VTS and the survivor should be prepared that grants of leave need good supporting evidence, and they may need prompt referrals to immigration advice to help them prepare the application and immigration or public law advice to help with a reconsideration request or judicial review challenge if VTS is refused.

One of the grounds for being granted VTS is that stay is necessary to assist someone in their recovery from any physical or psychological harm arising from the relevant exploitation (i.e. what led to their CG).

Assisting the person in their recovery from psychological or physical harm is defined in the [Immigration Rules](#) to mean: *"the applicant requires support either through the National Referral Mechanism or other services to assist in their recovery from their exploitation (this support does not need to accomplish recovery)".* This means that the support they are accessing through the NRM,

even post CG, is vital to their claim for leave to remain. This point can be used in RNA supporting evidence or to bolster the application for leave if someone has been granted post CG support via the MSVCC.

Survivors will need advice on any other potential bases for applications for stay as well as VTS.

### 7.1. Communicating a grant of leave to asylum support

If a survivor is granted leave to remain by the SCA, this message is often not conveyed from the SCA to the asylum support team. If the survivor needs to transition into local authority accommodation and is held up by a lack of termination letter, contact Escalations [escalations@migranthelpuk.org](mailto:escalations@migranthelpuk.org) and the decision makers directly requesting they action this. If necessary, you can also make a complaint for inaction via these email addresses:

- [TechnicalSpecialistsNRM@homeoffice.gov.uk](mailto:TechnicalSpecialistsNRM@homeoffice.gov.uk) and [nrm@modernslavery.gov.uk](mailto:nrm@modernslavery.gov.uk)
- [IECompetentAuthority@homeoffice.gov.uk](mailto:IECompetentAuthority@homeoffice.gov.uk)

### 7.2. The impact of leave to remain on support

If someone has been granted leave to remain and wants to remain on asylum support or in asylum support accommodation, they are not disqualified from obtaining asylum support purely due to their grant of leave, assuming their asylum claim is still outstanding. What matters is the destitution test.

In the case of AT(Guinea) EWHC 2709, a detainee with indefinite leave was deemed not eligible for s95 asylum support, but only because of his ability to access mainstream benefits, meaning he was not destitute.<sup>68</sup>

If someone is able to claim public funds, it would not be enough to decide **not** to claim those benefits or **not** to look for accommodation in the private sector or apply as homeless. All income that a person can *"reasonably be expected to have"*<sup>69</sup> is taken into account when considering whether someone meets the destitution test for asylum support.

If asylum support is to be discontinued, the period to assess destitution is 56 days.<sup>70</sup> The money they will then need to have so they are not destitute will be significant due to the length of this period, but it could be argued to be a long enough period for someone to access mainstream benefits during that time. If they have been in the NRM and gained a positive CG,

<sup>68</sup> AT(Guinea) EWHC 2709 (AS/18/10/38725), paras 43-53 | <sup>69</sup> [www.legislation.gov.uk/uksi/2000/704/regulation/6/made](http://www.legislation.gov.uk/uksi/2000/704/regulation/6/made) Regulation 6(4) | <sup>70</sup> [www.legislation.gov.uk/uksi/2000/704/regulation/7/made](http://www.legislation.gov.uk/uksi/2000/704/regulation/7/made) Regulation 7(b)

they could potentially access support through the RNA process if a recovery need has been identified<sup>71</sup> but that income should not be included if it is to do with the individual's recovery needs.

Survivors are not automatically considered to be in priority need when applying to a local authority for accommodation as someone who is homeless. However, their experience as a survivor will be relevant to the assessment of vulnerability to determine priority need, the process of assessing their application, and the location and suitability of accommodation.<sup>72</sup>

If a survivor has recourse to public funds and needs local authority accommodation, a survivor should be assisted by their NRM support worker to make a homelessness application before they are exited from support. The survivor can also be signposted to legal advice from a housing lawyer if they need more assistance.



<sup>71</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1031733/recovery-needs-assessment-ie-sca-update\\_041121.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1031733/recovery-needs-assessment-ie-sca-update_041121.pdf) | <sup>72</sup> [www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-25-modern-slavery-and-trafficking](https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-25-modern-slavery-and-trafficking)

## 8 Expected changes in the law

### The Nationality and Borders Act 2022

**There are some provisions on legal aid for pre NRM advice in NABA that are not in force yet. For general awareness, about some potential changes in the future:**

- [S66 NABA](#) will introduce explicit provision for legal aid for pre-NRM advice, where a survivor is already entitled to another type of legal aid. The main ones to be aware of are where the survivor is getting advice on certain judicial review work or asylum advice. This will not change much practically for survivors, as lawyers used to advise on the NRM before this law was drafted. It is not a free-standing right to advice on going through the NRM.
- [S67 NABA](#) says that ECF can be granted if a survivor has a claim that removing them from the UK would breach their human rights. This might help people where they don't know if they want to claim asylum but can say they might have a claim to stay based on their human rights. In practice, it can take a lot of time to get ECF, so will not assist those who are in the most urgent situations (e.g. who are homeless or still in exploitation). It is advisable to find a lawyer willing to take the case if ECF is granted, even if they cannot do the application, before taking the time to apply.





## 9 Helpful contacts and resources

### Home Office

#### Competent Authorities:

**SCA:** [nrm@modernslavery.gov.uk](mailto:nrm@modernslavery.gov.uk)

Duty line: **0300 0727 543**

The duty line operates 10am to 3pm and the SCA is open during office hours Monday to Friday.

**IECA:** [IECompetentAuthority@homeoffice.gov.uk](mailto:IECompetentAuthority@homeoffice.gov.uk)

Duty line: **0300 0710 654**

Opening times not specified in the SG.

#### For disclosure of paperwork

**SCA:** [SCADisclosures@homeoffice.gov.uk](mailto:SCADisclosures@homeoffice.gov.uk)

**IECA:** [IECADisclosures@homeoffice.gov.uk](mailto:IECADisclosures@homeoffice.gov.uk)

Provide an authority and as much detail as you can to assist the Competent Authority to search for the individual, including full name, DOB, nationality, NRM reference, other reference (e.g. SCA/Home Office).

### Salvation Army

**24/7 Helpline/contact centre: 0800 808 3733**

Free to call. This is meant for First Responders looking for support or individuals who cannot find someone to refer them into the NRM but anyone else working with survivors can use it if needed.

**Salvation Army Volunteer First Responder Service:**

[NRMreferral@salvationarmy.org.uk](mailto:NRMreferral@salvationarmy.org.uk)

Open office hours.

**General enquiries:** [MST@salvationarmy.org.uk](mailto:MST@salvationarmy.org.uk)

**Queries about support:**

[mstsupport@salvationarmy.org.uk](mailto:mstsupport@salvationarmy.org.uk)

This mailbox is specifically for queries relating to Support, NRM decision updates, requests for support for potential victims who have previously been referred into the NRM.

**Data/subject access:** [MSTSAR@salvationarmy.org.uk](mailto:MSTSAR@salvationarmy.org.uk)

**New/outstanding legal cases relating to support provided by the MSVCC:**

[MSTClientLegal@salvationarmy.org.uk](mailto:MSTClientLegal@salvationarmy.org.uk)

**Complaints:** [MSTComplaints@salvationarmy.org.uk](mailto:MSTComplaints@salvationarmy.org.uk)

TSA inboxes are monitored daily. If a response is not received, follow up to another address and try calling their Helpline.

### Other contacts and resources

- **Asylum Support Appeals Project (ASAP):** [resources](#) and [advice line](#) for professionals open three times a week on 020 3716 0283.
- **ATHUB.org.uk:** the anti trafficking information resource run by ATLEU.
- **ATLEU's advice line:** this runs weekly for professionals.
- **British Red Cross anti trafficking team:** [Modern slavery and trafficking | British Red Cross](#)
- **Human Trafficking Foundation** map of support for survivors.
- **Legal aid lawyer directory**
- **OSCE/ODIHR NRM Handbook (2022)**
- **Modern Slavery Helpline** run by Unseen: **08000 121 700** (survivors can call directly)
- **The Slavery and Trafficking Survivor Care Standards** by the Human Trafficking Foundation
- **The Trauma-Informed Code of Conduct for all Professionals working with Survivors of Human Trafficking and Slavery (2018)** by Rachel Witkin and Dr Katy Robjant, Helen Bamber Foundation



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## Disclaimer

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