

# New domestic worker VOT immigration rules

Carita Thomas, ATLEU

**ATLEU**

Anti Trafficking and Labour Exploitation Unit



# Background

Changes to the Immigration Rules for domestic workers who are victims of trafficking:

- Followed independent review of overseas domestic worker visa by James Ewins QC
- Was a concession by the government to avoid amendment to what is now the Immigration Act 2016
- Came into force on 6 April 2016.

# Lord Bates on Overseas Domestic Workers: Written statement to House of Lords 7 March 2016

“The Government does, however, acknowledge the case which has been put forward for providing ODWs with an immediate escape route from abuse. On the basis of advice from the Independent Anti-Slavery Commissioner we have therefore come to the view that there should be two distinct elements to our approach to the employer tie.

First, we will provide those admitted as ODWs with the ability to take alternative employment as a domestic worker with a different employer during the six month period for which they are originally admitted. This ability to take alternative employment will not depend on whether or not they have been found to be the victim of abuse....

## Lord Bates statement (continued)

“...Second, we will go further and amend the provisions of the Immigration Rules introduced in October of last year to increase the period for which an extension of stay will be granted to an ODW who has been the subject of a positive conclusive grounds decision under the National Referral Mechanism from six months to two years. This is in addition to the existing provisions under which discretionary leave may be granted to those, for example, assisting the police with their enquiries or pursuing a compensation claim.”

# Paragraph 159I of the Immigration Rules

- So if you get a positive conclusive grounds decision there is now a right to apply for a period of leave as a domestic worker
- Measures are to be kept under review
- Good option for someone who does not want to stay in UK long term and does not have an alternative basis to stay eg protection claim, residence permit
- Downside is short term and you have to demonstrate you can support yourself (hard if you are in a safe house and about to exit).

# Para 159I – what do you need to show?

Most recent grant of leave to enter/remain was:

- (a) as domestic worker in a private household;
- (b) as private servant in a diplomatic household;
- (c) as a domestic worker who is the victim of slavery or human trafficking; or
- (d) outside the Rules having been the subject of a positive conclusive grounds decision, and where the applicant's most recent leave prior to that decision was as a domestic worker within the meaning of (a) or (c)



## Para 159I – What to show? When?

- You have a positive CG made by a CA
- Can maintain and accommodate self without using public funds.
- Apply within 28 days of being notified of CG (except when applying to extend previous leave as a domestic worker who is a VOT)
- Or within 28 days of notification of outcome of existing application
- Or if you already have leave outside the Rules, before that leave expires

## Para 159I – How to apply?

- Fee: There is no fee for an application made by a domestic worker applying under para 159I.
- Immigration Health Surcharge: does not apply,
- Legal aid is available to assist a person with the application (as person will have a positive conclusive grounds decision) and be applying for leave to remain.



# How to apply

For applications under paragraph 159I:

- Form FLR (IR)

Supporting documents

- Passport photos x 2
- Passport and biometric residence permit
- Proof of positive conclusive grounds decision
- Last three months of bank statements, payslips or 'formal documents' showing proof of ability to maintain and accommodate yourself and dependents (But no need to show you are in employment when apply).

# Para 159I – what leave can be granted?

- Leave will be granted (or renewed) for up to two years (including leave granted outside the rules).
- Condition of no recourse to public funds
- Condition of no employment except work as domestic worker in private / diplomatic household only.

# Extension of leave in the NRM

- From 6 October 2016, if a person is given a positive reasonable grounds decision within the NRM whilst they have valid leave to remain, their leave is automatically extended until 28 days after the date when a CG decision is sent in writing by the CA
- Source: The Immigration (Variation of Leave) Order 2016)
- Useful if people want to keep working (do not want to go into safe house/be on asylum support).

**Thank you for listening!**

**Questions? (At the end?)**



# Get in touch

Please feel welcome to contact me:

[Carita@atleu.org.uk](mailto:Carita@atleu.org.uk)



# ATHUB: The new online training resource from ATLEU

Visit our new online hub for more information on:

- Immigration
- Housing and support
- Compensation
- Children and young people

[athub.org.uk](http://athub.org.uk)



# Support ATLEU

ATLEU would be really grateful if you can support our work: [www.atleu.org.uk/donate](http://www.atleu.org.uk/donate)

Any amount, large or small, is so much appreciated.

Thank you.





**ATLEU**

[atleu.org.uk](http://atleu.org.uk)

