



Working with victims who are accessing legal advice

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Anti Trafficking and Labour Exploitation Unit



Support providers are crucial to positive decisions – thank you!

- The best outcomes are usually on cases where support providers are involved and there is a close working relationship with the lawyer
- Support providers catch information/see the way a client presents in a way lawyers do not
- Clients sometimes disclose to you when they will not to a lawyer
- You have the respect of Competent Authorities and they have an obligation to listen to you
- You can draw on experience from working with many victims to give your opinions.

Support providers are crucial

- Your letters can give our representations oomph
- You know the right local referrals to make so clients get support (this matters for their wellbeing and also for identification/decisions on residence permits)
- You can make them feel at ease in unfamiliar environments eg a Home Office interview
- You can help make sure a client understands the messages from the lawyer (eg if we talk in too much legalese)
- We could go on...



Support providers are crucial

- Guidance for Competent Authorities p.65:

“The Competent Authority **must** make every effort to secure all available information that could prove useful in establishing if there are conclusive grounds. If they cannot make a conclusive grounds decision based on the evidence available, they **must** gather evidence or make further enquiries during the 45 day recovery and reflection period. The Competent Authority **must** gather this information, where appropriate, from: · the first responder · **support provider** · police · Local Authority (in the case of children)”

Support providers are crucial

- AB v Secretary of State for the Home Department [2015] EWHC 1490 (Admin) (para 40)

*“I turn now to the Ashiana report. This type of information is identified within the SSHD’s policies as potentially important. If such a report might be obtainable then the SSHD should do so. The policy at this point is framed in the terms of the imperative. **The reasons for that are self evident. The opinions of experienced and respected support organisations who have worked with potentially trafficked persons for some time are likely to provide important assistance to the decisionmaker in coming to his\her conclusions.**”*

Confidentiality, solicitors' code of conduct

- Lawyers will ask for permission to share information with support workers and do this if the client is willing
- We don't mean to be rude! Lawyers have a duty to keep anything their client tells them private unless they have specific permission to disclose to someone else
- Solicitors' duty of confidentiality also extends to their written communication with the client (so clients should be the first to open letters to them then decide if they would like to share).

Confidentiality (continued)

- Lawyers are independent of the Home Office and will not tell the Home Office anything unless the client gives permission to do this.
- Why are clients not sharing?
Some clients do not want the people they live with to know everything about them, and want to forget details of the past when they are at home or outside a legal/Home Office appointment.

Clients' rights to their information: Home Office

Information held by the Home Office re: NRM

- This is often hard to get and can take a long time
- But the documents are vital
- The CA refuses to give copies of decisions, consideration minutes or the NRM referral form
- It is a big help to make a subject access request of the Home Office early. Ask a solicitor to do this if they are on board or if not, it is great if you can do it.
- It **should** take 40 calendar days to get documents back

How to make a SAR (Subject Access Request)

- Ask for expedition eg if you are concerned documents will not be disclosed before an NRM interview or meeting a lawyer
- Be specific about your need for all documents about NRM and entries on the Home Office computer system (“GCID”) that relate to the NRM
- Update the Competent Authority eg if you need documents before client is interviewed and the CA will not provide them
- The Fast Track application process will not give a full copy of the Home Office file
- There is more about the process for applications here: www.gov.uk/government/publications/requests-for-personal-data-uk-visas-and-immigration

How to make a SAR (continued)

You need:

- Letter to Home Office (you don't need to fill in the form)

Subject Access Request Unit, UKVI, Lunar House, 40 Wellesley Road, Croydon CR9 2BY

- Original form of authority signed by the client
- Copy of photo of your client/photo ID certified by a lawyer
- £10 cheque or postal order made payable to “The Home Office Accounting Officer”
- Letter to Fiona MacTaggart MP (co chair of the All Party Parliamentary Group on Human Trafficking and Modern Slavery) – saying current policy will be reviewed. If you have problems accessing data, please tell the APPG
<http://allpartygrouphumantrafficking.org/contact/appg-office> or JCWI

Clients' rights to information: Solicitors

- Clients should be given client care information
- Clients have the right to copies of documents about them
- They should get a copy of any statement or medical report
- They can ask to see any legal arguments that are sent in about them
- But clients do not always like reading/having copies of representations, reports or even statements as they remind them of painful events.

Clients' rights to information: Solicitors

First appointment:

- Check if can get legal aid
- Meet each other
- Find out some information about what has happened to the client – if they are willing to share (It is ok if they don't feel comfortable to tell everything yet)
- Answer questions
- Give advice
- Go through any documents brought.

How support providers/lawyers can complement each other

All subject to client's instructions

- Dialogue: update each other on developments eg if a client is feeling down, referrals, communication with Home Office, new disclosure
- Reduce the need to re-tell a story: sharing case notes as the lawyer builds a draft statement so the lawyer does not duplicate questioning
- Keep things consistent: share any representations, updates or documents that are to be sent to the Home Office with lawyer before they are sent to avoid future problems.

Complementing each other (continued)

- Letters of support – sometimes these are prepared by support workers and sometimes not. It is ok if not but they can be incredibly helpful, not least because of the weight placed on support worker experience by decision makers. It is great if any letter can:
 - Reference your experience in the sector and with the client group
 - Your view about whether the client is a victim if you are able to give that with reasons
 - Explain support needs and observations from personal experience of working with the client and why that contributes to their identification as a victim.

How to make an effective referral

When asking a lawyer if they can take the case you don't need to give a lot of information. It is important to flag:

- What type of advice they need (eg immigration/housing)
- If they have a positive RG or CG
- If another lawyer is involved already on the same issue
- The client's financial position for the last month (ie is she only getting money via a safe house? On asylum support? Do they have proof?)
- Language and gender of interviewer/interpreter needs
- If any application has been made to the Home Office already particularly if pending.
- Any deadlines

Effective referral (continued)

- Can't find a lawyer locally and need to look further afield?
- Asylum cases mainly have to be picked up by immigration lawyers local to the client but non asylum cases do not.
- The Legal Aid Agency likes to know that a client has the most local lawyer. It will help your referral further afield if you can show that you have contacted other lawyers (Three is a good sample) and they cannot take the case.

Effective referral (continued)

Helpful documents to bring to a first legal appointment:

- Passport/ travel document and any residence permit / biometric residence card.
- Papers from immigration case so far (eg. old applications).
- Letters from the Home Office about client as a victim of trafficking.
- Letters from doctors if seeing them for any medical treatment or information about medicine taken.
- For a housing case - your licence/tenancy agreement, letters from the council or Home Office about accommodation, any court papers.

Effective referral (continued)

- Any expert reports.
- Proof of the money client and partner have had over the last month.
- Eg: Wage slips, benefit letters, asylum support letters. If an organisation or person has been giving client money - a signed and dated letter from them, with their contact details on the letter, saying how much they have given in the last month.
- Bank statements for the past month for all accounts for client and partner.
- Proof of any money sent home to family in last month.

Effective referral (continued)

- Unhappy with the representative? What can you do?

It is hard to change lawyers because of legal aid restrictions if the client remains in the same geographical area as the lawyer

- Ask for a meeting with the lawyer or their supervisor and set out your concerns
- Make a complaint if you get nowhere

It is usually only if someone has pursued a complaint process and had the complaint upheld that a new lawyer could feel confident opening a new file – or get the old lawyer to confirm they will not be claiming anything from the legal aid fund for their work

CASE STUDY: RACHEL

Rachel has a positive reasonable grounds decision. She has been in a safe house for two weeks and you are her support worker.

She was on the streets before she came to you but has told you she was living on cash handouts from friends of no more than £20 a week. Rachel is from an African country and fears going back there.

She has never made any immigration application but would like advice about her status. You have secured an appointment with a solicitor on 5 July 2017.

CASE STUDY - RACHEL

- What should you help Rachel get together for the solicitor's appointment?
- What do you tell her about what will happen in the meeting?
- What are some key things to tell the lawyer beforehand?



CASE STUDY: BESA

Besa has a positive reasonable grounds decision. 45 days have passed and the Home Office has sent her a two page questionnaire via you.

The letter with it says she must return the form as soon as possible so the Home Office can make a decision on her NRM case.

The form asks for details of her doctor and any medical reports. The letter says it is her obligation to tell the Home Office about anything important.

CASE STUDY - BESA

Besa feels worried and doesn't know how to complete the form.

She has been very anxious around the safe house and often reports not being able to sleep and having nightmares about what has happened to her.

You have referred her to counselling but she is still on the waiting list.

What do you do?

Thank you for listening!

Any questions?

**What have been your
experiences?**

**How can lawyers work
better with you?**



Get in touch

Please feel welcome to contact us:

- Sadia – sadia.wain@hestia.org
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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



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

Thank you.





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