Home Office

Asylum Policy Instruction

Medico-Legal Reports from the Helen Bamber Foundation and the Medical Foundation Medico-Legal Report Service

Version 3.0

17 January 2014

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Section 1: Introduction

1.1 Purpose of instruction

This guidance explains how caseworkers should process and consider asylum claims involving allegations of torture or serious harm where a Medico-Legal Report (MLR) from the 'Medical Foundation Medico-Legal Report Service' at Freedom from Torture or the Helen Bamber Foundation forms part of the evidence. There is separate guidance for medical (or expert) reports submitted by other individuals or organisations in Medical Evidence (Non Medical Foundation cases), and where a report is submitted in relation to an Age Dispute case.

This is a supplementary instruction and **must** be read in conjunction with other relevant guidance when considering the claim, including:

- Considering the Asylum Claim and Assessing Credibility;
- Humanitarian Protection;
- Gender Issues in the Asylum Claim;
- Internal Relocation;
- Victims of Trafficking (Guide for Competent Authorities);
- Appendix FM (Family Life) and Long Residence and Private Life;
- Discretionary Leave (DL);
- Human Rights claims on medical grounds.

1.2 Background

Torture, trauma and ill treatment can form part of any asylum and/or human rights claim and victims and survivors may have difficulties in recounting details because of the traumatic and sensitive nature of those experiences. Nevertheless, where an applicant claims to have been tortured or the victim of other forms of serious ill-treatment, caseworkers are required to consider any information about when, where, how, and by whom the torture or serious harm was inflicted. This may involve considering MLRs submitted as evidence to support the claim.

This guidance is for caseworkers processing cases where either the Medical Foundation Medico Legal Report Service or the Helen Bamber Foundation (the Foundations) has registered an interest in the case and specifically, where either organisation has provided an MLR as part of the evidence of ill treatment. Further details about both organisations can be found in Annex B.

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1.3 Policy intention behind considering MLRs

The underlying policy objective when processing claims involving allegations of torture or serious harm and considering MLRs in the context of an asylum claim is to:

- ensure all asylum claims are properly considered in a timely and sensitive manner on an individual, objective and impartial basis;
- ensure all cases are managed effectively throughout the asylum process to avoid unnecessary delay;
- ensure all relevant medico-legal (and any other) evidence provided by the Foundations in support of the claim is properly considered and given appropriate weight.

1.4 Application in respect of children

Children can be victims of torture and in certain circumstances the Foundations will accept referral of cases involving unaccompanied and accompanied children. As with adults who allege torture or serious harm, referral of a child to one of the Foundations for an MLR comes via their legal representatives. Referrals for treatment services may also be made by GPs, teachers or social workers. In respect of claims involving torture or serious harm, Medical Foundation and the Helen Bamber Foundation MLRs relating to children must be considered in the same way as those relating to adults.

Specially trained caseworkers deal with asylum claims from children, including cases where torture or serious harm is alleged. The Foundations' MLRs may occasionally provide evidence relevant to the age of the child. If age is in dispute, this evidence must be considered alongside all other relevant evidence on age. Where the MLR contains more information which raises credibility issues around the claim, wherever possible, this should be put to the child (if this is being done in person, this must be in the presence of a responsible adult) to give them an opportunity to explain or clarify the credibility point in question.

Evidence provided in the MLR must not be given 'no weight' in the overall consideration of the claim. Further guidance on weighing up conflicting evidence on age is given in the Asylum Instruction Assessing age.

Caseworkers must also be aware of our obligations under Section 55 of the Borders, Citizenship and Immigration Act 2009. Further guidance is available at Section 55 Children's Duty Guidance.

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Section 2: Process and case management

2.1 Referrals to the Foundations

For asylum claimants who allege torture, referral to one of the Foundations usually comes via their legal representatives, but it can also be made by GPs, other health professionals, frontline refugee agencies or, in the case of children, teachers or social workers. This second type of referral can also lead to an internal referral for an MLR.

Where an account of torture or serious harm is given during the interview, the caseworker should suggest that the applicant may wish to approach one of the Foundations for care and treatment. However, it is for the applicant or their representative to decide whether to seek an appointment with one of the Foundations. Where a caseworker suggests a referral, this does not necessarily mean that the claim of torture has been accepted at this point.

2.2 Children

The Foundations will accept referral of cases involving unaccompanied and accompanied children. Claims from children who have provided evidence that they are awaiting an appointment with the Foundations must be dealt with in the same way as those from adults, although caseworkers should be aware that the Foundations have limited clinical resources in this area which may lead to delays. See also section 1.4 above.

2.3 Pre-Assessment procedure by the Foundations

Once the applicant has been referred to one of the Foundations, from whatever source, for an MLR, the referral is assessed by the Foundation and, on the basis of the information contained in it; a decision will be made to:

- Reject the request without an appointment or;
- Invite the applicant to attend a 'pre-assessment' interview; or
- Move directly to an appointment with a clinician.

Although this varies between the Foundations, only approximately 30 per cent of applications are accepted for pre-assessment. The decision not to invite an applicant for an assessment does not necessarily reflect upon the applicant's credibility. This decision may be taken on a number of grounds, including instances where the case does not fall within the remit of the Foundation, where another clinician may be better placed to document the evidence, where there is nothing to document physically or psychologically or where injuries have already been documented and the Foundation has nothing to add. Caseworkers must not draw adverse inferences regarding the credibility of the asylum claim from the Foundations decision not to invite the applicant for an assessment or not to proceed with an MLR after a pre-assessment.

Paragraph 161 of the Istanbul Protocol states that:

> The absence of physical evidence should not be construed to suggest that torture did not occur, since such acts of violence against persons frequently leave no marks or permanent scars.

Similarly paragraph 236 of the Protocol states:

> It is important to recognize that not everyone who has been tortured develops a diagnosable mental illness. However many victims experience profound emotional reactions and psychological symptoms.

Paragraph 234 of the Protocol though makes clear that:

> The psychological consequences of torture, however, occur in the context of personal attribution of meaning, personality development and social, political and cultural factors.

In cases where applicants are not accepted for an appointment with a clinician or other health care professional, the Foundation will promptly inform them of the reason, usually through their legal representative, who should, where the Home Office is awaiting the outcome of the referral, promptly inform the caseworker to ensure the case is not unnecessarily delayed.

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2.4 Cases accepted for a pre-assessment

When the caseworker is informed in writing by the applicant's legal representative that the case has been accepted for a pre-assessment appointment, they should normally suspend the substantive decision if they are not minded to grant any leave (see section 2.8 below). If the caseworker is informed by phone, the legal representative should be asked to provide written confirmation and a copy of the letter from the Foundation (which should be available).

However, there may be cases where the applicant's account of events, including incidents of torture, is accepted but this does not give rise to a need for international protection where, for example, the country situation has changed or there is sufficiency of protection. In such cases the caseworker may proceed to decision without waiting for the MLR but should first contact the legal representatives and give them an opportunity to provide representations as to why the decision should be suspended to wait for the MLR. Caseworkers should discuss a decision to proceed with a Senior Case worker.

Where it is decided to delay the decision pending receipt of the MLR, caseworkers should confirm that the decision has been suspended in writing to the applicant and legal representative (if represented). A template letter is available at Annex A.

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2.5 Assessment timescales

The Foundations aim to produce a full MLR within five months[1] of the date that the legal representative or applicant has been notified in writing that the case has been placed on hold by the Home Office. However, flexibility is required when considering whether to delay cases beyond the five month target as there may be exceptional reasons for delay. Caseworkers must consider any reasons for the delay provided by the legal representative and act reasonably in deciding whether to allow more time.

There are several factors that may lead to a delay in the completion of an MLR, and which may warrant the grant of extra time. These include, but are not limited to:

- a high level of trauma and/or a long history of torture and/or multiple injuries requiring additional clinical sessions;
- the need to match the applicant with a particular specialist;
- missed appointments due to travel disruption;
- a decision not to release the applicant from detention; or
- illness on the part of the applicant or Foundation clinician or interpreter.
- In children's cases, securing the appropriate clinical resources and expertise.

However, the Home Office are unable to delay a decision indefinitely whilst awaiting receipt of an MLR and is entitled to set a reasonable time limit for the receipt of additional evidence after which the case will be decided. It is not possible to state a rigid time limit which would be appropriate for all cases where provision of an MLR has not been possible within the 5 month timeframe. Therefore, a reasonable time limit should be set on a case-by-case basis, in consultation with a Senior Caseworker who must consider any correspondence from the legal representative regarding the reasons for the delay.

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2.6 Case management

When deciding whether or not to delay consideration of a case pending receipt of an MLR from either Foundation, the guiding principle is that the caseworker must act reasonably. The decision to delay must be made on a case-by-case basis. Caseworkers should assess the importance and relevance of the evidence to the claim, and seek advice from a Senior Caseworker if in doubt.

Cases must be actively managed whilst any report is being produced. Caseworkers must ensure regular contact with the applicant's legal representative (where they are represented) is maintained to minimise any delays in either the production of the MLR or the existence of other factors that could reasonably be expected to delay the decision more than is necessary.

[1] The Foundations have significantly reduced the timescales for provision of MLRs from 12-18 months to 5 months in the majority of cases following a pilot in 2011-12 to improve internal processes.

Caseworkers must clearly document on the Home Office file all communication with the applicant's legal representative, including any failure to provide updates on the progress of the case when requested to do so. If there is no indication from the applicant's legal representatives as to why the case has been delayed, consideration must be given to proceeding to a substantive decision. Caseworkers must ensure that every effort has been made to discuss the progress of the case with the legal representative before proceeding to make a decision.

Where repeated attempts to contact the legal representative are unsuccessful, caseworkers can write directly to the Foundations, who will follow up directly with the legal representative to avoid unnecessary delay. The Foundations' are experts instructed by the legal representative on behalf of the applicant so direct communication between the Foundations and the Home Office will normally be inappropriate. However, in the absence of a legal representative the caseworker may contact the Foundation direct and vice versa.

Where a request for permission to take up employment is received whist the case is on hold, this must be considered in accordance with the guidance on 'Permission to Work'.

2.7 Granting leave without the need for an MLR

If caseworkers are minded to grant asylum, Humanitarian Protection, leave under Appendix FM (Family Life) or Paragraphs 276ADE to 276 DH (Private Life) or Discretionary Leave they may do so without waiting for an MLR, even where the case has already been referred to the Foundations.

The legal representative must be informed promptly, especially if, for any reason, the decision will not be served immediately so that they can advise the Foundation which will be able to reallocate an assessment appointment if appropriate (where asylum is refused but another form of leave is granted, an MLR may still be needed for any appeal of the decision to refuse asylum under Section 83 of the Nationality, Immigration and Asylum Act 2002).

2.8 Case handling at the substantive interview stage

2.8.1 Request received before the substantive interview date

The asylum interview should not be delayed pending receipt of an MLR unless there is evidence that a medical condition may prevent the applicant from attending or participating fully with the interview process. Any letter from the Foundation provided in support, must clearly state why the applicant is unable to participate in the interview.

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2.8.2 Dealing with torture claims at the substantive interview

Caseworkers must check the Home Office file prior to interview as part of their preparation to see whether:

- evidence has been submitted indicating that the applicant intends to submit a medico-legal report;
- the applicant has approached a medical practitioner;
- the applicant may require particular care during the interview;
- the Screening Interview Record notes any previous mention of a medical condition, medication, other treatment or other relevant information.

See the Asylum Instruction, 'Conducting the Asylum Interview'.

Where an account of torture or serious harm is given during the interview, the caseworker should suggest that the applicant may wish to approach one of the Foundations for care and treatment. If during the interview, an applicant indicates that they or their legal representative has approached one of the Foundations, the caseworker must make a note of this on the interview record, photocopy any evidence of a medical appointment, and place this on file.

Where evidence of a medical appointment is not available at the interview the caseworker should request that a copy is provided within **5 working days**. The interview should, where possible, establish the relevance of the MLR to the claim because evidence provided during an interview may be sufficient for the caseworker to accept an account of torture or serious harm without the need for an MLR. Caseworkers must be aware that in some cases the applicant may not be aware that the legal representative has referred the case to one of the Foundations for initial assessment.

It should be made clear to the applicant that the report must be submitted as soon as possible and that without an explanation for any subsequent delay, a decision will not necessarily be delayed beyond any agreed date. The applicant and/or legal representative should be informed by email or letter the agreed deadline for receipt of the MLR, following consultation with a Senior Caseworker.

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2.8.3 Dealing with cases that have not been referred

Applicants who inform caseworkers that they **intend** to seek referral to one of the Foundations, but have not yet done so, are not entitled to have consideration of their claim suspended pending confirmation that they have actually been referred. In such instances, caseworkers must advise applicants of this fact, but inform them that, if a letter confirming a Foundation appointment is received before a decision is made, the case may be placed on hold to await any further evidence from the Foundation before deciding the claim. Where the applicant is represented, caseworkers should contact the legal representative to confirm if a referral has been made before proceeding with a decision.

Interviews should not be suspended or cancelled on the basis that an applicant has informed the Home Office that they intend to approach one of the Foundations. See 'Conducting the asylum interview' for guidance on the circumstances in which it may be appropriate to suspend or cancel the interview.

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2.9 Interim Reports

The Helen Bamber Foundation (and sometimes the Medical Foundation) may produce an interim report. This may be because although the clinician cannot yet be as comprehensive as he or she might in a full report or because a full history has not yet been obtained (for clinical reasons) there are nevertheless significant factors to report. Often there are cogent psychological reasons why it has not been possible to take a full history but those reasons may, of themselves, be worthwhile discussing in an Interim Report.

Where an interim report has been completed, it will depend entirely on the individual facts of the case and the content of the report as to whether it would be appropriate to proceed to a decision. In cases where an interim report **does** provide sufficient evidence to justify a grant of leave there is no need to wait for the full MLR. The principles set out in Section 3: Considering the content of MLRs should be applied.

2.10 Cases where referral does not lead to an MLR

The Foundations may decide not to write a report for a number of reasons and the absence of a report should not be taken as a reason for refusal. The reasons they may decline to write a report Include (for example):

- Where nationality is in dispute;
- Where they cannot match the testimony to the injury:
- Where there is no apparent physical scarring or psychological consequences of torture or serious harm to document.

Caseworkers must be aware that some methods of torture do not produce scarring and the absence of scarring does not necessarily mean that the torture did not take place; it could mean that there is simply nothing physical to document to the requisite standard. Similarly, some survivors of torture are highly resilient and do not have ongoing psychological problems capable of being documented. Where torture or serious harm is not in dispute or is sufficiently well documented by others of appropriate expertise, the Foundations may also decline to write a report.

Agencies other than the Medical Foundation and the Helen Bamber Foundation prepare MLRs and, on occasion, the Foundations will refer the legal representatives to those other agencies.

This may be because of geographical location or particular expertise, a pre-existing relationship with the client/patient, or a temporary lack of resource in a particular field.

2.11 Detained Fast Track processes

Applicants routed into the Detained Fast Track (DFT) can be referred to the Foundations by legal representatives in the same way as other applicants who are not detained. If either Foundation agrees to accept an applicant for pre-assessment before a substantive decision is made, the applicant will be taken out of the DFT process providing confirmation of the appointment is received. The referral is usually accepted within 24 hours. It is Home Office policy to remove from DFT processes any applicant who is accepted by the Foundations for a pre-assessment appointment. In such cases, unless there are other reasons for the applicant to remain detained he or she should usually be released and the case transferred to the Asylum Casework Directorate (ACD) who will take responsibility for the case management and decision making process.

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Section 3: Considering the content of MLRs

3.1 Introduction

Both Foundations are accepted by the Home Office as having recognised expertise in the assessment of the physical, psychological, psychiatric and social effects of torture. Clinicians and other health care professionals from the Foundations are objective and unbiased. Reports prepared by the Foundations should be accepted as having been compiled by qualified, experienced and suitably trained clinicians and health care professionals.

Reports may also be compiled by other experts with extensive experience in this field and should be accepted providing details of their qualifications, training and experience have been provided and it is clear that the report has been compiled using the standards and terms employed by, for example, the **Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations, 2004)**. No report or its contents should be given little weight on the grounds that the writer, whether a GP, Consultant, other clinician or health care professional is not sufficiently qualified to write it. In particular, in relation to mental health conditions, the report will be accepted by the Home Office whether completed by a GP, clinical psychologist, consultant psychiatrist, other health care professional or other expert with extensive experience in this field.

If a caseworker considers the writer of a report compiled by another expert on behalf of one of the Foundations is not apparently qualified to write the report, they **must** first refer it back to the legal representative. The concerns regarding the qualifications must be clearly set out so that the legal representative – as commissioner of the report – can raise these concerns with the relevant Foundation before a decision is made on the asylum claim.

Agencies other than the Foundations prepare MLRs and, on occasion, the Foundations will refer the legal representatives to those other agencies. This may be due to geographical location or particular expertise, a pre-existing relationship with the client/patient, or a temporary lack of resource in a particular field. Where the subsequent report is not prepared by the Foundations, caseworkers should ask the legal representative to confirm that the report has been prepared following the Foundations own processes. If the report has not been prepared using the Foundations processes, the Home Office instructions regarding the Foundations do not apply and caseworkers should instead refer to guidance on handling medical reports from providers other than the Foundations. See Medical Evidence (Non Medical Foundation cases).

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3.2 Interviewing

The traumatic nature of torture means that particular care and sensitivity is **required** when interviewing applicants who claim to be victims of torture. Caseworkers must ensure that they are familiar with guidance on interviewing alleged victims of torture in the Asylum Instruction, 'Conducting the Asylum Interview'. Caseworkers should note that not all forms of torture necessarily result in physical scars or injuries that are identifiable during a medical examination or are visible to an interviewing officer.

A torture victim's potential shame, distress, embarrassment and humiliation about recounting their experiences are difficulties which may need to be overcome. Many find this particularly difficult in the atmosphere of an official process. Those who have suffered at the hands of their own authorities may distrust officials here, despite travelling to this country to seek refuge. In many ways, this is an intractable problem but common sense, awareness and sensitivity can reduce its influence. All Home Office staff are expected to treat people with respect and must adopt a professional and sensitive approach during the interview process.

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3.3 Considering MLRs as part of the decision making process

It is important that reports prepared by the Foundations are understood fully and given proper weight in the consideration process. MLRs are expert evidence, not simply a report on the credibility of a claim of torture. The report may provide additional information that the applicant was unable to convey at interview but was able to disclose during sessions with the clinician. Caseworkers must take great care when assessing expert medical evidence. Due consideration must be given to the opinion of the medical expert on the degree of consistency between the clinical findings and the account of torture or serious harm, on the understanding that this does not impinge on the caseworkers duty to make an overall finding on credibility. Foundation clinicians can be assumed to have considered the possibility of 'a false allegation' of torture in forming a clinical view as this is required by the Istanbul Protocol: Paragraphs 105(f) and 287(vi) require the report writer to consider whether the clinical picture suggests a false allegation of torture.

It is **not** the role of caseworkers to dispute the clinical findings in the report or purport to make clinical judgements of their own about medical evidence or medical matters generally. Examples of clinical judgements that are inappropriate for the caseworker to make include:

- what in the caseworkers opinion ought to be physically possible or survivable;
- speculation as to alternative causation of physical or psychological injuries;
- questioning the accuracy of a diagnosis (based on selective quoting of the diagnostic criteria);
- substitution of the caseworkers own opinion on late disclosure or discrepancies in the testimony when a clinical explanation has been provided in the MLR or

- speculation with regard to the amount of detail with which a particular traumatic event ought to be remembered.

It is also inappropriate for caseworkers to provide their own subjective opinion either about the applicant's behaviour, for example the reasons for not having sought or received treatment previously, or for refusing to consent to an examination. Some other examples include:

- the use of information obtained via the internet about diagnostic criteria or medication;
- the use of statements made by an applicant at interview that they 'feel well' to subsequently dispute medical problems identified and documented by the Foundation;
- selective quoting from the MLR to challenge representations made by the claimant that the report supports when read properly and in its entirety.

This is not exhaustive and if caseworkers are in doubt as to whether a finding is a clinical judgement, they should discuss the case with a Senior Case worker who may consult Asylum Operational Policy where necessary.

Where further particulars relating to the content of the report are required, requests should be made to the legal representatives if the applicant is represented. If there is no response to requests for further information from the legal representative, caseworkers can write directly to the Foundations. The Foundations will liaise with the legal representative to progress the case and will not provide information directly to the Home Office as this would be inappropriate given the Foundations' role as an expert instructed by the legal representative for the applicant).

Caseworkers are required to consider all evidence in the round; including expert medical evidence and a conclusion on the overall credibility of an account of past events must not be reached without careful consideration of the contents of the Foundation's MLR. Caseworkers must have in mind the approach to assessing the credibility of past events set out in the Karanakaran judgment, which emphasises that evidence should not be excluded where some weight may be attached to it. They also need to bear in mind that the standard of proof is that of a 'reasonable degree of likelihood' which is lower than 'the balance of probabilities'. See Considering the asylum claim and assessing credibility for further guidance. The Foundations will not produce reports unless there is clinical evidence that is at least 'consistent with' the claimant's account of torture or serious harm according to the terms used in the Istanbul Protocol.

The Protocol, the central importance of which is accepted by the UK courts in the asylum context, makes clear that reports which document and evaluate a claim of torture for asylum proceedings need only provide 'a relatively low level of proof of torture [or serious harm]'. Therefore, the Foundations' report in support of the applicant's claim of torture or serious harm cannot be dismissed or little or no weight attached to them when the overall assessment of the credibility of the claim is made.

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If a report has been produced in support of an allegation of torture or serious harm and, having considered the findings, the caseworker is minded to reject the claim to have been tortured for the reasons ascribed by the applicant because there is significant evidence that outweighs the MLR evidence in support of credibility, the case must be discussed with a Senior Case worker.

If it is decided to refuse the claim the Reasons for Refusal Letter (RFRL) must address the contents of the report and explain what weight has been given to the medical evidence and why this do not outweigh other grounds for not accepting the applicant's account of events. Caseworkers should not argue that no weight can be applied to the report. If the allegation of torture or serious harm has been rejected, the RFRL must state clearly the reasoning behind the rejection of the claim.

Paragraph 339K of the Immigration Rules makes it clear that the fact that a person has been subject to persecution or serious harm, or to direct threats of such persecution or harm, will be regarded as a serious indication of the person's well founded fear of persecution or of a real risk of their suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.

However, the existence of a medical report and/or the acceptance of past persecution and/or torture will not necessarily justify a grant of asylum or Humanitarian Protection on that basis alone. For example, a grant of leave may not be appropriate if there are significant and enduring improvements in conditions in the country such that past mistreatment does not give rise to a future fear of persecution or if internal relocation is reasonable. The RFRL must explain why there is no reasonable likelihood that the applicant will be at risk in the future.

If caseworkers have concerns about the content of any medical aspect of an MLR prepared by the Foundations, they should discuss those concerns with Asylum Operational Policy via a Senior Caseworker. The Senior Caseworker will then refer the matter, if necessary, to the legal representative - outlining the reasons for the concern - before reaching a final decision on the asylum claim. The decision should be put on hold pending the outcome of that discussion.

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3.4 Assessing the overall claim

Where an MLR is submitted in support of a claim, the claim must still be considered in its entirety and not solely on the findings set out in the MLR, whilst always giving due weight to the report. As with all claims, caseworkers must assess according to the appropriate standard of proof whether:

- there is a well-founded fear of future persecution (which may include torture or serious harm) for a reason covered by the 1951 Convention (in which case the person will normally qualify to be recognised as a refugee – see the Asylum Instruction Considering the Protection (asylum) Claim and assessing credibility) ; or if not;

- there are substantial grounds for believing that, if removed, there is a real risk of the applicant being subjected to torture or to cruel, inhuman or degrading treatment or punishment (in which case Humanitarian Protection should normally be granted. (Please refer to the Asylum Instruction on Humanitarian Protection.)

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3.5 MLRs submitted following refusal of asylum

In cases where an MLR is submitted after the claim has been refused, the case should be reviewed before any appeal. The report should be carefully considered taking all evidence into account in accordance with the principles set out above. It is important to fully consider the MLR in the context of the evidence as a whole to properly assess whether such evidence may have resulted in a different overall assessment of credibility and evaluation of future risk had it been available before the initial decision. It is not sufficient to maintain, without clear explanation, that previous adverse credibility findings mean the MLR makes no difference to those findings.

Having considered the report it may be appropriate to withdraw the decision only if it is clear that a grant of Asylum, Humanitarian Protection or Discretionary Leave is appropriate. If the refusal is to be maintained it may be appropriate to provide a supplementary RFRL setting out how the report has been considered and why the decision is to be maintained. Caseworkers must ensure that the legal representative is provided with a copy of any supplementary refusal letter prior to the appeal to ensure that the appeal can proceed without delay.

3.6 Preparing case files for appeal hearings

If there is evidence that an applicant has been in contact with one of the Foundations, whenever possible Presenting Officers should contact the applicants' legal representatives to confirm whether an MLR has been received by them or is in preparation and, if so, they should request a copy in advance of the appeal hearing in order to review the case.

If, however, the representatives confirm that the applicant is still waiting for a report, then the officer should use their discretion on the basis of the information that is already on file, together with any information given by the representative as to the likely timescale for the production of any report, and in the appeal bundle to decide whether or not to take any further action, bearing in mind the need to avoid unnecessary appeals.

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Section 4: Miscellaneous

4.1 Difficulties with the Foundations

Asylum Operational Policy should be informed if Senior Caseworkers believe that an MLR appears to depart considerably from the Foundations' own guidelines. If appropriate, Asylum Operational Policy will bring any concerns to the attention of the relevant legal representative.

4.2 Reporting

When establishing a reporting regime, caseworkers must bear in mind current contact management policy in relation to certified Foundation cases and take into account the implications that any future appointments or ongoing treatment with one of the Foundations could have on an applicant's ability to fulfil a reporting regime.

According to Home Office contact management policy, where there is certified evidence that the applicant is a client of either of the Foundations, they should attract a low reporting frequency. See Contact Management Policy for further information.

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Annex A – Template Letter

Template Letter: Advising Legal Representative that the case is on hold

RE: [**Case Reference** (include legal representative and Foundation reference if known) – **Applicants name**]

As you will be aware your client, [name of applicant] has been accepted by the [Helen Bamber Foundation or Medical Foundation for the care of victims of torture] for a pre-assessment appointment regarding their claim to have been tortured or ill-treated. I have therefore placed the case on hold.

We wish to take into account any relevant evidence provided by the Foundation in either an interim report or a full medico-legal report as soon as it is available. This is to enable us to proceed to a decision on the merits of your client's claim as quickly as possible. You are therefore required to provide updates to the Home Office whenever a request on your clients' progress with the Foundation is made and no less frequently than every 28 days. We will not normally keep the case on hold for more than 5 months from the date of this letter so you must provide reasons for any delay beyond the 5 month target. It would be helpful if you could provide details of alternative arrangements to cover any absences to ensure updates can be provided as requested. We reserve the right to contact the Foundation directly if you do not respond to update requests.

You should also inform the Home Office immediately (and certainly within 72 hours) once you are made aware that:

- The Foundation has decided to take no further action in your client's case;
- Your client has been accepted for a full assessment;
- The Foundation has provided a Medico-Legal Report on your client.

I would be grateful if you would also inform the Foundation that the case has been placed on hold pending receipt of a Medico-Legal Report or confirmation that no further action is to be taken.

Instances of legal representatives failing to comply with these requirements will be reported to the Legal Aid Agency.

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Annex B: Background information

Freedom from Torture

The following information about Freedom from Torture (www.freedomfromtorture.org) has been provided by the organisation:

'Freedom from Torture is a national charity which was established in 1985. It is the only organisation in the UK dedicated solely to the treatment of survivors of torture and organised violence. The main treatment centre is in London, with further centres in Manchester covering the North West of England, Newcastle covering the North East of England, Birmingham covering the West Midlands and Glasgow covering the whole of Scotland.

Prior to 17 June 2011, Freedom from Torture was known as the Medical Foundation for the Care of Victims of Torture. The Medical Foundation for the Care of Victims of Torture continues to be its name in legal and financial dealings. This Asylum Instruction relates to Freedom from Torture's Medico-Legal Report service which continues to be known as the 'Medical Foundation Medico Legal Report Service'.

Freedom from Torture offers medical, psychiatric and psychological consultation, assessment and treatment, short and long term rehabilitation through social care, casework and counselling, psychotherapy, physiotherapy, complementary therapies, group and family work, small financial grants to individuals as well as practical assistance with accommodation and welfare agencies. The Medical Foundation Medico Legal Report Service also accepts instructions for the preparation of forensic MLRs documenting physical and psychological evidence of torture and organised violence'.

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Helen Bamber Foundation

The following information about the Helen Bamber Foundation (www.helenbamber.org) has been provided by the organisation:

'The Helen Bamber Foundation was founded in 2005 and works with survivors of torture (whether sponsored by the State or others), war, genocide, human trafficking for sexual exploitation or labour (slavery), gender based violence (including violence on the basis of one's sexuality) and extreme domestic violence. Many of our clients fall outside the remit of other organisations.
The Foundation's understanding of the traumatic impact of such experiences is based on 60 years direct clinical experience that began with concentration camp survivors after WWII. The methodology for assessing and treating victims incorporates current research on trauma. Prolonged and repeated exposure to catastrophic experiences (such as when the victim is in a state of captivity, unable to flee, and/or under the control of the perpetrator) can result in

trauma that is complex and enduring. Such trauma often results in the victim feeling permanently damaged, the loss of previously held belief systems, social withdrawal, the feeling of being constantly threatened, an inability to relate to others and a fundamental change to the individual's previous personality. Impairment to memory and capacity to articulate traumatic experiences are often observed within this population. Examples of the conditions in which such trauma is likely to occur include prisons, concentration camps, slave labour camps, as well as in brothels, other institutions of organized exploitation and within some families in which the perpetrator creates a relationship of coercive control.

New diagnostic categories are emerging to better account for the full range of symptom constellations that can result from multiple and chronic traumatisation. Conventional psychiatric classifications can 'reduce' the survivor to a category of symptoms, often discounting the individuality of the experience, as well as its social and political context. The Foundation considers that the complex, human dimension of an individual's response to these experiences must be given proper consideration.

All clinical assessments are carried out by one of the Foundation's senior clinicians, often involving members of the multidisciplinary team, prior to implementation of a care plan. Each clinical assessment uses a range of internationally recognised assessment schedules (Harvard Trauma Questionnaire, Hopkins symptoms checklist etc)'.

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Section 5: Change record

Version	Author(s)	Date	Change References
1.0	SL	20/03/2007	New web style implemented
2.0	JL	27/10/2009	Children's duty paragraph added
3.0	OPRU	17/01/2014	Updated following MLR Pilot

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