

MEDICAL FOUNDATION CASES

Table of Contents

Introduction

The Medical Foundation

Background Information

Referrals to the Medical Foundation

Children

Pre-assessment

Assessment

Content of Reports Written by the Medical Foundation

Dealing With Applications Involving Medical Foundation Correspondence

Implications for Decision Timescales

Evidence of Contact with the Medical Foundation

Acknowledgement letter from the Medical Foundation-

Pre-assessment and full assessment letters from the Medical Foundation –

Caseworker action:

Obtaining Information from Applicants who are being Treated by the Medical Foundation

Post pre-assessment

Where the Medical Foundation agree to provide full assessment/report

Where the Medical Foundation do not agree to provide full assessment

Case Handling at the Substantive Interview

Representations about Medical Foundation Referrals Received after the Interview

Medical Foundation Reports Submitted Following the Refusal of Asylum

Preparing Case Files for Appeal

Detained Fast Track Processes and the Medical Foundation

Oakington Immigration Reception Centre

Harmondsworth and Yarl's Wood Removal Centres

Interviewing Survivors of Torture

Assessing Claims

Assessing Claims Where a Report from the Medical Foundation has been Submitted

Assessing claims where a report from the Medical Foundation has been sought but not submitted

Difficulties with the Medical Foundation

Further Guidance

Address and fax number of Medical Foundation

Introduction

This section contains guidance on handling asylum and human rights claims where an applicant has stated that they have approached the Medical Foundation, and on how to request information on a particular case from an applicants representative. It also contains information on how to consider claims when a Medical Foundation report has been submitted. This section should be read in conjunction with the Asylum Instruction on the Medical Foundation Policy.

Cases involving the Medical Foundation should be dealt with by:

- **New Asylum Model** - the Case Owner handling the case
- **Asylum Casework Directorate** - designated unit/s

The Medical Foundation

Background Information

The Medical Foundation for the Care of Victims of Torture ("the Medical Foundation") is a registered charity providing treatment and support to survivors of torture. In addition to medical care, the Medical Foundation offers access to psychiatrists, psychotherapists, psychologists, counsellors, and complementary therapies. Care is provided not only to asylum seekers but also to British citizens in need of specialised help, such as survivors of Far East prisoner of war camps and victims of sectarian violence in Northern Ireland.

The Medical Foundation has their own website: www.torturecare.org.uk

Referrals to the Medical Foundation

Applicants are usually referred to the Medical Foundation. For applicants who allege torture, this referral usually comes via applicants' legal representatives, but it can also be made by GPs, or other health professionals, frontline refugee agencies such as the Refugee Council, or, in the case of children, teachers or social workers. This second type of referral can also lead to an internal referral for a medico-legal report.

Children

The Medical Foundation will accept the referral of cases involving unaccompanied and accompanied children. Claims from children who have provided evidence that they are awaiting an appointment with the Medical Foundation must be dealt with in the same way as those from adults.

Pre-assessment

Once the applicant has been referred, from whatever source for a medico-legal report, the referral documentation is assessed by the Medical Foundation and, on the basis of the information contained in it, a decision will be made either to reject the request without an appointment, or to invite the applicant in for 'pre-assessment'.

Approximately thirty per cent of applications are accepted for pre-assessment. The decision not to invite an applicant in for an assessment does not necessarily impinge upon the individual's credibility. This decision may be taken on a number of grounds, including instances where there is nothing to document physically or where the injuries have already been documented.

Applicants and their legal representatives who are not recommended for an appointment with a doctor will be immediately informed of the reason.

Assessment

Within ten working days of the pre-assessment taking place, the applicant will be notified of whether or not they have been accepted for a 'full assessment'. Approximately half of those cases accepted for a pre-assessment are taken forward for full assessment. Those applicants who are accepted for full assessment will then receive an appointment with a

doctor (usually within 4-6 weeks). The Medical Foundation generally see an applicant at least twice (and in cases where applicants have psychological problems, it may be more) before writing a report.

Case Owners should also take into account the implications that any future appointments or ongoing treatment with the Medical Foundation could have on their ability to fulfil a stringent reporting regime (e.g. Daily or Weekly Reporting) and amend this accordingly. This should then be reflected in the Case Management Plan.

Content of Reports Written by the Medical Foundation

Medical Foundation staff write approximately 900 reports a year that are intended to document and interpret the injuries of survivors of torture. All the doctors at the Medical Foundation are objective and unbiased. If they cannot match the testimony to the injury, then they will refuse to write a report. So, for example, they may decline to write reports for applicants where nationality is in dispute, or where there is no apparent physical scarring to document. However, some methods of torture do not produce scarring and the absence of scarring does not mean that the torture did not take place, merely that there is nothing physical to document. Where torture is not in dispute or is sufficiently well documented by others of appropriate expertise* the Medical Foundation may decline to write a report.

**Agencies other than the Medical Foundation prepare medico-legal reports, and on occasion the Medical Foundation 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.*

Dealing With Applications Involving Medical Foundation Correspondence

Implications for Decision Timescales

Where there is evidence on file that the Medical Foundation have been approached and they have agreed to provide an appointment, asylum claims must not be considered until the report has been received (or a letter from the applicant's representative explaining why a report has not been produced). This will mean that for NAM the projected decision date for the case is missed or for ACD the '2' target will be missed in some cases. For further guidance see Assessing claims where a report from the Medical Foundation has been submitted.

All cases that have been accepted for pre-assessment by the Medical Foundation are to be placed on hold pending the outcome of the pre-assessment. Following pre-assessment, applicants and their legal representatives will know whether a doctor has recommended them for assessment. They will be given an appointment date at that time.

Evidence of Contact with the Medical Foundation

Before a file is placed on hold pending receipt of a Medical Foundation report, it is essential that the applicant or representative submit a letter confirming an appointment at the Medical Foundation. Officers should process the case as normal in the absence of this evidence in writing. Whether applicants are accepted for, or refused, a pre- or full assessment, they will always receive a letter from the Medical Foundation giving their decision and the reasons for it.

NAM

Case Owners should use the regular reporting events to request the correspondence that the applicant has received from the Medical Foundation.

ACD

Acknowledgement letter from the Medical Foundation-

If there is evidence on file from the Medical Foundation in the form of an acknowledgement letter to show that the applicant has contacted them in regards to being treated by them, then the caseworker should write to the legal representatives (ASL.2937) stating that they have ten working days from receipt of letter to provide a letter from the Medical Foundation stating whether their client has been accepted for pre-assessment by the Medical Foundation. If no letter is forthcoming a decision will be taken. If a letter is not forthcoming then a decision should be made on the claim.

Pre-assessment and full assessment letters from the Medical Foundation –

If the applicant provides a letter from the Medical Foundation that they have been accepted for pre-assessment or full assessment, then no decision should be made on the case at this stage.

Caseworker action:

The file should be minuted to the Medical Foundation Enquiry Team stating that the applicant has been accepted for Pre-assessment/ full assessment.
The file ladder should be marked to ACU11 and tracked to ACU11.

Obtaining Information from Applicants who are being Treated by the Medical Foundation

Officers should check the case file to see at which stage the Medical Foundation process is at, additionally Case Owners should make enquires as part of the ongoing, regular contact management.

Post pre-assessment

- Two weeks after the pre-assessment a member of the Medical Foundation Enquiry Team should contact the applicant's representative to ask about the outcome of the pre-assessment using stock letter ASL.2937 (Request for confirmation of pre assessment), available from Doc Gen.
- Update CID records.
- Place case on hold pending receipt of response (usually 3 weeks after the pre-assessment).
- Action in accordance with scenarios outlined below.

Where the Medical Foundation agree to provide full assessment/report

The Medical Foundation state that almost all cases accepted for an appointment with a Doctor, will eventually receive a Medical Report. Legal representatives should be asked to submit a letter confirming details of future appointments with the Medical Foundation and the timescale for completing the report.

Files of applicants who have been accepted for further assessment by a doctor at the Medical Foundation should continue to be kept on hold.

Officers should:

- Prepare and send ASL.2938 (request for any continuing evidence)
- Update CID records.
- Place file on hold pending receipt of further information/evidence (for two months)
- Case Owners should make continual updates to the Case Management Plan to indicate the progress.

Where the Medical Foundation do not agree to provide full assessment

If the Medical Foundation do not agree to provide a full assessment/report, they will issue a letter to advise of the reasons why. Following receipt of this letter:

ACD

Officers should minute the file and send the case file to the ACU to reallocate the case file for consideration.

NAM

Case Owners should update the Case Management Plan and proceed with making a decision on the asylum and / or human rights application.

Where no Evidence from the Medical Foundation is Submitted

- If, after two months, no evidence has been received, prepare and issue ASL.2938 (using the second 'chaser' option and insert deadline for 3 weeks hence)
- place file back on hold pending response.
- If no response is received by the deadline:

ACD

minute the case file and send to the ACU to reallocate the case file for consideration.

Or

NAM

Case Owners should update the Case Management Plan and proceed with making a decision on the asylum and / or human rights application.

Where Evidence from The Medical Foundation is Submitted

Where evidence from the Medical Foundation is submitted the case can be considered in the usual way. For further guidance see Assessing claims where a report from the Medical Foundation has been submitted.

Case Handling at the Substantive Interview

If, during a substantive interview, an applicant indicates that he has approached the Medical Foundation, the officer should ask him for a letter of confirmation from the Medical Foundation during the interview. If the letter cannot be produced at the interview:

ACD - the caseworker should advise the applicant to send in a copy of the letter within ten working days. The caseworker should give the applicant a self-adhesive address label with their name, unit and ACD office address written on it for this purpose (where no labels are available the caseworker can write out the office address on a separate piece of paper). The caseworker should also warn the applicant that if a copy of the letter is not received within ten working days, a decision will be made on their application on the basis of the information that has already been provided.

Or

NAM- Case Owners should request that the letter be produced within ten working days. Depending on the reporting regime, the applicant should be advised to bring the letter to the next reporting event. If this is not possible then it should be sent directly to the Case Owner. The Case Owner should warn the applicant that if a copy of the letter is not received within ten working days, a decision will be made on their application on the basis of the information that has already been provided.

Where a credible account of torture is given during the interview, the officer should consider suggesting that the applicant may wish to approach the Medical Foundation for care and treatment. However, it is ultimately for the applicant/representative to decide whether to seek an appointment with the Medical Foundation.

Applicants who inform the interviewing officer that they intend to seek referral to the Medical Foundation, 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, interviewing officers should advise applicants of this fact, but inform them that, if a letter confirming a Medical Foundation appointment is received before a decision is made on the claim, the Case Owner or caseworker will await any Medical Foundation submission before determining the claim. For further guidance about interviewing alleged victims of torture, see the relevant sections of the Asylum Instruction on Conducting the Asylum Interview.

Representations about Medical Foundation Referrals Received after the Interview

Consideration of applications must be suspended if confirmation of an appointment with the Medical Foundation is received from the applicant or the applicant's legal representatives during the period following the substantive interview but before the case is determined. Consideration should not be resumed until the Medical Foundation report is received. For instructions on how to chase up a report from the legal representatives and the Medical Foundation see Obtaining information from applicants who are being treated by the Medical Foundation. For guidance on assessing claims where a report has been submitted see Assessing claims where a report from the Medical Foundation has been submitted.

Medical Foundation Reports Submitted Following the Refusal of Asylum

Where a Medical Foundation report is submitted after a claim has been refused, the case should be reviewed before any appeal. Having considered the report it may be appropriate to grant asylum or Humanitarian Protection (see the Asylum Instructions on Considering the Asylum Claim and Humanitarian Protection for more information). If refusal is to be maintained, a further letter to the applicant will be required explaining how the report has been considered and why the Case Owner or caseworker has concluded that the original decision should not be reversed.

Preparing Case Files for Appeal

If there is evidence on file that an applicant has been in contact with the Medical Foundation, whenever possible, Case Owners/Presenting Officers should contact applicants' legal representatives to confirm whether a Medical Foundation report has been received by them 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.

Detailed Fast Track Processes and the Medical Foundation

Oakington Immigration Reception Centre

Applicants detained at Oakington can be referred to the Medical Foundation by legal representatives in the same way as other applicants who are not detained. If the Medical Foundation agrees to accept an applicant for pre-assessment the applicant is taken out of the Oakington process. The referral is usually accepted within 24 hours. The case file should be minuted to this effect (together with the date of the Medical Foundation appointment) and sent to the Asylum Co-ordination Unit (ACU 1 Team B) until the Medical Foundation report is received. When the report is received, the file should be sent to ACU11 to consider the claim. (NSA cases must be considered by accredited caseworkers.) If, after ten working days, confirmation of the appointment for a pre-assessment has not been received an officer in ACU should make contact with the representative or (in the absence of sufficient information) the Medical Foundation following the procedures set out in Obtaining information from applicants who are being treated by the Medical Foundation.

Harmondsworth and Yarl's Wood Removal Centres

Applicants subject to Harmondsworth or Yarl's Wood fast track processes usually have claims determined on the day following the substantive interview. However a decision would be postponed where a pre-assessment had been confirmed by the Medical Foundation. A decision to take the applicant out of the fast track process will usually be taken by a senior caseworker or by the Immigration Appellate Authorities once the appeal stage has been reached.

Interviewing Survivors of Torture

The traumatic nature of torture means that particular care and sensitivity is required when interviewing applicants who claim to be victims of torture. For further guidance on interviewing survivors of torture see the Asylum Instructions on Medical Foundation Policy and Interviewing ('Best practice guide for Interviewing alleged victims of torture'). A booklet entitled "Guidelines for the examination of survivors of torture" is available from the ACD Library on 14th Floor, Lunar House, for officers based in Croydon and is also available from senior caseworkers who are based in Liverpool.

Assessing Claims

Assessing Claims Where a Report from the Medical Foundation has been Submitted

It is important that reports prepared on behalf of the Medical Foundation are understood fully and given appropriate weight in the consideration process. **It is important to stress that Case Owners and caseworkers must avoid making clinical judgements about medical evidence.** For information and advice on how to assess a claim supported by a report from the Medical Foundation see the Asylum Instruction on Medical Foundation Policy.

The existence of a Medical Foundation report in itself may not be corroborative, but, if a Medical Foundation report has been produced in support of a claim and having considered the report, the Case Owner or caseworker is minded to refuse the application the case **must** be referred to a senior caseworker. NAM Case Owners should refer the case to the SCW attached to their team.

To refer a case to the Senior Caseworker Unit (SCWU) caseworkers should:

- Flag the Medical Foundation report with an orange flag (usually used for annexing).
- Minute the case file for the attention of the senior caseworker, with details of why it is proposed that the case should be refused. If there is a target deadline, this should be included. The minute should be signed and dated and should include the caseworker's team details and location.
- Ensure the file destination is clearly marked on the destination ladder on the front cover of the case file.
- Track out the file on the File Tracking System and, if the case is still within the 2 months' target, ensure that the file is delivered immediately by hand to the SCWU, this also applies for cases within the 4 and 6 month targets. If the '6 deadline has passed, the case file should be sent to the SCWU via the messenger service (for cases considered in Asylum Casework Group (South) or by hand for cases considered in Asylum Casework Group (North) - this is because SCW in ACG(N) is situated within the CMU).

Once the file has been returned to the originating officer, the officer should proceed as directed by the senior caseworker.

Assessing claims where a report from the Medical Foundation has been sought but not submitted

Applicants are not compelled to submit a report. Not all reports prepared by the Medical Foundation are favourable to the applicant and Case Owners and caseworkers should be mindful that the applicant or their legal representatives may decide not to submit the report to the Home Office. If a report is not submitted, Case Owners and caseworkers should request a copy.

However, if a medical report is still not submitted (and neither has a letter explaining why a report has not been produced), Case Owners and caseworkers cannot demand a copy. If the caseworker has no reason to doubt the account of torture, the absence of a medical report will not be significant. But where there are problems with the credibility of a claim generally, a failure to submit the medical report, or an explanation why one has not been

submitted, may justify a negative conclusion about the credibility of the applicant's account of torture.

Difficulties with the Medical Foundation

The Asylum Policy Unit (APU) should be informed of any problems or difficulties that occur when senior caseworkers discuss individual reports with the Medical Foundation. Should a medical report appear to depart considerably from the Foundation's own guidelines, the senior caseworker should also bring it to the attention of APU. If appropriate, APU will bring any general concerns to the attention of the Foundation. In cases where a clinical judgement may be required which the Case Owner or caseworker is not competent to provide, APU will provide guidance on whether it would be appropriate, on a case by case basis, to seek a further expert medical opinion.

Further Guidance

Asylum Instructions:

- Interviewing
- Medical Foundation Policy

Book:

- Guidelines for the examination of survivors of torture available from a senior caseworker or the library on 14th Floor, Lunar House.

Address and fax number of Medical Foundation

The Legal Officer
Medical Foundation
111 Isledon Road
London N7 7JW
Fax number: 020 7697 7740

Document Control

Change Record

Version	Authors	Date	Change Reference
1.0	SL	20/03/2007	New web style implemented