

Accessing student loans for domestic abuse survivors

Is your client a domestic abuse survivor, with a gap in their leave to remain and wants to attend university?

The High Court in *OA v Secretary of State for Education* [2020] EWHC 276 (Admin) held that the Government's rules on who is eligible for student finance discriminated against survivors of domestic abuse. The law has now been changed as a result.

What are the changes in the law?

As long as your client has been granted indefinite leave to remain as a victim of domestic violence, they will be eligible for student finance.

Importantly, your client will be eligible irrespective of whether there are any gaps in their leave to remain, and regardless of how long they have been present in the UK.

What was the law before?

Previously, in order to qualify for student finance, all applicants (including survivors of domestic abuse) had to have been lawfully resident in the UK for at least three continuous years prior to the first day of the first year their course.

However, this rule failed to take into account the fact that perpetrators frequently withhold documents and use their partner's immigration status as a form of abuse. Those who have had their documents withheld by their abusive partners are likely to have missed deadlines to extend their leave to remain and therefore may have been forced to reside in the UK unlawfully for a period of time.

The High Court ruled that the 3-year lawful residence rule discriminated against survivors of domestic abuse, and therefore women. As women are more likely than men to experience abuse, those who have gaps in their leave to remain as a result are therefore more likely to be women. Consequently, under the previous rules, women were more likely than men to be denied access to university education.

Steps for survivors / advocates to take

Survivors of domestic abuse who have been granted indefinite leave to remain on that basis, and who have any gaps in their leave to remain prior to the first day of their university course can now apply for student finance straight away.

There is also no requirement for them to have been present in the UK for 3 years. If student finance is refused because of a gap in leave, you must contact a lawyer as this decision will be unlawful.