

Making a Fresh Claim (new evidence after the appeals stage)

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A fresh claim is an opportunity to give new evidence on your asylum claim to the Home Office and ask for a new decision on your right to stay in the UK based on this new evidence.

On this page, you will find the following information:

- What are further submissions, and what is a fresh claim?
- The fresh claims test
- The basis of a fresh claim
- How to prepare a fresh claim
- How to submit a fresh claim, including:
 - Actions you can take (with or without a lawyer)
 - Exceptions to submitting in person
 - Can you be removed if you have submitted a fresh claim?
- The Home Office decision
 - Positive decision
 - Refusal
- The Inadmissibility Rules and fresh claims

What are further submissions, and what is a fresh claim?

There are several points in the legal process when you can give evidence to the Home Office in support of your claim. To learn more about Evidence, you can read our [Toolkit page](#).

Further submissions is the name given to the evidence you can give to the Home Office **after** the appeals stage of the asylum process if your appeal is dismissed and you become “appeal rights exhausted”. You can learn more about this in our “Appeal Rights Exhausted” [Toolkit page](#).

You or your lawyer give the Home Office the further submissions and the Home Office will consider it and decide if it thinks that it is a **fresh claim** according to the fresh claims legal test (see below).

Although the evidence you submit is not technically a “fresh claim” unless the Home Office says it is, people tend to use the term “fresh claim” to describe the evidence they give to the Home Office and the further submissions process in general.

To be considered as a fresh claim your new evidence must include **new** and **relevant** information. For example, the basis of a fresh claim might be:

- new evidence about the original reason you claimed asylum
- your situation has changed since you claimed asylum and had an appeal heard and dismissed
- that the situation in your country may have changed
- [case law](#) might have changed the way cases like yours are dealt with or decided.

The evidence you submit to be considered as a fresh claim might be emphasising (this means

to highlight) a point you have already made, or providing a new source of evidence for an issue that has previously been disputed. The evidence may be on an entirely new matter that hasn't been raised with the Home Office/courts before. To be considered as a fresh claim your new evidence must include **new** and **relevant** information.

Poor-quality submissions are very likely to be rejected, and this can put you in a worse position than before. Read this page to make sure you put in the best evidence possible, and to find out whether a fresh claim is the best option for you. Submitting a fresh claim won't necessarily stop or delay Home Office attempts to remove you from the UK. You can read more by clicking here.

The fresh claims test

When you submit **evidence** to be considered as a fresh asylum or human rights claim, the Home Office uses a legal test, defined in the [Immigration Rules](#), to decide whether they consider it to be a "fresh claim".

The decision about this legal test matters, because it determines what happens with your further submissions. This includes whether or not you get the right to appeal a refusal or not.

Think about this legal test when you are gathering new evidence to try and make sure you meet this legal test.

Immigration Rules

353. When a human rights or asylum claim has been refused or withdrawn or treated as withdrawn under paragraph 333C of these Rules and any appeal relating to that claim is no longer pending, the decision maker will consider any further submissions and, if rejected, will then determine whether they amount to a fresh claim.

The submissions will only be significantly different if the content:

(i) had not already been considered; and

(ii) taken together with the previously considered material, created a realistic prospect of success, notwithstanding its rejection.

So, your further submissions will only be a fresh claim only if they are significantly different from the material that has previously been considered. We will define the definitions from the test below.

1) "Significantly different from the material that has previously been considered"

This is one of the most important things to remember – a fresh claim is all about asking for a **new decision because you have provided new evidence.**

A fresh claim is not just arguing your case in a better way – there has to be evidence that is new to support your arguments. "New" in this context doesn't necessarily mean it's just been created or that it contains information that the Home Office or courts have never heard before, just that it hasn't been seen by the Home Office or courts in relation to *your case*.

If your new evidence hasn't been considered before, **why** hasn't it been considered? If you've

had access to the evidence all along and haven't submitted it without a good reason, the Home Office could use that as a reason to say it's not a fresh claim.

If you've only just managed to get the evidence, you need to explain why you couldn't get it before.

Remember, you also need to explain *how* you got the evidence, especially if it's documentary evidence from your country, such as a birth certificate, arrest warrant or proof of political activity.

2) "Taken together with previously considered material"

The Home Office will consider your further submissions (new evidence) alongside the evidence and statements you submitted earlier in your case. If the Home Office or courts have previously found you to have "**negative credibility**" (they didn't believe you), this may be used against you to say this new evidence can't be trusted.

Your starting point for preparing a fresh claim should be, "What did the judge say when my appeal was dismissed?". You may see this referred to as the "Devaseelan" principle, named after the case in which it was established. If you would like to learn more about what happens when an appeal is dismissed, you can read our Toolkit page on being "[Appeal Rights Exhausted](#)".

This means that in your legal arguments, your starting point is **not** that the judge was wrong when they dismissed your appeal, but that if the judge could see the evidence you are now submitting, **they would have agreed with you** and allowed your appeal.

If you did not have an appeal, your starting point will be your **Reasons for Refusal Letter** from the Home Office. There will probably be many statements in there that the Home Office has made that are incorrect. You can learn more about the Reasons for Refusal Letter by reading our Toolkit page on [Asylum Decisions](#).

If your further submissions are all based on **your** evidence, and the Home Office and/or courts have found your testimony or evidence you have submitted to be "incredible" (this means that they do not think that you are telling the truth), this could be a reason for the Home Office to say that your submissions do not pass the fresh claim test. **Think about finding evidence that is not based on your own testimony** – see the gathering evidence section below.

If the Home Office or court have found you to be "incredible" (not telling the truth) in the past, it does not always have to stay that way. For example, if the Home Office has decided that a document you submitted in your original asylum claim is not genuine, this does not necessarily mean your new evidence should all be dismissed. Your case and the evidence has to be considered "in the round" (this means all together) for assessing potential risk or human rights breaches if you are removed from the UK.

A fresh claim is also an opportunity to show that you *were* telling the truth in the first place, even if the Home Office said you were not. In asylum claims, if the Home Office and/or the courts don't believe you on one issue, this may be used to argue you can't be believed on other issues.

If, through the evidence submitted for a fresh claim, you can prove you are credible (this means telling the truth) on one issue, your entire case may be treated more positively.

3) “A realistic prospect of success”

You may have new evidence, but is it relevant to your situation? Is it material (this means central) to your case and the grounds on which you are seeking asylum or the right to remain in the UK based on a human rights argument?

For example, there may have been a big political change in your home country, but if your claim is based on your sexuality, and the political change can't be seen to impact that, your new evidence will not be considered to be a fresh claim.

The **credibility** issues mentioned above are also used to decide on this “realistic prospect of success”. For example, you may have new evidence about the persecution of a clan that is close to yours in Somalia. If the Home Office and courts do not believe you are a member of that clan, however, that evidence is unlikely to give you a realistic prospect of success. You would need to provide evidence showing that the Home Office and the courts were wrong to doubt your clan identity.

Your submissions for a fresh claim may include good evidence from reputable (this means official) sources about human rights abuses and persecution, and the Home Office and/or the courts may not dispute that this evidence is true. The problem can be that the Home Office does not believe these problems or events mean that *you* specifically are at risk of persecution.

The basis of a fresh claim

This is an explanation of situations that may mean you are in a position to make a fresh claim. You may still be in a situation which means you can make a fresh claim even if it is not listed here.

New evidence is available supporting your original asylum claim

- For example, documents proving your political activity have only just arrived from your country of origin. Always keep the envelopes these arrived in and any proof of delivery/receipt.
- You have received news from back home. Have you recently received information that the people who persecuted you are still looking for you? People may have come round to your house, or maybe a family member or friend has recently been targeted. It may be possible to get a witness statement or police/court documents to prove this.
- There is new **objective evidence** relevant to your asylum claim. For example, you may have described a situation in your home country that wasn't believed by the Home Office and/or the courts. Is there a new human rights report or new, trusted journalism that backs up what you said?
- You may have new evidence because of your activity in the UK, since your asylum appeal was refused. This might be involvement in LGBT+ groups in the UK, or political activity. How can you evidence this activity? Remember, the Home Office position is likely to be that this activity is “self-serving” – that you are doing it to provide evidence for your asylum claim. Be prepared for that, and think about how you might address that in the letter/legal arguments you make that accompany the evidence.

Change of circumstances back home

- Has there been a change in your country since you left?
- These developments must be relevant to your case. How would a change of government or a new law put you at risk if you were returned there?
- A change of circumstances might be reflected in new **country guidance case law**. These are asylum appeals chosen by the immigration tribunal to give legal guidance for a particular country, or a particular group of people in a particular country. The decisions in these cases are assumed to be based on the best possible evidence about that country at that time. Until there are significant changes in that country, a country guidance decision sets out the law for other people seeking asylum from that country. You can find the latest country guidance decisions [here](#). Case law can be slow to catch up with political developments, however, so you may need to rely on other evidence.
- A change in circumstances back home may provide **evidence** for a fresh claim based on your original grounds for claiming asylum, or you may have claimed asylum for one reason and the changes mean you are now at risk for *another* reason.

Case law/legal developments

- This might include a change in country guidance case law (see explanation above).
- This could also include a legal **judgment** that the Home Office was wrongly applying a policy, or that the procedure for determining asylum claims should be done in a certain way that didn't happen in your case.
- If you can show that your case was refused because the Home Office was using a certain policy, or certain procedures were used, that have now been found to be unlawful, your fresh claim may ask for your case to be reconsidered on this basis.

New claim on a new basis

- This could include something you were not able to tell the Home Office at the beginning of your asylum claim. For example, some people do not feel able to tell the Home Office/the courts about their sexuality at first. The time spent in the UK might mean that you now feel safer saying this. The Home Office position may say that they do not you are gay, and that you should have disclosed sexuality at the beginning of your original asylum claim. You should be prepared for this, and explain in your further submissions why you didn't say anything earlier.
- Conversion to Christianity is another reason people may have a new claim for asylum. This might be because of time spent in the UK, where people may have positive interactions with church groups providing material and emotional support.
- The Home Office often disbelieves the genuineness of the conversion. With both sexuality and conversion cases, you need to think about providing evidence about something that is often hard to prove. Any involvement with LGBT+ or church groups is a good place to start when thinking about evidence.
- There may be other previously undisclosed reasons you would be at risk. Many victims of trafficking do not disclose they have been trafficked, and often give a story to the Home Office and courts that their trafficker has told them to say.
- You may have entirely new family or private life grounds for a fresh claim on a human rights basis, particularly if you've been in the UK a long time. If there were [human rights](#) reasons for getting the right to remain at the beginning of your case, these should have been made at the same time as you claimed asylum. But you may have *new* circumstances, such as a new relationship, a child, or a health condition.

How to prepare your fresh claim

If you have a lawyer, they will write the legal arguments that go with the evidence you submit to the Home Office. However, they are likely to ask *you* to go and gather some of the evidence to submit. If you don't have a lawyer, you will need to prepare the fresh claim yourself.

This is an area where support groups can be very helpful – see the **ACTION SECTION** below.

1. Read all the documents you have from your asylum/human rights claim carefully

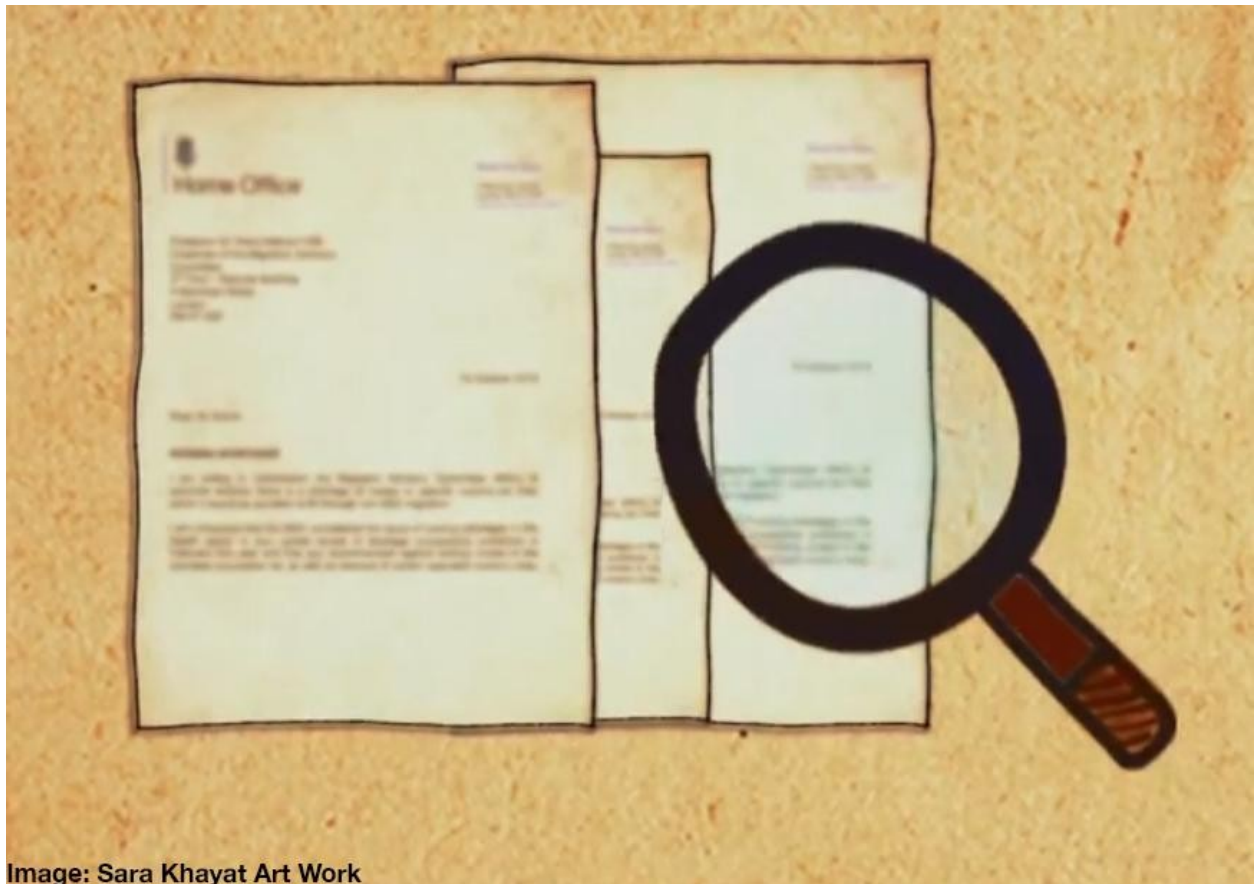


Image: Sara Khayat Art Work

These should include:

- a copy of the form filled out by the Home Office in your screening interview
- the transcript and audio recordings of your asylum substantive interview
- any witness statements and copies of any other evidence submitted to the Home Office and/or courts so far in your case
- the Reasons for Refusal Letter from the Home Office
- the determination/judgment of your asylum appeal at the First-tier Tribunal
- and any other **appeal decision** in your case.

The judgment from your asylum appeal, when your appeal was **dismissed**, is particularly important as this should be the starting point of preparing your fresh claim.

If you do not have one or more of these documents, you can either ask the lawyer that was handling your case at that stage (if you had one), or you can request that the Home Office send you a copy of your file. This is called a **Subject Access Request** and you can make it online. Learn more by visiting the Home Office website and looking at the application form [here](#).

You should receive a response within one month, although it will take longer if you do not provide the Home Office with the information they need to establish your identity.

The 2018 Data Protection Act gives the Home Office the power to refuse to share personal information under an “immigration exemption” but at the time of writing, people are still usually succeeding in obtaining their files (though with some information removed).

Once you receive the documents from your Subject Access Request, read the documents carefully.

Look at the parts of your story that have been doubted or disbelieved by the Home Office or courts. Can you find new evidence to support your story, or to challenge a statement of the Home Office or the courts?

Think about the key points of the refusal and appeal dismissal. For example, there is no point spending a lot of time finding evidence for one part of your story that is disbelieved, if the Home Office/courts say something like “Even if that were true, you would not be at risk because ...”. Or, if the court accepts that your home region is not safe for you but says that you could [internally relocate](#) somewhere else in the country, the focus of your fresh claim would likely be proving that you wouldn’t be safe or couldn’t survive in a different part of the country.

What is the main reason (or more than one reason) for you being denied protection or the right to stay in the UK?

Figure out the **most important part of your story** that demonstrates that you need protection or human rights status, but that has not been accepted by the Home Office or court.

Remember that your starting point is the judge’s decision in your appeal refusal. You are arguing that, with this new evidence, they would make a different decision.

2. Gather your new evidence

Image: Sara Khayat Art Work



The evidence you need will depend on the basis of your fresh claim.

If your fresh claim is based on your new circumstances giving rise to a human rights claim, read the [Human Rights](#) and [If You Have Children](#) pages of this guide for ideas of who to ask for supporting statements and other evidence. You can learn more about requesting support letters by reading our Legal Update [here](#).

Remember that in an asylum fresh claim, you need to prove that **you** would be at risk if returned to your country. It is not enough to prove that there is a risk of persecution/human rights abuses in your country in general.

You may need to look for “objective evidence” (this is general information about the situation in your country, from reliable sources such as human rights organisations or trusted media sources); or an expert statement on your country or situation. This is especially important if your credibility has been questioned in your original asylum case by the Home Office and the courts.

See the list of sources on the [Country of Origin Information page](#) of this guide, or on the [Evidence page](#) of this guide.

Watch our [video](#) on “Country of Origin Evidence“, which has a specific section on country guidance cases.

3. Explain the further evidence you are submitting

Fill out the [Further Submissions form](#) – you can put your basic details on this form if you

want to write a longer letter explaining your evidence.

The form can be helpful for structuring your arguments, and making sure you address the fresh claim criteria. Be aware that this is a Home Office form which begins with information to persuade you to return to your country of origin. Note – where the form refers to “changes in your country of claim”. This, confusingly, means your country of origin/residence that you are saying you cannot return to, *not* the country in which you have claimed asylum (the UK).

If you are writing a letter to go with the form you should:

- Explain that these are your further submissions.
- Explain what the new evidence is.
- Explain how you obtained the new evidence.
- Explain how your submissions amount to a fresh claim, and how they show you should be granted leave to remain in the UK.

Look at the information about the fresh claims legal test in the section above, and the possible basis for a fresh claim, and think about how to explain that your further evidence constitutes a fresh claim, and why it shows that you need protection/the right to stay in the UK.

Make a copy of the letter and form, and the evidence you are submitting, for your own records.

How to submit your fresh claim

Most people wishing to submit further submissions need to do so in-person in Liverpool, Glasgow, or Belfast. There are some circumstances in which people do not need to submit in person – see below.

To submit your fresh claim (your further submissions) in Liverpool or Glasgow, you need to contact the Further Submissions Unit to make an appointment. The phone number is **0300 123 7377** and the phone line is open between 9am and 4pm, Monday to Friday. In the past, there have been big problems with being able to get through on this phone line.

The Home Office [website](#) on further submissions states that you should take the following documents with you to your appointment:

- a completed Further Submissions form detailing the additional information you would like the Home Office to consider
- valid passport (if you have one)
- driving licence (if you have one)
- IS96 or Bail 201 with photograph
- previous immigration status documents, such as your Application Registration Card (ARC)

Make sure you get a receipt showing the date you handed in your further submissions.

ACTION SECTION

Preparing fresh claims is an area where you might be doing a lot or all of the work yourself, if you don't have a lawyer. It's an area where friends/supporters can help out a lot, for example:

- **Getting previous documents.** If a previous lawyer is refusing to hand over documents, a friend/supporter might be able to negotiate their release, or if necessary make a complaint on your behalf to the lawyer's regulator or the Legal Ombudsman. They may also be able to help you make a subject access request to the Home Office, to get your file from them.
- **Going through previous documents, particularly your appeal judgment.** This is particularly helpful if you cannot read English easily, or do not understand the legal terminology being used. You use these documents as the starting point of your fresh claim, as discussed above.
- **Finding evidence.** This may be supporting statements or letters, or objective evidence as discussed above.
- **Can a good lawyer be found to take up the case?** You may have struggled to find a lawyer to help you with your fresh claim. However, if you and your supporters have managed to find good evidence that makes your case stronger, a lawyer may now be persuaded to take up your case, and write the legal arguments to submit with the evidence.

Exceptions to submitting in person

There are exceptions to having to submit your fresh claim in person:

- if you are an **unaccompanied child under the age of 18**.
- **If you are unable to travel.** If you have a "disability or severe illness and are physically unable to travel" you need to contact the Further Submissions Unit and discuss submitting by post. You will need to provide medical evidence that "clearly indicates a disability or severe illness that results in [you] being physically unable to travel to Liverpool".
- **Ongoing judicial review.** If you have an ongoing judicial review challenging a removal or enforcement decision, or if you have been granted permission to proceed with a judicial review, you can submit by post.
- **If you are detained** you need to ask your Home Office caseworker how you can submit further submissions (or ask your lawyer to do this for you, if you have one).
- **If you are serving a criminal sentence in prison.** In this situation, you submit further submissions by post or fax to the Criminal Casework team.
- **If you are in the Family Returns Process** you may be able to submit your submissions at your usual reporting event. You need to discuss this with your Home Office caseworker.
- **If your submissions are based only on Article 8 family/private life**, you need to make an application online. See more information on the Home Office website [here](#). Read about Article 8 family/private life cases on the [Human Rights page of this guide](#).

Can you be removed from the UK if you have submitted a fresh claim?

The Immigration Rules say that:

*"An applicant who has made further submissions [to be considered as a fresh claim] **shall not be removed before the Secretary of State has considered the submissions under [the fresh claim legal test] or otherwise.**"*

But submitting further evidence does not mean you are completely safe.

The Home Office may send the letter saying your further submissions are not considered to be a fresh claim at the same time as detaining you and/or informing you they intend to remove you.

The Home Office may also attempt removal if you cannot prove you have submitted a fresh claim – so make sure you have evidence of receipt by the Home Office.

If you have already been told you are going to be removed, and then you submit further evidence, the Home Office will **typically consider and refuse the further evidence very quickly and say that they still intend to remove you.**

Read more about removal [here](#).

The Home Office decision

Once you have submitted your new evidence to be considered as a fresh claim, the Home Office will consider your evidence, based on the legal test above.

Some people receive a decision very quickly. This may happen if the Home Office is taking steps to remove you from the UK. Some people wait a lot longer for a decision – many months, maybe even a year or more.

If you want to know about the progress of further submissions you have submitted to be considered as a fresh claim, you can email the Home Office at csupostteam@homeoffice.gov.uk

Positive decision: Home Office says your further submissions ARE a fresh claim

If the Home Office decides that your evidence **meets the fresh claim criteria** they will go on to decide whether that evidence shows that you need to be given protection/the right to stay in the UK.

The Home Office often makes a decision based just on the evidence you have given them. Sometimes, they will interview you, like they did in your initial asylum substantive interview.

If they decide that the new evidence shows you would be in danger in your country, or you meet the human rights rules to stay in the UK, they will **grant you permission to stay**: Refugee Status; Humanitarian Protection; or other leave to remain based on your human rights claim. You can learn more about the different types of protection you might be granted by reading our Toolkit page [here](#).

If the Home Office decides that your evidence meets the fresh claim test **but does not prove you need to stay in the UK**, they will refuse your fresh claim. **You will have the right to appeal this decision.**

Read our Appeals page [here](#).

Refusal: Home Office says your further submissions ARE NOT a fresh claim

If the Home Office decides that your evidence does not meet the legal test and is not a fresh claim, they will reject your submissions. **You do not have the right to appeal this decision.**

This is the result for many further submissions.

It may be possible to seek a **judicial review** of this decision.

Learn more about Judicial Review [here](#).

If the Home Office rejects your further submissions, you are at risk of being detained and removed from the UK. **It's very important to be prepared in case this happens to you.** Read about preparing in case of detention [here](#). Read about challenging an attempt to remove you from the UK [here](#).

If you are able to get more evidence – perhaps evidence that is stronger, is seen as more “objective” and deals with the reasons the Home Office gave for rejecting your previous submissions – you may be able to submit that as a new round of further submissions.

The Inadmissibility Rules and fresh claims

A fresh claim can only be brought after a final asylum appeal dismissal. A fresh claim is an opportunity to give new evidence to the Home Office and ask for a new decision on your right to stay in the UK based on this new evidence.

A decision of inadmissibility from the Home Office is **not** a decision on an asylum claim. A **decision on an asylum claim** either agrees that your claim for asylum is valid and grants you status, or refuses your asylum claim because the Home Office does not think you need this form of protection from the UK.

A **decision of inadmissibility** means that the Home Office does not think you qualify to even claim asylum in the UK.

So, further submissions **cannot** be made for a fresh claim if a decision (not just a notice) of inadmissibility is issued by the Home Office.

You can learn more about the **Inadmissibility Rules** by reading our Toolkit page [here](#).