

## Case Study

# Lena\*

## Child in Need, adult sibling, domestic violence

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**Lena, age 13, was born in a non-EU country and came to the UK as a small child about 11 years ago, with her mum, Maria, and older brother, Jon (a young teenager when he came to the UK and now an adult).** Maria and the children entered the UK without any immigration status and they have no permission to remain.

Lena's father was already living in the UK when she arrived and has a complicated immigration history. Maria believes he has British citizenship, but she does not know when this was acquired and she does not have access to his full immigration and nationality records. He suffers from long-term serious mental health issues and has abused Maria and their children multiple times.

Lena may be a British citizen (from birth), but it is not known whether her father had British citizenship at the time of her birth. Without any evidence of this, she has been treated as non-British and having no leave to remain in the UK.

Lena has a younger sister, Daniela, born in the UK and now 8 years old.

Maria does not speak English – she relies on Jon to interpret for her and navigate life in the UK for their family. Jon is like a parent to his younger sisters. He is very caring and looks after them. Without Jon around, they would find it very difficult to cope.

In mid-2020, after an incident of domestic violence, Lena and her mum and siblings were referred to a migrant charity, which referred them to the local authority and asked for support. The local authority assessed Lena and her sister as children in need under Section 17 of the Children Act and agreed to provide support and accommodation for them and their mother. They are considered to have 'no recourse to public funds', so do not have access to mainstream benefits.

The LA placed Lena and her mum and sister in unsuitable accommodation for nearly a year, during which they were moved several times, from one unsuitable place to another. Eventually, Lena and her family were moved to another city and into better accommodation and a more permanent situation. The LA refused to support Jon, however, as he is an adult and not a parent. Jon has continued to live with and look after Lena, Daniela, and Maria. It is difficult for them to make ends meet on Section 17 support, which do not provide for Jon's expenses.

The abuse by her father and the instability of her family's situation affected Lena's mental health. During the time the family was living in unsuitable accommodation, she started to self-harm and eventually was admitted to hospital, where she disclosed previous self-harm and suicide attempts.

The hospital sent Lena's family a bill for her treatment. After the family's solicitor intervened, the hospital agreed it was an error to send the bill, as treatment related to domestic violence is not chargeable, even for persons who have no immigration

status. Although they did not have to pay this bill, receiving it was very stressful. The family are worried about access to healthcare – they are not eligible for free secondary care if unrelated to domestic violence, and if they incur NHS debts, this could adversely affect their immigration applications.

Lena and her family were referred to KIND UK for legal advice and assistance relating to immigration and citizenship issues. Because of the complexities of their case, it is being dealt with outside the KIND UK pro bono project by one of KIND UK's specialist partners. Their solicitor submitted applications to regularise the immigration status of Lena and her family members in 2021, and they remain pending. Lena's application is based on her having lived in the UK as a child for more than 7 years.

Lena may be eligible to apply to register as a British citizen (on a discretionary basis) in future. This would clearly be in her best interests, but there is a fee of £1,012 for such an application, which her family cannot afford to pay. Fortunately, the Government introduced a fee-waiver, effective since 16 June 2022, for which Lena may qualify if she and her family can provide sufficient evidence to show they cannot afford the fee.

## Best Practice.

### What should have happened?

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- The LA should have recognised that Jon's parent-like role in the family is key to Lena's well-being and provided support adequate to cover his basic living costs until his immigration status is regularised and he is able to work or access mainstream benefits.
- The LA should have provided suitable, stable accommodation for Lena and her family much sooner.
- Lena and her family potentially could have made the currently pending application 4 years ago, when Lena had lived in the UK for 7 years, had they gotten appropriate legal advice. Any agencies assisting them from that time should have referred them for legal advice.

*\*Name changed to protect privacy*

**KIND UK (Kids in Need of Defense UK) works to protect undocumented children in the UK.**

- We provide free legal help to children, young people and families as they navigate the UK's immigration and nationality procedures. We partner with lawyers and law firms across the country to ensure the best quality legal advice and representation
- We protect the rights and wellbeing of undocumented children and young people
- We campaign for systemic change to ensure that all children are safe and able to thrive regardless of their immigration or nationality status

Last year we supported over 700 undocumented children, young people and families. Over 450 lawyers from 20 partner law firms worked on KIND cases, and we achieved a success rate of 99%.

KIND UK is a collaboration between five award-winning, UK based organisations that specialise in children's immigration and asylum law: Migrant and Refugee Children's Legal Unit, JustRight Scotland, Coram Children's Legal Centre, Central England Law Centre, and Greater Manchester Immigration Aid Unit.

We partner with KIND, a US charity supporting legal representation for children facing deportation proceedings alone.

**For information about accessing KIND UK's services visit:**

[www.kidsinneedofdefense.org.uk/cases-we-take](http://www.kidsinneedofdefense.org.uk/cases-we-take)

**Initial information about a child's immigration status/citizenship at:**

[www.pathtopapers.com](http://www.pathtopapers.com)

**For information on other sources of legal advice visit:**

[www.kidsinneedofdefense.org.uk/where-to-get-legal-advice](http://www.kidsinneedofdefense.org.uk/where-to-get-legal-advice)

**For queries about this resource, please contact:**

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**KIND UK is hosted by Central England Law Centre**

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