

Case Study

Tarin and Family*

Support for EEA children in need, pending Pre-Settled Status

Tarin is an 8-year-old EEA national child. She lives with her mum, Jana, and younger siblings, Marek (2) and Ana (6). Jana came to the UK in 2020 after experiencing domestic violence by her ex-partner, Cam (Tarin's and her siblings' father). Tarin and her siblings came to the UK to join Jana in June 2021. Cam also came to the UK in 2021 but lives apart from the family.

Jana worked in the UK for 4 months in 2020 and most of 2021. After coming to the UK in 2021, Tarin enrolled in school. Ana was not granted a school place, however, and Jana could not afford childcare. She lost her job a few months after the children arrived, and the family quickly became destitute. In November 2021, Jana was referred to her local authority's no recourse to public funds (NRPF) team for an assessment and interim support. From December 2021, Jana had no employment income, and £60 remaining in savings. In January and February 2022, the family relied on a one-off emergency payment from Tarin's school, a small grant from a charity, a loan from friends, a one-off payment from Cam, interim payments from the local authority pending the outcome of a child in need assessment, and a food bank. Towards the end of February 2022, Jana owed 5 months' rent on their accommodation and had been served a notice requiring them to leave the property in mid-March 2022. They were so desperate that Jana saw it necessary to sell some of the children's possessions to afford food and electricity. The accommodation was inadequate, with only one bed, which was broken. Tarin and Ana were sleeping on the floor.

Immigration Status

Jana was in the UK before the end of 2020 (the Brexit transition period) and meets the criteria to be granted EU Pre-Settled Status. She applied under the EU Settlement Scheme before the deadline of 30 June 2021, but her application was refused. She submitted a subsequent application within 30 days of the refusal, and this is considered an in-time re-application, which means that she retains her pre-existing rights. Her application should be successful. Tarin and her siblings were joined to Jana's application and should be granted Pre-Settled Status as family members. Jana and her children are lawfully present in the UK while they are waiting for decisions, and they cannot reasonably be expected to leave the UK during this time. They are not excluded from local authority/community care services such as support under Section 17 of the Children Act.

Local authority decision: Section 17 support

The NRPF team decided that because Jana was an EEA national, she was not entitled to an assessment by that team and instead referred the family to another team (family support service) to be assessed. That team carried out a child in need

assessment from December to February and provided interim payments pending the outcome of their assessment. To prove destitution, Jana provided extensive evidence relating to her financial situation, including bank statements and payslips from her previous employment.

The local authority family support team concluded that Tarin and her family were not eligible for support under Section 17. The social worker suggested that Jana had not been transparent about her financial circumstances and also alleged that Jana was not destitute because Cam had agreed to pay her £300 per month to support the children. However, Jana had actually received £300 from Cam only once during the relevant time, and even if paid regularly, this clearly would not be sufficient to support the family.

Central England Law Centre assisted Jana in challenging the local authority's decision. Jana gathered more evidence about her financial circumstances and got a letter from her employer to confirm that she had received her salary in cash. The Law Centre wrote to the local authority asking for a new assessment and interim payments. After initially indicating that they would respond, the local authority failed to engage, and it became necessary for the Law Centre to send a more formal letter threatening court action if the local authority did not respond appropriately. The failure to assess and provide interim support were unlawful because Jana had provided ample evidence of her financial situation, had no money to support her children, and had been wrongfully refused support. After the letter regarding possible litigation, the local authority agreed to re-assess the family and provide interim support. They also provided alternative accommodation.

Eligibility for mainstream benefits

The family was potentially eligible for Universal Credit on the basis of Jana's employment history in the UK. Their potential eligibility was complex because of a lack of clarity about the eligibility of certain EEA nationals, and Jana needed to gather evidence and access specialist advice, which takes time. Even if the application was successful, she would not receive her first payment for several weeks, and she and the children needed Section 17 support to prevent destitution in the interim. In early March 2022, Jana received assistance from a charity to apply for Universal Credit. This application was successful, and she received her first payment in April 2022.

Best Practice.

What should have happened?

Tarin and her siblings should have been assessed as children in need by the local authority's NRPf team, which has much more experience in assessing destitute families than other teams. The NRPf team should not have declined to do the assessment because Jana is an EEA national, as that fact did not preclude her children being supported under Section 17. If the NRPf team had made a robust assessment on the initial application and provided adequate support and accommodation to Tarin and her family promptly, it would have prevented stress and hardship for the family and avoided the need for legal intervention.

The NRPF team should have decided on the initial application that Tarin and her siblings must be supported under Section 17, until and unless the family started to receive mainstream benefits sufficient to support them adequately (or until Jana was able to work again to support the family sufficiently). Upon having doubts about Jana's financial situation, the local authority should have made further enquiries into Jana's financial circumstances, for example by contacting her employer to confirm that she had received her wages in cash.

It would also have been beneficial – for the family and the local authority – if the local authority had identified from the initial application that Tarin and her family were potentially eligible for Universal Credit and helped Jana apply and/or referred her to another organization for help. If the family had gotten onto Universal Credit sooner, the local authority could have saved some of the costs of interim support. Assistance with the Universal Credit application should have taken place alongside interim support under Section 17 so that the family would be adequately supported until they began receiving mainstream benefits.

**Name changed to protect privacy*

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