

## Case Study

# Atu and Ebo\*

## Children in need; NRPF; disabilities; inadequate legal advice

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**Atu and Ebo are brothers who were born in the UK in 2007 and 2010. Their parents came to the UK legally in 2004, for their mum, Emma, to pursue advanced studies. Emma and her husband, David, had temporary permission to stay (leave to remain) in the UK when both boys were born, until 2011.**

### Health Complications

Emma and David originally intended to return to their home country after Emma's studies in the UK, but their lives became complicated with the births of their children. Both Atu and Ebo have disabilities, and Ebo had to have two major surgeries as a baby. Emma also has had some significant health issues.

### Inadequate legal advice

Before their leave to remain expired, Emma and David tried to extend it, but the person from whom they sought legal assistance at that time told them he made an application for them but did not do so. This 'solicitor' was later jailed for illegally providing immigration advice. Emma and David subsequently made new applications to stay in the UK on human rights grounds, but these also failed, in 2013. Their adviser for these applications did not assist them adequately either; his firm was subsequently shut down by the Solicitors Regulation Authority.

### Struggles with disabilities, no leave to remain, destitution, and inadequate support

After their immigration applications were refused in 2013, the family no longer had permission to stay in the UK, nor permission to work (or access welfare benefits). They sold some property and possessions, which helped for a while, and they had some support from family and friends. But eventually they became destitute. Despite their difficulties in the UK, Emma and David felt it was impossible to return to their home country because it would disrupt Atu's and Ebo's lives and healthcare, and they knew people back home would not understand the boys' disabilities. Atu had spent some time in his early childhood living with his grandmother in his parents' home country, but people there did not understand his disability, and there was not appropriate support available.

Because of his complex needs, Ebo was allocated a keyworker from the local authority in 2013. She helped get him into a special school for disabled children. Although her role should have been to assist with all of Ebo's needs, she offered no other support and closed her file once Ebo was enrolled in school -- even though the family's immigration status was by then precarious, and they were struggling

financially. By 2016, a different social worker had been allocated, but it took a long time for additional support to be put in place. In early 2018, the local authority confirmed that Atu and Ebo were ‘children in need’ and agreed to provide support under Section 17 of the Children Act, including payment of rent and grocery vouchers, and later a bus allowance.

### **Solutions: Leave to remain and citizenship**

KIND UK, working in collaboration with a pro bono legal team at Reed Smith, began advising Atu, Ebo, and Emma in 2018 (Emma and David separated in 2017) and assisted them to apply for leave to remain based on a child’s residence in the UK for 7 years. Neither Atu nor Ebo was eligible for British citizenship at that time: although children born in the UK and resident in the UK for the first 10 years of their life have a statutory entitlement to British citizenship, Atu (age 11 in 2018) had lived with his grandmother outside the UK earlier in his childhood, and this gap in his residence in the UK meant he was not entitled to British citizenship at age 10; and Ebo was age 8 in 2018. In late 2018, the Home Office granted Atu, Ebo, and Emma leave to remain for 2.5 years, with recourse to public funds, on a 10-year route to settlement.

After being granted leave to remain with recourse to public funds, Emma was able to apply for mainstream benefits instead of Section 17 support. Initially, she applied for and began receiving Universal Credit. She didn’t know she was entitled to other benefits. About 6 months later, a social worker informed her she could apply for Disability Allowance for the boys, as well as Carer’s Allowance, and helped her get the relevant application forms.

In 2020, KIND UK helped Ebo apply for British citizenship, to which he now had a statutory entitlement as a child born in the UK and continuously resident to age 10. Ebo’s citizenship application was granted in mid-2021, and his legal status in the UK is now secure.

KIND UK assisted with renewing Atu’s leave to remain in 2021 and is currently assisting with an application for British citizenship for Atu. It is discretionary, based on the facts that he has lived in the UK for more than 10 years, has leave to remain, that his brother has British citizenship and his mother has leave to remain on a route to settlement, his future lies in the UK, and British citizenship is in his best interests. It is likely that this application will be granted.

KIND UK also helped Emma renew her leave to remain in 2021. She will have to renew it every 2.5 years until she is eligible to apply for indefinite leave to remain in 2028. Each application is stressful and requires the submission of many documents. Emma’s renewal application in 2021 was particularly difficult: KIND UK requested that the Home Office expedite the application so that she could go to her home country urgently, because her mother was seriously ill (and died). The Home Office delayed in deciding the application and issuing Emma’s residence permit, and KIND UK had to make formal complaints to resolve these issues.

**“KIND UK has helped me so much. I am so grateful for all their work to help me and my sons.”**

### Interactions with the local authority

Emma's interactions with the local authority were mixed. On some occasions, social workers were very helpful, showed concern about her and her children, and offered appropriate support. However, Emma felt that some social workers were dismissive, provided incorrect or incomplete information, didn't treat their case as urgent, or didn't believe her about some things. In 2016, a social worker told her that the local authority didn't provide support if children are living with both parents and more than once failed to attend appointments she had made with Emma, with no notice. The local authority took a long time to complete the child in need assessments, with little support or information during this process. In addition, on some occasions, social workers failed to inform Emma of types of support for which Atu and Ebo were eligible, or sought to end support that was helping them, even though they were aware of the family's difficult situation. There was very little support with the immigration process. KIND UK had to chase Emma's social worker to get copies of her assessments.

**“It was frustrating when they were doing the Child in Need assessment. It took so long. There were so many interviews, and they asked some of the same questions more than once. It seemed like they didn't think our case was urgent, but we were really struggling and worried about getting evicted.”**

### Group support

Trying to cope as a single mum of two disabled children and deal with immigration problems was incredibly stressful. Eventually, after meeting a mum facing some similar challenges, Emma formed a support group with some other mums at Ebo's school. This has been a lifeline, and she hopes others might be offered this type of support in future.

**“Raising my sons and coping with their disabilities as well as our immigration problems has been really hard, but talking to others going through similar things helps. It would help a lot if the local authority could connect parents in similar situations so they could support each other.”**

## Best Practice.

# What should have happened?

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The local authority should have done more to assist this family, including, for example:

1. When the family's leave to remain was refused in 2013, the local authority should have made an active referral to a competent legal adviser who could have advised on: 1) any possible applications to regularise their immigration status; and 2) the possibility of a 'change of conditions' application to allow access to public funds.
2. Once the family were destitute, the local authority should have done a Child in Need assessment, with emergency interim support provided whilst the Child in Need assessments were pending.
3. The local authority should have advised Emma of all services and support for which she or the boys were eligible, as soon as they were eligible (or referred her to external support or advice), and not sought to remove services which were helping the boys.
4. Once Emma was being assisted by KIND UK, the local authority should have cooperated in addressing the family's immigration and citizenship issues, for example by promptly providing any requested documents without KIND UK having to chase the social worker.

*\*Name changed to protect privacy*

**KIND UK 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:**

[cynthia.orchard@centralenglandlc.org.uk](mailto:cynthia.orchard@centralenglandlc.org.uk)

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

Company number: 4149673 | Charity number: 1087312

Oakwood House, St Patricks Road, Coventry CV1 2HL

[www.kidsinneedofdefense.org.uk](http://www.kidsinneedofdefense.org.uk)