

## Legal Advice Project: Case Studies

Turkish born Mr A is an elderly gentleman with very complex health problems. He has dementia, is diabetic and has previously suffered two heart attacks and a stroke. Mr A has lived in the UK since 1969 but had no confirmation or evidence of his legal status. It was understood he had made applications to the Home Office in the early 1970s but, at the time of referral to the legal team, did not have any documentation relating to any previous applications, such as a Home Office reference number. His only form of identification was his bus pass; he did not recall his national insurance number or his address history.

Prior to Mr A's referral, he had been living in hostel accommodation, which was highly unsuitable given his complicated health situation. There was a pattern of him being discharged to unsuitable accommodation that, unsurprisingly led to multiple hospital readmissions. Mr A was not considered as eligible for supported accommodation due to his not having confirmed immigration status. On one occasion, immigration officers visited Mr A in hospital and declared he had no lawful basis to remain in the UK.

The Pathway team got in touch with the team at Southwark Law Centre to look into the situation. Legal colleagues worked with Mr A to obtain the necessary lawful evidence to support the fact he had lived in the UK since 1969. They were able to assist him to make a 'No Time Limit' application to confirm he had settled, lawful status in the UK under Part 1 section 1(2) or the Immigration Act 1972. In the course of their investigations, it transpired that the Home Office had destroyed the clients' file, which included evidence of an outstanding immigration application lodged by Mr A as far back as 1970. As a result of Southwark Law Centre colleagues' efforts, Mr A was eventually referred to a care home and now resides in supported accommodation.

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Mr B is Ghanian and has been living in the UK since the 1960s. It's understood he originally arrived on a visitor visa and had been refused leave to remain in the past. He was admitted to hospital having had a stroke and also had a history of irregular heart beat and heart failure. Prior to his admission, he had been living in an unheated garage and was extremely vulnerable. Although he recovered well from his stroke, Mr B suffered some residual cognitive problems.

In addition to his serious health and living situation concerns, Mr B had similar complications with his personal and work life. He was separated from his partner and his UK-born son had moved to the USA. His son had promised not to be out of the country for long and would send money back to support his father. This did not happen. Prior to becoming ill, Mr B had been working as an accountant on a cash-in-hand basis, but was unable to continue this arrangement following his stroke.

Given these circumstances, it appeared he might have justification to claim for 'leave to remain' on the grounds of 20 years continuous residence in the UK.

There would be very significant obstacles to his integration into Ghana if forced to return there; a decision to deny his application to remain in the UK would, in the view of the legal team, be unjustifiably harsh and breach his article 8 ECHR rights.

The Pathway team called for an occupational therapy assessment – a good example of working together with the legal advisers to help evidence his case. This assessment concluded that the patient required assistance to problem solve effectively, needed help with taking medication, cooking, meal preparation and shopping. He also could not manage outdoor mobility very well as he needed help with directions.

The Southwark Law Centre took on the case in order to assist him make a human rights claim. This was achieved via Exceptional Case Funding and therefore 'at risk' to the Centre. Case fees would only be paid by Legal Aid if the funding application were successful. This is a complex and time consuming process, but one that colleagues at the Centre were prepared to take on.

Mr B's legal case was hampered by his lack of financial resources to obtain GP records to evidence his residence or for Home Office application fees. A fee waiver process is available, but relies on very thorough preparation which can add further delays to the process.

The fact that the Centre had taken on the case was enough to satisfy Lambeth's No Recourse to Public Funds (NRPF) team that Mr G was eligible for support and accommodation in the community. Mr G was discharged from hospital and Southwark Law Centre continued to work on his case. They were successful in receiving Legal Aid funding and were granted a fee waiver for a Home Office application. However, his human rights claim was refused and he was assisted to appeal to the Tribunal. In the end, the Home Office reviewed the case before it was due to be heard by the Tribunal and withdrew the decision to refuse the patient's human rights claim.

Mr G was finally granted leave to remain with NRPF. This means he will finally be able to live lawfully and indefinitely in the UK (by extending the limited leave currently granted) with access to mainstream housing and welfare benefits.