

Collaborative Plan Case Studies 2020/21

The following are case studies from 2020/21 that highlight some of the access to justice work carried out by Collaborative Plan member firms. Names are removed/changed to maintain confidentiality.

IMMIGRATION MATTERS

[Exceptional Case Funding \(ECF\) legal aid and family reunion applications](#)

Through our project with a refugee NGO, we prepare ECF and family reunion applications for asylum seekers in Greece with family members in the UK.

In one of these cases our lawyers took on the case of "H", a mother of four children from a Bidūn family from Kuwait.

The Bidūn are stateless people found in several countries in the Middle East. Although c.70% of Kuwait's total population are not Kuwaiti nationals, the Bidūn have been continuously denied citizenship by the Kuwaiti government, and their situation became particularly bad after the first Gulf War (historically, it is widely believed that this discrimination is due the Bidūn being Shia Muslims whilst most of the Kuwaitis are Sunnis).

H and her family suffered from the discrimination typically endured by Kuwaiti Bidūns. In addition, her husband, "Q" was arrested by the Kuwaiti authorities and tortured after his participation in anti-government protests.

In 2015 the family left Kuwait and made their way to Greece and then further across Europe on a dangerous journey using people smugglers. During this time, Q was separated from H and the children and eventually managed to reach the UK in 2019, where he began a claim for asylum. H and the children remained in France in accommodation organised by the French immigration authorities.

All of the family, and particularly two of the children, suffered physically and mentally because of the journey. Q was diagnosed with depression and other mental health-related problems due to his experience of torture.

Both H and Q are illiterate and cannot speak English. Our lawyers worked with the organization and a translator to interview H and Q and explained the family reunification process to them.

The team helped the family to gather documents in the form of evidence such as photos and WhatsApp messages demonstrating their familial ties, marriage and history of living in Kuwait together. The team then drafted the grounds for the ECF request and submitted them to the Legal Aid Agency.

This application was finally confirmed as successful. H and her family will now benefit from a legal aid funded immigration lawyer who will help them to bring their family reunification claim. The team of lawyers then worked on the witness statements to provide to the immigration lawyer to help move the matter forward.

[ECF legal aid for destitute immigration detainees facing deportation from the UK](#)

In a project with an immigration charity based in the UK, we help to obtain Exceptional Case Funding (ECF) legal aid for destitute immigration detainees facing deportation from the UK.

On one matter two of our lawyers helped an asylum seeker and Pakistani national, Tamim. He arrived in the UK in 2015 . He is the father of two young boys, his youngest son was born in November 2019.

He served a prison sentence from 2017 to 2019 for grievous bodily harm – an act for which he engaged in a successful restorative justice process with the victim and their family while in prison.

Following his conviction in 2017, Tamim was served with a deportation order and he was detained for removal to Pakistan in July 2019 following his release from prison.

His family suffered enormously from the anxieties and uncertainties surrounding Tamim's deportation. His wife suffers from severe mental health issues, which were further compounded by complications during her pregnancies. She tragically miscarried twins amid the uncertainty of Tamim's immigration status.

His son's behaviour also deteriorated greatly in Tamim's absence, especially as Tamim was his son's primary caregiver while his wife was working as a teaching assistant. Tamim and his family have very limited financial resources and he would have had no opportunity to prepare for and make effective representations to the Home Office against his deportation.

Our lawyers worked hard to complete a comprehensive ECF application on behalf of Tamim and were notified by the Legal Aid Agency that their application was successful.

The organization is now able to assist Tamim to find a legal aid lawyer that can make representations on his behalf to stay in the UK (including arguments under Article 8 European Convention on Human Rights on his right to private and family life).

He also has a concurrent asylum claim for which the organization will also help him find representation and make sure due regard is given to the best interest of his children.

[A clinic to support care-experienced children to apply for the EU Settlement Scheme \(EUSS\)](#)

Our firm and a children's rights NGO commenced a partnership at the beginning of 2021. Pairing up with their Migrant Children's Project, we launched a clinic to support care-experienced children to apply for the EU Settlement Scheme (EUSS).

The application process for the EUSS was designed to be straightforward, but children in care experience several barriers to access including a lack of evidentiary documentation required for the application; knowledge of exactly when they entered the country; and access to the technology needed to make the application.

Our collaboration with the organization trained nearly 50 lawyers and trainees in the application process and procedure of the EUSS, as well as the relevant immigration and care law.

This training was delivered by an OISC-regulated immigration solicitor at the NGO, who also supervised all cases undertaken by our volunteers.

While neither the firm or the organization acted on the record for applicants, they still adhered to the regulatory requirements for immigration advice to ensure high standards of client care and mitigate risk.

The organization also insured the project and bore the risk as part of the supervisory arrangement.

The legal volunteers then supported applicants through the entire application process in teams of two or three (with each volunteer team being led by an SRA-regulated solicitor and supervised by the organization's senior immigration solicitor).

This involved gathering documentary evidence from a variety of sources including local authorities, schools, and embassies, and then guiding the child and their social worker through the application as they filled it out.

The team approach worked well, allowing volunteers to deliver a consistent service despite changes in capacity. In the monitoring and evaluation of the project, volunteers noted that this approach was a particularly positive part of the project.

Beneficiaries ranged from new-born babies who had recently come into local authority care, to young adults transitioning out of care who were still owed a duty by the local authority.

Due to COVID-19, the project was conducted entirely remotely with correspondence being via email or video conference.

In recognition of the time and cost that the NGO dedicated to supervising the legal volunteers as they conducted casework, and the mutual benefits for both partners arising

out of the collaboration, the firm gave an unrestricted donation of £15,000 prior to the commencement of the project.

Over the course of four months, 49 lawyers dedicated 415 hours to support 21 children in making applications to the EUSS.

During the project evaluation, it was found that 93% of the legal volunteers would continue their involvement with the project, and that 100% of the volunteers enjoyed the project because they were passionate about supporting children in care.

DISABILITY BENEFITS WORK

[A project to help people challenge unfair benefit decisions and support them to secure their legal rights and entitlements.](#)

Our firm works with an anti-poverty charity that combines direct help for people across London to solve their housing and benefit issues with national campaigning for social security and housing systems that work for all. This integrated model of working enables the charity to directly help thousands of people access justice whilst also pursuing transformative change for hundreds of thousands nationally.

The charity has been a part of the firm's pro bono offering since 2019 and is open to all employees, not just lawyers.

Pro bono volunteers take part in the charity's Tribunals Project, which was formed as a result of the charity seeing an increase in the numbers of disabled and unwell Londoners coming for help with their disability benefits after they have been stopped by the Department for Work and Pensions (DWP). As a result, their lives are turned upside down as the income they rely on is stopped, and many will fall into rent arrears and are forced to rely on foodbanks. The project helps people challenge unfair benefit decisions, and pro bono volunteers prepare appeals and represent clients at First-tier tribunal; supporting individuals to secure their legal rights and entitlements.

Volunteers from the law firm attend a mandatory training session provided by the charity to cover welfare benefits overview, tribunal process, and the specific descriptors for disability benefits: Employment and Support Allowance (ESA) (and the same for Universal Credit) and Personal Independent Payments (PIP).

A Real Estate associate at our firm, working alongside a Senior Associate in Commercial and Regulatory Disputes, successfully appealed a recent DWP decision for a client, Mr M, who had been a survivor of abuse and torture in his home country.

Mr M had a number of serious medical conditions both physical and mental, impacting on his daily life significantly. Incredibly, the client was originally awarded zero points by the DWP and was therefore not entitled to disability benefits.

After a mandatory re-consideration (the first stage of appeal) led by the charity, he was awarded nine points, which got the client a standard living rate of benefits, but the team felt the client should have received more points considering his health conditions.

The lawyers reviewed the DWP's prescriptive capabilities list, tailored the court application documents and pulled together a bundle, appealed the decision and attended the virtual hearing to support the client.

As a result, the client scored 35 points, which means not only is he entitled to increased benefits, but he also gets them at an enhanced rate and they will be back-dated to early 2020.

It is an outstanding result which the client described as "overwhelming." Commenting on their success, the associate involved in the matter said:

"The project offers us a chance to apply our legal skills in drafting, negotiation and document analysis to make a tangible difference in the lives of some of the most vulnerable people in London. I gained lots of experience and improved my drafting, interviewing and advising skills – all whilst making an impact. For the client, this result undoubtedly makes a big difference in his daily life and, I hope, his confidence."

Securing benefits for a client with a learning disability and other health issues

Our firm assists individuals with learning disabilities and mental health difficulties with benefits appeals at Tribunal and charging disputes.

One case involved two of our lawyers assisting a 45-year-old woman, Sarah, for over two years to obtain a successful result.

Sarah suffers from a learning disability and breathing, digestive and immunodeficiency related issues. She had previously been receiving the disability living allowance benefit (DLA) but when she had to transfer to the personal independence payment benefit (PIP), she was assessed as being ineligible.

Sarah lives in supported housing and relies heavily on her parents and regular visits from carers. She has difficulty with everyday tasks including cooking, managing her medication, handling her post and travelling without prearranged transport.

Sarah also needs social support to engage with others and is a survivor of sexual abuse. It has been a long and difficult wait for Sarah and her family.

The appeal was lodged in 2018 and was due to be heard in 2019, only for it to be cancelled 5 minutes before the hearing was due to start. However, in 2020, the First-Tier Tribunal found in favour of Sarah on each of the points raised in the submissions.

The learning disability organization's support worker wrote the following message to the legal team:

"The client and her father have been waiting a very long time for this decision which has been incredibly stressful for them both. However, they were really pleased with the outcome and all the support that they received from the organization and the volunteers ... thank you both so much for all your work on this case, which went on a lot longer than anticipated! I know the client is really grateful for all the work that you put in to help them to achieve this outcome, as are we at the organization."

Restoration of benefits for a torture survivor

Our firm secured the restoration of benefits for a torture survivor, Mr A, who was granted asylum in the UK after fleeing torture in his home country (Iran).

As a result of his treatment, which included hangings, beatings and lashings, he suffered from a number of serious health conditions.

Having previously received disability living allowance (DLA), Mr A was told by the DWP that he was not entitled to any benefits under the personal independence payments scheme, which replaced his DLA.

In his appeal, we were able to help Mr A successfully claim the standard daily living award to which he was entitled (alongside the enhanced rate of mobility award, which was uncontested).

Successful benefits appeal on behalf of a civil war survivor

Our firm secured additional welfare benefits entitlement for a Sri Lankan civil war survivor. Mr. P had a range of health conditions, including lower leg amputation, chronic pain and post-traumatic stress disorder, which resulting from gunshot and shrapnel injuries he sustained in 2009 during the Sri Lankan civil war.

Following the amputation, Mr P wore a prosthetic limb, but despite multiple hospital visits, he was unable to move very far (even in a wheelchair) without suffering severe pain. As a result, Mr P could not climb stairs and was forced to sleep in his living room.

The DWP had refused Mr P the 'work-related' element of universal credit (UC) which is generally a benefit paid to those on a low income, out of work, or who cannot work. This element is paid to those who are unable to look or prepare for work, eg attend an interview.

At a remote hearing via telephone, the tribunal quickly recognised that the acute, long-term nature of Mr P's health conditions prevented him from working and agreed with us that he should receive the UC payment in full.

Following the tribunal's decision, Mr P said:

'Thank you so much for all your help and support during this case... I have finally received my right to the credit... I am so grateful for everything.'

A dispute resolution associate, who worked on Mr P's case, said:

'We successfully represented our client in his benefits appeal, which made a significant difference to his life and was a great way to use our expertise to help make a difference.'

SOCIAL HOUSING AND COMMUNITY CARE

Advocating for families with terminally ill children in relation to social housing, community care and charging issues

Through our firm's project with two NGO's, we assist and advocate for families with terminally ill children in relation to social housing, community care and charging issues.

On one of these matters our lawyers helped Samantha, who fled domestic abuse and was rehoused by the Council, together with her three children, in a two-bedroom temporary flat for homeless persons.

Her eldest son suffers from Pompes disease, a deteriorating muscle disease which means that he is in a wheelchair or needs to use a frame and requires constant care.

The temporary accommodation that was provided by the Council was unsuitable for the family for a number of reasons, not least because Samantha's son's health had deteriorated, and he was unable to use his wheelchair or frame with ease in the flat. In late 2019, Samantha's son fell and fractured his arm at home. The resulting injury meant that he could not return to the flat and required hospice care.

Once the hospice could no longer accommodate him, and he could not be discharged home due to the unsuitable nature of the accommodation, the family were moved to hostel accommodation. The hostel accommodation presented a series of challenges to the family, especially during Covid-19.

After over eight months of working tirelessly to secure permanent accommodation for Samantha and her children, in 2020 our lawyers successfully secured a fantastic result for the family who were rehoused in a permanent, three-bedroom Council house which has been fully adapted to accommodate Samantha's eldest son's condition, including the installation of a lift and sufficient wheelchair space so that there is no risk of injury.

INQUEST

[Assisting a family with the inquest into the death of their baby son](#)

The law firm assisted a family with the inquest into the death of their son, at 7 days old at a hospital. The family always believed that their son's death was a result of serious failings in both the obstetrics care that the mother received and the neonatology care the baby received, and have been searching for answers from the hospital's trust for over 2 years. However, they have been repeatedly told there were no errors and there was no need for an inquest to be conducted.

The tragic death of the baby in 2017, as a result of catastrophic errors during his birth at the hospital was the subject of a widely publicised coronial inquest that concluded in January 2020.

After a 3-week inquest, in which evidence was heard from 34 witnesses, including doctors, nurses and midwives and senior management at the Trust, the Coroner found that the baby's death was wholly avoidable, and caused by a number of serious and preventable failures, which amounted to neglect. This decision was significant for two reasons.

- First, this is one of the first cases against an NHS Trust in which Article 2 of the European Convention of Human Rights, the right to life, has been recognized as being engaged, due to the systematic and structural failings at the Trust. The Trust was aware of the risks in both the obstetrics and neonatology services two years before the baby's birth, but had not put in place any training or procedures to avoid those risks arising.
- Secondly, it is rare for a coroner to find that a death in an NHS context amounts to neglect as this is a high evidential burden. The long list of failures noted by the coroner, and recommendations on how to prevent such deaths happening in the future, finally provide some answers for the family.