

தமிழர் நலன்புரி சங்கம் (நீயுறாம்) ஐ.ரா.  
TAMIL WELFARE ASSOCIATION (NEWHAM) UK



Annual Review Report 2023 / 24



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# வாழ்த்துப்பா



காலச் சக்கரத்தின் சுழற்சியில் வருகின்ற  
புதிய வருடமாம் 'குரோதி'யை வரவேற்று  
தமிழர் நம் வாழ்வு ஓங்க  
தமிழ்ப் புத்தாண்டே வருக வளம் பல தருக.

குடி புகுந்த நம்மவர்க்காய்  
வாழ்வு வளம் பெற,  
தரமான நற் சேவைதனை வழங்கும் - நம்  
தமிழர் நலன்புரி சங்கமே வாழி! வாழி!!

தன் நிகர் இல்லா சேவை வழங்கும்  
தொண்டு நிறுவனமே தொடர்க உன் பணிகள்  
பலரை வாழ வைத்து,  
இந்நாட்டில் உன்னையும் தக்க வைத்து...

முப்பத்து எட்டு ஆண்டுகளை நிறைவு செய்யும்  
தமிழர் நலன்புரி சங்கமே வாழ்க!  
வாழ்க, இன்னும் பல்லாண்டுகள் வாழ்க.



## Annual Review Report - 2023

தமிழர் நலன்புரி சங்கம் (நியூஹாம்) ஐ. ரா.

TAMIL WELFARE ASSOCIATION (NEWHAM) UK.

602 Romford Road, Manor Park, London E12 5AF

Tel: 020 - 8478 0577 Fax: 020 - 8514 6790

e-mail : twan@twan.org.uk www.twan.org.uk



**Councillor Thavathuray Jeyaranjan**

**Town Hall  
High Road  
Ilford IG1 1DD**

**Telephone: 07941224983  
Email: [cllr.jeyaranjan@redbridge.gov.uk](mailto:cllr.jeyaranjan@redbridge.gov.uk)**



**Date: 19/02/2024**

Mr. Jana  
Tamil Welfare Association (Newham) U.K

I am delighted to attend the annual celebration as a special guest.

I like to express to you, and to all the member's my heartiest congratulations on achieving the anniversary next month of Tamil Welfare Association (Newham) UK

As a councillor of one of London's most diverse and cohesive boroughs.

I know how important it is for the various faiths to work to provide a structure to support their own communities, but also to work with one another to foster respect and understanding for the benefit of all.

While your base might not be here, I have no doubt that the positive effects of your work over these years have travelled out through Redbridge and beyond.

It's important, on an anniversary like this, to look forward as well as backward.

So I hope TWAN and everyone connected with it, will have every success in its service in the years ahead.

With all best wishes,  
Yours sincerely,

**Councillor Thavathuray Jeyaranjan**



**THE RT. HON. SIR STEPHEN TIMMS MP**

**House of Commons**

**London SW1A 0AA**

**Tel: 020 7219 4000**

**Fax: 020 7219 2949**

*Labour Member of Parliament for East Ham*

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Tamil Welfare Association (Newham)  
602 Romford Road  
Manor Park  
London E12 5AF

Our Ref: ST119224

25 February 2024

Dear Friends,

TWAN started in 1986, to support newly arrived Tamil refugees from Sri Lanka, in an old community building in Manor Park, at the heart of my constituency. Over almost four decades, TWAN has helped resolve countless personal problems. It has also tackled complex social challenges, from standing against racism to taking the Government to the European Court of Human Rights on core aspects of what is now our asylum law.

Like many impressive local initiatives in Newham, TWAN started with community self-help. In 1986, I was a newly elected Councillor in Little Ilford. I enjoyed working with TWAN from its earliest years. I have attended almost all its annual celebrations since, and look forward to being present again this year, on 7 April. The generous and resilient people who came together to support their peers have built TWAN into a thriving local legal advice and representation provider, and a great service for London's Tamil community.

The funding environment for legal advice is very difficult, yet TWAN has continued not only to survive, but to thrive. I continue to work with TWAN on vital cases of concern to my constituents, including supporting in Parliament the Tamil asylum seekers stranded in Diego Garcia. TWAN continues to represent some individuals on the island. The outcome will be critical for those individuals and their families, and will also set a precedent for how the UK handles asylum claims in such circumstances in the future.

Organisations like TWAN are sorely needed, but weakening provision for legal aid means it is not a given that they will continue to be able to carry out their work. That is why TWAN and other local community advice providers have come together to work on the legal advice gap in Newham, in a steering group I have convened over the past few months which will report shortly.

Congratulations to TWAN on another year of service to the community. It has been 38 years already! I look forward to continuing to work together for the benefit of the Tamil community in London, and for better social rights in the UK, for many more years to come.

With all best wishes,

Yours sincerely,

SIR STEPHEN TIMMS MP



## Message from the Chairman



வணக்கம்

மொழியால் ஒன்றுபட்டிருக்கும் அன்பு தமிழ் உள்ளங்களுக்கு என் நெஞ்சார்ந்த வணக்கங்கள்.

தமிழர் நலன்புரி சங்கத்தின் தலைவர் என்ற முறையில் உங்களுடன் சில வார்த்தைகள்.

நம் வாழ்வை மேம்படுத்த பல வழிகளிலும் செயலாற்றி வரும் இந்த அமைப்பு பல சாதனைகளை புரிந்து 38 வருடங்கள் பூர்த்தி செய்வதை அறிந்து பிரமிப்படைகின்றேன். குடிவரவு அனுமதி முதல் குடிமனை புகுவது வரை எமக்கு தேவைப்படும் அனைத்து விடயங்களுக்கும் ஆலோசனையுடன் நடைமுறைப்படுத்தல் வரை நம்மில் பலரின் வாழ்க்கையுடன் ஒன்று பட்டிருக்கும் இந்த ஸ்தாபனம் இன்னும் பல சேவைகளை நம் வாழ்வில் செய்து எம்முடன் கலந்திருக்கும் என்று திடமாக நம்புகிறேன்.

திட்டமிடல், செயலாற்றல், குறித்த இலக்கை அடைதல் என எல்லாவற்றையும் செவ்வன நடத்தும் சக நடத்துனர்கள், பணியாளர்கள், தொண்டர்கள், சங்கத்தின் அங்கத்துவ ஆதரவாளர்கள் மற்றும் பாவனையாளர்கள் அனைவரும் பெருமைபட்டுக்கொள்ளும் தருணம் இது.

உங்கள் அனைவரது பங்களிப்பையும் தொடர்ந்து வேண்டி நிற்கிறேன். பிறக்கும் புத்தாண்டு நம் எல்லோருக்கும் சகல பாக்கியங்களும் தரும் ஆண்டாக மலர இறைவனை வேண்டி விடை பெறுகிறேன்.

நன்றி.

அன்புடன்

தலைவர்

திருமதி தர்ஜினி தயாபரன்

தமிழர் நலன்புரி சங்கம் (நீயூஹாம்) ஐ.இ.

# **Report 2022/2023 By Board of Directors**

## **Introduction**

By the end of 2023, the Tamil Welfare Association Newham (TWAN) had completed 38 years of service to the Tamil speaking people of the UK. What had initially started as a self-help group for Tamil refugees in 1986 has now grown into the successful charity and company limited by guarantee today.

After a short break in reporting over the Covid period, we are delighted to publish a report detailing our activities and achievements over the years 2022 and 2023. This report sets out current issues faced by the community, relevant legal changes, and our corresponding service delivery plans. The case studies published in the report illustrate how we are meeting the user needs and show gaps in wider state provision and decision making which need to be addressed. As this report covers multiple years, it is proportionately lengthy – we will however work on producing shorter versions in the coming years.

## **Our Responsibility**

As a Board of Directors, we are responsible for the governance of the organisation, ensuring that it is run in a way that is compliant with our constitution and the law. This includes charity law, companies' law, and the requirements for the organisation under the Office of the Immigration Service Commissioner (OISC) and the Legal Aid Agency.

Fundamentally the organisation exists to empower the UK's Tamil speaking population, and it is having continued to do this to excellent effect, advocating for the rights of the most vulnerable in society and providing a social net for the community as a whole. Our records show that an average of 18 people per day are visiting our office to resolve increasingly complex and entrenched issues.

Most of our work happens at our monthly Board meetings where we monitor the organisation's actions and make key strategic decisions about our direction of travel. As we are a small charity, the Directors also support the organisation in its resource management, employee relations, navigating the funding landscape and general upkeep and service delivery.

We are proud that we continue to be user led, with the vast majority of the Board having been previous users of the services ourselves.

## **AGM 2023**

The Annual General Meeting was held on 11 th June 2023 at the Manor Park Community Centre. Fifty-six members participated at this event, feeding back on service delivery, and engaging actively in proposals to grow the organisation's capacity. Many users expressed their gratitude for our services and explained how they struggled before they approached TWAN. As we are a unique offering currently, providing completely free and holistic services which address the symptoms and root causes of client issues, this is not surprising. Our staff are renowned for being proactive and thorough in finding solutions to client problems. Funding models however do not neatly align to service provision, and we have had to be creative in blending funding models and using volunteer support from within the community to boost skillsets in areas where there are gaps.

The audited accounts were duly submitted by the treasurer, and three directors were elected to serve the organisation for next three years: Miss Showmeya Jivathas, Mrs Tharjini Thayaparan, Mrs. Pratheepa Sritharan.

## **Business Plan 2023**

We review our business plan annually and our Business Plan for 2023 identified the following key tasks required for organisational growth:

1. Legal aid billing to be resolved through appropriate resourcing
2. Service delivery to grow to meet the needs of the community post pandemic and cost of living crisis
3. Replacement grant funding to be secured to fund the casework manager's salary
4. A buy-to-let property be secured to generate additional income to reduce the dependency on grant funding for the organisation

We are proud to report that 75% of the identified actions are complete.

We recruited a legal aid file billing coordinator last year and have managed to clear the backlog related to billing against our legal aid contract. We were also able to recruit a new part time specialist worker and part time casework support officer to meet the increased demand for social welfare advice and representation through additional grant from the Greater London Authority.

Our grant funding income has significantly improved in the last two years, and we were able to find replacement grant to fund the casework manager's salary costs.

We were unable to complete a buy-to-let property purchase, but this has been carried forward to 2024.

## **Service Delivery and Evaluation**

### **Legal services**

Since the formation of organisation in 1986, free legal advice and representation has been the backbone of what we do. In the past couple of years, we have continued to provide this and grow our capacities.

- 1) For asylum seekers, we provide advice and casework funded by our contract in legal aid. Due to a consistently bad political and Human rights outlook in Sri Lanka, Tamils continue to seek refugee away from the country, and we continue to support those fleeing violence and persecution as they do. Asylum seekers' welfare matters are tended to with the support of AB charitable trust funding. This is essential to prevent homelessness and stark poverty for newly arrived asylum seekers.
- 2) For those who have been adversely impacted by Brexit, the pandemic, and the increased cost of living, we have stood up additional advice provision via funding from the Greater London Authority in 2022. With this funding, we have been able to aid homeless people, people suffering with mental health issues and families struggling to meet basic living costs.
- 3) We know from our years of experience that many of our users' problems boil down to their immigration status. Therefore, we have also been able to introduce an immigration case work project with funding from the National Lottery Board. This funds aid helps us with one part time specialist case worker and one full time level 1 case worker.

As funding is due to come to an end in 2024, we will be looking for replacement funding for this service.

### **Day Centre for elders**

Having started in 1994, our day centre for elders targets those who might be otherwise socially isolated, bringing them together with specifically tailored services to enhance their wellbeing. Every Thursday 25-30 senior members of the community will gather in the office hall and different health and wellbeing activities will take place. Engaging with this group in this way, also allows us to find out their specific needs and triage them into other services as required, such as the legal advice clinic. We are currently funding this using our unrestricted funds but will be looking for future funding to continue running it.

### **Fine Arts Classes**

This project provides affordable extracurricular activities for disadvantaged school-aged children. It takes migrant children out of what can often be their overcrowded accommodation for a short amount of time every week, and engages them in purposeful activity, teaching them core skills which they can then use to advance their own lives. We currently provide classes in Miruthangam, Tabla, Guitar & Trumpets, Drums, Veena, Bharata Natyam, Violin & keyboard, Carnatic vocal, and Bollywood dance. Fine arts classes are held on Sundays from 10-3pm from our offices.

### **Cultural evening**

After a pandemic-related hiatus, this event was held in May 2023 at the Redbridge Town Hall. This allows the children from the Fine Arts classes to display what they have learnt and the community to join together in a celebration of what we have achieved in the previous year. It also provides an opportunity to engage with members in the community more broadly. This event is marked by music, singing, dance, drama, and other activities. Other interested people like members of funders, politicians and media also attend with total attendance numbering approximately 450 people.

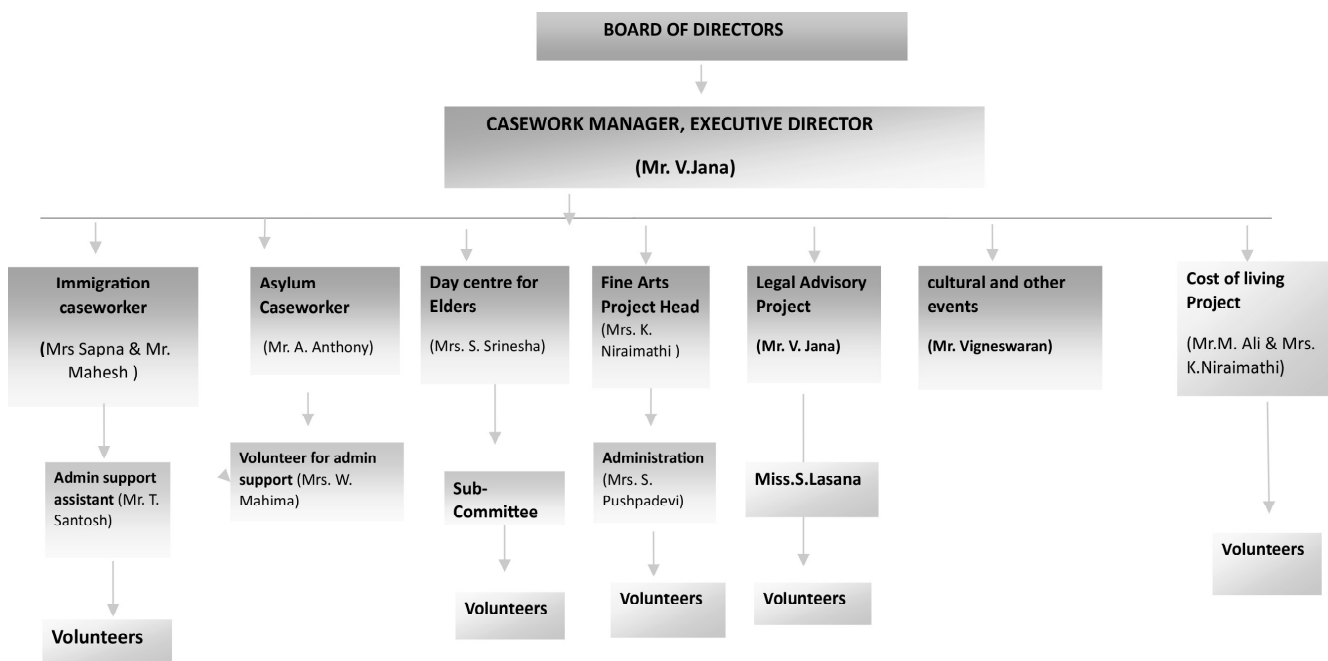
### **Family outing and year end party**

We organise sightseeing during the summer holidays for families and our elderly population to be able to enjoy some leisure time together in an af-



fordable way. In 2023, three coaches of people participated at this event and enjoyed the day. We also organise year end parties for staff, volunteers, and board of directors to get together with their family members to celebrate another year of successful service delivery.

## Organisational Chart



## Finance

Any charity or organisation cannot survive this long without proper financial planning and management. Since the formation we will build up effective finance planning and management system.

It is no secret that it is broadly a difficult time for legal service providers. Our records show we are getting funding from different funders and different sources. Our key aim for the future is to ensure this funding is recurring as it is impossible to plan future service delivery adequately without this assurance. The overall responsibility of finance management belongs to treasurer of the organisation. The executive director is responsible for day-to-day finance management. As the Board, we review spending and project progress during our monthly meetings. The independent qualified accountant audits the financial records and produces the auditor reports at the end of each financial year. The auditor's report is then submitted to the Charity Commission, Companies House, and other relevant stakeholders. Our 2023 accounts show that we made a surplus and spending is in line with our initial budget.

## Networking and Partnership

Our experience proves that we can achieve more working together with others. We have built an extensive network of partnerships over the years with similar service providers, statutory bodies, and other community initiatives. This includes a system of cross-referrals and joint work on cases (such

as that of the Tamil asylum seekers currently being kept on Diego Garica) and campaigns (such as that against the Rwanda plans) in the last few years. We will continue to lead our voice to improve the policy and legislative landscape for the most vulnerable.

## Staff and Volunteers

The community has provided a great amount of support back to the organisation, chiefly due to our reputation. We regularly get volunteers providing different services according to their skills and enhancing our impact. We currently have 16 office volunteers and a further 10 volunteers who are regularly working for the organisation externally.

Currently we have 3 full time, and 5 part time workers. This is the first time we have been able to employ such an extensive staff and we must thank our funders for meeting the costs here and allowing us to do so. Without our committed staff and volunteers, we cannot provide quality services in a cost-effective manner.

## **Function of Office**

We utilise the office 7 days a week from 9:00-19:00pm.

During core hours, the office is primarily used for the legal advice and casework clinic. We have drop-in sessions available in the mornings for users who have emergencies to see us and sort out their query. We also provide telephone advice Monday to Thursday from 14:00-16:00pm. In the afternoons, we mostly see clients through appointments.

The office premises is owned by organisation providing us security and assurance as well as flexibility in how we deliver services. Our assets also play a key part in attracting funders too.

As we are maximising the use of office space now, we are in the position to plan bigger premises for near future service delivery. The demand of users is continuously high and if we want to start other area of service delivery then we need more office space to cater for this.

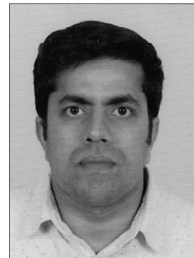
## **TWAN Board of Directors 2024**

Chair person



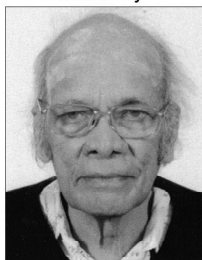
Tharjini Thayaparan

Vice Chair



Mr Kamalraj Thiyagarajah

Secretary



Mr P Chandradas

Assistant Secretary



Miss Janani Paramsothy

Treasurer



Mr S Muthukumarasamy

Assistant Treasurer



Mr. Thabesh Wijayaratham

Director



Miss Showmeya Jeevathas

Director



Mrs Pratheeba Sritharan

Director



Mr Ragavan Nadarajah

Public Relation Officer



Mr. Ponniah Vigneswaramoorthy

# **FINANCIAL STATEMENTS FOR** **THE YEAR ENDED 31<sup>ST</sup> DECEMBER 2023**

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

COMPANY NO: 2962857

CHARTIY NO: 1047487

FINANCIAL STATEMENTS

- for the year ended -

31<sup>ST</sup> DECEMBER 2023

ADVANCED ACCOUNTING PRACTICE

CERTIFIED ACCOUNTANTS

23 LANGMEAD DRIVE,

BUSHEY HEATH,

HERTS,

WD23 4GD

**TAMIL WELFARE ASSOCIATION (NEWHAM) U.K**

**DIRECTORS/TRUSTEES**

P Sritharan (Mrs)  
J Paramsothy (Miss)  
P Chandradas Esq  
K Thiyagarajah Esq  
R Rajanavanathan Esq (Left 23.08.2023)  
S Muthucumarasamy Esq  
P Vigneswaramoorthy Esq  
T Thayaparan (Mrs)  
K Paramasivam  
T Wijeyaratnam  
Showmeya Jivathas (Appointed 11.06.2023)

**SECRETARY**

P Chandradas Esq

**REGISTERED OFFICE & BUSINESS ADDRESS**

602 Romford Road,  
Manor Park,  
London,  
E12 5AF

**ACCOUNTANTS**

Advanced Accounting Practice  
Certified Accountants  
Herts  
WD23 4GD

**SOLICITORS**

Jeya & Co.  
322 High Street North,  
Manor Park  
London  
E12 6SA

**PRINCIPAL BANKERS**

Barclays Bank Plc  
Newham Business Centre  
737 Barking Road, London, E13 9PL

## **TAMIL WELFARE ASSOCIATION (NEWHAM) U.K**

### **REPORT OF THE DIRECTORS/TRUSTEES**

The directors present their report and financial statements for the year ended 31<sup>st</sup> December 2023.

### **PRINCIPAL ACTIVITIES AND BUSINESS REVIEW**

The Association is a registered charity, and the company is limited by guarantee and not having a share capital.

The Association's principal activity is to provide advisory, legal casework and representative services for the Tamil speaking community in the United Kingdom, to foster and promote good race relations between such persons of all groups within the area of benefit.

### **FUNDS**

The directors recommend that £32,000 be transferred from the unrestricted funds to the designated fund account.

The company is a registered charity and hence no dividends are payable.

### **DIRECTORS AND THEIR INTERESTS**

The directors do not have any interests in the capital or reserves of the company.

### **TRUSTEES.DIRECTORS' RESPONSIBILITIES**

The trustees (who are also directors of Tamil Welfare Association (Newham) U.K for the purposes of the company law) are responsible for preparing the Trustees' report and the financial statements in accordance with applicable law and United Kingdom Accounting Standards (United Kingdom Generally Acceptable Accounting Practice).

Company law requires the trustees to prepare financial statements for each financial year which give a true and fair view of the state of affairs of the charity and of the incoming resources and application of resources, including the income and expenditure, of the charitable company for the year. In preparing these financial statements, the trustees are required to:

- Select suitable accounting policies and then apply them consistently.
- Make judgements and estimates that are reasonable and prudent.
- Prepare the financial statements on the going concern basis unless it is inappropriate to presume that the charitable company will continue in operation.
- State whether applicable UK Accounting Standards have been followed, subject to any material departures disclosed and explained in the financial statements.

The trustees are responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the company and to enable them to ensure that the financial statements comply with the Companies Act 2006. They are also responsible for safeguarding the assets of the charitable company and hence taking reasonable steps for the prevention and detection of fraud and other irregularities.

### **CLOSE COMPANY**

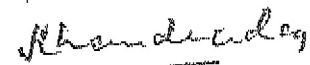
The company is a close company as defined by the Income and Corporation Taxes Act 1988.

### **INDEPENDENT EXAMINERS**

Advanced Accounting Practice are willing to be reappointed as independent examiners.

Date: 14<sup>TH</sup> February 2024

By order of the Board



P Chandradas Esq

Secretary

## **TAMIL WELFARE ASSOCIATION (NEWHAM) U.K**

### **INDEPENDENT EXAMINER'S REPORT TO THE TRSUTEES OF TAMIL WELFARE ASSOCIATION (NEWHAM) U.K**

I report on the accounts of the company for the year ended 31<sup>st</sup> December 2023 which are set out on pages 5 to 14.

#### **Respective responsibilities of the trustees and examiner**

The trustees (who are also directors of Tamil Welfare Association (Newham) U.K for the purposes of the company law) are responsible for the preparation of the accounts. The trustees consider that an audit is not required for this year under section 43 (2) of the Charities Act 1993 (the 1993 Act) and that an independent examination is needed.

Having satisfied myself that the charity is not subject to an audit under company law is eligible for independent examination, it is my responsibility to:

- Examines the accounts under section 43 of the 1993 Act
- Follow the procedures laid down in the general directions given by the Charity Commission (under section 43 (7) of the Act, as amended); and
- State whether particular matters have come to my attention.

#### **Basis of independent examiner's statement**

My examination was carried out in accordance with general directions given by Charity Commission. An examination includes a review of the accounting records kept by the charity and a comparison of the accounts presented with those records. It also includes consideration of my unusual items of disclosures in the account and seeking explanations from you as trustees concerning any such matters. The procedures undertaken do not provide all the evidence that would be required in an audit, and consequently no opinion is given to whether the accounts present a 'true and fair view' and the report is limited to those matters set out in the statement below.

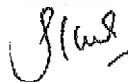
#### **Independent examiner's statement**

In connection with my examination, no matter has come to my attention:

1. Which gives me reasonable cause to believe that, in any material respect, the requirements:
  - a) To keep accounting records in accordance with section 386 of the Companies Act 2006; and
  - b) To prepare accounts which accords with the accounting records, comply with the accounting requirements of section 396 of the Companies Act 2006 and with the methods and principles of the Statement of Recommended Practice: Accounting and Reporting by Charities have not been met or
2. To which, in my opinion, attention should be drawn in order to enable a proper understanding of the accounts to be reached.

ADVANCED ACCOUNTING PRACTICE

Chartered Certified Accountants



Date: 14<sup>th</sup> February 2024

23 Langmead Drive,

Bushey Heath,

Hertfordshire,

WD23 4GD

**TAMIL WELFARE ASSOCIATION (NEWHAM) U.K**

**STATEMENT OF FINANCIAL ACTIVITIES FOR THE YEAR ENDED 31<sup>ST</sup> DECEMBER 2023**

|  | Notes    | Restricted<br>Funds<br>£ | Unrestricted<br>Funds<br>£ | Total<br>2023<br>£ | Total<br>2022<br>£ |
|--|----------|--------------------------|----------------------------|--------------------|--------------------|
| <b>INCOMING RESOURCES FROM GENERATED FUNDS</b>     |          |                          |                            |                    |                    |
| Grants   | 2        | 203,229                  | 22,000                     | 225,229            | 148,602            |
| Government Legal Dept Receipts                     |          | -                        | -                          | -                  | -                  |
| Donations  |          | -                        | 14,831                     | 14,831             | 12,715             |
| Membership subscriptions                           |          | -                        | 860                        | 860                | 930                |
| Income from generating funds                       |          | -                        | 991                        | 991                | 991                |
| Interest receivable                                | 4        | -                        | 5,365                      | 5,365              | 114                |
| <b>Total Incoming resources</b>                    |          | <b>203,229</b>           | <b>44,047</b>              | <b>247,276</b>     | <b>163,352</b>     |
| <b>RESOURCES USED</b>                              |          |                          |                            |                    |                    |
| Direct charitable expenditure                      |          | 108,022                  | -                          | 108,022            | 83,928             |
| Governance costs                                   |          | 31,716                   | 9,763                      | 41,479             | 27,989             |
|  |          | <b>139,738</b>           | <b>9,763</b>               | <b>149,501</b>     | <b>111,917</b>     |
| <b>NET INCOMING RESOURCES<br/>BEFORE TRANSFERS</b> | <b>3</b> | <b>63,491</b>            | <b>34,284</b>              | <b>97,775</b>      | <b>50,444</b>      |
| Transfer from Unrestricted Funds                   |          | (63,491)                 | 63,491                     | -                  | -                  |
| Transfer to Designated Fund                        |          |                          | (32,000)                   | (32,000)           | (10,000)           |
|  |          | <b>-</b>                 | <b>65,775</b>              | <b>65,775</b>      | <b>40,444</b>      |
| <b>Add Balance brought forward</b>                 |          |                          |                            | <b>75,761</b>      | <b>35,317</b>      |
| <b>Balance carried forward</b>                     |          |                          |                            | <b>141,536</b>     | <b>75,761</b>      |

The notes on pages 7 to 11 form part of these financial statements.

**TAMIL WELFARE ASSOCIATION (NEWHAM) U.K****BALANCE SHEET AS AT 31<sup>ST</sup> DECEMBER 2023**

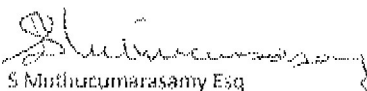
|   | Notes | 2023            |                  | 2022            |                  |
|---|-------|-----------------|------------------|-----------------|------------------|
|   |       | £               | £                | £               | £                |
| <b>BALANCE SHEET AT 31<sup>ST</sup> DECEMBER 2022</b>   |       |                 |                  |                 |                  |
| <b>FIXED ASSETS</b>                                     |       |                 |                  |                 |                  |
| Tangible assets   | 7     |                 | 360,549          |                 | 361,277          |
| <b>CURRENT ASSETS</b>                                   |       |                 |                  |                 |                  |
| Debtors   | 8     | 19,361          |                  | 11,667          |                  |
| Cash at bank and in hand                                |       | <u>266,149</u>  |                  | <u>179,680</u>  |                  |
|   |       | 285,510         |                  | 191,347         |                  |
| CREDITORS: Amounts falling due within one year          | 9     | <u>(21,812)</u> |                  | <u>(16,950)</u> |                  |
| <b>NET CURRENT ASSETS</b>                               |       |                 | <u>263,698</u>   |                 | <u>174,397</u>   |
| <b>TOTAL ASSETS LESS CURRENT LIABILITIES</b>            |       |                 | 624,247          |                 | 535,674          |
| CREDITORS: Amounts falling due after more than one year | 10    |                 | <u>(112,190)</u> |                 | <u>(121,392)</u> |
|   |       |                 | <u>512,057</u>   |                 | <u>414,282</u>   |
| <b>FUNDS AND RESERVES</b>                               |       |                 |                  |                 |                  |
| Designated funds  | 11    |                 | 370,521          |                 | 338,521          |
| Unrestricted funds                                      | 12    |                 | <u>141,536</u>   |                 | <u>75,761</u>    |
|   |       |                 | <u>512,057</u>   |                 | <u>414,282</u>   |

For the year ending 31<sup>st</sup> December 2022 the company was entitled to exemption from audit under section 477 of the Companies Act 2006 relating to small companies.

Director's responsibilities:

- i) The members have not required the company to obtain an audit of its accounts the year in question in accordance with section 476.
- ii) The directors acknowledge their responsibilities for complying with the requirements of the Act with respect to accounting records and the preparation of accounts.

The financial statements were approved by the board on 14<sup>th</sup> February 2024 and signed on its behalf by

 Director

The notes on pages 7 to 11 form part of these financial statements.



NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31<sup>ST</sup> DECEMBER 2023

1. ACCOUNTING POLICIES

1.1 BASIS OF ACCOUNTING

The financial statements have been prepared under the historical cost convention and are in accordance with applicable accounting standards

1.2 INCOMING RESOURCES

This includes grants received, membership fees, bank interest and donations received.

1.3 DEPRECIATION

Depreciation is provided using the following rates and bases to reduce by annual instalments the cost, less estimated residual value, of the tangible assets over their estimated useful lives.

Fixtures and fittings 15% reducing balance.

No depreciation is provided on freehold buildings as it is the company's policy to maintain these so as to extend their useful lives.

1.4 DEFERRED TAXATION

Deferred taxation is provided where there is a reasonable profitability of the amount becoming payable in the foreseeable future.

1.5 LEASING AND HIRE PURCHASE

Rentals payable under operating leases are taken to the profit and loss account on a straight-line basis over the lease term.

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number above.**



**TAMIL WELFARE ASSOCIATION (NEWHAM) U.K****NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31<sup>ST</sup> DECEMBER 2023**

|   | 2023           | 2022           |
|---|----------------|----------------|
|   | £              | £              |
| <b>2. GRANTS RECEIVED</b>                     |                |                |
| Analysis by:                                  |                |                |
| Legal Aid Agency re: Legal work               | 73,558         | 203            |
| London Legal support trust                    | 10,000         | 22,912         |
| London Legal support trust re: Cost of living | 35,640         | 11,216         |
| London community fund re: Cost of living      | 16,825         | -              |
| Access to Justice re: Advisory work           | -              | 12,196         |
| Trust for London                              | 22,000         | -              |
| The A B Charitable Trust                      | 22,000         | 20,000         |
| Clothworker's Foundation                      | 1,000          | 10,000         |
| Reaching Community re: immigration work       | 44,206         | 44,825         |
| Lloyds Bank                                   | -              | 27,250         |
|   | <u>225,229</u> | <u>148,602</u> |

The grant received from Community Fund has been used for general advisory and legal representation. Grant received from Legal Aid Agency has been used for specialist and case work on asylum matters.

|  | 2023       | 2022       |
|--|------------|------------|
|  | £          | £          |
| <b>3. NET INCOMING RESOURCES</b>                     |            |            |
| The net incoming resources is stated after charging: |            |            |
| Depreciation   | 728        | 857        |
|  | <u>728</u> | <u>857</u> |

|                                    | 2023         | 2022       |
|------------------------------------|--------------|------------|
|                                    | £            | £          |
| <b>4. INTEREST RECEIVABLE</b>      |              |            |
| Bank and other interest receivable | 5,365        | 114        |
|                                    | <u>5,365</u> | <u>114</u> |

|                             | 2023         | 2022         |
|-----------------------------|--------------|--------------|
|                             | £            | £            |
| <b>5. INTEREST PAYABLE</b>  |              |              |
| On bank loans and overdraft | 7,378        | 6,472        |
|                             | <u>7,378</u> | <u>6,472</u> |

**TAMIL WELFARE ASSOCIATION (NEWHAM) U.K**

**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31<sup>ST</sup> DECEMBER 2023**

|                                   | 2023          | 2022          |
|-----------------------------------|---------------|---------------|
|                                   | £             | £             |
| <b>6. DIRECTORS AND EMPLOYERS</b> |               |               |
| Staff costs:                      |               |               |
| Wages and salaries                | 48,810        | 56,953        |
| Social security costs             | -             | 519           |
|                                   | <u>48,810</u> | <u>57,472</u> |

**7. TANGIBLE ASSETS**

|   | Land &<br>buildings | Fixtures<br>& fittings | Total          |
|---|---------------------|------------------------|----------------|
|   | £                   | £                      | £              |
| <b><u>Cost</u></b>                                |                     |                        |                |
| At 1st January 2023                               | 356,420             | 49,468                 | 405,888        |
| At 31st December 2023                             | <u>356,420</u>      | <u>-</u>               | <u>-</u>       |
|   | <u>356,420</u>      | <u>49,468</u>          | <u>405,888</u> |
| <b><u>Depreciation</u></b>                        |                     |                        |                |
| At 1st January 2023                               |                     | 44,611                 | 44,611         |
| Charge for the year                               |                     | 728                    | 728            |
| At 31st December 2023                             |                     | <u>45,339</u>          | <u>45,339</u>  |
| Net book value at 31st December 2023              | <u>356,420</u>      | <u>4,129</u>           | <u>360,549</u> |
| Net book value at 31st December 2022              | <u>356,420</u>      | <u>4,857</u>           | <u>361,277</u> |
|   |                     | 2023                   | 2022           |
|   |                     | £                      | £              |
| Analysis of net book value of land and buildings: |                     |                        |                |
| Freehold  |                     | <u>356,420</u>         | <u>356,420</u> |

**TAMIL WELFARE ASSOCIATION (NEWHAM) U.K**

**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31<sup>ST</sup> DECEMBER 2023**

|                                      | 2023          | 2022          |
|--------------------------------------|---------------|---------------|
|                                      | £             | £             |
| <b>8. DEBTORS</b>                    |               |               |
| Other debtors                        | -             | 806           |
| Prepayments and accrued grant income | 19,361        | 10,864        |
|                                      | <u>19,361</u> | <u>11,670</u> |

|  | 2023          | 2022          |
|--|---------------|---------------|
|  | £             | £             |
| <b>9. CREDITORS, AMOUNTS FALLING WITHIN ONE YEAR</b> |               |               |
| Bank loan and overdrafts                             | 15,201        | 12,443        |
| Other creditors                                      | 1,137         | -             |
| Accruals and grants received in advance              | 5,474         | 4,115         |
| PAYE and National Insurance                          | -             | 392           |
|  | <u>21,812</u> | <u>16,950</u> |

|  | 2023           | 2022           |
|--|----------------|----------------|
|  | £              | £              |
| <b>10. CREDITORS: AMOUNTS FALLING DUE AFTER MORE THAN ONE YEAR</b> |                |                |
| Bank loan  | 112,190        | 121,391        |
|  | <u>112,190</u> | <u>121,391</u> |

| <b>BORROWINGS</b>                                  | 2023           | 2022           |
|--|----------------|----------------|
|  | £              | £              |
| The company's borrowings are repayable as follows: |                |                |
| In one year, or less or on demand                  | 15,201         | 12,450         |
| Between one and two years                          | 30,402         | 24,353         |
| Between two and five years                         | 81,788         | 97,031         |
|  | <u>127,391</u> | <u>133,834</u> |

**Details of Security:**

The bank loan is secured by way of legal charge over the company's freehold property. The Association makes a yearly repayment of £15,200 towards this loan and the loan is expected to be repaid within 8 years.

**TAMIL WELFARE ASSOCIATION (NEWHAM) U.K**

**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31<sup>ST</sup> DECEMBER 2023**

|                                     | 2023           | 2022           |
|-------------------------------------|----------------|----------------|
|                                     | £              | £              |
| <b>11. DESIGNATED FUNDS</b>         |                |                |
| Balance as at 1st January           | 338,521        | 328,521        |
| Transferred from Unrestricted funds | 32,000         | 10,000         |
| Balance as at 31st December         | <u>370,521</u> | <u>338,521</u> |

This represents:

This represents funds retained for the acquisition of the adjacent building to add space for its principal activities of providing advisory services.

|                                      | Unrestricted Funds |
|--------------------------------------|--------------------|
|                                      | £                  |
| <b>12. PROFIT AND LOSS ACCOUNT</b>   |                    |
| Accumulated Reserves brought forward | 75,761             |
| Reserves of current year             | <u>65,775</u>      |
| Accumulated Reserves carried forward | <u>141,536</u>     |



**TAMIL WELFARE ASSOCIATION (NEWHAM) U.K**

**DETAILED INCOME & EXPENDITURE ACCOUNT FOR THE YEAR ENDED 31<sup>ST</sup> DECEMBER 2023**

|                                      | 2023    |         | 2022   |         |
|--------------------------------------|---------|---------|--------|---------|
|                                      | £       | £       | £      | £       |
| <u>Income</u>                        |         |         |        |         |
| <u>Restricted Funds</u>              |         |         |        |         |
| Grant Received                       | (Sch 1) | 225,229 |        | 148,602 |
| <u>Less: Expenditure</u>             |         |         |        |         |
| <u>Direct Charitable expenditure</u> |         |         |        |         |
| Client disbursements                 |         | 14,608  | 6,863  |         |
| Education project                    |         | 2,468   | 2,084  |         |
| Age Concern project                  |         | 1,688   | 71     |         |
| Salaries and wages (incl. N.I)       |         | 48,810  | 57,472 |         |
| Professional fees                    |         | 506     | 680    |         |
| Volunteer staff                      |         | 16,627  | 8,220  |         |
| Sessional workers                    |         | 18,100  | -      |         |
| Staff recruitment and training       |         | 641     | 2,059  |         |
| Rates and insurance                  |         | 4,574   | 5,599  |         |
| Advertising                          |         | -       | 880    |         |
|                                      |         | 108,022 | 83,928 |         |
| <u>Governance Costs</u>              |         |         |        |         |
| Light and heat                       |         | 5,886   | 5,224  |         |
| Telephone and fax                    |         | 2,861   | 2,512  |         |
| Printing, postage and stationery     |         | 2,341   | 1,793  |         |
| Office maintenance                   |         | 4,176   | 4,127  |         |
| Repairs, renewals and maintenance    |         | 10,982  | -      |         |
| Accountancy                          |         | 3,200   | 3,000  |         |
| Security costs                       |         | 825     | 732    |         |
| Travelling                           |         | 955     | 1,329  |         |
| Bank charges                         |         | 490     | 372    |         |
|                                      |         | 31,716  | 19,089 |         |
|                                      |         | 139,738 |        | 103,017 |
| Net surplus / deficiency             |         | 85,491  |        | 45,585  |

**TAMIL WELFARE ASSOCIATION (NEWHAM) U.K**

**DETAILED INCOME & EXPENDITURE ACCOUNT FOR THE YEAR ENDED 31<sup>ST</sup> DECEMBER 2023**

|   | 2023         |                      | 2022         |                      |
|---|--------------|----------------------|--------------|----------------------|
|   | £            | £                    | £            | £                    |
| <b><u>Unrestricted Funds</u></b>  |              |                      |              |                      |
| <b><u>Income</u></b>  |              |                      |              |                      |
| Membership fees received  |              | 860                  |              | 930                  |
| Donations and other income  |              | 14,831               |              | 12,715               |
| Surplus on cultural night programme                                     |              | 571                  |              | -                    |
| Family outing   |              | 420                  |              | (126)                |
|   |              | <u>16,682</u>        |              | <u>13,519</u>        |
| <b><u>Less: Expenditure</u></b>   |              |                      |              |                      |
| Sundry expenses   | 1,184        |                      | 1,053        |                      |
| Membership and subscriptions  | 472          |                      | 392          |                      |
| Depreciation  | 728          |                      | 857          |                      |
|   | <u>2,384</u> | <u>2,384</u>         | <u>2,302</u> | <u>2,302</u>         |
| <b>Net surplus</b>  |              | <u>14,298</u>        |              | <u>11,217</u>        |
| <b><u>Gross Incoming resources before Interest and other income</u></b> |              | <u>99,789</u>        |              | <u>56,802</u>        |
| <b><u>OTHER INCOME AND EXPENSES</u></b>                                 |              |                      |              |                      |
| Interest receivable   |              |                      |              |                      |
| Bank deposit interest   |              | 5,365                |              | 114                  |
| <b><u>INTEREST PAYABLE</u></b>  |              |                      |              |                      |
| On bank loan  |              | 7,379                |              | 6,472                |
| <b>NET INCOMING RESOURCES</b>   |              | <u><u>97,775</u></u> |              | <u><u>50,444</u></u> |

**TAMIL WELFARE ASSOCIATION (NEWHAM) U.K**

**DETAILED INCOME & EXPENDITURE ACCOUNT FOR THE YEAR ENDED 31<sup>ST</sup> DECEMBER 2023**

| <u>Schedule 1 - Grants received</u>      | <b>2023</b>    | <b>2022</b>    |
|--|----------------|----------------|
|  | <b>£</b>       | <b>£</b>       |
| Legal Aid Agency re: Asylum Legal work   | 73,558         | 203            |
| London Legal support                     | 10,000         | 22,912         |
| London Legal support re@ cost of living  | 35,640         | 11,216         |
| London Community fund re: Cost of living | 16,825         |                |
| Access to Justice re: Advisory work      | -              | 12,196         |
| Trust for London                         | 22,000         | -              |
| The A B Charitable Trust                 | 22,000         | 20,000         |
| Clothworker's Foundation                 | 1,000          | 10,000         |
| Reaching community re: immigration work  | 44,206         | 44,825         |
| Lloyds Bank                              | -              | 27,250         |
|  | <b>225,229</b> | <b>148,602</b> |

**Distribution of Users by Boroughs Year 2023**

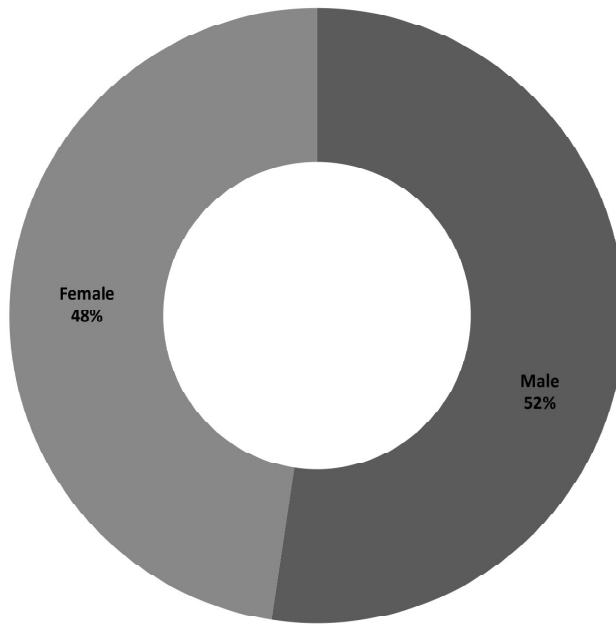




**Distribution of Users By Gender**

Male 52.4 52.00%  
 Female 47.6 48.00%

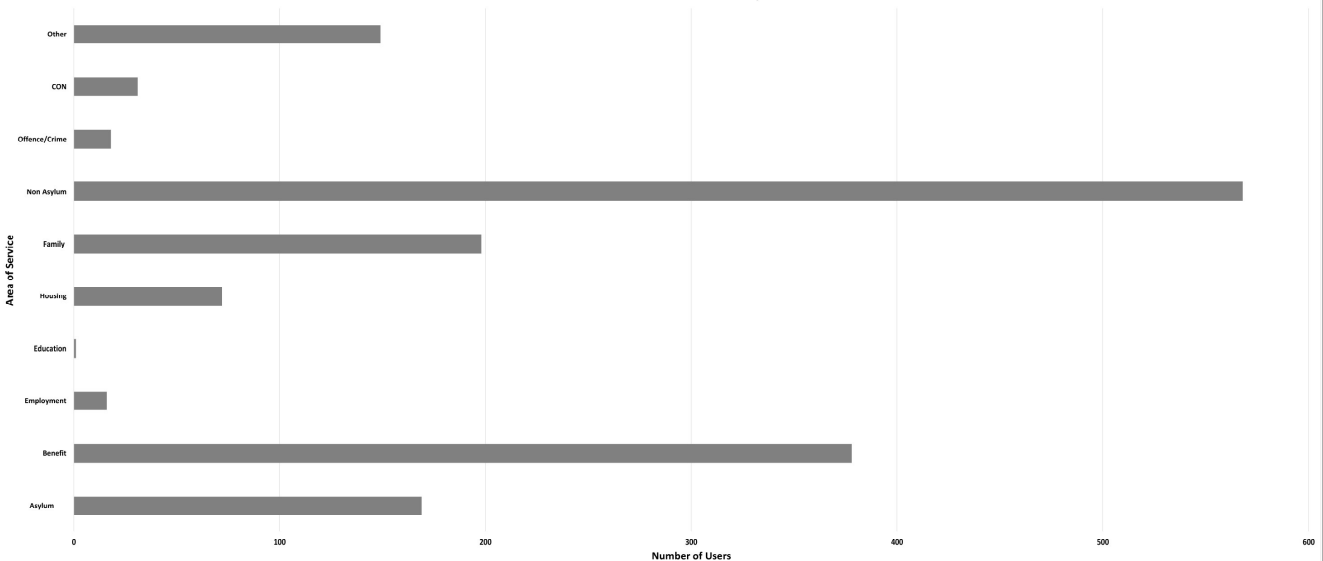
**Distribution of Users By Gender Year 2023**



**Distribution of Users Based on Service Delivery**

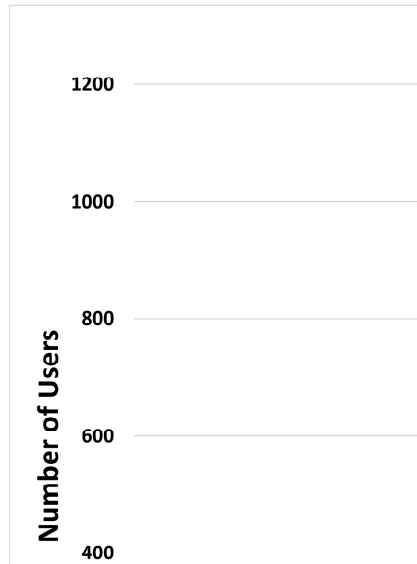
Asylum 169  
 Benefit 378  
 Employment 16  
 Education 72  
 Housing 198  
 Family 198  
 Non Asylum 568  
 Offence/Crime 18  
 CON 31  
 Other 149

**Distribution of Users Based On Service Delivery Year 2023**



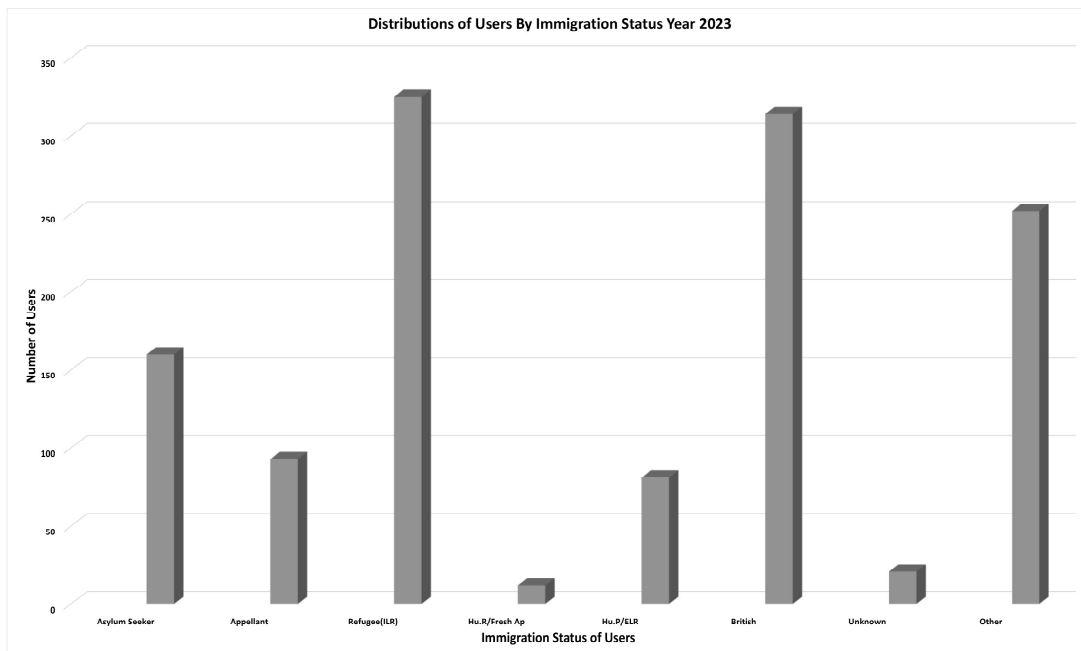
**Distribution of Users By Age Group**

|          |      |
|----------|------|
| Under 18 | 22   |
| 18-25    | 94   |
| 25-50    | 1092 |
| Over 50  | 210  |
| Over 60  | 292  |



Distribution of Users By Immigration Status

|               |     |
|---------------|-----|
| Asylum Seeker | 160 |
| Appellant     | 93  |
| Refugee(LR)   | 325 |
| Hu.R/Fresh Ap | 12  |
| Hu.P/ELR      | 81  |
| British       | 314 |
| Unknown       | 21  |
| Other         | 252 |



# PROJECT PROGRESS REPORT 2023



## Introduction of Advice and Information Service

TWAN as an organisation continues to give legal advice and necessary information to its clients that come through its doors on a daily basis. Since its inception over 30 years ago by Tamil speaking migrants fleeing their war-ravaged island, TWAN has been providing support to the Tamil speaking community in the United Kingdom. The services offered by the organisation are still in demand as the Tamil speaking community establishes itself and seeks help to live in a country, which the majority of the community now look upon as their home. TWAN is an organisation looking to assist every Tamil speaking person who has encountered difficulty settling down and living in the UK. It's services are provided free to clients, courtesy of

the funding assistance received from organisations including City Bridge Trust, Legal Aid Agency and the Government Legal Department.

Clients are advised on welfare benefits, employment, housing, healthcare, family disputes and consumer and debt services, as well as other areas of the law which may affect them. -

TWAN works to ensure that clients receive support as asylum seekers and are able to legally reside in the UK. In addition, they assist low-income residents with access to benefits, entitlements and support, live above the poverty line.

## 1. Consumer Debt and Money Advice

Over the past 30 years, TWAN has increasingly worked to address the financial problems of its clients. As a community organisation, our responsibility and roles are well-defined: we offer tailor-made solutions for individuals on a one-to-one basis and run training seminars to educate our community. Our main objective is to help members of the Tamil speaking community better manage their finances and live above the crisis line.

We have observed that migrants from other countries who settle in Western Europe or the Americas, suddenly find themselves in a 'free' financial world and they may not clearly understand the system. Without that understanding, they enter complex financial and consumer related issues or arrangements. The access to easy loans and credit card facilities has caused many people to fall into spiralling debt, for which they need assistance. Where money is borrowed within the community, sometimes it led to violence when the lenders try to recover the amounts due to them. Defaulting on loans obtained from a financial institution, can result in a CCJ and bailiff action.

Debt comes in all forms. Any transaction entered by individuals for goods or services is governed by the law. Likewise, any debt incurred, or money borrowed or lent out is covered under the framework of the *Consumer Credit Act*. The Act sets out the rights of the consumer and lender. It upholds the principle that "what was important was the nature of the business conducted and the amount of credit advanced" and makes the "interest of the consumer paramount rather than the status of the lender". It also regulates how credit must be given out to individuals and, the rights of individuals who have made payments in advance for goods or services yet to be supplied.

Members of the community can incur debt in various ways:

- **credit purchases:**

Buying goods or services now with the intention to pay at a later date - usually within 30 days.

- **hire purchase:**

This mainly applies to goods. A customer agrees to purchase an item by paying an initial amount (as a

deposit) and paying off the balance of the purchase price in instalments over an agreed period of time. Interest is usually paid on the outstanding balance too.

- **taking out a personal loan:**

Personal loans can be obtained from individuals, banks, or loan companies as long as the borrower meets the criteria. Virtually all loans must be paid back with interest.

- **store or credit cards:**

This is a form of short-term personal loan that ideally should be paid off every month. Store cards are like credit cards. The holder has access to a specified amount of credit, for example £2000, that they can use to purchase goods or services in one specific store (store card) or anywhere (credit card). Interest is also added to this amount if it is not paid off completely within the time given to pay without incurring interest.

- **unauthorised/authorised bank overdraft:**

Sometimes banks will allow their customers to spend more than they have in their account. The amount which can be "overspent" is called an overdraft. When the amount is agreed with the bank, it is an authorised overdraft. If however, the bank has not agreed that you can spend over the balance in your account, it is an unauthorised overdraft and this incurs high charges as long as it remains unpaid.

- **pawnbrokers:**

A pawnbroker is an individual or business that offers personal loans to people in exchange for items that must be left as collateral. These can be jewellery, vehicles, home title deeds etc. When the loan is paid off, the borrower can recover their property from the pawnbroker.

- **gambling/betting:**

Gambling is the worst form of incurring credit. It is the wagering of money or something of value in an uncertain environment with the hope of winning more money. Since the outcome is always a probable one, gamblers stand to gain or lose enormous amounts of money.

- **home mortgages:**

This is a loan taken with a bank or finance institution with the sole purpose of buying property. It is secured against the property. Failure to pay off the loan as in the mortgage contract, can result in loss of the property.

- **any other financial arrangement:**

Where goods or services are exchanged for cash or credit, this can result in debt being incurred.

One major reason for financial troubles in our migrant community is the fact that a substantial number of families have inadequate or irregular income. Most individuals in the migrant community are employed in casual or temporary jobs. When they lose their jobs or their contracts end without renewal (which happens very often in the informal employment sector), it is a huge financial setback for individuals in the community. This instability in employment fuels financial problems. When unemployment prevails, people are forced to find ways to live and can fall into debt. A little debt leads to further debt as people take out additional loans to pay off previous ones. Defaulting on loan payments can lead to County Court Judgements (CCJs) as creditors try to recover the amounts due to them. CCJs also have a negative impact on personal credit ratings, which can make it difficult for a defendant to get a job. In certain cases, this situation has led to addictions which adversely affect family life.

In this section, we will attempt to show how clients can avoid pitfalls they come across in their financial environment

and how we, as an organisation, can help:

1. We provide initial advice and where necessary, accept pending court cases to help resolve the situation. Where possible, we attempt to overturn court decisions.
2. We negotiate with the creditors on behalf of the client, to make minimum affordable payments and avoid court cases.
3. We try to resolve any dispute between community lenders and borrowers to minimise breakdown in family and/or community relationships, which could result in the event of payment defaults.

The organisation has two advisers registered with the Financial Conduct Authority; they give training and lectures to the community at organised meetings, and advice clients.

Definition of debt

A **debt**, as defined by *Investopedia.com* is an amount of money borrowed by one party from another and a **debt arrangement** gives the borrowing party permission to borrow money under the condition that it is to be paid back later, usually with interest.

Debts are incurred at all levels and for whatever reason, as a result of the procurement of goods or services or arrangements for such. The important matter regarding debts is to ensure that whatever is borrowed is properly managed and that every repayment is made as it falls due. When this does not occur, the debt becomes “bad” for which there are consequences.

The Legal Framework

The **Financial Conduct Authority (FCA)** is the organisation that regulates and ensures that financial advice firms including banks and building societies are operating in a proper manner. They work to protect the interests of consumers by regulating the fairness with which firms operate, ensuring competition exists between the firms so that consumers get good deals and that the integrity of the financial markets is preserved. In other words, the FCA lays down the rules by which financial institutions must operate. The FCA is governed by the Financial Services and Markets

Act 2000 (FSMA). It is also their duty to tackle fraud and other financial crimes.

The **Consumer Credit Act (CCA)** protects individuals who make purchases using their credit card and who enter into loans or hire agreements. The CCA has been under the control of the FCA for the past four years and service providers must register with the FCA to be able to deliver credit advice services.

The **Financial Ombudsman Service** is the expert organisation for settling disputes (outside the courts) between consumers and businesses who provide financial services.

The **Money Advice Services (MAS)** exist to give good debt advice. It provides training to ensure that financial advisers are operating at expected standards and the MAS quality framework ensures continual professional development for financial advisers.

### Dealing with debt

When a person is in debt and is unable to pay the sum owed when it falls due, the person is insolvent or bankrupt (the term bankruptcy is used for individuals and for businesses, the term used is insolvency). If such a person has assets but no cash to pay back their debts, their assets may be sold, and the proceeds used to pay off any debt. Where the person has no cash or assets to sell, other ways of dealing with insolvency are considered. There are several organisations that help individuals who have debt and, where one's debt is over £5000, individual voluntary arrangements can be entered (via these credit agencies) to manage debt and receive advice on the diverse options available to clear the debts. TWAN is also registered with the FCA and is qualified to offer debt advice. We help clients enter into **individual voluntary arrangements (IVA)** to clear their debts. We are also able to help clients with debts under £5000 who are not usually eligible to IVAs.

IVA schemes must be set up by registered insolvency practitioners and can help debtors reduce debts by about 85%. IVAs can include but are not limited to debt management plans, debt arrangement schemes and debt consolidation. In Scotland, the **protected trust deed** is a form of IVA.

The drastic way to deal with debt is to declare bankruptcy or get a full and final settlement order. Each of these actions have consequences. However, it must be noted that debts considered here are **unsecured debts**. We will deal with secured debts (e.g. mortgages) later.

### Debt Management Plan

A debt management plan is a formal agreement between a debtor and a creditor on how to deal with an outstanding debt. It must be arranged through regulated agencies (some agencies may charge a fee). The aim is to help the debtor gain control of his/her finances by negotiating reduced or frozen interest rates, longer repayment terms and sometimes a reduction in the overall debt amount. The agent with the debtor will arrange a repayment plan and the debtor will have to follow a strict budget. In certain instances, the agent can take over management of the clients' finances, receiving income on behalf of the client and making payments to creditors on his/her behalf until the debt is paid off. The client will receive a fixed amount to live on. Debt management plans under an IVA can also result in a reduction of up to 85% on the overall debt to be paid.

### Debt arrangement scheme

This is similar to a debt management plan, but it is a court approved agreement made between a company/business and its creditors.

### Debt consolidation

Debt consolidation happens when a person takes out a loan to pay off several debts. In place of many different debts and varying interest rates, the person has one debt and one interest payment to deal with. This is useful if one has difficulty keeping track of the many payments that must be made each month and is therefore missing out on payments; or if taking out a loan would result in a lower interest rate to pay. The advantage includes having lower and fewer payments to make each month, and less likelihood that you'll be late on payments.

### IVA advice

Before an IVA can be followed, certain criteria must be met. These are as follows:

1. The client must have a minimum debt level of £5000;
2. The client must owe a debt to at least 2 creditors;
3. The client must be working part-time or full-time or have access to other regular income like benefits or a pension;
4. The client is able to pay a minimum of £70-90 per month into the IVA;
5. An IVA should offer a higher return for your creditors than bankruptcy;
6. You must reside in England, Wales or N. Ireland.

All debts included under an IVA are reviewed every 12 months. The IVA will last 5 years and at the end of the 5 year period, the balance of any debt included under the IVA will be written-off.

### Trust deeds

Protected Trust Deeds are operated only in Scotland and are similar to the IVA. They are both legislated debt solutions which are Government backed. To qualify, the person must be in employment, have unsecured debts over £5000 with more than 2 creditors, and be able to pay a minimum of £100 each month into the trust deed. This helps the client pay off their debt with what they can afford by paying one amount into the trust deed, which is then used to pay all their creditors. The trust deed only lasts 4 years and, if the client meets their monthly obligations, all outstanding debt at the end of the 4 years is written-off.

### Bankruptcy

Bankruptcy is a legal status of a person or other entity who cannot repay debts to creditors. Often, this is initiated by the debtor via the courts, as a way of getting relief. The courts, if satisfied that the debtor's situation is genuine, will issue a court order and all debts of the debtor will be automatically cancelled. The person who declares bankruptcy however is not eligible for credit until after 7 years and will have a bad credit rating which can give rise to many problems. It is a recourse most debtors try to avoid.

### Full and final settlement order

'Full and final settlement' means that a debtor negotiates with his/her creditors to pay a lump sum instead of the full balance that is owed on the debt. In return for making a "lump-sum" payment, the

creditor agrees to write off the rest of the debt. Lump-sum payments are usually negotiated to be between 30-60% of the full amount.

### Secured debts

Secured debts are loans which the individual taking out the loan has to give something (usually an asset) in exchange. When a person takes out a loan to buy a house, the ownership of the house rests with the bank until the loan is paid off. The bank retains the title deed of the house until this is done. If the mortgage is not paid in a timely manner and kept up-to-date, the bank can auction the house to recover the money owed to them.

### Home Mortgages

There are different types of home mortgages classed according to the way they can be repaid (It is important to remember that with mortgages, failure to make payments as they fall due, puts your house at risk).

As a mortgage is a loan, interest must be paid on it. The borrower can decide how they wish to pay. Mortgages fall broadly into two categories:

1. **Interest-only mortgage** where the borrower pays only the interest due on the loan over the loan period and will have to pay off the loan capital at the end (this will require some form of life or bonds investment which will mature or can be sold by the end of the mortgage period to pay off the loan capital).

2. **Repayment mortgage** where the borrower pays interest and a portion of the capital which gradually reduces the loan amount over the loan period so that the loan is fully paid off at the end of the loan period.

Under the interest-only mortgage, there are various ways the interest due can be determined:

- **Fixed rate mortgage:**

This means that the lender will fix the interest rate payable by the borrower for a period of time (usually 1-10 years). During this time, the rate of interest will not change and the borrower will pay the same amount every month for the fixed period of time. After the period expires, the rate will usually change into the standard variable rate;

- **Standard variable rate (SVR) mortgage:**  
This is the interest rate fixed by lenders themselves. Lenders are free to set this rate at whatever level they want and adjust it how and when they like. Borrowers will thus pay varying loan interest amounts each month as a result. For long-standing clients or after given periods, borrowers can get a discount on the SVR. This is known as the discounted rate mortgage;
- **Tracker mortgage:**

This is a type of variable interest rate. It is pegged to a base rate (usually the bank of England interest rate) and will vary as that base rate changes.

- **Capped rate mortgage:**  
This is a variable interest rate for which an upper limit has been set (capped and above which rates will not increase). A capped interest rate is usually higher than a tracker mortgage, so this is not so popular these days.

There are other mortgage arrangements with benefits or incentives like *cash-back mortgage*, *flexible mortgage*, and *off-set mortgage* which we will not discuss here but which any broker will be ready to explain.

### Help for low income earners

The government has established a Help-to-Buy scheme, to encourage first-time buyers to obtain their own home. This is relevant to the Tamil community due to the prevalence of low-income families. In the South-East of England, house prices are very high and this scheme will help people to afford their own home. Note that there are local help-to-buy agents to help interested persons find out more. The Help-to-Buy section can also be contacted on 0300 500 0996.

Under the scheme, there are three options:

- Help-to-buy ISAs;
- Shared ownership;
- Equity loans.

### Help-to-buy ISAs

If an individual saves via a Help-to-buy ISA, the government will boost their savings by 25% to a maximum of £3000, subject to an initial minimum of £400. This means that in order to get the government boost, a person will have to save a minimum of £1600 and the maximum amount one can get the boost for, is £12000. Saving above £12000 will attract nothing extra. This amount can then be used to make a deposit for a home mortgage.

#### Criteria

1. available per person not per household. (E.g. an eligible 3-person household can earn an extra £9000 from the government with a combined savings of £36000, giving a total of £45000 available as deposit on a home.
2. it must be applied for

#### Eligibility

- the applicant(s) must be 16 years or older
- be a UK resident with an NI number
- be a first-time buyer
- not have any other ISA
- house to be purchased should be d" £250,000 or d" £450,000 (in London)
- the house would be buyer's main and only residence
- buyer will have to obtain mortgage for the remainder of the house price
- Can be used with shared ownership or equity loan scheme

### Shared Ownership

Under this option, the buyer can buy a share of the desired property (between 25-75% of the house value) and pay rent on the remaining share until able to purchase the balance outright. This is suitable for people who want to own their home but cannot afford to buy in open market. The deposit required is usually 5% of one's share of the property and stamp duty payable can be deferred until one's share is e" 80%



### Criteria

1. The buyer will have to take out a mortgage to pay for their own share of the property;
2. The property will always be a leasehold and the buyer will have to pay a service charge and ground rent annually to landowner (usually local authority or housing association). Leases can be anything from 99/125-999 years and can be bought and sold.

### Eligibility

- The buyer must be at least 18 years old;
- Annual household income must be less than £80,000/**£90,000 (in London)**;
- Be a first time buyer or selling current home;
- Show inability to afford to buy a suitable home on the open market;
- Buyer must not be in mortgage or rent arrears;
- Buyer must demonstrate a good credit history (i.e. no bad debts or County Court Judgements);
- Buyer must show s/he can afford the regular payments and costs involved in buying a home (It is advised to have about £4,000 in savings or be able to access that amount to cover costs of buying a home).

### Equity loan

Under the help-to-buy equity loan scheme, the government will lend the buyer up to 20% (40% in London) of the value of the **new-build** property. No interest is payable on the loan for the first 5 years. The buyer needs to only raise 5% and with the 20/40% from the government, can put down a 25/45% deposit on their home. However, a mortgage will have to be obtained for the balance.

### Criteria

1. Must be a new-build property
2. House price d" £600,000
3. House cannot be sub-let

### Eligibility

- Buyer must be at least 18 years old;
- Be a first time buyer and not own any other property;
- Available to residents of England only (those living in Scotland and Wales must seek relevant information from agents in those areas).

### Financial planning to avoid debt now and in the future

It is never too late to start planning for retirement, planning for unforeseen illness, or planning to ensure financial peace of mind in the future. There are several ways this can be done:

1. Savings - This is simply setting aside a sum of money regularly (e.g. monthly) or depositing a regular amount into a savings account. This will be money that you will not use on a day-to-day basis. It will earn interest which will help your money grow. Though interest rates are very low at the moment, developing this discipline of saving will help against important unforeseen expenditures and ensure the need to request for loans is minimised.

2. Investments - There are different types of investments and talking with an investment broker will help, should a person wish to invest and reap returns on their investment - e.g. Government or bank bonds, ISAs, treasury bills. Another type of investment which is not readily seen as such is insurance coverage (including health insurance/income protection/critical illness). These are important, as the financial buffer they can provide in tough times is invaluable. Critical illness covers or life insurance, can help people avoid financial difficulty at already traumatic times. An **income protection cover** will enable you have a small salary if you cannot work and this will last until you return to work, retire, die or the policy ends. **Critical illness insurance** will pay a tax-free lump sum on the diagnosis of a range of serious conditions including heart attacks or strokes. **Health insurance** will pay for the cost of medical treatment required for an illness/injury.

3. Pensions - A pension is a way of saving for when an individual retires. It is not a savings account and cannot be accessed before age 55. It will however ensure a lump-sum tax-free payment on retirement

and, an annual income (paid out monthly) until a person dies.

Every person employed for longer than 3 months and/or earning more than £116 per week will be registered automatically into a pension scheme and a contribution from their employer will be paid into the scheme. You will also pay a percentage of your salary every month into the scheme. If a person earns less than £116, the employer is not obliged to pay into the scheme though you can still make monthly contributions. This can result in low pension income on retirement. Such individuals would be well informed to take out an additional pension to be better prepared financially for retirement.

### **Case Study 1:**

Mr RR paid a £10,000 cash advance to his landlord as a favour, which he was told would be deducted from his rent monthly. He accordingly gave the landlord an amount of £10,000 and a few months later, asked to leave the property with his wife. Although the landlord initially told him he would pay back the advance rent, he did not do so. The tenant approached us to help get back his £10,000 rent advance, on which we took action to reclaim. In light of the debtor's death, we wrote to his wife on behalf of the client, giving the necessary notice by which, the money should be returned and acknowledging previous cheques issued by her to the claimant which had not gone through, but showed an intent of repayment. As the debtor did not provide a response to communications, we brought the matter to court on the client's behalf. The respondent then proposed an unreasonable monthly repayment of £20, without presenting evidence of her income and against the court's order of a £247 monthly repayment. We are continuing to collaborate with both parties to reach an acceptable payment plan for the money the client is owed.

### **Case Study 2:**

Mr GS was a customer of the EE telephone network. After 2 years, he received phone calls from EE stating that they had an offer to update his phone and network, for which he did not need to pay any additional fees. Accordingly, he ordered the phone and a few days later, received a parcel with a different phone. He phoned the initial person who had contacted him and asked to return this unwanted phone. They provided him with a return

address, to which he sent the item. However, the client then noticed that he was starting to be charged for 2 phone bills and 2 line rentals.

He raised this matter with EE, but they continuously demanded double payments and started to deduct these from his direct debit arrangements, which he signed when he purchased his initial phone. He started to lose a large amount of money each month and whenever he tried to negotiate with EE customer services, the response was always that the account showed he had to pay for 2 phones and lines. At this stage, he approached us (TWAN) and we advised him to talk to the bank and cancel the direct debit and officially wrote a letter to EE customer services on his behalf. Two weeks later he received a reply that if he did not pay the arrears, a bailiff would be sent. We then wrote another letter and, on this occasion, EE accepted that the second phone was returned, not to their address but a residential address in Dunfermline. We responded on the client's behalf, seeking further explanation on the additional charges and next steps. The outcome was that EE accepted the mistake and agreed to cancel the second line and refund the extra charges.

### **Case Study 3:**

Mr BT was in the UK with limited leave and received a letter from HMRC stating that he hadn't filed his self employment assessment form in time, therefore with a penalty of £100 for each of the previous years, he needed to pay £472.21 in total. Mr BT approached us (TWAN) and told us that he never worked or registered as self-employed. Due to this, we asked HMRC to review their decision and explained to them that our client had never worked or registered as a self-employed and he always worked as an employee, therefore the overdue tax with penalty charges, were not appropriate action. HMRC refused to accept our explanation and demanded that he make the full payment. We received a further letter from HMRC asking the client to confirm the records listing his previous employment history. Our client agreed on some of the employment and tax payments, but not all of them were correct. We wrote to HMRC with more detail that according to the calculations by HMRC, there was a difference between the tax payments and our client agreed that around £1,000 was paid in previous years. We explained to HMRC that there were no tax arrears payments due given his previous employments and current work in a company with reports up to date. We requested

that HMRC provide further evidence to our client on what basis he was being treated as self-employed. After a few more communications HMRC accepted their mistake, cleared our client's records, and cancelled the payment demand.

#### **Case Study 4:**

Mr AN had a county court judgement issued against him for payment of debt owed to the total of £15,603.65. He was unable to pay the full amount as his income was not enough to manage the payments and he had 4 dependents living with him (3 children and his wife). We prepared a financial statement for him which set out his monthly income and asked that a payment plan was created. We then wrote on the client's behalf to the creditor, asking to increase his monthly payments from £19.08 previously, to £27.96. This was accepted and the client continues to make the payments.

#### **Case Study 5:**

Mrs KK had credit card arrears totalling £2,381.62, which the bank had asked her to pay back in full. She had difficulty in making the payment as she is widowed, and her only income is from Pension Credit and Housing benefits. TWAN prepared a financial statement on her behalf to show her costs and ask that her agreed payment instalment sum of £10.00 per month, was reduced to £5.00 per month. This was accepted by the creditors.

## **2. Welfare Benefits**

After WW2, the UK introduced a phenomenal welfare system, that is still seen as a model for many other countries. However, with time, the government has tried to narrow down beneficiary entitlements in diverse ways. It is now being done under the name of Universal Credit (UC) and the net amount of cash benefit to the beneficiary is being gradually reduced over a period. In other words, receivable benefits are slowly being reduced. This will increase poverty for vulnerable people relying on the benefits system. Also, the resulting delay in processing these UC assessments and benefits payments will mean that some people face hardship. In the housing news report of the Residential Landlords Association of Sept/Oct 2019, it is reported that UC is causing tenants to fall behind in their rent payments due to the fact that individuals who had been transferred to UC realised a shortfall between their rent payable and

the amount they received as UC benefits. As reported by the group that conducted research in the Gateshead and Newcastle area in 2019, the impact of UC on the lives of claimants is described by detailed analysis of the two central themes: (1) the process of claiming UC and (2) the consequences of managing on UC.

Welfare benefits are provided to individuals who are: unable to work due to health issues, have reached pension age, not within work or, those who are working but not earning enough to live above the poverty line. These benefits ensure that members of the population can meet their basic needs. Benefits include Tax credits, Income support (Jobseekers & Employment Support allowance), Child benefits, Carers and disability benefits, family benefits, housing benefits and bereavement benefits.

### **Tax credits**

#### **Working Tax Credit**

Working Tax Credit is money provided to boost the income of working people who are on a low income. It does not matter whether you are working for someone else or are self-employed.

Working Tax Credit counts as income when working out your entitlement to most other means-tested benefits

#### **Child Tax Credit**

Child tax credit is a means-tested benefit paid to parents and carers who are responsible for at least one child under 16 living with them.

### **Income support**

Income Support is defined as "an income-related benefit for people on a low income". Claimants may be entitled to certain other benefits, for example, Housing Benefit and help with health costs. Applicants must be between 16 and pension age, not working or work fewer than 16 hours a week, and have a reason why they are not actively seeking work (e.g. caring for a child under 5 years old and therefore not available for work or someone who receives a specified disability benefit).

### **Jobseekers allowance**

Jobseekers allowance is a monetary benefit which is provided to those who are above the age of 18, out of full-time education and are either unemployed

or are working for less than 16 hours a week. However, the individual must be able to participate in active work and be actively seeking work. An individual applying for jobseekers allowance must prove that their partner works less than 24 hours a week in order to qualify for the benefit.

There are two forms of jobseekers allowance which can be claimed- contribution based or income based jobseekers allowance (JSA).

With the **Contribution-based** JSA, the individual must demonstrate that they have paid Class 1 National Insurance on their relevant earnings (within the two taxable years prior to the JSA being claimed) in order to apply. The lower earnings limit for 2018/2019 is £123 per week. Once the National Insurance contributions have been adequately established, jobseekers allowance is payable in the amounts of £57.90 per week to those who are aged 16-24, and £73.10 per week to those who are 25 or over.

**Income-based** JSA is linked to one's income and savings. You may apply for this benefit if you have not paid enough National Insurance contributions (NICs) or you've only paid contributions for self-employment and you're on a low income. The person applying must be over 18 years old, but below the state pension age, and hold £16,000 or less in savings. They must work less than 16 hours each week, and their partner (if applicable) must not work more than 24 hours per week. The applicant must also not be in full time education. The allowance given is based on amounts pre-determined by law as the minimum amount an individual can live on per week. Applications for this benefit must be made online at a Jobcentre Plus location. The Jobcentre Plus will schedule an interview with the individual which they must attend, otherwise the allowance will not be obtainable.

Payments may be stopped if the individual does not complete the requirements agreed on prior to obtaining the allowance.

### **Employment and Support Allowance**

As defined, "the Employment and Support Allowance" (ESA) is a United Kingdom welfare payment for adults younger than the State Pension age who are having difficulty finding work because of their long-term medical condition or disability. This is a basic benefit paid in lieu of wages.' However, since 2010, the Government has

introduced a system of Universal Credit which is intended to replace the following six individual benefits - *Income support, Jobseekers Allowance, Employment Support Allowance, Housing benefit, Child Tax Credit and Working Tax Credit*. Persons applying for the first time for any of these benefits will now be considered for Universal Credit. Those currently receiving these benefits cannot also have Universal Credit. The government is working to switch over existing benefit claimants to Universal Credit. This should be done in a phased manner and persons affected will be contacted by the Dept of Work & Pensions in due time. The conditions required for each benefit will still hold.

### **Case Study 6: Habitual residence**

AS was a French citizen who had lived in the UK continuously for 17 years and worked for the majority of that time. He applied, and was successfully granted, permanent residence by the Home Office in July as a result. Habitual residence is not defined in the regulations and so it should be given its ordinary and natural meaning: the period of time and whether the claimant has demonstrated a settled intention all go towards proving habitual residence. It is about whether there has been a settled state in which a person is seen to be making a genuine home.

He had a house together with his wife. He has three children who are all settled here, extended family including his in-laws and an active life including a community one.

He was unable to work given a work-related back injury in which his discs moved in his lumbar spine combined with a later car accident.

He acquired a permanent right to reside in the UK under Regulation 15 of the Immigration (EEA) Regulations. Under the DWP's own chronology, they had recorded the period accepting AS had qualified status under the regulations. Although there were gaps between periods of his status, the Upper Tribunal had decided in *OB v SSWP* that such gaps did not break continuity for the purposes of the regulations. The Tribunal also accepted AS's oral evidence that in the time since 2001, he had not left the UK for a period longer than 3 weeks, nor at any time, been imprisoned.

### **Case Study 7:**

**Employment and support allowance - successful appeal**

MS was a sufferer of multiple medical conditions including recurring stage 4 ovarian cancer over the course of 15 years and had undergone multiple courses of chemotherapy and major surgeries. The DWP found she scored 0 points under their Work Capability Assessment. This is a very formulaic assessment which assesses a claimant's ability to perform very specific tasks (both physically and mentally). The lack of a claimant's ability to perform any one of the tasks would grant them points from 0-15. A total of 15 points are required to be found eligible for ESA.

There are a few exceptions for which you don't need points - including currently undergoing chemotherapy.

The tribunal found that although MS did not score any points under the DWP's WCA, Regulation 35 of the ESA Regulations applied - that if she were found capable of work or work related activities, this would result in a substantial risk of deterioration in her health.

Furthermore, MS was found not to satisfy the support component of ESA in 2016 and the DWP has failed to demonstrate a change in circumstances since that finding.

The Tribunal recommended that MS is not reassessed for another two years. This is another case in which the DWP completely fails to humanise or empathise with its users or claimants.

### **Case Study 8**

Mr VP came to this country from Sri Lanka more than 20 years ago and claimed asylum. Two years later he was granted refugee status. However, he is unable to work due to his mental health issues. We secured employment support allowance and he lived with his employment support allowance and housing benefit with other benefit entitlements. Later we managed to find supported housing as a mental health patient. In mid-2016, his ESA was stopped, and the benefit agency stated that he is fit enough to work and no longer eligible. We challenged the decision and make representations to the tribunal and hearing was dragged on because at some point the DWP said they wanted to reconsider his claim. After a long delay, the benefit agency reconsidered his case and agreed to reverse their decision from October 2016. Accordingly, he received his benefit entitlements and arrears more than £18,000 given he had not been paid it for three years.

These issues are stressful for clients, and it requires persistence to win these matters.

### **Case Study 9**

The appellant was a French national who moved to the United Kingdom on 1 March 2008. The appellant lived continuously in the UK for over 11 years. She lives alone in a rented property. All her living family are based in the UK. She only has one son, formerly a French national who came to the UK to study in 2003. He is now married with three children and is a British citizen. The appellant came to the UK to exercise her Treaty Rights, taking up employment at a restaurant. The appellant has pay slips from the two years she has worked and this is not in dispute by the DWP.

MN's husband, also a French national, came to join her in 2010 and subsequently became ill. She was forced to give up employment to care for him from that time until his death later that year. She herself then subsequently became unwell, developing severe arthritis and varicose veins. She is in receipt of Disability Living Allowance on that basis.

She had to retire early due to circumstances outside of her control and related to issues that it would be perverse for the state to rely on as a basis for punishment. Caring responsibilities and severe ill health should not strip anyone of their citizenship, right to reside or basis for claims that are made available to the most vulnerable. MN plans to stay in the UK indefinitely - at 71, she has no intention of moving for the rest of her life. All three of her grandchildren and her only child are here. She is a widow living on her own otherwise and there is no one for her in France.

MN has claimed state pension credit as a single person. She has no savings, investments, sickness insurance or other sources of income bar those currently afforded to her by the state. The lack of pension will leave her destitute.

MN is one of the many who have been assured by the Prime Minister that they are welcome here and that they want them to stay. Depriving such citizens, especially the most vulnerable, of all protections and state support creates a hostile environment within which they clearly cannot survive. The new vigorous approach to the habitual residence test employed by the DWP is not in line with EU

freedom of movement or with the Government's stated aims of allowing EU citizens in this country to remain with their rights intact. Depriving a 71-year-old widow of no means of access to her state pension is cruel and inhumane.

### **Case Study 10**

Mr IS submitted an ESA claim to aid his mobility and incontinence issues. The decision made was against his receiving the allowance, which we (TWAN) then appealed on his behalf. The Courts and Tribunals Service did not change the original decision, asking for further evidence from Mr IS to enable a change in decision. This was provided in the form of his medical reports and we further appealed. The second appeal was successful and ruled in favour of Mr IS receiving an Employment and Support Allowance.

### **Case Study 11**

Mrs KE had no independent source of income and submitted an ESA claim, due to existing health conditions leading to limited capability to work. Following an assessment, the Department for Work and Pensions rejected the claim saying that she was capable of working regardless of health conditions. This decision was appealed against by TWAN on the client's behalf, setting out the range of health conditions and a double knee replacement that had been done. The initial decision was then changed and Mrs KE was awarded ESA.

### **Case Study 12**

Mrs SS received an entitlement of ESA allowance following a Healthcare examination which found that she had limited capability for work. After the payments were received for an initial period, it was decided that she could attend work and she stopped receiving the allowance. The decision was unsuccessfully appealed against, after which the client approached TWAN for assistance. The later appeal was allowed with initial payments restarting, but remitted to the Department for Work and Pensions to make a final decision on continuing payments. We continue to act on the client's behalf and have worked to secure medical reports which set out her conditions.

### **Universal Credit**

There are conditions which must be met in order to qualify for Universal Credit. These conditions are like those required for the six benefits Universal

Credit is replacing. Unless these conditions are met, there will be no entitlement to benefit.

In order to qualify for Universal Credit, the applicant:

- must be of working age e" 18 years and d" 65 (i.e. under pension credit qualifying age);
- must be habitually resident in the UK;
- must have d" £16000 in savings;
- may be employed and earning at least £6000 per annum;
- if unemployed, must be actively seeking work;
- must not be in full-time education.

There are exceptions to these conditions but we will not deal with them here.

Universal Credit is determined by calculating the maximum amount the law says you need to live on each month and deducting the actual amount you earn as income each month, the difference will be paid as Universal Credit. The maximum amount is determined as the standard cost of living allowance (SA) plus any legal entitlement (E) for children, limited work capability, carer responsibility, childcare and rent. Total income is determined as actual earned income (EY) plus unearned income (UY)- e.g. carer's allowance. Benefits which will not be replaced by Universal Credit are child benefits, carer's allowances, disability allowances, sickness benefits, maternity and paternity benefits, bereavement benefits and pension credits.

### **Child Benefits**

Child benefit is additional monetary support provided to those who are responsible for looking after a child generally under the age of 16 but in most cases can be up to the age of 20, if they continue their full-time education. Such full-time education related courses include A level or NVQ level 2 Scottish qualifications, as well as some vocational courses.

If a child is to qualify as dependant, they must meet these requirements: be under 16 or 20 (if in full-time education) and financially dependent on their parents.

Child benefits will stop on 31st August once the child will be or has turned 19, unless they continue in full time education. If a child continues or stops their full-time education, it is important for the

parent to inform the Child Benefit Office so that necessary actions can be taken.

Claims cannot be made where:

- i. The child has been in prison for 8 weeks;
- ii. The child has been in local authority care;
- iii. The child has married, is cohabiting or in a civil partnership (unless their partner is within full time education);
- iv. The child obtains other forms of benefits such as jobseekers allowance.

### **Carer's Allowances**

This benefit is entitled to those who care for a person (at least 35 hours per week) who claims either disability allowance or attendance allowance. The carer must be over the age of 16 and not studying for more than 21 hours a week. The amount which would be payable to the carer to the amount of £62.10 per week. Such allowance however does not get paid to the carer if they have regular gaps in care provided during a 26-week period where the carer may have gone on holiday. Payments however will still be made where at least 22 of the 26 weeks were spent caring for a person. Where the person being cared for has their allowance stopped, the carer's allowance stops too.

### **Disability and Sickness Benefits**

#### **Disability Living Allowance for children**

Disability Living Allowance for children (DLA) is a tax-free benefit for children under 16 to help with the extra costs caused by long-term ill health or a disability.

#### **Disability Living Allowance for adults**

Personal Independence Payment is gradually replacing DLA for adults with long-term ill health or a disability. If you have reached State Pension age, you can apply for Attendance Allowance instead.

#### **Personal Independence Payment**

Personal Independence Payment (PIP) is a tax-free benefit for people aged 16 or over who have not reached State Pension age. It can help with the extra costs caused by long term ill-health or a disability.

#### **Case Study 13**

Mr JM submitted a PIP claim to manage his long-term mobility issues. The Department for Work and Pensions contended that he was not eligible for payments as he had no daily living needs and limited mobility needs. TWAN acted on Mr JM's behalf to appeal the decision, using medical reports provided by his doctors to highlight the effect of his

conditions on daily life. This was successfully appealed at a tribunal.

### **Attendance Allowance**

Attendance Allowance is a tax-free benefit for people who are State Pension age or over, have a disability and need someone to help look after them.

### **Maternity & Paternity Benefits**

Mothers will still take at least two weeks of maternity leave straight after the birth, but after that up to 50 weeks of leave and 37 weeks of pay can be shared between parents. Statutory shared parental pay is £139.58 per week or 90% of your average weekly earnings, whichever is less.

### **Shared Parental Leave**

You may be eligible to share parental leave and pay with your partner. Shared parental leave is designed to give parents the flexibility to decide when to return to work and allow families to spend time together in the early stages of a child's life. Leave and pay can be shared following the first 2 weeks after your baby's birth. This means up to 50 weeks of leave and 37 weeks of pay can be shared. You don't have to take all of your shared parental leave at the same time. You can take shared parental leave in up to 3 blocks (each block must be a minimum of 1 week) and return to work in between. Shared parental leave can be taken by both parents at the same time so you and your partner can spend time at home together with your baby.

### **Bereavement Support**

Bereavement payment is a tax-free benefit of **£2,000** given to someone whose spouse has recently died but not of industrial or disease related causes. The amount will depend on the NI contributions of the spouse who has died. The individual can obtain such benefits if at death of spouse, the individual was under the pension age. To be able to claim the benefit, there must be a claim made within a year. A bereavement payment is also given of £133.70 to those who are aged 55 or over. Persons aged 45 to 54 receive reduced payments. This allowance is only payable for up to 52 weeks after the spouse/partner's death.

There is also a widowed parents' allowance, for those who have a dependent child or are pregnant at the time of being widowed. It also counts as income for universal credit. The weekly amount payable is £113.70. If the individual remarries, then the widowed parent allowance will no longer be available.

### **Case Study 14**

Mrs RG made a claim for a Funeral Payment for the burial and funeral costs of her late niece, as she was receiving benefits and did not have the necessary income to cover this. The child's mother was in the UK on a migrant visa and did not have any income. The Department for Work and Pensions wrote to the client to say she will be entitled to a payment of £804.77. However, the total cost of the funeral services was £2,500 and was evidenced by letters from the funeral directors and other statements showing additional costs. We are acting on behalf of the client and considering an appeal on the decision.

### **Pension Credit**

This is given to those who have reached the state pension age. There are two elements to pension credit:

1. The first part consists of **guaranteed credit** which is the stated minimum amount that anyone can live on, consisting of £159.35 for a single person and £243.25 for couples. The amount will increase if the individual qualifies for disability.
2. Secondly, **savings credit** is given to those over pension age who hold reasonable savings higher than a given level. Savings credit which is available consists of £14.82 weekly for a single person with £17.43 for couples.

### **Case Study 15**

Mrs JN made a claim for State Pension Credit, which was rejected by the Department for Work and Pensions stating that she does not have a right to reside in the UK and therefore would not be entitled to payment. The decision was appealed against, as the claimant is a single person with no other means of supporting herself and as a French national, exercised her right to remain in the UK, where she has resided since 2008. We continue to work with the client to appeal the decision.

## **3. Homelessness and Housing**

As Patrick Butler, Social Policy Editor for the Guardian newspaper reported in November 2018, there are well over a quarter of a million people who are homeless in the UK, according to research done by the housing charity Shelter. To quote Mr. Butler, "Newham in East London is ranked as England's number one homelessness hotspot, with at least one in every 24 people in housing insecurity. More than 14,500 people were in temporary accommodation in the borough, and 76 were sleeping rough." In London as a whole, there was a record number of homeless people (170,000). Homelessness and housing insecurity is also spreading beyond its traditional heartland of London into the wider south-east and Midlands, and the impact of high rents and welfare cuts ripples outwards.

In TWAN's experience, the housing crisis is worsening in London. There are not many new-builds available and people settled in London want to stay here because of transportation needs, availability of schools and hospitals. Lack of housing is creating tension among the private sector. Recent studies show that with current social housing needs, the ratio of persons per house available is 9:1.

Benefits play a major part in social housing. Many private landlords will not rent their houses to DSS beneficiaries. The main reasons cited are:

- With the volatility of housing benefits (in relation to earned income), a family may struggle to keep up rental payments if benefits are reduced;
- The Council is usually reluctant to support rent increases after an award of benefits is made. The Housing department has its own rent value levels and the calculation of benefits is based on this. This shortfall can cause rent arrears for tenants and landlords do not want to be bothered chasing tenants for rent;
- In certain cases, the council has been known to actively encourage tenants to stay on in the house (where they have fallen into arrears due to refusal by council to increase their benefits) until they are evicted. The process of getting a tenant evicted is



cumbersome and landlords do not readily wish to engage in this;

- This practice has led to a breakdown in landlord/tenant relationships and the result is that landlords simply refuse to let their houses out to DSS tenants. In fact most landlords let out via agencies to avoid any contact with prospective tenants.

In summary, some councils are at fault of :

- misleading applicants to believe houses are available to rent by encouraging them to wait for an eviction notice rather than negotiating with the landlord;
- not taking responsibility and own up to a lack of available housing;
- encouraging evictions yet with an eviction order on one's name, it will be difficult to rent from future landlords.

Prospective tenants are turning to the private rented sector as Councils do not have available houses for rent. There is the vicious cycle of blame pushing and shirking responsibility by the Council rather than accepting that there are not enough houses to house those who need it and doing their best to enable tenants stay housed and not become homeless. Councils all over the country must also work together to end the housing crisis.

Despite all the negative reports and practice of the Councils, they are required to help if you are homeless or threatened with homelessness as long as the required conditions are met. The person applying for help must be:

- Ø legally homeless;
- Ø eligible for assistance;
- Ø in priority need;
- Ø homeless through no fault of theirs; and
- Ø locally connected to the area.

### **Case Study 16**

TM is a British citizen aged 72, who had been living by himself in rented accommodation for many years. He was in receipt of pension credit and housing benefit.

TM became ill and was hospitalised for two months in order to be treated. During this time, his local

authority stopped his housing benefit payments. The landlord subsequently evicted him without his knowledge, removing his belongings from the property and installing another tenant. This only became apparent when TM was discharged from hospital and could not access his previous home. The landlord also demanded payment of the rent which had since fallen into arrears.

TM has no immediate family members. He spent several days in friends' homes and eventually ended up in a homeless shelter, where he was signposted to us for help. The loss of a fixed address also meant his pension credit payments were stopped.

We used our office address as a contact point for DWP to make the arrangements to reinstate TM's pension credit and later we found a hotel who charged around £11/night locally and sheltered him at the hotel. He had some savings, and he borrowed some money from friends to make that regular payment to the hotel. During this time, we registered him with the Local Authority as a homeless person for sheltered housing due to his age and put him on the housing register. Also, we made other suitable accommodation providers like housing associations (floating support service - like Genesis and Tamil Community Housing Association Ltd) applications to find him longer term solution to this accommodation. After three weeks of our communication with the benefits agency, he started to receive pension credit benefit that helped very much to find suitable accommodation. In middle of May 2019 he was offered a room locally by Tamil Community Housing Association. And we are continuously providing other supported services to him.

### **Case Study 17**

PS was a middle aged single person living with his mother and sister. PS had learning difficulties, including autism, which prevented him from working. He was in receipt of employment support allowance until he was deemed fit work by the DWP's assessors at the end of 2016. He did not make any further applications since this decision and was supported by his family from that point onwards. His mum was in receipt of pension credit and his sister had been working.

His sister moved out of the area in 2018 and the loss of that income meant PS and his mother could not keep on the rent. They lost their accommodation

and became homeless. Again, pension credit was stopped because of the loss of a fixed address.

Due to his behavioural nature, the relatives who provided him with accommodation, were reluctant to let him stay on. Then we started to search for suitable accommodation in the community and we managed to get two separate rooms for the mother and Mr PS and we restored the mothers' pension benefit in 2-3 weeks. However, we were not able to restore his employment support allowance quickly for him. We made a PIP application for him and a universal credit application, including housing benefit. Also, we registered with local authority housing list as a homeless person and helped him to bit suitable housing in two weeks interval.

### **Case Study 18**

Mr T came to this country with his wife and two children in 2010, from a European country to exercise his Treaty rights as a worker. Once he came to this country, he obtained a job, worked in this country, and supported his family. He rented a three-bedroom house in East London and he received rent benefit support because of his low income. Six years later, he passed away from a heart attack and his wife unable to obtain the benefits entitlement straight away because she is a dependent family member of EA National as a Sri Lankan passport holder. However, her two underage children are European Nationals. Due to these circumstances, the benefit agency refused to give any benefit, because she was not entitled as a dependent family member of an EA National. Because her husband passed away, she was unable to claim required benefit support including housing benefit; the rent arrears accumulated, and the landlord took her to court for an eviction. At this stage she came to our office, and we dealt with her benefit entitlements and successfully obtained the child benefit, child tax credit, family tax credit with housing benefit under the Surinder Singh principle. We also managed to backdate her benefits for three months. In the hearing she explained these developments, with the judge dismissing the eviction case filed by the landlord. One year later, the landlord tried to evict her again, taking her to court because he wanted to rent out that house to someone else. During the rent arrears period, the tenant-landlord relationship deteriorated. As a single mother she had one child with learning disabilities. She is unable to find any other alternative houses. Because no landlords or letting agents were prepared for people on benefits,

further, her records against the county court shows she is not desirable as a litigious client with a record. Her social workers also tried without success. At the hearing, she explained her effort given the situation. The case was dismissed again, and she was allowed to stay in that house. However, the council refused to increase her housing benefit as the landlord was expecting increased rental income. Thus, the landlord launched legal action against her at the county court, due to rent arrears. At the hearing, she agreed to top up the rent with her benefits and agreed to additional payment by cash to top up the benefit. The judge agreed, resolving this case. In 2019, the landlords increased the rent by £500 a month in a seventh attempt to evict the client. They also claimed the council had received complaints from the neighbours regarding the rear garden. This claimed a breach of one of the clauses of the tenancy agreement. The landlord filed the case against her at regular intervals to evict her without success she continuously lived in that house and on each occasion, we assisted her to overcome the rental problem and the landlord harassment and court proceedings. But finally, after this attempt, we spoke to a Housing Association and arranged for her to go to another home.

### **Legally homeless**

A person is deemed legally homeless if he/she has been evicted, is sleeping on the streets, has been driven out of the home they lived in with family or friends, has had to run away due to violence or, where they cannot stay in the house they lived in due to a fire or flooding.

### **Eligibility for assistance**

Eligibility is dependent on the person being a British or EU citizen or permanent resident in the UK and entitled to benefits.

### **Priority need**

If you or a person in your household falls into a priority need category, you are entitled to housing. A priority need occurs where

1. Children under 16 live with you (*or under 19 but dependent*)
2. You are pregnant
3. You are 18-20 and, spent time in care as a child

4. There has been a flood, fire or other disaster

5. You are disabled, have a serious health condition or you are at risk of domestic abuse

If you are evicted, for example, regardless of how this eviction came about, if you do not have a priority need (especially if you do not have children), you are not likely to get a house via the council. The council is only obliged to provide housing in an emergency if there are under-aged children in your household and the Children's Act forbids them to be made homeless. It is important to note that if you allow yourself to be evicted you can find yourself on the streets. Do not wait for that to happen. Get help as soon as you can.

### Without fault

The council will consider whether the person has not made themselves intentionally homeless. A person will be considered for re-housing if they have been made homeless through no fault of theirs.

### Local connection

Where a person lives or works in an area and has close family ties in that area and/or needs specialist healthcare, he or she will qualify for housing in the area asked

The foremost condition is the eligibility condition. However, in each case the council will carry out an evaluation on a case-by-case basis.

Where you are housed but unable to meet the costs of payment, providing certain conditions are met, you may qualify for assistance with rental costs (housing benefit)

### **Housing Benefit**

Such benefit aims to support those who are unable to support rent payments as a result of their low income. The amount of benefit in relation to the rent reductions will depend on the circumstance of the accommodation, for example private and council rented homes.

In order to be eligible for rent reductions, the required conditions are to be met. This includes: the individual does not have savings which exceed £16,000, and that either the individual or their partner pays rent.

Housing benefit is not available if:

- the individual is a student within full time education
- holds a lease for over 21 years
- the landlord who receives the rent is a family member
- the property has been owned for more than 5 years

Those living in council housing have their housing benefits calculated through the amount of rent that they pay. This does not include the charges for water facilities and estate maintenance costs. For those who rent privately, a local housing allowance rate is used to calculate the housing benefit entitlement which considers location and number of bedrooms up to a maximum of four that may be required. Such rates are calculated yearly and therefore may change. If the rent is lower than the housing rate, the rent figure would be used instead for the calculations. To calculate the quantity of bedrooms entitled to for the purpose of assessing the local housing allowance rate, the amount of rooms entitlement will be determined by the circumstances in which an additional room would be entitled to the individual. Only a maximum of four additional rooms can be claimed.

There is entitlement to one bedroom in each of the following cases:

- it is required for the individual and their partner
- a 16 year old or over lives in the accommodation
- two minors under 16 of same sex such as siblings
- two minors under the age of 10
- disabled persons who share accommodation

Further to this, there is a separate rate known as the shared accommodation rate which is designed for those who share their accommodation with another person such as a communal kitchen and bathroom. This rate applies to those who live within shared accommodation and are either single or a couple with no dependents.

## Council Tax reductions

Such reductions are aimed at helping those who currently pay council tax but are on low income and may have difficulties in paying their council tax as a result. Councils decide how they calculate someone's eligibility, but in most cases their methods would resemble that for calculating housing benefits as mentioned above.

## 4. Employment

The organisation mainly deals with settling people in the UK. The organisation has to provide effective employment and career advice services, taking practical steps to help clients achieve their goals. This assists swift settlement in the UK and being able to live above the poverty line. Our work starts with obtaining NI numbers for any clients who need this to get into the job market. We identify their skills and experience which can be applied in the local job market. TWAN helps with preparing CVs or making online job applications. This will sometimes include obtaining a DBS certificate or police clearance documents, barriers which have initially prevented them from obtaining employment. Other barriers we deal with are language limitation, lack of referees for employment history, lack of knowledge on how to find jobs and the like. Especially vis-à-vis younger persons, we have to encourage them to develop their careers, through education or the relevant training. We also work together with other service providers like universities, employment training providers and sometimes even directly with employers, to go through specific training, to secure jobs in their industry.

The other type of service TWAN offers is to negotiate with employers to help individuals retain their employment. We explain what rights individuals are entitled to as employees and how to comply with employers requirements. When disputes arise, TWAN will mediate and solve associated difficulties. Where necessary, TWAN helps employees to understand disciplinary procedures and termination of their jobs and appealing against the employer's decision on their dismissal. On few occasions we will work with employment tribunals and mediators like ACAS (the Advisory, Conciliation and Arbitration Service) to help solve the case. If necessary, we can also obtain pro-bono assistance where we do not have the required expertise.

Unemployment or underpaid jobs in our community is reasonably high. The unemployment rate in East London, is ranging between 4.3% in Waltham Forest and 6.1% in Tower Hamlets. The overall UK unemployment rate is 3.8% in 2019. Some years ago, TWAN obtained an employment grant for a three-year period. The organisation was able to recruit a full-time employment worker, and this impacted the employability of members of our community, as jobs were created or found for over 130 people. Twice that number were advised regarding employment. Unfortunately, that funding came to an end and clients had to be turned away. To tackle community unemployment adequately, we need more resources than we have at present, as it requires funding to cover staff cost and overheads.

### Terminating an employment

There are different ways an employment contract can be terminated:

- Expiration of contract
- Resignation
- Summary dismissal
- Unfair dismissal

When one's contract expires, and a person does not wish to renew it, there is no issue. Generally, contracts can be automatically renewed. Alternately a person can simply resign from a job. Problems arise with summary or unfair dismissals. These create a vacuum regarding income which can impact in a negative manner the lifestyle of the dismissed individual.

Under the Employment Rights Act 1996, a worker is deemed to be unfairly dismissed if an employer terminates an employment contract unlawfully. The Employment Rights Act 1996 sets out the reasons an employer must provide as evidence and the tribunal should decide on:

1. Relating to the employee's capability or qualification to do the work
2. Relating to the employee's conduct
3. Redundancy
4. Contravention of duty or restriction imposed under an enactment
5. Other substantial issues such as refusal to sign a restrictive covenant of 12 months.

The Employment Tribunal has to consider certain points when they make their decisions to ensure that the dismissal is fair:

- a) An employer reason for dismissal
- b) Did he base his decision on the facts known at the time?
- c) Has the employer shown a potentially fair reason for dismissal?
- d) The employer acted reasonably in viewing the grounds for dismissal.

Therefore, to make a claim for Unfair Dismissal an employee who commenced work after 06 April 2012 needs 2 years continuous service. Employees who started before that date only require 1 year of continuous service to bring the claim.

### **Case Study 19**

Mrs MM approached us in the middle of 2022 asking for our help to take action against her employer. She was terminated from her employment at a supermarket on account of her alleged misconduct. She went through the company's disciplinary procedure and was subsequently dismissed, we took instruction and advised her that were merits to launch an appeal to the Employment Tribunal, because she was a victim of unfair dismissal. There were numerous grounds for this appeal. Her employer had not conducted the disciplinary procedure properly, as they had considered fake evidence and wrongly recorded in their internal investigation hearing that she had agreed to these false allegations. 15 of her coworkers had banded together to lie about Mrs MM's misconduct, and some of them weren't even present at work when they allege she committed the misconduct. Further, she was not invited to the disciplinary meetings, flouting due process. Additionally, part of the evidence was from a manager whom Mrs MM had reported in 2021, yet subsequently returned to the same place of work. Mrs MM was discriminated at her work place, eventually being unfairly dismissed, a flagrant violation of justice that TWAN is actively seeking to correct at the Employment Tribunal. TWAN continues to support her as we wait for the next hearing.

## **5. Health Care**

Most of our work is related to migrants and asylum seekers. As such, we have to provide primary health care advice and guidance with other miscellaneous practical support. When they first come to us, most clients do not have a GP. Our services start with finding them a GP and registering the clients with them. We have to

provide them with the initial registration and other screening process: obtaining NHS card; where necessary referring them to other health professionals. including opticians, dentists, counselling services and other health organisations. Most of these people because of their low income levels, are entitled to free health care.

*Covered health costs for those with leave to remain*  
Immigrants - those who are with leave to remain - are eligible to get free medicine and NHS treatment because they are paying health surcharge with their Visa applications to get this service. However, NHS' officials do at times issue invoices with the demand to ask people to make the payment for their hospital or other treatments. In this occasion, we may have to make representation on behalf of the client to NHS' finance section to exercise our clients' rights for free treatment. It may take an extended period to get them to agree due to the nature of ongoing protracted communications.

### **Case Study 20**

Mr SK came to this country as an asylum seeker in 2016.

His asylum claim was not successful however he was granted 2.5 years limited leave in February 2020 under the private life category. Mr SK received around a £20000 bill from the Barts Healthcare Trust, which demanded him to pay for his healthcare treatment. Despite clearly living under benefits the NHS demanded this payment. While he was an asylum seeker, he was entitled for free medicine and treatment. Subsequently, when he was granted 30-month leave, he had paid the healthcare surcharge of around £1500 which should have covered his healthcare costs. Therefore, we made representation to NHS trust, and they asked more details about his immigration related documents. In the end, they agreed to write off the invoice and clear his name from the data.

### **Case Study 21: NHS Charges**

It has become common for the NHS to chase people, whose status to remain in the country is unclear, for payment for essential treatments. We think this is done predominantly after the fact (i.e. following on from treatment) using opaque datasets and processes. Since 2009, asylum seekers whose appeal rights were exhausted, and no further application can be made may not be able to seek free NHS healthcare.

correspondence, that it is not the clients' fault that their status is not settled, at the time of their seeking of medical treatment.

For example, in the case of KJ, NHS charges were successfully overturned on the basis of the Home Office delay. KJ arrived in the UK in July 2012 to claim asylum. She was assisted by an agent throughout her journey to the UK and was instructed to claim asylum at the Home Office in Croydon. When KJ came to the UK, she was 7 months pregnant. She was persecuted by the Sri Lankan state armed forces and was detained. After she was released, she made arrangements to leave the country as her life was not safe and her husband was also detained by the Sri Lankan state armed forces. The Home Office did not immediately grant an appointment but requested that she attend a screening unit a month later. KJ first attended the NHS 10 days after arrival - at this time, as she was always an asylum seeker since she first arrived. She was not recognised as a refugee until the following year.

In the case of MP, this was relating to nearly £4000 to cover the expenses of her maternity. MP was a failed asylum seeker who continued to seek this. Her husband was granted indefinite leave to remain some time before the birth of the two children. They wrote the charges off in the end using the status of the husband.

In the case of AV, we were able to successfully claim a refund on her prescription charges that had been mistakenly applied given she was an asylum seeker who could not seek work.

#### *Covered health costs for visitors (the surcharge)*

When people are visiting the UK with 6 months visit visa there is no official requirements to make prior payment towards their future health costs - if any treatment is required during their visiting period. If they do happen to require treatment whilst visiting, they must pay huge sums. In our experience, the people coming with family visit visa may return to their native countries without paying the treatment charge sometimes. This puts unnecessary burden on the visitor's family in the UK. Therefore, we encourage the visitors to obtain health insurance while they are visiting the UK in case if they require treatment, it can be covered.

*Claiming help with health care expenses (form HC1 etc)*

Asylum seekers and people on benefits can get free prescription medicine if they are holding a HC1 certificate. However, those people on benefits or disadvantaged positions are encouraged to make an application for HC1 certificate to get free medicine. If they don't have this then those people may be demanded for payment by the NHS. This certificate is valid for 6 months then they must renew this certificate by making another application.

#### **Case Study 22**

Ms SS came to the UK and claimed asylum in February 2022. She approached us for her asylum case representation. While we opened the file and took the case, we realised she needed other welfare support as well, including healthcare as she was new to the country and not registered with a GP and she is having severe eye pain. We made the online GP registration then made the application for HC1 which will once approved get her HC2, which will get her free medication. We spoke to Murray Health Hospital and made the arrangements for her to attend and be seen by the eye specialist, to get treatment.

#### **EHIC**

The UK Global Health Insurance Card (GHIC) has replaced the existing European Health Insurance Card (EHIC), as a result of Brexit. If you have an existing EHIC you can continue to use it until the expiry date on the card. Once it expires, you'll need to apply for a UK GHIC to replace it. You can apply for a new card up to 9 months before your current card expires. This enables UK nationals to avail healthcare when travelling to countries in the European Economic Area.

## **6. Family Legal Advice**

During the COVID pandemic, we noticed an increase in family disputes. Perhaps this was owed to small and overcrowded accommodation, coupled with the fact of inadequate income in the recessionary climate, creating unwanted family disputes. When couples or parties of children approach TWAN, we handle it in a culturally appropriate manner. We don't want to, duplicate police or social service or court approach on this matter instead we will work with the individual of the family unit to find solutions, keeping the family as a singular unit. However, we will get referral from

social workers, police and GPs and other relevant statutory bodies to help the families. This pattern is continuing amidst the cost-of-living crisis and for other reasons. Only when appropriate we will help the individuals to proceed with separation or divorce application. Otherwise, we will mediate and find solutions, without splitting families - making court orders for them to see their children. Taking injunction orders or non-molestation orders are part of our scope. When clients come to us regarding family matters, the involvement of children complicates matters further.

### **Case Study 23**

#### **Ms PM lived in London with her husband and two children.**

They went for a holiday to their native place in 2022. While they were in one of their parent's house, an argument erupted between husband and wife. She was severely affected and was beaten up by the husband in front of their parents. Subsequently, she left Sri Lanka with her children. Upon returning to her to her family home, her lock was changed. She was provided support by the local council authority social workers. When TWAN took her case, it was found that she wasn't entitled for benefits. TWAN made an application to the Home Office to remedy this, and arranged for her to get back to her house. She was scared and frightened because her husband could return to the UK at any time, and she could suffer further physical abuse from her husband. TWAN made the non-molestation order and helped her during the hearings. This would prevent her husband from entering the house and harassing her. 2 months later, her public fund removal application was successful, and TWAN made the benefit application for her 2 children. She started to receive benefits for her essential living costs. Even though she returned to her family home she is living alone. Then TWAN made the further application to the Home Office to change her spouse visa status to victim of domestic violence settled status. This application was refused by the Home Office by stating that on the balance of probabilities, it was not possible to establish that her relationship permanently broke down due to domestic abuse. They made reference to her personal witness statement, the Undertaking after the non-molestation order and the letter from the Local Council Authority. Upon initial assessment of the application, it appeared that she met the requirements. As a matter of policy, the Home Office

provided a leave to remain Settlement route based upon being a victim of domestic violence.

This allows them an avenue to leave an abusive relationship while they prepare a settlement application. As good-natured as this policy was in theory (to discourage victims from staying in abusive relationships out of no alternative to find settlement routes), however, as shown in this case, the Home Office's refusal depicts stringent standards that in reality are not consonant with a degree of reasonableness. Creating high thresholds limits the access of justice, defeating the intent behind these policies. This Home Office approach forces victims to stay quiet and live with abusers. With specific regard to this case we will be engaged in getting more information for the administrative review, and providing consultation to the client if she chooses to pursue divorce.

### **Case Study 24**

A member of our community approached us as she was suffering as a victim of domestic violence. We took the case and assessed her case. She was facing a family law matter regarding a child custody and needed a legal aid family lawyer. She also needed a legal aid representative for her immigration matter as well. TWAN referred her to legal aid family lawyer, while we agreed to work with her on immigration issues because we had a legal aid contract for immigration only. We initiated an application to the Home Office to remove this restriction and contacted the local authority to provide her with emergency accommodation. Accordingly, she was placed on the local hostel by the council. She was supported by the social worker as well. As we expected her removal of public fund restriction was successful, subsequently we made the indefinite leave to remain application as a victim of domestic violence. Home Office considered this application and granted indefinite leave to remain in October 2023.

## **7. Asylum Support Service**

When asylum seekers claimed asylum, they're entitled for welfare support entitlement depends on the type of claim they make

If an asylum seeker claimed asylum at the port of entry immediately after arrival, then they are most likely going to be provided accommodation and essential expenses related support. However, if

they claim asylum at the Home Office or not claimed at the Port of entry then they are not entitled for essential living costs related support, unless they are homeless and seeking for accommodation from the home office under the section 4 arrangement. If an asylum seeker is provided accommodation by their relatives or friends, then they have to rely on their support fully. If they become homeless only, then they can ask for government support at the home office and support will be provided by the Migrant Help. Part of our usual work we will make asylum support application if the asylum seeker is port of entry claimant. It will take some time to get their support through migrant helpline if they are eligible. We also make the application for HC1 to get free medicine and register with GP and to attend their immediate healthcare related needs. Other type of people, those who claimed asylum as a in-country applicant as opposed to port-of-entry applicant, those people mainly relying on their relatives or friends however if they become homeless, then we will make the asylum support application with accommodation. Also, we will help them to register with the GP and get free medicine.

### **Case Study 25**

TT came to this country in December 2018 and claimed asylum at the Manchester airport. He was released with his relative who is living in East London and he was introduced to TWAN by his relatives. He received support from relatives until May 22<sup>nd</sup> 2018, when they were unable to fully support him. Under these circumstances, the client approached us and we advised him to make the section 95 application. Accordingly, we made the application. This application was considered by Migrant Help. The client submitted required all the evidence at one point the Migrant Help was told his asylum claim was refused and there is no valid appeal to get his support. Then we communicated with Home Office Asylum section and subsequently we received receipt of the asylum refusal, and we made the appeal and informed the Migrant Help about the applicant's eligibility to get asylum support accordingly he started to receive back dated payment of around £600. Now he is continuously receiving the benefits until his appeal rights are exhausted.

### **Case Study 26**

JJ approached us in June 2023 as a homeless person. We initially contacted his solicitors and found out he was sheltered in Midlands Area and

received asylum support from the Home Office. However, his benefits entitlement was terminated by the Home Office, including accommodation, because his legal representative in Birmingham lodged the appeal due to lack of merits on his asylum claim. We then talked to his known people in London and one of his friends agreed to give him accommodation for a short term. Then we opened the file for his asylum claim and obtained the file of papers from his previous solicitors, starting to bill his asylum case again. While we provided daily food assistance with our arrangements with local restaurants, ensuring that until he gets the asylum support, he will get food and essential services. Subsequently, we made a fresh application to the Home Office and once we got the acknowledgement, we made the section 4 asylum support application again, which was approved in October and he was picked up by the Migrant Help team from Manor Park, providing accommodation and food support

### **Case Study 27**

Mrs CL came to this country in June 2023, with a visit visa. A few weeks later she decided to claim asylum because her house in Sri Lanka was damaged by petrol bombs, and she feared for her safety on return. She was introduced to TWAN by her relatives, and we took the case, making the asylum claim for Mrs CL and her 2 underage children. Subsequently, she became homeless because the person supporting her visit visa to the UK did not want to support her once she claimed asylum. TWAN made the application to Migrant Helpline with accommodation support. However, her asylum support application was turned down by the Home Office because according to their records she wore expensive jewellery. They reasoned that this disqualified her from being destitute, instead questioning why she could not sell the jewellery, living off these proceeds and then making a renewed application for support from the Home Office. This case clearly shows a lack of cultural understanding, because the jewellery in question was a sentimental religious ornament ('Thali') worn by married Tamil women. The religious custom is that they only remove this when the husband dies, and it is taboo to remove it before then. The Home Office did not even ask why she could not sell it, rather imposed its view in rejecting the application, and not mentioning her appeal rights in the letter.



## 8. Victim Support

TWAN supports criminal victims in the pursuit of justice, be it through compensation or other means. We are going to explain what kind of victims are supported by us. This includes victims of accidents including workplace injuries, road traffic offences and medical negligence.

### Case Study 28

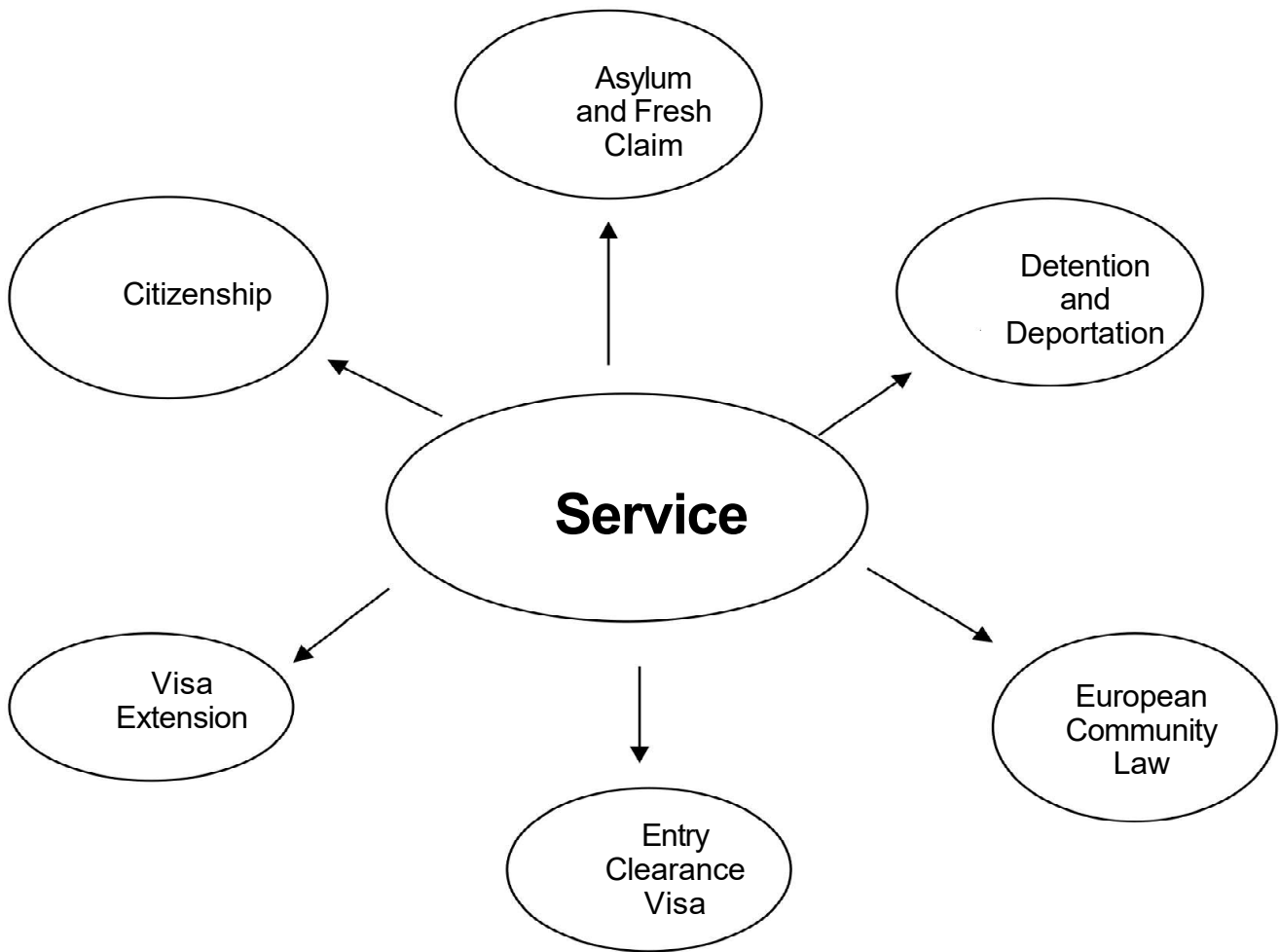
Ms KC came to this country as an asylum seeker. Initially her asylum case was represented by another firm of solicitors, but she approached us in September 2022 to get asylum seeker's welfare support. As usual, we registered her with a GP, obtaining the HC certificate (to get free medicine), and made the asylum support application to Migrant Help. She came to our office again in January 2023, asking for further assistance to protect her from possible sexual abuse by her travel agent - who had helped her to come to the UK. This agent had taken advantage of her situation while she was in the middle of the journey in another country. Even after her arrival in the UK, he harassed her again, to take sexual advantage. When she refused, he published inappropriate photos of her on Facebook, frightening her and causing immense distress. TWAN advised her and accompanied her to the local police station with our interpreter. In the middle of February 2023, while she was walking on the road close to her house, the agent tried to abduct her in his car, threatening her with a knife. During the struggle she was injured, and passersby called

the police. The public tried to subdue the travel agent until the police came. He was eventually arrested on the spot. She called TWAN immediately, and we sent one of our staff to liaise with her and the police. One of our staff accompanied her throughout these police station visits and court hearings. TWAN oversaw these police actions and helped her during these difficult times. The case was heard in November 2023, and the agent pleaded guilty, sentenced by the Crown Court.

### Case Study 29

Mr KG came to our office for help to solve his driving offence related issue. In lieu of this, he had to attend training related to his speeding offence. While attending such training, via Zoom, he experienced Wi-Fi issues that interrupted his connectivity, and one of his children also entered in the room disrupting him. Due to these reasons, he disconnected from the Zoom training session conducted by the officer in charge. Subsequently, he received HM Courts Tribunal Service that he hasn't completed his course, and he is going to be fined around £500 and given 5 penalty points on his license. We took this case and made representation to the court and police with explanation. We asked the police to review this matter and court to reopen this case. After a long struggle, the courts agreed to reopen this case and review the matter, temporarily waiving the fine until the case is heard. We believe that given this opportunity to make representation, the fine will be permanently waived once the case is heard again.





## Immigration casework

### **The Refugee Ban Bill (Illegal Migration Bill 2023)**

This Bill makes provision for and in connection with the removal from the United Kingdom of persons who have entered or arrived in breach of immigration control.

We have seen many amendments and immigration bill over 35 years, the purpose is to control the number of people migrating into UK. However, these solutions do not address the concerns of public demand or the need for migrants. In reality, everyone is aware of the shortage of skilled migrants causing immense issues for the post-Brexit economy. There is an

insufficient fulfilment of such roles, either because not enough people in the UK satisfy the criteria or they are unwilling to pursue such careers. This underlies a need for migration, for employment. Furthermore, when settling in this country, people would want their families to join them, which has led to educational institutions reliance on overseas students for better achievements and financial prospects.

New immigration rules are breaching fundamental human rights and the refugee convention. The new bill specifically targets refugees in order to ban them from claiming asylum in UK. This effort is directly contradicting the UK obligation under the 1951 Geneva Convention.

Free movement of labour under the EU Treaties will no longer be applicable here. Workers from the EU will have to be sponsored by employers

with a licence from the Home Office, like everyone else. But the requirements will be relaxed in line with the MAC (Report explaining shortage of workers in UK) recommendations. The Migration Advisory Committee (MAC) is an independent public body that advises the government on migration issues. MAC recommendations are that:

- The skilled occupations which qualify people for entry into Tier 2 and will be widened from RQF Level 6 and above to Level 3 and above
- Employers will no longer have to pass the Resident Labour Market Test by showing that they tried to recruit staff from the domestic labour force.
- The cap of 20700 per year imposed on the number of people recruited abroad will be abolished. Economic inactivity in the UK has increased by 21% compared to pre-pandemic levels and this inactivity remains to be stubbornly high. The reason for this is unclear and the UK is in need of people to take on jobs in order to overcome the economic inactivity. Hence why removing the cap on the number of people recruited abroad should be abolished.

According to the Tier 2 Visa salary requirement, one should be paid £26,200 per annum, £10.75 per hour or the 'going rate' of the type of work the individual will be doing, whichever is highest.

The big gap remains in how to meet the demand for unskilled or low-skilled labour which is still required in many sectors such as catering and hospitality, cleaning, security and care homes. For example, in November 2022 the House of Commons Library concluded that the Accommodation and Food service sector has a 35.5% shortage in workers. This is the highest percentage of shortage in workers across all sectors. The Bank of England Monetary Policy Report 2022 points out that a reason for such a high demand for workers is that the demand for labour has recovered quickly but the labour supply is below pre-pandemic levels.

The Department of work and pensions proposes that workers from "low risk" countries should for a period of several years, be admitted for up to 12 months to do low-skilled jobs subject to severe restrictions: a cooling off period of one year after each stint, no dependents allowed in, no extension

of the 12 months, no switching to any other route, no prospect of permanent settlement, no recourse to public funds.

### **Tier 1 Visa**

Currently this visa route is suspended by the home office. This is because this tier was under constant review and certain security concerns (e.g. persons acquiring wealth illegitimately) were noted.

### **Tier 2 Visa or Skilled Worker Visa**

Tier 2, which is now replaced by skilled worker visa, allows one to stay in the UK to do an eligible job with an approved employer by the Home Office. Companies must first put jobs through Universal Job match (a service provided by the DWP to jobseekers looking for work and to employers looking for staff).

Who can apply under Tier 2?

- Skilled workers - A skilled worker must work for a UK employer that is approved by the Home Office, the job must be listed as a eligible occupations and must have a 'certificate of sponsorship from the employers. A skilled worker should be paid £26,200 per year, £10.75 per hour or the 'going rate' for the type of work you'll be doing (whichever is the highest)
- Minister of Religion - One could fall into this category if they have been offered a job within a faith community in the UK and they are employed by a licensed sponsor. Their duties include religious worship, providing pastoral care or conducting weddings, funerals, baptism or something similar. They should be paid the same as UK workers in the same role and must meet the minimum wage requirements. They can come to the UK with a Minister of Religion visa (T2) for a maximum of up to 3 years and 1 month, or the time given on your certificate of sponsorship plus 14 days, whichever is shorter. They can apply to extend their stay. After 5 years, they may be able to apply to settle permanently in the UK (also known as 'indefinite leave to remain'). This gives them the right to live, work and study here for as long as they like, and apply for benefits if they're eligible. This must be applied before the visa expires.

- International Sportsperson - Individuals applying under this category must have sponsorship certificate, speak English (if applying to stay longer than 12 months), have savings to take care of themselves, show their travel history, have tuberculosis test results (if coming from certain countries) and must have an eligible qualification if they are switching from a student visa. They must be paid £35,800+ per year or for up to 48 hours per week. Only the earnings for the main job the individual is sponsored for can be counted.

#### **Tier 4**

Tier 4 visas, is applicable to full-time overseas students and initially they will be given one year or two year visa. The applicant must apply 6 months earlier before the start date of course, if they are applying from outside the UK. With regard to Tier 4 visas, students in the higher education system can only engage in employment during their studies and bring their partners and children to the UK if their higher education provider has a history of compliance that requires them to comply for at least 4 years with the requirements of a highly trusted status.

The applicant should be offered a place from licensed sponsor University. The individual should have enough money to pay for the course and to support themselves in the UK. The individual has to pay one academic year fee, which is mentioned on the CAS letter (Confirmation of Acceptance for studies).

The individual needs to show that they have enough money to support themselves in the UK.

- £1,334 per month for courses in London
- £1,023 per month for courses outside London

#### **Benefits:**

Those who are 18 or over, the course is degree level, then the person can stay up to 5 years.

If the course is below degree level, then the person can stay only up to 2 years.

#### **New Developments:**

The new reforms will come into effect for students starting in January 2024, which includes

- International students to bring their dependents on the post graduate research routes.
- The students can bring their dependents when they study at the UK's world leading Universities.
- Overseas students will be stopped from switching from the student visa route into work route until their studies have been completed.
- The government will also review the funds students must have to take care of themselves and their dependants in the UK.
- The government will prevent international student agents from supporting inappropriate applications.

#### **Tier 5:**

This category is applicable to people that meet one of the requirements mentioned below:

- want to work in the UK for a short period of time (for work experience, training, Overseas Government Language Programme, research or fellowship through an approved government authorised exchange programme)
- have a sponsor (sponsor can be an organisation running an approved exchange scheme, a higher education institution or a government department or agency)
- have at least £1270.00 to support themselves.

Depending on the visa and the reason for this visa, an individual can either get the visa for 12 months or 24 months. They can enter the UK 14 days before their job starts and can stay in the UK for up to 14 days after their job ends so long as they do not arrive before the start date of the visa or stay past the end date of the visa.

Under this visa, an individual can:

- study
- work in the job described in the sponsorship certificate
- work a second job (20 hours max)
- do a job on the Skilled Worker shortage occupation list (20 hours max, alongside the main job)

- bring your partner as your 'dependant' (if they are eligible)

cannot:

- take a permanent job
- get public funds

### EU settlement scheme:

This will enable any EU citizen who wishes to, to apply for the new settled status and pre-settled status. The scheme was fully opened on 29th March 2019.

The digitalisation of in-country applications is proceeding fast as paper application forms are no longer available for a widening range of categories.

## Overview of casework

### 1. Asylum and Fresh Claim

- o Asylum claiming Procedure
- o Reason for refusal
- o Determination by court
- o Tribunal decision
- o Court of appeal
- o Judicial review
- o Fresh claim

- Detention and Deportation
- European Community Law
- Entry Clearance Visa
- Visa Extension
- Citizenship

### Changes and challenges during 2018 and 2023

## 1. ASYLUM & FRESH CLAIM

### Asylum

#### 1. Why are people claiming Asylum?

- People claim asylum in another country to save their life
- They have suffered persecution or fear suffering persecution in their own country due to race, religion, nationality, membership in a particular social group, political opinion etc
- People are also displaced by internal conflict/civil war which make the people

to move to a safest country which include families and children.

- Gender and Sex oriented persecutions in their own country make some groups of people to move to another safe country. Some of these individuals are the targets of killings, sexual and gender-based violence, physical attacks, torture, arbitrary detention, accusations of immoral or deviant behaviour, denial of the rights, expression and information, discrimination in employment, health and education in all regions around the world.

### 2. UN Refugee convention

The refugee convention was first drafted in 1951 and became legally binding in 1954 to meet the needs of the European refugees in the aftermath of the World war II. It is an international treaty to protect refugees. Many countries have signed this treaty except a few who do not wish to accept the refugees. This convention is still relevant today. Many countries have their own laws to control migration to their country. UK hosts 1% of the world refugee population. In recent years UK's asylum policy has become tougher and 51% of the asylum applications were refused in year 2020.

The UK asylum system is strictly controlled and complex. It is very difficult for people seeking asylum to provide the evidence required to be granted protection. The decision-making process is extremely tough, and many people's claims are rejected.

#### Reason for Tamils to seek Asylum in UK?

- Srilankan Nationals are claiming asylum because of discrimination and denial of equality by the Sinhala government. The end of colonial system by the British, left Sri Lanka amalgamated as one Nation for Tamils and Sinhalese. When the British left, there was no constitutional safe guarding for the minorities in the island. Due to this, since 1948 there was communal violence and discrimination, since the early 80's. The governments response was seen tantamount to severe human right abuses and war crimes. This situation caused many Tamils to seek protection outside Sri Lanka or take

up arms with the LTTE . There are laws in Sri Lanka, such as Emergency Regulation and the Prevention of Terrorism Act, that allow officials to detain a person unauthorised. Many officials use this power, without following any formalities, and there is no process of producing arrest warrant prior to arrest, in order to torture or inflict injuries on the asylum seeker. Therefore, the records will not exist, even if the original records exist, they will be taken by other government bodies. In rare scenarios even if the documents exist, the asylum seeker may not be able to carry the documents with him as the airport officials may enquire about it, which may detain the individual from leaving the country. The Home office may contact the Sri Lankan officials and inquire about the letter of evidence or ask the legal representative.

### 3. Domestic law (UK) requirements

Under UK law, if you want to stay in UK as a refugee then you must claim asylum. To be eligible for asylum you must be in fear of persecution in your home country and unable to go back to your home country because of persecution.

But UK has not interpreted the refugee convention correctly. The UN convention says that at least a minimum level of proof is required during interview with the asylum seeker. But in reality, the UK Immigrations Officers are looking for levels of evidence much higher than that stipulated by the convention. This is simply not possible for applicants to produce at this stage, as seen in *Sivakumaran, R(on the application of) v Secretary of State for the Home Department* [1987] UKHL 1 (16 December 1987).

When a person flees his country, he cannot carry all his documents with him. To escape from the security forces of their home country they use forged documents to save their lives. In the interview, UK Officers push the burden of proof over the applicant and during the fast tracking process it is hard for the applicant to produce high level of evidences. At the end, they brand the asylum seekers as criminals, handcuff them and treat them inhumanly.

In order to qualify for asylum, the refugee must meet the requirements of the Qualification regulations and the amended Immigration rules. Both of the foresaid implement Council Directive 2004/93/EC of 29/04/04 (“the directive”) on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the extent of the protection granted.

Under Section 82(1) of the Nationality, Immigration and Asylum Act 2002 that a return to home territory would be a breach of the United Kingdom’s obligations under the 1951 United Nations convention relating to the status of refugees and the later protocol (“the Refugee Convention”). Article 33 of the UN Convention states that a refugee should not be sent to a country where they face serious threats to life or freedom.

The provisions of s.117A of the 2002 Act allows the court or tribunal to determine whether a decision made under the Immigration Acts is in breach of a person’s right to private and family life. Section 117B of the Act evolves around public interest considerations. For example, it recognises that the individual should be able to speak English and should be financially independent as this means the individual would not be a burden to the taxpayers.

The standard of proof applies to appeal under Article 2 and 3 ECHR or Humanitarian Protection in accordance with paragraph 339C of the Immigration rules.

How current immigration laws criminalise asylum seekers?

This migration criminalisation laws in the UK have started since the twentieth century where there was a major concern about refugees’ movements and protection. These concerns gave birth to various international agreements over the years, leading to the 1951 Convention relating to the Status of Refugees enforced in 1954 and the 1967 Protocol, which sets more binding rules rather than ad hoc agreements from earlier refugee laws in 1921. The 9/11 incident in the US has played

a part on the criminalisation. Since then, the UK has set stricter policies and practices that prevents asylum seekers to access safety in the UK. An example of this criminalisation can be seen in Section 24 Immigration Act 1971 'Illegal Entry and Similar Offences' which states that a person commits an offence if they enter in this country without a leave or in breach of a deportation order. A person seeking asylum in the UK intends to look for help, safety and an opportunity to start a new fresh life. Most asylum seekers leave their countries of origin without their identity documents or certificates out of haste decisions making to move to another country which is safe and free of persecution. If however they do have their identity documents or certificates but did not applied for leave upon arrival in the UK, for example they trusted an agent until to the point they reached UK and the agent could not be found or they were helped by smugglers, the person's only option is to seek asylum and that means every individuals situation should be looked at on a case by case basis, not generalised. At the point an individual arrives at the airport or any other port with or without the identification documents and no leave, the UK officials, according to section 24 of the Immigration Act 1971, convict the asylum seeker with a criminal offence. They are then punished with a fine or 6-months imprisonment for illegal entry in accordance with the UK's immigration laws. When the person then applies for asylum, officials look at their immigration records showing that they have been convicted with a criminal offence in the UK and this could affect their application for asylum. These laws contradict with the 1951 Convention which states that a refugee is any person owing a well-founded fear of persecution outside their country of origin is considered a refugee and can therefore apply for asylum if this criteria is established.

Recently, UK immigration law proposed the Nationality and Borders Act 2022 which can deprive a person from their UK Citizenship and also sets additional strict immigration rules affecting asylum seekers. When this Act was a Bill, the proposals of the Bill were reviewed by the House of Lords and 10 immigration proposals failed including rescinding a UK national's citizenship. The

House of Lords argued that such proposals can potentially be unlawful and would not be in compliance with the 1951 Refugee Convention. According to the 1948 Universal Declaration of Human Rights everyone has a right to nationality and individuals cannot be left stateless unless they have dual citizenship, or they can obtain citizenship elsewhere based on their parents' nationality.

Criminalising refugees has huge consequences in breaching international laws also affecting asylum seekers' applications.

Nevertheless, under the Nationality and Borders Act 2022, the Home Secretary has the power to take away a person's British citizenship by making a deprivation order without notice. This can happen if they consider it conducive to public good or if the person obtained their citizenship by fraud. This power of citizenship deprivation is enshrined in s.40 of the British Nationality Act 1981.

#### **4. Asylum claiming procedures**

Asylum can be applied at the port of entry or any of the nearest asylum claiming centres in UK. The number of people who claim asylum at the port of entry has fallen over recent years due to:

- Fear of detention and deportation
- No legal representation available at the port of entry (which results in detention)
- Many of the applications are decided and refused at the port of entry.

There are two types of Asylum application, namely Income Application and Deported Application.

You should apply when you arrive in the UK or as soon as you think it would be unsafe for you to return to your own country.

#### **A- Port Applicant**

Whoever claiming asylum at the port immediately after arrival will be designated as a port applicant. In normal circumstances, applicants may seek help from port officials. To overcome language barriers, officials examine their flight arrangements and available passport, to

find out what language the person speaks and make arrangements for an interpreter. During this time the applicant will wait in the waiting area or in the detention area. Once, his or her arrival related to asylum is established then the officials try to find the applicant's route to the U.K. and his travel history. If that particular person passed through another asylum giving country then most likely the official will try to send that person back to that safe country. The officials also try to obtain his or her passport or documents related with his or her history then the officials try to prosecute the asylum seeker for the offence he or she committed entering the UK without valid passport or visa or withholding intervention from the officials. If the officials are successful in his or her prosecution then the magistrates court will sentence the asylum seeker for six months imprisonment. Once the asylum seeker completed the sentence or allowed to leave after a shorter period completed, the asylum officials will take the applicant back and place him or her in the asylum detention centre to review their asylum claim. If the officials accepted the claim then the asylum seeker will be released on immigration bail or with temporary admission.

#### B - In- country Applicant

An in-country applicant is when a person has entered the country in different circumstances to be safe. Circumstances may include entry without passing through the border or port, entry through hiding in a vehicle, or entry with the assistance of an agent.

### Case Study #1

Mr VV escaped from Sri Lanka, due to fear of persecution, and came to this country claiming Asylum at Terminal 4 at the end of 2019. He had an asylum screening on the same day after the arrival and released with a temporary admission subject to bail. The bail condition was the applicant was not allowed to work. The applicant was also entitled to Asylum Support Application for accommodation and other essential needs after completing an application, which was granted.

After the asylum screening, the applicant and his family sought legal help from TWAN. From here, the applicant received help with refugee applications, producing evidence, legal representation at further interviews including guidance for the substantive asylum interview taken place in November 2020, and he was granted asylum status with the 5-year leave in April 2022 until March 2027. The applicant was a member of the LTTE in Sri Lanka, working for a doctor who had been persecuted after firearms were found in his office. For fear of the same treatment, the applicant decided to flee to another country. He received help from an agent who gave him a new passport, they travelled to an African country then reached the UK. When passing the border the agent disappeared and the applicant was taken for asylum screening as mentioned above. Medical evidence approved by a UK Doctor confirmed the applicant's mental state of depression and PTSD caused by unfavourable treatments in Sri Lanka such as detention.

### Case Study #2

Ms S.K. sought asylum at the Stansted Airport in February 2019. After the arrival she was interviewed by the immigration officials, at the interview they found out she was a member of the LTTE. Due to this affiliation, she was handed over to the Harlow Police and they charged her under Schedule 7 of the Terrorism Act 2000. The applicant was granted bail on the grounds of failing to surrender to custody to maintain whereabouts whilst under investigation. The applicant had to present herself at the police station on weekly basis and then turned into monthly basis. The applicant contacted TWAN upon release of her bail to assist her on asylum application.

### 5. Screening Process

When a person claims asylum, then the officials will perform the asylum screening interview to establish the applicant's personal detail en route to UK on the basis of the asylum claim this interview can happen at the ports or at Home Office. It will take around 40-minutes to 1-hour. Afterwards, the asylum seeker will most



likely be released with temporary admission to live in the UK, until his or her asylum claim will be considered. If the applicant claims asylum at the port he or she may be entitled for the Home Office asylum support financial assistance. If the person is an in-country applicant then if they can prove that they are homeless then the Home Office will consider to provide accommodation and live-in support to that particular asylum seeker. After this asylum screening interview the applicant is responsible to get the evidence to support his or her claim because the person will face a full asylum interview in a few months. Due to COVID infection, monthly reporting condition to the asylum seeker will be suspended and the Home Office may restart this practice anytime. If that is the case, the particular asylum seeker will be contacted to report to the reposting centres once a month to confirm their stay in this country. If they change status, they must inform to the Home Office immediately. At this stage the asylum seeker is not allowed to work (or they may be expected to leave the country).

You will have a screening process by meeting an Immigration Officer. At your screening you'll:

- be photographed
- have your fingerprints taken
- have an interview to check who you are and where you're from

You will also be asked

- Why do you want asylum in UK
- Evidence of documents supporting your claim
- Identity documents.

## 6. After the screening

After your screening, the Home Office will review your case and decide whether it can be considered in the UK. You'll be sent an asylum registration card (ARC) to your UK address, unless you've been detained. If the Home Office cannot send you an ARC immediately, they'll send you an appointment letter telling you what to do next. You might also be sent a 'preliminary information questionnaire'. If you get one, fill it in and return it by the deadline - the address and deadline are written on the letter that comes with the questionnaire. If you cannot fill it in, call the Home Office asylum team. Their phone number will be on the letter.

If your case can be considered in the UK, it will be given to a caseworker.

If your case cannot be considered in the UK You may be sent to a safe country that will consider your asylum claim. This might happen if you've travelled to the UK through a safe third country or you have a connection with another country that you could claim asylum in.

Generally, a safe country is one that:

- you're not a citizen of
- you would not be harmed in
- would not send you on to another country where you would be harmed

The Home Office can decide to send you to a safe country after either your screening or your asylum interview.

If the Home Office cannot place you in another safe country, your case will be considered in the UK and given to a caseworker

Staying with someone else

You'll need to provide:

- a recent letter (less than 3 months old) from the person you're staying with to confirm you have their permission to stay
- documents showing the full name and address of the person you're staying with, like a council tax notice, tenancy agreement or household bill

## 7. Asylum Interview

Asylum interview will take place soon after the screening.

If an asylum seeker is in detention most likely he or she will be interviewed one week later for the full asylum interview. If the asylum seeker is not in detention then the person may face the interview few months later or years later.

You'll get a letter telling you when and where to attend and if any of your dependants also need to be interviewed.

You'll usually be interviewed alone, without your family members. An interpreter will be provided, if you need one.

The information you provide will be treated in confidence and will not be disclosed to the authorities in your own country.

Use this interview to explain:

- how you were persecuted in your country
- why you're afraid to go back to your country

You may be asked questions about difficult topics but it's important that you explain what has happened to you and your family. You must tell the caseworker everything you want them to consider, or it can count against you. Bring all the evidence you have of your persecution. You may be asked to send further evidence to your caseworker after the interview, if they think it might help your application.

Your caseworker will make notes in a document called an 'interview record'. You'll get a copy of this at the end of the interview

**Your application will invariably be rejected if you do not go to your asylum interview.**

## 8. Decision making process by Home Office

According to home office information the decision can be made in six months time, however it does not happen in practice. Generally, it will take 3 years to make decision. While home office is making its decision, they will look into the applicant's credibility possibility.

Asylum applications will be decided within 6 months. It may take longer if it is complicated. The decision process can be done in one more of the following:

- Verifying supporting documents
- Inviting the applicants /dependants for more interviews
- Checking personal circumstances of the applicants/dependants

## Decision making process by the Home Office

The Home Office will make the decision and there are three outcomes that can be expected. 1) Accepting the claim and issuing five-year refugee status to applicant; 2) refusing his or her asylum claim and given in-country appeal rights to challenge the Home Office decision at the Immigration Tribunal; and 3) refusing the asylum claim and certifying without the in-country appeal rights, if this happens then the particular asylum seeker will face harassed detention and quick deportation. Many individuals sometimes do not know how they have suffered the injuries because when going through the torture the person may not be there mentally as they are either been beaten

by many people losing therefore the sense of pain or becoming numb until after the torture is done; also in different areas in the country, officials torture differently, for example in the rural areas they may use different equipments such as knives or other forms of utensils for torture, compared to the less rural areas where they may use a bit more advance ways of torturing a person. When a person is being tortured they may also become completely unconscious not remembering how the torture or beating happened or where it happened.

You can ask on your appeal form for a decision to be made either:

- just on the information in your appeal form and any documents supplied to the tribunal
- at a hearing that you and your representative can attend

At the Hearing

You'll present your case to the judge - someone else can do this for you, for example lawyer or friend or family member. The Home Office will present the case against you. The tribunal will provide you with an interpreter if you've asked for one. They can translate what happens during the tribunal but they cannot represent you or give you legal advice.

You may be asked questions by:

- your legal representative (if you have one)
- the Home Office's representative
- the judge

The hearing is public. Family and friends can attend. If the hearing is in person, they'll have to pay their own travel costs unless they are witnesses.

Children can only attend if you cannot make childcare arrangements. They can either:

- wait in the waiting room with your family or friends
- be with you during the hearing  
Tribunal decision

You'll get the decision either:

- at the oral hearing (if you have one) - you'll also get full written reasons within 3 days
- by post the day after the paper hearing

The judge will either:

- allow the appeal - this means you'll either get asylum support, or carry on getting it

- turn down ('dismiss') your appeal
- ask the Home Office to look at the decision again (known as 'remitting' the appeal)

Must submit a notice of appeal form and must include

- why you're appealing? (your 'grounds of appeal')
- a copy of the decision you're appealing against
- any documents that help support your appeal

## Asylum Appeals & Judges decision

### Submitting an Appeal

When the Home Office refuses an asylum claim, the asylum seeker can challenge the decision by making an appeal. The appeal is made in the First Tier Tribunal. The solicitor must complete an appeal form for the asylum seeker and submit the form to the Tribunal within 14 days from the moment the Home Office made the decision of refusal. In the appeal form the solicitor must explain why the Home Office made the wrong decision or rejected the asylum claim, evidence needs to be provided such as documents, the decision letter and any other relevant information that may be useful to support the claim and to prove that the asylum seeker has the right to remain in the UK and receive refugee status.

### At the appeal hearing/Judges decision

Once the appeal form has been sent, the solicitor will receive a 'Notice of Hearing' document which indicates the date and the time of the appeal hearing in regard to the asylum claim. Appeal hearings tend to take long to happen, for example months. Also, when the Home Office decides to have an adjournment, in other words delay the hearing, in this case the hearing will be furthered pushed back to a later date. At the day of the hearing the barrister representing the asylum seeker and the home Office representative will present their arguments as to the reason why the asylum decision should be revoked or for the interests of the Home Office, why the decision should remain as refused. Sometimes the asylum seeker is asked to give

evidence/speak to the judge, often instructions are given to the applicant on what to say to the judge.

The judge does not make the decision on the date of the hearing, it usually takes three to four weeks of the date of the hearing to make the decision. The applicant's solicitor will receive the decision in writing (letter). If the judge decides to make the application successful and state that the asylum seeker must receive asylum status, in this case the Home Office must reverse their decision and begin the process to grant refugee status to the individual which is for 5 years. After 5 years, the decision will be reviewed and the applicant may be able to apply for indefinite leave to remain and then UK citizenship. If the judge rejects the appeal application and therefore, the appeal is not successful - the asylum seeker may appeal to the Upper Tribunal or other Courts.

## Reasons For Asylum Refusal

### 1. Credibility

When assessing credibility in an individuals' case and the validity of evidence, the Home Office decision making process is based on the United Nations High Commissioner for Refugees Handbook (UNHCR) which states that caseworkers must identify relevant facts to the claim first before assessing any credibility.

By knowing the core material facts of the case, the Home Office will be able to depict whether the principle of well-founded fear of persecution has been established in the claim in order for the individual to qualify for asylum. The asylum seeker must genuinely prove that they have suffered harm or harassment due to their religious or political beliefs.

### Examples of Home Office Refusal Statements (extracts from refusal letters):

"You claim once you were in the UK, the Sri Lankan authorities continued to search for you for 3 months. As the Sri Lankan authorities are an intelligence body it is considered that they would be aware you had left the country as you did so using your own passport. It is therefore **not credible** that they would continue to search for you for three months."

The statement above is one of the examples of the Home Office's statement as to why they have refused a material fact stated by the asylum seeker. In Sri Lanka it is a practice by the authorities to keep searching for the individual they are looking for regardless of how long the person has been hiding, or even if they fled to another country. When the Sri Lankan authorities are not able to find the individual they are looking for, they target their families through harassment or offer them money to obtain information about the whereabouts of the person they are pursuing. The Home Office should carefully research to be aware of how persecutions function in Sri Lanka as many of the asylum seeker claims from Sri Lankan citizens dealt in the UK have similar facts under the persecution practices carried out by the Sri Lanka authorities. Sri Lanka authorities understand that the person who fled the country out of fear will remain contact with their families or even comeback to Sri Lanka, hence the family members become a target for the authorities. For example, in concordance with the Report of a Home Office Fact Finding Mission Sri Lanka, under paragraph 10.4.1 and 10.4.2 which states that the authorities still monitor the houses of persons who have left the country. The military keeps a watch of their houses and their families. If the person decides to return to Sri Lanka, there is a possibility that they might get arrested.

"Furthermore, you claim you left Sri Lanka using your own national passport endorsed with a valid Tier 4 student dependent visa, yet you did not have any problems obtaining the visa or leaving the country (AI 144-152). Country Guidance states there are a number of checks in place: For departing passengers, staff and visitors to the airport there is a permanent checkpoint manned by the Sri Lankan Air Force, positioned on the airport road leading to the terminal buildings. It is **not considered credible** that you would be wanted by the authorities yet you were able to exit the country without being apprehended. This further damages the credibility of your claim."

In situations where the individual starts to think that he or she is in trouble, they do not wait in the country. They start making plans to leave Sri Lanka in advance by fleeing to another country without telling anyone. By the time the Sri Lankan authorities start to build up a case,

looking for evidence to use against the individual, the person is no longer available in the country. When the person reaches at the airport with their valid passports, they are not under any investigation by the Sri Lankan authorities. So when the person reaches the UK and claims asylum having their valid passport it's because at the time they left Sri Lanka, the authorities were not going after them yet. This is one of the reasons why many have their passports that the Home Office must consider when looking for credibility. Another reason for having the passport is that sometimes the individual might be complying with a bail condition. During this time, the individual might or might not have his or her passport. If the individual has their passport at hand whilst in bail, knowing that they may face persecution, they will take the opportunity to flee the country somehow. If the individual is on bail but does not have the passport, (in other words, the passport has not been seized by the authorities) because they have given it to a friend or family member to safely hide the passport, once the person is released on bail, they obtain their passport and they flee the country. Thirdly, most individuals who leave Sri Lanka to protect their life would usually seek the help of an agent. This agent takes care of all their departure process including obtaining passports and tickets, bribing airport officials so that the person can travel, when the person reaches the UK with their passport and claim asylum, it is because they have received help from an agent. This does not mean their case is not credible because they had a passport to enter the UK. The individual was still under great danger in Sri Lanka, hence why these measures are taken to leave the country. The Home Office must look closely to all aspects of the case, including every step taken by individuals that has led them to seeking asylum. Finally, another reason why some people still travel with their passports was because during that period of 2007-2009 when the war was at its high stakes, the Sri Lankan government encouraged the Tamil community to travel to other countries for safety. With this approach put in place, the Sri Lanka government's purpose was to manage the small amount of Tamils in the country, reducing the conflicts in the country.

## 2. Lack of evidence

*"You claim that you have participated in the LTTE events in the UK. You have provided no*

*evidence of this and when questioned about your UK activities your answers were poor and lacking in detail (AIR Q65-83). It is further considered that you have provided **no evidence** to suggest that you would be of any concern to current Government authorities for any of the reasons highlighted in the case law in paragraphs above.”*

When a person is involved in the LTTE, they can't keep any evidence or any material things in their house that could potentially put them at risk of torture or persecution by the Sri Lankan authorities. Such evidence does not often exist. Not having evidence available to prove that the person was part of the LTTE should not be one of the reasons for refusal of asylum. Being a member of the LTTE, a person will always be a target therefore they adopt living in disguise. Secondly, the LTTE organisation altogether do not take any photos of themselves or their families for fear of exposure. Exposure of their identity could lead to the Sri Lankan authorities making them a target and persecute them. Within the LTTE community, members receive nicknames, once again, to protect themselves. Members of LTTE do not use their real names, so proving that they were involved in the organisation is difficult. Thirdly, since members do not use their real names or take any photos, there is also no membership cards given to them. Even if they have nicknames on the card, having such membership card on their belongings or in their house, as state above, they would put themselves at risk. The fourth reason is that the LTTE is not an organisation formally formed with a registered number or code, under tax subjections or similar to any other kind organisation. It was a militant group which fights for the Tamil community and their rights in Sri Lanka. As a result, when joining the group and its protests, there is no sort of advertisement, posters or website to promote their movement, it is a propaganda carried out through word of mouth in the villages. There are no leaflets or brochures to prove such protest took place in the villages, thus no evidence available to prove involvement. The Home Office must consider the Sri Lanka culture, legislation and how the legal procedures are undertaken because they are different from how the UK and other western countries work. For instance, in Sri Lanka an official can simply obtain a warrant for arrest

or house search from the court and go to an individual and execute the warrant without any rigorous formal procedure required when obtaining the warrant. Whereas in the UK, to obtain such a warrant, strict evidence must be obtained; and a structured procedure is followed.

*“While you were able to give your husband’s name and date of birth, along with the date of marriage, you have provided no evidence that you are legally married or that a wedding took place. Furthermore, you gave your title as ‘Miss’ in all documents relating to your application for further leave on 19 December 2012 (HO records).”*

In Sri Lanka, the traditional marriage process, again, is not similar to the western world or UK because the population is more concerned with the religious status than the registered marriage. Registered marriage in the UK is highly commended and is necessary to prove parties are married. Whereas in Sri Lanka, no marriage certificate is necessary to prove someone is married - as this is a tradition. Another reason a person might not have a marriage certificate might be because in the North and East of Sri Lanka, the Civil Administration institutions have collapsed. They have been destroyed by the Sri Lankan officials. Without these administrations around, people cannot register or obtain their marriage certificates if they want to, as a result they fall back to religious ceremonies. Lastly, another reason for no evidence of marriage is that many people are misplaced when they come out of Sri Lanka. They can meet in asylum centres or any other asylum institutions, as a result might not have any of their documents depending on how they have entered in the UK. Also, when deciding to move out of Sri Lanka to seek for help and protect their lives, many leave out of hurry, fear and not in their right mental state because of the situation, leaving behind their official documents behind. So, by not having such documents at the port they cannot prove their identity or even marriage status. When considering a material fact as ground for refusal, the Home Office should meticulously look at how Sri Lanka operates in terms of marriage or under what circumstances asylum seekers flee.

*“You have claimed that a Human rights Organisation helped to secure your release from detention following your arrest on 20 February 2016. It is noted that you have provided no evidence of this. Furthermore, when you were asked about this aspect of your claim during your asylum interview your answers were vague and lacking in detail. You were unable to provide the details of the Human Rights Organisation or provide any information of the letter which you claim was provided to support your release”*

When they are fleeing from country with the fear of their lives, and it is not possible for them to transport all the documents from their country.

### **3. Unbelievable**

*You claim that your elder brother was arrested in 2010 and on 22/02/2013 after your brother failed to report, which was nearly three years later, the Sri Lankan authorities and the CID came to look for your elder brother. It is considered inconsistent that the authorities wait for 3 years before they continued to show interest in an individual who they had expended resources on previously. As a result, this further reinforces the Secretary of State not to accept that you nor your family members to have been arrested in the first instance.*

The civil or criminal system in the UK is different from the system in other countries. In Sri Lanka if someone comes after a person and asks what their name is, the immediate response of that person is who are you and why would they want to know their name. A person being asked these questions by a random stranger, fears to give out details of themselves and identity because they don't know what it is for and who the people that are asking for this information are. In the UK, the authorities might stop looking for a person after a year, but that is not the reality in other countries where the level of conflict is still present.

*In terms of your release it is noted that you initially stated in your Screening Interview that you were made to pay 500,000 rupees for your release. However, this is inconsistent with your claim in your substantive interview where you stated that your father in-law paid a bribe for*

*your release and you did not know how much was paid for your release.*

Firstly, the LTTE is not a political party. It is not registered as a government body, it is a group informally created by the Tamil community to fight for their rights. The asylum process first starts at the screening interview at the port. A few questions are asked where the applicant did not give information in detail of something or he/she did not understand the question well and as a result the applicant's next stage at the asylum process is then scrutinized because of the first point of contact the asylum had at the port. Many asylum seekers, when first entering the UK, might act out of fear, pressure, confusion and misunderstanding of how things work on the UK even with a translator. Below are a few example questions asked at the screening interview that can be misinterpreted by the asylum seeker:

**3.1 Why have you come to the UK?** - When answering this question, asylum seekers intend not to stay in the UK for long or forever. They simply are seeking refuge and protection for their lives until things have calmed down in the country they had come from.

**5.2 Have you been a member of the national armed forces?** - the most common answer from asylum seekers from Tamil community is no because the LTTE is not a government or political registered group. However, because of the conflicts with the Sri Lankan authorities, many countries consider the LTTE as a political body. When the asylum seeker attends the second part of the interview and states that he or she was a member of the LTTE, the UK asylum officials use this against the asylum affecting their application prospects.

**5.4 Have you been detained, either in the UK or any other country for any reason?**- Again in this circumstances, the individual will say no, however, the fact that the asylum seeker is looking for safety for his life just because he or she believe in a group that are standing for their rights, the Secretary of State may use this fact against the applicant.

These are a few examples on how the answers in the screening interview and on the next stage of the application may be different due to misunderstanding of the question and because of what the applicant considers unproblematic, the UK asylum officials begin the asylum process with a fix mindset of how a country operates or how a

group behaves therefore generalising most applicants. UK asylum officials must consider how systems work in Sri Lanka and use that to aid them in the decision-making process on the applications. However, the screening questions formulated may not necessarily adapt to the individuals' current circumstances.

#### 4. Injuries not supported by torture

*Furthermore, consideration has been given to the photographs you have submitted which you claim are as a result of beatings you experienced during your detention and others which are unrelated to your claimed incarceration in Sri Lanka. These photographs have been considered under the case law of Tanveer Ahmed [2002] and it noted that you have failed to provide any documentary evidence to corroborate your account as to how these injuries occurred. As such, it is not accepted that these injuries occurred as claimed.*

When claiming they have suffered some sort of inflicted pain or torture, each individual suffers differently and therefore their reaction towards the experience will be accepted, even if it is different.

After the torture, the victim will not seek the hospital support because at the hospital they may ask a lot of questions in regard to the injuries in which will lead them calling the police to investigate the person's situation. This is not possible for the person to experience because the torturers are the authorities. As a result, the individual will find other options such as more traditional routes of healing and treatment where they will not be pressured by so many questions on what actually happened and chances of calling the authorities are very slim. Since the treatment is not done at the hospital, no medical certificate is produced as proof of the injuries suffered.

In this case, when the UK officials ask for the medical report from Sri Lanka as proof of the injuries the applicant claims to have suffered as a result of torture, the asylum seeker cannot produce it because the treatment was not carried out at the hospital. When such evidence is not available, it can be produced in the UK by medical professionals, by the time the asylum seeker receives the medical report to prove to the Secretary of State of his or her scars, the evidence may take long to arrive. The UK caseworker official will then make decisions without such information

available and accuse the applicant of no medical evidence of experiencing the torture.

Remembering the torture experience is also not a good practice for the victim as it affects their mental stability and the scars tend to disappear as well, yet without proof that such events occur the UK official may regard it as untrue.

#### 5. Legally in the UK then returned

*Furthermore, you claim you left Sri Lanka using your own passport endorsed with a valid Tier 4 student dependent visa, yet you did not have any problems obtaining the visa or leaving the country. Country Guidance state there are a number of checks in place: For departing passengers, staff and visitors to the airport there is a permanent checkpoint manned by the Sri Lankan Air Force, positioned on the airport road leading to the terminal buildings. It is not considered credible that you would be wanted by the authorities yet you were able to exit the country without being apprehended. This further damages the credibility of your claim.*

A person living in Sri Lanka may decide to leave the country because of foreseeable trouble that they may face if they had stayed in their country. On the process of leaving the country they may contact agent for help to leave the country and reach somewhere safe to stay, or they may independently apply for visa to come to the UK with their passports looking for safety. These visas may last for two to three years. During that time, the person may decide to return to their country if they think that years have passed so they might no longer be under threat. When they return to Sri Lanka the authorities may not suspect anything at the Colombo Airport because the person has their documents up to date, the visa and their passport; also, information about the asylum seeker may not yet be on the records of the Sri Lankan authorities that he or she was a member of the LTTE, thus, not many questions will be asked. This is because there are no sophisticated systems available in developing countries like Sri Lanka. In this case, the individual may return to their country of origin and comeback to the UK.

Nonetheless, when the applicant's visa is close to be expired, the applicant then begins to worry because he may have to return to their country that they fled from and stay there longer. So, their option is to look for asylum in the UK. When doing so the UK officials may ask why the person is seeking asylum if they have a visa, or even if it has expired,

# **Tamil Welfare Association (Newham) UK**

Proudly Presents

Kurothi Tamil New Year

## **Cultural Night**

07.04.2024 (Sunday)

**1. Welcome speech by Chairperson Mrs Tharjini Thayabaran**

**2. Violin (Group 1)-students of TWAN Fine Arts Academy**

**Presented by Miss Minusha Letchumikanthan:**

Mathuranki Krishnakumar, Saindhavi Jeyaseelan, Sayinthavi Umasuthan,  
Sanjana Jeyaseelan, Poonisha Visvanathan, Srinisa Selvendra,  
Thuvesha Krishnakumar, Aliza Sarah Yogarajah, Yanikcha Yogarajah.

**3. Vocal (Group 1)-students of TWAN Fine Arts Academy**

**Presented by Smt. Suganthi Sinesa:**

Prahana Vadevet, Yaveeshan Krishna, Apisha Karunanathan, Piranavaah Kathirvel,  
Akshara Vijayakumar, Krushanaa Ravindran, Rakshanya Kathirvel,  
Premmika Jeyanthiran, Stina Sasitharan, Aarththy Jeyaneshan,  
Mohaniikha Thayalakumar, Sriraam Srimohan, Aradana Harish,  
Yogya Jannila, Srinika Kartheepan.

**Accompanying Artist: Mridangam** by Chelvathurai Thiruchelvam,

**Tabla** by Thayalakumar, **Veena** by Manojah Sathiyaseelan and  
**Violin** by Selvatharshini Thiruchelvam.

**4. Cinema songs singing: (1<sup>st</sup>)**

Jayshana Jeyakumar and Jeshika Jeyakumar  
Chelvathurai Thiruchelvam, Shiham Mohamed

**5. Drums- Presented by Sri Thayalan Aiyathurai:**

Gildas Sridaran, Fabian Camilton Joy, Jayden Aravinth, Enzo Jeevaratnam,  
Senthana Nimalleswaran, Prajit Srinivasan, Kavish Arulthasan,  
Avaniish Kannan, Jenarajan Jeyanthan, Kairav Sahoo Maturi.

**6. Cinema songs singing- (2<sup>nd</sup>):** Thivishaa Vetasuthan, Sangeesh Srinesh

**7. Mridangam: Students of TWAN Fine Arts Academy**

**Presenting Mridangam** by SriHarish Thayaparan and Aravinth Thushyanthan.

**8. Bharatanatyam - (1):** Miss Srinidhi Sreeram

**9. Cinema Songs Singing (3<sup>rd</sup>)** Saindavi Kulentharaajah and Harini Kulentharaajah  
Shiham Mohamed Shankavi Paramanathan

**10. Veena-students of TWAN Fine Arts Academy**

**Presented by Smt. Seimani Sritharan:**

Aksara Thilleepkumar, Kumuthini Thilleepkumar, Asmitha Catiskanthan,  
Ilakya Uthayakumar, Sreenanthana Gobisankar, Praveena Jeyaseelan,  
Thadshayani Thabesh, Shivaabairavi Sritharan

**Accompanying Artist:**

Thikshithaa Prakash (Vocal) & Bharathieneyan – Mridangam



**11. Bharatanatyam-(2) Presented by Mrs Somasundram:**  
Trinuha Akilathasan, Karthiha Jegatheeswaran, Michelle Rubyjoseph,  
Rochelle Rubyjoseph, Jeevitha Sivadasan, Pavaana Jeyarakan

**12. Chief Guests speech - MP Stephen Timms Speech and Certificate giving**

**13. Keyboard - Group by Thayalan Aiyathurai:**

Fiona Camilton Joy, Vaagish Arulthasan, Sanjayan Jeevakanthan

**14. Cinema songs singing- (4<sup>th</sup>): - G.Sureshkumar, Mr Arunachalam**

**15. Violin-Group 2-students of TWAN Fine Arts Academy:**

Nila Mahendran, Sanjana Mahendran, Shraiya Sujeevan.

**16. Bharatanatyam - Thillana (3) Presented by Student of Smt Shuruthi**  
Group 1, Nithyashree Thirulogachandar, Rathi Nadathur, Nilanjanaa Raja,  
Lakshaya Navaneetham

Group 2, Sudaesan Ramesh, Shruthe Raam Mohan, Rachana Sureshkumar

**17. Cinema songs singing- (5<sup>th</sup>):** Shahim Mohamed, Shankavi Paramanathan

**18. Vocal (Group 2)-students of TWAN Fine Arts Academy**

**Presented by Smt. Suganthi Srinasa:**

Akchana Sivarubavel, Karunika Rupasena, Arunisha Suthaharan, Jaishmika Jeyanthiran,  
Harini Kulenthirarajah, Saindavi Kulenthirarajah, Stafany Sasitharan,  
Sabinaa Mayavatheeban, Varshana Mayavatheeban, Aswini Vigneswaramoorthy,  
Thivishaa Vetasuthan, Chenthuran Narasimman, Sangeesh Srinasa.

**19. Andrum Indrum by TWAN day centre**

Gandhimathy Sooriyakumar, Indrathavy Gunasingham, Navamalardevy Paranjothy,  
Krishnadevy Elanganathan, Rajaluckshumy Sabanayagam, Suganthi Srinasa,  
Perinpanayaki Rajeswaran, Luxmi Rajeswaran.

**20. Special Guest Speech and Certificate Giving by Counsellor T. Jeyaranjan**

**21. Guitar- Presented by Sri Thayalan Aiyathurai:**

Keethan Muhunthanan, Harika Kishore Kumar,  
Manesh Nantharajan, Nilaash Nantharajan,  
Aravinth Thushyanthan, Sangeesh Srinasa, Jenarajan Jeyanthan.

**22. Cinema songs singing (6<sup>th</sup>):**

G. Kumar and Arunasalam

**23. Bharatanatyam (3):** Miss Ashimio Sowntharajan

**24. Folk Dance:** Thoddakkara Sinnamama

'Kiramiya Kalaiarasu': Dr. K.S.Thiraviyaraja

**Folk Voice: 'Kiramiyakural':** Mrs Vijayalaxmi Thiraviyaraja

**25. Bollywood Dance by TWAN Fine Arts of Academy:**

Aravinth Thushyanthan, Sanjeesh Srinasa,  
Diluxshan Srimohan, Siraam Srimohan,  
Nila Mahendran, Sanjana Mahendran, Aradana Harish

**26. Certificate giving**

why did they return to their country. Another example is if the person, after the visa has expired, returns to the country of origin and the person stays there for a longer period. This increases the chances of the Sri Lanka authorities to start investigating the individual and at this point, the person is in trouble. The person is then arrested since his or her name is on the records and court orders/investigators have been appointed to arrest them. The Home office should make decision on considering all these facts.

## 6. Vague answers

*You state that you were raped by army officers in Sri Lanka and that they are now looking for you. This fact is considered material to your claim for asylum and is therefore given due consideration. You were asked about this event at interview. You were able to give some details about the event, including the location and perpetrators, but you also gave some vague answers regarding when and how often the officers were looking for you.*

When a person is abducted, the van that is used usually does not have a number plate or even if it does the victim has their eyes blindfolded therefore they do not know what car plate the van was or who has taken him or she. In a country like Sri Lanka there is no process of producing arrest warrant prior to arrest. There are laws in Sri Lanka, such as **Emergency Regulation or Prevention of Terrorism Act, that allow officials to detain a person unauthorised**. Many officials use this power, without any formalities, in order to torture or inflict injuries on the individual. After release, the individual will only find out about few details of his abduction by asking family members or friends if they have any information on what happened or who done it. The only information the asylum seeker may have about their abduction or torture is that he or she heard voices or noises. The individual would not know where he was taken to because many Tamil families do not go to government-controlled areas, so when a person is abducted and taken to those areas he would not know because he or she has never been there before.

Since it is an unauthorised arrest, the officials often bribe the family of the asylum seeker for his release. The decision maker may be erring in setting UK standard practice to engage with the unique circumstances of asylum producing countries

(lifestyle, system, culture, etc.). If they can correct this approach then many asylum seekers can get asylum without judicial interference.

## 9. Appeal procedure & hearing

When asylum application is refused then we can expect two type of refusal one is refusal without in-country appeal rights and the second one is refusal with appeal rights.

### a. Refusal without in-country Appeal rights

Generally, applicants from white list countries will get refusal without in-country appeal rights. In this case asylum seekers cannot challenge the home office decision while they are in UK, they can only challenge this decision once they return to their native countries within the allowed days. Otherwise they likely face removal to their own countries unless they made fresh claim or human rights application.

### b. Refusal with Appeal Rights

The asylum seekers from non whitelisted countries will get an in country appeal rights and they have to approach their appeal within 14 days of their delivery of refusal letter. Once the appeal form has been sent, the solicitor will receive a 'Notice of Hearing' document which indicates the date and the time of the appeal hearing in regards to the asylum claim. This appeal should be launched to first-tier immigration tribunal by filling the form with grounds of appeal and reason for refusal.

You can appeal to the First-tier Tribunal (Immigration and Asylum Chamber) within 14 days of the refusal letter if the Home Office has decided to:

- refuse your protection claim (also known as 'asylum claim' or 'humanitarian protection')
- revoke your protection status
- refuse your human rights claim

The tribunal is independent of government. A judge will listen to both sides of the argument before making a decision.

If you apply after the deadline, you must explain why - the tribunal will decide if it can still hear your appeal. As an out of time appeal, if it is accepted by an immigration judge as a valid

appeal, then full hearing will be scheduled. The hearing can happen in three types:

### **a. Oral hearing**

At the oral hearing appellant get the opportunity to give evidence and produce explanation about the home office decision. Generally, court will expect the appellant to produce a witness statement. In certain circumstances the Judge will allow to produce new evidence in support of appellant's claim. The hearing appellant can give their evidence by answering his or her barrister's question then respondent barrister (home office) can also ask question and the Judge will also ask questions if required. In the end, the appellant barrister and respondent barrister will produce closing submission then the judge will take up to 3 months to produce a decision of the hearing. It is very unlikely to expect the decision on the hearing day.

### **b. Video hearing**

Since the pandemic, video hearings are the defacto. Under these circumstances, the appellant will most likely be at his or her legal representative office and the barristers will be available from their chambers and the Judge will hear the case from the court room or other appropriate places. The Judge will hear the witness by 3 way video link connection and the argument by the barristers.

### **c. Paper Hearing**

During this hearing no one will present or give evidence at the hearing. The judge will read the file with available documents and make the decision on his own and then decision will be sent to the appellant's legal representative and home office.

### **Appeal Hearing Procedure**

When valid appeal was made then immigration tribunal will set the date for a full hearing and also, they will consider any pre-hearing required. Also, they may set up the case management hearing to review the complexity of the case and other requirement such as interpreter disable access and other issues involved in the case, its depends on the complexity of the case too. The tribunal can decide to have a hearing even if you do not ask for one. Accordingly, you'll be

invited to attend. If the tribunal does not hold a hearing, a judge will decide your case based on your appeal form and the documents.

Hearings are carried out in public. You can ask for it to be held in private or to attend by video link, but you must have a reason, for example a public hearing would put you in danger. You can ask for a male or female judge if you think there are issues in your appeal that make it appropriate. The tribunal will decide if it can do this. You will get help if any of the following apply:

- You have little or no savings
- You're on certain benefits
- You have a low income.

On the Hearing day, the Immigration Judge will consider the order of the hearing on that day and if interpreter and counsel are most likely going to be at the court on behalf of the appellant then the home office will also send counsel to represent them. At the beginning of the hearing, the Judge will introduce all parties in the court room and check with both parties for readiness to hear the case. Initially the appellant will give the verbal evidence by answering the question of his counsel then the Judge may interrupt and make clarification then the home office is most likely going to cross examine the appellant. If the appellant produces any witness then they will also give evidence in a similar manner. At the end home office will submit why their decision is right and why the appeal should be dismissed. After that submission the appellant's counsel will give their submission, stating why the Home Office's decision is wrong and why the Judge should allow the appeal. The decision is most likely going to be sent to the appellant (or their legal representative) in writing within 3 months.

### **APPEALING AGAINST THE IMMIGRATION JUDGE DECISION**

If the appeal is allowed, then there is no need for further action. However, the Home Office may appeal against the decision within 14 days. If the appellant's appeal is refused, then it may be possible to lodge an appeal to a tribunal against the Judge's decision, within 14 days. Grounds of appeal describing error of law must be included with the appeal. Once this appeal is received by the immigration tribunal then a senior judge will consider merits of the appeal. If they agree with grounds of appeal, then it will likely proceed to a full hearing by another Judge. If the appeal is refused by the senior Judge then the appellant

representative may appeal to the Upper Tribunal, then the Upper Tribunal will consider this appeal and make the decision about the appeal and reasons. If the Tribunal agree with any of the grounds then re-hearing is likely to be scheduled. If the appeal is refused by the Upper Tribunal then the legal representative may consider to lodge the appeal to Court of Appeal if appeal is merited.

### **Case Study #3**

Mrs. C.S came to this country in 2002 and claimed asylum in 2008 because she was unable to return to her own country or unable to return the country she came from. After the interview her asylum claim was refused, and she lodged the appeal against the Home Office decision. In 2008, that appeal was dismissed by the immigration judge and her appeal rights were exhausted. In 2016, her legal representative made further representation which was unsuccessful, and her subsequent human rights application was unsuccessful. At this stage the applicant approached us for our help and we took the case and made further representation on asylum grounds. The second asylum claim (fresh claim) was refused by the Home Office and given the right of appeal. The hearing took place on March 2020 and appeal was allowed, as the judge held that "I find that these are the positive risk factors which would make the appellant at risk of a reasonable degree of likelihood of persecution in Sri Lanka. Internal flight is not an option as the appellant fears state persecution, and this is confirmed in GJ and others. Return would be also be in breach of article 3 ECHR for the same reasons".

### **10. Court of Appeal**

When either party thinks the court system not given the decision to justify their legal matter then the legal expert suggest there is enough merits to take a case further and if the appeal rights exhausted and the judicial review not possible or successful then it may be possible to lodge court of appeal at the high court. Running this kind of appeal cases is costly if there is a legal aid certificate secured it may be wiseful for the appellant to run this case.

### **Case Study #4**

GM came to this country with a student Visa and subsequently she married a person who was granted leave to remain in UK. She was living with her children. Her visa extension application under

article 8 was refused by the Home Office and subsequent appeal also wasn't successful when the appeal rights was exhausted, then attempt to challenge through judicial review also wasn't successful because permission wasn't granted. We then took this matter to the Court of Appeal before Lord Justice Green and Lady Justice Simler in Nov 2019, arguing that "The Secretary of State's decision dated Feb 2015 is not in accordance with the law, and allows the appellant's appeal to the First Tier Tribunal and the appellant was granted "Refugee status". In addition, "The Respondent to pay to the Appellant the sum of £27,500 within 14 days of this order". We were successful on these grounds as the Secretary of State was ordered to reconsider our client's human right's claim.

### **11. Judicial Review**

Judicial review is a type of court proceeding in which a judge reviews the lawfulness of a decision or action made by a public body. When appeal rights are exhausted and the existing law fails to deal with the legal issues or lacks clarity or misinterpretation of the law, then it is possible to challenge the appellant case at the High Court via judicial review application. This is not an automatic appeal, if there are valid grounds provided by the counsel then only it may be possible to lodge judicial review application. Once the application is lodged then High Court Judge will access the merits of the case and if the Judge agrees with any one of the ground then only permission will be granted for full hearing. If it is refused, there are no further challenges.

If you want to argue that a decision was incorrect, judicial review may not be best for you. There are alternative remedies, such as appealing against the decision to a higher court.

Examples of the types of decision which may fall within the range of judicial review include:

- Decisions of local authorities in the exercise of their duties to provide various welfare benefits and special education for children in need of such education;
- Certain decisions of the immigration authorities and the Immigration and Asylum Chamber;
- Decisions of regulatory bodies;
- Decisions relating to prisoner's rights.

## **Case Study #5**

*Mrs KP and her son came to the UK on March 2015 with the spouse and dependant visa of Mr KP, who is a British citizen. The applicant and her son made an application for FLR (FP) and FLR(IR) in November 2017 under Article 8 on the basis of family life as her partner lived in the UK. The Home Office served a refusal letter without in-country appeal rights and subsequently they were detained and deportation was attempted. The Home Office certified that the applications were “clearly unfounded” under s 94 of the Nationality Immigration and Asylum act 2002. Further stated, the reasons for the refusal were because she failed to meet the requirements under EX.1 and EX.2 Appendix FM and s276DE(1) of the Immigration Rules. In other words, the Home Office believed that there would be no significant difficulties for both Mrs KP and her husband to return to Sri Lanka and continue their family life there. We lodged judicial review against the home office on November 2018 and subsequently they were released under immigration bail. Later the permission for judicial review was granted whilst on immigration bail. Before the judicial review hearing, the Home Office reconsidered its decision because if Mrs.KP is successful in judicial review, then the Home Office would have to face heavy penalties. Thus, they granted Mrs KP and her son leave to remain in the UK on the 10 year route according to Appendix FM. The Home Office based its decision on the reference provided by the Independent Social Worker and conclude that it would be harsh for Mrs KP and her family to be refused of such leave.*

## **FRESH CLAIM**

Fresh claim is when the applicant has no more rights to appeal or if the appeal rights have been exhausted and if they have new evidence or information to account their claim they can make a fresh claim which involves giving that new evidence or information to the Home Office to reconsider their previous decision regarding the asylum matter. If the applicant has appealed to the Upper Tribunal or any other Courts and the appeal application has been dismissed/refused, the applicant has an option to make a fresh claim. These are called ‘further submissions’.

Examples of new information or evidence used for fresh claims are circumstances specific to the

human rights conditions in the country of origin, or the person has submitted new evidence to prove their account, or it could be that they have stayed in the UK for a long time and they explain to the Home Office that they have the right to receive refugee status, or that he or she has family connections in the UK and has built strong network connections here. After reviewing the further submissions, the Home Office will decide if the new evidence/information amounts to a Fresh Claim. When deciding this the Home Office goes through a legal test called fresh claim test. If the new information the asylum seeker provides passes, the Home Office will look at the claim again alongside the new evidence. If they decide the individual deserves to be granted refugee status, it will be done so. If the Home Office decides that the fresh claim is unsuccessful, the asylum seeker has the right to appeal on the decision. Nonetheless, if the Home Office decides that the new information does not pass the fresh claim test, the Home Office will refuse to look at the new information and the asylum seeker will not have the right to appeal. In this situation, options for the individual are to look for new evidence to give to the Home Office. Another option is that the individual may seek legal advice to challenge the decision through Judicial Review.

## **Relevant Laws**

Fresh claims are governed by the Immigration rules (referred to as HC395) in section 3(2) under the Immigration act 1971. Rule 353 states:

*353. When a human rights or asylum claim has been refused or withdrawn or treated as withdrawn under paragraph 333C of these rules and any appeal relating to that claim is no longer pending, the decision maker will consider any further submissions and, if rejected, will then determine whether they account to a fresh claim.*

## **Case Study #6**

Mr.PT came to this country in Feb 2009 as a student and claimed asylum in July 2013, due to his fear of persecution. His asylum claim was refused by the Home Office and his appeal was heard by the Immigration Judge on Oct 17 and it was dismissed. This client was previously represented by another firm of solicitors, after his appeal rights were exhausted. His case was referred by the medical foundation for torture of victims. We took the case and made a fresh claim with two aspects of new

evidence, one confirming his torture in Sri Lanka, secondly, evidence of his political activity in UK. Based on this evidence it was accepted by the Home Office and he was granted 5-year refugee status.

### **Case Study #7**

Mr. ST, a 75 year old gentleman, came to the UK with a Visit Visa in Feb 2008 due to being politically targeted in Sri Lanka. He later claimed asylum on July 2008 because of his affiliation with LTTE. His claim was refused by the Home Office and appeal was heard in Oct 2008; however, he wasn't successful with his appeal. This client was previously represented by another firm of solicitors. His appeal to the Upper Tribunal wasn't successful, so they lodged judicial review and the permission to apply for judicial review was refused by the High Court at this stage. All his appeal rights were exhausted, and he lived in this country as an overstayer, and his previous solicitors closed his asylum file. In Nov 2021 his daughter visited our office and enquired about her father's case. Subsequently we opened the file and we gathered new evidence about his political activity in Sri Lanka and UK and also we gathered evidence vis-à-vis the human rights article 8 application. We then made an application in Jan 2022 which was considered by the Home Office, granting 5-year refugee status in Feb 2023. Now he has asked us to bring his wife to rejoin him after 16 years.

### **CART CASE LAW PRINCIPLE**

A 'Cart' judicial review is where the High Court can review a decision of the Upper Tribunal to refuse permission to appeal in exceptional circumstances.

In R (CART) v The Upper Tribunal, Mr Cart was refused judicial review of the decision of the Tribunal to refuse a revision. It was deemed that Judicial Review was only available in exceptional circumstances because judicial review is a remedy of last resort. Exceptional circumstances are seen as:

- a. When a material error of law is made by a public body which renders its decision a nullity.
- b. the existence of special factors which fully justify allowing a judicial review
- c. un-appealable decisions
- d. when the appeal would raise some important point of principle or practice or there is other

compelling reason for the appeal to be heard. For example, if the decision is so unreasonable that no reasonable authority would have come to it.

### **Case Study #8**

KS came to UK on May 2011 as a student and he claimed asylum on Oct 2013 on the basis of serious harm to him in Sri Lanka for his involvement with LTTE. His application for asylum was refused on Nov 2013 and appeal was made against the decision, which was dismissed in Dec 2014. The applicant lodged an application for permission to appeal to FTT. We sought permission to appeal to the First Tier Tribunal which was refused in Jan 2015. The appellant's representative made an application for permission to appeal to UT and this was refused again by the UT in May 2015. The appellant challenged that decision by judicial review and the right to appeal was refused again in July 2015, subsequently the appellant was detained, and fast track removal was activated. The appellant applied for permission to appeal to the Court of Appeal in Aug 2015. In Dec 2015, his permission to appeal was refused. Subsequently, new evidence was gathered to support his case of risk on return to Sri Lanka and a fresh claim was made. This application was considered by the Home Office and he was granted refugee status.

## **2. DETENTION & DEPORTATION**

### **DETENTION**

Detention is used as a tool or weapon to the prospective asylum seekers or migrants to scare them and to prevent their arrival in the UK. In our 35 years of experience, we have not seen any meaningful changes on this detention issue. We are strongly campaigning against this treatment of migrants, however, the UK government is not willing to change. Currently, the government is considering to retain people in Rwanda as refugees even though, in this modern world, there is improved technology. If the immigration system needs to monitor someone's movement in the UK, they can use electronic technology to monitor their activities instead of detaining them. One of the reasons for this act is that the government used to say 'the reason for detention is that deportation, is imminent. However, in practice it is not true. Detainees are usually kept in 1 months time before they are released or deported whilst sometimes, it takes years.

The current detention rules states that a person must be detained if the court has made a recommendation for deportation, unless the Secretary of State instructs the release or granted bail of the person in question according to Paragraph 2(1) of Schedule 3 Immigration Act 1971. Before a person is detained, an assessment is made to identify whether the person is an 'adult at risk' and if yes, what is the level of risk they fall into. Further assessments are made with regards to the risk, then the individual will be detained. There are two questions the decision maker considers when assessing the individual, 1) if the individual needs to be detained in order to effect removal and 2) if the individual is an 'adult at risk', considering the level of evidence available, what is the likely risk of harm to them if detained for the period identified. Unless there is a public interest concern, individuals will not be detained if the length period of detention is likely to have a detrimental effect on the individual. Exception applies to individuals who are foreign national offenders. An 'adult at risk' is someone who:

1. is declared to be suffering from a condition or have experienced a traumatic event such as torture or sexual violence, they are regarded as vulnerable to harm if detained;
2. has a medical or other professional evidence that they are suffering from a condition or has experience a traumatic event;
3. members of staff, through observations, believe that the person is at risk, even when they have no evidence or self-declaration

Indicators of risk of harm or vulnerability include, pregnant woman, physically disabled, those with serious health conditions or illnesses, age such as 70 or over, mental health conditions, transsexual and intersex people, potential victims of trafficking and modern slavery, and other unforeseen conditions that may render the individual vulnerable.

The level of evidence is as follows; at level 1 the individual declares himself as an adult at risk, at level 2 professional evidence indicates that the individual is an adult at risk and at level 3, professional evidence states that the individual is at risk and the period of detention is likely to cause harm.

For individuals who are particularly vulnerable, Rule 34 and 35 of the Detention Centre Rules for Special

illnesses and conditions apply. Rule 34 states that a mandatory medical examination must be done within 24 hours and Rule 35 is a mechanism used by GP to report to the Home Office on the detainees whose health is likely to worsen because of continued detention. The GP must also report on individuals who are suspected of suicidal thoughts and individuals who they suspect have been victims of torture.

## **Challenging the detention**

Paragraph 2 provides a statutory authority which can be misused in order to detain a person. In this case, there are four situations in which detention is considered unlawful. Firstly, if there is no power of detention. Secondly, if the Hardial Singh case law principles are breached. Thirdly, where the decision to detain is based on material public law error (in this case if there is a breach of detention policy). Lastly, where detention breaches ECHR such as article 5, 3 or 8, it amounts to unlawful detention. Most unlawful detentions in the UK are as a result of breaching the Hardial Singh principles. However, if a person has been detained and they want to be released, they can request the Home Office or ask for bail. If the person strongly believes that they have been unlawfully detained, they can bring a claim against unlawful detention by making an application for judicial review. If the application is successful, the results are a declaratory relief stating that detention was unlawfully granted, along with a mandatory release order and damages will be given for the breach.

## **Case Study #9**

In this case the individual travelled from Pakistan to the UK on forged passport. Her main destination was to travel to Canada and claim asylum on the grounds of victim of prolonged marital violence and genuine fear of continued life threatening persecution. However, when reaching the UK airport, the individual then took another plane to Holland where she was caught travelling with a forged passport. The Holland officials sent the individual back to UK as it was her first country of entrance in Europe. When sent back to the UK, the individual claimed asylum and it was refused. She did not appeal against the decision due to poor legal advice, as a result, the individual was detained, then released on detention bail, where she failed to surrender. The individual has sought further legal representations from solicitor firms after she made two more asylum and human rights claims, which

were rejected by the Secretary of State and she had no right to appeal. Consequently, the individual applied for judicial review which was successful on the grounds that the decisions made on previous two claims were not fresh claims and should be set aside. The individual was granted asylum status.

### **Case Study #10**

The individual had first entered in the UK with entry clearance as a spouse visa as her husband was already in the UK, when it expired she applied for leave to remain in the UK as she was at risk of being deported. However, this was refused by the Secretary of State on the grounds that the individual did not meet the requirements set out in the Immigration Rules. An example of the requirements not met was that the applicant did not work for her employer for a period of 6 months before making an application for leave to remain in the UK resulting in the application being refused. The individual appealed against the decision of the Home Office for leave to remain in the UK. Upon appealing, the court granted appeal and she received refugee status.

## **DEPORTATION / REMOVAL**

Generally, when failed asylum seekers get sent back from this country it's referred to as a removal. When a person lived in this country for some time with a valid visa, on this occasion it is called deportation. This practice is to keep away unwanted migrants or asylum seekers from UK. However, in our experience not all migrants or failed asylum seekers are treated in same way. Even the people from the same country are treated in different ways while executing removal or deportation. We are aware that some overstayers or failed asylum seekers are arrested by the police and released without any further action many times.

Some individuals are investigated by the Home Office and released without any deportation or legal action initiated, similarly the detainees get kept for a long time before removal and deportation. Some of them even get released from detention even if there are no grounds to consider by the Home Office to stay in this country. There is no consistency available while officials execute this removal or deportation. This is one of the areas we believe the pressure group have to direct their

campaign against. To follow appropriate guideline while deportation or removal is imminent for the particular person is ideal. This will reduce racially motivated intentions or actions used to deport or remove individuals from the UK. The Home Office officials must act with transparency so that every individual gets the same treatment.

Legal definition of deportation:

Deportation is the process where a non-British citizen is deported from United Kingdom (UK) back to the country where they came from (or sometimes another country) and are prevented from lawfully returning to the UK. Deportation usually occurs from an order by the Secretary of State who believes for the public good, the person must be deported; the second reason for deportation is that if an individual belongs to a family who is being deported or has been ordered to be deported. When a deportation order has been ordered, a notice is given to the individual informing him of the decision. There is an exemption for the spouse, civil partner or child where the Secretary of State will not deport them if they have made a living in the UK on their own right - meaning that they have their own settlement, and if the individual as been living apart from the deportee under section 5 of the Immigration Act 1971.

When detention has been given to the individual, the Secretary of State may detain the person or restrict the individual from residence, employment or occupation, or ask them to report to the police until the deportation order. Other effects of a deportation order includes: the person must leave the UK; the person may be detained until removal; **the order invalidates any leave, given prior to the order or in force, to enter or remain in the UK; and it prohibits the person from re-entering the UK until the order is revoked.** If a person has a deportation order and still decides to enter the UK, he or she is in breach of the deportation and therefore committing a criminal offence. Section 32 and 33 of the UK Borders Act 2007 under automatic deportation states that a foreign criminal is a person who is not British and has been convicted of an offence in the UK.

Legal definition of removal:

Removal or also known as administrative removal, is when certain type of people are removed from the UK because they have entered or remained in the UK without a leave, have either breached a



restriction or condition of their visa in the UK, individuals who have obtained a visa by deception and also family members associated with the individual may also be subject to removal in concordance with section 10 of the Immigration and Asylum Act 1999.

The difference between deportation and removal, is that deportation has a more strict legal process and it applies to individuals who have committed a more serious criminal offence or their character, associations and/or behaviours makes them liable of deportation. Deportation occurs when an individual's deportation will benefit the public. This order means that the individual cannot enter/stay/return to the UK as long as the order is in force. Deportation is a formal removal of an individual whereas removal is a much broader term.

### **Case Study #11**

The individual entered in the UK with a student visa which expired after two years. He applied for asylum, the application was rejected by the Secretary of State and he then appealed against the decision. The appeal claim was successful and he was granted asylum and leave to remain for seven years. However, a year before leave expiration date, the individual committed a criminal offence and was sentenced for 14 months imprisonment. The Home Office began the deportation process and at the same time the individual started applying for indefinite leave to remain in the UK following the five years of asylum. The application was refused by the Home Office and the refugee status was also revoked on the grounds that the individual no longer needs protection because things have changed in Sri Lanka and the individual was excluded from protection because of his criminal offence committed in the UK. The individual was subject to a deportation order, he was deported to Sri Lanka and he then appealed against deportation. The appeal claim was successful. The court argued that the individual is still a refugee, he is not a danger to the community and his deportation would be a breach to the Refugee Convention and article 3 of the ECHR. The individual was exempt from automatic deportation and the deportation order was revoked.

## **5. VISA EXTENSION**

Migrants who came to the U.K. with short stay visas, with the intention to settle in this country, can extend their visa for a further foreseeable period. Visa extension has to be made through prescribed applications within six weeks before their leave expires with Home Office fees around £1000 and health surcharge around £1500. They may have to fulfil the requirements to make a successful application. This is not applicable to EU nationals and some other countries exempted for visa requirements to enter U.K. Generally, commonwealth country applicants require entry visa before they depart from their native countries. Regardless of their nationality, anyone who wishes to extend their visa must comply with this requirement and they must apply for the visa extension before the current visa expires.

The visa extension could be a student visa, family settlement visa and employment related visa as these are the main categories. If the applicants are unsuccessful with their extension application, most likely they will get interim appeal rights to appeal against the Home Office decision, if not they may have to go for judicial review to challenge the decision if their cases merited.

The Home Office effected a number of changes to the decision-making process for immigration casework since 2018.

We are working on approximately 10 cases per week regarding this matter. This project is conducted by the National Lottery Board Reaching Community program. Since the Covid pandemic and current cost of living prices, most of our clients are struggling to pay the amount (around £2600.00) for their extension. Therefore, we have apply for fee waiver applications to get approval from the Home Office and then submit relevant applications – a time consuming process. The Home Office will base their decision on the fee waiver application by considering the individual's financial circumstances.

### **5.1 FLR(M)**

**Applying as a family member - FLR(M) applications**

This application is also called as a spouse visa extension application. FLR(M) applications are the prescribed form by the Home Office for those who came to the UK as a spouse or dependent child of a person settled in the UK or who has refugee leave/humanitarian protection. The applications must be made online and not by post.

There are several routes available for those applying as a family member depending on the circumstances.

A spouse who fulfils the entry visa requirements and has entered in this country with the 2 and half year visa, with the view of settling in the UK with his or her partner to enjoy their marriage life, will have to consider the following when making the application:

If you are **applying as a partner**, you must ensure:

1. Your partner is either a British citizen or is settled in the UK or has refugee status or humanitarian protection
2. You are in a civil partnership or marriage with your partner or have been cohabiting for a minimum of two years when applying or are a fiancé or fiancée - this needs to be "genuine and subsisting". Evidence of longevity, cohabitation, children, shared financial responsibilities, visits to home countries/families and plans for practicalities of life in the UK must be provided.
3. You can prove good knowledge of English (through the A1 English language certificate)
4. You can prove that you can financially support yourself and dependents (an annual proven income of £18600 being necessary for this)

If you are **applying as a parent**, you must ensure:

1. The child is under 18 and not living an independent life
2. The child lives in the UK and is either a British citizen or settled in the UK or has lived in the UK for 7 years and it is not reasonable to send them back
3. You can prove good knowledge of English
4. You can financially support yourself and dependents (prove that you make £18600 or more per annum)

Successful applications depend upon a host of supporting documentation<sup>1</sup>, the absence of any of which, could significantly harm chances of success. After having entered the UK within those 2 and half years, for the continued validation of the application the applicant must then prove the continual of 1) Partners salary remains £18,600 and 2) A2 English language certificate. However, if the applicant suddenly is unable to meet any of the listed criteria above once entering the UK, such as the marriage is in doubt or the partner's salary has reduced below the minimum of £18,600, then the application could be refused.

Timings for these applications can be complex - applicants are usually granted a period of 2 and a half years' leave on entering the UK with a spouse/parent visa. Applicants then usually aim to extend their further two and half years or if they have completed 5 years, then qualifying for application under the 5-year route. Any applications must be made and decided before the initial visa has expired.

### Exceptional circumstances

For applications which fail on any of the above grounds, the decision makers may check the exceptional circumstances. We have clients who have overstayed or are illegal entrants and therefore will not be able to meet the usual immigration status requirements. We will also have clients who fail to meet part of the eligibility requirements (most frequently the financial requirement). For these clients, we will need to rely on either exceptional circumstances, compassionate factors or Article 8 of the European Convention on Human Rights (ECHR).

Exceptions include the establishment of insurmountable obstacles to family life with a partner or child outside of the UK if that partner or child meets the requirements 1 and 2 above. Insurmountable obstacles can often be proved by showing very significant difficulties which would be faced by the applicant or their partner/child in

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<sup>1</sup>The passports of both the applicant and spouse, passport size photos of both applicant and spouse, birth certificates (of any children), marriage certificate, ESOL entry 1,2,3 or A1/2 certificate, tenancy agreement/ mortgage, pay slip (6 months), any benefit letters, hospital record for pregnancy, 2 years proof of address, NHS card/ letters and health surcharge, bank statement (6 months, family photos, application fee - £1033 + 500 (health surcharge), If there is no public funds attached to their visa, if they have claimed any that would also harm their visa extension.

continuing their family life outside the UK and which could not be overcome or would entail very serious hardship for the applicant or their partner.

Where an applicant has not met the financial requirement, the decision maker must consider whether the refusal of the application could result in unjustifiably harsh consequences which could render refusal of entry clearance or leave to remain a breach of Article 8. The best interest of any relevant child is also a relevant factor which must be taken into account. If there will be harsh consequences, the applicant must be allowed an opportunity to show whether the minimum income requirement could be met through any other credible and reliable sources of income, financial support or funds available to the couple. The unjustifiably harsh exception looking at Article 8 also applies more generally.

### **Case Study #12**

This is an example of a visa extension via the five year partner route. Mrs JS came to the UK in 2015 as a spouse-dependent to settle with her husband. Her husband was granted indefinite leave to remain as a refugee. The couple had been living together since her arrival and maintained the relationship between them. She subsequently made an in-time application to extend her leave to remain. Mrs JS had been working as a casual mail sorter in this time and her husband had been working as carpenter.

As they had complied with all the requirements, Mrs JS was granted another 2 and a half years leave. On the successful completion of this, Mrs JS will be eligible to apply for indefinite leave to remain.

### **Case Study #13**

The applicant was granted entry clearance for spouse visa at the end of December 2013 and she made the extension application in the middle of 2016. This application was refused in the middle of 2017 with right of appeal. The Home Office's reason for this decision was because the applicant had not met the appendix FM request. The reason for the refusal was because the applicant was not working for 6 months prior to the application being made and applicant did not meet other requirements set out under EX.1(b). Also, the Home Office believed that the applicant would have no significant difficulties going back to Sri Lanka.

However, the applicant exercised her appeal rights. The appeal was heard in 2018 and it was allowed by the immigration judge under Article 8. The judge based his decision on the social worker's evidence of the applicant's circumstances, which could potentially affect their health. Thus, refusing the application and sending her back to Sri Lanka would be unreasonable, as the applicant's life established with her spouse in the UK would mean going back was starting afresh. As a result, the application has been accepted and the applicant has been granted the visa extension.

### **Case Study #14**

Mrs IV is a Sri Lankan national who was granted entry clearance as a spouse. She made an in-time FLR(M) application three years later but she did not meet the minimum financial requirement. She had lived with her husband continuously during this period and they had both been working towards starting a family. Mrs IV was undergoing fertility treatment under the NHS at the time of the application, having had two miscarriages. Although the decision maker found that this treatment could have been continued in Sri Lanka, her husband would not have been able to join her there having lived in the UK for 15 years with good prospects in his current job as a team leader at Tesco, as there was no comparable opportunity in Sri Lanka. Separating from her husband at such a crucial time would have disrupted the fertility treatment and deprived her of having a child as she cannot have the treatment living on her own. Furthermore, it was accepted that there is a strong cultural barrier to the applicant living without her husband. As a result, it was found there were insurmountable obstacles to continued family life in this instance - a refusal would set this family back in terms of what they are trying to achieve, entailing serious hardship for the couple. It could also seriously harm the applicant's mental health.

It should be noted that people without children are high risk cases - if any of the requirements aren't met (especially on financial side), the Home Office will seek to refuse without leave to appeal.

### **Case Study #15**

Mrs VK was denied a visa under the 5-year route due to what the Home Office stated was a lack of proof of her husband's self-employment. Her husband was employed full time by Tesco with earnings of £14907 per annum - this is obviously

below the minimum financial requirement - but was also supplementing his income as an Uber driver. To prove income from self-employment, the rules require 12 months' worth of bank statements.

The couple have a child together (a British citizen who was born in 2017).

We asked for reconsideration on the basis of the now submitted evidence and on the grounds that Uber drivers had actually been classified by case law as workers well before the application had been determined and the Home Office accepted it, granting 5 years visa.

### **Case Study #16**

Mrs. PK came to this country in 2013 with entry visa as the spouse of the sponsor. She applied for ILR on 2017, which was refused stating that she failed to show that her marriage was subsisting and issues with her net income. This was overturned on 2018 appeal with the help of TWAN with the Upper Tier tribunal finding the client had provided a wealth of evidence to show a subsisting marriage, that the income was well over income support entitlement including a new job and benefits and that there were genuine Article 8 grounds engaged.

### **Case Study #17**

The Home Office had found our client met the requirements of the 10-year partner route instead of the 5 year one, on the basis that when you apply for a second period of leave under the 5 year partner route, you must have passed an English language test in speaking and listening at a minimum of level A2. We had submitted evidence to the effect the client had, but the Home Office had ignored the document.

Due to TWAN's involvement, this decision was reversed, and it was found the client did qualify under the 5 year rule.

A shorter time period in these cases allows clients to successfully expedite settlement applications. This reduces unnecessary uncertainty about their immigration status, allows them to have recourse to public funds more quickly and effectively and importantly reduces the burden on them to fulfil various obligations during their visa period including paying large amounts of money (£2000 every two and half years) to go through the Home Office's extension application processes.

### **Spouse/ family member limited visas**

Family members who have entered the UK via a spouse or family member limited visa are usually granted a period of two and a half years' leave to remain. They can apply to extend their stay before this leave has expired.

We are able to see the effects of changes made in July 2012. The language and minimum wage requirements of £18600 were both introduced then - and many people chose to obtain their visas before these changes were effective. As a result, more visas than ordinary are up for extension this year.

In addition, the Home Office has started to refuse more spouse visa extension applications without in-country appeal rights, relying upon assertions that "married life" does not exist or that the applicant was not meeting other requirements. If in country appeal rights are denied, the only way to stop a removal is by making a judicial review application at the High Court. If we did not produce a high-quality initial visa extension application, the application for Judicial Review is automatically bound to fail.

As there has been no legal aid available for immigration work except asylum cases since 2013, we have had to take many of these cases on a pro bono basis.

### **5.2 FLR(FP)**

#### **Application for leave to remain in the UK on the basis of your family life as a partner, parent, or dependent child or on the basis of your private life in the UK - FLR(FP)**

FLR (FP) stands for Further Leave to Remain in the 'F' or 'P' categories.

A person who entered the UK with the spouse visa but is unable to meet the requirements to extend their visa after 2 and half years due to pass A2 English language Certificate exam or to meet the requirements of salary (£18,600) as a household, can apply for the FLR (FP) application. This application is another route to extend their visa. When the applicant is making this application, they are most likely to be successful but their settlement is going to be between a 5 year route to 10 year route. This means if the applicant is successful with FLR (M) application the person can make the settlement application to settle in the UK after 5 years of stay in the UK. While if the applicant

decides to make the FLR FP application, this is going to be extended further to 2 and half year leave and after 10 years of stay, the applicant may be entitled for settlement. However, it may be possible during the 10-year period if they fulfil the language or salary requirements they may seek to amend this 10-year route to 5 year route settlement later or leave outside the rules on the basis of family or private life under Article 8 of the ECHR.

Visa extension is chargeable with an application fee amounting to £1000 with health surcharge fee of £1560 and the application can be made up to 4 times once it has expired, which means if the applicant decides to apply for the visa extension for 4 times the total cost of re-applying for the extension will amount to around £8000 in total for the application process. Additionally, the applicant needs to bear in mind that there might also be additional costs that may be necessary to be made when making the application within the 10 year route period.

### Immigration rules

Para EX - exceptions to certain eligibility requirements if you are partner/ parent

An applicant has a genuine and subsisting relationship with a child who is under 18 (or was under 18 when the applicant was first granted leave), is in the UK and is a British citizen or has lived in the UK continuously for at least 7 years immediately preceding the date of the application and taking into account their best interests as a primary consideration, it would not be reasonable to expect the child to leave the UK.

Or if the applicant has a genuine and subsisting relationship with a partner who is in the UK and is a British Citizen, settled in the UK or in the UK with refugee leave or humanitarian protection, and there are insurmountable obstacles to family life with that partner continuing outside the UK. "Insurmountable obstacles" means the very significant difficulties which would be faced by the applicant or their partner in continuing their family life together outside the UK and which could not be overcome or would entail very serious hardship for the applicant or their partner.

For an application on the basis of your private life, you must already be living in the UK and be able to prove that you are:

- under 18 and you've lived in the UK continuously for at least 7 years, and it

would be unreasonable to expect you to leave the UK

- between 18 and 24 and you've lived continuously in the UK for more than half your life
- 18 or over, have spent less than 20 years in the UK and would have very significant problems living in the country you'd have to go to - for example, you do not speak the language and could not learn it
- 25 or over and you've been in the UK continuously for 20 years

Your family members can apply on the same application - you'll be considered separately.

## **CASE STUDIES**

### **Case Study #18**

*The applicant applied for FLR (FP) application but failed to provide sufficient evidence as per the immigration rules. This involved her partner's household annual income amounting to £18,600, which the applicant did not provide. Having A1 English qualification was another requirement but there was no evidence of such. As a result the applicant's application was refused. The applicant then approached TWAN for further assistance, we advised that the initial application did not meet the requirements, so it would be better to apply for a new application. This would be safe, economical rather than an appeal process. Hence, we applied for the Biometric Residence Permit (BRP) through the 5 year route which was successful and she received the BRP card.*

### **Case Study #19**

*Grant of leave to remain - 10 year partner route Not qualified because wages weren't high enough (£14136) - they didn't meet the threshold so 10-year leave was not granted*

*Granted a period of 30-months limited leave to remain under 10-year partner route under paragraphs D-LTRP1.2 of Appendix FM to the Immigration Rules. Came to the UK on 22/10/2014 as a spouse of a person present and settled in the UK until 2017. Married in 2010 and had a baby in 2017. Client's husband came to the UK in 1999 and claimed asylum. He was granted indefinite leave to remain in 2009. As they lived at the same address, maintaining their relationship, we asked for consideration under Article 8 – the daughter being a British citizen, if the husband and child lived alone, this will create issues.*

We applied for the 10-year partner route, the application was refused by the Home Office as she didn't have the life in UK certificate. Subsequently, we booked this test for her.

### **Case Study #20**

A Mother (with 1 child) entered the country in 2013 to join her husband who was a British citizen. He was settled and gainfully employed. She was granted limited leave which was subsequently renewed. At the time her visa was due for renewal, her husband was serving time for a criminal conviction (but not for a terrorist act so his citizenship would not be revoked). The couple had 2 additional children. TWAN applied for her visa extension on the basis of FLR(FP). She was, at that time, the sole carer for the three children (two of whom were British citizens and would not be allowed to stay for longer than 3 months in Sri Lanka should she be forced to return). With her application we also applied for citizenship for the 1st child. She was granted FLR and the child was registered a British citizen.

## **Appeal Case Studies**

### **Case Study #21**

Mrs RD made an application for FLR (FP) on the 23 November 2018 for leave to remain in the UK on the basis of private life under Article 8 of the ECHR but the application was refused by the Home Office. The Home Office refused the application of Mrs RD because she entered in the UK in June 2012 as dependant of her mother. She then made a visa extension in January 2014 which was granted and was due to expire in March 2016. Another extension application has been made on the February 2016 and it has also been granted until November 2018. Upon making another application FLR (FP), she was making the application under category of family and private life and no longer under the dependency of her mother. There were requirements she had to meet under the category of family and private life under the Immigration Rules which were as follows: the applicant must be living in the UK for at least 20 years, Mrs RD lived in the UK for at least 7 years, so failed to meet this criteria; the applicant has to be under the age of 18 or 18-25 to meet the requirement under 276ADE(1) of the Immigration Rule, but Mrs RD was above the age of 18 and not in between 18-25, therefore failing to meet this criteria; another requirement was there must be 'very significant obstacles' in Sri Lanka that would

prevent Mrs RD from returning. The Home Office did not accept that Mrs RD would face any 'significant obstacles' going back to Sri Lanka because Mrs RD lived most of her life there and has not lost her social and cultural ties with her home country. Following the refusal, Mrs RD made an appeal against the refusal of the Home Office. The Home Office reconsidered Mrs RD's application on the basis of her husband's current visa status and granted her with visa extension before the hearing.

### **Case Study #22**

The Home Office withdrew in a human rights appeal before the court in a case where a mother (dependant spouse) was the primary-carer of their vulnerable baby as evidenced by the report of an independent social worker engaged by TWAN and medical reports. The baby was born 4 months before the hearing and had a range of health problems due in part to medical negligence on the part of the NHS.

The couple had married in 2014. The husband had settled status and entry clearance was granted to his spouse in 2015. Three years later, Home Office refused an application for further leave to remain by applicant. The case went to appeal and the Home Office withdrew their refusal decision and subsequently extended her visa. The applicant made an application in December 2017 based on Article 8 of the Human Rights which was refused by the Home Office under the EX.1 Appendix FM because the applicant failed to tell the Home Office that she had a child, going back to Sri Lanka to live there would not cause any difficulties and she did not meet other requirements under the Immigration Rules due to her age. As a result, the applicant exercised her appeal rights and the appeal was successful. The grounds of the decision were based on the Home Office's neglect to consider the applicants human rights according to section 6 of the ECHR.

## **5.3 FLR (DL)**

DL means Discretionary Leave. This application is used for asylum seekers who have been refused asylum and in other words, those who are given leave outside the immigration rule or for family relationships reasons or those who are under 18, then they are initially granted Discretionary Leave for 3 years, which is applicable for applicants before 2012. It means the person will be granted 3 years of leave initially, later they can apply for visa extension or settlement if the person was granted DL before 2012, then they will be given further 3

year extension and after 6 years of stay they can make an application for settlement. If the person was granted DL after July 2012, then 2 and half year leave usually granted and after 10-year stay they can make a settlement application. DL is often granted based on individual circumstances and not for more than 30 months, unless there is compelling evidence to justify a longer period.

In most cases, a person will not become eligible to apply for settlement until they have completed a continuous period of 120-months (10-years) limited leave.

Applications are made via the specified form (FLR(DL)) - all the reasons or grounds for wishing to stay in the United Kingdom must be stated in this application. If they are not stated without good reason, you will lose any right of appeal you may have otherwise qualified for. You must state which category you are applying under (unaccompanied asylum seeking child, a human rights reason unrelated to family or medical or some other reason). Your History and circumstances since you were granted leave to remain or enter is required. A person's criminality must be taken into consideration when assessing these applications.

Those granted with DL are also able to enter higher education. However, those on limited leave are not eligible for higher education student finance.

When making this application the individual must send other documents to support the application. Documents include identity documents such as Birth Certificate, Passports or any other identity documents, photographs, current leave if applicable, payment fee (both application fee £1033 and Immigration Health Surcharge around £624 per year per applicant) and the application form FLR (DL). The application can be made by Post.

Extension of discretionary leave applications has also been high in volume in 2023.

### **Case Study #23**

The applicants arrived in the UK in August 2008 and claimed asylum, which was refused first and then granted a Discretionary Leave on 15 September 2012 until 14 September 2015. The applicants then applied for an extension of the Discretionary Leave which was granted. The latest Discretionary Leave was due to expire on 2 September 2018 when the applicants then applied for FLR (DL). Upon completion of the application

form and providing the required evidence to support the application such as identity documents, photographs, previous leaves and application fee, the Home Office granted the applicants further leave to remain because as they were granted Discretionary Leave on the basis of their Family Life and Private Life.

### **Case Study #24**

Appellant 1 initially entered the UK as an asylum seeker in July 1999 and claimed asylum which was only decided in November 2013 and refused. The applicant, however, was granted discretionary leave for 2.5 years and then further leave. Appellant 2 entered the UK in 2007 with a student visa and then extended her leave until December 2015. Both appellants formed a relationship in 2008, married and had children. Before Appellant 2's leave was to expire, they made an application for further leave on 20th August 2015 on the basis of family and/or private life which has been refused by the Home Office. As for Appellant 1, his leave was extended until February 2019. Both appellants made an appeal based on the fact that Appellant 2's application was refused and their children were not included. The judge considered the facts and evidence provided and concluded that the refusal made on 20th August 2015 was not in accordance with the law. Other reasons considered were removing the appellants from the UK back to Sri Lanka would not be reasonable because they were both from North of Sri Lanka where airline facilities were limited and moving them to South of Sri Lanka would not be possible as they do not speak the language. Therefore, the judge granted the appellants leave under the FLR (DL).

DL is not granted where a person qualifies under the Immigration Rules or for asylum or humanitarian protection or for family or private life reasons under Article 8.

Types of cases which could qualify: Medical cases which are done through FLR(O) form. Victims of modern slavery/trafficking are often covered by DL. Unaccompanied asylum seeking children if they don't get granted asylum through some other route - although to note, the child may be reunited with their family in their state of origin if there are no safeguarding concerns etc. And then there are exceptional circumstances elucidated in paragraph 353B of the Immigration Rules. This looks at the character, conduct and associations of the migrant, the compliance with any conditions attached to any

previous grant of leave to enter or remain and the length of time spent in the UK for reasons beyond the migrant's control. This paragraph does not apply to submissions made overseas or where the person is liable to deportation.

### **Case Study #25**

Client came to UK in 2002 and claimed asylum, which was refused. She lived here for a decade as a failed asylum seeker, got married and applied for FLR(DL). She was granted Discretionary Leave(DL) for 3 years initially which was renewed again for 3 years. After the completion of 6 years of DL she applied for settlement in the UK. Her application was successful, and she was granted settlement this year. Since she was granted DL before 2012, she was granted settlement after 6 years of DL.

### **Case Study #26**

Our client came to the UK in 2001 and claimed asylum. He was later granted discretionary grant of leave to remain for a reason not covered by the immigration rules. His character, conduct and associations were good. He had no criminal record and held a part time job. He was in the country for 17 years - spent for reasons beyond his control where removal from the UK would not be appropriate. He complied with all previous conditions and has family here including wife and children.

## **5.4 - FLR(HRO)**

FLR (HRO) application is for individuals who want to an extension of leave in the UK on the basis of Human Rights claim. This form must not be used for any family or private life applications or protection or asylum cases. In other words when making this application the reasons to apply for stay must not be covered by the Immigration Rules or by any other immigration application covered in any other form. Similar to the DL form, you must include all your reasons for wanting to stay in the UK on this application as a disclosure. Addition of information subsequently in the process may deprive you of the right of appeal. Before applying for this application, you need to select the category that applies to you.

This form is for the following categories:

- Discretionary leave where you have previously been granted a period of DL but

have not previously been refused asylum or granted less than four years Exceptional Leave (people in these categories must use the form FLR(DL) or FLR(FP) if they were granted DL on the basis of Article 8

- Medical grounds or ill health
- Human rights claim (not to be used for claims on the grounds of family or private life, including on the basis of family dependencies between a parent and a child or for protection of asylum cases)
- Leave outside the rules under the policy concessions in the "Leave outside the rules guidance"
- Claim for leave outside the Immigration Rules because of compassionate and compelling circumstances (not to be used for claims on the basis of family and private life)
- Other claims not covered by another form

It includes a section on the welfare/ best interests of any children you have in the UK. You must demonstrate you have a genuine, subsisting and active parental relationship with this child. Finances and personal history (criminal convictions etc) are both also taken into consideration.

As with many of the Home Office forms, HRO is an expensive process amounting to nearly £1000 for submitting the form alone with an additional £1033 for each dependent. Unless waived, when making this application, Healthcare Surcharge must also be paid in addition to the application fee and the Biometric Residence Permit fee.

## **5.5 FLR (PR) Information**

This is an application for leave to remain in the UK for a child under the age 18 of a relative with limited leave to enter or remain in the UK as a refugee or beneficiary of Humanitarian Protection.

### **Documents in support?**

For this application to be valid, identity documents need to be sent in support.

### **FEE**

This application is subject to an application fee costing around £1033. In addition to the application fee, the applicant must also pay for the Biometric Residence Permit fee and Immigration Health Surcharge fee.



There are different ways you can make the payment. This can be by - cheque, postal order or bank card.

### **Case Study #27**

The applicant, the mother, acting on behalf of her son, made an application under FLR (P) for leave to remain in the UK - a child of a parent whose status in the UK is of a refugee. The mother has received the Refugee Status Residence Permit in August 2019 for 5 years and is now awaiting her son's application to be granted the same status.

### **Case Study #28**

The parents of the child are UK Residence Permit holders for 5 years with a Refugee Status. The parents had children in the UK and applied for their child to have the same status in the UK. The child was granted Refugee Status Residence Permit, same as his parents.

## **5.6 FLR (S) Information**

This application is for leave to remain in the UK on the basis of statelessness. Anyone who wants to make this application must consider himself as a stateless, meaning that you are not a national of any country or you do not have the right to reside in any other country.

### **How can you apply?**

In order to make this application the person must meet the requirements set out by the Immigration Rules and must provide relevant documents to support the application.

## **5.7 FLR (IR)**

This form is **used to apply to extend your existing visa to stay in the UK**. This form is used for specific categories of visa extensions, including visitors (except transit, Approved Destination Status, and Permitted Paid Engagements visitors), UK ancestry, **domestic worker in a private household or a victim of slavery or human trafficking, parent of a Child Student**.

## **5.8 FLR (LR)**

This application is to extend the stay of an individual if they have lived in the UK lawfully for a minimum of 10 continuous years. The applicant cannot add any dependants to this application form. Dependants, such as family members, should make their own application if they would also like to apply through this route.

## **5.9 FLR (AF)**

This application is used if you are a discharged member of HM Forces or the dependant of a serving or discharged member of HM forces and want to apply to stay in the UK under Appendix Armed Forces of the Immigration Rules.

## **5.10 FLR (GT)**

This form is to apply for further leave to remain and for a biometric immigration document if you are a survivor or were directly affected by the Grenfell Tower fire and were granted limited leave outside of the Immigration Rules under the Grenfell immigration policy.

## **5.11 Application to extend stay in the UK as a Tier (Entrepreneur) dependant or Tier 1 (Graduate Entrepreneur) Dependiant**

This application is used by the tier 1 dependants to extend their stay, if they are already in the UK. They should apply before their current visa expires. Those who are in the visitor visa cannot apply for visa extension.

## **FEE WAIVER**

The applicants who are unable to make the home office application fee (around£1000) and health surcharge(£1500) may apply for fee exemption application.If it is approved by the home office, then they make the Visa extension application with a court provided by the Home Office instead of fee payment. This is only available for extension not for settlement applications. To make this application the applicant may need to provide the evidence such as GP or hospital reports if there are any health conditions, if they are relying on family or friends support they need to provide 6 months bank statement, breakdown of monthly income and expenses, confirmation of accommodation and Tenancy (rent arrears). If the applicant receives

benefits, then proof of this must be provided and employment details like payslip and P60.

Success rate of this application is moderate because of the scrutiny by the home office. If this application wasn't successful, then applicant may stay as an overstayer unless the applicant can find the money to make payment to submit visa extension application. However it can be possible to make a second application after one or two months.

## SETTLEMENT APPLICATIONS

UK Settlement or Indefinite Leave to Remain allows you to live in the UK without restriction on length of stay.

### SET (M)

This is the application process for spouses settling. SET (M) stands for UK Settlement (Indefinite Leave to Remain) for husband, wife, civil partner, unmarried partner or same-sex partner of a British citizen or settled person

SET (M) application means the applicant who completed either 5-year route through FLR(M) application or 10 year route through FLR(FP) application, may be entitled to make this settlement application on their marriage life. To make a successful SET(M) application, they have to produce Life in the UK Exam Certificate with B1 English Language Certificate, they should not have criminal records and they should not be absent from the UK for more than 180 days in any consecutive 12-month period. Again, their household income must be no less than £18,600. With these key requirements, the applicant must meet rest of the criteria required which involves providing other documents to support the application.

If the applicant is successful with this application, the applicant is going to be granted spouse visa settlement. After a year from the applicant being granted the spouse visa settlement, he or she is entitled to make an application for British Citizenship.

#### Case Study #29

Mrs M. V applied Indefinite Leave to Remain in the 5 Year Partner Route on 6 February 2017 as her

partner was settled and present in the UK, this leave has been granted for 30 month limited leave to remain under the immigration rules. Before her partner's Leave to Remain expired, the applicant applied for SET (M) application on the 25 September 2019. For this application to be successful Mrs M. V had to provide evidence to support her application such as her partners annual household income had to meet £18,600 and B1 English Language qualification. Mrs M. V provided all the necessary documents required and, on the 6th December 2019, Mrs M. V was granted the Biometric Residence Permit and her SET (M) application was successful.

#### Case Study #30

*Client came to UK in 2012 with her three children to reunite with her spouse (a British citizen). Applicant's husband and two children were working with a combined earning of over £35000. The applicant's husband had been living in the UK for 16 years at this point. As a British citizen, he cannot continue to live in Sri Lanka as they will only allow him to stay for a month. The client's applied for indefinite leave to remain including her two dependent daughters. We submitted evidence of their proficiency in English (Cambridge English Language assessment certificates) which was rejected on the basis that they were not on the Secure English Language Test list in the Immigration Rules. We lodged an appeal against the Home office with the Immigration Tribunal. Meanwhile, they took the Secure English Language Test and it was submitted to Home Office before the hearing, resulting in the withdrawal of refusal for the application Set (M) application was successful.*

### SET(O)

This application is for the people who are staying in UK and wish to obtain settlement for reasons other than recognised purposes. The applications may not cover the individual's circumstances, but individual wishes to regularize their immigration status. For example, if a person came here as a student or in limited leave or as an asylum seeker or those applicants who were not successful in the applications such as Asylum Claim or Student Visa Extension but have an extension for some other reasons can use this application form.

There are various categories to apply for this settlement such as work permit holders and their

dependants, Tier 1 migrant, Tier 2 migrant, those who have UK ancestry, an individual who suffered death of their partner (partner should be either a British citizen or had ILR) and other purposes not covered by other application forms. People aged 25 or older who have lived in the UK continuously for 20 years can also apply for this form.

When applying for this application the applicant needs to meet the following requirements:

- the applicant must provide relevant documents depending on which category applies:

- Passports and immigration documents;
- Evidence of finances to prove that you are able to accommodate yourself or any dependants if applicable;
- Knowledge of English language through qualification or life in the UK test pass notification letter;
- Evidence of employment in the UK not requiring work permit;
- And other documents, if relevant, depending on which category the individual is applying;

The individual can apply in person or online through the Settlement Checking Service or by post. The application fee is £2297 along with the Biometric enrolment fee.

### **Case Study #31**

*Mrs T.K arrived in the UK in 2006 on a student visa. She then obtained visa until 16th January 2018, where her latest leave to remain was going to expire. Before expiring the applicant made a SET (O) application and provided the evidence necessary for the application to be successful. Mrs T.K provided the Home Office with her passports, recent and old residence permits, evidence of English language qualification (Life in the UK Test and Language Certificates), bank statements, tenancy agreement and (relevant) benefits letter. The Home Office considered her application and granted Mrs T.K indefinite leave to remain and biometric residence permit.*

### **SET(DV)**

This is an application for settle as a Victim of a Violent Relationship.

A person can use this application form to settle in the UK if you came here on a temporary visa as a

partner and your relationship has ended because of domestic violence.

If you have no money to support yourself while you are applying, you can complete a separate application form to ask UK Visas and Immigration for permission to claim benefits for up to 3 months.

To apply for this settlement, the person needs to prove that their last visa or permission to stay in the UK has been as a partner of either a British citizen, or a person settled in the UK, or a member of HM Forces who has served at least 4 years, or permission was given enabling you to access public funds (Victim of Domestic Violence Concession). The applicant must also prove that it was an ongoing and genuine relationship with the partner when the visa/or permission was given and that they have suffered domestic violence from the partner or family or both.

This application can be refused if you have a criminal record in the UK or in another country, provided false or incomplete information to the Home Office or have broken UK Immigration Law.

It is advisable to make the application before the visa expires.

Application fee has to be paid and costs around £2404 and double for each dependant, if included on the application.

The period to know when the application has been successful is within 6 months.

The definition of domestic violence refers to people aged 16 or over. However, an individual must be 18 years or over to qualify for leave as a partner. As leave as a partner is a pre-requirement for applications under the domestic violence rules, no-one under the age of 18 can qualify under those rules.

Applicants must establish that the relationship with their partner was:

- subsisting at the start of the last grant of leave as a partner
- broke down during that last period of leave
- broke down because of domestic violence

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. This can include, but is not limited to, the following types of abuse:

- psychological
- physical
- sexual
- financial
- emotional

Or other abuse like controlling or coercive behaviour  
The domestic violence rules do not apply to:

- the spouse, unmarried partner or registered civil partner of a sponsor who has only limited leave to enter or remain in the UK
- fiancé or fiancées or proposed civil partners
- people seeking asylum in the UK
- the spouse or civil partner of a foreign or Commonwealth citizen who is serving, or has served, in Her Majesty's (HM) forces and who has not completed a minimum of 4 years' reckonable service

Individuals in these groups are not eligible to apply under the domestic violence rules because they were not admitted to the UK, or originally given leave in the UK, as the partner of someone who already has the right of permanent residence in the UK. They have come to the UK as the dependant of someone who does not have settled status in the UK, and who may never have settled status, and should have no expectation of remaining in the UK outside that relationship.

If an applicant submits evidence to show that their relationship has broken down because they have been subjected to domestic violence from someone other than their partner, they can still qualify for settlement under the rule. Evidence must clearly show that the violence has been the reason for the breakdown of the relationship between the applicant and their partner, for example where the person who abuses the applicant is a member of the partner's family and against whom the partner offers no protection.

All evidence submitted must be considered and a conclusion drawn as to whether there is sufficient evidence to demonstrate that, on the balance of probabilities, the breakdown of the relationship was because of domestic violence. Factors to be taken into account when assessing the evidence include:

- timing of the application
- length of relationship before the application is made: the fact that the relationship broke down due

to domestic violence during the very early stages of the probationary period, may not be an adverse factor in reaching a decision to grant indefinite leave to remain (ILR) but in the context of the immigration history as a whole may give rise to suspicion

- previous immigration history, particularly where there is evidence that the applicant has made a number of attempts to secure leave in the UK on different grounds
- length of time since the alleged incident and reasons given for any delay in submitting an application. The fact the couple are still living at the same address when the application is made may not necessarily be taken as an indicator the relationship has not broken down, as this could be due to a number of reasons.

### **Case Study #32**

Mrs JS was granted 10-year partner route spouse visa in UK and she extended her two and half year visa in 2018. After this, her marriage life faced difficulties and she wanted to separate from her husband. While her divorce proceeding were in progress she was referred to TWAN by her family solicitor. After establishing the case, we gathered evidence from social services, police and other sources, to remove her public fund restriction and subsequently making a settlement application as a divorced person. The application was successful and she was granted settlement visa in March 2023.

### **SET (PR)**

SET (PR) form, formally known as SET (P) form, stands for SET (Protection Route) - UK Settlement Application Form Protection Route.

This application is for anyone who is settled in the UK who has indefinite leave to remain with a residence card or as a refugee or a humanitarian protection.

You can apply for this application if you have been in the UK, as a refugee or a humanitarian protection, after 5 years. If you have family members such a partner and/or dependants that you would like to include on this application, the applicant is allowed to do so by including them on the settlement application. If the application is successful, then the applicant will be granted with the indefinite leave to remain in the UK and this will also apply to any

family members that were included in the settlement application. Until 2012 if you have been granted refugee status, then you automatically have PR, now they have changed this to determine such refugees' characters (for example investigating their background e.g. terrorism).

In situations where the applicants left any family members in the country they left from and is now settled in the UK as a refugee or a humanitarian protection, the family member (partner and/or dependants) is allowed to reunite with the applicant in the UK by applying for visa to join the applicant in the UK. Once the application is successful the relevant family member is allowed to remain in the UK for the same period as the applicant.

SET (PR) application may be refused if the applicant has a criminal record or has been imprisoned in the UK. If this is the case and you still need humanitarian protection or are a refugee you can stay in the UK for 3 more years. There are no fees to pay towards this application.

The application can be made online. When making this application the applicant needs to book an appointment with the UKVCAS to provide biometric information (your fingerprints and facial photo).

SET (PR) application should be made 1 month before your permission to stay in the UK expires.

### **Case Study #33**

*The applicant has arrived in the UK as a refugee and was able to obtain the residence card for indefinite leave to remain in the UK for 5 years. After the leave to remain in the UK was due to expire, the applicant requested an extension to remain by applying for the SET (PR) but the application was refused because of the applicant's previous criminal convictions in the UK committed within those 5 years as a refugee. The applicant suffered mental health problems which led him to commit the crimes. However, these mental issues had no bearing on the conviction for commission of those specific offences. Upon the refusal letter the applicant had two options, to either leave the UK or to apply for further leave to remain in UK. A refugee who has committed a criminal offence in chances of re-applying for SET (PR) application and being successful, are unlikely. In this case, the SET (PR) application was successful.*

### **Case Study #34**

*The applicant entered in the UK in November 2014 and was granted a Refugee status by the Home Office. The applicant was issued with both the UK Residence Permit and the Biometric Residence Permit as a refugee in the UK for 5 years on November 2014 to November 2019. Before the Residence Permit was due to expire, the applicant made a SET (PR) application for indefinite leave to remain in the UK. The application was successful because of the applicant's circumstances, as she would have been detained by the Sri Lankan authorities and be mistreated upon return. Therefore, the Home Office considered her circumstances and granted her a Resident Permit for another 5 years. The SET (PR) application was successful.*

### **Case Study #35**

*The client was originally granted refugee status and leave to remain for five years. Ordinarily at the end of the five years clients are granted permanent residence.*

*Instead, he got an extended period of leave to remain for 3 years because of three motor traffic offences. The client is a Sri Lankan national and came to the UK as a refugee without his passport in 2013 and claimed asylum on that same date at the Home Office (fear of persecution from state forces). Before this period of leave expires, he will need to apply for a further period of leave to remain. There is evidence of torture inflicted on the client - he has been treated for PTSD by the NHS.*

## **SET (F)**

This is an application for indefinite leave to remain in the UK as a child under or over the age 18 whose parents or relative are present and settled in the UK.

In order to apply for SET (F) application the child under the age of 18 must prove that they intend to join their parent/s in the UK as long as the parent/s are living in the UK. If however, the child intends to join a relative in the UK such as a grandparent, brother, sister, son or daughter of a British citizen present and settled in the UK, the child must prove that it needs personal care to perform daily tasks.

### **Case Study #36**

The applicant entered the UK with her mother as a child as she was under the age 18 and they both obtained indefinite leave to remain in the UK. However, upon applying for an extension of the ILR the applicant was now over the age of 18 and she made a separate application for herself not including her mother for an extension. The application was refused because she initially entered in the UK with her mother and made an application with her mother at that point of time. The applicant then made another application along with her mother. However, the applicant's mother's application was refused because she failed to provide English Language Certificate as one of the requirements for the extension application, but the applicant's application was granted because she was able to provide this. In this situation, the mother was only granted 2 and half year further extension.

## **OTHER RELEVANT FORMS**

### **Travel Document Application**

This application is made when the applicant wishes to have a British travel document along with the visa and not their national passport. This travel document can then be used to travel outside of the UK.

### **Case Study #37**

*The applicant wants to obtain travel documents as a refugee in the UK. The applicant entered the UK in Jan 2012, as a student with his passport. Over the years, he was able to obtain asylum and Refugee Status issued with biometric permit residence until July 2023. However, the applicant wished to have a British travel card instead of Sri Lankan passport as a travel card and made an application for such. The applicant has now received the travel document.*

### **NTL Application - Application for No Time Limit**

This application is made when the applicant has indefinite leave to remain in the UK and their passport has expired or was lost or damaged and they have to get a new one. Upon renewing or getting a new passport, the applicant needs to also make this application so that the visa stamps of indefinite leave to remain are included on the new passport.

This application can be made in person at the Premium Services Centre or by post. Application fee of around £229 or more if dependants are included and biometric enrolment fee of £19.20 must also be paid.

### **Case Study #38**

*The applicant has applied for No Time Limit application because his passport had expired and the Home Office needed to make updates of his immigration status here in the UK. The application was successful.*

### **TOC - Transfer of Conditions Application**

This application is made by anyone who has a limited indefinite leave to remain in the UK and their personal details have changed or their passport/identity document has been stolen, damaged or expired which requires them to get a new passport. Upon getting a new passport, Transfer of Conditions Application must be made so that the Home Office can update the immigration status with the new details.

This application is around £322 or more if dependants are included on the application. In addition to the application fee, the applicants need to also pay for the Biometric enrolment fee.

When making this application relevant documents need to be provided to support the application.

### **Case Study #39**

*The applicant had limited leave to remain in the UK. The applicant's passport had her father's family name. She was married and obtained her husband's family name, meaning that she needed a new passport. Once the applicant received the new passport, she made a Transfer of Conditions application in which the Home Office updated the immigration status.*

## **4. Entry clearance**

People that have migrated and settled in the UK and can support their family members visit to the UK. This could be a family visit, joining with families, business or employment related or visit or education purpose. Members of migrant community tend to have fresh and

strong connections with the native countries, tending to want to support their family members entering the UK for various reasons.

### **Family reunion**

The refugees who married before they claimed asylum are entitled to bring their family members to the UK as a family reunion. In this category, people do not have to prove they meet income or accommodation requirements. If anyone obtains refugee status, then they can take action to bring their family members as early as possible.

Only pre-existing families qualify for family reunion. The particular rule applicable to a family reunion application will depend upon the relationship of the applicant to the sponsor and the sponsor's status.

If a person marries after they are granted refugee status, then his or her dependants/family members must meet the immigration rule requirements like other normal people sponsoring their family members. The dependent of another person's refugee status will not be eligible to sponsor.

### **Family Reunion Requirements for leave to enter or remain as the partner of a refugee**

1. 352A. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the partner of a person granted refugee status are that:

1. (i) the applicant is the partner of a person who currently has refugee status granted under the Immigration Rules in the United Kingdom; and
2. (ii) the marriage or civil partnership did not take place after the person granted refugee status left the country of their former habitual residence in order to seek asylum or the parties have been living together in a relationship akin to marriage or a civil partnership which has subsisted for two years or more before the person granted refugee status left the country of their former habitual residence in order to seek asylum; and
3. (iii) the relationship existed before the person granted refugee status left the country of their former habitual residence in order to seek asylum; and
4. (iv) the applicant would not be excluded from protection by virtue of paragraph 334(iii) or (iv) of these Rules or Article 1F of the Refugee

Convention if they were to seek asylum in their own right; and

5. (v) each of the parties intends to live permanently with the other as their partner and the relationship is genuine and subsisting
6. (vi) the applicant and their partner must not be within the prohibited degree of relationship; and
7. (vii) if seeking leave to enter, the applicant holds a valid United Kingdom entry clearance for entry in this capacity.

### **Granting family reunion to the partner of a refugee**

1. 352B. Limited leave to enter the United Kingdom as the partner of a person who currently has refugee status may be granted provided that on arrival, a valid passport or other identity document is produced to the Immigration Officer and the applicant has entry clearance for entry in this capacity. Limited leave to remain in the United Kingdom as the partner of a person who currently has refugee status may be granted provided the Secretary of State is satisfied that each of the requirements of paragraph 352A (i) to (vi) are met.
2. 352BA Limited leave to enter the United Kingdom as the unmarried or same-sex partner of a person who currently has refugee status may be granted provided on arrival, a valid passport or other identity document is produced to the Immigration Officer and the applicant has entry clearance for entry in this capacity. Limited leave to remain in the United Kingdom as the unmarried or same sex partner of a person who currently has refugee status may be granted provided the Secretary of State is satisfied that each of the requirements of paragraph 352AA (i) - (vii) are met.

### **Refusing family reunion to the partner of a refugee**

1. 352C. Limited leave to enter the United Kingdom as the partner of a person who currently has refugee status is to be refused if on arrival, a valid passport or other identity document is not produced to the Immigration Officer and the applicant does not have entry clearance for entry in this capacity. Limited leave to remain as the partner of a person who currently has refugee status is to be refused if

the Secretary of State is not satisfied that each of the requirements of paragraph 352A (i) to (vi) are met.

### **Case Study #40**

*In this case, the spouse was a sponsor with refugee status in the UK. Their marriage pre-dated the grant of refugee status. Even with a dependent child who met all the requirements, the Home Office did not approve the application. The sponsor was a highly vulnerable adult due to the severity of his mental illness – the ongoing separation from his wife and child worsened his health. Following representations made by TWAN, they were eventually granted entry clearance.*

### **Entry visa for spouse**

This visa type is for people living in the UK with more than 6 month visa, where they seek entry visa for their spouse residing overseas. Entry visa must be obtained before travel to the UK. Generally, the spouse living in the UK may want to bring their partner and children to UK, and they make an entry visa application as the sponsor – supporting that application by providing necessary documentation. A minimum of £18600 per annum salary scale is required with a marriage certificate, A1 language certificate with other supporting documents.

#### *Requirements for Spouse Entry Visa*

- The applicant should be 18 years or over at the date of the application and they also need to show that their marriage is valid under UK law.
- Sponsor's six month's bank statement
- Sponsor's Salary Slip
- Applicant's Passport Copy and address
- Sponsor's Address proof with tenancy agreement

### **Visit visa (Family)**

There are many types of visit visas available for applicants. It can be employment related, education, tourism, religion, arts, sports and family. In practice we are mostly dealing with family visit visa.

#### *Requirements*

- The individual needs to prove that they will leave the Country at the end of the visit.

- They will be able to support themselves and their dependants during the duration of their stay.
- The individual also has to prove they have enough funds to pay for their return.

### **Business Visit Visa:**

An individual can come and stay in UK for a period of up to 6 months to conduct their business activities; including attending interviews, conferences and seminars, attending trade fairs to promote their business, get work-related training (if you're employed overseas and the training is not available in their home country), carry out site visits and inspections, deliver training or share knowledge on internal projects with UK counterparts of the company they work for.

### **Education Visit Visa:**

An individual can come and stay in UK for a period of up to 6 months for the purpose of study. The student can study at an accredited institution which also includes English language courses, do research relevant to their courses, do an 'elective' - an optional additional placement, if they belong to the medicine background, write an entrance exam, retake an exam or course module, or do a PhD oral exam (a viva) and also take the Objective Structured Clinical Examination (OSCE) test or the Professional and Linguistic Assessment Board (PLAB) test.

### **Sports Visitor Visa**

This type of visa is for an individual who comes to UK as a sports visitor which is now replaced by the international Sportsperson visa.

### **Religious Visit Visa**

This Visa is now replaced by T5 (Temporary Worker) Religious Worker visa.

### **Family Visit visa**

This type of visa is for person who wants to travel to UK to make a family visit. The individual can stay in the UK for a period of 6 months.

### **Case Study #41**

*The sponsor AK wish to apply for family entry visa for his father and he approached us in April 2023.*



*We made the application to obtain 6 months entry visa. This application was considered by the entry clearance officers and it was refused without appeal rights. The refusal stated that “sources of the deposited money (funds to support themselves in the UK) and credits are not demonstrated by the information provided and the Home Office is not satisfied with the financial circumstances and unable to determine the origin of the funds. They were unable to verify the funds have been generated from your employment and genuinely available for your exclusive use in the UK”.*

### **Case Study #42**

A 12-year-old Indian national applied for entry clearance to the UK to settle with her parents. This application was refused. Despite applying as a dependent of her father, on the basis of him being a work permit holder, it was subsequently discovered that he had leave outside of the immigration rules - and therefore did not have leave to remain. Her parents and younger brother were all in the UK, while she lived with aging maternal grandparents in India. There was no immigration rule under which the appellant could have applied, instead the judge looked at Article 8 considerations. It was found to be engaged because she was a minor and any other course of action would be disproportionate. The family as a whole moving back to India would have been perverse given their recent immigration claims and the circumstances were so extraordinary to this case.

### **Rome Treaty Rights**

The Treaty of Rome signed on 25 March 1957 set up the European Economic Community (EEC), bringing together Belgium, Germany, France, Italy, Luxembourg, and the Netherlands to work together towards integration and economic growth through trade.

The Treaties of Rome established a common market based on “four freedoms”, namely the free movement of persons, services, goods, and capital. The common market created the conditions for prosperity and stability for European citizens.

The UK had first applied to join in 1961, but this was vetoed by French President Charles de Gaulle. After de Gaulle had relinquished the French presidency in 1969, the UK made a third and successful application for membership in January 1973. In 2004, the EEA had become the European

Union (EU) and comprised 28 member states. The EU directive of 29 April 2004 (Council regulation 2004/38) gave rights to citizens of the union and their family members to move and reside freely within the territory.

### **European Union Treaty Rights:**

European treaty rights are granted to citizens of the European Union and their family members, as well as the members of the European Economic Area and Switzerland. This EU treaty rights allows free movement of EU citizens the right to live and work in the UK without requiring a visa. Under free movement, EU students paid the same tuition fees as ‘Home’ students and were entitled to the same subsidised tuition fee loans.

### **When did Brexit happen?**

Brexit was the withdrawal of the UK from the EU at 23:00 GMT on 31 January 2020. As of 2020, the UK is the only sovereign country to have left the EU. Britain’s membership of the EU began on 1 January 1973, when it entered the European Communities (EC), the predecessor to the EU.

### **AFTER BREXIT**

Free movement ended on the 31st of December 2020, due to Brexit. This meant that EU citizens live in the UK have to apply for the EU Settlement Scheme in order to continue living in the UK. The deadline for EU Settlement Scheme was on the 30th of June 2020. Newly arriving migrants who are not eligible for the EUSS or entering the UK as visitors, must obtain a visa in one of three main categories: work, family, or study. After BREXIT, academic year 2020/21 was the last year that EU citizens enjoyed benefits as ‘Home’ students. From 1 August 2021, new EU students must apply for a student visa and have generally been subject to the higher international student tuition fees.

### **EU law changes after Brexit:**

EU, EEA, or Swiss national ID card cannot be used to enter the UK from 1 October 2021 unless they

- have settled or pre-settled status under the EU Settlement Scheme
- applied to the EU Settlement Scheme by 30 June 2021 but have not received a decision yet.

- have an EU Settlement Scheme family permit.
- have a frontier worker permit.
- are an S2 Healthcare Visitor
- are a Swiss national and have a Service Provider from Switzerland visa

In these cases, you can continue to use your national ID card to enter the UK until at least 31 December 2025.

### **EU Nationals:**

EU nationals and their families who were living in the UK prior to 31 December 2020 were required to apply to the EU settlement scheme (EUSS) by 30 June 2021 to regularise their legal status in the UK post-Brexit. EU nationals who lived in the UK for more than 5 years were granted with EU settlement and those who lived for less than 5 years were granted with pre-settled status by the Home-office.

### **Pre-settled status:**

Pre-settled status is a grant of limited leave to remain in UK for five years for nationals of EU and their family members who were living in the UK prior to Brexit. Pre-settled status holders can continue to live, work and study in the UK with lawful status after Brexit.

### **European Union Settlement Scheme(EUSS):**

The EU Settlement Scheme (EUSS) is a registration process for EU nationals and their family members who wish to stay in the UK after Brexit. EEA nationals will need to complete the 5 years residence in the UK to apply for settlement. The deadline to apply for the EU Settlement Scheme was 30 June 2021. This deadline does not apply for people who already have pre-settled status and applying for settled status.

*New Changes by the Home office for EU nationals:*

*From September 2023, pre settled status holders who have not yet obtained settled status and are approaching the current expiry date of their pre-settled status, will have their status automatically extended by 2 years. This is to ensure that they won't lose their immigration status because they have not made a second application to the EUSS.*

*However, if they become eligible for settle status, they must make settle status application.*

### **Case Study #43**

*Mrs KN came to this country on April 2020 as an EU dependant and her husband holds settled status in UK. Mrs KN holds a permanent residence card and she approached us to apply for EU settlement scheme as an EU-dependant. Since she met all the requirements under EU settlement scheme we submitted the application on November 2022 with all the supporting documents. Her application is not yet decided and waiting for the decision from home office.*

### **Case Study #44**

*Mrs PR 69 years old lady approached us around seven months ago because her benefit application was refused. We assessed her situation and found out that her husband received all the benefits on his name. After her husband passed away, she made the benefits application as an EU national. While she was not holding EU settled status, we explained to her that to obtain the EU settled status she did meet the requirements (her proof of address was also more than 5 years). Accordingly, we made the EU settled status application, which went under consideration. However, she was unable to pay the rent and became homeless. Without receipt of benefits, it was difficult to find her accommodation as she also didn't have any savings or financial support. We made arrangements in the community for her accommodation, and she relied on food banks and other charities for her day-to-day needs. After seven months, the Home Office refused her settled status application by stating that her current pre-settled status will be automatically extended by 2 years according to their new updates. We lodged a new appeal to the Immigration Tribunal because her settled status entitlement has been denied despite adequate residential proof. Until we obtain settle status she won't qualify for benefit as an EU national. This is yet to be concluded as TWAN awaits a further hearing.*

### **Case Study #45**

*Mr KG approached us for an EU settlement application in March 2022 and we submitted the application under the EU settlement scheme.*

*The Home Office replied in June 2023 stating that he was granted settled status in May 2022 with the*

attachment stating his settled status. Since the Home Office functions through a digitalised online platform, Mr KG did not receive any letter to be informed that he was already granted settled status till June 2023. If the Home Office had taken steps to inform Mr Kg, we wouldn't have needed to make representations on his behalf.

### **EU Citizen's Naturalisation before Brexit:**

EU national will also need to meet certain requirements to be able to naturalise as a British citizen.

To obtain British Citizenship, EEA nationals should hold an indefinite leave to remain (Residence card – blue card) and they should have completed 5 years of residence in the UK. EEA national applicants need to prove that they have lived in the UK within the 5-year period. To prove this, the applicant needs to show their passport with the evidence of residence in the UK, however, if the applicant is not able to do so, other forms of evidence for residence in the UK needs to be provided. Other forms of evidence are like letters from employees or letter from educational institutions etc.

### **EU dependants Family member**

EU dependant family members those who are also EU national passport holder have to obtain pre settle status or settle status to protect their own right. They can apply with main EU family member but must be obtain their pre settle status or settle status on their own name otherwise when they get out of UK and return to UK, they may face difficulty to enter UK after 30/06/2021. Also, their welfare benefits with other entitlement may be denied or restricted.

#### **Case Study #46**

*KK and her two children are residing in UK since September 2012. Her husband is a French EEA national, and he moved to France with KK in 1977. In September 2012, KK and her family relocated to the UK. Her Husband was convicted for Domestic violence in September 2021 and imprisoned for 10 months. After being imprisoned for 10 months, he was freed in January 2022. He then left for Sri Lanka, but when he attempted to fly from Sri Lanka to the UK in October, Colombo airport officials refused to let him check in. As he was a French national, he was sent to France from Colombo. KK and their children approached us for*

*reunion with her husband. Considering his health conditions, he wants to reunite with the family. We are in the process of resolving this case.*

#### **Case Study #47**

*Mrs AV an EU national came to the UK in 2018 and since her leave was about to expire, we applied for EU settlement scheme as she met the requirements of five years residence in UK. She was granted pre-settled status until 2025. We requested the Home Office to reconsider the decision regarding her settled status and sent documents in support of her claim, however they are yet to make a decision on the settled status application.*

### **EU Citizens Naturalisation:**

EU citizens those who wish to get British Citizenship should have either settled status or Indefinite leave to remain in the UK. Once they have completed 12 months in UK with settled status or indefinite leave to remain, they are eligible to apply for British Citizenship. They also need to pay an application fee of £1,330 to apply for British Citizenship, which is non-refundable.

#### **Case Study #48**

Ms AN came to this country in 2016 with her parents from France. Her father was granted with settled status under EU settlement scheme in June 2021 and subsequently she was granted settled status in July 2021. She approached us in December 2022 for her citizenship application and we submitted the application in January 2023. She was granted citizenship in June 2023.

## **6. Nationality/ Citizenship**

UK immigration system is not helping migrant communities with swift integration, because of Home Office practices to delay applicant's citizenship. This practice is in place through various means. The Home Office may neglect renewing the individual's visa at the earliest instance, and instead making them wait approximately 8-9 months to get their visa extensions. When asylum seekers were granted refugee status before 2012, they were given indefinite leave to remain which meant after 1 year they can apply for citizenship. Now refugees given initial 5 year leave to remain are then obliged to make a settlement application at the end of this period. If they are successful, they will obtain

indefinite leave after 6-7 months. During this protracted waiting period, if the applicant committed minor crimes, then it would harm their citizenship application under the good character test. Alternatively, if the particular applicant received county court judgement due to his debt, then it will be used against the applicant to refuse the citizenship application. When the Home Office refuses the citizenship application there are no appeal rights against the decision, but they can ask for judicial review. The applicant's lose around £1200 because they aren't refunded the application fee. While there is a lot of talk about integration at the government and Home Office level, they continue to systematically delay migrants trying to get citizenship.

When the migrant comes to the UK, settling in another country with citizenship of that country is essential for swift immigration, otherwise the immigrant will be treated as a second-class citizen. In recent years, changes in the citizenship law is preventing some members in the community from obtaining the citizenship. This is because the good character test and language requirements are preventing them from becoming a citizen.

This matter must be reviewed when the government is reviewing the immigration laws in the future. Because refusal of the citizenship application is in increase and the applicant needs to be given fair chance to put their argument before independent immigration judges or any other similar body. The only remedy, available is to bring a judicial review against the refusal of the citizenship, but it is not always possible due to financial reasons and having to obtain legal aid certificates for this purpose. Judicial review is possible only if the cases have sufficient merits.

An application for British citizenship is non-refundable, however if the application has been refused then the Home Office refunds a sum of £80.00 in the case of unsuccessful applications.

The applicant must also provide two referees who are not a relative, solicitor or the agent of the applicant, or be related to the other referee or be employed by the Home Office or who have a criminal conviction. If a referee has a criminal conviction, the offence must not have occurred in the last 12 months and the referee must have strong evidence that he or she is of good character. The referees must have known the applicants for more than 3 years, they can give full details of the

knowledge of the applicant and advise the Home Office about why the applicant should not be registered (if that is the case). Also, the referee must hold a British Citizenship passport, be a professional person or over the age of 25.

### **Revocation of British Citizenship:**

Furthermore, when the authorities deny the citizenship for criminal conviction related issues or when they are re-working their individual citizenship it is not in line with the law or the law is misinterpreted.

## **REQUIREMENTS FOR OBTAINING BRITISH CITIZENSHIP**

The following will be considered to obtain naturalisation - the applicant needs to be of good character, any criminal convictions, breaches of immigration law, beneficiaries of the family, indefinite leave to remain, technical absence, children, persons born in the UK since January 1983 and EEA nationals.

It costs £1330 to apply for British Citizenship after obtaining indefinite leave to remain. You must be in the UK for 5 years before the application is received by the Home Office, otherwise the application will be unsuccessful.

**- Good Character:** When making the citizenship application the good character test applies, which involves looking at the person's propriety in the exercise of their rights as a British citizen. Ultimately, the Home Office's discretion to decide whether the applicant is of good character involves consideration of the applicant's circumstances and behaviour; has the applicant committed any criminal offence whilst in the UK?

**- Criminal Convictions:** As mentioned above, the chances of obtaining citizenship when the applicant has a criminal conviction is very low or almost unlikely. However, the Home Office does look at the timing of when the criminal offence has been committed, if the applicant has committed the offence or any other offence for the second time or more or if the applicant, having committed the offence has gone under Rehabilitation according to the Rehabilitation of Offenders Act 1974 and depending on the timing of the offence, the Home Secretary can ignore the conviction. Furthermore, the Home Secretary will ignore the

conviction while considering the Citizenship application after a certain time period. For example, if a person has served 15 years of imprisonment, then they can only apply for citizenship after 30 years.

The Home Secretary also looks at the financial standing of the applicant, for example: considerations of whether or not the applicant makes tax and National Insurance payments? Further, an important consideration is the fact that the Home Secretary will not naturalise an applicant if they are a threat to national security.

**Breaches of immigration laws:** being in breach of immigration law would amount to an applicant who has leave to remain in the UK but it has expired and the applicant failed to renew for further leave to remain in the UK as a result. The applicant would have to meet the 5/7-year period. Discretion will be applied if the breach was outside the applicant's control or an appeal against the immigration has been allowed. Discretion will not be made if the applicant's breach of the immigration law was substantial and deliberate, such breaches could affect the applicants good character requirement.

**- Beneficiaries of the family indefinite leave to remain:** if the applicant is a beneficiary of ILR family in the UK, the applicant will need to wait for 1 year (12 months) from the date the ILR has been granted to then apply for citizenship. The Home Secretary will also apply discretion based on many factors set out under Chapter 18 of the Nationality Staff before naturalising someone as a British Citizen.

Factors set out under Chapter 18 of the Nationality Act:

- 1) An individual who (F1 British Overseas territories citizen) applies for British naturalisation, and has satisfied the Secretary of State by meeting the requirements of schedule 1 for naturalisation, will be granted with British citizenship.
- 2) An individual who (F1 British Overseas territories citizen) applies for British naturalisation, who on the date of application is married to such a citizen(F2 or is the civil partner of such a citizen), will be granted with British citizenship if the Secretary of state is satisfied that the applicant meets the requirements of schedule 1 for naturalisation.

**- Technical Absence:** if the person has been detained or is on temporary admission or unlawfully at large detained or on temporary admission based on residency requirements, this is considered as technical absence, as per immigration law. In this case, for example at the end of the detention the applicant was granted leave to remain, the time spent detained is regarded as residence. If, however, after the detaining period the applicant was deported or removed voluntarily from the UK in that case this is technical absence. The same applies to temporary admission. Not being in the UK during the 5-year period, will lead to the refusal of the application.

**- Children:** if a child, (person under age 18), is unaccompanied or abandoned and has refugee status or was given exceptional leave to remain in the UK, it is unlikely to receive citizenship. If the child does have a parent who has British Citizenship or a parent applying for a British Citizenship, if the particular parent's application is going to be successful, then the child's application will proceed. Otherwise, the child has to qualify on his own merits.

**- Persons born in the UK since January 1983:** this requirement applies to anyone born in the UK since 1983. They will not be considered as a British citizen. When making an application for British citizenship, just because the applicant was born in the UK and born after January 1983 does not mean that the applicant will automatically qualify for British citizenship. A person born in the UK since January 1983 must still meet the same requirements as a non UK born applicant. For anyone granted indefinite leave to remain in the UK, they must provide evidence of their immigration status in the UK to the immigration officer. The applicant must bear in mind that the officer has discretion to refuse to allow a foreign national to enter in the UK if the immigration officer, believes that the applicant would be a threat to the national security in the UK.

#### **Case Study #49**

*Mrs VP came to UK in 2001 and she was granted with Discretionary leave initially. In 2018, she was granted with ILR, and she approached us in August 2022 for her citizenship application, which we submitted in November and was successfully granted by the Home Office in July of the following year.*

## **Case Study #50**

SR arrived in the UK in 2007 and claimed asylum in 2007. He was granted refugee status for 5 years and he was granted indefinite leave to remain in June 2013. In May 2019 we submitted the application for British citizenship. SR didn't receive a decision and thus we followed up with the Home Office. Without a response, in February 2023 we wrote a pre-action letter to the Home office, that if we didn't receive a decision within 2 weeks, we would consider lodging a judicial review challenge against unreasonable delay in deciding our client's citizenship application. Finally, we received a refusal letter from the Home Office, on the merits of which it was not possible for us to get a legal aid certificate to launch a judicial review claim. This case was notable for highlighting the discrepancies in the Home Office's decision making policy. Many refugees at the highest echelons of power in regions like Sri Lanka, involved in armed struggle, are given citizenship. Yet, this case depicted a mere supported being denied. This portrays the lack of significance accorded to the good character test posited by the Home Office. SR was in the UK, contributing as a hardworking member of the local community, yet the Home Office's unjustified emphasis on his past involvement nearly 15 years ago, depicts the superficial nature of the Home Office's consideration of the good character test. Surely, when individuals who commit heinous crimes like murder are allowed to be re-integrated into society and accepted, a man like SR who was merely exercising his freedom of association and rights to political views – such an individual should not be unfairly prejudiced? While it was determined in his asylum claim and refugee status that he did not pose a public threat in the UK, the officer in this application in making a decision which purports the contrary stands to be questioned. Despite approaching several barristers who are not greatly confident with the merits of an administrative review, we would like to draw attention to the very fact that the nature of such an application is such that, upon refusal, there are no appeal rights. TWAN wishes to mobilise relevant stakeholders to seek justice in this case, drawing attention to issues such as how the Home Office process should be the subject of scrutiny and appeal rights should be given to test issues. We are determined to stay actively engaged in this matter.

## **Dual citizenship for Sri Lankan Nationals**

3. An applicant submitting an application for **Resumption under section 19(2)** (A person whose Sri Lankan Citizenship ceased due to the obtaining of citizenship of another country) should submit the following documents in addition to the above documents:

- a) Original foreign Citizenship Certificate
- b) Foreign Passport
- c) A recent Police clearance report from the country of the foreign citizenship not older than 3 months (applicants above 16 only) - [www.acro.police.uk](http://www.acro.police.uk)
- d) Previous Sri Lankan passports (if any)

An applicant submitting an application for Retention under s.19(3)

(A person who desires to obtain citizenship in another country, while intending to retain the citizenship of Sri Lanka) should submit the following documents in addition to the above documents:

- a) Current Sri Lankan passport
- b) Permanent residence visa
- c) A recent Police clearance report from the country of the foreign citizenship not older than 3 months (applicants above 16 only) - [www.acro.police.uk](http://www.acro.police.uk)

Depending on which category the applicant is applying under relevant certificate must be submitted.

- Translated documents - are not considered as originals documents.

- Completed application should be submitted to the Department of Immigration and Emigration or to relevant Sri Lankan Overseas Missions by the applicant

- All documents, except those in English, should be submitted along with an English translation duly certified by the relevant Foreign High Commission/Embassy in the UK.

### **Submitting the application**

- Submit original and a set of photocopies of supporting documents for each application

- Pay a non-refundable application fee of £15 for Dual Citizenship which should be sent with the application.
- Affidavit: if an affidavit is required to sign at the Sri Lankan High Commission, an additional fee of £36 must be paid.

## IMPORTANT FORMS

**Form NQ** - Confirmation of the non-acquisition of British citizenship

This form is for any applicant who has a passport/birth certificate from their home country, but if it is unavailable (e.g it is expired or lost), and the authorities in your home country require confirmation that you have not become a British citizen, you would then need to make this application. It will prove you have not made an application to obtain British citizenship. Upon Home Office approval, the applicant can then renew or make a new passport from their country of birth. When making a new passport, depending on the immigration status the applicant holds in the UK he or she will need to show his new passport/Birth certificate to the Home Office so that they can update their details on their immigration status.

This application is subject to fees which are non-refundable.

**Form RR**- Application for correction of a registration or naturalisation certificate.

This form is used if the person wants to amend the certificate of registration or of naturalisation. For example, change of name.

### Dual Case Study #51

*On these two cases, both applicants entered in the UK as refugees and applied for asylum in the UK. However, the applicants were members of the LTTE in Sri Lanka which led to the refusal of their British citizenship application by the Home Secretary. As for one of the requirements to obtain a British citizenship is of 'good character' test, the Home Secretary concluded that both applicants on their respective cases failed the test because of their involvement in criminal activity in Sri Lanka. Even though there is no definition of what a person of 'good character' is, activities against humanity and the public good would not be considered of good character. These two cases are based on involvement of criminal activities that occurred 10-15 years ago, and the Home Secretary still considered such history in order to make a*

*decision on whether to grant British citizenship on the applicants.*

*These two cases are examples of refusal of nationality on the basis of criminal convictions and failing to meet the test of 'good character'. Even though the applicants were involved and supported the LTTE, it may not imply that they voluntarily associated and supported this group. In certain situations, like these, the applicants are forced due to the LTTE controlling the majority of the area where the applicants live. There is nothing then can do but to follow the orders of the LTTE. Both applicants fled from Sri Lanka upon the arrest of the Sri Lanka authorities and their life were in danger because of the LTTE, has the group thought both applicants had been informant outsiders and acting under mistrust.*

*On the other hand, consideration of the 'good character' test should also take account of the applicants' conduct while residing in the UK. Whilst living in the UK, they have embodied the virtues of model citizens, not committing any crimes or being involved in any criminal groups, proving their good character. This is an area of uncertainty in immigration application processes – the period of consideration for good character tests must be scrutinised by policy makers for law reform.*

*The applicants will appeal, by judicial review, against the decision made by the Home Secretary and prove why they deserve British citizenship based on their 'good character' test here in the UK.*

### Case Study #52

*This case was also decided on one of the requirements set out under the British Nationality Act 1981, the 'good character' test. The applicant made an application to obtain British nationality in June 2016 but when making the application, the applicant failed to mention his previous criminal conviction at the Magistrates Court in June 2008. Consequently, the Home Office concluded that Mr K. N. failed to meet the good character test, refusing his application. The applicant had the option to make another application for citizenship but because his failure to mention past criminal conviction may have adverse consequences on a fresh application. The chances of a successful nationality application would only be 10 years after the date of the refusal letter, as within this period, any applications made would still consider his failure to mention criminal convictions in the first application. Upon refusal of nationality, Mr K. N. is*

allowed to complete the NR application against the Home Offices decision.

### **Case Study #53**

*With respect to the 'good character' test as one of the application requirements, if an applicant did not comply with UK immigration law for a 10-year period before applying, the application would have been refused. Mr S. K. entered in the UK in 2007 without a valid leave to remain which was then granted in 2009. He first applied for citizenship in 2017, but it was refused on account of failure to provide further evidence on how he was supporting himself whilst living in the UK. The applicant eventually made another application, providing all the missing evidence. He was granted British Citizenship in 2018. It should be noted that upon receiving citizenship, applicants automatically lose their refugee status.*

*The applicant made an application to obtain British Citizenship, and it was granted in May 2018.*

## **3. EUROPEAN COMMUNITY LAW**

EEA includes - the EU countries and Iceland, Liechtenstein and Norway.

One of the most welcome changes to immigration law since 1970, was introducing free movement among the European nationals and their families. These positive changes facilitated the reunification of refugee families dispersed through Europe. This freedom of movement facilitated economic growth, benefitting Europe as a whole. However, European Community Law in the UK comes to an end with the aftermath of Brexit. This means that British nationals have to obtain visa or permission to travel in European countries, whilst European nationals have to obtain entry visa before entering the UK. Restrictions have created challenges for our community and businesses. For example, after Brexit, people would have to apply for pre-settled or settled status, that is applicable to EU nationals and non-EU dependent family members.

Although the immigration rules themselves have not changed significantly in this sphere, the spectre of the UK's exit from the EU has had an equivalent effect on many European nationals who are currently exercising Treaty rights in the UK. The rampant uncertainty over the shape and nature of Brexit has fuelled concern and anxiety among the

EU citizens living in the UK, especially regarding their future security.

- This has manifested itself in applications to secure their future in the UK insofar as that is possible. Since the Referendum, many EU nationals have approached TWAN to make residency certificate or permanent residency applications. With effect from March 2019, EU citizens living in the UK can apply for pre-settlement or settlement status. You can apply if you're an EU, EEA or Swiss citizen or, if you are not, but your family member is.
- Those who have already obtained permanent residency and/or have come to the UK more than 5 years ago, have also approached us about citizenship.
- We have also particularly seen an increase in issues over children's education and settlement - for example in relation to university tuition fees.

### **3.1 EEA PR**

This application is for individuals who want to apply for a permanent residence document or permanent residence card and have been living in the UK for 5 years or more. This application is likely to be successful. The only evidence necessary is proof of residence in the UK continuously for 5 years. If the applicant has lived in the UK then left and no longer lived in the UK for more than 2 years then the qualifying period of the applicants stay in UK before the 2 years is lost.

If the application is unsuccessful the applicant has the right of appeal.

There are documents that also need to be submitted with the application, which is evidence of your identity, evidence that you have lived in the UK and evidence of (if any) criminal convictions.

The application can be made online or by downloading the form (by post). There is an application fee of £65 per person.

### **Case Study #54**

The applicants (husband of the sponsor and mother of the sponsor) entered in the UK in 2007/8 as a family member of an EEA national, the sponsor. They both obtained Residence Card around 2009 which expired and was renewed accordingly. Their latest Residence Card expired in January 2020 and



they made an EEA PR application together. This application was refused because Mrs T.K. failed to provide supportive documents - her French travel document expired, accordingly, she has obtained a new Sri Lankan passport. Also, the applicants failed to pay the application fee. As a result, their applications were unsuccessful. Both applicants have been living with their sponsor for over 10 years and have no criminal convictions. Upon the refusal of the application, the applicants did not have the right of appeal but they had the right to make another application.

### **Case Study #55**

The applicant, a father of three, made an application in February 2017 for Residence Card in the UK for his family. Mr A.K and his family have Danish citizenship. He entered the UK with his family in 2004 and obtained a Resident Permit certificate in March 2006. They were advised to apply for Permanent Residence in the UK which his wife received in 2014. When making the application for EEA (PR) as a family, the Home Office advised the applicant to make the application for his daughter (who was under the age of 5) separately, because applicants 5 years old or under are not qualified for the document certifying Permanent Residence. Instead, they are advised to make a Residence Document which was obtained. However, when making the EEA (PR) application for the rest of the family, the application for one of his sons was refused because the Home Office had received information that one of his other children's Danish passport was lost/stolen either in the UK or Denmark. The applicant obtained evidence from the Danish embassy to dispute the Home Office's allegation, proving that his son's passport was not stolen or lost. The Home Office subsequently accepted the evidence and granted the application.

### **Case Study #56**

The applicant has made an application under EEA (PR) to obtain Permanent Residence Card. Mrs T.A. is a French national who entered the UK in May 2012 and was granted a EEA residence permit in 2017. She was advised to apply for EEA (PR) along with her family. Her husband is of Sri Lanka nationality who has applied for EEA (PR) but was refused in 2018 because his travel documents had expired and he had no proof of having a passport - as a result the application was unsuccessful for

the whole family as a joint application. To have a successful application, it is necessary to provide all evidence required to support the application, as lack of evidence or supportive documents leads to the application being refused.

## **3.2 EEA QP**

This is an application for anyone who wants to make a registration certificate to confirm the right to live in the UK as a Qualified Person. When making this application the applicant must provide with their photograph, proof of their identity and nationality and proof of their employment.

This form is subject to a £65 fee application.

### ***EEA (QP) Requirements:***

- Family member of a relevant EEA National
  1. Spouse/civil partner of EEA National/British Citizen or
  2. Child/grandchild of EEA national/British citizen or of their spouse/civil partner and must be aged under 21 or dependent or
  3. Dependent parent/grandparent of EEA National/British citizen or of their spouse/civil partner
- A person who is no longer than family member of a relevant EEA National but you have retained your right of residence under EU law.
- The family member of a British citizen who you lived with in another EEA Member State before returning to the UK

### ***Documents required:***

1. Applicant's Passport / National ID Card / BRP
2. Sponsor's Passport / National Card
3. Sponsor's Permanent Residence Certificate
4. Passport Size Photos - 2 (Applicant's) and 1 (Sponsor's)

Applicant's photos need to have their name written on the back.

Sponsor's photo needs to have their name written on the back

5. Marriage Certificate with Translation
6. Birth Certificate with Translation
7. Employment Record
  - Employer Letter

- Pay Slips for 3 months
  - Bank Statements for 3 months
8. Tenancy Agreement
  9. School / College Letter
  10. Medical / NHS Card / Letters
  11. Fingerprint details (if already given)
  12. Benefit Letters (Child, housing, tax credit or other benefits...)
  13. Address proof (council tax bills, Utilities bills)

## FEE

- Application Fee £65.00 (cheque/ card)
- Admin Fee £50.00

The fee increases by £65 for each family member included.

Chances of having a successful application is increased by adhering to guidelines and sending required current documentation. In case the application is unsuccessful, a fee of £25 will be reimbursed to each applicant.

## 3.3 EEA FM

This form is for anyone who wants to apply for registration certificate if you are EEA national or residence card for non EEA nationals, as a family member of a relevant EEA or Swiss national or a person who no longer is a family member of a relevant EEA or Swiss national but has obtained a right of residence under the EU law or a family member of a British citizen who the applicant lived with in another EEA Member State before returning to the UK ('Surinder Singh' judgment).

What does relevant EEA national mean?

It is an EEA national who presently or in the past lived in the UK as a qualified person or has permanent residence in the UK under the EU regulations.

Qualified person - is a worker, self-employed, self-sufficient, student, or jobseeker.

Family members who can apply?

If the relevant EEA national only has a right to reside in the UK as a student, you must be the:

- spouse or civil partner of the EEA national
- dependent child of the EEA national, or of their spouse/civil partner

In all other cases, you must be either the:

- spouse or civil partner of the relevant EEA national/British citizen
- child or grandchild of the relevant EEA national/British citizen, or of their spouse/civil partner, and be aged under 21 or dependent
- dependent parent or grandparent of the relevant EEA national/British citizen, or of their spouse/civil partner.

When making this application, required evidence of family relationship is required. This can be EEA Family Permit or Residence Card and evidence of cohabitation.

### EEA (FM) Requirements:

- Family member of a relevant EEA national
  - Spouse/civil partner of EEA national/British Citizen or
  - Child/grandchild of EEA national/British citizen or of their spouse/civil partner and must be aged under 21 or dependent or
  - Dependent parent/grandparent of EEA national/British citizen or of their spouse/civil partner
- A person who is no longer a family member of a relevant EEA national but you have retained your right of residence under EU law.
- The family member of a British citizen who you lived with in another EEA Member State before returning to the UK

### Documents required:

1. Applicant's Passport / National ID Card / BRP
2. Sponsor's Passport / National Card
3. Sponsor's Permanent Residence Certificate
4. Passport Size Photos - 2 (Applicant's) and 1 (Sponsor's)

Applicant's photos must have their name written on the back.

Sponsor's photo needs to have their name written on the back

5. Marriage Certificate with Translation
6. Birth Certificate with Translation
7. Employment Record
  - Employer Letter
  - Pay Slips for 3 months
  - Bank Statements for 3 months
8. Tenancy Agreement
9. School / College Letter
10. Medical / NHS Card / Letters
11. Finger print details (if already given)

- 12. Benefit Letters (Child, housing, tax credit or other benefits...)
- 13. Address proof (council tax bills, Utilities bills)

**FEE**

- Application Fee £65.00 (cheque/ card)
- Admin Fee £50.00

The fee increases by £65 for each family member included.

Chances of having this application successful is by sending the current documents. In case the application is unsuccessful, a fee of £25 will be provided to each applicant.

**Case Study #57**

The applicant made an application for Residence Card under the family member of an EEA national using the EEA (FM) form and also made another application, EEA (QP). When applying for EEA(FM), Mrs I. A made an application for herself as an EEA Qualified Person having worked in the UK and also another application for her husband who is a Sri Lankan national, to be able to receive a residence card in the UK. Her husband applied for EEA Family member being a relative to an EEA national (his wife and son are Italian nationals). All their applications have been granted.

**Case Study #58**

The applicant, a Sri Lankan national, made an application for visa to enter the UK, on the basis of her spouse (an Italian national) - an EEA national - living in the UK since July 2018. Mrs T.M. wanted to join her husband in the UK, thus, she applied for visa. Her husband was granted a residency certificate in the UK in October 2019. Mrs T.M.'s husband sponsored his wife as a dependent family member of an EEA national. The visa was granted in January 2020.

**Case Study #59**

Mrs K.S. applied for leave to remain in the UK in January 2018 under the 5-year partner route. However, the Home Office accepted that Mrs K.S. met the requirements under the 10-year partner route as she has a genuine relationship with her partner who is in the UK and is a British Citizen. The Home Office granted Mrs K.S. a period of 30 months limited leave to remain, on the 10 year route, but Mrs K.S. failed to provide further evidence

which was necessary for the application to be successful. This was, proof of English Language A2 qualification. Mrs K.S. graduated in Sri Lanka but she needed to provide evidence that her course was taught or researched in English Language. Because she did not meet the requirements under the immigration law and inability to provide relevant evidence to support the application, it was rejected.

**Case Study #60**

The applicant who was an EEA German national applied for EU Settlement Scheme in February 2020 along with his family members. He already had the UK residence documentation certificate. Upon applying for EU Settlement Scheme, their application was successful.

**Case Study #61**

Mrs U.S. a Sri Lankan national entered the UK in June 2009 with her spouse and her three children. Her husband was already exercising his treaty rights and the family made an EEA (FM) application in 2009. Her family's Registration Certificate was received in November 2009, whilst Mrs U.S. received her residence card in 2014. The Residence Card was due to expire in February 2020. Mrs U.S. was successful in her EEA Residence Card application.

**3.4 EEA EFM**

This form is an application for registration certificate or residence card as extended family member of an EEA national or Swiss national.

What would be considered as an extended family member? An extended family member is a brother, sister, aunt, uncle, nephew, niece, cousin or unmarried partner.

Who is this form for?

This form is for anyone who is an extended family member of an EEA national who is exercising their treaty rights in the UK and the person wants to apply for registration certificate or residence card as a confirmation of your right to reside in the UK.

Before applying for the EEA EFM, the person must first know if they qualify for registration certificate or residence.

### How to apply:

- You must pay the application fee
- You must submit the relevant supporting documents
- (if applicable) give the biometric information, if you are a non- EEA national

### How your application can possibly be rejected:

1. If the application contains errors
2. If the application has missing information - not enough evidence
3. Not paying the application fee

### Consequences of your application being rejected:

- Your fee will be refunded less the administration fee of £25 for each person included in the application:

### For example:

EEA (EFM) application fee = £65

EEA (EFM) application decision = refused/  
unsuccessful

EEA (EFM) refused application refund =  
£65 (application fee) - £25  
(administration fee) = **£40 refund**

### How to pay:

When sending the application and the documents on the envelope, please also include the £65 application fee.

### Documents required to be sent:

- Unless stated, the applicant must send the original documents to support the application
- Photocopies will not be accepted.
- If you don't have the documents then you will have to explain why.
- Consequences of not having the documents: the application will be unlikely to be approved without the original documents

### Supporting Documents:

Documents that are not English or Welsh: the documents must be translated by a qualified professional translator. The qualified professional translator must confirm in writing on the translation:

- that it's a 'true and accurate translation of the original document'
- the date of the translation
- the full name and contact details of the translator or a representative of the translation company.

1. Applicant's Passport / National ID Card / BRP

2. Sponsor's Passport / National Card

If you are not able to provide either your Sponsor or your valid passport/national card/BRP:

- You must explain why and submit alternative evidence relevant to your identity

4. Passport Size Photos - 2 (Applicant's) and 1 (Sponsor's)

Applicant's photos needs to have their name written on the back.

Sponsor's photo needs to have their name written on the back.

5. Proof of immigration history and previous documentation:

- a) Any previous passport or travel documents or national cards since entered in the UK
- b) Proof of current or previous immigration status
- c) Documents or information related to any outstanding appeals or application you may have (if applicable)
- d) If your previous status have been lost or stolen - any police report documents or crime reference number
- e) any other relevant documents or information about your immigration status

6. Proof of your relationship with the sponsor - How can you prove this?

Durable relationship situations (if unmarried partner of an EEA national):

- a) send at least 6 correspondence letters addressed to you and your partner at the same address - you must have lived together for at least 2 years or since last issued with a registration certificate or residence card (if applicable)

If you have not lived together for 2 years:

- Please provide relevant evidence that you have been in contact during the 2 years.

b) the letters must have your name jointly or both of your names

Examples:

| Letter 1 example:   | Letter 2 example:   | Letter 3 example:  |
|---|---|--|
| <b>Mr John and Miss Beth Smith</b><br>8 Corner Street<br>E5 7HH | <b>John Smith and Beth Adler</b><br>8 Corner Street<br>E5 7HH | <b>John Smith</b><br>8 Corner Street<br>E5 7HH<br><br>Or<br><b>Beth Adler</b><br>8 Corner Street<br>E5 7HH |
| Joint names (brother and sister example)                        | Both of your names (grandson and grandmother example)         | Individual Name letter but <u>same address</u>   |

c) the letters must be original and not photocopies

d) date of the letters should be within 2 years

e) letters must be from 3 different sources

Examples:

1. Electricity bill letter from British Gas
2. Water bill letter from Thames Water
3. Broadband bill letter from Virgin Media

If the applicant and the sponsor do not have letters with joint names:

a) send letters with individual names but same address (example 3)

b) 6 letters from applicant + 6 letters from sponsor but same address

Total = 12 letters with same address

If the applicant and the partner lived with relatives or friends, you need to send a letter from your relative or friend confirming that you lived with them.

If the applicant cannot provide at least 6 letters or If the letters are not with both names or

If the letters are not from 2 year period :

- Please give an explanation for the reason why you cannot provide the 6 letters in a separate sheet.

6 evidence letters examples:

- Letters or other documents from government departments or agencies, for example HM Revenue and Customs, Department for Work and Pensions, DVLA, TV Licensing
- Letters or other documents from your GP, a hospital or other local health service about

medical treatments, appointments, home visits or other medical matters

- Bank statements/letters
- Building society savings books/letters
- Council tax bills or statements
- Electricity and/or gas bills or statements
- Water rates bills or statements
- Mortgage statements/agreement
- Tenancy agreement(s)
- Telephone bills or statements
- Photographs of you and your sponsor together – for example, on holiday or at a family celebration
- Evidence of how you have kept in contact with each other during periods in which you have not lived together – for example, letters, printouts of emails or contact via social media, mobile phone bills showing you have contacted each other, printouts of Skype (or similar) logs, etc
- Any other relevant evidence.

7. Evidence financial dependency before and after coming to the UK

a) Money transfer receipts from your sponsor to you (if relevant)

b) Your bank statements showing receipt of money from your sponsor

c) Sponsor's bank statements or other evidence of their financial resources

d) Proof of any outgoings, if relevant – e.g. utility bill, mobile phone bill, medical bills, etc.

8. Sponsor's Employment Record

a) Evidence that sponsor has been working for 5 years:

- pay slips
- employers letter
- P60s
- Bank statements for 3 months
- Etc

b) Evidence that sponsor is self-employed for 5 years:

- Contracts to provide services
- Proof of payment of tax
- National insurance as a self-employed person
- P60s
- Registration with Companies House
- Bank statements, accounts, etc

9. If the applicant and the Sponsor have parental responsibility:

-Child's birth or adoption certificate with Translation  
- Parental order, child arrangements order, residence order, or contact order (if relevant) with Translation

10. Marriage Certificate with Translation

11. Sponsor's Tenancy Agreement or Mortgage Agreement (if relevant)

12. Sponsor's Document Certifying Permanent Residence

13. School / College Letter / Vocational Training

14. Medical / NHS Card / NHS Letters (if any medical condition)

15. If the Sponsor is looking for work - evidence that the sponsor is unemployed and looking for work

16. Sponsor is a family member of another EEA national: evidence of the sponsor's relationship with the EEA national

17. Sponsor's residence for the required period  
Relevant evidence:

- Council tax bills
- Utility bills
- Water rates bills or statements
- Bank or building society statements
- Evidence of registration with a general practitioner (such as their NHS medical card).

18. If the Sponsor is a Qualified Person  
Evidence that the EEA national Sponsor is a Qualified Person

19. Sponsor is self-sufficient  
One or more evidence of the sponsor's financial resources:

- Bank statements covering at least the last 3 months - if you receive bank statements online or electronic format ask your bank to stamp each page with their official stamp
- Building society passbook
- Evidence of receipt of a pension
- Evidence of income from rental property
- Wage slips from lawful employment

- Evidence of income from lawful self-employment
- Any other relevant evidence of the financial resources available to your sponsor.

20. Biometric Information (if necessary)

21. Benefit letters (child, housing, tax credit and other benefits)

What happens if your circumstances are complex and you think your application does not allow you to explain how you qualify?

Write a covering letter with your application clearly explaining your circumstances;

How can you apply?

By post only. You cannot apply online or in person at the Premium Service Centres. Send the documents by Royal Mail Signed For or Special Delivery.

How will the Home Office return your documents?

Your documents will be returned by Royal Mail Signed For Second Class Mail.

How about if you want the Home Office to send your documents by special delivery?

When sending your documents you must also send a prepaid Special Delivery envelope which is large and cover the postage cost.

Postage options: check [www.royalmail.com](http://www.royalmail.com)

Changes of circumstances: If the person has made an application but there has been change of circumstances, please inform the Home Office immediately and provide the new relevant supporting documents.

For non-EEA nationals:

If you are a non-EEA national you must send previously issued biometric documents such as:

- Any biometric residence permits or residence cards (biometric format)

What if you can't submit the above documents?

1. You must explain why;
2. Submit any relevant supporting evidence. Example - police lost property report or crime reference number.

### Special arrangements for medical conditions:

If the applicant has a medical or physical condition you may want special arrangements for your biometric features to be recorded - this means you will need a letter from your treating doctor giving details of the condition or special needs and explaining which arrangements are necessary.

## 3.5 VAF-5

This application is for anyone who a non-EEA national and wants to join a family member who is an EEA or Swiss national. VAF-5 is also known as family permit to join your EU or EEA family member in the UK.

### Who is this application for?

Any person who is outside of the UK, who is a non-EEA national and wants to join a EEA national in the UK.

### VAF-5 Requirements:

The person must be outside of the UK to apply for the family permit

### 2 different family permits:

1. the EU Settlement Scheme family permit
2. the EEA family permit

### Which permit you should apply for?

This depends on your circumstances.

### **EU Settlement Scheme Family Permit**

You can apply for this family permit if you are close to the EEA family member or the Swiss national family member who has a settled status or pre-settled status in the UK under the EU Settlement Scheme.

Definition of close family member - such as a spouse, civil partner, dependent child or dependent parent.

### Requirements:

- you are from outside of the EEA
- you are the 'close' family member of an EEA or Swiss citizen (excluding UK nationals)

- the EEA citizen you're joining is in the UK already or travelling with you to the UK within 6 months of the date of your application

The person you're joining must also either be:

- an EEA or Swiss citizen with 'settled' or 'pre-settled' status under the EU Settlement Scheme
- an Irish citizen
- a British citizen who also has EEA or Swiss citizenship and who lived in the UK as an EEA or Swiss citizen before getting British citizenship

If you cannot apply for this permit apply for the Family Permit.

### How do you qualify as a close family member?

You must be the EEA citizen's spouse or civil partner, or related to them (or to their spouse or civil partner) as their:

- child or grandchild under 21 years old, or dependent child or grandchild of any age
- dependent parent or grandparent

Adopted family members - Family members who are adopted under an adoption order that is recognised in UK law are regarded the same as natural family.

### Documents required:

1. a valid passport
2. evidence of your relationship to your EEA family member,
  - marriage certificate
  - civil partnership certificate
  - birth certificate
3. your EEA family member's EU Settlement Scheme application number, if they have one

You'll also need to provide proof of your dependency if you're:

- a dependent child or grandchild of your EEA family member and you're over 21
- a dependent parent or grandparent of your EEA family member and they are under 18

This application can be made online.

## EEA Family Permit

You can apply for this family permit if you are a close or extended family member of an EEA or Swiss national.

Definition of close or extended family member - for example a brother, sister, aunt, uncle, cousin, nephew or niece.

Who can apply for the EEA Family Permit?

- If you are from outside the EEA;
- You are a 'close' or 'extended' family member of an EEA or Swiss national (excluding UK nationals)

### **Requirements:**

The EEA citizen you're joining must either:

- be in the UK already
- be travelling with you to the UK within 6 months of the date of your application

If they have been in the UK for more than 3 months they must either:

- be a 'qualified person'
- have a permanent residence document sometimes called a 'document certifying permanent residence'

If your family member is not a 'qualified person' and does not have a permanent residence document, please apply for the EU Settlement Family Permit.

### **Documents required:**

- Valid passport
- Evidence of relationship with the EEA national  
e.g. Marriage Certificate, Civil Partnership Certificate, Birth Certificate or proof that you have lived together for 2 years if unmarried
- Your family member's passport or national identity card or a certified copy if the original cannot be provided
- Do you depend on your EEA family member?  
(you need to provide proof of dependency if applicable)

Has your EEA family member been in the UK for more than 3 months?

You must prove they have a permanent residence document or are one of the following:

- working
  - 1) an employment contract
  - 2) pay slips or
  - 3) a letter from an employer
- self-employed
  - 1) contracts
  - 2) invoices or audited accounts with bank statements
  - 3) paying tax
  - 4) National Insurance
- studying
  - 1) a letter from the school, college or university
- financially independent
  - 1) bank statements

### **Is your EEA family member national a student or financially independent?**

- If yes, your family member must have full Health Insurance (comprehensive sickness insurance)
- If no, not applicable.

### **Fee**

Both permits are free.

## 3.6 Settled Status

What is a Settled Status?

After the UK decided to leave the EU in 2017, an EEA national who lived in the UK for more than 5 years was entitled to apply for the EU Settlement Scheme and once the application was approved by the Home Office, the applicant is granted settled status.

Having a settled status under the EU Settlement Scheme means that the applicant who is an EU, EEA or Swiss national will have the right to live and work in the UK after 31st June 2021.

### How can you obtain a settled status?

You can obtain this status if you have lived in the UK for a 5-year period continuously and started living in the UK by 31 December 2020.

Continuous Residence is a term ascribed to living in the UK continuously for a 5-year period. This means that for 5 years in a row you have lived in



the UK, the Channel Islands or the Isle of Man for at least 6 months in any 12 month period. In other words, it has to be 5 consecutive years.

#### Exceptions to Continuous Residence in the UK

- One period of up to 12 months for an important reason  
For example:
  - i) childbirth
  - ii) serious illness
  - iii) study
  - iv) vocational training
  - v) an overseas work posting
- Compulsory military service of any length
- Time you spent abroad as a Crown servant, or as the family member of a Crown servant
- Time you spent abroad in the armed forces, or as the family member of someone in the armed forces

#### Benefits of having a Settled Status as an EU, EEA or Swiss citizen

- 1) Staying in the UK as long as you like;
- 2) Ability to apply for British citizenship (subject to further eligibility criterion);
- 3) You can work in the UK;
- 4) Free access to NHS services;
- 5) Enrol in education or continue studying;
- 6) Access to public funds (such as benefits and pensions, if eligible);
- 7) Travel in and out of the UK;
- 8) If you have children after obtaining settled status, they will automatically become British citizens;

How do you know if you are eligible for British Citizenship?

Please check section **6. Citizenship**

#### **What do you need to do to apply for EU Settlement Scheme - Settled Status?**

##### **Requirements:**

- **Proof of identity:**
  - i) Valid Passport
  - ii) Valid National Identity Card
  - iii) Digital Photo of your face  
Not an EU, EEA or Swiss citizen then send:
    - iv) Valid Passport
    - v) Biometric Residence Card
    - vi) Biometric Residence Permit

If you do not have any of the above proof of identity, what should you do?

You may be able to use other evidence in certain situations if you do not have proof of identity. Please contact the EU Settlement Residence Centre.

How can you apply?

1. **'EU Exit: ID Document Check' app:** scan your proof of identity document and upload your digital photo on this app.

This app is found on Android or iPhone 7 - can you use someone else's phone to scan? Yes. If you don't have a phone to access the app please send the document by post.

If using the app when making the application, there are organizations that can help to scan if you need help. Appointments need to be made, please check 'Where to scan your ID document for the EU Settlement Scheme' on [www.gov.uk](http://www.gov.uk)

OR

2. **By post:**

What can you send by post?

- i. If you cannot use the app on the phone to scan as said above;
- ii. If you have a non- EU or EEA valid passport
- iii. Biometric Residence Permit
- iv. Non-Biometric Residence Card

Send your document by post and upload your digital photo by using the online application.

When will you receive your documents if you sent them by post?

You will receive your documents as they have been scanned and it could be before the decision has been made.

- **Proof of continuous residence in the UK**

If you have a valid permanent residence document, or valid indefinite leave to remain in or enter the UK you don't need proof of residence just show these documents.

- i) National Insurance Number: they can check your residence based on tax and/benefits records;
- ii) Or other documents to prove that you have lived in the UK for a 5-year period continuously;

▪ **Other documents the Home Office might request**

How can you send these documents?  
Submit photos or scans of your documents through online application form instead of by post.

**AFTER OBTAINING SETTLED STATUS**

If you have Settled Status can you spend time outside the UK for a long period of time?

YES:  
If you have settled status, you can spend up to 5 years in a row outside the UK without losing your status.

If you're a Swiss citizen - you and your family members can spend up to 4 years in a row outside the UK without losing your settled status.

Can you bring family members in the UK when you have a settled status?

YES:  
Your close family members can join you in the UK **before 31 December 2020** (or before 31 December 2025 for spouses and civil partners of Swiss citizens). They'll need to apply to the EU Settlement Scheme once they're here.

If you cannot bring your family member under the EU Settlement Scheme, they may still be able to come here in a different way, for example on a family visa.

Can you bring family members to the UK after **31 December 2020**?

If you're a citizen of an EU country, Iceland, Liechtenstein, Norway or Switzerland, you'll be able to bring close family members to the UK after **31 December 2020** if both of the following apply:

- your relationship with them began before 31 December 2020
- you are still in the relationship when they apply to join you

If you're a Swiss citizen, you'll also be able to bring your spouse or civil partner to the UK until 31 December 2025 if both of the following apply:

- your relationship with them began before 31 December 2025
- you are still in the relationship when they apply to join you

**Criminal Convictions**

The Home Office will check if you have criminal convictions if you are 18 or over.

What do the Home Office check while examining criminal history?

They check if you have committed:

- serious crimes
- repeated crimes

Additionally, they determine whether you pose a security threat.

In your applications you will be asked if you have any criminal convictions in the UK or overseas.

You don't need to put in your application if you have the following criminal convictions:

- 1) convictions that do not need to be disclosed ('spent convictions')
- 2) warnings ('cautions')
- 3) alternatives to prosecution, for example speeding fines

Can you get settled status even if you have a criminal conviction?

This will depend on the case by case basis. If you are convicted of minor crimes, you are still eligible for settled or pre-settled status. However, if convicted of other crimes, this will be subject to the merits of the case.

How can you qualify for continuous residence for settled status if you have been in prison?

When a person has been in prison, that time does not count for continuous residence. To qualify for continuous residence in the UK has to be from the day the person was released from prison to be considered for settled status.

**3.7 Pre-Settled Status**

Pre-Settled Status is similar to Settled Status, however, the only difference is, you must not have lived in the UK for a 5-year period. For example, if you are an EU, EEA or Swiss citizen who has lived in the UK for 2 years after the UK declared 'leave of the EU' then you are eligible to apply for EU Settlement Scheme but the status you will receive is Pre-Settled Status.

|                  |  |  |
|------------------|--|--|
| Living in the UK | <b>Settled Status</b><br>5-Year Period | <b>Pre-Settled Status</b><br>Less than 5-Year Period |
|------------------|--|--|

If you are granted in the Pre-Settled Status and you complete a period of 5 years living in the UK, you can then apply for the Settled Status.

If I have Pre- Settled Status can I spend extended periods of time outside the UK?

YES: If you have pre-settled status, you can spend up to 2 years in a row outside the UK without losing your status. You will need to maintain your continuous residence if you want to qualify for settled status.

If you have children after obtaining the Pre-Settled Status, do you need to make another application for them?

If you get pre-settled status, any children born in the UK will be automatically eligible for pre-settled status. They will only be a British citizen if they qualify for it through their other parent.

There are no fees associated with pre-settled or settled status application.

## Children

Making settled or pre-settled applications for children?

Children - age under 21

You can link their application with yours. Meaning that they will have the same status as you.

### Requirements:

- Proof of your relationship with the child
- No need to provide proof of your child's residence unless the Home Office asks

When your child does not have 5-year continuous residence in the UK, what steps should you take?

The child will have pre-settled status. They must start living in the UK from 31 December 2020. If the child is granted pre-settled status, after 5 years continuous period of residence, if the child is away from the UK for more than 28 days, this does not constitute the continuous period, thus it affects the settled status application.

If you don't live in the UK but your child does, you can apply for EU Settlement Scheme for your child as long as you prove that your child is a resident in the UK.

## Non-EU, EEA or Swiss citizen

If you are non-EU, EEA or Swiss citizen you will need to provide proof of your relationship with a EU, EEA or Swiss national to apply for any of the status under the EU Settlement Scheme.

## Irish Citizen

If you are Irish citizen you don't need to apply for settled or pre-settled status. As an Irish citizen with a child who is not a British citizen, your child can get the same status as you, depending on how long you lived in the UK or they can apply for settled or pre-settled status depending on their own residence in the UK.

## DRF1

### **Application for a derivative residence card as a person with a derivative right of residence under EU law -**

You don't need a derivative residence card if you're living in the UK, but it can:

- help you re-enter the country quicker when you return from abroad
- show employers you're allowed to work in the UK
- show relevant authorities (e.g. your local council) that you're allowed to live in the UK

This application form is to be used for either:

- primary carer of a British citizen child or dependent adult (Zambrano)
- primary carer of a self-sufficient EEA national child (Chen)
- child of an EEA national former worker where the child is in education in the UK (Ibrahim/Teixera)
- primary carer of a child of an EEA national former worker where child is in education in the UK (Ibrahim/Teixera)
- dependent child aged under 18 of a primary carer in one of the categories above

Being the primary carer means you're someone's main carer, or you share the responsibility with someone else at least equally, or you are their direct relative or legal guardian. Direct relatives are parents, grandparents, spouses/civil partners, children or grandchildren. The person you care for would have to leave the EEA if you left the UK.

The child (under 18) may apply if the primary carer is eligible for a derivative residence card, and if the parent would otherwise be unable to continue living in the UK if the child were required to leave.

If you're the child of an EEA national who stops working in the UK or leaves the UK, you may be able to get a derivative residence card if you're studying in the UK. The EEA parent must have worked in the UK while the child was being educated in the UK. The child cannot get a UK residence card or registration certificate. The measures are available to prevent disruption to children's education due to Brexit related disruptions.

The primary carer will also be eligible, unless the child continues to be educated in the UK without them.

It costs £65 to apply.

The child can continue living in the UK for as long as you're eligible, for example for as long as the person you're caring for lives in the UK. You cannot however count time spent in the UK with a derivative right of residence towards applying for permanent residence in the UK.

## Leave to enter or remain for work, study or business.

The government has recently called this programme as a managed migration or Point-Based Immigration System for skilled workers. The purpose of this entry visa system is for migrants to come to the UK and fill the vacancies, which British citizens are unable to fill. This is seen by an influx of high-net worth individuals who are allowed to start their business ventures in the UK, investing their money to improve the UK economy. Moreover, universities and other education establishments can fill their classrooms by giving admissions to the overseas students with overseas fees structures. These various individuals may be allowed to extend their leave. Through this system, both individuals who travel from abroad, seeking opportunities in the UK, as well as the UK itself, stand to gain immensely. However, in the last 10 years, most of such vacancies in businesses and educational institutions, were mostly taken up by European nationals. Due to Brexit, we can accordingly expect European nationals' entry vis-à-vis the aforementioned purposes to decrease. To balance this situation the government is

considering re-implementation of the skilled migration programme in a reconstructive way.

## TIER 1 Visas

Tier 1 application applies to highly skilled workers, businesses, and investors. This application's objective was to allow high-net worth, highly skilled and professional business owners who wished to come to the UK, to do so as they will positively contribute to the UK. This is the only tier that does not require a sponsor. Tier 1 has categories that specifically apply to everyone, depending on their role. Previous categories included exceptional talent/general, entrepreneur, investors and graduate entrepreneur. However, following the government's policy changes, the only relevant tier 1 category available is investor, the other categories being replaced by visas.

**Tier 1 Exceptional Talent and General:** This category has been suspended by the government. Applicants are now directed to apply the Global Talent visa if they are a recognized leader (exceptional talent), an emerging leader (exceptional promise) and have a Tier 1 (Exceptional Talent) endorsement. If you already have Tier 1 exceptional talent you can apply for other visas.

Tier 1 (Entrepreneurs): Again, this category has been suspended. If an individual from outside the EEA or Switzerland wants to set up or run a business in the UK, they may apply for the Innovator Visa or Start Up Visa as alternative.

### • **Start-Up Visa**

This visa is for anyone who wants to set up a new business in the UK.

Who can apply for Innovator Visa?

Anyone who:

- is from outside the EEA or Switzerland
- wants to set up a business in the UK
- meets the eligibility requirements:
  - The business or business idea has to be assessed by an approved body
  - prove knowledge of English Language
  - be at least 18 years old
  - prove that you have enough personal savings to support yourself whilst in the UK (around £945 in your account for 90 consecutive days)

How do you get endorsed?

You must prove that your business idea is a new idea and is viable with potential for growth. Please check [www.gov.uk](http://www.gov.uk) for the endorsing bodies list.

You can apply for this visa 3 months before you travel and you should receive the visa within 3 weeks when you apply from outside of the UK.

Documents required:

- Endorsement letter from the approved body
- Valid Passport : also a blank page on the passport for the visa
- Bank Statements for the last 3 months also showing the £945 savings
- English Language qualification letter/certificate
- Evidence of investments funds - if setting a new business
- your tuberculosis test results if you are from a country where you need to take the test

All the documents above need to be translated in English.

When you apply, your fingerprints and photograph will be taken at a visa application centre.

### Applying to SWITCH Visa

If you would like to switch a visa, to the Start-Up Visa, this can be done. You must meet eligibility requirements and be already in the UK holding one of the following visas:

- Tier 1 (Graduate Entrepreneur)
- any Tier 2 visa
- Tier 4 (General) student visa
- Standard Visitor visa - you'll need to get a supporting letter from an endorsing body to prove you're looking for funding

Once obtained Start-Up Visa you can stay in the UK for 2 years.

Decision about your application will be made within 8 weeks and if there are problems with your application, the Home Office will contact you.

### Family Members

As mentioned earlier, benefits of obtaining this visa is bringing your family into the UK. Your family members/dependants can come to the UK and you

come with this visa. However, as of 2023, there are restrictions imposed.

The requirements to bring you family members are:

- The dependants must have a visa if they are from outside of the EEA or Switzerland
- Dependant means: partner, any child under the age 18 and if above 18 they should already be in the UK as a dependant.

- Criminal Record Certificate from adult family members

- Each dependant must have £630 of savings in addition to the £945 you need to support yourself.

If you have children born in the UK whilst you are here with an Innovator Visa, you can apply for permission for them to stay.

Again, all applications can be made online on [www.gov.uk](http://www.gov.uk).

### · Innovator Visa

The Innovator Visa is for someone who is more experienced businessperson who is seeking to establish a business in the UK.

Who can apply for Innovator Visa?

Anyone who:

- Is from outside the EEA or Switzerland
- Wants to set up or run a business in the UK
- meets the eligibility requirements

- prove knowledge of English Language
- be at least 18 years old
- prove that you have enough personal savings to support yourself whilst in the UK (around £945 in your account for 90 consecutive days)
- if you want to form a team with the other innovator each one of you must have at least £50,000 in investment funds - total £100,000

- your business or business idea has been endorsed by an approved body

- and has at least £50,000 in investment funds to set up a new business if you have not yet started your business or it has not been endorsed already

## How do you get endorsed?

You must prove that your business idea is a new idea and is viable with potential for growth. Please check [www.gov.uk](http://www.gov.uk) for the endorsing bodies list.

You can apply for this visa 3 months before you travel and you should receive the visa within 3 weeks when you apply from outside of the UK.

## Documents required

- Endorsement letter from the approved body
- Valid Passport : also a blank page on the passport for the visa
- Bank Statements for the last 3 months also showing the £945 savings
- English Language qualification letter/certificate
- Evidence of investments funds - if setting a new business
- your tuberculosis test results if you are from a country where you need to take the test

All the documents above need to be translated in English.

When you apply your fingerprints and photograph will be taken at a visa application centre.

## Fees

The cost of this visa depends on your situation and where you apply from. You are also subject to pay for Healthcare Surcharge fee.

| Who you're applying for                   | Apply outside the UK | Extend or switch in the UK |
|---|----------------------|----------------------------|
| You                                       | £610                 | £704                       |
| You - as a citizen of Turkey or Macedonia | £555                 | £649                       |
| All dependants                            | £610 each person     | £704 each person           |

Once the person has obtained the Innovator Visa, they can stay up to 3 years in the UK and if the visa expires they can extend the visa for another 3 years. The person may also be able to apply for settlement if he or she has been in the UK for 3 years.

If the business owner's endorsement is withdrawn then the visa may be cut short - you can apply for a new endorsement if you want to stay longer.

What are the benefits and things you should not do if you obtain this visa?

| Benefits  | Things you should not do  |
|---|---|
| <ul style="list-style-type: none"> <li>• set up a business or several businesses</li> <li>• work for your business - this includes being employed as a director, or self-employed as a member of a business partnership</li> <li>• bring family members with you</li> </ul> | <ul style="list-style-type: none"> <li>• do any work outside your business, for example work where you're employed by another business</li> <li>• work as a doctor or dentist in training</li> <li>• work as a professional sportsperson, for example a sports coach</li> <li>• get public funds</li> </ul> |

## Applying to EXTEND or SWITCH Visa

If you would like to **extend** the visa it is possible to do so if you are still running a business in the UK or want to set up a new one and you meet the same eligibility requirements.

If you would like to **switch** a visa to the Innovator Visa this can be done so. You must meet eligibility requirements set out above and you must already been in the UK holding one of the following visas:

- Start-up visa
- Tier 1 (Graduate Entrepreneur)
- Tier 1 (Entrepreneur)
- any Tier 2 visa
- or Standard Visitor visa - if you came to the UK to get funding and had a supporting letter from an endorsing body

If you have none of the visas above, you cannot switch to the Innovator Visa unless you leave the UK and make your application from abroad with another visa that you may have.

Upon switching your current visa to the Innovator Visa, you can stay in the UK for up to 3 years and there are no limits for extending the visa.

For both application, extend or switch application, can be done online. You should receive your visa extension or switch results within 8 weeks, so it is best to make an application before your visa expires. You will be requested for the biometric information and supporting documents and if there are any problems with your application you will be contacted by the Home Office.

## Family Members

As shown above one of the benefits of obtaining this visa is bringing your family in the UK. You can

come to the UK under this visa and you can bring family members/dependants too.

The requirements to bring you family members are:

- The dependants must have a visa if they are from outside of the EEA or Switzerland

- Dependant means: partner, any child under the age 18 and if above 18 they should already be in the UK as a dependant.

- Criminal Record Certificate from adult family members.

- Each dependant must have £630 of savings in addition to the £945 you need to support yourself.

If you have children born in the UK whilst you are here with an Innovator Visa, you can apply for permission for them to stay.

Do note that all applications can be made online on [www.gov.uk](http://www.gov.uk).

If you already have a Tier 1 entrepreneur visa you can apply for other visas. You can apply for indefinite leave to remain, extend current visa or for family members to join you.

**Tier 1 Investor:** This is the only category under tier 1 that is still operating. To apply for this visa you must be from outside of the EEA or Switzerland, wanting to invest in the UK with £2million or more and meet other eligible requirements. The more you invest the faster you can apply for indefinite leave to remain. The earliest one can settle in the UK is 2 years, with the chance of citizenship in 5 years. The £2 million must be in your control, as cash in a bank or investment, you cannot rely on the value of a property or real estate. Prior to 2014, it was possible to rely on real estate and properties in order to show proof of £2 million but that is no longer the case.

**Tier 1 Graduate Entrepreneur:** This category has also been replaced. You can apply for a start-up visa.

## TIER 2 Visas

Tier 2 applications allow employers in the UK to recruit people from outside the EEA or Switzerland to fill a particular vacancy that cannot be filled by a British or EEA worker.

### Eligibility

To be eligible for Tier 2 the applicant must have:

- 1) A skilled job offer
- 2) Certificate of sponsorship from an organisation that is a licensed sponsor in the UK

Tier 2 visa, like Tier 1, is divided into 4 sub-categories such as: Tier 2 general work visa, Minister of Religion, Sports person and Intra-Company Transfer.

**Tier 2 General Work Visa:** With this visa you can stay a maximum of 5 years in the UK and once it has expired you can apply for an extension for another 5 years as long as the person has not breached their stay of 5 years. This application is subject to other fees and other requirements such as providing relevant documents when entering in the UK, proving a certain competency in the English language and providing other important information to support the application.

### Tier 2 Minister of Religion

You can apply for a Tier 2 (Minister of Religion) visa if:

- you've been offered a job within a faith community (for example as a minister of religion, missionary, or member of a religious order) in the UK
- you're from outside the European Economic Area (EEA) and Switzerland
- you meet the other eligibility requirements

### Getting sponsored

You need to be employed by a licensed sponsor to apply to live in the UK.

Your sponsor checks that you can do the job they're hiring you for and if it qualifies you for a visa. They'll assign you a certificate of sponsorship to prove this.

They must also give you other information you need when you apply, for example how much you'll be paid.

### How long it will take

You can apply for a visa up to 3 months before the day you're due to start work in the UK. This date is listed on your certificate of sponsorship.

You should get a decision on your visa within 3 weeks when you apply from outside the UK.

Find out about paying for a faster decision.

### Fees

How much you pay for a Tier 2 (Minister of Religion) visa depends on where you are.

| Who you're applying for                  | Apply (outside the UK) | Extend or switch (in the UK) |
|--|------------------------|------------------------------|
| You                                      | £610                   | £704                         |
| You (if you're from Turkey or Macedonia) | £555                   | £649                         |
| All dependants                           | £610 each person       | £704 each person             |

### Healthcare surcharge

You'll also have to pay the healthcare surcharge as part of your application. Check how much you'll have to pay before you apply.

### If you're applying to extend or switch in the UK

You'll need to pay £19.20 to have your biometric information (fingerprints and a photo) taken.

### Get a faster decision on your application

If you're applying to extend or switch in the UK you can pay an extra £500 for the priority service to get a decision within 5 working days.

You can pay an extra £800 for the super priority service to get a decision:

- by the end of the next working day after providing your biometric information if your appointment is on a weekday
- 2 working days after providing your biometric information if your appointment is at the weekend

Working days are Monday to Friday, not including bank holidays.

Once you've got your decision letter, your biometric residence permit will take up to 10 working days to arrive.

### How long you can stay

You can come to the UK with a Tier 2 (Minister of Religion) visa for a maximum of up to 3 years and 1 month, or the time given on your certificate of sponsorship plus 1 month, whichever is shorter.

You can apply to extend your stay.

You must apply before your visa expires.

You can start your stay up to 14 days before the start date on your certificate of sponsorship.

### Example

Your start date is 15 July - the earliest you can start your stay is 1 July.

### What you can and cannot do

You can:

- work for your sponsor in the job described in your certificate of sponsorship
- do a second job - in certain circumstances
- do voluntary work
- study as long as it does not interfere with the job you're sponsored for
- travel abroad and return to the UK
- bring family members ('dependants') with you

You cannot:

- own more than 10% of your sponsor's shares (unless you earn more than £159,600 a year)
- get public funds

### Tier 2 Sports person

You can apply for a Tier 2 (Sports person) visa if all of the following apply:

- you're an elite sports person or qualified coach, who's recognised by your sport's governing body as being at the highest level of your profession internationally
- your sport's governing body is endorsing your application
- your employment will develop your sport in the UK at the highest level
- you're from outside the European Economic Area (EEA) and Switzerland
- you meet the other eligibility requirements

### Tier 2 Intra-Company Transfer

You can apply for a Tier 2 (Intra-company Transfer) visa if:

- your overseas employer has offered you a role in a UK branch of the organisation
- you're from outside the European Economic Area (EEA) and Switzerland
- you meet the other eligibility requirements



## TIER 3 Visas

Tier 3 workers/migrants are people coming to the UK to work in temporary low skilled jobs. It has replaced the old Seasonal Agricultural Workers Scheme and Sectors Based Scheme.

See <https://www.totaljobs.com/advice/tier-3-workers> for more information.

## TIER 4 (Students) Visas

Changes in immigration law, specifically vis-à-vis tier 4 visas, has resulted in a drastic change in the influx of foreign students (particularly in developed states). Compared to 5 years ago where such systems were heavily used by migrant students and their dependants, changes in the law and university fee systems, has had a major influence. In the past, students who completed their education had the option to either they find a job in the UK and settle here by bringing their immediate family members, or return to their native country. Subject to restrictions, while students were entitled to work to contribute towards their university tuition and living expenses, the increase in university fees over the years has had the effect of preventing students the same incentive to pursue an education in the UK. Without the same degree of flexibility, prospective students now have to pay higher fees for their university courses meaning that the ability to sustain themselves while studying is inordinately harder. These changes have resulted in international students choosing to study in countries other than the UK.

You can apply for a Tier 4 (General) student visa to study in the UK if you're 16 or over and you:

- have been offered a place on a course
- can speak, read, write and understand English
- have enough money to support yourself and pay for your course - the amount will vary depending on your circumstances
- are from a country that's not in the European Economic Area (EEA) or Switzerland
- meet the other eligibility requirements

There will be no change to the rights and status of EU citizens currently living in the UK until 30 June 2021. You and your family can apply to the EU Settlement Scheme to continue living in the UK.

## When to apply

The earliest you can apply for a visa is 3 months before you start your course.

You'll usually get a decision on your visa within 3 weeks.

Find out about paying for a faster decision.

### Fees

It costs £348 to apply for this visa from outside the UK.

You must pay £348 per person for any dependants.

### Healthcare surcharge

You'll also have to pay the healthcare surcharge as part of your application. Check how much you'll have to pay before you apply.

### How long you can stay

You can arrive in the UK before your course starts:

- up to 1 week before, if your course lasts 6 months or less
- up to 1 month before, if your course lasts more than 6 months

How long you can stay depends on the kind of course you're doing and what study you've already completed.

### What you can and cannot do

You can:

- study
- work as a student union sabbatical officer
- apply from inside or outside the UK
- apply to extend your stay
- work in most jobs - depending on what level your course is and what kind of sponsor you have

You cannot:

- get public funds
- work in certain jobs, for example professional sportsperson or sports coach
- study at an academy or a local authority-funded school (also known as a maintained school)

You may be able to bring in family members (dependants).

Read the full guidance to find out how long you might be able to stay and what you can and cannot do.

## STUDENT DEPENDANTS

### Family members

Your family members (dependants) might be able to apply to join or remain with you in the UK if they're

from outside the European Economic Area (EEA) or Switzerland.

A dependant is either:

- your husband, wife or civil partner
- your unmarried or same-sex partner
- your child under 18 years old - including if they were born in the UK during your stay

You can apply to bring a dependant to the UK if you're:

- sponsored by a higher education institution on a course at level 7 on the Ofqual register or above that lasts 9 months or more
- a new government-sponsored student on a course that lasts longer than 6 months
- a Doctorate Extension Scheme student

## Savings

You must show that your dependants can be supported while they're in the UK.

Each dependant must have a certain amount of money available to them - this is in addition to the money you must have to support yourself.

The amount of money you need depends on:

- the length of your course
- where you're studying in the UK
- whether you've finished a UK course or are currently studying

You must have proof you have the money, and that it's been in your bank account or your dependant's bank account for at least 28 days before you or they apply.

The money does not need to be available 28 days in advance if it's from a student loan or official sponsor, but you do need to provide confirmation of when it'll be available.

Read the detailed guidance for dependants for how much money you'll need and the full list of documents you need to provide.

## Dependants applying outside the UK

Your family members must apply online.

They'll need to have their fingerprints and photograph taken at a visa application centre (to get a biometric residence permit) as part of their application.

They'll have to collect their biometric residence permit within 10 days of when they said they'd arrive

in the UK.

They may be able to get their visa faster or other services depending on what country they're in - check with the visa application centre.

## Dependants applying in the UK

You should apply for your dependants' visas at the same time as you extend or switch your own visa.

If you cannot do it at the same time, your dependants can apply to extend or switch their visas at a later date.

They cannot apply in the UK as dependants if they already have a Standard Visitor visa.

## Fees

Each person will need to pay:

- £475 for the visa
- the healthcare surcharge - check how much they'll have to pay
- £19.20 to have their biometric information (fingerprints and a photo) taken

If they want to get a decision more quickly than the standard 8 weeks, they can pay £500 for the priority service to get a decision within 5 working days.

They can pay £800 for the super priority service to get a decision:

- by the end of the next working day after providing their biometric information if their appointment is on a weekday
- 2 working days after providing their biometric information if their appointment is at the weekend

Working days are Monday to Friday, not including bank holidays.

Apply

Your family members must apply online if they're your:

- partner
- child

## Providing biometric information and supporting documents

When you apply, you'll be asked to make an appointment at a UK Visa and Citizenship Application Services (UKVCAS) service point to provide your biometric information (your fingerprints and a photo).

You'll also need to submit your supporting documents. You can:

- upload them into the online service
- have them scanned at your UKVCAS appointment

You must not travel outside of the UK, Ireland, the Channel Islands or the Isle of Man until you get a decision. Your application will be withdrawn if you do.

### **Children born in the UK**

If you have children while you're in the UK, you can apply online.

You must do this if you want to travel in and out of the UK with your child.

### **WORKING IN THE UK WITH TIER 4 VISA**

If you are participating in a course at or above NQF 6/QCF 6/SCQF 9 which typically means a Bachelors degree program or higher at a UK higher education institution you are allowed to:

- work for up to 20 hours per week during term time;
- work full-time during vacations;
- do a work placement as part of your course;
- work as a postgraduate doctor or dentist on a recognised Foundation Programme; and
- work as a student union sabbatical officer for up to 2 years.

However, if you are participating in a course below this level at a UK higher education institution, you are allowed to:

- work for up to 10 hours per week during term time;
- work full-time during vacations;
- do a work placement as part of your course; and
- work as a student union sabbatical officer for up to 2 years.

You are not allowed to work in the UK if you are on a course at any level with an education provider that is not a UK higher education institution or a publicly funded further education college.

Please note that you must not be filling a full-time permanent role. Also you must not be self-employed, employed as a doctor in training (except on a recognised Foundation Programme) or as a professional sports person, coach or entertainer.

You can work full-time during vacations, within the above limits. If your course is completed and you have applied to remain in the UK under another visa in the points-based system, before your existing permission to stay expires, you are allowed to work full-time until your application is decided.

### **Dependents/Spouse**

Your spouse may work in the UK if the grant of leave is for more than 12 months. If your visa was granted for a period of less than 12 months or you are participating in a course of study below degree level, your spouse will not be allowed to work in the UK. To be granted entry clearance as a spouse, civil partner, unmarried or same sex partner, you must both be aged 18 or older.

From 4 July 2011, you cannot bring your dependants to the UK unless you are:

- sponsored by a higher education institution on a course at or above an NQF level 7 or in a master's degree program or higher which lasts 12 months or more; or
- a new government-sponsored student following a course which lasts longer than 6 months

If you are interested in studying in the UK, USA, Canada, New Zealand, or Australia, our WorkPermit.com immigration advisors can help. If you complete our student immigration enquiry form one of our representatives will be happy to contact you to let you know about the immigration process and possible universities in the country of your choice

### **Can Tier 4 dependants work or study or change visa category in the UK?**

Your dependents will be able to work full-time without restrictions (including self-employment), but will not be able to take employment as a doctor or dentist in training.

Dependants of students are also allowed to undertake full or part time study but in most cases will be required to pay overseas fees.

Students' dependants are not able to switch into other categories of visa whilst in the UK and may need to return to their country of normal residence if they wish to change their status from dependant (for example from dependant to Tier 4 or Tier 2).

Can you stay and work in the UK after completing your studies?

<https://www.internationalstudents.cam.ac.uk/immigration/work-visas-after-study>

You will be able to work on your Tier 4 visa after you have completed your course until the expiry of your visa but there are certain restrictions.

The UK government has announced a two-year post-study work visa for international students. Arrangements, including the timeframe for implementation, have not yet been confirmed. See more at:

<https://www.ukcisa.org.uk/Information—Advice/Working/Tier-4-work#layer-6645>

## TIER 5 (Temporary Workers) Visas

This new points-based scheme will be implemented from January 2021.

Points table:

| Characteristics  | Tradeable Points |
|--|------------------|
| Offer of job by approved sponsor                                   | No 20            |
| Job at appropriate skill level                                     | No 20            |
| Speaks English at required level                                   | No 10            |
| Salary of £20,480 (minimum) – £23,039                              | Yes 0            |
| Salary of £23,040 – £25,599  | Yes 10           |
| Salary of £25,600 or above   | Yes 20           |
| Job in a shortage occupation (as designated by the MAC)            | Yes 20           |
| Education qualification: PhD in subject relevant to the job        | Yes 10           |
| Education qualification: PhD in a STEM subject relevant to the job | Yes 20           |

Community  
Legal Service



Quality Mark



TAMIL WELFARE ASSOCIATION (NEWHAM) UK.

602 Romford Road, Manor Park, London E12 5AF

Tel: 020 - 8478 0577 Fax: 020 - 8514 6790 e-mail: [twan@twan.org.uk](mailto:twan@twan.org.uk)

Charity No 1047487

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

Company No 2962857



We are specialist service providers with legal aid contract for asylum to serve London and South East England.

“Currently we are unable to take up legal work in the following areas due to funding difficulty - Social Welfare Benefits, Housing and Accommodation, Health Care Matters, Detention Matters and Employment and Education.”

1. Legal aid funding is available only for asylum matters.
2. Immigration cases (non-asylum)– can be carried out on non-profit basis and priority will be given to clients from Greater London.
3. தடுப்புக் காவல் விடயங்கள் (Detention Matters)
4. சமூக நல மானியம்(Social Welfare Benefits)
5. தங்குமிட/வீடு வசதிகள் (Housing and Accommodation)
6. உடல்/மன நல விடயங்கள் (Healthcare Matters)
7. வேலை/கல்வி வாய்ப்புக்கள் (Employment and Education)

இதுபோன்று நமது சமூகம் எதிர் நோக்கும் மேலும் பல விடயங்களில் உதவி வழங்கும் எமது தமிழர் நலன்புரி சங்கம் (TWN) வார நாட்களில் திங்கள் முதல் வெள்ளி வரை காலை 9.00-17.00 வரை சேவையினை வழங்கி வரவதுடன், (உங்கள் தேவை அவசரம் என கருதினால்) அவசர உதவிகளுக்கு நேரில் வருவொருக்கான சேவையினையும் திங்கள் முதல் வியாழன் வரை காலை 9.00-11.00 வரை வழங்கி, மற்றும் தொலைபேசி ஆலோசனைகள் திங்கள் முதல் வியாழன் வரை பிற்பகல் 14.00-16.00 வரை வழங்கி வருவதையும் அறியத்தருகிறோம்.

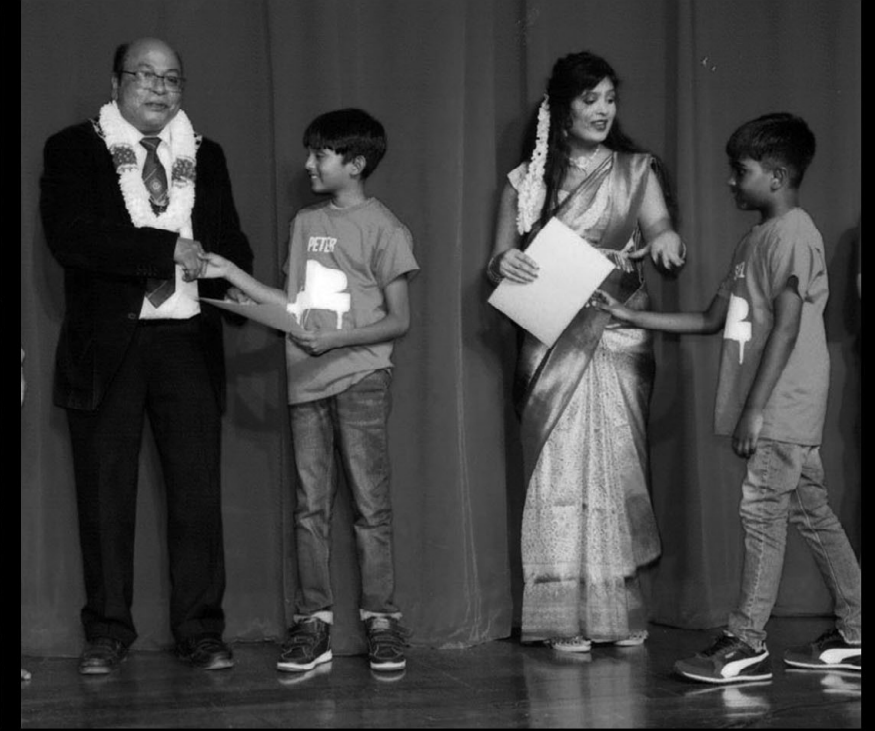
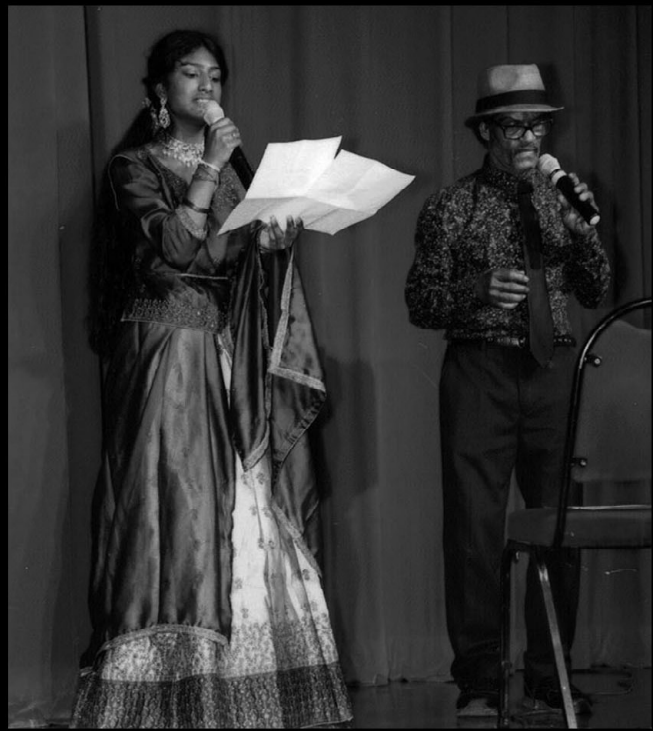
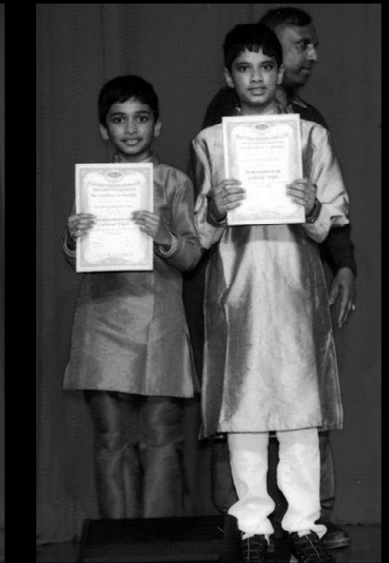
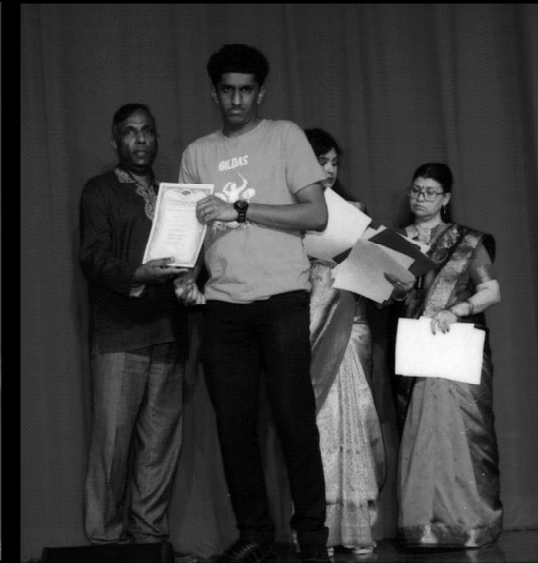
**குறிப்பு: நேரில் சந்திப்பதற்கு முன் அனுமதி பெறவும்.**

**\* Please make an appointment prior to your visit \***



# TWAN Cultural Evening 2023





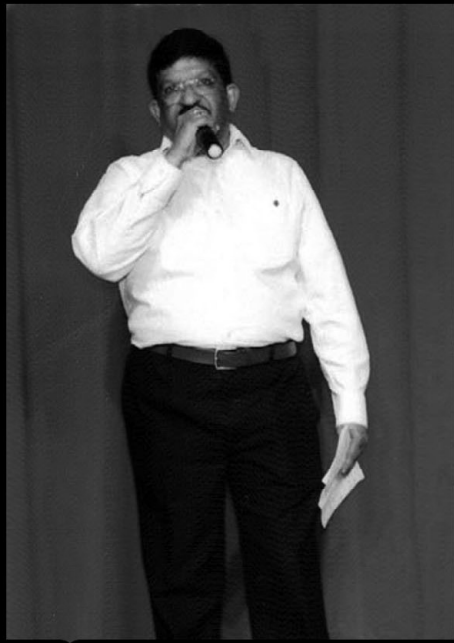
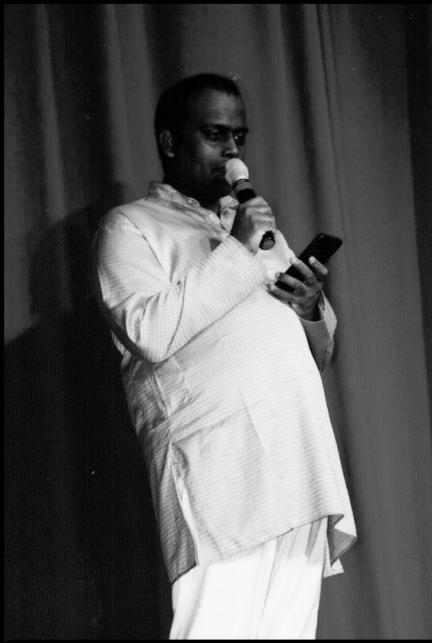






ASSOCIATION  
தமிழர் நலன்புரி சங்கம் நியூ







தமிழர் நலன்புர் சங்கம் ந்யூயார்க் ஐ.ஐ.



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- ★ Bollywood Dance: Mr. Nag.Balan

Further Details:

**Please Contact: 0208 4780 577**

**Tamil Welfare Association (Newham) UK**



## **Acknowledgement**

To our members, staffs, volunteers, users, and well-wishers to complete another year of successful service delivery. Without all your cooperation we cannot achieve this task.

### **Moreover, we express our deep gratitude to our funders**

- National Lottery Board / Reaching Community Programme
- London Legal Support Trust and Greater London Authority
- AB Charitable Trust
- Trust For London
- Legal Aid Agency
- London Community Foundation
- Clothworker's Foundation

Continuous support of our local MP Mr Stephen Timms, Redbridge Mayor Mr Thavathuray Jeyaranjan, our Advanced Accounting Practice and other politician and media who support our aim.

The affiliated organisation ILPA, JCWI, Advised UK, LAPG, EIN, NCVO, OISC, The Bar Standard Board, Recognising Excellence, and other officials.

We wish to thank, and we are also proud partners of various consortiums such as Tamil Community Partnership,

BAN network, and RAMFEL, administration of Redbridge Town Hall  
our sponsors are

Henshou Isshinryu karate Academy,  
Lakshmi Jewellers, Platinum Launch, Cake and Bakes,  
Sayer Moore Solicitors, Manor Park Community Centre,  
Glory Community Accountancy project,

the Barristers who represent our client cases in particularly one pump called Goldsmith Chamber, Kings Street Chambers, One Pump Court and others.

We are grateful for the ongoing support of these organisations.

Once again, we thank the members of our community and users of our services for working effectively and strongly with us under all circumstances.



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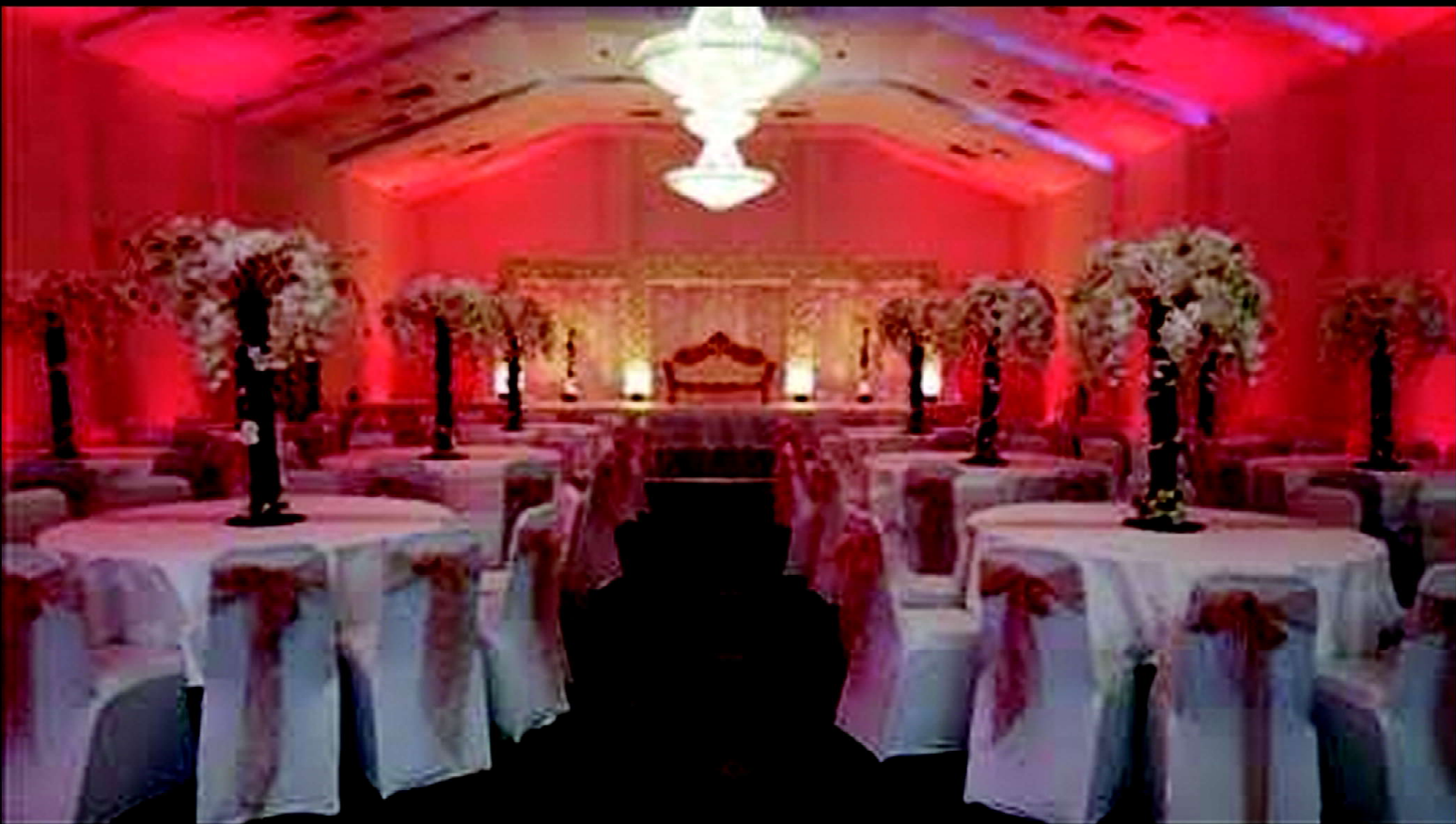
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