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30 November 2021

Our ref: [REDACTED]
Your ref:

Dear Sir/Madam,

Ms [REDACTED], Bangladesh, DOB [REDACTED]

We write to submit an application for exceptional funding on behalf of our above client.

We enclose the following documents:

1. CIV ECF1, dated 8 November 2021
2. CW1, dated 8 November 2021
3. Evidence of client's Universal Credit

Application Background

Ms [REDACTED] is a national of Bangladesh born on [REDACTED]. She entered the UK on a student visa on 14 January 2010. She subsequently extended her student visa but became an overstayer when her second student visa expired.

In February or March 2010, Ms [REDACTED] met her husband, [REDACTED], and subsequently entered into a relationship with him. Ms [REDACTED] and her husband married in an Islamic ceremony on [REDACTED]. Their marriage was registered with the UK civil authorities on [REDACTED].

When Ms [REDACTED] became pregnant in 2014, her husband became increasingly controlling of her behaviour. He would permit her to leave the house only for limited purposes. Despite the couple being married and Ms [REDACTED] wishing to make an application for leave to remain as a spouse, for a long time her husband did not permit her to do so.

Ms [REDACTED] gave birth to a daughter, [REDACTED], on [REDACTED]. [REDACTED] has indefinite leave to remain in the UK.

In around May 2019, Ms [REDACTED] submitted an application for leave to remain as a spouse under the Immigration Rules.

From around 2018 or 2019, Ms [REDACTED] husband began to behave in an increasingly violent manner towards her. The violence culminated in a serious incident on 20th November 2019

that was reported to the police. Following this incident, Ms [REDACTED] separated from her husband and he was directed to leave the family home.

We were previously instructed to make an application on Ms [REDACTED] behalf to regularise her status in the UK. As she did not meet the requirements for settlement as a victim of domestic violence as a result of not previously having had leave a spouse, it was considered that an application should be made on form FLR(FP) with representations as to why she should be granted ILR as a victim of domestic violence.

On [REDACTED] 2021 Ms [REDACTED] was granted 2.5 years leave to remain outside the rules. There was no determination of whether or not she should be given ILR. We sent a pre-action letter challenging the failure to grant ILR. In response the SSHD stated that no application for ILR had been made. It is clear from the SSHD's position that it is instead appropriate for our client to make a SET(DV) application despite not meeting all the requirements and then if refused challenge that decision.

It is our position that the current policy excluding victims of domestic violence who have not had leave to remain/enter as a spouse is unlawful and challengeable. We intend to do that in this application. It is also submitted it is clearly in our client's interest to have ILR. She is a victim of domestic violence, she is sole carer for her young daughter who has ILR, she has limited financial income/support therefore to make repeated applications for further leave for 10 years prior to settlement is going to be a huge financial burden as well as denying her the security that settlement provides.

We intend to assist our client in making a SET(DV) application with fee waiver.

Additional Information in relation to pages 4 - 5 of CIV ECF1

1. The issues at stake are of utmost importance for both the applicant and her daughter. They concern an application for settlement, which will provide our client and her daughter with certainty in relation to her status and future in the UK.
2. The procedure for this application is extremely complex. As detailed above our client does not meet the necessary immigration rules, but this is arguably unlawful. This application will require careful consideration of the relevant caselaw and policy and preparation of detailed representations. The matter is further complicated by the need to make a concurrent fee waiver application. It is submitted that the reasonable person without legal training and relevant experience would be extremely unlikely to be in a position to prepare and present an adequate application addressing all the relevant issues in this case.
3. Our client has neither the means nor experience to represent herself in this matter which involves complex legal arguments that are not within her knowledge. The legal complexity of this case is such that it will require experienced legal representatives with knowledge of the Home Office policy and caselaw. It will require careful and detailed preparation.

Conclusion

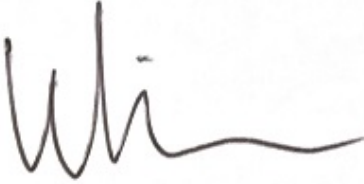
To conclude it is submitted that, having regard to all the circumstances of the case, this is one that qualifies for a grant of Exceptional Funding.

Communication about this application

If the basis of the application or another preliminary matter is not clear this may be a simple matter to resolve. In such an instance, please call or email the fee-earner concerned to try to resolve this to avoid the need to re-submit the application in its entirety if this is not necessary.

If you require further information, please do not hesitate to contact us.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'W. H.', with a long horizontal flourish extending to the right.

Wilson Solicitors LLP