



Project 17

Unit 1.3 Resource for London
356 Holloway Road, N7 6PA

07963 509 044

abi.brunswick@project17.org.uk
www.project17.org.uk

Charity no: 1152621

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Dear Mayor Glanville

The provision of support under s.17 of the Children Act 1989 Hackney Council

Project 17 is an organisation working to reduce destitution among migrant families with no access to mainstream benefits of social housing because of their immigration status (No Recourse to Public Funds or 'NRPF'). In particular, we try to improve the implementation of support from local authorities under section 17 of the Children Act 1989 (s.17).

We are heartened by your interest in this area, and pleased that you are meeting with organisations supporting this particularly marginalised group. As a charity specialising in support options for families with no recourse to public funds, we are writing to provide some information on our experiences in Hackney. We would, of course, welcome the opportunity to speak with you about this in more detail.

We work closely with several Hackney-based organisations and provide monthly outreach services at Hackney Migrant Centre. Regrettably, our service-users have experienced numerous problems when trying to access support from the Overstaying Families Intervention Team in Hackney. These experiences are explained in some detail below. We also outline broader concerns relating to a failure to provide information.

On aggregate, we believe these examples reflect systemic problems with the implementation of support for families with children in need. Our clients' experiences show an unacceptable failure to treat childhood destitution as a safeguarding concern, and pose unnecessary risks to child welfare.

Our clients' experiences

Between January 2015 and the time of writing, Project 17 assisted 26 NRPF families trying to access support under s.17 from Hackney Council. Our records show that 15 of these clients (61%) experienced some form of 'gatekeeping' when initially trying to access support under s. 17:

- a) **Seven of our clients were told that no help was available and were refused a Child in Need assessment.** The legal threshold for accessing an assessment is that the child *might* be 'in need' (e.g. their health or development *might* be affected or impaired). A family presenting as homeless should have no difficulty in meeting this threshold.

- b) **Two of our clients were told to return to their country of origin.** Whilst in many limited circumstances be appropriate for a local authority to advise or assist a family to return to their country of origin, this advice should follow a Child in Need assessment and a Human Rights assessment to establish whether there would be a breach of ECHR on return. Advising return prior to these assessments amount to wrongful 'gatekeeping'
- c) **Four of our clients experienced aggression, disrespect or intimidation from members of staff.**
- d) **One family which was in both Hackney's area and another borough's area was refused an assessment.** A child who is within the area of more than one local authority is lawfully entitled to request assistance from either authority.

In addition to the above problems at the point of presentation, our clients have experienced the following issues:

- e) **Nine of our clients were refused urgently needed interim support during assessment. In many of these cases, families were told that it was not possible to provide with support prior to the completion of the assessment.** The *Working Together to Safeguard Children 2015* statutory guidance states that where urgent needs are identified, social workers should not wait until the assessment is completed to commission services (see para 61). Homelessness or destitution is clearly an urgent need.
- f) **Two of our clients with disabled children were left in severely inadequate accommodation.** In both these cases, the accommodation arrangements exacerbated the difficulties experienced by the disabled children and their families.
- g) **Eight of our clients received very low rates of financial subsistence under section 17 and were unable to meet their and their children's basic needs. One of our clients, who was in receipt of no other income and had three dependent children, was provided with only £20 a week.** In many of these cases subsistence rates were below Asylum Support rates under section 95 Immigration and Asylum Act 1999. This is the minimum the Home Office says is required to avoid a breach of ECHR, and caselaw suggests it is the minimum a local authority is required to pay under s.17.
- h) **Two of our clients in urgent need financial support were refused any financial subsistence.** S.17(6) makes it clear that a local authority has the power to provide cash support.
- i) **Two of our clients' assessments far exceeded 45 working days.** This is the maximum time limit for completing assessments allowed for by the *Working Together Guidance* (see para 60).
- j) **Three of our clients were provided with inadequate accommodation.** Accommodation should be suitable to meet the assessed needs of the child.

We are also concerned about the following policies that Hackney appears to operate under:

- k) **Hackney has consistently refused to provide letters confirming s.17 support for clients applying to the Home Office to remove the NRPF condition on their leave to remain.** As these letters are specifically requested by the Home Office and typically form part of the application, it seems counter-productive for Hackney to refuse them. Indeed, it appears to be in everyone's interests to make the applications as strong as possible: if granted, the family will have access mainstream services and no longer need to rely on s.17.
- l) **On 01/09/16, Amy Murtagh (Project 17) spoke with Gladys Kalibbala in relation to a Project 17 client. Ms Kalibbala explained to Ms Murtagh that OFIT normally gives 28 days notice of a decision to terminate support to those with leave to remain, but to those without leave, the team will give only a few days notice.** This policy would seem to be discriminatory. If this is a policy, it raises serious equalities concerns. If not, we appear to have been given misinformation.

Freedom of Information Act requests:

We have tried to better understand the ways in which Hackney Council implements s.17 support through FOI requests. The responses we have received, however, contradictory and often appear incomplete:

Ref: FOI16-0125-08418

Clare Jennings submitted an FOI request on 25/01/16. Ms Jennings acted independently submitting the requests, but shared her results with us.

Ms Jennings requested 'A copy of any internal guidance and/or procedures or other written materials that relates to the conduct of assessments and/or the provision of accommodation and subsistence support to families with No Recourse to Public Funds ("NRPF") pursuant to s. 17 of the Children Act 1989 or adults with NRPF pursuant to the Care Act 2014 that is currently in operation.'

Ms Jennings did not receive a response until 06/07/16 (which is well outside stipulated timeframes). The response stated: 'LBH does not hold any internal guidance or procedures on NRPF however LBH's staff manual reflects the Care Act'. We a) do not see how this can possibly be true, and b) if it is true, we are extremely concerned about the Council's ability to fulfil its legal duties in a manner that is fair, reasonable and rational.

Ms Jennings replied to Mr Mann on 10/08/16 to request that he check again with the relevant team to ascertain whether there were any internal guidance documents related to the conduct of s.17 assessments and stated her reasons for believing that these documents did exist (see Appendix 1).

Mr Mann replied stating that Ms Jennings' request was being treated as an internal review. However, despite follow-up emails, Ms Jennings has received no reply to date.

In response to whether the Council provided a set rate of subsistence to families with No Recourse to Public Funds ("NRPF") pursuant to s. 17 of the Children Act 1989 or adults with NRPF pursuant to the Care Act 2014 that is currently in operation, Mr Mann said that a set rate of subsistence was provided and that it was 'calculated using the Home Office Guidelines but are (*sic*) currently under review'. Given the information above concerning the very low rates of support our clients receive (see g) above), we believe that Hackney is not following its own policy.

Ref: FOI16-0524-09568

On 23/06/16 Eve Dickson submitted an FOI request on behalf of Project 17.

Ms Dickson asked: 'Do you have any guidance or policy documents or other such written material in respect of undertaking assessments and providing support pursuant to section 17 of the Children Act 1989 – to families with no recourse to public funds (including documents specific to this issue, or of more general application but covering this issue)?'.

On 13/07/16 Ms Dickson received a late response stating: 'Not specific to NRPF as all assessments are undertaken under s.17. Copy of the assessment protocol attached.'

The assessment protocol, however, had not been attached. Ms Dickson wrote to Hackney Council to request a copy of this protocol and received a reply to ask her whether she would like her response to be considered for an internal review on 26/07/16. Ms Dickson agreed for the FOI to be internally reviewed. Despite follow-up emails and a complaint to the ICO, Ms Dickson has still received no reply from Hackney Council.

Ms Dickson also asked whether a set rate of financial subsistence was paid to families with no recourse to public funds. Hackney Council's response stated that there was no set rate of subsistence. This information, however, would seem to contradict the response that Ms Jennings's received only 7 days earlier (see Appendix 2).

The above failures to disclose information are concerning from a data protection perspective. Moreover, they are indicative of underlying problems with the implementation of support.

As an organisation working to reduce destitution, we are extremely concerned by Hackney's failure to properly and fairly assess and support families with no recourse to public funds. Our evidence suggests that families are being wrongly turned away and refused support. Ultimately, this means children are facing homelessness and destitution in Hackney.

If you would like more information, or would like to discuss our work in Hackney further, please do not hesitate to contact me on 07963 509044 or abi.brunswick@project17.org.uk.

Yours sincerely

Abi Brunswick

Director