(Local Authority details)

Date

**URGENT - Referral for support under section 17 of the Children Act 1989**

Children’s details:

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| **Name** | **DOB** | **Sex** | **Nationality** |
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**Parents/main carer’s details:**

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| --- | --- | --- | --- |
| **Name** | **DOB** | **Relationship** | **Nationality** |
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If pregnant, give details here:

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| Who is pregnant, estimated due date |

**Contact details:**

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| **Address** | **Telephone number/s** | **Email address** |
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**Current housing position**

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**Address History**

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| **Address** | **Dates** | **Type of accommodation** | **Reason for leaving** |
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**Financial information**

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| Current support, expenses. |

**Immigration status**

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| **Delete as appropriate:**  **LLR NRPF:**  X has limited leave to remain with a ‘no recourse to public funds’ restriction, valid until XXXX. This leave is granted on the basis of X’s relationship to Y and Z who is/are British citizens. As X has leave to remain, she is not subject to the exclusions to accessing support under section 17 set out in schedule 3 of the Nationality, Immigration and Asylum Act 2002. She therefore should not be subject to a Human Rights assessment when you are assessing the family’s eligibility for support under section 17.  **LLR NRPF, renewal pending:**  X has made an in-time application to renew his/her leave to remain, on the basis of XXXX  X’s application to extend his/her leave to remain in the UK was submitted on DATE, before his/her previous grant of leave expired on DATE.  Section 3C of the Immigration Act 1971 allows a person who has submitted an in-time application to extend their stay in the UK. They will not become an overstayer while their application remains outstanding, and the conditions which applied during their previous grant of leave continue.  As X has leave to remain, she is not subject to the exclusions to accessing support under section 17 set out in schedule 3 of the Nationality, Immigration and Asylum Act 2002. She therefore should not be subject to a Human Rights assessment when you are assessing the family’s eligibility for support under section 17.  **EEA nationals with pre-settled status:**  X has pre-settled status under the EU Settlement Scheme. EEA nationals in this position are no longer subject to the exclusions to accessing support under section 17 set out in schedule 3 of the Nationality, Immigration and Asylum Act 2002. X therefore should not be subject to a Human Rights assessment when you are assessing the family’s eligibility for support under section 17.  **Non-EEA nationals with pre-settled status:**  X has pre-settled status under the EU Settlement Scheme. This is on the basis of XXXX  As X has leave to remain, she is not subject to the exclusions to accessing support under section 17 set out in schedule 3 of the Nationality, Immigration and Asylum Act 2002. She therefore should not be subject to a Human Rights assessment when you are assessing the family’s eligibility for support under section 17.  **Outstanding EUSS application:**  X has made an application to the EU Settlement Scheme, which is currently pending with the Home Office. This application is on the basis of XXXX  Applicants to the EUSS have temporary protection conferred by the Withdrawal Agreement which enables them to remain in the UK pending the conclusion of their EUSS application. Article 18(3) of the Withdrawal Agreement provides for temporary protections for all applicants, including late applicants.  As X has this temporary protection, she is not subject to the exclusions to accessing support under section 17 set out in schedule 3 of the Nationality, Immigration and Asylum Act 2002. She therefore should not be subject to a Human Rights assessment when you are assessing the family’s eligibility for support under section 17.  **Outstanding human rights application:**  X has an outstanding human rights application on the basis of XXXX  As you are aware, *R (Clue) v Birmingham City Council* [2011] 1 WLR 99 confirmed that where an applicant has an outstanding immigration matter that is not hopeless or abusive, support under section 17 should not be withheld where doing so would have the effect of requiring the person to leave the UK and forfeit the immigration claim. The family are waiting for their immigration application to be decided. As such, the local authority is not in a position to discharge its duty by advising the family to return to country of origin.  Although X is excluded from support under section 17 by schedule 3 of the Nationality, Immigration and Asylum Act 2002, a failure to provide support would breach the family’s rights under the European Convention of Human Rights because the family would be forced into street homelessness, which is likely to amount to inhuman and degrading treatment contrary to Article 3 ECHR (as per *R (Limbuela and Others) v Secretary of State for the Home Department* [2005] UKHL 66, 3 November 2005).  **No application:**  The family have been advised by XXXX that they have grounds to make an immigration application based on private and family life, as the children have lived in the UK for more than seven years. They are in the process of preparing this application and hope to submit it very soon.  Although X has no leave to remain and is excluded from support under section 17 by schedule 3 of the Nationality, Immigration and Asylum Act 2002, a failure to provide support would breach the family’s rights under the European Convention of Human Rights because the family would be forced into street homelessness, which is likely to amount to inhuman and degrading treatment contrary to Article 3 ECHR (as per *R (Limbuela and Others) v Secretary of State for the Home Department* [2005] UKHL 66, 3 November 2005). Furthermore, as the family are imminently about to submit an immigration application, your department should not discharge its duty to the family by advising return to country of origin. |

**Health or additional support needs**

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**Other Agency Involvement**

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| Eg. GP, charities, school |

**Concerns regarding the welfare of the child**

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| I am very concerned about X and Y welfare. The family are no longer able to stay in their current accommodation/do not have sufficient income to meet their basic needs and are required to leave by **date**. I note that under section 17 of the Children Act 1989 you have a duty to safeguard and promote the welfare of children within your area who are in need, and I believe that X and Y are ‘in need’ because they are at imminent risk of street homelessness. I also believe that their current level of financial support is inadequate to meet their essential needs. |

**Action Requested**

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| Please conduct a child in need assessment as a matter of urgency.  It is my view that in accordance with the duty imposed by section 17 of the Children Act 1989, a lawful assessment would conclude that financial support and accommodation should be provided.  If you are unable to complete the assessment by **date,** please provide interim support on a ‘without prejudice’ basis while you are carrying out the assessment to avoid the family being forced into street homelessness. |

Supporting Evidence provided with referral

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| List here:   * Form of Authority |

Please confirm receipt of this referral and your proposed course of action/any updates on progress to the referrer, YOUR NAME, at EMAIL or on PHONE NUMBER.

Thank you very much for your assistance.