

How judicial review helped two year old Zia go to nursery

Zia was a lively, chatty two-year-old. Her family did not have much money, but they wanted their daughter to have a good start in life. However, unlike other children of families in this situation, Zia was not entitled to a free place at nursery. This was because her parents, Aysha and Rohan, were fighting to stay in the UK. They had been threatened and attacked in their home country and feared for their lives if they were forced to return. Their first application to stay had been refused. They were waiting for the outcome of the new application that they were making with the help of the Law Centre. The rules on free nursery education excluded children of families in this position.

With so little money, it was incredibly difficult for Zia's parents to give her the kinds of experiences other children had. She didn't get to mix with other children and spent a lot of time on her own with her parents. When Aysha first heard about free nursery places that are paid for by the Council she was both relieved and excited. She thought this would be the answer.

It was even more important for Zia to have time in the nursery! It was important that she got to go outside and play with the other children,

especially when things at home were so stressful.

Zia had some settling-in visits to a local nursery, and loved it. But then the nursery staff gave Aysha the devastating news. The Council had realised that Zia did not qualify for funding for the placement because the regulations excluded families like hers. She had to leave.

Aysha mentioned what had happened to her immigration caseworker at the Law Centre who asked his colleague in the Public Law Team whether there was anything that could be done. It seemed so unfair. He was right. The Human Rights Act says that children have a right not to be discriminated against in their educational opportunities. But if Aysha was going to stand any chance of getting a nursery place for Zia she would have to challenge the Government's regulations. There was no point in arguing with the Council. They were just applying the rules. Aysha felt that she had no choice.

I had to do it for Zia, she needs to be with other children, even though I was worried about our immigration application happening at the same time, which was very stressful, I had to do it for Zia.

At first, the Department for Education refused to change the rules, so the Law Centre started the judicial review claim on Zia's behalf in the courts. The court decided that the case was strong enough for a full court hearing. At that point, the Department agreed that they would provide a nursery place for all two-year-old children who were in the situation that Zia had been in, and so there was no need for the court proceedings to continue

The action taken by Zia's family means that many two-year-old children who had previously been excluded from early nursery education should no longer lose out.

Aysha found the process easier than she expected because the Law Centre did the paperwork "and the hard stuff".

It was so important because going to nursery has made her happy and has helped her in everything. She is able to read. When she is getting picked up, she doesn't want to leave!

Aysha and Rohan's applications to stay in the UK has now been successful and they are looking forward to a life in safety together as a family.