

No Recourse to Public Funds (NRPF) Procedure

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Introduction

This document has been produced to assist practitioners working with children, young people and families to assess the appropriate support and necessary actions they must take where they have no recourse to public funds in Walsall, to ensure that interventions are legally robust, fair and consistent.

What is NRPF?

No Recourse to Public Funds (NRPF) is an immigration condition restricting access to public funds, including many mainstream benefits such as welfare and housing. Despite the NRPF condition, families and individuals may have a right to financial support (accommodation and subsistence) from children's services to avoid destitution or because of complex health needs. In these cases, the local authority has a duty to support the accommodation and subsistence costs of residents with NRPF. These cases are often complex to identify, assess and resolve and unpredictable in terms of how much they cost and how long they last. The council receives no funding to support this work and there is a panel that meets every two months in order to manage how much Walsall children's services spends and to highlight any issues that need to be raised with the Home Office through NRPF Connect to make sure that immigration queries are resolved quickly.

Guidance on NRPF can be accessed from: www.nrpfnetwork.org.uk

"No Recourse to Public Funds" applies to people from abroad who are subject to immigration control in the UK and has no entitlement to welfare benefits or public housing. These restrictions are set out in s115, IAA 1999.

If a person is NRPF and subject to immigration control they would be unable to support themselves through work or other means causing destitution.

'No recourse to public funds' may be stamped on the visa of a foreign national living in the UK. If this is not stamped on the visa, it should be assumed that the person does have access to public funds.

The kinds of families who could fall under the NRPF condition, including: -

Visa over stayers - Asylum seekers or refused asylum seeker

People on spousal or student visas

People with Leave to Remain with NRPF stamped on their visa

EEA nationals (who have been refused access to mainstream benefits)

All local authorities in the UK have a duty to advise people who have NRPF on their personal circumstances and to assist them in finding a solution to their destitution. In limited circumstances, councils can provide care services including accommodation and financial support if the eligibility criteria are met.

Applicable Legislation

NRPF is a complex area of the law, subject to constant updates both through legislation and developments in case law.

The most relevant pieces of legislation are listed below.

However, this is a dynamic and ever changing area.

Up to date information, guidance on when they apply and training materials can be found at www.nrpfnetwork.org.uk

- Legislation Which provides S17 Children's Act (1989) A general duty to safeguard and promote the welfare of children in need, including where relevant, promoting the upbringing of such children by their families
- S21 National Assistance Act (1948)
- Children (leaving care) Act (2000) Local authority duties in respect of former relevant children
- Immigration and Asylum Act (1999)
- Home Office support to current asylum seekers (Section 95) and short term support to refused asylum seekers (Section 4)
- Schedule 3 of the Nationality, Immigration and Asylum Act (2002) Exclusions to Local Authority support for EEA nationals and those who are unlawfully present
- Article 3 and Article 8 of the European Convention of Human Rights Exceptions to Schedule 3 exclusions on the basis of human rights to not be subject to torture or degrading treatment and the right to respect for private and family life
- Community Treaty Rights The rights of EEA nationals and their family members to enter and live in the UK as long as they are a worker, job-seeker, self employed.

What are public funds?

Section 115 Immigration and Asylum Act 1999 excludes “a person subject to immigration control” from being entitled to receive the following welfare benefits:

Attendance allowance Carer’s allowance
Child benefit Child tax credit
Council tax benefit Council tax reduction
Disability living allowance
Discretionary welfare payment made by a local authority
Domestic rate relief (Northern Ireland)
Housing benefit Income-based jobseeker’s allowance
Income-related employment & support allowance
Income support Personal independence payment
Severe disablement allowance
Social fund payment
State pension credit Universal credit
Working tax credit

Section 117 Immigration and Asylum Act 1999 excludes “a person subject to immigration control” from being entitled to access an allocation of local authority housing and local authority homelessness assistance. Nationals of a country with a reciprocal arrangement with the UK may be able to claim certain benefits that are public funds under section 115 Immigration Asylum Act 1999 despite having the NRPF condition.

The following services are not classed as public funds under section 115 Immigration Asylum Act 1999, and therefore adults subject to immigration control may be able to access the following, if they satisfy any relevant eligibility criteria (for which immigration status may be relevant):

Social services care and support
NHS treatment
Student grants and loans
Legal aid
Certain work-related benefits including: Contribution based Jobseeker’s Allowance
Incapacity Benefit
Retirement pension
Widow’s benefit Bereavement benefit,
Maternity allowance,

Guardian's allowance,
Statutory maternity pay.

Referral/Assessment

Referrals may come through various routes, such as:

- A charity/third Sector/voluntary organisation;
- Local Authority/Trust services, e.g. Youth Offending Service;
- A GP Practice or Health Visitor;
- Housing (Local Authority/Trust or housing association);
- Adult Social Care;
- The Police;
- A legal agency – Court, CAFCASS, Prison etc.
- An MP;
- A school

There is a two stage assessment process to determine whether the local authority has a duty to support the family:

- An eligibility test; and
- An assessment of need (family assessment).

Eligibility Test

To satisfy the eligibility test it is necessary to establish three conditions:

- The need arose within Walsall Council area and
- The family are destitute;
- Whether the family have a link with another Local Authority/Trust providing them with assistance? If so the family should be referred to them;
- Whether the family can provide evidence of living in Walsall? For example a child who attends a Walsall school, their address on utility bills.
- Establish whether the family have income or savings? Ask to be shown bank statements for the last 6 months and discuss how they have supported themselves financially to date;
- Explore whether others provide the family with help? Ask about their family, friends and acquaintances;
- Do the family have any items of value they could sell?
- Can the family be supported by other organisations?

Families with no recourse to public funds presenting as destitute will commonly seek provision of accommodation costs and subsistence under s17 CA 1989.

The assessment of need will take the form of a Child and Family Assessment. This should establish whether any child of the family is a child in need and what support networks are available to the family as an alternative to support under s17, Children's act 1989.

As part of the assessment social workers will be required to ask the family for relevant documentation related to immigration status (such as passport or other Home Office identification such as visa, biometric card or any document related to their current stay). To confirm homelessness (such as a letter confirming notice to quit existing accommodation). To provide evidence of destitution (such as previous bank statements, paypal account).

The assessment should come to a clear view, agreed by the Team Manager, about whether the children require provision as children in need. The completed child and family assessment should be completed, discussed and shared with the family and parents comments recorded.

The family will be reviewed within Child In Need or Child Protection procedures in order to assess and understand if there are any remaining Child in Need or child protection issues

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- The Local Authority cannot provide support to a family with an existing claim for asylum. In this situation the Home Office has a duty to provide support (s95 IAA 1999). Guidance about accessing support from the Home Office is available on Tel: 0808800630 (Mon-Fri 8.30 am – 7.00 pm; Multiple languages available);
- If a family with children have failed in their asylum claim then support may be provided under s17 Children's act 1989.
- To determine whether the restrictions on providing support under s17 CA1989 apply, it will be necessary to establish the family's immigration status. It may be necessary to check with UK Visas and Immigration (previously the UK Border Agency):

Human Rights Assessment

A human rights assessment will consider whether there are any legal or practical obstacles to the family returning to their country of origin. If there are no such obstacles, the denial of support by the Local Authority/Trust does not constitute a breach of human rights.

There are substantial restrictions on the support that can be provided under s17, Children Act 1989 to families that are unlawfully in the UK and to families granted asylum by another state in the EEA. Consequently provision of support to families is dependent on a Human Rights Assessment.

The Human Rights Assessment provides an opportunity to explore all of the options of a family who have requested support under s17 Children's act 1989. The relevant questions are:

- Whether there are any legal or practical barriers to the family returning to the parent's country of origin; and, if not:
- Whether returning the family to the parent's country of origin would constitute a breach of Article 3, 8, or 6 of the Convention on Human Rights; and
- In the case of nationals of EEA countries, whether returning the family to the parent's country of origin would constitute a breach of Community Treaty rights (right of free movement across the EEA).

The Social worker will consider the family's rights under Articles 3, 8, and 6 of the Convention on Human Rights.

- Article 3: "No one shall be subjected to torture or inhumane or degrading treatment or punishment"

Article 8: "Everyone has the right to respect for his private and family life, his home and his correspondence"

The Social worker should establish how long the family have been in the UK and consider the network of relationships with family and friends – will it be disrupted if the child/parent is returned to their country of origin? The Home Office may have already considered Article 8 in responding to an application for asylum;

- Article 6: "Right to a fair and public hearing"

While there are care proceedings in relation to a child, the parents will normally need to remain in the UK until the final hearing of those proceedings.

The worker must reach a conclusion as to whether the child would cease to be a child in need on returning to the parent's country of origin. The assessment must also balance the views expressed by the parent and the information that is known to the Local Authority/Trust about the parent's country of origin. The human rights assessment must conclude with the options that the Local Authority/Trust will offer the family in order to prevent a breach of human rights/community treaty rights. The options are:

- To provide short term support in the UK under s17 Children's act 1989 and advise the family to seek advice from an immigration solicitor; or
- To offer assistance to the family in returning to the parent's country of origin

Children in Need

Under Section 17 (10) of the Children Act 1989, the Local Authority has a duty to assess a child's circumstances and offer services if:-

- He/she is unlikely to achieve or maintain, or have the opportunity of achieving or maintaining a reasonable standard of health or development without the provision for him/her of services by a Local Authority; or
- His/her health or development is likely to be significantly impaired, or further impaired, without the provision for him/her of such services; or
- He/she is disabled; or
- He/she is unaccompanied.

Under Section 20 of the Children Act 1989

Every Local Authority shall provide accommodation for any child in need within their area who appears to them to require accommodation as a result:

- There being no person who has responsibility for him/her; or
- Him/her being lost or having been abandoned; or

- The person who has been caring for him/her being prevented (whether or not permanently, and for whatever reason) from providing him/her with suitable accommodation or care.

Services we provide to support families:

Where the decision is that the family is entitled to the provision of financial subsistence from Walsall local authority, children's services will pay to meet the essential living needs of families with NRPF. These rates are in addition to support provided for accommodation. When it has been agreed that a family will be financially supported a referral form to be completed to add the family onto NRPF Connect.

Click link to access referral form

https://walsallmy.sharepoint.com/personal/deon_prescod_walsall_gov_uk/Documents/West%20locality/NRPF/NRPF%20referral%20form%20-%20NRPF%20Connect.doc

Group Managers agree the financial support costs and they are reviewed every two months at NRPF review panel.

Subsistence Amounts to be paid:

Walsall council will pay £39.63 per person living in the household to help pay for things such as clothing, food and toiletries. The allowance will be added to a card each week.

Extra Money for mothers and young children:

Pregnant Mother extra £3.00 per week

Baby under one year old extra £5.00 per week

Child age one to three extra £3.00 per week

Maternity Grant – If baby is due in eight weeks or less or baby is less than six weeks old can apply for a £300.00 maternity grant. If refused Asylum can apply for a £250.00 grant if baby is due in eight weeks or less or baby is less than six weeks old.

Health care

Accommodation – rental costs up to £600.00 per month will be paid, there may be some circumstances in which costs may be above the agreed £600.00 per month and in these circumstances will be considered and require approval by Group Manager and Head of Service.

Council Tax costs – cost of council tax will be paid

Terminating Support

The decision to terminate support for an ongoing case should be made by the Team Manager and Group Manager at the NRPF review panel. Wherever possible this needs to be informed with an up-to-date child and family assessment and/ or Human Rights assessment.

The social worker will need to inform the parents if their support is to be terminated. This should be communicated where possible face to face, with the use of an interpreter if necessary.

The social worker should arrange for a letter to be sent to the persons concerned including the eight week notice period from when support will terminate and to advise them to seek legal advice if they disagree with the decision. This letter should be translated into the person's first language as appropriate.

Domestic violence and access to public funds

If the family is fleeing domestic violence there is an exemption allowing recourse to public funds, providing the following criteria are met:

- The person entered the UK or was given leave to remain in the UK as a spouse, civil partner, unmarried or same sex partner of a British Citizen or someone such as an EEA national who is present and settled in the UK; and
- Their relationship has broken down due to domestic violence; and
- The breakdown occurred before their leave to remain expired; and
- They do not have the means to access accommodation or to support themselves and need financial help; and
- They are going to make a claim to stay permanently in the UK under the Domestic Violence Immigration Rule.

The parent can make an application to UK Visas and Immigration for a change in status. A list of agencies able to assist in making this application is at the end of this Chapter.

If UK Visas and Immigration are satisfied that all the criteria apply they may grant the parent 3 month's limited leave to remain, which will also allow access to women's refuges and to apply for benefits. During this period the parent may make an application to remain permanently in the UK.

NRPF Connect

NRPF Connect is a national database for Local Authorities to record and manage their NRPF services and share information about cases with UK Visas and Immigration.

NRPF Connect allows Local Authorities and UK Visas and Immigration to share certain information regarding cases supported, identify any potential fraud and allow for joint resolution of cases. Resolution of cases includes granting leave to remain to those who cannot be reasonably be expected to leave the UK, and removing individuals who should not be in the UK but cannot be left homeless by the Local Authority/Trust.

The database provides the necessary structure for Local Authorities/Trusts to accurately account for the NRPF cases they support under social services legislation and to share information with UK Visas and Immigration over a secure intranet system by making use of the Government Connect Secure eXtranet (GCSX). It will provide UK Visas and Immigration with the information required to track and monitor those families and individuals that have not left the country and remain in receipt of services through Local Authority/Trust assistance.

Walsall Council signed up to and has access to NRPF Connect.

Guidance on NRPF can be accessed from: [NRPF Network](#)

www.nrpfnetwork.org.uk