**Top tips on supporting families with no recourse to public funds**

**Best practice guidance to help ensure you meet your statutory responsibilities in this difficult area**

By [Hannah Thomson](http://www.communitycare.co.uk/author/hannahthomson/) on June 15, 2016 in [Asylum and refugees](http://www.communitycare.co.uk/children/asylum-and-refugees/), [Children](http://www.communitycare.co.uk/children/), [Practice advice](http://www.communitycare.co.uk/workforce/practice-advice/)

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**Future legislative changes**  
This article summarises the legislation that applied to supporting destitute families with NRPF at the date of the guide’s publication. However, practitioners need to be aware that the [Immigration Act 2016](http://www.legislation.gov.uk/ukpga/2016/19/contents/enacted), which gained Royal Assent in May 2016, will establish a new statutory provision that sets out when local authorities will be required to provide accommodation and/or financial support to destitute families and care leavers who have no immigration status, and to families where the parent has a derived right to reside in the UK as a Zambrano carer. The government is yet to announce when these changes will be introduced, and further regulations and guidance will be made to provide details of the scheme.

For a summary of the provisions of the Immigration Act relating to local authority support see the [NRPF Network website](http://www.nrpfnetwork.org.uk/Documents/immigration-bill-families.pdf).

Local authorities have responsibilities under social care legislation to provide accommodation and financial support to vulnerable migrants who are excluded from mainstream benefits and housing due to their immigration status. With a lack of statutory guidance from central government on the eligibility of people with no recourse to public funds (NRPF) for these services, it can be very challenging for local authorities to navigate their responsibilities to those with NRPF.

The following tips can help identify and resolve cases where children and families have NRPF:

1. **Ask the right questions when referrals are made.** Cases of NRPF need to be quickly and accurately identified and this can be done by including questions related to nationality and immigration status in referral forms. The courts have established that the duty to undertake an assessment is triggered by a child in need being physically present in the local authority’s area. Establishing immigration status is essential in order to determine whether the family might be able to access welfare benefits and homelessness assistance, as well as establishing whether the exclusions to social services support apply, and therefore what assessments will need to be carried out. It is good practice to routinely check immigration status of all people requesting assistance with the Home Office and to have specialist workers trained to deal with NRPF cases.
2. **If needed, emergency support should be provided while assessments are carried out.** If a family presents as homeless and with no other means of support, the local authority may need to provide accommodation and financial support while undertaking the relevant assessments. Therefore, questioning the family about their financial circumstances and gathering evidence to support this is commonly done as part of the screening process; this information can then be used in the child in need assessment. A local authority has the power under section 17 of the Children Act 1989 to provide temporary accommodation to a destitute family while assessments are being carried out. To leave a family destitute while assessments are being undertaken is likely to be in breach of Article 3 of the European Convention on Human Rights.
3. **A human rights assessment should be undertaken when determining whether to provide support to EEA national (or one of their family members).** European Economic Area (EEA) nationals are not excluded from accessing public funds, but when they fail to satisfy the relevant eligibility tests (right to reside and habitual residence test) attached to specific benefits and local authority housing, they will have NRPF and may require financial assistance from social services. The authority must identify whether the provision of support is necessary to prevent a breach of their EU treaty rights of human rights. If the local authority identifies that there would be a breach of EU treaty rights or human rights, assistance should be provided if the child is assessed as being in need.
4. **A child without accommodation is a child-in-need.** The courts have established that a child without accommodation will be a child in need, and as destitution is highly likely to impact on a child’s wellbeing and development. As well as establishing destitution, the child-in-need assessment for a child with NRPF should remain child focused and consider all aspects of the child’s welfare, in order to ensure that any needs that are unrelated to destitution are identified.
5. **A human rights assessment can be a useful tool to explore and discuss all the options that may be open to a family.** In instances when there are no legal or practical barriers to return, the local authority must consider whether the family can freely return to their country of origin. This means that a full human rights assessment would need to be completed considering all relevant aspects of the case and the best interests of the child. Would there be a breach of family or private life? Would there be a breach of the right to a fair trial, if care or contact proceedings are ongoing in the UK? Would there be a breach of the human right to be free from torture? Does anyone in the family have a right to reside in the UK? If the answers to all of these questions are satisfactory, then how would the return to the country of origin be facilitated? These are all questions which should be discussed in a human rights assessment
6. **When a child has been found to be in need due to the family being destitute, the local authority should provide accommodation and/or financial assistance to not only meet the child’s needs, but the whole family’s needs relating to destitution.** Section 17 of the Children Act 1989 requires local authorities to promote the upbringing of such children by their families when this is consistent with safeguarding and promoting the child’s welfare and allows for any services, including accommodation and financial support, to be provided to the family in order to safeguard or promote the child’s welfare. This means that assistance to alleviate destitution would need to be provided to the whole family. It is not, therefore, an appropriate response to offer to look after the child on a voluntary basis or to instigate care proceedings when there are no safeguarding concerns, as assistance under section 17 of the Children Act can otherwise be provided to safeguard and promote the child’s welfare.
7. **If a family is likely to be ineligible for social services support they should be made aware of the possible consequences at the start of the assessment process.** If their case reaches the stage where a human rights assessment needs to be done that considers return to country of origin, discussions around return would need to take place as part of that process. If the family intends to take up return, the local authority would need to provide accommodation and financial support while the appropriate arrangements are being made and the return has taken place. Where a local authority has concluded that a family can freely return to the country of origin without a breach of human rights or EU rights, but the family refuses an offer of assistance in returning home, any hardship caused by destitution will be a result of the parent’s decision to refuse the offer of assistance rather than a failing on the part of the authority.