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Families with No Recourse to Public Funds

**RELEVANT CHAPTER**

[**Unaccompanied Migrant Children and Child Victims of Trafficking and Modern Slavery Procedure**](https://www.proceduresonline.com/surrey/cs/p_uasc.html)

**RELEVANT 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**](https://www.nrpfnetwork.org.uk/).

[**S17 Children Act 1989**](https://www.legislation.gov.uk/ukpga/1989/41/section/17)

[**S21 National Assistance Act 1948**](https://www.legislation.gov.uk/ukpga/Geo6/11-12/29/section/21/enacted)

[**Children (Leaving Care) Act 2000**](https://www.legislation.gov.uk/ukpga/2000/35/contents)

[**Immigration and Asylum Act 1999**](https://www.legislation.gov.uk/ukpga/1999/33/contents)

[**Schedule 3 of the Nationality, Immigration and Asylum Act 2002**](https://www.legislation.gov.uk/ukpga/2002/41/schedule/3)

[**Article 3 and Article 8 of the European Convention of Human Rights**](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

[**Community Treaty Rights**](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

**1. What is No Recourse to Public Funds?**

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 social 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.

Islington Borough Council co-ordinates the national network for NRPF which brings together local authorities and can provide detailed advice and guidance on NRPF: www.nrpfnetwork.org.uk

Children's Social Care will identify, assess, and support families who are NRPF and require support under Section 17 of the Children's Act (1989.) and will work closely with Legal Services to fully understand the duties and powers the Council has, as well as the limits of that support, including in some cases supporting families to return to the parent's country of origin.

A family who is funded from the NRPF budget will be supported by Surrey County Council under Section 17 of the Children's Act until such a time as the needs of the child can be met other than by financial support from the local authority.

NRPF cases can incur significant costs to the council and can be resolved and a better outcome realised for the family and children if they are progressed quickly through the assessment process. Assistant Directors may therefore decide on a case-by-case basis that legal advice can be funded to expedite the family's NRPF status being resolved and moving through the immigration system faster.

**2. Who are Families with No Recourse to Public Funds?**

People who have no legal entitlement to financial support or assistance from the state are people who have no recourse to public funds. They may self-refer for support or are referred from other agencies.

Children's Social Care Services are likely to be approached by families with children or by children or young people who are unaccompanied or separated from their parent or legal/customary caregiver.

These families may be:

1. People with refugee status from another European Economic Area (EEA) country other than the UK or are dependents of people in the UK who have refugee status from a EEA country other than the UK;
2. People who are citizens of an EEA country other than the UK or are the dependents of people who are citizens of an EEA country other than the UK;
3. Failed asylum seekers who have exhausted their appeal rights and who have failed to co-operate with removal directions;
4. Persons who are unlawfully present in the UK who are not asylum-seekers, for example, people who have overstayed their leave to remain, people who have been trafficked into the country, people who entered the country illegally;
5. People who have been granted limited leave to remain on the condition that they have no recourse to public funds, for example, people who are spouses/unmarried partners of persons with British citizenship or indefinite leave to remain, who have been granted a two-year probationary period on condition of no recourse to public funds;
6. People who have been granted discretionary leave to remain, for example, 'separated' children or young people from non-suspensive appeal countries whom the Home Office does not grant either refugee status or humanitarian protection, and are given 12 months leave to remain or until their 18th birthday, whichever is shorter;
7. People on student visas who are unable to work and have no recourse to public funds.  
     
   (This list is by no means exhaustive and provides examples of the categories of people who may present to Children's Social Care Services as destitute and have no recourse to public funds.)

**3. Role of the Local Authority**

The local authority is restricted by legislation in what it can provide in terms of assistance and support for all the categories of people outlined in the previous section.

Under Section 54 of the Nationality, Immigration and Asylum Act 2002, families who fall under categories a. to d. are not eligible for support from the local authority under Sections 17, 23C, 23CA, 23CZB, 24A or 24B of the Children Act 1989. They are also not eligible for adult social care support under the Care Act 2014 or accommodation under homelessness legislation.

The Home Office allows for limited forms of assistance to be given by local authorities to some families and this could be in the form of:

* Travel assistance to leave the UK to people with dependents under 18 years;
* Temporary accommodation to people with dependents under 18 years awaiting the implementation of their travel arrangements;
* Temporary accommodation to people in category d. with dependents under 18 who are awaiting instructions for removal.

However, the local authority still has the following duties towards **all children, young people and families regardless of their status**:

* To carry out a Child in Need Assessment for all children under 18 years old who are in families, where there may be concerns about a child/children's welfare and/or safety under the Children Act 1989 (including any issues that may indicate that the child is or has been trafficked or a victim of compulsory labour, servitude, and slavery);
* To carry out a Child in Need Assessment for all 'separated' children under the age of 18 and to provide them with services in line with needs identified under the Children Act 1989;
* To carry out an assessment of an adult for community care services under the Care Act 2014 where the adult's need for such services have not arisen solely due to destitution and/or to avoid a breach of the adult's human rights which would otherwise occur if no services were provided.

In practice this means that where a referral has been made with NRPF as the sole reason for referral:

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| *Children's Services will:*   * Keep the case open for assessment and annual review under the Children Act to safeguard and promote children, even **where the family is housed out of county**; * Support accommodation and subsistence costs for families and dependents until a resolution as outlined above is achieved; * In an emergency, or in the case of an out of hours referral where a child is destitute, provide accommodation on the day until an assessment of need has been carried out; * Liaise with the Home Office; * Provide families with a a list of registered local practitioners / legal representatives who can give legal advice regarding their situation. |

**4. Procedures for Working with Families with no Recourse to Public Funds**

Families with no recourse to public funds usually present in one of two different ways:

* Self-referral without an appointment;
* Self-referral or referral by an external agency, by appointment.

Social workers need to consider if there is a possibility or evidence to suggest that there are child in need concerns or the potential for child in need concerns. This may include health needs affecting the parent/s or children, for example, chronic health conditions, physical disabilities, learning disabilities, or child protection issues, e.g. neglect, domestic abuse.

If there is a strong possibility of such needs as outlined above, an assessment should be undertaken.

When interviewing members of the family, social workers should explore, as fully as possible, existing sources of help and support in the community, voluntary groups, social networks etc.

Because of the 'no recourse' status of the parents, social workers will also have to check the following alongside the Child in Need assessment:

1. [**Key Documents**](https://www.proceduresonline.com/surrey/cs/p_no_recourse_public.html#key_doc);
2. [**Local Connection**](https://www.proceduresonline.com/surrey/cs/p_no_recourse_public.html#local);
3. [**Immigration Status of the Client**](https://www.proceduresonline.com/surrey/cs/p_no_recourse_public.html#immigration);
4. [**Destitution**](https://www.proceduresonline.com/surrey/cs/p_no_recourse_public.html#destitute).

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| 1. | **Key Documents** | |
|  | a. | The person seeking a service must have sufficient identification although this may not be possible if, for example, the person is fleeing domestic abuse. In such cases evidence should be established at a later date via the assistance of a solicitor or the police; |
|  | b | If they do not bring the necessary documentation on first presentation, the assessment can still go ahead but the social worker must inform them that any decisions regarding provision of support can only be made when they have provided the appropriate documents, and they should have all the required documents before another interview is arranged; |
|  | c. | If an interpreter is required, arrangements should be made with the interpreter to inform the person concerned of the documentation required; |
|  | d. | Those seeking a service should be asked to verify their identity and immigration status with the production of the following forms of identification:   * Passports and birth certificates for all members of the family; * If available, travel documents e.g. return air tickets; * Home Officer papers (Application Registration Card (ARC), application letters or refusal letters) and solicitors' letters; and * If available, bank account statements (from the last 3 months). |
|  | e. | All identification documents supplied must be original documents, which should be photo-copied or scanned and the copy/scanned documents retained on the relevant file; |
|  | f. | If the applicant or any dependents have health needs, they must provide any documented evidence of ill health or disability for any member of the family, e.g. OT reports, mental health/psychiatric reports. |
| 2. | **Local Connection** | |
|  | a. | It is important to establish where the person has a local connection as it may be another local authority, which has responsibility for this person; |
|  | b. | Local connection criteria need not always apply, for example, if the person is at risk of violence if they return to the local authority where they have a local connection; |
|  | c. | It should be stressed social workers will follow up on the contact details given by those seeking a service to make enquiries to verify the local connection; |
|  | d. | If it is established that the person has a local connection with another local authority, social workers should refer the person to that local authority. |
| 3. | **Immigration Status of the Client** | |
|  | a. | Nominated persons will be able to ring the Home Office to check if the person concerned has a 'live' asylum application, been refused asylum, or has some other application pending; |
|  | b. | Social workers should have the documentation outlined in Key Documents to establish the status and identity of the applicant and his/her dependents and this should be cross-referenced with the Home Office as fully as possible; |
|  | c. | Social workers need to tell over-stayers they have a duty to inform the Home Office as they have approached the local authority for assistance. |
| 4. | **Destitution** | |
|  | a. | It is important to build up a clear picture of the family's circumstances and social workers need to assess if the client is indeed destitute, i.e. he/she has no means of supporting him/herself nor family or friends whom he/she can rely on for support; |
|  | b. | Social workers must consider if the information given both verbally and in documented form is credible. If they do not think it is credible, they must be confident that there is enough evidence to the contrary (taking care to record this) in case the local authority decision is subject to legal challenge. |

Completion of Assessment

When the assessment is completed, the social worker should discuss the outcome of the assessment with their line manager.

If the family is in need of urgent/immediate support, the social worker should seek legal advice and discuss the case with the line manager. Authorisation must be sought from the Service Manager before any provision of immediate support.

Terminating Support

The decision to terminate support for an ongoing case should be made by the Service Manager. This needs to be informed with an up-to-date assessment.

The social worker will need to inform the parents if their support is to be terminated. This should be done in an interview, 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 28-day 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.

Arranging Support

Social workers will need to ensure the Assessment Record sets out the basis upon which support for the family is provided and outlining the needs of the family. This should cover:

* If the family needs an interpreter;
* Special accommodation needs;
* Health needs;
* Length of proposed support;
* The legislation under which the family is being supported, e.g. Section 17 of the Children Act 1989.

Provision of Accommodation

For families with no recourse to public funds who require accommodation the following steps should be taken:

1. The person concerned and the social worker should identify the specific needs of the family taking into account location, type of property required;
2. The social worker should identify appropriate properties;
3. The social worker and person/s concerned should view suitable properties and identify a suitable property taking into account the needs of the family and the location;
4. Accommodation must be fully furnished;
5. The social worker will negotiate with the landlord the payment of the bond, rent and acquire the relevant information to make payment;
6. The social worker will obtain copies of documents indicating that all safety checks have been completed in relation to the property;
7. The tenancy agreement will only be in the parent's name as this will facilitate future claims for benefits if leave to remain is granted;
8. The social worker will make arrangements for payments of rent to the landlord on a monthly basis directly to his/her bank account and ensure that Council tax is also paid;
9. The social worker will ensure that prior to and after the family move into the tenancy everything is in place;
10. If the family is granted leave to remain at a future date the social worker will meet with the landlord and family to clarify payment of rent, council tax and tenancy agreement. This will be confirmed in writing to the landlord and the tenant;
11. The landlord and family has a duty to notify the local authority that they are in receipt of benefits/housing benefit and any over payment of rent to the landlord will be reclaimed by the local authority.

Independent Family Returns Panel

Under s. 54A Borders, Citizenship and Immigration Act 2009 (inserted by s.3 Immigration Act 2014), the Secretary of State must consult the Independent Family Returns Panel in each family returns case, on how best to safeguard and promote the welfare of the children of the family, and in each case where the Secretary of State proposes to detain a family in pre-departure accommodation, on the suitability of so doing, having particular regard to the need to safeguard and promote the welfare of the children of the family.

A family returns case is a case where a child who is living in the United Kingdom is to be removed from or required to leave the United Kingdom, together with their parent/carer.

Pre-departure accommodation is a secure facility designed to be used as a last resort where families fail to co-operate with other options to leave the UK, such as the offer of assisted voluntary return.

The Panel may request information in order that any return plan for a particular family has taken into account any information held by other agencies that relates to safeguarding, welfare or child protection. In particular a social worker or manager from Children's Social Work Services may be invited to contribute to the Panel.

**5. How Should I Support a Client with NRPF?**

**When a family first presents OR if a query relation to immigration status comes to light**

Children's Services should be aware of the kinds of families who could fall under the NRPF condition including:

* Visa overstayers;
* 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).

Relevant advice and guidance is available at [**www.nrpfnetwork.org.uk**](https://www.nrpfnetwork.org.uk/).

Ask the family for relevant documentation:

* Related to the immigration status (such as passport or other Home Office identification such as a 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).

**Children's Services should organise a meeting with the presenting family to determine if the council has a duty to assess and ask the family to bring along relevant documentation in order to:**

* Seek to establish whether the child is a child in need;
* Seek to establish 'territorial responsibility' – (are they the responsibility of Surrey County Council?), whilst recognising that they must not step back from a duty just because they believe it is the responsibility of another area;
* Seek to confirm the immigration status of the family through a paper review of documentation and liaison with the Home Office;
* Seek to confirm whether the family is destitute through a review of bank statements and letters from family and friends regarding previous support, including assessing what alternative support networks are available to financially assist;
* In the case of a partner on a spousal visa fleeing domestic Abuse, encourage the partner to seek legal advice and apply to the Home Office under a fast track procedure;
* Assess if there are other potential concerns relating to the family, including:
  + Child protection and safeguarding;
  + Private fostering arrangements;
  + Risk of child trafficking.

**If they decide to assess, Children's Services should:**

* Arrange and provide emergency accommodation and subsistence payments whilst an assessment is undertaken;
* Write to the family outlining the level of support and the assessment;
* Complete a C&F assessment;
* Liaise with Legal Services if necessary to make a decision within 24 hours of the assessment being completed;
* Allow the parent to comment on the completed assessment;
* Determine if the family is caught by Schedule 3 exclusions to the Section 17 support in the Nationality, Immigration and Asylum Act;
* If so and when appropriate, complete a Human Rights Assessment to ascertain if withdrawing or withholding services would be a breach of human or community treaty rights.

**If the family is not eligible for support, Children's Services should:**

* Meet with the family to explain the decision;
* Write to the family explaining the decision – signed off by Team Manager;
* Provide a 28 day notice period until termination of support;
* Work with the family to support assisted voluntary return to their country of origin or signpost them to further advice and support if appropriate.

**If the family is eligible for support, Children's Services should:**

* Ensure that the assessed needs of the child are being met;
* Procure accommodation, if not already in place;
* Provide subsistence payments on a case by case basis by reference to the following standard rates:

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| **Group Weekly subsistence rate** | |
| Single parent | £43.94 |
| Couple | £72.52 |
| Each child | £52.96 |
| Nursing money for expectant mothers and those with children under 1 year / 1-3 years. | £5 / £3 |

* Having standard rates allows the council to ensure that its rates are fair for all and to allow caseworkers to efficiently manage their caseload and the scarce resources of the council – however all rates can be varied at the discretion of the council on a case-by-case basis;
* Liaise with the Home Office and family to support the progression of the case towards a resolution;
* Write to the family confirming the decision and why support has been agreed;
* Transfer the case to the NRPF FSW (NOT close the case) unless there are additional social work concerns in which case it will remain with the allocated social worker with NRPF FSW support;
* Case to be reviewed annually, unless there is a significant change in circumstances which may affect the current level of support in place;
* Child in need review meetings to be held every 3 months and statutory visits at least every 6 weeks (in line with procedures);
* The baseline rates outlined above will be reviewed on an annual basis on April of each year.

**Once the case is resolved, Children's Services should:**

* Review the case in order to understand if there are any remaining Child in Need or child protection issues;
* Hold an exit interview with the family capturing the outcome for the family and their voice;
* Write to the family to confirm the decision including the start of a 28-day notice period until NRPF support will finish;
* In the case of being granted status, support the family to get documentation that will enable access to benefits and make referrals to the appropriate support (for housing, employment and any other services that they are now eligible for);
* Close the case on LCS if there are no further concerns.

**6. Timescales**

Children's Services will complete a C&F assessment within **45 working days** with management oversight by day 10.

If required, a human rights assessment must be completed within **10 working days**. It is not a requirement that a qualified social worker undertakes this assessment, therefore if there are family support workers who develop a specialism within the team, they may undertake this assessment to be completed prior to the completion of the C&F.

Children's Services will ensure that information on LCS and NRPF Connect are up to date. NRPF Connect is a shared database used by local authorities and the Home Office which allows for the quicker progression and resolution of queries related to immigration status. The Care Leavers' Service manages this database in Surrey County Council. All correspondence with the Home Office related to immigration status should be via NRPF Connect. This will require close attention to efficient communication between the area teams and the Care Leavers' Service.

Children's Services will hold responsibility for cases on LCS and will keep the case open for the duration of support.

Team Managers with their Service Managers will review the NRPF caseload, spend and upcoming case reviews on a quarterly basis in order to speed up the resolution of cases and maximise the resources of the council.