No recourse to public funds (NRPF) - children and families briefing

May 2021

In January 2021 it was announced that the Work and Pensions Committee would be undertaking a parliamentary inquiry into children living in poverty. This will involve an examination of the experiences of families with No Recourse to Public Funds (NRPF). This briefing aims to explain the government's NRPF policy and how it can impact children and families.

In summary

- No recourse to public funds is an immigration condition imposed by the Home Office on individuals who are subject to immigration control.
- People with NRPF are unable to access welfare benefits and housing assistance and therefore are at risk of experiencing destitution.

- Families living in destitution as a result of having NRPF may find themselves struggling to access income, food, transport, clothing and school uniforms and equipment.
- Many families living in destitution may be dependent on friends and family for support and may be at risk of exploitation. They may also be dependent on the voluntary sector to meet their essential living needs.
- Local authorities may have a duty to provide support through Section 17 of the Children Act 1989 to families living in destitution. Some may be able to access additional support through free school meals.
- Recent policy changes and government proposals could see increases in the numbers of children living in destitution with no recourse to public funds; and, therefore, increasing numbers being supported by local authorities.

No recourse to public funds policy

No recourse to public funds (NRPF) is an immigration condition affecting many migrants in the UK. Section 115 of The Immigration and Asylum Act 1999 enables the Home Office to attach a no recourse to public funds condition to visas and grants of leave to remain to anyone who is ‘subject to immigration control’. This means that such people are barred from accessing public funds such as welfare benefits and housing assistance from the local authority.

The Immigration Act 1971 sets out who is subject to immigration control in the UK. Technically, everyone is subject to immigration control except British Citizens; and, prior to Brexit, EEA nationals. Anyone who has a form of Limited Leave to Remain or is undocumented in the UK is subject to immigration control and therefore may have the NRPF condition. Once someone obtains Indefinite Leave to Remain/Settlement (or Settled Status under the EU Settlement Scheme), they are no longer subject to immigration control. Examples of the types of people who have may have the NRPF condition include asylum seekers, people on spouse visas, people with Limited Leave to Remain on family and private life grounds, undocumented migrants and those who have overstayed their visa. Some groups who do not have Indefinite Leave to Remain are exempt from the NRPF condition. These include refugees, those with Humanitarian Protection, Discretionary Leave and stateless people.

For EEA nationals who were in the UK prior to Brexit and have not yet secured Settled Status, their eligibility to access public funds may be more complicated as, although they are not subject to an NRPF condition, they are required to demonstrate that they are exercising their EU treaty rights in the UK in order to access public funds.

Paragraph 6 of the Immigration & Asylum Act 1999 outlines which benefits are considered public funds. These include most welfare benefits and homelessness and housing assistance from the local authority. Access to compulsory education, free school meals and NHS healthcare are not considered public funds and

therefore the NRPF condition does not prevent anyone accessing these. However, the NHS Charging Regulations for Overseas Visitors outlines which groups are entitled to free secondary healthcare and which are chargeable based on immigration status. Meanwhile, in order to access free school meals, families must demonstrate that they are in receipt of one of the qualifying welfare benefits.

Impact on children and families

It is not only children and families with insecure immigration status that will be affected by the NRPF condition. Many children British children are also affected, for example some children may have been born as a British Citizen but their parent is subject to immigration control and has no recourse to public funds. The parent’s inability to access public funds creates the risk of destitution on the family as a whole.

Those with no right to work may be living in destitution or be supported by peers in sometimes very precarious arrangements. Meanwhile, those who do have the right to work may still find their circumstances are unstable for example, they may experience destitution if they lose their employment, undertake part-time or zero-hours contracts, short-term or temporary contracts, or be unable to undertake full-time or even part-time employment due to childcare responsibilities. Such groups are unable to access the safety net of Universal Credit or Child Benefit meaning that families will have limited or no access to

income.

Destitution is the most direct impact of the NRPF policy. Many families experiencing the above-mentioned circumstances may find they are unable to access basic amenities such as food, clothing, school uniforms, and transport. The experience of destitution as a result of a lack of income will have further impacts on child welfare, nutrition and health. In addition to being unable to purchase healthy and nutritious food at home, families are unable to access free school meals as they will not meet the eligibility criteria as will not be in receipt of any of the qualifying benefits. Other notable impacts can also include opportunities and access to services and meaningful activities for children such as an inability to access leisure facilities, transport to schools and other learning, equipment and clothing for schools, toys and other meaningful activities. A lack of access to housing might mean that many families are sofa surfing or living in unsuitable or overcrowded housing and therefore this may have an impact on home life, stress, privacy and child development for example as a result of a lack of space to undertake school homework. The risk of digital exclusion puts school-age children living in destitution at a further disadvantage.

Many families with children living in destitution as a result of NRPF policy will be reliant on family and friends to support themselves financially or with accommodation. There is also the likelihood that many will be vulnerable and potentially subject to exploitation such as from peers who are providing support or

through exploitative labour or even slavery.

Support available and local authority duties

1. Many families will be reliant on destitution support such as through food banks, faith institutions and the local voluntary sector. The British Red Cross provides a national destitution project distributing food vouchers to destitute migrants with NRPF including asylum seekers and via partnerships with local voluntary sector groups.

2. The local authority may have a duty to provide support to destitute families under Section 17 of the Children Act 1989 where there is a "child in need" as local authorities must "*safeguard and promote the welfare of children within their area who are in need".* Support provided should be needs based and so may come in the form of financial and/or accommodation. Some groups of people are excluded from S.17 support as a result of their immigration status; however, the local authority must carry out a human rights assessment to ascertain whether a refusal to support would be a breach of the person's human rights. Local authorities may be a required to provide support temporarily while an assessment of the family's needs and eligibility are undertaken. Under Section 17, local authorities are generally required to support the family unit as a whole if that's in the best interests of the child.

3. Access to free school meals has previously been restricted for families with no recourse to public funds due to the eligibility criteria for free school meals requiring that families are in receipt of a qualifying welfare benefit. However, as a result of the COVID-19 pandemic, eligibility for free school meals has been temporarily expanded by the Department for Education to include 4 categories of people with no recourse to public funds:

- Refused asylum seekers in receipt of Section 4 support,
- Zambrano Carers,
- People with grants of Limited Leave to Remain on family and private life grounds, and
- Families in receipt of S.17 support.

Other possible routes out of destitution

4. Some families may be able to apply to the Home Office to have the NRPF condition removed if they are destitute or are experiencing destitution. This is reserved for those who have been granted Limited Leave to Remain on family and private life grounds or those who have arrived in the UK on the Hong Kong BN(O) visa. Hong Kong BN(O) visa holders will also soon be able to access MHCLG-funded destitution support via local authorities. Victims of Domestic Violence (DV) who are on a spouse visa and those on a refugee family reunion visa can apply to the Home Office for the DV Concession, enabling them to access public funds temporarily while they seek to regularise

their immigration status after experiencing domestic violence.

5. Asylum seekers should be able to access Section 95 support from the Home Office, should they have an ongoing asylum claim. Refused asylum seekers may, in some cases, be able to access Section 4 support should they be unable to leave the UK at present. Other sources of potential financial support could be the Windrush Compensation Scheme whereby some people may be entitled to a financial compensation package dependent on when they came to the UK and whether they have lost income as a result of their immigration status. For those with no leave in the UK, regularising their immigration status is essential to seeking a long-term route out of destitution.

Future developments and policy

6. A number of external factors may cause possible increases in the number of families living with no recourse to public funds in the future.

a. The COVID pandemic and the ‘Everyone In’ scheme have led to more people without recourse accessing support from local authorities.

b. The UK’s exit from the EU means that many families who have not acquired settled status may be unable to access public funds. Moreover, the new points-based immigration system means that any EEA nationals arriving in the UK after 1 January 2021 are subject to the NRPF condition.

c. Arrivals through the new Hong Kong BN(O) visa route also have an NRPF condition attached to their visa.

d. Finally, should government proposals under its *New Plan for Immigration* come into practice, many individuals who would previously have been granted refugee status may only be granted a temporary status with limited access to public funds as a consequence of how they entered the UK.

7. Moreover, under these new proposals, the government wants to consult with local authorities over ending asylum support for refused asylum seekers and revisit provisions outlined in the Immigration Act 2016 which would see refused asylum seeking families evicted from their asylum support and local authorities having to administer support under new duties. Such developments in UK immigration policy are likely to lead to an increase in the number of children living in destitution as a result of NRPF policy and an increase in statutory duties being exercised by local authorities.

Useful information

NRPF network

Yorkshire and Humber network,
https://www.nrpfnetwork.org.uk/regional-network

Chair/convenor: Phil Cryer, NRPF Team Manager, City of Bradford Metropolitan District Council

Email: phil.cryer@bradford.gov.uk

Who can attend: Councils, other statutory agencies, and voluntary and community sector

Guidance for councils:
https://www.nrpfnetwork.org.uk/information-and-resources/guidance-for-councils

NRPF Connect - Immigration status checking, case-prioritisation, and case-management solution for councils supporting people with no recourse to public funds:
https://www.nrpfnetwork.org.uk/nrpf-connect

‘Not Seen Not Heard: Children’s Experiences of the Hostile Environment’. Project 17. February 2019.
https://www.project17.org.uk/media/70571/Not-seen-not-heard-1-.pdf

‘NRPF Conditions’. Children’s Legal Centre. April 2017

https://www.childrenslegalcentre.com/wp-content/uploads/2017/05/NRPF-conditions-Apr.2017.final_.pdf

‘Practice Guidance: Assessing and Supporting Children and Families Who Have No Recourse to Public Funds’. NRPF Network. Date accessed, 13.04.2021

http://guidance.nrpfnetwork.org.uk/reader/practice-guidance-families/pre-assessment-screening/#23-exclusions-from-support

Information on the Windrush compensation scheme: https://www.gov.uk/apply-windrush-compensation-scheme

‘EEA Nationals and Family Members’. NRPF Network. Date accessed, 14.04.2021. https://www.nrpfnetwork.org.uk/information-and-resources/rights-and-entitlements/benefits-and-housing-public-funds/benefits/eea-nationals-and-family-members

‘New Plan for Immigration: Policy Statement’. Home Office. 24 March 2021 https://www.gov.uk/government/consultations/new-plan-for-immigration/new-plan-for-immigration-policy-statement-accessible

About this briefing

This briefing was prepared by Stefan Robert in May 2021.

Source URL: *https://www.migrationyorkshire.org.uk/no-recourse-public-funds-nrpf-children-and-families-briefing*