

NRPF network

No Recourse to Public Funds Network

Step-down pathways for people with no recourse to public funds (NRPF)

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Agenda

- Introduction
- Identifying who has NRPF
- Support options:
 - Home Office support
 - Social services' support
- Sustainable outcomes:
 - Routes to recourse
 - Voluntary return
- Case studies
- Q&A

Questions

- Please use the Q&A function to send in a question.
- We will try and answer as many of these as possible at the end of the session.

Objectives

- To be able to identify when a person who is ineligible for assistance under Parts VI and VII of the Housing Act 1996 may qualify for support from the Home Office or Social Services
- To identify a sustainable step-down pathway for rough sleepers that are accommodated and who have no recourse to public funds
- To understand what next steps your service may need to take to prevent people with no recourse to public funds from returning to rough sleeping

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Accommodating people with NRPF during
the pandemic

Emergency response

- 26 March – Government instruction to ‘bring everyone in’: rough sleepers and people at risk of rough sleeping or living in accommodation where they cannot self-isolate, including those with no recourse to public funds (NRPF)
- Basic principle:
 - ‘Utilise alternative powers and funding to assist those with no recourse to public funds who require shelter and other forms of support due to the COVID-19 pandemic’

Planning for step-down

- 28 May – Plan to secure sustainable outcomes:
 - Identify needs and plan for next steps
 - Move to temporary accommodation whilst working out longer-term option
- ‘You may have accommodated people who would normally and otherwise be ineligible for support, making judgements based on risk to life...The law regarding [NRPF] remains in place. Local authorities must use their judgment in assessing what support they may lawfully give to each person on an individual basis, considering that person’s specific circumstances & support needs.’

Step-down challenges

- Legislative gaps and lack of funding – direction may be needed from council leadership
- Deciding which department and staff will take on responsibility for case ownership
- Positive outcomes cannot always be achieved quickly:
 - Immigration cases are complex and can take a long time to resolve
 - Suitability of accommodation & subsistence

Next steps

- Step 1: Identify who has NRPF
- Step 2: Assist those that qualify to transfer to statutory support from the Home Office or Social Services
- Step 3: Identify a sustainable outcome and assist the person to achieve this:
 - Change in immigration status to get recourse
 - Self-sufficiency through employment
 - Return to country of origin

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Step 1: Identifying who has 'no recourse to public funds' (NRPF)

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What is no recourse to public funds (NRPF)?

- NRPF = an immigration condition restricting access to..



certain benefits

and



part VI & VII of the
Housing Act 1996

People with NRPF are not excluded from..



Contribution-based JSA	
Age	JSA weekly amount
18 to 24	up to £57.35
25 or over	up to £72.40



..but eligibility criteria may apply based on nationality and immigration status

Who has NRPF?

- Non-EEA national who is ‘subject to immigration control’* =
 - Visa overstayer
 - Appeal Rights Exhausted (ARE asylum seeker)
 - Leave to remain with NRPF condition e.g. spouse, family/private life

*Defined in section 115 of the Immigration & Asylum Act 1999 = different to the definition used in housing eligibility legislation

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European Economic Area (EEA) nationals
& family members

Residence rights



- Are not 'subject to immigration control' so do not have the NRPF condition imposed
- Have UK residence rights under:
 - EU free movement law – right to reside (applies until 31 December 2020)
 - EU Settlement Scheme - settled or pre-settled status

NRPF Benefits & homelessness network assistance

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- Settled status (ILR) = eligible
- For everyone else - right to reside under EU law is relevant (even if pre-settled status granted):
 - Worker/ self-employed/ permanent residence (& family members) = eligible
 - Not economically active = ineligible
 - Jobseekers = ineligible but may claim JSA(IB)

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Step 2: Transfer to statutory support

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Home Office support

Home Office asylum accommodation

- ‘Asylum seekers including failed asylum seekers are entitled to asylum support in line with travel restrictions due to coronavirus. There is no need for this cohort to call on any funding outside asylum support.’
- ‘Those asylum seekers who would otherwise be destitute are supported by the Home Office on application, rather than local authorities.’
<https://homeofficemedia.blog.gov.uk/2020/04/26/factsheet-asylum-accommodation-and-applications/>

Type	Section 95 asylum support	Section 4 asylum support	Schedule 10 immigration bail support
Who can apply?	Seeking asylum or appealing a refusal of an asylum claim	Appeal Rights Exhausted (ARE) asylum seeker	Person subject to immigration bail e.g. visa overstayer
Eligibility	Destitute	Destitute & meets criteria e.g. taking steps to leave UK; fresh claim pending	Human rights breach - no accommodation available & cannot return to country of origin
How to apply	ASF1 form via Migrant Help	ASF1 form via Migrant Help	BAIL 409 form via Migrant Help

More information

- Home Office
<https://www.gov.uk/asylum-support>
- Migrant Help
<https://www.migranthelpuk.org/>
- Asylum Support Appeal Project Factsheets
<http://www.asaproject.org/resources>

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Support for victims of trafficking and modern
slavery

NRM support

- National Referral Mechanism (NRM) – duty to notify as first responder
- Potential victims who consent to NRM referral can access specialist support –including accommodation- from Salvation Army/ partner
- Refer to Salvation Army as soon as possible after NRM referral made– can telephone for immediate support

More information

- NRM process
<https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales>
- Salvation Army referral helpline
<https://www.salvationarmy.org.uk/modern-slavery/supporting-adult-victims>

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Social services' support

Who can apply?

- Social services may have a duty to accommodate:
 - Family with a child under 18
 - Adult with care needs
 - Young person leaving care
- Social services' support is not a public fund so can be provided to a person with NRPF
- For some groups, social services' support is subject to a human rights assessment and may be refused on the basis that a person can return to their country of origin to avoid destitution in the UK

Support for adults (1)

- Section 18 of the Care Act 2014: Duty to meet an adult's eligible needs arising from or related to a physical or mental impairment or illness
- Section 19(1) power to meet care and support needs that do not meet eligibility criteria
- No duty to meet needs arising solely due to destitution

Support for adults (2)

- Adult Social Care/ Mental health will have a duty to undertake a needs assessment when a person has ‘an appearance of need’
- Duty to meet needs applies when adult is ordinarily resident or has no settled residence
- Care and support needs can be met by the provision of accommodation but an adult will not qualify for this unless also they also require an element of care

Support for families

- Section 17 of the Children Act 1989: duty to ‘safeguard and promote the welfare of children **in their area** who are in need’
- A destitute child will be a child in need
- Accommodation and financial support (subsistence) provided to family as a whole
- Refer to children’s services for a child in need assessment

Support for care leavers

- A former looked after child may need to be provided with:
 - Accommodation up to until age 21 or 25 if on a course of education/ training
 - Advice and assistance from a personal adviser up until age 25
- If a young person is under 25, always check if they are a former looked after child – if so can refer back to the authority that provided care to establish if any duty to assist applies

Making a referral to social services

- Follow any internal/local protocols (if exist)
- Provide as much information as possible about the household, their immigration status if known and their current support
- Set out any identified needs with evidence, where possible, for example, a letter from a GP

More information

- NRPF Network practice guidance
<http://www.nrpfnetwork.org.uk/guidance/Pages/default.aspx>
- Support for migrant families web tool
<https://migrantfamilies.nrpfnetwork.org.uk/>

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Part 3: Sustainable outcomes

Sustainable outcomes

- Many people supported as part of the public health response won't qualify for support from the Home Office or Social Services
- To prevent rough sleeping a sustainable outcome will need to be identified and achieved:
 - Change of immigration status
 - Self-sufficiency through employment (if a route to benefit eligibility)
 - Return to country of origin

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Immigration advice

Immigration advice

It is unlawful for a person to provide immigration advice when they are not regulated in one of the following ways..



A solicitor regulated by the Law Society – recommended that one is selected who has undertaken the immigration and asylum accreditation scheme
<http://solicitors.lawsociety.org.uk/>



An adviser registered with the OISC – there are different competency levels e.g. only level 3 advisers can assist with appeals

http://home.oisc.gov.uk/adviser_finder/finder.aspx

Role of council staff

- Must identify when a person needs to be signposted to a legal representative by engaging with their concerns and having an awareness of immigration options and processes
- Take steps to enable the person to access legal advice when this is required
- Help the person with practical tasks needed to further an immigration claim, e.g. help to obtain evidence/ identity documents as advised to by their legal representative

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Routes to recourse

When a person may need to get legal advice

Common immigration routes

- Immigration rules are complex and a person will require legal advice to identify their options

Asylum

- Well-founded fear of persecution in country of origin

Immigration

- Family life
- Long residence

EEA

- EU Settlement Scheme

Family/ private life applications

- May be able to apply under Immigration Rules if:
 - Have British/ settled partner
 - Sole carer of child who is British/ lived in UK for 7 years
 - Has lived in UK for 7 years (under 18); at least half their life (age 18-25) or for 20+ years (age 18+)
- If making an application under family/private life rules they may be able to apply for a fee waiver to avoid paying fee of £2033

Windrush Scheme

- Undocumented long-term residents may have indefinite leave to remain or a right of abode
- They can apply to the Windrush Scheme to get their status confirmed if they are:
 - A Commonwealth citizen who settled in the UK before 1 January 1973 or the child of such a person who was born in the UK or arrived before turning 18
 - Any nationality and settled in the UK before 31 December 1988

Destitution Domestic Violence Concession

- Three months leave to remain granted to enable victim of domestic abuse to access public funds whilst applying for indefinite leave to remain on the basis that relationship has broken down due to domestic abuse
- Only applies to a victim who last had leave to enter or remain as a spouse, civil partner, unmarried or same sex partner of: a British citizen/ settled person/ certain members of HM Forces
- Is not an option for all victims of domestic abuse

Leave to remain with NRPF

- May be able to apply for NRPF condition to be lifted (change of conditions) when:
 - Leave to remain is granted on family/ private life grounds AND
 - Applicant can show they are destitute, at risk of imminent destitution or there are other exceptional circumstances
- Can apply online – will need evidence of support being provided by local authority

Home Office information

- Windrush Scheme

<https://www.gov.uk/guidance/windrush-scheme>

- Destitution Domestic Violence Concession

<https://www.gov.uk/government/publications/application-for-benefits-for-visa-holder-domestic-violence>

- Change of conditions

<https://www.gov.uk/government/publications/application-for-change-of-conditions-of-leave-to-allow-access-to-public-funds-if-your-circumstances-change>

EU Settlement Scheme

- EEA nationals and their family members (EEA and non-EEA) must apply under EU Settlement Scheme for:
 - ILR (settled status) – 5 years residence
 - LTR (pre-settled status) – less than 5 years
- Free online application process
- Must apply by **30 June 2021**

EU Settlement Scheme

- It may be possible to apply without an ID document using a paper form when exceptional circumstances apply
- When a person obtains pre-settled status they can apply for settled status as soon as they have completed five years continuous residence
- A refusal or a grant of pre-settled status can be challenged by administrative review or appeal

More information

- NRPF Network factsheet: Helping European Economic Area (EEA) residents to secure status under the EU Settlement Scheme
<http://www.nrpfnetwork.org.uk/Documents/EU-Settlement-Scheme.pdf>
- Home Office local authority toolkit
<https://www.gov.uk/government/collections/eu-settlement-scheme-local-authorities-toolkit>

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Return to country of origin

NRPF Home Office voluntary **network** returns

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- Home Office can provide assistance with returns including travel to destination and (in some cases) financial reintegration packages
- Service is not available to EEA nationals (unless they are a victim of modern slavery/ trafficking)
- However, due to pandemic, Home Office assistance is limited so check website for current position:

<https://www.gov.uk/return-home-voluntarily>

Supporting a person to return

- If a person expresses a wish to return then check that they have received legal advice and are fully aware of potential consequences e.g. impact on future residence rights (EEA nationals); re-entry bans (non-EEA nationals)
- May need to help obtain identify/ travel documentation via their embassy/consulate
- May be possible to link individual with support services in country of origin

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Case studies

Case study one

- Gordon is a Bulgarian national who came to the UK to work two years ago. He has no family in the UK. Since then he has taken on casual cash in hand jobs and has been living on and off the streets. He was accommodated in a hotel by the Council at the start of the pandemic when the shelter he was staying in had to close. His mental health has stabilised since he has been living in the hotel and he hopes to stay in the UK and get back into work.
- What is your step-down plan?

Step-down plan

- Refer to mental health for an assessment if appropriate
- Signpost to legal advice to make EU Settlement scheme application & help him obtain any evidence
- Gordon will qualify for pre-settled status so can only access benefits if he gets back into work – refer to services to help assist with that
- Will need to be clear what assistance the Council can continue to offer if Gordon is unable to work for health reasons or due to lacking skills etc. and does not qualify for support under the Care Act

Case study two

- David is a Nigerian national who entered the UK on a 6 month visitor visa in 2000 and made no further contact with the Home Office. David is 65 years old and was staying at a night shelter which has now closed due to Covid-19. David states that for as long as he can remember he has relied on the support of charities to keep a roof over his head and to eat. He says he is tired of moving from place-to-place and is grateful for the accommodation now provided by the Council.
- What is your step-down plan?

Step-down plan

- Consider a referral to adult social services for an assessment if appropriate
- Signpost to legal advice – David has been in the UK for c.20 years and may be able to make an immigration application to the Home Office with the cost of the fee waived (David is destitute)
- If David's application succeeds, Leave to Remain permitting recourse to public funds may be awarded
- If not Care Act eligible, consider whether financial support will continue pending the Home Office decision and keep David informed of all options.

Case study three

- Theresa is an Appeal Rights Exhausted (ARE) asylum seeker from Iran. She was provided with accommodation after an outreach worker encountered her sleeping on the streets. Her Home Office support stopped three years ago after her claim was finally determined. She has since received help from charities and friends.
- What is your step-down plan?

Step-down plan

- Theresa needs to be signposted to get some legal advice to find out if she can make a fresh asylum claim or has any other options
- Theresa can be assisted to apply for section 4 asylum support from the Home Office
- Will need to be clear what assistance the Council can continue to offer if there are delays getting section 4 support instated or she does not meet the criteria for this

Reflections for your service

- Have all the people with NRPF that you are accommodating been identified?
- Where are they in their immigration journey?
- Do staff need upskilling/training to provide support and who is responsible for case management?
- Is your council's leadership aware of any service pressures and what direction has been provided in light of the legislative gaps and lack of funding?

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Any questions?

NRPF Network services

- NRPF Network – hosted by Islington Council
 - Free services - news bulletins, practice guidance, regional NRPF meetings, policy work and more
 - Chargeable services – training for local authorities; NRPF Connect database
- Three staff - in London and Greater Manchester

Web: www.nrpfnetwork.org.uk

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