



Homeless Link

Supporting people who have restricted eligibility due to their immigration status

Guidance for homelessness services

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Introduction

This resource is for homelessness services in England whose service users may include adults without dependents who have restricted eligibility for some public services and welfare benefits due to their immigration status.

People with restricted eligibility are at high risk of homelessness and destitution because they cannot access mainstream housing and welfare benefits. Providing support to this group can help prevent homelessness and destitution and improve their well-being and health.

This guidance explains what restricted eligibility means and the role of the Home Office and local authorities (LAs) in relation to this. It also addresses some of the main concerns that services might have about working with individuals with restricted eligibility and summarises the support that non-specialist services can provide to help meet the housing, care and immigration advice needs of this group. Details of specialist organisations (national) can be found in the final section.

Homeless Link has recently published a learning report from the 'Immigration Advice for Rough Sleepers Fund'¹, a GLA funded, Homeless Link-managed fund which explores the seven models of delivery from the projects who were awarded grants, as well as key lessons learnt from the funding period. In addition to this, Homeless Link and NACCOM (The No Accommodation Network) have published a research report² which puts forward a roadmap for change for local authorities and Government to sustainably tackle homelessness among non-UK nationals with restricted eligibility.

Since first publishing this resource, the new Nationality and Borders Bill has become an act of law (April 2022) which has led to significant changes to the system of immigration for people seeking asylum. Refugee Council provides detailed information on what these changes mean.³

¹ <https://homeless.org.uk/knowledge-hub/learning-report-for-immigration-advice-for-rough-sleepers-fund/>

² <https://homeless.org.uk/knowledge-hub/unlocking-the-door-a-roadmap-for-supporting-non-uk-nationals-facing-homelessness-in-england/>

³ <https://refugeecouncil.org.uk/information/refugee-asylum-facts/what-is-the-nationality-and-borders-bill/>

What restricted eligibility means

Most non-UK nationals are required to obtain 'leave' to enter or remain in the UK from the Home Office (unless they have the right of abode or are exempt from immigration control). Following the UK's departure from the European Union, this requirement also applies to European Economic Area (EEA) nationals, although those who were living in the UK before the end of the transition period have different residence rights and entitlements to services through the European Union Settlement Scheme (EUSS). See EEA Nationals Section below for further information.

Many people will have conditions attached to their leave that restrict their entitlements to claim benefits and access housing assistance. 'Restricted eligibility' is a relatively new term which has been adopted to describe people in this group. They may also be described as having 'no recourse to public funds' (NRPF). For immigration purposes, the term 'public funds' relates to certain benefits (including Housing Benefit and Universal Credit), homelessness assistance and a local authority allocation of social housing under the Housing Act 1996. Importantly, this public funds restriction does not prevent people accessing other publicly funded services such as social care, compulsory education or healthcare including COVID-19 vaccination, although some services may also impose some restrictions based on nationality and immigration status.⁴

Having restricted eligibility is not necessarily a problem - people can be studying, working, or living in the UK using their own funds and can support themselves. However, individuals who become unable to support themselves, or whose immigration status has changed or was never regularised,⁵ can have a change in their circumstances and find themselves in need of support. This can often occur after a long period of destitution, after asylum claims have been refused for example, after employment arrangements or support networks have broken down or after escaping an exploitative situation.

It is helpful to understand the main 'groups' of people who will have restricted eligibility. We have categorized these into five broad groups:

1. Regular Migrants

Regular migrants are people with a valid visa that allows them to live or stay in the UK for a specific purpose, for example, to study or work. Generally, visas giving limited leave to enter or remain (i.e. a visa with a time limit) for working, visiting or studying are subject to the NRPF condition.⁶ These individuals should have

⁴ See later pages for more information on access to health care

⁵ Immigration status can, in some cases, be regularised via Home Office e.g. a new visa or being awarded leave to remain

⁶ However, please note some people granted leave to remain on the basis of long residence or their family life in the UK (under the [10 year settlement routes](#)) may be given recourse to public funds if they can demonstrate to the Home Office that they are destitute at the time the Home Office decides to grant

documents that show their immigration status and any accompanying restrictions on working or claiming public funds.

2. EEA Nationals without Settled Status

Individuals who have lived in the UK prior to 1 January 2021 for less than 5 years may have restricted eligibility. Most EEA Nationals entering the UK after 1 January 2021 are now subject to immigration rules which can restrict their right to work, claim benefits, access services and accommodation. More information about types of immigration status for EEA Nationals following the 30th June 2021 can be found in the next section.

3. Irregular or 'undocumented' migrants

Irregular migrants include people who have entered the country without a visa (sometimes referred to as 'undocumented' migrants), people who have stayed in the UK after the expiry of their visa (sometimes referred to as 'over-stayers') or after an unsuccessful application for a visa extension or people whose visa has become invalid because of a change in circumstances, for example a domestic worker who has left their employer, often due to exploitation. These individuals will not have permission to work. People without valid identity documents and who cannot prove their country of origin can fall into this category.

4. People seeking asylum and refused asylum seekers

People who have applied for refugee status which is under consideration by the Home Office, or where their claim has been determined and refused, will have restricted eligibility. Those with an asylum claim pending and who are destitute are usually provided with Home Office asylum accommodation and basic financial assistance. This support will come to an end once they are granted refugee status at which point the NRPF condition will no longer apply. Refused asylum seekers retain their NRPF status and also lose the Home Office support. In such cases, individuals are at risk of detention and removal from the UK. Refused asylum seekers may be eligible for further emergency assistance, known as Section 4 support.⁷ Asylum seekers and refused asylum seekers will usually not have a right to work.⁸

leave.

⁷ For more information, see <https://www.nrpfnetwork.org.uk/information-and-resources/rights-and-entitlements/support-options-for-people-with-nrpf/home-office-support/>

⁸ Exceptions include those who have been waiting for more than 12 months for a decision on their claim and those who originally entered on a work or student visa but then made a human rights or asylum application following a change in circumstances, may be granted a continuing right to work see <https://commonslibrary.parliament.uk/research-briefings/sn01908/#:~:text=The%20current%20position%20is%20that%2C%20generally%2C%20asylum%20seekers%20are%20not,further%20submission%20for%20asylum%3B%20and>

5. Other groups with restricted eligibility

A wide variety of other people may also find themselves subject to an NRPF condition for a range of different reasons, despite having lived and worked in the UK for many years. For example, the NRPF restrictions affected people from Caribbean countries who moved to the UK in the 1940-50s and had the right to permanently live and work in the UK but who, as adults, had their entitlements revoked by the Home Office (the Home Office wrongly deciding that Commonwealth citizens with permanent leave to remain in the UK had over-stayed).⁹

'Zambrano carers' are people who have rights of residence in the UK due to them caring for someone who is a British citizen but they are subject to certain restrictions in accessing public funds.¹⁰

Please note also that some people might have recourse to public funds but have lost all the documents that prove it. Often the Home Office systems will contain no records of them and they will need immigration advice to resolve their situation. There are also people who believe for many years that they are UK citizens, only to discover on losing employment and/or accommodation that their immigration status was never regularised in childhood. Having been self-sufficient for decades, these people can find themselves with no recourse to public funds until their immigration status is resolved.

When a person has leave to enter or remain that is subject to the NRPF condition, the term 'no public funds' will be stated on their residence permit, entry clearance vignette, or biometric residence permit (BRP).

Can restricted eligibility conditions change?

Restrictions are often not permanent - some people's circumstances change over time so that they become eligible for public funds, for example:

- Asylum seekers who have successful claims for protection and been granted refugee status, humanitarian protection or old-style discretionary leave to remain are granted leave to remain with recourse to public funds.
- A visa over-stayer who has made a successful human rights application and as a result has been granted limited leave to remain without a restriction on public funds.
- An individual who has already been granted limited leave to remain with NRPF under certain categories, but they become destitute following a change of circumstances, can apply for the NRPF condition to be removed.
- EEA Nationals with pre-settled status can apply for settled status as soon as they have lived in the UK for 5 years, regardless of when pre-settled status was granted. Those with settled status will have 'indefinite leave to remain'

⁹ For more on the 'Windrush scandal' see: www.jcwi.org.uk/windrush-scandal-explained

¹⁰ See <https://www.housing-rights.info/zambrano-carers.php>

and will be able to work and can claim benefits and homelessness assistance in the same way as a UK national.

Status Verification, Enquiries and Checking (SVEC)

The SVEC service responds by secure email to legally justified immigration status enquiries. This service is open to all public bodies to support their statutory duties.

Email address: ICESVSECWorkflow@homeoffice.gov.uk

A move to eVisas

The Home Office has a programme underway to develop a digital immigration system. Digital proof (an eVisa) of a person's immigration status will replace the following physical documents:

- Biometric Residence Permits (BRP)
- Biometric Residence Cards (BRC)
- Passport endorsements, such as indefinite leave to enter (wet ink stamps)
- Vignette stickers in passports, such as entry clearance or visa vignettes.

The eVisa will provide an online record of a person's immigration status and the conditions of their permission to enter or stay in the UK. From Summer 2024, individuals will need to create a UKVI account to view and share relevant information about their status securely with third parties, such as employers or landlords.

In the future, they will be able to use their eVisa to travel to the UK and will not need to carry a physical document, except for their current passport, which must be registered on their UKVI account. Until then, individuals should carry their physical document, if they have one.

Guidance on eVisas and who needs to take action can be [found here](#).

Any queries about eVisas can be sent to: eVisaGrants@homeoffice.gov.uk

For individuals who do not hold the relevant identity documents to create an eVisa account themselves, there is now a process for requesting prioritisation to assist with eVisa account creation. The service can be requested by emailing UKVIHomelessnessEscalations@homeoffice.gov.uk. Any referrer not from a Local Authority or other Government Department, must come with a customer consent form. For eVisa referrals, it is essential that the referrer provide an email address and telephone number of the client, along with the client name, DOB and nationality.

Immigration rule changes relating to rough sleeping

Changes to the Immigration Rules published on 22 October 2020 made rough sleeping grounds for refusing or cancelling a person's leave to remain in the UK. The associated guidance published in April 2021 clarified how they should be applied. The rules give the Home Office new powers to refuse or cancel a person's leave to remain in the UK if a person has been rough sleeping and has refused repeated offers of suitable support and engaged in persistent anti-social behaviour. The guidance gives examples of 'support' which include help to apply for a voluntary return and support offered by non-commissioned services. Decisionmakers should also consider how vulnerabilities, like mental or physical health issues, have prevented engagement with support in making their assessment. These decisions are carried out by Immigration Enforcement's National Command and Control Unit, following referrals from either the police, LAs or immigration enforcement officers themselves. If the Home Office receive a referral from police and the anti-social behaviour threshold is reached, they will make enquiries to the relevant LA about the support offered to the individual. Importantly, where a person has not been offered support or exhausted their support options because of restrictions to their eligibility, for example if they have No Recourse to Public Funds the guidance clarifies that the rule should not be applied. The rules also do not apply to applicants or people eligible to apply to the EUSS; most refugees and asylum seekers; anyone granted leave under another protection route; people with indefinite leave to remain; and former members of the UK Armed Forces and their family members.

Despite the exclusions Homeless Link and many other organisations have serious concerns about the impact of these changes which are likely to have knock-on effects on wider groups of non-UK nationals and providers of homelessness services (Information about the nuanced categories of those affected is unlikely to be understood by many on the ground, and uncertainty and distrust in services spread quickly.) Homeless Link is leading a campaign highlighting concern about this and calling for the rules to be scrapped or mitigated.

EEA Nationals

Following the departure of the UK from the EU and the ending of the transition period, European free movement no longer applies in the UK. Most EEA nationals¹¹ entering the UK **after 1 January 2021** are now subject to immigration rules which can restrict their right to work, claim benefit, access services and health care and rent property.

¹¹ EEA nationals in this document is intended to mean citizens of countries within the European Union and the European Economic Area as well as Swiss nationals. The term EU nationals or EU citizens could also be used instead of EEA nationals.

EEA nationals who were living in the UK prior to 1 January 2021 had until **30 June 2021** to apply to the EUSS to obtain settled or pre-settled status. The period between 1 January and 30 June 2021 was known as a 'grace period' which gave people an additional six months to apply. For those that have not applied by 30 June 2021, the Home Office will accept late applications if the applicant can show that they have a reasonable excuse for missing the deadline.

There is now a significant difference between those EEA nationals in the UK who have applied for, or have been granted, settled or pre-settled status under the EUSS and those who do not, with the latter having potentially restricted rights and entitlement to live, work, access services and claim benefits.

Types of immigration status following 30th June 2021

Set out below are the most common types of status that EEA nationals in the UK can have following the EUSS deadline of 30th June 2021 with a brief overview of associated rights and entitlements¹²:

1. **Settled Status** - This applies to someone living in the UK prior to 1 January 2021 who has been able to evidence 5 years continuous residence in the UK. They will have 'indefinite leave to remain' and will be able to work and claim benefits and homelessness assistance in the same way as a UK National. This settled status will be retained if the person leaves, then returns, to the UK as long as their absence is less than 5 years (if the absence extends beyond 5 years then settled status is lost).
2. **Pre-Settled Status** - This applies to someone living in the UK prior to 1 January 2021 who has demonstrated less than 5 years' residence in the UK. They will have 'leave to remain' in the UK for 5 years during which time they can continue to work, continue claiming benefits (in certain circumstances) and renting their home. Once a person with pre-settled status has been in the UK for 5 years, they can apply for settled status. They may not be able to obtain settled status if they are absent from the UK for more than 6 months in any 12-month period (some exceptions apply).
3. **Pending 'in-time' EUSS Application** - This applies to someone who was living in the UK prior to 1 January 2021 and has a valid EUSS application pending made before the 30 June 2021 deadline. The period of time after an EUSS application is made and before a decision is issued can be complex in relation to rights and entitlements. When someone makes an application to the EUSS they will receive a 'Certificate of Application' (CoA) after providing the appropriate documents/information. Government guidance states that a person can use their CoA to show that they have the right to work, right to rent, and entitlement to free secondary healthcare. People who were already in receipt of benefits and statutory support and who have a pending in-time application retain their

¹² A more detailed briefing on these types of status has been produced by the NRPf Network (for Local Authorities): <https://www.nrpfnetwork.org.uk/-/media/microsites/nrpf/documents/guidance/factsheet-eu-settlementscheme.pdf?la=en&hash=4B47BC7030DB7A459877902127FDAB93E7D9DE84>

entitlements whilst they are waiting for a decision and this will continue until their EUSS application is concluded¹³. The position regarding rights to make *new* benefit claims should also be protected during this period. The CoA is important in evidencing their 'pending' status.

4. **Pending late EUSS Application** - This applies to someone who was living in the UK prior to 1 January 2021 and has a valid EUSS application pending made after the 30 June 2021 deadline. Government has clarified that the rights of late applicants are protected until their application and any appeal is decided.¹⁴ This means that they can use their CoA to prove their right to work, rent and access secondary healthcare, though these temporary protections are not yet set out in legislation. Additional right to reside tests will need to be satisfied in order to qualify for benefits or homelessness assistance.
5. **Valid visa under new immigration rules** - This applies to someone entering the UK on/after 1 January 2021 and who is granted leave to enter to visit, work, or study. As with non-EEA nationals the position with entitlement to housing or benefits will depend on whether a condition of having no recourse to public funds has been placed on their leave. Most EEA nationals granted visas for visiting, working or studying are likely to have a condition that restricts their access to public funds. Over time this will mean that some EEA nationals who enter with visas under these new rules may find themselves homeless or destitute and will have very limited access to statutory services.
6. **Unlawfully present/no status** - this will apply to a person in one of the following scenarios:
 - (i) they failed to apply to the EU Settlement Scheme by 30 June 2021.
 - (ii) they are refused status under the EU Settlement Scheme (and any subsequent appeal is unsuccessful).
 - (iii) they have overstayed a grant of leave/visa to enter or remain.

Those without status will not be able to work or make new benefit claims or claims for homelessness assistance.

EUSS Resolution Centre (RC)

The EUSS RC handles enquiries on general updates on applications, support to view and prove status, updating details, requesting a paper application form, help with uploading documents.

For support services, helping others with their EUSS status, you can contact the RC via telephone: **0300 790 0566** (Monday-Friday, 8am-8.30pm, Saturday & Sunday, 9.30am-4.30pm). Applicants inside the UK can call **0300 123 7379**.

¹³ <https://www.nrpfnetwork.org.uk/-/media/microsites/nrpf/documents/guidance/factsheet-eu-settlement-scheme.pdf>

¹⁴ https://www.gov.uk/government/news/temporary-protection-for-more-applicants-to-the-settlementscheme?utm_medium=email&utm_campaign=govuk-notifications&utm_source=3abea81a-120d-49be-b493db47fdac8524&utm_content=daily

EUSS Application Online Support

- Organisations providing support with EUSS applications can be searched for [here](#).
- Vulnerable individuals who need support to apply to the EU Settlement Scheme can get free support from a local organisation. Search for an organisation via postcode [here](#).

Role of the Home Office and Local Authorities

The Home Office

The Home Office is the government department responsible for managing immigration matters (amongst other things). Direct management is done through four main units or services:

- The Border Force - which carries out immigration and customs controls for people and goods entering the UK
- HM Passport Office - which issues UK passports
- Immigration Enforcement - which is responsible for preventing abuse, tracking immigration offenders, and increasing compliance with immigration law. It works with partners such as the police to regulate migration in line with government policy
- UK Visas and Immigration - the service most relevant for NRPF issues, this service:
 - considers applications for British citizenship from overseas nationals who wish to settle here permanently
 - runs the UK's asylum service offering protection to those eligible under the 1951 Geneva Convention
 - manages appeals from unsuccessful applicants

The Home Office can detain people under immigration powers. For example, they can detain someone who is in the country illegally. Some people without immigration status are subject to detention in detention or removal centres.¹⁵

The Home Office provide some limited accommodation and financial support for destitute asylum seekers. There are two main types of asylum support:

- Section 95 support – this usually covers the period whilst a person is waiting for their asylum claim to be determined, and
- Section 4 support – this can be provided to unsuccessful asylum seekers.

¹⁵ For information on detention see Bail for Immigration Detainees (BID) at: www.biduk.org/

Asylum support cessation procedure

Home Office Ministers have decided, from 9th March 2026, to set the notice period for all individuals granted leave exiting the asylum accommodation estate at **42 days**, from the point they are notified of a positive asylum decision.

Individuals will continue to receive a minimum of 28 days to move on from when they are notified that their asylum support is being discontinued in their asylum support discontinuation letter.

This policy will apply to individuals granted leave on or after 9th March 2026. The policy will not apply to individuals who are already within the notice period and those for whom support has already been discontinued.

The Home Office have also said that, where necessary, support may be extended. Requests will be considered 'on a case-by-case basis' and 'will only be granted in limited circumstances where necessary'.

Further information on requesting extensions or reinstatements of support can be found in published guidance on [GOV.UK](https://www.gov.uk).

Discretionary extensions

The Home Office has accepted that it has broad discretion under common law to extend asylum support beyond the period set out in secondary legislation.

The guidance on [Ceasing Section 95 Support](#) has been updated to reflect that, beyond the pilot:

- extensions will be considered on a case-by-case basis
- discretion may be exercised where an individual faces imminent street homelessness
- where support is extended or reinstated on this basis, a key factor will often be whether the individual has made reasonable efforts to secure accommodation and/or support from other sources.

Home Office Voluntary Returns Service (VRS)

The Home Office also runs the VRS which assists some migrants currently residing in the UK without the possibility of obtaining legal status, to return to their home country with practical and financial support. The Home Office website on voluntary returns¹⁶ states:

You can get help to return home if any of the following are true:

- you're in the UK illegally or have overstayed your visa or permission to stay
- you're in a family group with a child under 18 and are in the UK illegally
- you've withdrawn, or want to withdraw, your application to stay in the UK

¹⁶ See www.gov.uk/return-home-voluntarily

- you've claimed asylum in the UK but now want to withdraw that claim

You cannot apply for voluntary return if you:

- are currently being investigated by the police or detained by the Home Office
- have been given a prison sentence that's 12 months or longer
- have been convicted of an immigration offence and given a deportation order
- have already been given humanitarian protection, indefinite leave to remain or refugee status in the UK
- have been told by UK Visas and Immigration that you are a 'third country case'
- are a European Economic Area or Swiss national (unless you have a letter from UK Visas and Immigration confirming you are a victim of modern slavery)."

Frontline workers supporting individuals who are rough sleeping, have exhausted all options, and have requested support to return to their home country, can discuss the VRS option, along with other options with them.

It is important that frontline workers ensure that a range of options are discussed so that leaving the UK is not routinely seen as the only option. The involvement of independent immigration advice helps to ensure informed decisions are taken and people understand the choices they are making. This is particularly important given the significant implications that taking up a reconnection offer may have on people's future options to return to the UK.

If voluntary return is identified as a suitable option for an individual, frontline workers can find further information about the VRS process on the government voluntary return [website](#).

Homelessness Escalations Service (HES).

The HES provides a national point of contact for individuals working with people experiencing homelessness and those at risk of homelessness to confirm if they have legal status, and to progress any outstanding applications already submitted to the Home Office.¹⁷ The HES provides a service to quickly provide immigration status information which can help rough sleepers as it can prove if they have access to public funds. For individuals with an ongoing application for legal status, the HES can request for the case to be expedited.

There are different requirements, dependent on the type of organisation referring to the HES which must be met in order to access the service:

- For local authorities, no written authority is required.
- For all other users (charities etc.), a signed letter of authority to act on behalf of the individual must be provided.

¹⁷https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1162860/HES_User_Agreement_Accessible.pdf

Referrals can be made by emailing UKVIHomelessnessEscalations@homeoffice.gov.uk and workers should speak with the individual they are supporting to inform them about the referral, and gain consent (a signed letter of consent should be attached to the email). As a minimum, the referral must include:

- Confirmation that the individual you are referring to is homeless/a rough sleeper/at imminent risk of homelessness, including details of their situation.
- The individual's full name, DOB, and nationality
- A clear request of what you would like from the service – are you asking if the individual has status already, checking if they have an open application, or seeking to have an open application prioritised?
- Any factors which add to the urgency of the case

HES Reconsiderations Process

From the 30th June 2025, the Home Office has rolled out a 'Reconsiderations Process' for organisations supporting individuals who are rough sleeping (or at imminent risk of such). HES will accept referrals for reconsideration of a customer's decision for any route where reconsiderations are already permitted or where there is an appeals or admin review route. The HES reconsideration does not take the place of the appeal, and it is strongly advised that referrers lodge appeals in the normal way in case the reconsideration is either rejected at the triage stage or by the deciding unit.

The scheme will aim to focus on reconsideration requests falling into the below categories as they are the most likely to be resolved quicker:

- Rejected applications where evidence/information requested is now available or had not been considered previously.
- Refused applications which were refused based on information that was claimed to be missing or was not considered previously, or evidence that would now clearly overturn the decision; or where there has been a clear factual inaccuracy that renders the application bound to succeed if the inaccuracy is corrected.
- Decisions where there are concerns that discretion, which is available to the decision-maker, has not been exercised with due regard to the fact of the person's homelessness.

HES will carry out a triage of cases and will reject any cases where there is either no reconsideration route for the decision itself or where the customer has not evidenced that they are rough sleeping or at imminent risk of such or this factor did not form part of the original representations for the application made.

How to make a referral

Referrals should be sent by email to: HESreconsiderations@homeoffice.gov.uk using [this referral form](#). You must try to include all of the following information:

- all known names, dates of birth and nationalities that your clients have used

- The UAN for the decision you wish to challenge (e.g.1234-1234-1234-1234).
- Information regarding your customer/clients current housing circumstances.
- A signed consent of your customer/client to request this reconsideration.

Home Office Homelessness Team (HOHT)

The HOHT, established at the end of 2020, leads the Home Office response to the government commitment to end rough sleeping. The team work with other government departments, local authorities, immigration advisors and the homelessness sector, facilitating engagement on homelessness issues across the Home Office and work in collaboration with DLUHC and the devolved administrations.

Within the Home Office the HOHT upskills frontline staff and decision makers in the vulnerabilities associated with rough sleeping and homelessness.

Email address: HOHomelessnessteam@homeoffice.gov.uk

Local Authorities (LAs)

LAs provide a range of services (some statutory and some discretionary). The most relevant to migrants who are homeless or destitute are likely to be social care services (sometimes referred to as social services) and housing or homelessness services. In some areas of England there are two tiers of LA, the upper tier or county council (which would usually provide social care) and the lower tier also known as borough or district councils (which usually provide housing and homelessness services and Housing Benefit). In other areas, LAs are single tier or unitary and will usually have different departments for social services and housing/homelessness services.

As mentioned, LAs are restricted in the support and services they can provide to NRPF clients, because some services are defined as 'public funds' including key services such as social housing, homelessness accommodation and Housing Benefit. Beyond these limitations, the range of powers and duties available to LAs to accommodate or otherwise support people with restricted eligibility can be extensive, particularly within the context of COVID-19. A recent briefing by the Law Centres Network¹⁸ refers to six different pieces of legislation which can enable LAs to accommodate and support people with NRPF (beyond the Housing Act 1996); Section 2b NHS Act 2006, Children Act 1989, Section 138 Local Government Act 1972, Care Act 2014, Mental Health Act 1983 and Localism Act 2011.

Individual LAs will interpret these powers and duties for themselves so in practice the approaches taken, and extent of help available, could vary significantly between councils.

¹⁸ See <https://www.lawcentres.org.uk/policy/news/news/exhaust-all-options-to-house-the-homeless-our-new-guidance-tocouncils>

Homeless Link

It is a LA responsibility to ensure that people can access their services, so in cases where people cannot understand English, access to interpreters or multi-lingual advisors should be made available. The Homelessness Code of Guidance for Local Authorities states that translated information and interpreting services should be made available to all applicants for whom English is not a first language.

LAs are expected to provide emergency assistance to rough sleepers irrespective of immigration status during periods of severe weather (usually cold weather). This approach was also extended during the COVID-19 pandemic. LAs are able to provide or commission services for people sleeping rough using Rough Sleeper Initiative (RSI) and Cold Weather Funding. In 2022 'Protect and Vaccinate' funding was allocated to LA's and both this and RSI funding can be used to fund support for people with NRPF. LAs are increasingly commissioning immigration advice services to assist non-UK nationals who are rough sleeping or in emergency accommodation.

Managing applications for homelessness assistance for EU nationals with pre-settled status

From the 12th December, MHCLG updated the [Homelessness Code of Guidance](#) to reflect the [Court of Appeal's ruling](#) which advised on how to manage applications for EU nationals with pre-settled status.

Pre-settled status holders who were residing in the UK according to EU law by the end of the Transition Period have the benefit of the EU Charter of Fundamental Rights. This includes the right to dignity under Article 1 of the Charter.

For this cohort, councils will need to consider whether access to homelessness assistance is necessary to avoid a Charter breach in cases where they are considering a 'not eligible' decision. If they determine a 'not eligible' decision would be a Charter breach, they must find the applicant eligible for homelessness assistance under Part VII of the Housing Act 1996 until the duty ends in line with the homelessness legislation.

Key Issues for Homelessness Services

If you are a non-specialist homelessness service working with non-UK nationals or developing your offer to this group you may want to consider the following issues:

Working with your LA and other specialist organisations

It will be helpful for homelessness organisations supporting migrants to make links with their LA and other specialist services that may exist in the area, to build relationships, improve your local knowledge and raise awareness of any particular insights from your service. The LA may have specific forums for those working with non-UK nationals or local issues may be discussed through more general Homelessness Fora. There may be

local groups which involve **Strategic Migration Partnerships (SMPs)**¹⁹. SMPs are formal LA-led partnerships which provide structures and forums of engagement for effectively responding to migration at a local, regional, and national level. SMPs work to meet the needs of national and local governments and local communities. There are 12 SMP's in the UK.

Service eligibility and NRPF

Organisations can often take an overly cautious approach to working with clients with restricted eligibility - due to a lack of understanding of different types of immigration status and entitlements. Whether your service can help clients who have restricted entitlements will depend on a number of factors – including whether you have LA funding that may impose restrictions on supporting NRPF clients and whether you are providing free services such as drop in/day centre provision or residential projects where Housing Benefit/UC Housing Costs needs to be claimed.

As mentioned earlier, whilst LAs can be restricted in what they can do directly for people with NRPF, they may still *commission* or fund voluntary organisations and advice agencies to provide services within their area which are accessible to people with NRPF. If you are funded by the LA, it will be helpful to clarify the terms and conditions of funding and explore ways in which some support can be given to people with NRPF. For example, services may be funded to work with specific groups, e.g., rough sleepers with a local connection. This could indirectly exclude people with NRPF who are less likely to have evidence of a local connection. It may be possible to seek to negotiate changes to these terms with the LA to include those with no local connection where they are destitute and have NRPF.

Where support and/or accommodation services are not funded by or commissioned by LA's there can be greater flexibility for providers. Services that are providing accommodation (including a small number of night shelters) often rely on Housing Benefit and therefore will often have to exclude or limit places for NRPF clients, but it may be possible to reconfigure provision so that some accommodation is made available at no cost. Services operating with unrestricted funds, including many faith-based groups, and services with open access provision like day centres are often more able and willing to support people with NRPF. There are also a number of specialist community services dedicated to the support of destitute migrants, often primarily found in asylum dispersal areas and larger cities. Many of these projects are members of the No Accommodation Network (NACCOM), which publishes a list of services by region.²⁰

Some organisations worry that they are breaking the law by supporting those who have no legal immigration status or not reporting someone to the Home Office who may have absconded detention, but this is not the case - there is no obligation on services to

¹⁹ One example is the East of England SMP <https://smp.eelga.gov.uk/>

²⁰ See <https://naccom.org.uk/projects/>

contact the Home Office and report them. There should be no legal barriers to providing free housing to migrants with no immigration status.

The Joseph Rowntree Foundation report 'How to improve support and services for destitute migrants' further explores legal issues for organisations in providing support and services for this group.²¹

Homelessness services should be aware of the needs in their areas, including those with no recourse and it is the role of homelessness services to make the case for reconfiguring their provision in response to the needs of clients, including those with NRPF. There are a range of independent funders, including large trusts and foundations that provide charitable grants to fund this type of support.²²

Collecting and storing immigration status information

As a service provider, you will have policies and processes in place for how you collect and store information about clients accessing, or applying for, your services. The extent of personal information collected will depend on several things – including the type of service you provide, whether it is commissioned and if there are any specific eligibility conditions that might need to be assessed.

Careful consideration needs to be given to seeking information about immigration status and this should only be done where it is considered necessary and must be done in line with the Data Protection Act 2018 and the UK General Data Protection Requirement (GDPR)²³. Questions may need to include asking about identity and immigration documents (e.g. from Home Office, DWP, Housing Benefit, Local Authority, solicitors or HMRC). As with all client data, informed consent should be obtained to record and store information and share it with other named services. There must always be a 'lawful basis' for collecting, storing or sharing personal data and this should be clearly set out in your privacy notice. Where you are seeking information, it is crucial to approach this sensitively, conscious of the individual's potential fear of immigration enforcement or other consequences. As an organisation, you should have a policy on your approach to sharing information with the Home Office and it may be useful to communicate this to the client at an early stage. If your policy is not to share information with the Home Office, then it may be helpful for your clients to be aware of this at an early stage. People with NRPF may be reluctant to engage with services for fear of their information being shared with immigration enforcement leading to their detention and removal. They may believe that all agencies, including charities and NHS services, report to the Home Office and may choose to avoid the support that is available and find alternative means of survival.

²¹ See <https://www.jrf.org.uk/report/how-improve-support-and-services-destitute-migrants>

²² These include Joseph Rowntree Charitable Trust, Oak Foundation, Open Society Foundations, and the Paul Hamlyn Foundation

²³ The Information Commissioners Office (ICO) provides more information on the DPA and UK GDPR <https://ico.org.uk/fororganisations/guide-to-data-protection/>

Contact with the Home Office

In some cases, where clients are unsure of their immigration status, taking steps to support them to obtain clarification of their status and specifically whether they have restrictions on access to public funds, might be in their best interests. Someone could face the prospect of long-term destitution until steps are taken to resolve their status. It may be possible to clarify someone's status by making contact with their current or previous legal advisor or solicitor who may be able to confirm their status.

Where this is not possible, it may be necessary to consider contacting the Home Office. However, possible consequences of the Home Office becoming aware of a migrant's presence in the UK when they have no current immigration permission could be that enforcement action is undertaken. They may be detained, asked to undergo redocumentation procedures, served removal directions or issued with reporting instructions to attend an immigration centre on a regular basis. Any steps towards supporting someone to contact the Home Office should, therefore, be based on robust procedures around informed consent ideally along with advice from an OISC registered immigration advisor or solicitor prior to the individual agreeing.²⁴

For non-specialist services, we recommend that any decision to contact the Home Office is reviewed by a manager in the organisation (given the serious potential outcome of that contact). When considering what might constitute informed consent from the individual it may be that, given the complexity of the system, an individual's consent might not be considered 'fully informed' without the advice of an OISC registered adviser or immigration solicitor.

There are different ways of approaching the Home Office to check a person's status. For people who are rough sleeping, one option is to use the Homelessness Escalation Service²⁵ (see section above on the HES). Contact can also be made with the Home Office in other ways, including in some cases an online enquiry with consent of the individual. Under the Data Protection Act 1998, a migrant can request a copy of their Home Office file providing they can supply sufficient evidence of their identity. This is called a 'subject access request' and can be particularly helpful when a person has a complex or unclear immigration history, as well as being useful for a legal representative.²⁶ Making a subject access request is best done with a legal advisor.

Note that, at times, the Home Office can have difficulties in finding the details about a client on their system because of spelling errors or because the last contact that they had with the Home Office was prior to systems being digitised. Conversely, sometimes new information may take time to be updated on the system – which can lead to

²⁴ Individual immigration advice is regulated; advisers (other than solicitors, barristers and legal executives) must be registered or exempted by the Office of Immigration Services Commission, see <https://www.gov.uk/government/organisations/office-of-the-immigration-services-commissioner>

²⁵ <https://www.gov.uk/government/publications/homelessness-escalations-service-hes>

²⁶ See www.gov.uk/government/publications/requests-for-personal-data-uk-visas-and-immigration

perceived inaccuracies in data. It is also worth noting that, in some instances e.g., Windrush cases,²⁷ the absence of Home Office records does not necessarily mean a person has no status. For example, their arrival may have pre-dated this type of record-keeping.

Do I need to tell the Home Office about someone who does not have permission to be in the UK?

There is no obligation to report clients to the Home Office who do not have current permission to stay in the country. Indeed, services should be aware that doing so risks undermining trust in their services among migrant communities that might need their help.

Home Office 'signing on' requirements

Individuals in contact with the Home Office, may be required to sign on at an immigration reporting centre²⁸. If instructions are issued it is very important that the person complies with them, or risk being treated as an absconder and liable to detention. Services can liaise with Home Office Immigration, Compliance and Enforcement Teams²⁹ to help clients to establish whether they are subject to requirements and support them to keep to the terms of any agreement (but note information above on informed consent). This should reduce the risk of detention and avoid negatively affecting future applications.

Service accessibility

Organisations that provide homelessness services to non-UK nationals or are looking to develop their offer, should ensure their services are welcoming, accessible, and responsive to the needs of these groups. The following may be helpful in considering this:

Language translation and interpreting

Offer spoken and written information in multiple languages wherever possible, including in the native language of clients using your service and of local communities. Check with local migrant organisations if they have anything already produced or are willing to help you with translations. Language Line³⁰ is one example of a company that offers a professional interpreting service for a fee.

Trauma and culturally informed services

²⁷ The Windrush Help Team

https://windrush.campaign.gov.uk/?utm_campaign=windrush&utm_medium=search&utm_source=bing

²⁸ For more information on this see <https://righttoremain.org.uk/toolkit/detention/> and also note there may be temporary suspensions on signing due to COVID-19

²⁹ <https://www.gov.uk/government/publications/contact-details-for-immigration-compliance-and-enforcement-teams/contactdetails-for-immigration-compliance-and-enforcement-teams>

³⁰ See <https://www.languageline.com/uk/s/>

Ensure that services offered, and those involved in delivering them, are trauma informed. Services should be sensitive both to peoples' experiences in the country they may have left and the re-traumatisation that many experience in retelling their stories. In particular, only ask about information that is needed and be transparent about the reasons why. Ensure individuals are empowered to identify the support most appropriate for them rather than making assumptions.

Reflecting your local community in your advertising and recruitment

Where needed, advertise your service with local community groups, migrant/refugee support services, places of worship (e.g., churches, mandirs, mosques, gurdwaras and synagogues) in relevant languages. Recruit volunteers and/or staff that are representative of the client group's gender, nationality, ethnicity and spoken languages. If you cannot fund official translation services, you could consider recruiting a small number of volunteers for translation as needed or working with a local migrant/refugee support organisation to do this.

Staff Training

Consider and review training of your front-line staff to include an overview of immigration status, entitlement to services and the range of options open to people to apply for status etc. Whilst basic training won't enable your staff to offer immigration advice it will develop greater awareness of when immigration advice is needed, what OISC accreditation³¹ means and how to make effective referrals.

Support with basic needs, accommodation, social care, health care and immigration advice

As a non-specialist service working with non-UK nationals, you may want to consider the range of ways you can support people. This could include helping with immediate basic needs for food and clothing if they are facing destitution, accommodation (even though these are limited), their health and care needs and in helping them to access immigration advice to address their immigration status. Non-specialist services can play an important role in supporting people alongside other specialist services, throughout what can be a lengthy process of immigration casework.

1. Basic Needs

People with restricted eligibility may be destitute or facing destitution. Homelessness services can support them to access emergency support to meet their basic needs, which could include advising and assisting with:

- accessing local food banks³²

³¹ See <https://www.gov.uk/government/organisations/office-of-the-immigration-services-commissioner>

³² See <https://www.trusselltrust.org/get-help/find-a-foodbank/>

Homeless Link

- accessing basic support from day centres for hot drinks and meals, showers, laundry and clothing.
- making applications for short-term funding to alleviate basic destitution³³ e.g., travel, subsistence etc.
- accessing the nearest British Red Cross Destitution Centre, where refugees and vulnerable migrants can receive weekly support with emergency food parcels, cash, bus fares and toiletries³⁴.

Where possible, it could help to develop relationships and referral procedures with local organisations to ensure referrals can happen effectively and quickly.

Digital exclusion

People with restricted eligibility face barriers in making full use of the internet to access online help and support. For those experiencing digital exclusion, it can be helpful to consider what digital devices they own or have access to, their data plan, their access to the internet and where they can access Wi-Fi. There may be additional help they can access, including help with devices and data. Refugee Action has some guidance on helping with digital inclusion³⁵. The Good Things Foundation support a network of 'online centres' helping vulnerable and digitally excluded people to get online³⁶. They also offer Learn My Way, a comprehensive set of online resources to help people develop digital skills³⁷.

2. Accommodation needs

While people have NRPF, there are limited housing options available due to their lack of entitlement to Housing Benefit. Services can help by being aware of and, wherever possible, helping with access to rent-free accommodation options including:

Living with friends, family, or others

Many clients are accommodated by friends and family. Some clients may establish relationships in order to gain housing and support, however this creates a risk of exploitation. Services should be aware that if a person with NRPF, who is homeless, stays with an asylum seeker in Home Office accommodation, the asylum seeker's housing will be at risk if the housing provider finds out.

Free bed spaces in supported housing schemes or hostels

There are a small number of accommodation providers that house people with NRPF rent-free, either short or long term. This type of provision is not available in all areas, but services should check with local accommodation providers in case they can offer space

³³ Grant options can be found using sites such as Turn2US <https://grants-search.turn2us.org.uk/>

³⁴ See <https://www.redcross.org.uk/get-help/get-help-as-a-refugee>

³⁵ <https://www.ragp.org.uk/guidance/digital-inclusion/home>

³⁶ <https://www.goodthingsfoundation.org/our-network/>

³⁷ <https://www.goodthingsfoundation.org/learn/learn-my-way/>

to NRPF clients (e.g., bed spaces paid for by funding streams other than Housing Benefit). Some refuges for victims of domestic abuse may have beds available for women with NRPF on this basis.

Night shelters and Severe Weather Emergency Protocol (SWEP) provision

Severe weather or winter emergency accommodation schemes should offer beds to NRPF clients. Pre COVID-19, this provision would have mainly been in night shelters, but this provision has diversified and can include single rooms and even self-contained accommodation. Services that are commissioned or funded by LAs as SWEP (Severe Weather Emergency Provision³⁸) or RSI (Rough Sleeper Initiative) can legitimately be used for people with restricted eligibility.

Hosting and spare room networks

Hosting and spare room networks have been established in some areas. This accommodation is provided usually on a rent-free basis. The National No Accommodation Network (NACCOM) website includes a map of projects, many of which offer hosting as well as other accommodation³⁹. The charity Housing Justice also operates a pan London hosting project⁴⁰.

Hosting schemes are likely to be short term, with clients moving between hosts. Schemes may only support clients where there is strong probability that the client's situation will change, for example using hosting as an interim measure while a legal case is in process. This may act as an incentive for some people to seek legal representation and clarify their immigration status and options.

Rooms in shared houses with support

There are some projects across the UK that provide accommodation for people with NRPF in shared houses. A small number of NRPF beds may be set aside which are rent free or at lower rent levels than other rooms. The rental income on the other rooms effectively subsidises the NRPF beds. There is usually some support provided in the form of day-to-day humanitarian support and help to access to immigration advice and support with living independently. Information on these types of schemes may be available through NACCOMM⁴¹.

Advice and Support from LA Housing Options Services

Local authorities have a duty to provide advice and information to people with NRPF (either directly or through a commissioned provider). This advice should include what provision there may be locally to prevent their homelessness and how to access this

³⁸ For guidance on cold weather and SWEP provision see <https://homeless.org.uk/knowledge-hub/guidance-on-cold-weather-provision-swap-and-heatwaves/>

³⁹ <http://naccomm.org.uk/>

⁴⁰ <https://housingjustice.org.uk/hosting-project>

⁴¹ <http://naccomm.org.uk/>

provision. The following are two extracts taken from guidance for LAs on exercising their homelessness functions in accordance with the Housing Act 1996 (as amended)⁴²:

Chapter 3: Advice and information about homelessness and the prevention of homelessness

3.1 Housing authorities have a duty to provide, or secure the provision of, advice and information about homelessness and the prevention of homelessness, free of charge. These services will form part of the offer to applicants who are also owed other duties under Part 7, for example the prevention and relief duties. They must also be available to any other person in their district, including people who are not eligible for further homelessness services as a result of their immigration status. The provision of up to date, comprehensive, tailored advice and information will play an important part in delivering the housing authority's strategy for preventing homelessness.

Chapter 7: Eligibility for assistance

7.2 Housing authorities have a duty to provide, or secure the provision of, advice and information about homelessness and the prevention of homelessness, free of charge which must be available to any person in their district. All applicants, including those who are ineligible as a result of their immigration status, will be able to access this form of assistance from the housing authority. Housing authorities should refer applicants to appropriate support which they may be entitled to where relevant.

Private renting & Right to Rent Checks

The private rented sector is unlikely to be a realistic housing option whilst someone has no entitlement to Housing Benefit. The Immigration Act 2014 introduced the 'Right to Rent' requirements, which places a duty on all UK landlords to check the immigration status of every potential tenant.

Private renting tenants, who themselves have a right to rent, are not permitted to sub-let a room to someone who does not have a right to rent. People are not required to undertake checks when they have house guests, such as friends or family members, who are not paying rent and are not living in the accommodation as their only or main home.

These restrictions do not apply to accommodation in hostels, refuges, hospitals and hospices provided by LAs or provided by the Home Office under its duties towards asylum seekers, or to some student accommodation. In some circumstances the Home Secretary can grant 'permission to rent', which is usually provided in a range of exceptional circumstances; families with one or more children under the age of 18 who are cooperating with the Home Office's family returns processes; those on bail (either criminal or immigration bail); those within the Home Office's voluntary departure process; victims of trafficking or slavery and individuals with an outstanding out of time initial asylum claim, or an outstanding appeal against such a claim.

⁴² See: <https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities>

3. Social Care Needs

Homelessness services may be able to support people to access help from LA social care services (also referred to as adult social care or social services). Social services support is not a public fund for immigration purposes, so a person with NRPF having eligible **care and support** needs under the Care Act 2014 could access support and in some cases accommodation (where it's necessary to meet the care needs). They should not be refused assistance on the sole ground that they have NRPF. However, there are exclusions based on a person's nationality or immigration status, which mean that some migrants may only be able to get support from social services if this is necessary to prevent a breach of their human rights. If an adult destitute migrant you are working with has a physical disability, illness or mental health condition, it is worth discussing with them whether they wish to be referred to social services. The LA is responsible for meeting the care needs of an adult who is ordinarily resident in their area (i.e. they have taken up residence in the area on a voluntary and settled basis) or an adult who has no place of settled residence and is present in the area. However, establishing this may not be easy when a migrant has been homeless for a period of time. Where ordinary residence is unclear or disputed, a LA has the power to meet urgent needs and must do so without delay. If the LA does not accept a referral to undertake an assessment or makes a decision to refuse or withdraw support, the client will need to be referred for legal advice from a solicitor specialising in community care law. Some law centres may be able to assist with such matters. Detailed guidance on social care for adults with NRPF is available on the website of the NRPF network⁴³ although further summary information is set out below.

The Care Act eligibility and LA powers and duties

When a person with NRPF requests support under the Care Act 2014, they will be subject to the same assessment process and eligibility criteria as anyone else requesting care and support. The LA must carry out an assessment when a referred adult has an appearance of need and they must determine whether they have eligible needs and, if so, how these needs will be met. If the adult requires an independent advocate, because they lack capacity to make their own decisions, the LA must ensure the advocate is appointed throughout the entire assessment process. The LA has the power to meet urgent needs for care and support before an assessment has been completed. Therefore, if the person is street homeless or at risk of homelessness, it is helpful to provide evidence of this if available.

LA's will need to establish the migrant's immigration status and will usually check this directly with the Home Office. LAs are obliged to inform the Home Office of anyone requesting support from social services who is living in the UK in breach of immigration laws or a refused asylum seeker who has failed to cooperate with removal directions.

⁴³ See <https://www.nrpfnetwork.org.uk/information-and-resources/rights-and-entitlements/support-options-for-people-withnrpf/social-services-support-for-adults>

An adult will have eligible needs if:

- (i) their needs arise from, or are related to, a physical or mental impairment or illness.
- (ii) as a result of their needs, the adult is unable to achieve two or more specified outcomes (e.g. maintaining personal hygiene, managing and maintaining nutrition, accessing and engaging in work, training, education or volunteering, making use of necessary facilities or services in the local community including public transport, and recreational facilities or services):
- (iii) as a consequence, there is, or is likely to be, a significant impact on the adult's well-being.

When an adult has eligible needs, this does not mean a person with NRPF will receive accommodation - the LA may only be required to provide accommodation when the care and support that the migrant requires is normally administered in a home environment, or would be effectively useless if the migrant had no home. When a LA determines that an adult has eligible needs that must be met by the provision of accommodation, it may provide any type of accommodation, for example, care home accommodation or a private tenancy. This may be provided outside of the LA area.

When a LA determines that an adult does not have eligible needs, then it must consider whether a power under the Care Act 2014 to meet non-eligible care and support needs can be used, and if not, provide the person with information and advice about how to reduce their needs for care and support. For migrants with NRPF this should include information relevant to their needs.

The LA is not required to meet needs of migrants who have no immigration permission or who have leave to remain with the NRPF condition, when the needs have arisen solely because the adult is destitute or due to the physical effects of destitution. In these circumstances, they are excluded from being able to receive support or assistance under the Care Act 2014⁴⁴. However, given that the eligibility criteria are tied to "needs arising from or related to a physical or mental impairment or illness", this is unlikely to apply unless the LA determines that destitution is the sole cause of the illness/impairment. When a migrant is in an excluded group, the LA is not prevented from assessing need, or meeting urgent needs while an assessment is being carried out.

When a migrant requesting assistance from a LA is in an excluded group, the LA will need to undertake a 'human rights assessment' to establish whether the person can return to their country of origin in order to avoid a breach of human rights that may arise if the person remains destitute in the UK. This will involve identifying whether there are any legal barriers or practical obstacles preventing return, for example a pending human rights application made to the Home Office or human rights appeal, inability to

⁴⁴ Schedule 3 of the Nationality Immigration and Asylum Act 2002. More information is available at <https://www.nrpfnetwork.org.uk/information-and-resources/rights-and-entitlements/support-options-for-people-with-nrpf/socialservices-support-for-adults/when-does-the-exclusion-apply>

travel due to illness or medical condition or inability to obtain travel or identity documents. If there is such a barrier preventing the person from returning to their country of origin, then the LA will be required to provide assistance if the person has eligible needs under the Care Act 2014, but it will regularly review the situation.

If the person can freely return to their country of origin, the LA may only offer to provide assistance with travel to that country and support while their return is arranged. If the adult is in an excluded group and the LA has undertaken a human rights assessment which establishes that they can return to their country of origin to avoid a breach of human rights, the LA will not have a duty to meet eligible needs. The LA may therefore offer the adult assistance to return to their country of origin and support while this is arranged.

Section 117 aftercare provided under the Mental Health Act 1983

Section 117 of the Mental Health Act 1983 requires aftercare services to be provided to patients who have been detained in hospital, when they leave hospital, either immediately or sometime after they have been discharged.

Aftercare can be provided to a person who has been detained under one of the following sections of the Mental Health Act 1983: Section 3 (detained in hospital for treatment, a hospital order made under sections 37 or 45A (ordered to go to hospital by a court), Sections 47 or 48 (transferred from prison to hospital). Aftercare services must be provided free of charge and are not subject to any immigration exclusions, so nationality and immigration status are not factors that affect whether a person can be provided with aftercare under section 117. Aftercare can include the provision of accommodation, if this is required for the purpose of meeting a need arising directly from, or related to the patient's mental disorder and will help to reduce the risk of their mental condition deteriorating. Therefore, supported accommodation may be provided as part of an aftercare package. If supported accommodation is not required as part of an aftercare package, the LA would need to establish whether there is any duty to provide accommodation under the Care Act 2014.

Social services' support for care leavers with NRPF

If you are working with a young migrant with NRPF, it will be important to ask if they have ever been looked after by a LA as a child. In such cases, leaving care duties may apply, and you will need to find out on what basis any support received was ended. If it is unclear what duties may apply, the young person may be able to get specialist advice from Coram Migrant Children's Project and may need to be signposted to a specialist solicitor. Leaving care duties apply when a young person has been looked after by the LA under section 20 of the Children Act 1989 for a period of at least 13 weeks before they are 18 years old. Leaving care duties include:

- accommodation and financial support up to age 21, or 25 if the care leaver is following a programme of education or training.

- advice and assistance from a personal adviser, on request, for all care leavers from 21 until they turn 25 years old (this does not include accommodation and financial support)

When a care leaver is age 18 or older and is in an excluded group, provision of the support listed above is subject to a human rights assessment.

4. Health Needs

Homelessness services can support people with restricted eligibility to access health services if they have healthcare needs or wish to receive vaccinations. NHS care is not a public fund for immigration purposes, therefore a person with restricted entitlement is not excluded from access. However, there are some (mainly secondary care) NHS services which are chargeable to certain groups of migrants⁴⁵.

Health services that are free to all migrants and should not be subject to immigration checks include:

- Registration and care from a GP practice.
- COVID-19 Vaccinations
- Emergency care, i.e., Accident & Emergency services up to the point of being accepted as an inpatient.
- Treatment provided in a walk-in centre.
- Treatment provided in a minor injuries unit.
- Diagnosis and treatment for certain communicable diseases (tuberculosis, cholera, food poisoning, malaria, meningitis and pandemic influenza, COVID-19, and HIV).
- Family planning services (excluding pregnancy termination).
- Diagnosis and treatment of sexually transmitted infections.
- Treatment of a physical or mental condition caused by torture, female genital mutilation, domestic violence, or sexual violence when the patient has not travelled to the UK for the purpose of seeking such treatment.

It is important to note that, while the health services above are free, there can still be significant barriers to accessing them. These can include the lack of ID, inability to provide proof of address documents and language barriers. The charity Doctors of the World UK produce useful translated guidance and a national helpline that supports migrants to access NHS services or to challenge wrongful charging⁴⁶. NHS England has produced leaflets to help different groups of people, including people who are homeless,

⁴⁵ 6 For further detailed information see: <https://www.gov.uk/guidance/nhs-entitlements-migrant-health-guide> and a Toolkit for the NHS Charging Regulations JCWI & Doctors of the World: <https://www.jcwi.org.uk/Handlers/Download.ashx?IDMF=a9b8ccbd-6246-422b-9f80-6cf89716efa6>

⁴⁶ See www.doctorsoftheworld.org.uk/

asylum seekers and refugees, to register with a GP. The charity Groundswell also produce resources and leaflets that may be useful⁴⁷

Some groups are automatically entitled to free **NHS prescriptions**. These include those who are 60 or over, or pregnant women. Others can apply for exemption certificates that entitle them to free NHS prescriptions (where they have specific medical conditions for example). If none of the exemptions apply, a person who has a low income may be able to obtain full or partial help with prescription charges through the NHS Low Income Scheme⁴⁸.

Secondary (hospital) care

Treatment provided by a hospital, including out-patient services and in-patient treatment provided following a presentation at A&E, is chargeable to certain migrants. Department of Health and Social Care (DHSC) guidance on charging is extremely complex,⁴⁹ the Joint Council for the Welfare of Immigrants (JCWI) and Doctors of the World have produced detailed information and toolkits on NHS charging which may be useful⁵⁰.

Out of the NRPF client group, those that are subject to charging will include:

- Visa over-stayers.
- People who have entered the country illegally.
- Refused asylum seekers who are not being provided with accommodation by the Home Office or LA under the Care Act 2014.
- Visitors with leave to enter for a period of six months or less

If a clinician determines that a migrant needs chargeable treatment that is 'urgent' or 'immediately necessary', then this must be provided without payment upfront, but the person will still be liable for the cost of the treatment and an NHS debt may therefore be accrued. Debts are then reported to the Home Office. DHSC provides the NHS with financial incentives for charging overseas visitors, and so hospitals are increasingly routinely checking the nationality and immigration status of patients, sharing information with the Home Office and pursuing debts that are accrued.

DHSC's charging guidance (referred to above) states that the NHS may write off a debt for accounting purposes only – which does not mean attempts will never be made to recover it – when “given the NHS chargeable patients financial circumstances, it would not be cost effective to pursue it (e.g. they are a destitute illegal migrant or are genuinely

⁴⁷ See www.nhs.uk/using-the-nhs/nhs-services/gps/how-to-register-with-a-gp-practice/ and <https://www.doctorsoftheworld.org.uk/what-we-stand-for/advocacy/access-to-primary-care/> and <https://groundswell.org.uk/>

⁴⁸ See <https://www.nrpfnetwork.org.uk/information-and-resources/rights-and-entitlements/nhs-treatment/prescriptions-dentalcare-and-sight-tests#guide-sections> and <https://www.jcwi.org.uk/Handlers/Download.ashx?IDMF=a9b8ccbd-6246-422b-9f80-6cf89716efa6> and <https://www.nhs.uk/nhs-services/prescriptions-and-pharmacies/nhs-prescription-charges/>

⁴⁹ <https://www.gov.uk/government/collections/nhs-visitor-and-migrant-cost-recovery-programme>

⁵⁰ <https://www.jcwi.org.uk/nhs-charging-toolkits>

without access to any funds or other resources to pay their debt).” If a migrant accrues an NHS debt of £500 or more then this could lead to an application for leave to remain being refused.

Unfortunately, due to the complexity of the charging guidance hospitals can sometimes apply the rules incorrectly, and charge or refuse treatment to individuals who should be entitled to receive it or are exempt. Doctors of the World or a community care solicitor may be able to help clients to challenge charging decisions.

Immigration Health Surcharge

Migrants applying for limited leave to remain in the UK will need to pay an ‘Immigration Health Surcharge’ on top of the application fee in order to gain access to NHS treatment⁵¹. Applications will not be accepted without this payment, although there are some exemptions, and the Home Office has advised that those qualifying for an application fee waiver will not be required to pay the Immigration Health Surcharge.

5. Immigration Advice Needs

Services can also consider how they can best support and engage with clients to help them resolve their immigration status (thereby allowing them to access public funds) or return to their home country. In both cases, the individual must have suitable immigration advice/representation to support them through these processes so the role a non-specialist service can play will be limited. Many clients you see will already have legal advisers and may need help to re-engage with them.

Specialist Immigration Advice

Individual immigration advice is regulated - advisers (other than solicitors, barristers and legal executives) must be registered or exempted by the Office of Immigration Services Commission⁵². As a non-specialist service provider you may want to build links with specialist OISC legal advisers and consider referral arrangements or be aware of the specialist advice that exists within the area.

Many of these specialist services are under considerable pressure due to increased demand and if you develop these links there may be ways you can assist the process and support the client and advisor with some aspects of their case. You could support the client to gather relevant evidence, for example evidence from people in their country of origin on the current situation or medical evidence from a specialist agency⁵³. Once a claim is in process, you might also be able to support the client to apply for Section 95 asylum support or Section 4 hardship support for example.

If clients don't have an adviser or solicitor, you could help the client to find someone who will take on their case (for a fresh asylum application or appeal, solicitors must assess that the case has merit, and this opinion may vary between solicitors). Following

⁵¹ <https://www.gov.uk/healthcare-immigration-application>

⁵² <https://www.gov.uk/government/organisations/office-of-the-immigration-services-commissioner>

⁵³ For example <https://www.freedomfromtorture.org/> or www.helenbamber.org

the cuts to legal aid under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), the scope of legal aid provision is very limited. Most immigration applications are out of scope - legal aid will normally only be available for asylum, those risking inhuman or degrading treatment on return (e.g., those with very serious health issues) and to victims of domestic violence or modern slavery, but these exceptions are narrowly drafted. The Law Society website has more information about what is in scope of legal aid⁵⁴.

If a person's case is not covered by Legal Aid, then it still may be possible to apply for **exceptional funding**⁵⁵. This is available to people who have a strong case and whose human rights would be breached if they did not receive Legal Aid.

For cases where no Legal Aid is available, there may be some Citizen Advice Bureaus (CABs), law centres or other organisations able to assist under other project funding, or able to give second tier advice. There are several free advice lines to get initial immigration advice as well as suggestions on where to get representation if needed (e.g., Praxis, Asylum Aid, Joint Council for the Welfare of Immigrants, Rights of Women).

Support to return/reconnection

Homelessness services could consider providing information on return options and how to access further support with this. It will be important to help the client consider whether the route of return that a person is offered is appropriate, particularly if the individual is vulnerable. Services could also support clients to contact family and friends in their country of origin, for example via the Red Cross tracing and messaging services or support clients to research the situation in their country of origin and find local agencies that could help them to return and integrate. The Home Office operates a voluntary returns service (see earlier section).

Why don't people return to their country of origin?

People with NRPF may have lived in the UK for a long time, or even have been born here, establishing social networks and relationships that would be hard to leave behind. It is possible for people to have lived and worked here for many years before their circumstances change, and they may no longer have links to their country of origin. Also, due to the government imposition of re-entry bans and increasingly restrictive entry requirements, the likelihood of being able to return to the UK is often correctly perceived as being very slim. Refused asylum seekers may still fear persecution in their country of origin and could face torture, imprisonment, or death on return. While the Home Office might have refused asylum on the basis that their 'home' country is safe, clients may

⁵⁴ www.lawsociety.org.uk/for-the-public/paying-for-legal-services/legal-aid/.

⁵⁵ See <https://www.gov.uk/guidance/legal-aid-apply-for-exceptional-case-funding> and <https://www.nrpfnetwork.org.uk/information-and-resources/rights-and-entitlements/legal-aid/exceptional-case-funding>

have well-founded reasons to think that destitution in the UK is preferable to returning there.

Voluntary return to some countries is problematic, and circumstances are continually changing. If a country's embassy closes in the UK, if there is no safe route back to a country or if the domestic situation deteriorates, it may not be possible to facilitate return, even when someone wants to go back. Section 4 hardship support should still be an option in these cases.

Some undocumented migrants and refused asylum seekers struggle to prove their country of origin. Since 2013, the UK has had a statelessness determination procedure which may be appropriate for some people,¹ and which, if successful, results in a renewable grant of leave for up to five years, with the right to work and access to benefits.

Migrants with NRPF who experience domestic abuse

People who have leave to enter or remain as the spouse/civil partner/unmarried partner/same sex partner of a settled person (British citizen or person with indefinite leave to remain) are subject to the NRPF condition. If their relationship breaks down due to domestic abuse, they may be able to apply for indefinite leave to remain (ILR) and access to public funds. Where a person intending to do this is destitute, they can apply for three months' limited leave, which if granted will allow recourse to public funds. This will give them time to make such applications and enable them to apply as homeless and access benefits while the application is being considered by the Home Office. This is called the Domestic Violence Destitution Concession⁵⁶

It is important that people in this situation receive good legal advice before making either application to check that this is the most appropriate option for them. **Legal aid is available for the ILR application but not for the concession.** The concession does not apply to survivors of domestic abuse who do not have leave to enter or remain as the spouse/civil partner/unmarried partner/same sex partner of a settled person. If they have no children with them, their support options will be extremely limited, as there are very few refuge spaces available for migrants with NRPF. However, some local authorities may exercise their power under the Care Act 2014 to support a particularly vulnerable victim of domestic abuse who has no children or eligible care and support needs. The national charity, Refuge, operates a 24-hour national domestic abuse

⁵⁶ See <https://www.gov.uk/government/publications/application-for-benefits-for-visa-holder-domestic-violence> and <https://www.nrpfnetwork.org.uk/information-and-resources/rights-and-entitlements/support-options-for-people-withnrpf/immigration-options/destitution-domestic-violence-concession#guide-sections>

helpline⁵⁷. It uses the services of Language Line to provide access to interpreters for non-English-speaking callers.

Women with NRPF facing gender-based violence can apply to the Southall Black Sisters 'No Recourse Fund' which offers limited short-term support for rent and living costs. This is a national fund so applications can come from anywhere in the UK⁵⁸.

Victims of modern slavery

Some migrants experiencing homelessness and destitution may be victims of modern slavery. Specific agencies that come into contact with victims are expected to notify the Home Office of potential cases through the National Referral Mechanism (NRM). NRM is a framework for identifying and referring potential victims of modern slavery and (with consent) ensuring they receive the appropriate support. This can include safe house accommodation, financial support and a support worker to help with access to wider services including, but not limited to, health and mental health services, translation, and legal representation including immigration advice.

Alternatively, victims could be referred to other independent specialist organisations such as the charity. Unseen which also operates the modern slavery & exploitation helpline⁵⁹, and ATLEU⁶⁰.

This document is intended for general guidance only – if a support worker or individual needs help or advice with an immigration related matter then they should always seek specialist advice from a provider approved by the Office of the Immigration Services Commissioner (OISC).

⁵⁷ <https://www.refuge.org.uk/get-help-now/phone-the-helpline/>

⁵⁸ <https://southallblacksisters.org.uk/no-recourse-fund/>

⁵⁹ <https://www.modernslaveryhelpline.org/>

⁶⁰ <https://atleu.org.uk/>

Further Resources

ADASS (Directors of Adult Social Services)

EUSS information hub for practitioners, which is also relevant to homelessness services:

<https://www.adass.org.uk/euss>

The Asylum Support Appeals Project

A list of specialist refugee & asylum support organisations by region:

<http://www.asaproject.org/resources/organisations-who-can-help>

Free advice and legal help to practitioners and individuals appealing Home Office Asylum Support decisions including an advice line:

<http://www.asaproject.org/>

Asylum Aid (Part of the Helen Bamber Foundation).

Legal aid advice and representation on behalf of people seeking asylum and refugees:

www.asylumaid.org.uk

ATLEU (Anti Trafficking Legal Aid Unit)

Charity providing legal advice and support to survivors of trafficking and slavery:

www.atleu.org.uk

British Red Cross

Emergency support for refugees, people seeking asylum and vulnerable migrants including food and clothing. Also settlement support, specialist help for young refugees and support in reuniting with family:

<https://www.redcross.org.uk/get-help/get-help-as-a-refugee>

Citizens Advice

Confidential advice on full range of issues through national charity website and face to face through network of local advice agencies:

www.citizensadvice.org.uk

Doctors of the World UK

Support with, and guidance resources on, access to NHS care and charging, Translated resources on COVID-19. Advice line. London based clinic:

www.doctorsoftheworld.org.uk/

EU Citizens Rights for EU citizens living in the UK with website which includes an interactive database of local organisations providing support and information:

<http://www.eurights.uk/>

Freedom from Torture

Specialist psychological therapy to help asylum seekers and refugees who have survived torture. Training for professionals working with torture survivors.

www.freedomfromtorture.org

Greater London Authority (GLA)

The GLA hosts the European Londoners Hub with up-to-date guidance for EU/EEA nationals on rights, entitlements and how to apply to the EUSS.

<https://www.london.gov.uk/programmes-strategies/communities-and-social-justice/migrants-and-refugees/european-londoners>

Helen Bamber Foundation

Charity providing therapy, medical advice, legal protection, housing and welfare, counter trafficking and help with integration into the community for refugees and asylum seekers who are survivors of extreme human cruelty:

www.helenbamber.org/

Home Office

Detailed information on the UK immigration system:

<https://www.gov.uk/topic/immigration-operational-guidance>

Welcome guide for new refugees (including multiple language versions):

<https://www.gov.uk/government/publications/welcome-a-guide-for-new-refugees>

Asylum support:

<https://www.gov.uk/entering-staying-uk/support-asylum-claimants-refugees>

Leaflets and facts sheets on EUSS late applications:

<https://www.gov.uk/government/publications/eu-settlement-scheme-information-for-late-applicants>

Homeless Link

Support and guidance for homeless organisations including resources on supporting people with restricted eligibility, refugees and asylum seekers and also on trauma informed care.

<https://homeless.org.uk/knowledge-hub/>

Housing Rights Information

Online housing rights advice produced by Chartered Institute of Housing & BME National for newly arrived migrants and their advisors.

www.housing-rights.info/index.php

Rights and information for EU nationals

<https://www.housing-rights.info/brexit-news.php>

Immigration Law Practitioners Association

Membership body for Immigration Advisors and member directory to search for advisors.

www.ilpa.org.uk/

Joint Council for the Welfare of Immigrants (JCWI)

Legal advice, support, online resources and guides for migrants and professionals.
Helpline for irregular migrants.

www.jcwi.org.uk/

Language Line

Company offering video and telephone interpretation for a fee.

<https://www.languageline.com/uk/s/>

Law Centres Network

List of Law Centres some of which will have speciality in immigration and asylum law.

www.lawcentres.org.uk

Law Society

Search facility for find specialist immigration solicitors

<https://www.lawsociety.org.uk/>

Mayor of London

Information and resources for migrants and refugees living in London:

<https://www.london.gov.uk/what-we-do/communities/migrants-and-refugees>

Information and resources for Europeans living in London:

<https://www.london.gov.uk/what-we-do/european-londoners-hub>

Migrant Help

Support asylum seekers throughout the asylum journey and post decision. Specialist support to victims of human trafficking and modern slavery. Helpline.

www.migranthelp.org

NACCOM (No Accommodation Network)

Network of accommodation projects for those with no recourse to public funds.

Toolkits for setting up projects.

www.naccomm.org.uk

New Europeans

Charity supporting EEA nationals in the UK to access their rights and entitlement.

Range of online films in different languages about applying to the EUSS:

<https://neweuropeans.uk/managing-your-status/>

NRPF Network

Support, training and guidance to LAs on NRPF issues

www.nrpfnetwork.org.uk

Office of the Immigration Services Commissioner (OISC)

Government office that regulates immigration advice. Search facility for finding registered advisors.

<http://home.oisc.gov.uk>

Praxis

Charity providing specialist advice, support and accommodation.

www.praxis.org.uk

Rainbow Migration

Supports LGBTQI+ people through the asylum and immigration system.

<https://rainbowmigration.org.uk/en>

Refugee Action

Specialist help, advice and support to asylum seekers and refugees through regional projects. Resettlement support for refugees. Training, resources and toolkits for organisations and advisors.

www.refugee-action.org.uk

Separate website for good practice resources and specific Refugee Immigration Advice Project (RIAP) to support non-profit organisations with OISC training and accreditation.

<https://www.ragp.org.uk/>

<https://www.ragp.org.uk/fiap/overview>

Right to Remain

Charity offering resources and toolkit for community groups and organisations to help people establish their right to remain.

<https://righttoremain.org.uk/>

Refugee Council

Advice, support and resettlement services for refugees and people seeking asylum

www.refugeecouncil.org.uk

Refugees at Home

Hosting scheme connecting those with a spare room to refugees and asylum seekers needing accommodation.

<https://www.refugeesathome.org/>

Refuge

National charity supporting those experiencing domestic abuse. 24 hour national domestic abuse helpline with language line services:

<https://www.refuge.org.uk/>

Streetlink

National rough sleeper referral service to connect people sleeping rough (including non-UK nationals) with outreach support.

www.streetlink.org.uk

the3million

Information on rights and entitlements for EU citizens in the UK

<https://www.the3million.org.uk/rights-have-changed>

Trussell Trust

Network of approximately 1200 local foodbanks providing emergency food and supplies and emergency support.

<https://www.trusselltrust.org/get-help/find-a-foodbank/>

Unseen

National charity supporting victims of modern slavery and exploitation. National helpline:

<https://www.unseenuk.org/>

NRPF Network

Practical guidance for councils on service delivery:

<https://guidance.nrpfnetwork.org.uk/reader/key-elements-service-models/>

What We Do

Homeless Link is the national membership charity for frontline homelessness services. We work to improve services through research, guidance and learning, and campaign for policy change that will ensure everyone has a place to call home and the support they need to keep it.

Homeless Link

Minorities House
2-5 Minorities
London
EC3N 1BJ

www.homeless.org.uk
@HomelessLink

**Let's End Homelessness
Together**

