

Supporting people with no recourse to public funds (NRPF)

Guidance for homelessness services

Let's end homelessness together

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Feedback, corrections and suggestions

We welcome your feedback on our publications. Please email tasmin.maitland@homelesslink.org.uk

Introduction

This guidance provides information for services in England working with adults from outside the EEA who have no recourse to public funds (NRPF) and are homeless without dependents in their household. Developing a support offer for this client group presents a challenge for many services as funding to support NRPF clients is limited. This guidance outlines what steps services can take to inform people about their options, alleviate destitution or access funds. Details of specialist organisations working with NRPF clients can be found in the final section.

People with no recourse to public funds (NRPF) are at high risk of homelessness and destitution because they cannot access mainstream housing and welfare benefits. People whose NRPF condition is due to an asylum claim are usually not permitted to work, and are the focus of this guidance. While this client group forms only a small proportion of clients accessing services,¹ many more are 'hidden homeless',² and the small number of services offering specialist support experience high levels of demand.

It is likely that there are more people with NRPF using services who do not disclose their situation, particularly when using open access services for basic facilities such as food and showers, without a needs assessment. The lack of representation and visible inclusion of people from Black, Asian and minority ethnic backgrounds among staff and clients of many homelessness services may also be contributing to people with NRPF being under-served by the sector and, therefore, under-represented in data.³

Support workers should also be mindful that people may find themselves subject to an NRPF condition, despite living and working in the UK for many years. For example, this has 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. For more on the Windrush scandal see: www.jcwi.org.uk/windrush-scandal-explained

This document focuses primarily on people from outside the European Economic Area (EEA). Homeless Link has published separate guidance on working with EEA nationals: www.homeless.org.uk/our-work/resources/working-with-eea-nationals

This document provides general guidance only – services are advised to seek specialist advice to identify the appropriate options for each client e.g. from a solicitor or law centre. 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.⁴

¹ Homeless Link's *Single homeless support in England: Annual Review 2019* www.homeless.org.uk/facts/our-research/annual-review-of-single-homelessness-support-in-england

² 'Coping with Destitution', Oxfam Research Report 2011 <https://policy-practice.oxfam.org.uk/publications/coping-with-destitution-survival-and-livelihood-strategies-of-refused-asylum-se-121667>

³ Homeless Link (and other organisations) is working to improve the evidence base on ethnicity and homelessness.

⁴ <https://home.oisc.gov.uk/>

The impact of Covid-19

The Covid-19 crisis has highlighted the number of people with no recourse to public funds who are either already sleeping rough or hidden homeless, or whose situation was insecure e.g. in casual employment and informal accommodation such as a house/room share. In the Covid emergency hotels, some sites housed a high proportion of people with NRPF – up to 70% in some hotels, both EEA and other nationals.

NRPF homelessness has received a lot of attention during the crisis. While people with NRPF were included in the Government's push for local authorities to bring 'Everyone In', there has been no change in policy or legislation around NRPF for non-EEA nationals. It has been left to local authorities to identify ways of housing people with NRPF while remaining within the law on public funds.

In his letter to local authorities on 28 May 2020, MHCLG Minister Luke Hall wrote: "I do recognise that these are challenging times and that you may have accommodated people who would normally and otherwise be ineligible for support, making judgements based on risk to life. I wanted to take this opportunity to restate the government's position on eligibility relating to immigration status, including for those with No Recourse to Public Funds (NRPF). The law regarding that status remains in place. Local authorities must use their judgment in assessing what support they may lawfully give to each person on an individual basis, considering that person's specific circumstances and support needs. You will already be used to making such judgements on accommodating individuals who might otherwise be ineligible, during extreme weather for example, where there is a risk to life."

Some local authorities have publically stated their commitment to continuing to house and support people with no recourse to public funds. However, at the time of writing it is unclear to what extent all LAs in England might adopt a similar commitment and what mechanisms will be used to achieve it as the pandemic continues.

There have been changes to asylum support during the pandemic. ASAP have produced a factsheet:

www.asaproject.org/

For current resources around Covid-19 and NRPF, please see Homeless Link's Resource List:

www.homeless.org.uk/covid19-homelessness

Role of the Home Office

The Home Office is the government department that is responsible for maintaining immigration control, which is split into the following sections:

- UK Visas and Immigration – considers applications for permission to enter or stay in the UK, as well as those for citizenship and asylum
- Border Force – manages border control
- Immigration Enforcement – undertakes enforcement action within the UK

These activities were formerly the responsibility of the UK Border Agency (UKBA).

ICE (Immigration Compliance and Enforcement) teams across the UK took on the operational enforcement role from LITs (Local Immigration Teams), and work with the public and alongside police, HM Revenue & Customs, local authorities and other local partners in order to enforce and ensure compliance with immigration laws. Contact details for the regional teams are published by the Home Office:

www.gov.uk/government/publications/contact-details-for-immigration-compliance-and-enforcement-teams/contact-details-for-immigration-compliance-and-enforcement-teams

What NRPF means for homelessness services

How is NRPF defined?

No recourse to public funds (NRPF) refers to people who are subject to immigration control and have no entitlement to welfare benefits or public housing.⁵ Note that this restriction applies to welfare benefits, homelessness assistance and local authority allocation of social housing only. It does not prevent migrants with NRPF from accessing other publically funded services such as healthcare, although these may be subject to restrictions based on nationality and immigration status.

Having no recourse to public funds is not necessarily a problem – NRPF migrants can be studying, working or living in the UK providing they meet the required immigration controls and can support themselves. For voluntary sector services, it is those clients who have never been or are no longer self-sufficient, or whose immigration status has changed or was never regularised,⁶ who are likely to present as NRPF with no means of support. This can often be after a long period of destitution or after employment arrangements or support networks have broken down.

Which clients are NRPF?

NRPF clients fall into several groups:

- (i) Migrants that are excluded from claiming public funds (welfare benefits, homelessness assistance and local authority allocation of social housing) because they are subject to immigration control:
 - ‘Irregular’ migrants include: people who have entered the country without a visa and are classed as ‘illegal entrants’, and people with no immigration permission, for example, they have stayed in the UK after the expiry of their visa or after an unsuccessful application for a visa extension. These migrants will not have permission to work. See note above re: Windrush Scandal and the Home Office wrongly deciding that Commonwealth citizens with permanent leave to remain in the UK had over-stayed.
 - Documented or ‘regular’ migrants are in the country legally with a valid visa that has the NRPF condition. Generally, limited leave to enter or remain (i.e. a visa with a time limit) is subject to the NRPF condition.
- (ii) Migrants who are unable to claim benefits because they do not satisfy the eligibility criteria:
 - EEA nationals who do not have the right to reside: EEA nationals and their family members (whether EEA nationals or not) can come and go freely within the EEA but in order to access benefits and housing, the EEA national needs to have a right to reside based on employment, self-employment, self-sufficiency etc. With no such right to reside, their access to benefits and housing rights is restricted.
 - Migrants who do not pass the habitual residence test. This may include UK nationals returning to the UK after living outside of the Common Travel Area (UK, Republic of Ireland, Channel Islands and Isle of Mann).
 - Primary carers of British citizen children, where the primary carer is not a national of an EEA member state, colloquially known as ‘Zambrano’ carers due to the case that defined this status.

⁵ Section 115 Immigration and Asylum Act 1999

⁶ Immigration status can, in some cases, be regularised via Home Office Immigration e.g. a new visa or being awarded leave to remain

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(iii) Asylum seekers and refused asylum seekers are also excluded from accessing welfare benefits, homelessness assistance and social housing. Instead, accommodation and financial support is available from the Home Office to those who have a pending asylum claim or appeal, or to refused asylum seekers in certain circumstances (see Support Offers below). Voluntary sector agencies are likely to be approached for assistance when:

- Asylum seekers with an asylum claim pending are destitute and have not yet claimed, or have been refused, Home Office asylum support.
- Refused asylum seekers have reached the end of the legal process, i.e. their asylum claim has been finally determined and they cannot appeal further, so they have become 'appeal rights exhausted' – if they are receiving asylum support from the Home Office this will be terminated unless they have a dependent child.

NRPF is not always a permanent state. Some people's circumstances change over time so that they become eligible for public funds, for example:

- Asylum seekers who have been granted refugee status, humanitarian protection or old style discretionary leave to remain become entitled to claim welfare benefits because they 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.
- EEA migrants who start job-seeking gain the right to reside, can pass the habitual residence test and become eligible to apply for welfare benefits, provided that they have resided in the Common Travel Area⁷ for a minimum period of three months. However, they cannot claim housing benefit so may still require housing support.
- EEA migrants who start working will be exempted from the Habitual Residence Test and can claim in-work benefits. However, in order to demonstrate that they are a worker in order to claim benefits they must satisfy the DWP's 'Minimum Earnings Threshold' which involves providing evidence of three months' earnings at a specified minimum level. See Housing Rights for more information: www.housing-rights.info/03_4_EEA_workers.php

However, even when a migrant no longer has a restriction preventing them from accessing welfare benefits and social housing, they may experience a period of destitution while they are applying for a National Insurance number and/or waiting for benefits to be awarded. The introduction of Universal Credit and the five-week wait for payment has made this significantly more challenging.

Additionally, many single migrants will not qualify for homelessness assistance from the local authority because they are not deemed to be in 'priority need'. However, if they are eligible and are threatened with homelessness within 56 days, the local authority has a duty to take steps to prevent homelessness by providing support and advice to help the person to either stay in their current home or secure suitable accommodation. This is done by developing a personalised housing plan.

For more information on local authority statutory duties and how to apply for support please see: Housing Rights website: www.housing-rights.info/02_2_2_How_to_apply.php
Shelter Legal: <https://england.shelter.org.uk/legal>

⁷ The UK, Republic of Ireland, Isle of Man and Channel Islands.

Identifying people with NRPF in your service

Individual information and assessment

Services will need to ask clients for information about their nationality and immigration status in order to establish if they can access public funds. Legal advice might be needed. The status of an NRPF client will affect what their support options will be, so it's important that services gather clear information about the circumstances of each person in order to provide the right support and advice.

In order to establish a person's status and provide support, services need to collect information and consent via individual needs assessments, including:

- Accurate personal information (check date of birth, nationality, spelling of name)
- Immigration status
- Identity and immigration documents (e.g. from Home Office, DWP, Housing Benefit, local authority, solicitors or HMRC)
- Contact details of previous legal representatives
- Length of time in the UK
- Employment history and proof of employment in the UK
- Benefit claims in the UK (in and out of work)
- Housing history in UK e.g. last 5 years including accurate addresses, dates, local authority, type of accommodation (e.g. Home Office, social housing or private tenant, homeowner)
- Proof of tenancy, rent payments or other documents relating to housing history
- Reasons for leaving previous accommodation or local authority area
- Criminal record, where relevant
- Support needs (e.g. mental and physical health, substance use, life skills, training and employment, welfare benefits)
- Risk assessment (needed to make onward referrals)
- Informed consent to record and store information and share it with other named services, signed by the client.

Seeking information from the Home Office

In some cases, when clients are unsure of their status and it is not possible to contact previous legal representatives, clarification on status and entitlements may only be possible through contact with 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, that they are detained, or that they are issued with reporting instructions to attend an immigration centre on a regular basis.

Therefore, any steps towards supporting someone to contact the Home Office must be based on robust procedures around informed consent and data protection, along with access to OISC registered legal advice/representation prior to the individual to making any decision.⁸ Staff in homelessness services should never contact the Home Office without informed consent from the individual. Their legal representative would normally be the appropriate person to make contact. We recommend that any decision involving a charity contacting the Home Office is reviewed by a manager, in light of the serious potential outcome of that contact.

⁸Individual 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://oisc.gov.uk>.

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Without engagement with the Home Office, which usually means making an immigration or asylum application, some people will be left destitute who would otherwise be able to regularise their immigration status. So it's vital that services understand how to help people access the right support to make this decision.

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. For more information see:

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

Note that, at times, the Home Office 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 take time to be updated on the system – which can lead to perceived inaccuracies in data. It is also worth noting that, in some instances e.g. Windrush cases, 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.

Asylum seekers with a claim in process who do not receive Home Office Asylum Support

Asylum seekers are issued with an identity document called an Application Registration Card (ARC) card. Most asylum seekers receive Section 95 Home Office Asylum Support (accommodation and/or financial support). In some cases, asylum seekers are refused this support, for example because the Home Office believes the applicant has other means of support.

Services should support clients to contact Migrant Help to confirm that a claim is in process (i.e. that they are still an asylum seeker, as there have been cases of miscommunication where people do not know that a negative decision has been made). If the claim has ended, see 'Refused asylum seekers' below.

If the asylum claim is still in process, it might be worth submitting a new application for Section 95 Asylum Support, especially if the client's situation has changed e.g. they had money but it has now been spent.

Asylum Support application forms can be downloaded from the Home Office Immigration website: www.gov.uk/asylum-support/how-to-claim. Migrant Help can support clients to complete the form: www.migranthehelpuk.org/advice-and-guidance

If the application is refused, this decision can be appealed. Contact The Asylum Appeals Project who can offer advice and possible representation: www.asaproject.org

If an asylum seeker does not have details of the case owner or if there are questions about claiming support, contact Migrant Help's free, 24/7 helpline: 0808 8010 503.

Asylum seekers have to sign an Asylum Support Agreement in order to receive the support.

The accommodation offered under Section 95 Asylum Support is in dispersed locations around the UK. Asylum seekers do not have any choice about the dispersal area. In a small number of cases they may be able to remain in their current location, but only if there is a strong reason for doing so e.g. receiving medical treatment.

If an asylum seeker remains ineligible for Section 95 Asylum Support, please refer to 'Support offers' below.

Refused asylum seekers

People refused asylum receive a letter stating that their asylum claim (including any appeal/s) is unsuccessful. Services should check with the client's solicitor or Home Office case owner that the legal process has ended. If it is ongoing, if it can be reopened as a 'fresh claim', or if an appeal can be submitted,⁹ an application may be made for Section 4 hardship support (see 'Support offers' below) or there may still be entitlement to Section 95 Home Office Asylum Support (see above). Contact Migrant Help on 0808 8010 50 / www.migranthehelpuk.org. Please note that, if a fresh claim or an appeal is being prepared by the solicitor, the Home Office might not be aware of this – in which case, prioritise contacting the client's solicitor.

If the asylum process has ended, the person is 'appeals rights exhausted' (ARE), has no recourse to public funds and no right to work. There is a risk of detention and removal. Their options are limited: rely on support from voluntary or community groups, agree to voluntary return, make a new claim for asylum, or make a different immigration application. Specialist legal advice will be required for a new claim. Note that legal aid may have been exhausted (see 'Legal aid' below).

Services might come across the term 'Schedule 3 asylum seeker'. These are people seeking asylum whose claim has been refused and who have either failed to leave voluntarily or are in the UK with no leave (because they made an asylum claim in-country rather than at port of entry). This status may limit the support options available to them from social services (see 'Social services support for adults with care needs' below).

See below for support options.

'Irregular' migrants

'Irregular' migrants (sometimes also known as undocumented migrants) are those people who do not have a current visa or leave to remain that allows them to live in the UK. For example, they may have over-stayed the period of leave granted to them or may have entered the country illegally. People without identity documents who cannot prove their country of origin can fall into this category.

Please note that some clients who were born outside the UK might have recourse to public funds as a British citizen or person with indefinite leave to remain, but have lost all the documents that prove it. Often the Home Office will have no records of them in their systems 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.¹⁰

Regular non-EEA migrants

Regular non-EEA migrants are people with a valid visa that allows them to live in the UK for a specific purpose, for example, to study or work. Usually such visas have the NRPF condition on the basis that, if their circumstances change for the worse so that they no longer have income and/or housing, they might present to services as needing support. These clients should have documents that show their immigration status and any restrictions on claiming public funds or working. See below for support options.

⁹ This requires a solicitor assessing that the case has merit and taking it on. There are multiple stages of appeal before a client becomes appeals rights exhausted (ARE).

¹⁰ Chasing Status (Legal Action Group, October 2014): <http://www.legalactiongroupnews.org.uk/surprised-brits-hit-by-laws-aimed-at-illegal-migrants/>

EEA nationals

Please refer to Homeless Link's guidance on working with EEA nationals for support options:

www.homeless.org.uk/our-work/resources/working-with-eea-nationals

Returning UK citizens

UK citizens returning from abroad automatically have the right to reside in the UK but must still have lived in the Common Travel Area for three months before they can claim unemployment and some other benefits. They could fail the habitual residence test if they have been abroad for an extended period, so services may find they are working with UK citizens who are temporarily without recourse to public funds (often during their first three months in the country). These clients have the right to work and will become eligible for welfare benefits.

'Zambrano' carers

'Zambrano' carers are:

- a national of a country that is not the UK or another EEA member state; and
- the primary carer of a British citizen; where
- the British citizen would be unable to reside in the UK or another EEA member if the primary carer were required to leave.

The term 'Zambrano carer' comes from the Court of Justice of the European Union case which acknowledged this right. These carers have a derivative right of residence, based on EU law, to remain in the UK. They are permitted to work and to claim contributory benefits but are not permitted to claim non-contributory benefits, homelessness assistance or social housing. They will need support if they are unable to work (for example if they have a very small child) or if their earnings are not sufficient to maintain themselves and their families.

Usually, a 'Zambrano' carer will be a single parent whose child is a British. Short-term support can help a 'Zambrano' carer obtain employment, or apply to the Home Office for leave to remain that allows him or her to claim welfare benefits or homelessness assistance. It often falls to social services to provide accommodation and/or financial support in such instances.

Where the British citizen child can be cared for by another carer, such as the other parent, the parent who is not a British citizen cannot claim 'Zambrano' carer status. They should seek legal advice as to the circumstances in which they could apply for leave to remain.

Limited leave to remain granted on the basis of someone's private or family life

Normally limited leave to remain is granted with the NRPf condition. However, 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 leave. If they have already been granted limited leave to remain with NRPf under these categories, but they become destitute following a change of circumstances, they can apply for the NRPf condition to be removed. It is advisable that a person obtains advice from an immigration adviser before making such an application. Details of the policy and a link to the application form can be found on the NRPf Network website: www.nrpfnetwork.org.uk

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 (ILR)) are subject to the NRPF condition. If their relationship breaks down due to domestic abuse, then they may be able to apply for ILR on this basis.

If they are intending to do this and are destitute, they can apply for three months' limited leave, which if granted will allow recourse to public funds, to give them time to make such applications and enable them to apply as homeless and access benefits etc while the application is being considered by the Home Office. This is called the Domestic Violence Destitution Concession.

It is important that people in this situation get 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 victims 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. For more information about services for victims of domestic violence with NRPF and availability of refuge spaces contact the National Domestic Abuse helpline on 0808 2000 247.

Women with NRPF facing gender-based violence can apply to the Southall Black Sisters 'No Recourse Fund' which offers limited support for rent and living costs: <https://southallblacksisters.org.uk/no-recourse-fund/>

Deciding to support people with NRPF

Concerns about legality of support

Some organisations worry that they are breaking the law by supporting NRPF clients who have no immigration status, but this is not the case. It is Home Office Immigration Enforcement's role to take action where necessary, not the role of charities. Even when someone has absconded (i.e. evaded Home Office reporting, detention or removal) there is no obligation on services to contact the Home Office and report them.

There should be no legal barriers in providing free housing to migrants with no immigration status, but there are important legal considerations to be aware of, which are set out in the Joseph Rowntree Foundation report 'How to improve support and services for destitute migrants'.¹¹ A legal opinion obtained for the JRF report offers assurance that criminal law does not prevent assistance being given to undocumented people to alleviate destitution or meet basic human needs.¹²

Note that there can be an obligation on some statutory services to report migrants with no immigration status to the Home Office, and clients should be advised accordingly prior to making any referral.

Legal representation and Home Office Immigration Enforcement

There is no legal obligation to report clients to the Home Office.

Many people will face the prospect of long term destitution until steps are taken to resolve their status, and so contact with Home Office may be unavoidable. Any steps towards supporting someone to contact the Home Office must be based on robust procedures around informed consent and data protection, along with access to OISC registered legal advice/representation prior to the individual to making any decision. Staff in homelessness services should never contact the Home Office without informed consent from the individual. Their legal representative would normally be the appropriate person to make contact. We recommend that any decision involving a charity contacting the Home Office is reviewed by a manager, in light of the serious potential outcome of that contact.

Services can support people with NRPF to establish their current immigration status and identify what options they have to gain leave to remain, hardship support from the Home Office, or a return home, by helping them to find legal representation. It is essential that individuals access suitable immigration advice/representation to support them through these processes. 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.¹³

For people who have already contacted the Home Office, there may be requirements to sign on at an immigration reporting centre. If instructions are issued it is very important that the person complies with them, otherwise they may be treated as an absconder and can risk detention or even prosecution. Services can liaise with ICE teams (see 'Role of the Home Office' above) to help clients to establish whether they have to meet any requirements and support them to keep to the terms of any agreement (but note information above re: informed consent). This should reduce the risk of detention and avoid negatively affecting future applications.

¹¹ Joseph Rowntree Foundation, *How to improve support and services for destitute migrants* (July 2015), p.34. www.jrf.org.uk/report/how-improve-support-and-services-destitute-migrants

¹² Berry, A. (2015) *In the matter of an opinion requested by the Association of Charitable Foundations, the Joseph Rowntree Foundation and the Joseph Rowntree Housing Trust*, Garden Court Chambers

¹³ <https://home.oisc.gov.uk/>

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Engaging with the Home Office does not guarantee the resolution of a person's case. Some people remain in a state of limbo for months or years. For example, they may have no outstanding application and be complying with reporting requirements but no enforcement action is taken (e.g. to remove them to another country), or they may have made an application to the Home Office which is subject to processing delays.

Note that the Home Office can detain people under immigration powers if, for example, they are in the country illegally.¹⁴ However, the government suspended the detention of 'fast track' asylum applicants, so should not be detaining such asylum applicants.

Following the Shaw review into the welfare in immigration detention of vulnerable persons, the Home Office published statutory guidance on 'Adults at risk in immigration detention'. Its stated aim is "to introduce a more holistic approach to the consideration of individual circumstances, ensuring that genuine cases of vulnerability are consistently identified, in order to ensure that vulnerable people are not detained inappropriately."¹⁵

If a client is detained and does not have legal representation, contact Bail for Immigration Detainees for advice: www.biduk.org.

Funding for NRPF support

A key issue for voluntary services is their funding restrictions and whether they can use funds to support NRPF clients. Services often take an overly cautious approach to working with these clients due to a lack of understanding of different types of immigration status and entitlements.

Statutory agencies are restricted in the support they can provide to NRPF clients, because most are not eligible for key services such as housing allocation, homelessness or housing benefit. Access to social services support and accommodation may be restricted to some migrants with NRPF. However, local authorities may allocate grants to voluntary organisations and advice agencies to provide services within their area which may be accessible to migrants with NRPF. People with NRPF may receive assistance via services provided by a local authority using the homelessness grant, for example cold weather beds. Such accommodation is typically for a few days only, however during Covid-19 many local authorities have significantly extended this type of provision. The longer term impact for people with NRPF is unclear.

Social services support for adults with care needs

Local authorities may have a duty to provide accommodation and/or financial assistance to an adult who has no recourse to public funds and is assessed as having eligible care and support needs under the Care Act 2014. This may apply when a migrant has eligible care and support needs due to a disability, illness or mental health condition.

Social services' support is not a public fund for immigration purposes, so a person with NRPF can access this and should not be refused assistance on the sole ground that they have NRPF. However, there is an exclusion based on a person's nationality or immigration status, which means 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 then it is worth discussing with them whether they wish to be referred to social services.

¹⁴ For information on detention and bail see Bail for Immigration Detainees (BID) at: www.biduk.org/.

¹⁵ www.gov.uk/government/publications/adults-at-risk-in-immigration-detention

(i) Excluded groups

The following groups of migrants are excluded from being able to receive support or assistance under the Care Act 2014:¹⁶

- A person living in the UK in breach of immigration laws (including visa over-stayers, illegal entrants and refused 'appeal rights exhausted' asylum seekers who claimed asylum in-country, rather than at port of entry), and their dependants
- European Economic Area (EEA) nationals and dependants of EEA nationals
- A person with refugee status granted by an EEA country and their dependants
- Refused asylum seekers who have failed to comply with removal directions and their dependants

When a migrant requesting assistance from a local authority is in an excluded group, the local authority will 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, which could include:

- A pending human rights application made to the Home Office or human rights appeal
- Inability to travel due to illness or medical condition
- Inability to obtain travel or identity documents

If there is such a barrier in place preventing the migrant from returning to their country of origin, then the local authority will be required to provide assistance if the person has eligible needs under the Care Act 2014, but will regularly review the situation – see section (ii).

However, if the migrant can freely return to their country of origin to avoid a human rights breach that may arise if they remain destitute in the UK, then the local authority may only offer to provide assistance with travel to that country and support while their return is arranged.

When a migrant is in an excluded group, the local authority is not prevented from assessing need or meeting urgent needs while an assessment is being carried out. If the migrant is eligible for care and support under the Care Act 2014, it would be unlawful for the local authority to refuse to provide support without undertaking a human rights assessment.

Local authorities will need to establish the migrant's immigration status and will usually check this directly with the Home Office. Local authorities 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.

¹⁶ Schedule 3 of the Nationality Immigration and Asylum Act 2002

(ii) Accommodation for adults with care needs

When a migrant 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 local authority must take the following steps when an adult is referred and has an appearance of need: a needs assessment must be carried out; the local authority will then determine whether the adult has eligible needs and, if so, determine how these needs will be met.

If the adult requires an independent advocate, because they lack capacity to make their own decisions, the local authority must ensure the advocate is appointed throughout the entire assessment process.

The Care Act 2014 requires local authorities to promote an adult's wellbeing in each decision that it makes, and this must include considering the adult's social and economic wellbeing, suitability of living accommodation and physical and mental health and emotional wellbeing. Failure to consider these aspects of wellbeing could render a decision unlawful.

An adult will have eligible needs if:

- (1) Their needs arise from or are related to a physical or mental impairment or illness;
- (2) As a result of their needs the adult is unable to achieve two or more of the following outcomes:
 - (a) managing and maintaining nutrition;
 - (b) maintaining personal hygiene;
 - (c) managing toilet needs;
 - (d) being appropriately clothed;
 - (e) being able to make use of the adult's home safely;
 - (f) maintaining a habitable home environment;
 - (g) developing and maintaining family or other personal relationships;
 - (h) accessing and engaging in work, training, education or volunteering;
 - (i) making use of necessary facilities or services in the local community including public transport, and recreational facilities or services; and
 - (j) carrying out any caring responsibilities the adult has for a child; and
- (3) as a consequence there is, or is likely to be, a significant impact on the adult's well-being.¹⁷

The local authority is not required to meet needs of migrants who have no immigration permission, or who have leave to enter or remain with the NRPF condition, when the needs have arisen solely because the adult is destitute or due to the physical effects of destitution. However, due to the eligibility criteria being tied to needs arising from or related to a physical or mental impairment or illness, this is unlikely to apply unless the local authority determines that destitution is the sole cause of the illness/impairment.

When an adult has eligible needs the local authority will determine what care and support is required. However, this does not automatically mean a person with NRPF will receive accommodation. The local authority 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 has no home.¹⁸

¹⁷ The Care and Support (Eligibility Criteria) Regulations 2015

¹⁸ *R(SG) v London Borough of Haringey* [2015] EWHC 2579 (Admin)

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When a local authority 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 local authority's area.

When a local authority 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. It may be worth contacting your local authority to make sure that they are aware of the services your organisation offers to migrants with NRPF so that they can signpost people to you. This in turn might help your organisation to build a relationship with the local authority.

If the adult is in an excluded group and the local authority has undertaken a human rights assessment which establishes that they can return to their country of origin to avoid a breach of human rights, then the local authority will not have a duty to meet eligible needs and may offer the adult assistance with return to their country of origin and support while this is arranged. For more information see (i).

(iii) Care and support for asylum seekers

The Home Office have published guidance about local authority duties to provide care and support to people who have claimed asylum and are eligible for Home Office accommodation.¹⁹ The guidance states that it will be the responsibility of the local authority to provide accommodation to an asylum seeker who has eligible care and support needs when they require residential accommodation, for example a care home placement. If the asylum seeker has care needs that can be met in the community, for example, by the provision of a care package, then the Home Office would need to provide appropriate accommodation and the local authority would be required to fund and deliver the care.

(iv) Section 117 aftercare provided under the Mental Health Act 1983

Section 117 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.

¹⁹ Home Office, Asylum seekers with care needs www.gov.uk/government/publications/asylum-seekers-with-care-needs-process

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If supported accommodation is not required as part of an aftercare package, the local authority would need to establish whether there is any duty to provide accommodation under the Care Act 2014 – see section (ii). If the migrant is in an excluded group, then the provision of care and support will be subject to a human rights assessment – see section (i).

For detailed information on local authority duties towards migrants with NRPF please see the NRPF Network's practice guidance, *Assessing and Supporting Adults who have No Recourse to Public Funds (NRPF)*: www.nrpfnetwork.org.uk

Social services' support for care leavers with NRPF

Leaving care duties apply when a young person has been looked after by the local authority 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).²⁰

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

If you are working with a young migrant with NRPF then it will be important to ask if they have ever been looked after by a local authority as a child, in order to establish whether leaving care duties may apply, and if so, to find out on what basis any support they received ended. If it is unclear what duties may apply, the young person may be able to get advice from Coram Migrant Children's Project and may need to be signposted to a community care solicitor.

Coram Migrant Children's Project also provide information about leaving care duties:

www.childrenslegalcentre.com/get-legal-advice/immigration-asylum-nationality

Social services support for families with NRPF

Local authorities may be required to provide destitute families with NRPF with accommodation and/or financial assistance when a child is in need. A child will be in need if they are homeless or if the parent's lack of resources impacts on the child's health or development. When a parent is in an excluded group, accommodation and financial support provided under section 17 of the Children Act 1989 will be subject to a human rights assessment – see section (i). The Support for Migrant Families webtool produced by the NRPF Network and COMPAS at Oxford University can be used to obtain tailored information about support options for families with NRPF: <https://migrantfamilies.nrpfnetwork.org.uk/>

Voluntary Agencies

Services that are providing accommodation services (including a small number of night shelters) often rely on Housing Benefit payments and therefore exclude or limit places for NRPF clients. Other services are funded to

²⁰ Department for Education, Extending personal adviser support to age 25
<https://www.gov.uk/government/publications/extending-personal-adviser-support-to-age-25>

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work with specific groups, e.g. rough sleepers with local connection and, as a result, are less likely to provide a service to NRPF clients who are less likely to have evidence of a local connection.

There is scope for greater flexibility from voluntary agencies to allocate bed spaces and support to people with NRPF, for example if they receive local authority funding via the homelessness grant or if their accommodation is funded by a combination of public and charitable funds. 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.

For more information on models of accommodation for destitute migrants see the 'Housing' section below. Useful information for agencies is also contained in the following reports:

- NACCOM, Housing Justice and Praxis, *Models of accommodation and support for migrants with no recourse to public funds (NRPF) A resource for practitioners and groups who want to get involved*, July 2015²¹
- Joseph Rowntree Foundation, *How to improve support and services for destitute migrants*, July 2015²²

Both reports are available here, along with additional resources: www.homeless.org.uk/samd

Services operating with unrestricted funds, including many faith-based groups, and services with open access provision e.g. day centres, are often more able and willing to support people with NRPF. There are also a small number of specialist services dedicated to the support of NRPF groups such as destitute asylum seekers. These agencies are 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 by region: <https://nacom.org.uk/projects/>

²¹ <https://nacom.files.wordpress.com/2015/07/models-of-accommodation-and-support-for-destitute-migrants-with-nrpf.pdf>

²² www.jrf.org.uk/report/how-improve-support-and-services-destitute-migrants

Support offers to people with NRPF

Once a person's immigration status has been established, services can identify options for support. Through provision of information (in written and/or verbal translation where necessary), discussion with the client, legal advice and partnership working with external agencies, a plan can be agreed. NRPF clients will need both medium/long term solutions around their immigration status and short term solutions to alleviate destitution.

Communicating support options to clients

Services should be mindful that having a medium/long term plan for immigration options without a short term solution for housing and support could put the client at risk of deterioration in their health and well-being, particularly if they are sleeping rough. Discussions with the client about their immigration options should not lose sight of the requirement to meet their immediate basic needs. The client should have adequate information and support to weigh up the likelihood and benefits of achieving leave to remain at some point in the future against the risks of being destitute and, if they have no status, liable to removal from the UK in the meantime.

When trying to find short-term housing and support, it is always helpful to have a medium or long-term plan for regularising immigration status in order to estimate for what length of time support might be required, and to help the individual to plan accordingly. It's important not to create unrealistic expectations of the person you're supporting in relation to the length of time it may take to resolve their case, as it can be a long and frustrating process.

People with NRPF may be reluctant to engage with any services in fear of being detained or removed. They may believe that all agencies, including charities and NHS services, report to the Home Office. As a result, there are clients who choose to avoid the support that is available and find alternative means of survival.²³

Agencies should aim to be transparent about what support options there are, who can offer support and for how long. Often, assessments for clients with NRPF take longer than normal, as you will need to contact different agencies before an action plan can be established. It is advisable to give people information about every available option at first contact, rather than offering options in response to changing circumstances, as this could damage the trust established or create confused expectations. For example, providing information about return options at first contact as part of a range of information is non-directive and ensures the client is aware of what is available, without making any judgements about how they might use this information.

Legal Aid

Following the cuts to Legal Aid under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), migrants find it difficult to obtain free legal advice and assistance in resolving their immigration issues/status.

In the field of immigration and asylum, the scope of Legal Aid provision is drastically restricted. 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 trafficking, but these exceptions are narrowly drafted. See the Law Society's website for more information about what is in scope of legal aid: www.lawsociety.org.uk/for-the-public/paying-for-legal-services/legal-aid/. All other immigration applications are out of scope, including applications on the basis of Article 8 ECHR (right to respect for private and family life),

²³ 'Coping with Destitution', Oxfam Research Report 2011

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or otherwise on grounds of long residence. Advice on asylum support is only in scope if it also involves advice on homelessness; this will only cover initial advice and not representation before the Asylum Support Tribunal. There are restrictions relating to the length of time before a fresh claim can be made.

ASAP has an advice line: 020 3716 0283 Mon, Wed, Fri 2-4pm, and in some cases can offer representation before the Asylum Support Tribunal: www.asaproject.org/about/representation

However, if a migrant's case is not covered by Legal Aid then it still may be possible to apply for exceptional funding. Exceptional funding is available to people who have a strong case and whose human rights or EU rights would be breached if they did not have Legal Aid. To apply for exceptional funding, form CIV ECF1 must be completed and submitted with a merits and means form to the Legal Aid Agency's Exceptional Funding Case Team. Legal advisers generally will not help people to complete this form. However, the Public Law Project may be able to help people to complete the exceptional funding form if they cannot get assistance from elsewhere. More information about exceptional case funding and how to make a referral to the Public Law Project for help can be found on their website at: www.publiclawproject.org.uk/exceptional-funding-project.

For many of the cases you come across, there will be no Legal Aid available. However, there may be some 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 that you can support your clients to call and get initial immigration advice as well as suggestions on where to get representation if needed (e.g. Asylum Aid, Joint Council for the Welfare of Immigrants, Rights of Women). Where unable to assist, services could advise the person to go to their local MP who can ask for information directly from the Home Office. This doesn't necessarily mean that the client will get their status resolved, but it can be effective if there have been long delays in resolving a case or if the client is having difficulties proving their status.

While legal advice remains fragmented and in very short supply, the prospects for a migrant seeking asylum or experiencing destitution changes radically with appropriate legal advice. A report by Gina Clayton, funded by the Future Advice Fund, 'Models of immigration advice', outlines the importance of taking a holistic approach when tackling the lack of immigration advice and obstacles created by destitution. It also offers some innovative ways of partnership working that homelessness sector workers can adopt to support OISC qualified legal practitioners. This report is available at:

www.homeless.org.uk/our-work/resources/resources-on-migrant-destitution-from-our-partners

Support options

Broadly speaking, there are 4 options for NRPF clients:

1. Return to country of origin²⁴
2. Regularise immigration status to remain in the UK legally
3. Start or re-start a claim for asylum
4. Get support to alleviate destitution

Services can help clients to consider which of these options to explore and how to move forward. In most cases, clients will need support to alleviate destitution in the short term, regardless of which medium/long term solution they pursue.

²⁴ Note that terms such as 'home country' and 'country of origin' are not always accurate and may be disputed. Country of origin is used here to indicate the country with which someone is associated in relation to their immigration status, and is usually their country of nationality. However, this may not be considered to be 'home' by the migrant themselves.

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Questions for services to consider when discussing support options:

- What does the client want and what are the barriers to achieving this outcome?
- What information has been received from a solicitor and/or the Home Office?
- Has the situation in the client's country of origin changed, for better or worse, and does this change their options?
- Has the client ever received immigration advice? Has the situation of the client changed since the last time they received immigration advice?
- Is the client's health and well-being at risk of deterioration if their NRPF status remains unchanged?
- Is there a case for local authority support on grounds due to a person's care and support needs?
- Is the client entitled to Legal Aid?
- Does the client understand their situation and the impact of living in the UK without status e.g. Right to Rent, NHS charges?

1. Returning to country of origin

Services can:

- Provide information on return options and how to access these
- Support clients to contact family and friends in their country of origin, for example via the Red Cross tracing and messaging services²⁵
- Support clients to research the situation in their country of origin and find local agencies that could help them to return and integrate.

Homelessness services should consider the route of return that a person is offered, particularly if the individual is vulnerable.

Home Office – Voluntary Returns Service

The Home Office website on voluntary returns²⁶ 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
- 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)”

Further details of support after return that may be available, including financial support, along with how to apply, can be found at: www.gov.uk/return-home-voluntarily

²⁵ www.redcross.org.uk/What-we-do/Finding-missing-family

²⁶ www.gov.uk/return-home-voluntarily

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

People with NRPF due to migration status may have lived in the UK for a long time, establishing social networks and relationships that would be hard to leave behind. It is possible for people to have lived and worked for many years before their circumstances change, and they may no longer have links to their country of origin. Also, due to the policy of imposing re-entry bans and increasingly restrictive entry requirements, the likelihood of being able to return to the UK, particularly after having lived here without lawful status, is often perceived by clients 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 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 struggle to get papers to return home. Some countries are reluctant to issue documents to facilitate returns. There is also anecdotal evidence of problems with corruption in the embassies of certain countries, with officials expecting bribes.

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, and which, if successful, results in a renewable grant of leave for 30 months, with the right to work and access to benefits. While applying, these clients might be eligible for Section 4 support. Consonant (formerly Asylum Aid) offers free legal advice and representation around statelessness, as well as campaigning on this issue: <https://consonant.org.uk/campaigns/statelessness/>

2. Regularising immigration status to remain in the country legally

Services can:

- Work with the client to help establish their status and options
- Support the client to gather relevant evidence, for example records of housing and employment
- Help the client to get specialist legal advice on immigration status
- Issue letters confirming that the client is destitute (for legal aid, Home Office accommodation etc)
- Help the client to find accommodation while the application is being prepared and/or decided

3. Starting or re-starting a claim for asylum

Services can:

- 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 agency²⁷
- Help the client to find a solicitor 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)

²⁷ For example www.freedomfromtorture.org or www.helenbamber.org

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- Once a claim is in process, support the client to apply for either Section 95 Asylum Support (see above) or Section 4 hardship support (see below).

4. Getting support to alleviate destitution

Services can:

- Provide information and support clients to check their eligibility and apply for Section 4 hardship support.
- Provide information about accommodation options available to NRPF clients (see 'Housing' below).
- Support clients to access basic support from day centres, food banks or other agencies, including physical and mental health care
- Apply for appropriate short-term funding to alleviate basic destitution e.g. travel, subsistence etc. Grants can be found using sites such as Turn2US: <https://grants-search.turn2us.org.uk/>
- Support people with making Subject Access Requests for their Home Office file (see 'Seeking information from the Home Office' above)
- Provide information, support and signposting to specialist help to apply for local authority support where appropriate (see 'Deciding to offer support' above and 'Access to healthcare' below).
- Support regular migrants with permission to work to access employment again.

Section 4 hardship asylum support

Refused asylum seekers who are destitute can apply for hardship support from the Home Office, known as Section 4 support.

Since 2018, there has been a different process for people on immigration bail, who have to apply for schedule 10 support. For further information, see ASAP's June 2020 briefing note on schedule 10 support:

<http://www.asaproject.org/resources/briefing-notes>

To be eligible for section 4 support, an applicant must meet one of five conditions:

1. Taking all reasonable steps to leave the UK (e.g. Voluntary Return, but the client is also expected to contact all possible agencies that could facilitate a return).
2. Unable to leave the UK by reason of physical impediment to travel or for some other medical reason (this includes late stages of pregnancy and immediately after giving birth).
3. Unable to leave the UK because there is no viable route of return available.
4. Has applied for a judicial review of a decision in relation to an asylum claim and has been granted permission to proceed.
5. Requires support to avoid a breach of a person's rights under the European Convention on Human Rights.

This is a non-negotiable package of accommodation and subsistence. There is no cash – clients are issued an ASPEN card (previously Azure card) which can only be used in certain shops for “food and essential toiletries.” There is a limit to how much can be carried forward on the card week by week, and no means are provided for additional costs such as travel. The weekly subsistence amount for an individual is £37.75 (increased to £39.60 during the Covid-19 crisis).

Application forms can be found here – specify on the form if the application is for Section 95 (see above) or Section 4 support: www.gov.uk/asylum-support/how-to-claim.

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Although a decision should be made within 14 days, Section 4 support takes time to process, anecdotally around 6-8 weeks, but the Home Office might ask for additional information several times, extending the process. Clients are likely to remain destitute during this time unless charities can offer interim support. Not all applicants are awarded Section 4 support, for example if the Home Office does not believe the applicant is truly destitute. Decisions can be appealed.

There are cases of clients who are not able to return home and who have been refused Section 4. While small in number, these clients often have no options other than voluntary sector support, although immigration advice should be sought.²⁸

Why do clients refuse Section 4 hardship support?

Section 4 support involves, for most clients, dispersal to Home Office accommodation. This may act as a disincentive for some clients to accept the support as it will move them away from friends, family and social networks. The restrictive and stigmatising nature of subsistence support can also be off-putting, with ASPEN card data monitored. There can also be a perception that accepting Section 4 support means signing up to voluntary return, although this is only one of the eligibility criteria.

²⁸ Contact The Asylum Appeals Project for advice and possibly representation: www.asaproject.org

Housing

While people remain NRPF, there are limited housing options available due to their lack of entitlement to Housing Benefit, local authority homelessness assistance and social housing. In most cases clients will be at risk of sleeping rough or sofa surfing.

Living with friends, family or others

Many clients find accommodation through staying with friends and family. Some clients may establish relationships in order to gain housing and support, however this can create a risk of exploitation²⁹ and other options might be safer. Services should be aware that if a person who is homeless stays with an asylum seeker in Home Office Asylum Support housing, the asylum seeker's housing will be at risk if the housing provider finds out.

Specialist NRPF services

There are a small number of accommodation providers that are able to house people with NRPF in either the 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 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 no recourse.

Service managers should attend local homelessness forums and migrant destitution forums to build a relationship with the relevant housing and social services lead at the local authority in order to raise awareness of destitute NRPF clients and discuss what solutions can be found within statutory and voluntary provision. See 'Deciding to offer support' above for notes on funding options.

Charities whose aims and objectives are relevant to the support of clients with no recourse to public funds can fundraise and set up services for NRPF clients.

Night shelters and Severe Weather Emergency Provision (SWEP)

Depending on their funding, night shelters can offer beds to NRPF clients and shelters are the services most commonly supporting people with NRPF. Even shelters that receive some public funds should be able to accommodate NRPF clients as well, for example by using charitable donations or the local authority homelessness grant to fund some beds. Many shelters only operate in the winter months so this is often only a short term solution. During severe weather local authorities should have emergency SWEP provision to prevent deaths on the streets. This should be accessible to all clients as a humanitarian measure regardless of status, but it is also very short term.³⁰ At the time of writing, due to the Covid-19 crisis, current health advice is that shared sleeping spaces are not safe, so this may affect the capacity of shelters and SWEP.

Hosting and spare room networks

Hosting and spare room networks have been established in some areas. NACOMM is the National No Accommodation Network, bringing together information on projects supporting destitute NRPF clients. Their website includes a map of projects: <http://naccomm.org.uk/>, many of which offer hosting as well as other accommodation.

²⁹ 'Coping with Destitution', Oxfam Research Report 2011

³⁰ For guidance on cold weather and SWEP provision see www.homeless.org.uk/effective-action/SWEP-CWP

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Hosting schemes are likely to be short term, with clients moving between hosts. Most schemes will 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.

For more information see the Hosting Toolkit: www.homeless.org.uk/hosting-toolkit

Providing rooms in shared houses with wrap-around support

There are services across the UK that provide accommodation for people with NRPF in a house where their rent is subsidised by other migrants who can work and claim benefits. By providing wrap-around support in the form of day to day humanitarian support, access to immigration advice and support with living independently, migrants have a better chance of regularising their status and moving into mainstream provision.

Cross-subsidy models and social investment

Across England there are a variety of services testing cross-subsidy models in which free housing is provided to those without access to public funds provided they are engaging with support to regularise their status. Funding has been secured through social investment in order to purchase properties which, in turn, are let to local authorities to provide temporary accommodation or to house refugees claiming Housing Benefit. The revenue earned through this model enables the provision of a small number of bed spaces for those with NRPF. The pressure of high property prices makes this more difficult in the South East, but more viable in areas such as the North East.

More in-depth information on the different models of support for NRPF clients, including successes and associated risks refer to 'Models of accommodation and support for people with no recourse to public funds' on the Homeless Link website:

www.homeless.org.uk/our-work/resources/resources-on-migrant-destitution-from-our-partners

Private renting

Since February 2016, landlords in England have been required to check the immigration status of new tenants, sub-letters, lodgers and other adult occupants of their property.

Landlords must check on prospective occupiers and ask for proof (which must be copied and kept for at least 12 months after the tenancy ends) that they are in one of these groups:

- A relevant national: a citizen of the UK, the European Economic Area or Switzerland: they are not covered by the Act at all, but landlords will need proof that the occupant is in this group.
- A person with an indefinite 'right to rent': someone with indefinite leave to remain or right of abode in the UK.
- A person with a 'time-limited right to rent': someone who has limited leave to remain in the UK or a right to live in the UK under EU law (not a European citizen because they are 'relevant nationals' but, for example, the non-European husband, or the non-British parent of a British child who has no other leave).
- A person with a 'discretionary right to rent': In some circumstances The Home Secretary can grant 'Permission to rent', which is usually provided to: 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

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slavery and individuals with an outstanding out of time initial asylum claim, or an outstanding appeal against such a claim.³¹

In practice, most people with NRPF will not meet the 'right to rent' categories. The prohibition on renting to people who do not have a 'right to rent' extends to the immigration status of all adults who are planning to, or do, live in the property. Private renting tenants, who themselves have a right to rent, are not permitted to sublet a room to someone who does not have a right to rent. People are not be 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.³²

These restrictions do not apply to accommodation in hostels, refuges, hospitals and hospices provided by local authorities or provided by the Home Office under its duties towards asylum seekers, or to some student accommodation.

Local authority accommodation and support

Local authorities will only provide accommodation and support to migrants with NRPF when statutory duties are engaged (see 'Social services support for adults with care needs' section above).

Some key points to note about referring an adult migrant with NRPF to social services are:

- A referral would need to be made to the local authority's adult social services department or mental health team. Not all local authorities have dedicated NRPF workers or teams.
- Refer to the correct authority: the local authority is responsible for meeting 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 who 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 local authority has the power to meet urgent needs and must not delay in meeting needs.
- The threshold for undertaking an assessment is low: the local authority must assess when it appears that an adult has needs for care and support, regardless of the level of need or adult's financial resources.
- The local authority 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.
- The local authority will usually check immigration status with the Home Office to establish whether the exclusions apply and whether a human rights assessment will also be needed (see above). Additionally, the local authority must inform the Home Office of certain migrants (see above), so clients should be advised of this in advance of making the referral.

If the local authority does not accept a referral to undertake an assessment, or makes a decision to refuse or withdraw support then 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. Services are therefore advised to build relationships with local advocates.

³¹ Home Office, A short guide for landlords on right to rent www.gov.uk/government/publications/landlords-right-to-rent-checks-guide

³² Home Office, Right to rent immigration checks: landlords' code of practice www.gov.uk/government/publications/right-to-rent-landlords-code-of-practice

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It is also advisable for organisations supporting migrants with NRPF to make links with the local authorities that they refer into. This can be done by contacting local authorities directly or attending regional NRPF Network forums. These are generally chaired by the Strategic Migration Partnership regional leads and are (with the exception of London which is local authority only) attended by local authority practitioners, the Home Office and voluntary agencies supporting the NRPF client group to share information and good practice. To find your local forum, and for information and legal updates about local authority duties towards migrants with NRPF see: www.nrpfnetwork.org.uk

Access to healthcare

NHS care is not a public fund for immigration purposes; therefore, a person with NRPF is not excluded from access. However, there are some NHS services which are chargeable to certain groups of migrants. For further information, see: www.gov.uk/guidance/nhs-entitlements-migrant-health-guide

Health services that are free to all migrants include:

- GP treatment
- Emergency care i.e. Accident & Emergency services up to the point of being accepted as an in-patient
- 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 to all migrants, there exist significant barriers to accessing healthcare for destitute migrants. These can include the lack of ID, inability to provide proof of address documents, and language barriers. NHS England has produced leaflets to help different groups of people, including people who are homeless, asylum seekers and refugees, to register with a GP: www.nhs.uk/using-the-nhs/nhs-services/gps/how-to-register-with-a-gp-practice/

Doctors of the World have clinics where migrants can access free primary healthcare in London (Bethnal Green and Hackney) and support migrants to register with health services in their local community: www.doctorsoftheworld.org.uk/

Prescriptions are free of charge to certain groups of people, including those who are 60 or over, or pregnant women. If a client with NRPF is destitute, they can apply for an HC2 exemption certificate under the NHS low income scheme, completing form HC1. This can take several weeks so won't be the right approach if someone needs immediate access to their medication. Note that HC2 certificates are time limited between six months and five years, so check for individual renewal dates:

www.nhs.uk/using-the-nhs/help-with-health-costs/get-help-with-prescription-costs/
www.nhs.uk/NHSEngland/Healthcosts/Pages/nhs-low-income-scheme.aspx

Homeless Link

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

- Visa over-stayers
- Illegal entrants
- Refused asylum seekers who are not being provided by accommodation by the Home Office or local authority 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.

The Department of Health provides the NHS with financial incentives for charging overseas visitors, and so hospitals are increasingly checking the nationality and immigration status of patients, sharing information with the Home Office and pursuing debts that are accrued.

The Department of Health's 'Guidance on implementing the overseas charging regulations 2015' 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 without access to any funds or other resources to pay their debt).”³³

Migrants applying for limited leave to remain in the UK will need to pay an 'Immigration Health Charge' on top of the application fee in order to gain access to NHS treatment.³⁴ 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 Charge. If a migrant accrues an NHS debt of £500 or more then this could lead to an application for leave to remain being refused.

If a migrant is charged for NHS treatment and wishes to challenge this, they would need to seek advice from a solicitor specialising in community care law. Debt advice might also be available from organisations such as Mary Ward Legal Centre.³⁵

³³ Department of Health, Guidance on implementing the overseas charging regulations 2015, paragraphs 13.69-70.

www.gov.uk/government/publications/guidance-on-overseas-visitors-hospital-charging-regulations

³⁴ www.gov.uk/healthcare-immigration-application

³⁵ Mary Ward Legal Centre provides free legal advice in Debt, Employment, Housing and Welfare Benefits matters to Londoners who cannot otherwise afford legal advice. www.marywardlegal.org.uk

Homeless Link

Useful links & resources

Action Foundation (Newcastle)

www.actionfoundation.org.uk/index.html

Bail for Immigration Detainees

www.biduk.org/

Boaz Trust (Manchester)

www.boaztrust.org.uk/

Consonant (formerly Asylum Aid and Migrants Resource Centre)

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

Doctors of the World

<http://doctorsoftheworld.org.uk/pages/london-clinic>

Freedom from Torture

www.freedomfromtorture.org/

Health Befriending Network

www.refugeecouncil.org.uk/hscvproject

Helen Bamber Foundation

www.helenbamber.org/

Home Office

www.gov.uk/government/organisations/uk-visas-and-immigration

Homeless Link

www.homeless.org.uk/our-work/resources

www.homeless.org.uk/our-work/national-projects/strategic-alliance-on-migrant-destitution

Housing Rights Information

www.housing-rights.info/index.php

Immigration Law Practitioners' Association

www.ilpa.org.uk/

Joint Council for the Welfare of Immigrants (JCWI)

www.jcwi.org.uk/

Free and confidential legal advice for undocumented migrants: phone 020 7553 7470 between 10am and 1pm on Mondays, Tuesdays and Thursdays.

Justice First (Tees Valley)

www.justicefirst.org.uk/

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Law Centres Network

www.lawcentres.org.uk/

Mary Ward Legal Centre

www.marywardlegal.org.uk

Migrant Help

www.migranthehelp.org/

NACOMM (National No Accommodation Network)

www.naccomm.org.uk/

NRPF Network

www.nrpfnetwork.org.uk

Office of the Immigration Services Commissioner

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

Oxfam research report, 'Coping with Destitution: Survival and livelihood strategies of refused asylum seekers living in the UK' (2011)

<http://policy-practice.oxfam.org.uk/publications/coping-with-destitution-survival-and-livelihood-strategies-of-refused-asylum-se-121667>

Praxis (London)

www.praxis.org.uk

Red Cross

www.redcross.org.uk/What-we-do/Refugee-services/Our-services-for-refugees

www.redcross.org.uk/What-we-do/Refugee-support/Where-to-find-us

Red Cross family tracing & messaging

www.redcross.org.uk/What-we-do/Finding-missing-family

Refugee Action

www.refugee-action.org.uk

Refugee Council (including resources and training for staff)

www.refugeecouncil.org.uk

Santé Project (Mental Health Access Project, London)

www.santeproject.org.uk/

Strategic Alliance on Migrant Destitution (SAMD)

www.homeless.org.uk/samd

Streetlink

<http://www.streetlink.org.uk/>



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.

Let's end homelessness together

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