

No Recourse to Public Funds (NRPF)

Who has NRPF?

People subject to Immigration control:

- Visa Overstayers
- Illegal Entrants
- Asylum Seeker/Refused Asylum seeker
- People with Leave to Remain with NRPF stamped on their visa.

Who does not have NRPF?

People will have recourse to public funds when they have:

- Refugee status
- Humanitarian protection
- Discretionary Leave to remain
- Limited Leave to remain (family and private like rules when the person is destitute)
- Destitute domestic violence concession
- UASC Leave
- Indefinite leave to remain (except adult dependent relative for first 5 years).

Asylum seekers/refused asylum seekers do not have access to public funds; however they may receive home office support when they are:

- Seeking asylum-pending claim/appeal
- Refused Families
- Refused asylum and meet certain criteria

EEA nationals and family members are not “subject to immigration control” but may have NRPF if they fail benefits/housing eligibility tests e.g. “right to reside” and “habitual residence test”. To claim benefits they need to be:

- EEA national worker, self-employed or have permanent residence
- Family member of the above or have permanent residence

What does NRPF mean to Children’s Services:

- NRPF is an immigration condition restricting access to public funds
- Public funds are welfare benefits and Local Authority Housing
- Children Services Support is not a ‘**Public Fund**’.
- Vulnerable people with NRPF may be eligible for accommodation and/or financial assistance from Children Services to avoid destitution.

Duties arise from responsibilities to children and vulnerable adults:

- S17- Children Act 1989- (up to age 25 if in training/education) and promote the welfare of children who are in need.(a destitute child is in need)
- S23A 24A 24B Children Act 1989-until age 21 (leaving care responsibilities to former looked after children until age 21 (or 25 if in training education)

LA duties and Guidance:

- Children’s Services to undertake two fundamental steps: Pre-assessment screening. (An assessment to determine destitution).
- Assessment of need and eligibility of services.

Securing British Citizenship for Looked After Children

The NRPF have highlighted important information from the Project for the Registration of Children as British Citizens, with regard to the responsibilities that local authorities have to ensure that children in their care have effective access to specialist legal advice so their citizenship or any entitlement to citizenship is secured. <http://www.nrpfnetwork.org.uk/News/Pages/british-citizenship-children.aspx>

Screening process: To be carried out by the Hub.

This should aim to be fraud focussed and gain an understanding of what assessment needs to be carried out next:

1. Identify if someone has NRPF:
 - a. Ask to see their biometric card (take a copy) – this should state whether they have NRPF.



If we are unable to establish the position of ‘No Recourse to public funds’ – then the Assessment Service will work with the family and undertake a child and family assessment until this status has been clarified.

Assessment of need is required:

In order to establish whether the family is entitled to a service, the LA authority must undertake:

- Child and Family Assessment under S17 CA 89.

AND

- Human Rights Assessment (when the parent is from an excluded from social services support under Schedule 3 Nationality, Immigration and Asylum Act 2002 – see below)

At the point of establishing what assessment is required, the Family Support Team (FST) will be notified; FST will allocate a worker and carry out the subsequent identified assessment (s).

Child and Family Assessment

A child will be “in need” when:

- He is unlikely to achieve or maintain or to have the opportunity of achieving or maintaining a reasonable standard of health or development without the provision for him of services by a Local Authority under his this part
- Health or development is likely to be significantly impaired or further impaired without the provision for him of such services or he is disabled.

A child without accommodation will be a child in Need. Destitution is highly likely to impact on a child’s health and or development; therefore a destitute child will be a child in need.

A person is destitute if:

- a) They do not have adequate accommodation or any means of obtaining it. Whether or not other essential living needs are met; or
- b) They have adequate accommodation or the means of obtaining it, but cannot meet their other essential needs.

Essential Living Needs are:

- Essential household goods such as :
 - Cleaning materials
 - Nappies formula milk and other requirements for mothers
 - Non-prescription medication
 - Opportunity to maintain interpersonal relationships
 - Travel by public transport to attend appointments with legal advisors
 - Telephone call to maintain contact with family and legal reps.

Human Rights Assessment:

A human rights assessment **is** necessary for the groups who are excluded from social services support (Schedule 3 Nationality, Immigration and Asylum Act 2002).

- This assessment is about establishing whether the person can return to their country of origin.
- Opens up conversations about all options
- Explore all the alternatives other than enforced removal
- A human and reasoned approach to resolving destitution
- Transparent decision making

Groups excluded from social services support:

- Person granted refugee status by another EEA state
- An EEA national
- A refused asylum seeker who has failed to comply with removal directions
- A person unlawfully present in the UK, including visa overstayers, refused asylum seekers who applied for asylum in country, illegal entrants.
- Refused asylum seeking family certified by the Home Office as not leaving the UK voluntarily.

Children are not excluded – the exclusion only applies to a family as a whole when the parent is 18+ and excluded

Support can be provided under S17 if this is necessary to prevent a breach of a family's human rights or rights under EU treaties. A Human rights assessment is also to be completed in this case.

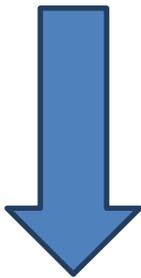
It is important to note that the exclusion (see above definition) from children services support does not apply to all families with NRPF.

The exclusion does not apply to:

- Asylum seekers
- Zambrano carers (people with derived right to reside in the UK, i.e. a person from outside of the EEA who is the primary carer of a British or EEA child)
- People with leave to remain/limited leave to remain having NRPF stamped on their card
- Port of entry refused asylum seekers

Undertaking a Human rights assessment:

Step 1: A human rights assessment will assess whether the family can freely return to their country of origin: Is return reasonably practicable?



<u>NO</u> – There is a barrier	<u>YES</u> – There is no barrier
Consideration – refusing the family support which leaves them destitute will be a breach of their human rights. Option – Provide the family with support and review their legal status regularly.	Consideration - There is no duty under the European Convention of Human Rights to support the family when they are able to freely return to their country of origin. Option – Go to steps 2 & 3 to consider any breach of their human rights on a return.

Step 2: When return is possible, we need to assess the impact of return on their human rights and whether there would be a breach.



Considerations:

- What the reason for their fear of return?
- Have they ever claimed Asylum?
- Are they from a country on the designated list of states?
- Medical reasons
- Article 8 of the Convention of Human Rights (the right to private life) must be considered and whether a return home is proportionate?
- Are the children in education?
- Length of residence in the UK
- Refer for legal advice if has never asserted claim or maintains fear of return despite previous refusal.
- Is there an outstanding application to the Home Office on human rights grounds / lack of travel documents



Step 3: For EEA nationals, assessing whether EU treaty rights might be breached if family returns to country of origin

Refer to www.nrpfnetwork.org.uk for template

Concluding the Human Right Assessment

If return to country of origin is recommended, Local Authority must clearly show that there are no barriers to return and refusing/withdrawing support would not be a breach of the family's human's rights and/or EU treaty rights.

A factual balance must be made of the views expressed by the person and the information that is known about the country of origin.

Provide recommendations on how to proceed in order to avoid a breach of human rights

CBC cannot consider return where there are legal and practical barriers in place preventing this:

- Outstanding application/ appeal to the Home office on human rights grounds
- Unable to travel due to illness/ medical conditions

Weekly Income Support and Asylum support rates

Key principles when working out how much financial assistance to provide to a family

1. The child's needs must be assessed in order to determine the provision of subsistence support to families under section 17.
2. If prescribing standard rates of payment, the local authority must determine such rates rationally, so must clearly demonstrate how the rates have been decided.
3. A policy prescribing standard rates to alleviate destitution must allow for additional payments to be made in order to meet additional/ arising needs. A policy may give examples of such instances, but as children will have different needs, the policy would need to allow for flexibility.
4. When it is in the child's best interests for the family to remain together, payments for the parents should be made in addition to those considered appropriate to meet the needs of the children, but are not required to exceed what is necessary to avoid a breach of the parent's human rights.
5. The local authority must make its subsistence rates policy available to families being provided with support.

Resolving NRPF cases:

Once the local authority has established that it must meet the needs of a child by providing the family with accommodation and/or financial support, it is good practice to consider what proactive steps can be taken by Children's Services to resolve the case. There will be many situations where resolution depends on Home Office decision making or the outcome of immigration appeals, so limited action can be taken.

Routes to case closure:

Grant of status

Return to country of origin

Self-sufficiency