

APPG for ending homelessness

Evidence on migrant homelessness

Summary

The No Recourse to Public Funds (NRPF) Network, hosted by Islington Council, is a network of local authorities and other organisations focusing on the statutory response to destitute families, care leavers and adults with care needs who, due to their immigration status, have no recourse to public funds. These duties require local authorities to provide essential safety net support to safeguard the welfare of vulnerable migrants who cannot access mainstream benefits or statutory housing services.¹

Key points:

- There is a good understanding of the numbers and types of NRPF households supported by local authorities.
- Immigration policies are likely to result in increased homelessness unless engagement takes place with those affected to find appropriate pathways out of destitution, including return to country of origin.
- Substantial good practice has been developed within local government, including partnership working with the Home Office, to find pathways out of dependency on social services' support, however, support provided to safeguard the welfare of children and vulnerable adults is not a long term solution to alleviate migrant homelessness.

Key recommendations:

- MPs to be fully informed of the effects of immigration policy on homelessness, child poverty, community cohesion and integration, as well as the burden placed on local authority resources through direct and indirect forms of expenditure - a cost saving to one government department may result in a cost-shunt to local government.
- When an intervention or immigration sanction prevents a person from being able to support themselves independently in the UK, this must result in an appropriate outcome for that person, which may include one or a combination of the following: access to immigration advice, referral to social services, referral to the charitable sector for destitution support and information about voluntary return.
- Statutory and voluntary sector agencies need to be resourced to undertake early intervention to prevent people reaching the crisis point of homelessness.

¹ Statutory duties are set out in the Children Act 1989, the Care Act 2014 and equivalent legislation in Wales, Scotland and Northern Ireland.

1. Data on NRPF households supported by local authorities

Data from 48 local authorities in the UK provides information about NRPF households currently supported by social services: ²

- 2552 households with 3947 dependants are receiving accommodation and/or financial support at a combined annual cost of £43 million
- Adults with care needs or other vulnerabilities make up 18% of these households*
- The average time that a household is dependent on social services' support is 887 days
- 24% of households have been supported for 1000 days or longer and require a decision from the Home Office or appeal courts
- The lead applicants in 2552 households are recorded by the Home Office as having the following immigration status types:
 - No current immigration permission - 70%
 - Leave to enter or remain with the NRPF condition - 8%
 - EEA nationals, family members of EEA nationals, or a derivative right to reside under EU law - 6%
- Asylum seekers and refused asylum seekers make up a very small proportion of the households supported, for example, adults with care needs or families waiting for their asylum support applications to be processed

* For single adults, social services' support will only be provided if the adult has care and support needs, or has other vulnerabilities which would mean failing to support would prevent a breach of their human rights. There will be many adults that this provision will not apply to, and who will rely on support provided by the voluntary and charitable sectors.

2. Causes and consequences of homelessness

(a) Presentations occur at crisis point

The following extracts are from a report by COMPAS at Oxford University which explored the reasons why families with NRPF approached local authorities in England for assistance:

'Interviews and our survey of the voluntary sector revealed that experiences of domestic violence were a key element in many referrals of women and children to the authority for support.'

'Parents' own accounts of their lives prior to referral in some cases support these accounts. Referral was most commonly after a period of stability, often lasting years, followed by a deterioration of circumstances, culminating in a crisis. Almost all parent interviewees had previously been working and self-supporting, many renting accommodation in the private rented sector, others staying with friends. Parent interviewees had frequently been engaged in formal work (though occasionally on false documents/using false identities) mainly in the care and service sectors. Some service users had been underemployed, doing such work despite having medical or

² NRPF Connect data for 48 local authorities taken on 15 February 2015
<http://www.nrpfnetwork.org.uk/NRPFconnect/Pages/default.aspx>

accountancy qualifications, for example. Informal work was also prevalent, the most common forms of work being housework (often in exchange for accommodation), sex work, hairdressing, cleaning and catering. At times, such work was felt to stray into exploitation or abuse and, at its most extreme, servitude with (lack of) immigration status acting as a lever of power.'

...

'A majority of families had previously been staying with friends, sometimes after relationship breakdown with a partner, with churches and other faith organisations also playing a key role in providing families with a level of financial help and support in kind from fellow members of congregations. These were generally precarious situations, with families moving from place to place. With the passage of time however, most had exhausted this support and that of friends and family, particularly because children were involved. This was then followed by a crisis, which eventually led to a referral to the local authority'.³

These findings reflect practice experience; people with NRPF often only request support once they reach crisis point, for example, following a relationship breakdown, domestic violence, eviction or hospital discharge. This indicates that there is a significant amount of hidden homelessness amongst this group, including children, that does not come to the attention of local authorities.

(b) Immigration policies that give rise to homelessness

(i) Extended use of the NRPF condition

In July 2012, reforms of the family migration (FM) rules included imposing the NRPF condition on people who would formerly have been granted discretionary leave with recourse to public funds. Leave to remain is often obtained on the basis of caring for a British child or child who has lived in the UK for seven years. If granted such status, the person will be on a 10-year route to settlement and will need to extend their leave every 30 months, at a current cost of £1493 per person. A Home Office policy sets out the instances when recourse may be granted, for example, when a person is destitute, and people may apply for a change of conditions to have the NRPF condition removed if they meet the policy requirements.⁴

This status is commonly acquired by single parents, who have permission to work, but are unable to claim housing benefit, tax credits and child benefit in order to top up their income; their children (including those that are British) will not qualify for free school meals and some of the government funded childcare schemes. Such families are excluded from social housing, so are reliant on the less stable private rented sector for accommodation. When the parent is unable to afford accommodation and/or to meet their child's basic needs, then it will fall to the local authority to provide support under section 17 of the Children Act 1989.

³ Price, J. & Spencer, S., *Safeguarding Children from Destitution, Local Authority responses to families with NRPF*, (COMPAS), June 2015, pp. 29 & 30
<http://www.compas.ox.ac.uk/2015/safeguarding-children-from-destitution-local-authority-responses-to-families-with-no-recourse-to-public-funds/>

⁴ Home Office, *Appendix FM 1.0b: Family Life (as a Partner or Parent) and Private Life: 10- year Routes*, February 2018, pp 82-7. <https://www.gov.uk/government/publications/appendix-fm-10b-family-life-as-a-partner-or-parent-and-private-life-10-year-routes>

Although the proportion of these households supported by social services has reduced over the last year, from 14 to 8%, local authorities are starting to see re-presentations from people and families who were previously granted leave to remain with recourse because they were destitute and reliant on social services' support. When they have applied to extend their leave 30 months later, the NRPF condition has been imposed, leading to benefits suddenly stopping, parents having to give up work as they can no longer afford childcare, and rent arrears accruing. Often the change of conditions process takes several months, so this situation cannot be resolved before the person or family becomes homeless.

This policy therefore does not support integration efforts when people who are entitled to settle in the UK are prevented from living stable lives within local communities. The NRPF Network and Children's Society have been working to raise the political profile of this issue, and have held a roundtable in Parliament and meeting with the former Immigration Minister.

Recommendation:

- The NRPF condition should not be imposed on a person who is applying under the family/private life rules when they have a dependent child, or are unable to work due to an illness, disability, or having caring responsibilities.

(ii) Barriers obtaining leave to remain or citizenship

People will experience barriers making an immigration application to either regularise their stay or extend their leave to remain, or for a child to register as a British citizen. These include high application fees where the fee waiver policy does not apply, stringent requirements for an application to be accepted as valid and the lack of legal aid for non-asylum matters.

This can lead to delays in obtaining leave to remain, and people inadvertently becoming overstayers after having a period of leave to remain and failing to meet the validity requirements, for example, by omitting to include the correct photographs.

Recommendation:

- The application process for applying for leave to remain and citizenship should be simplified and less costly, and legal aid should be reinstated for immigration matters, or at the very least, for non-asylum human rights claims and claims made by children

(iii) Benefit restrictions that apply to EEA nationals and their family members

EEA nationals will be considered to have NRPF when they are ineligible for welfare benefits and housing. Since 2014, the government has introduced restrictions to welfare benefits for EEA nationals by amending the Immigration (EEA) Regulations 2006 and various welfare benefit regulations, for example:

- People must reside in the Common Travel Area for three months before income-based JSA, Child Benefit and Child Tax Credit can be awarded (this also applies to returning British citizens).
- EEA nationals who have a right to reside as a 'jobseeker' and are claiming income-based JSA are excluded from claiming housing benefit.

Although EEA nationals and their family members make up a small proportion of the households recorded as supported by social services (6%), it is likely that these are under reported. EEA cases can be very complex for social services' practitioners to assess and manage, for example, where the person's right to reside is not immediately apparent or is difficult to evidence for the purpose of accessing benefits.

In November 2012, benefit and housing regulations were amended to exclude non-EEA nationals who had a derivative right to reside in the UK under EU law (due to being the primary carer of a British child), from accessing income-based benefits, and in England, homelessness assistance and an allocation of social housing through the council register. These restrictions were upheld as lawful by the Supreme Court on the basis that 'safety net' support could be provided by local authorities under section 17 Children Act 1989 to vulnerable families who are unable to earn sufficient income from employment alone to support themselves.⁵

It is unclear at present how the proposals for the rights of EEA nationals and their family members after the UK leaves the EU will impact on demand for social services support, but the lack of clarity regarding the status of children, adults who do not have a right to reside but cannot leave the UK due to long-term illness or disability, and parents who have a derivative right to reside, means that there may be people who are unable to apply for 'settled status' under the current proposals and have an uncertain future in the UK.

Recommendation:

- The position of children, primary carers of British and EU nationals, and vulnerable EU nationals who may not exercise a right to reside under European law is fully considered when rights of EU nationals are established in any new legislation and policies that will apply when the UK leaves the EU.

(iv) Sanctions on access to services and employment

Provisions set out in the Immigration Act 2014 and Immigration Act 2016 aim to encourage the voluntary departure from the UK of people who do not have any current immigration permission, by disrupting their ability to live and self-support here: ⁶

- Landlords in England will be committing an offence if they allow a person with no immigration status to rent a private tenancy, sub-let or lodge in a property.
- Landlords are able to evict tenants without obtaining a possession order from the court when they have been informed by the Home Office that a tenant does not have the 'right to rent'.
- Banks and building societies are required to undertake periodic checks and notify the Home Office if an existing account holder has no immigration permission. The Home Office can apply to the courts to freeze the person's account, except for access to an amount for essential living needs, or the bank may be required to close the account.

⁵ *HC, R (on the application of) v Secretary of State for Work and Pensions* [2017] UKSC 73
<https://www.supremecourt.uk/cases/uksc-2015-0215.html>

⁶ Home Office, Immigration Bill Overarching impact assessment, 25 November 2015, p.1.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482041/2015-11-30_revised_overarching_IA_-_Lords.pdf

- Working when a person's immigration status does not permit this is a criminal offence and wages earned from such employment could be seized as proceeds of crime.

When these measures are applied, and the person concerned does not leave the UK by their own volition or enforced removal, then they are likely to lead to a significant number of people remaining in the UK destitute and homeless.

There is little evidence available to demonstrate how these provisions have impacted on take up of voluntary return but the Home Office did publish an evaluation of the right to rent scheme that has been in operation across five local authorities in the West Midlands since 1 December 2014. This found that, during the first six months of the pilot, 109 people with no status were identified and referred to Home Office enforcement. As of September 2015, the outcomes were: 14 (13%) had been removed or were pending removal from the UK; 53 (49%) had barriers to removal, including 28 with pending applications; nine (8%) were granted leave to remain; 15 (14%) were 'being progressed as family cases'; and nine (8%) failed to report to immigration enforcement.⁷

These findings serve to demonstrate that a significant proportion of people will have temporary barriers in place, so leaving the UK may not be a viable option, leading to increased homelessness within communities and referrals made to social services.

The right to rent provisions have other consequences for local authorities in England. Even where a family has a source of income, if the parents have no current immigration permission, they will be unable to access accommodation in the private rented sector due to the right to rent provisions. The courts have been clear that in such cases, the local authority will not be able to rely on the family being able to access their own accommodation when assessing the needs of children under section 17 of the Children Act 1989 and establishing what intervention may be required to safeguard and promote the welfare of those children.⁸

There are provisions set out in the Immigration Act 2016 that are not currently enacted, which are expected to give rise to increased destitution if they are implemented:

- Refused asylum seekers, including families, will have their asylum support terminated when their appeal rights are exhausted, and will not have access to further support from the Home Office unless there is a 'genuine obstacle to them leaving the UK'.
- Local authority support for destitute families and care leavers with no immigration status will be taken out of the scope of the Children Act 1989 and may be provided under immigration legislation if the parent or young person has an outstanding human rights claim or there are safeguarding/welfare concerns.

⁷ Home Office, *Evaluation of Right to Rent Scheme*, 20 October 2015, pp.19-20.

<https://www.gov.uk/government/publications/evaluation-of-the-right-to-rent-scheme%E2%80%8B>

⁸ *R (on the application of N) v Greenwich London Borough Council* (2016) QBD (Admin) – extempore judgment; *R (U (Children)) v Milton Keynes Council* [2017] EWHC 3050 (Admin)

Recommendation:

- When an intervention or immigration sanction prevents a person from being able to support themselves independently in the UK, this must result in an appropriate outcome for that person, which may include one or a combination of the following: access to immigration advice, referral to social services, referral to the charitable sector for destitution support and information about voluntary return.

3. Local authority responses and best practice examples

The NRPF Network was formed in 2006 as a response to the need for a greater understanding of this area of work, and has taken the lead in providing guidance based on best practice that has evolved within the local authorities that had also identified the importance of properly staffing and organising their service.

Local authorities in England must adhere to statutory guidance when undertaking assessments or providing support:

- Adults – Department of Health, Care and support statutory guidance
- Families – Department for Education, Working together to safeguard children
- Care leavers- Department for Education, Care of unaccompanied migrant children and child victims of modern slavery⁹

In the absence of statutory guidance relating specifically to this area of work, the NRPF Network has established detailed practice guidance to help guide assessments, the provision of support and how to establish pathways out of dependency on social services' support:¹⁰

- Assessing and supporting children and families with NRPF (England)
- Assessing and supporting adults with NRPF (England)

In partnership with COMPAS, the NRPF Network has produced a web tool - Support for migrant families. This provides information about a person's support options, what social services will consider when a family requests support, information to help the person obtain immigration advice and information about other services as appropriate, for example, voluntary return. The web tool has won a community integration award and has been accessed by over 8000 individuals in its first year of operation.¹¹

The practice guidance and web tool are freely available online to practitioners working in local government and the voluntary sector, and members of the public can also use the web tool to find out what their support options are.

Increasingly, local authorities are following good practice recommendations that are made by the NRPF Network, for example:

- Assigning responsibility for NRPF cases to dedicated workers or centralised teams

⁹ <https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>; <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>; <https://www.gov.uk/government/publications/care-of-unaccompanied-and-trafficked-children>

¹⁰ <http://www.nrpfnetwork.org.uk/guidance/Pages/default.aspx>

¹¹ <http://migrantfamilies.nrpfnetwork.org.uk/>; <http://www.integrationawards.uk/>

- Reviewing internal policies and referral procedures
- Using alternative accommodation to B&Bs and hotels
- Work in partnership with legal advice providers to progress immigration cases

The NRPF Network established the NRPF Connect database to provide local authorities with an efficient and secure mechanism to obtain essential immigration status information from the Home Office and provide collective national data, which is essential to inform strategic and policy work. The resolution of cases to move people out of social services support is, for the most part, dependant on Home Office case processing and decision making. 50 local authorities in England and Scotland use NRPF Connect. Overall caseloads have decreased across the councils using the system but there remain several longstanding cases that require resolution (24% of supported households). Some London boroughs have also employed Home Office staff to be embedded in their service.

Local authorities continue to face challenges in resolving supported cases in light of the following:

- Government policies, for example, barriers to making immigration applications and reduced access to free legal advice, hinder case resolution – see section 2.
- Pressures on housing supply make it very difficult to source temporary accommodation; the benefit cap and local housing allowance create additional challenges to find suitable housing when recourse is granted.
- It is very difficult to terminate support on the basis that a person has no current immigration permission when they have no further procedural right to pursue their immigration claim and can return to their country of origin to avoid a breach of their human rights, when there is lack of engagement from the Home Office regarding return options.
- Access to free NHS treatment is limited to primary care for many people receiving social services' support, resulting in people either being unable to access health treatment, leading to exacerbated care needs, or incurring debts that they are unable to pay. Where charging affects children in supported NRPF households, it is expected that local authorities will need to fund their healthcare in order to comply with duties to safeguard and promote the welfare of children.

Recommendations:

- Government policies, such as charging for NHS treatment, contain direct exemptions for people receiving local authority support.
- Local authorities access good practice resources that are available to support this complex area of service provision and ensure they have an effective system to document costs and caseloads to contribute and inform local government's efforts to influence national policy.