

Submission to consultation on delivery of support in accommodation-based services

The No Recourse to Public Funds (NRPF) Network, hosted by Islington Council, provides advice and guidance to local authorities on statutory support for destitute migrants who, due to their immigration status, cannot access mainstream benefits.

Our response focuses on meeting the new duty through the provision of accommodation-based services for people with insecure immigration status or no recourse to public funds.

Q17. What would be the financial implications of meeting the proposed requirements of the statutory duty?

The Government is clear that the duty will require local authorities to ensure that support is available for all victims, including those with insecure immigration status or no recourse to public funds (NRPF). (Paragraphs 25, 76 & 79.)

This Government states that this review does not cover housing costs because in many cases the costs of rent and eligible services charges will be met through benefits. (Paragraph 20.)

The review document refers to there being measures in place to support 'eligible' migrants who are subjected to domestic abuse to access accommodation services, namely the Destitution Domestic Violence Concession and Home Office support for people seeking asylum. (Paragraph 76.)

When a victim of domestic abuse has no recourse to public funds (NRPF), they will not be able to claim income-based benefits or receive homelessness assistance under the Housing Act 1996. Instead, the cost of funding accommodation and financial support for people with NRPF will fall to the local authority where duties are engaged to safeguard the welfare of children or to meet the needs of adults requiring care and support.

Data held by the NRPF Network shows that at the end of March 2019:

- **59 local authorities** are supporting **2658 NRPF households** (including 1617 families and 554 adults) at an annual cost of **£47.5 million**
- The average annual cost of supporting a household is **£17,914**
- The average time that a household is provided with support is **820 days**
- The number of households supported for **1000 days** or longer make up **22%** of the overall caseload
- In **65% of households**, the main applicant is a non-EEA national with no current immigration permission
- **80% of households** exited the service throughout the year due to a grant of leave to remain with recourse to public funds, enabling access to benefits [1]

Although we do not have figures for the number of NRPF households that have become homeless and in need of social services' intervention due to feeling a situation of domestic abuse, we are aware from practice experience that this is regularly a key factor leading to a request for support. Additionally, a 2015 report by COMPAS at Oxford University found that experiences of domestic violence were a key element in many referrals of women and

children to local authorities for support, with relationship breakdown, including domestic violence, often leading to previously stable circumstances deteriorating. [2]

The Housing, Communities and Local Government Committee recently recommended that local authorities are funded for providing support to families with NRPF under section 17 of the Children Act 1989, acknowledging that for the most part, support is provided whilst families, who are highly likely to be granted leave to remain, are awaiting the outcome of immigration claims. [3]

The Government's response to the initial consultation on the Domestic Abuse Bill confirmed that a grant of £500,000 would be provided to fund projects that provide crisis support for migrant victims with NRPF. [4]

Based on the known costs of NRPF support, £500,000 would fund accommodation and financial support for 56 households for a period of 6 months. This does not accounting for costs relating to staffing resources or additional support provision.

There will be many victims who are unable to apply for the Destitution Domestic Violence Concession (DDVC) or Home Office asylum support as a means of accessing safe accommodation. Our data shows that where a person has an outstanding immigration matter, this can take on average over two years to resolve, with many cases taking significantly longer to achieve a final outcome (i.e. grant of leave to remain or return to country of origin).

It is therefore clear that the proposed funding for the provision of crisis support falls far short of what will be required to ensure that all victims of domestic abuse who have no recourse to public funds are able to access safe accommodation.

Q26. What else would you like to have set out within the Guidance?

The statutory guidance needs to contain the following information so that partnership boards and commissioners can ensure that accommodation-based support services are accessible to people with insecure immigration status or no recourse to public funds.

Other statutory duties: provision of accommodation for people with NRPF

Commissioners of services will need to be aware of what statutory support options exist for victims of domestic abuse with insecure immigration status or no recourse to public funds (NRPF). In particular, they must be aware of where there are gaps in support provision and provided with suggestions of ways that accommodation can be made available to ensure that all victims can access this when they are at risk of homelessness.

Duties to provide accommodation to a person with NRPF are restricted to:

- Families with a child under 18 – section 17 of the Children Act 1989
- Former looked after children – leaving care provisions of the Children Act 1989
- Adults with care and support needs – the Care Act 2014*

* When an adult does not have a child in their care, they would only qualify for support from the local authority if they have eligible care and support needs. If they have care and support needs (additional to requiring accommodation), that do not meet the eligibility criteria, then the local authority has the discretion to provide accommodation and financial support.

The High Court has recently confirmed that local authorities cannot rely on the general power of competence under section 1 of the Localism Act 2011 to provide accommodation on a discretionary basis to a person who is ineligible under the Housing Act 1996. [5]

There is a significant gap in the availability of statutory support for victims of domestic abuse with NRPF who do not have children in their care, are not eligible for Home Office asylum support and do not have care and support needs (under the Care Act 2014). The guidance will therefore need to provide suggestions as to how commissioners can ensure that victims in this situation can be accommodated.

For more information about statutory duties to provide accommodation to victims with NRPF, we would recommend that the statutory guidance signposts readers to the NRPF Network's practice guidance (endorsed by the Local Government Association and Association of Directors of Children's Services), and 'Support for migrant families' web tool. [6]

Other statutory duties: the right to rent scheme

The right to rent scheme can prevent some people from being able to access accommodation in the private sector. Several exemptions apply that enable a person who has no right to rent to be provided with certain types of accommodation. These rules may not be widely known so the guidance would need to provide commissioners with information about the exemptions relating to local authority accommodation, refuges and hostels.

Support needs: immigration advice

Victims of domestic abuse who have NRPF include those who have:

- Leave to remain with NRPF as a spouse of a British citizen/ settled person
- Leave to remain with NRPF under other categories, whether as a dependant family member or not
- EU derivative right to reside on the basis of being the primary carer of a British citizen
- No current immigration permission, for example, a visa overstayer, or an 'Appeals Rights Exhausted' (ARE) asylum seeker*

* ARE asylum seekers may not always be eligible for section 4 Home Office asylum support

Our data shows that in 65% of NRPF households provided with social services' support, the main applicant does not have any current immigration permission and is not seeking asylum.

Additionally, EEA nationals and people with a derivative right to reside acquired under EU law will not be able to access benefits when they are not exercising a qualifying right to reside, for example, an EEA national who is unable to work due to child care commitments.

All of these groups will require immigration advice in order to obtain a change in immigration status to enable recourse to public funds. EEA nationals also need to be provided with advice and assistance applying under the EU Settlement Scheme to secure their future rights to remain in the UK, although only those who obtain settled status (rather than pre-settled status) will be eligible for benefits on that basis.

Although return to country of origin may be an option for some victims, our data indicates that the majority of NRPF households receiving social services' support will have the right to remain in the UK on a route to settlement, with 80% of households exiting support following grants of leave to remain. Therefore, access to good quality and free immigration advice is essential to achieving this more expediently.

However, legal aid is only available for: people on a spouse visa making an ILR application on the basis of domestic violence, EEA nationals in some instances, and people claiming asylum.

In 2016, the OISC confirmed that providing advice about, or assistance with, a Destitution Domestic Violence Concession application constituted providing immigration advice and services, yet legal aid funding does not cover this. There can therefore be a delay in a person being able to access legal advice before the concession application can be made, so gaining access to public funds does not take place as quickly as it could do.

It will be essential that the statutory guidance refers to the importance of ensuring immigration advice is available to help victims with insecure immigration status establish an appropriate pathway out of their situation of destitution.

The guidance must also highlight that, given the length of time it may take to conclude an immigration claim, short-term emergency accommodation provision will not be sufficient in many cases and longer-term support options will need to be explored.

Support needs: barriers accessing benefits

The statutory guidance needs to flag up what barriers exist for a person when they become eligible to claim benefits or apply for homelessness assistance, either following a successful Destitution Domestic Violence Concession application or other grant of leave to remain with recourse.

NRPF services in local authorities have reported that victims of domestic abuse receiving their support have experienced problems accessing benefits expediently due to:

- Delays obtaining a NI number
- Delays in benefits being issued
- Inability to open a bank account with many high street banks due to short duration of leave to remain or adequate proof of residence or identity
- Local connection rules that apply to homelessness duties

Commissioners will need to consider how victims can be best supported to enable a quick move on from any emergency accommodation to mainstream services following a change in immigration status.

Q28. Do you think that the proposed policy will help local areas ensure the needs of all victims and their children can be met?

Although we welcome the commitment to provide assistance to victims of domestic abuse with insecure immigration status or no recourse to public funds, the proposals are not sufficient for local authorities to be able to fulfil the new statutory duty without adequate funding. Any funding provided needs to reflect that resolving an immigration claim is not a quick process for people who are unable to access the DDVC concession. For further explanation, please refer to our answers at questions 17 and 26.

References

- [1] NRPF Connect data report 2018-19 (data from 59 local authorities in England and Scotland): <http://www.nrpfnetwork.org.uk/Documents/NRPF-connect-annual-report-2018-19.pdf>
- [2] <https://www.compas.ox.ac.uk/2015/safeguarding-children-from-destitution-local-authority-responses-to-families-with-no-recourse-to-public-funds/>
- [3] HCLG committee inquiry into funding of Children's Services (1 May 2019) <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/1638/163802.htm>
- [4] <https://www.gov.uk/government/publications/domestic-abuse-consultation-response-and-draft-bill>
- [5] *R(AR) v Hammersmith & Fulham LBC* [2018] EWHC 3453 (Admin)
- [6] <http://www.nrpfnetwork.org.uk>; <https://migrantfamilies.nrpfnetwork.org.uk/>

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