

1. Introduction

Local authorities play a vital role in alleviating migrant destitution by providing housing and financial support to families, care leavers and vulnerable adults who are excluded from mainstream welfare benefits due to their immigration status. Support for people with no recourse to public funds (NRPF) is administered by social services in adherence with safeguarding duties set out in the Children Act 1989 and the Care Act 2014. [1]

This support is unfunded by central government and costs 50 local authorities at least £43.5 million per year to administer. Data referenced in this submission clearly demonstrates that the pathway off dependency on social services' support for the majority of households will be obtaining leave to remain with recourse to public funds. With the average time spent on support at just under 2.5 years, this indicates that people experience significant delays throughout the process of achieving leave to remain in the UK. This is detrimental to the welfare of children, vulnerable adults and increases support costs for the local authority.

High immigration fees and challenges in satisfying the fee waiver policy are contributory factors to people experiencing longer periods of dependency on social services' support whilst their immigration matter is resolved. This vulnerable group may be forced to resort to using inappropriate methods to obtain money for fees leaving them at risk of exploitation and accruing debt they cannot afford to repay. Additionally, in order to comply with statutory duties, social services will need to fund immigration and citizenship fees for children in care and young people leaving care when no fee exemption applies.

The impact of high fees on local authorities and the vulnerable people they are supporting therefore needs to be considered; reducing these and/or providing wider exemptions is one way in which central government could help local government to deliver services to residents using the scarce resources that are currently at their disposal.

2. Data on NRPF households supported by social services

Data from 50 local authorities shows that at the financial year end 2017-18:

- 2552 households and 4049 dependants were supported
- Cost of accommodation and financial support = £43.5 million per year (average cost of £17,193 per household)
- 67% of households exited local authority support on account of being awarded leave to remain with recourse to public funds
- The average time spent on support increased to 887 days
- 27% of households are non-EEA nationals supported for 1000+ days who are waiting for a final outcome on their immigration case
- The parent or adult in two-thirds of households has no current immigration permission (with the majority pursuing non-asylum immigration claims) [2]

3. Fees for immigration applications

People making applications under the FM rules will need to pay £1033 per person (£1033 application fee + £500 Immigration Health Charge). Looked after children are exempt from paying the fee but an exemption for children supported under section 17 of the Children Act 1989 was removed in October 2016. Families, adults and young people leaving care who are 18+ will therefore need to pay a fee when making a family or private life application, unless they qualify for a fee waiver. [3]

The fee waiver policy states that a person receiving social services' support will not be required to pay a fee when they can demonstrate that they would be destitute were it not for local authority support, and that evidence from the local authority will be given significant weight in determining this. However, if this is not clear, the policy suggests that the person must demonstrate that they do not have any disposable income, cannot borrow from friends or family and that their circumstances are unlikely to change in the immediate future. Social services have reported that fee waivers are sometimes refused for people receiving support to alleviate destitution. [4]

As the fee waiver must be applied for when the leave to remain application is submitted, if it is refused and the application returned as invalid, the person will become an overstayer where their previous leave has already expired. Local authorities reported that people have presented or represented requesting support when they have failed to pay the fee or have not been considered to have met the fee waiver policy when they have applied to extend their leave to remain.

Where a person borrows money to pay the fee, then they are at higher risk of having the NRPF condition imposed when leave is subsequently granted, which will delay the resolution of the case for the local authority as the person then needs to apply for the condition to be removed.

4. Fees for child registration applications

Children in low-income families who are entitled under the British Nationality Act 1981 to register as British Citizens face barriers asserting this right due to the mandatory application fee of £1012, which is not subject to any exemptions or a fee waiver. This fee applies to children who are entitled to register because they were born in the UK and their parent subsequently becomes British or acquires settled status, or because they were born in the UK and have been resident for 10 years.

When a child within a family can evidence their British citizenship, this will have consequences for the parent, as they may subsequently be able to obtain a right to remain and settle in the UK under the FM rules. However, children in low income families or in families supported by social services will not be able to fund this application due to the prohibitive fee. Where there is a delay registering a child as British and resolving the parent's immigration status, a family will remain dependent on social service's support for longer than they might otherwise would have done, which is not in the best interests of the child and will impact on the extent to which the child is able to integrate by the time they are finally able to obtain citizenship, particularly if prior to this they did not have any leave to remain.

Data from 39 local authorities taken at the end of 2016 indicates that a significant number of children in NRPF families, who are receiving social services' support to safeguard their welfare and prevent destitution, may be eligible to register as British citizens, were it not for the prohibitive cost: out of 2963 children in 1829 family households receiving social services' support, 572 non-British children were over 10 years' old and 491 families had at least one non-British child over the age of 10. Although the data does not confirm whether these children were born in the UK or how long they have lived in the UK prior to receiving social services' support, it suggests that up to 491 out of 1829 families, 27% of supported households, may have a child who would be eligible to register as a British citizen. The prohibitive cost of this will be a key factor in preventing them from doing so. [5]

Where a local authority is looking after a separated migrant child, then it will fall to social services to fund a registration application as securing British citizenship is highly likely to be in the child's best interests. The Department for Education has been clear in its statutory guidance that it is social services' responsibility to help a child in care to obtain a secure form of immigration status where this is possible and the Local Government Ombudsman has found a council to be at fault for not assisting a child in care to register as a British citizen. This is a direct cost that therefore falls to councils to meet in the absence of a fee exemption. [6]

References

[1] Local authorities may provide housing and financial support to the following people who are excluded from mainstream benefits and housing services by their immigration status:

- Families to safeguard the welfare of a child in need - section 17 of the Children Act 1989
- Adults with care and support needs - the Care Act 2014
- Vulnerable adults who do not have eligible care and support needs, but are provided with housing to prevent a breach of their human rights – section 1 of the Localism Act 2011
- Former looked after children receiving leaving care support - the Children Act 1989

[2] Data from NRPF Connect annual report 2017-18. The database is used by 50 local authorities nationally (47 in England; 3 in Scotland) and is project managed by the NRPF Network. The database enables secure data sharing between local authorities and the Home Office.

<http://www.nrpfnetwork.org.uk/Documents/NRPF-connect-annual-report-2017-18.pdf>

[3] The Immigration and Nationality (Fees) (Amendment) Regulations 2016

[4] Home Office, Fee waiver: Human Rights-Based and other specified applications, page 17

<https://www.gov.uk/government/publications/applications-for-a-fee-waiver-and-refunds>

[5] Data from NRPF Connect taken on 8 December 2016 from 39 local authorities.

[6] Department for Education, Care of unaccompanied migrant children and child victims of modern slavery statutory guidance, paragraphs 18-21, 60-61

<https://www.gov.uk/government/publications/care-of-unaccompanied-and-trafficked-children>; Local Government Ombudsman complaint: Dudley Metropolitan Borough Council (15 015 327), 19 May 2016 <https://www.lgo.org.uk/decisions/children-s-care-services/looked-after-children/15-015-327>

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