



**Supporting people
with no recourse
to public funds
(NRPF)**

Guidance for homelessness services

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FEEDBACK, CORRECTIONS AND SUGGESTIONS

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Introduction

Clients with no recourse to public funds (NRPF) are at high risk of homelessness and destitution because they cannot access mainstream housing and welfare benefits, and are usually not permitted to undertake employment. While this client group forms only a small proportion of clients accessing services¹, 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 also NRPF clients who do not disclose their situation, particularly in open access services providing basic facilities such as food and showers without a needs assessment.

This guidance provides information for services working with homeless adults without dependents who have no recourse to public funds (NRPF). 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.

Further resources and guidance on supporting non-EEA destitute migrants can be found on the Strategic Alliance on Migrant Destitution (SAMD) resources page: www.homeless.org.uk/samd

This document focuses primarily on people from outside the European Economic Area (EEA). Homeless Link has published separate guidance on working with EEA nationals, including information on the right to reside and habitual residence test:

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

www.homeless.org.uk/our-work/resources/entitlements-of-eea-nationals

www.homeless.org.uk/our-work/resources/assessment-and-reconnections-toolkit

Services working with NRPF clients should also be aware of the risks relating to trafficking and forced labour: www.homeless.org.uk/our-work/resources/trafficking-and-forced-labour

At the time of writing the Immigration Bill is passing through the commons, which could change support options for people with NRPF. Please check www.homeless.org.uk for policy updates.

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.³ Refer to links in the text and our toolkits for practical resources and advice.

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:

¹ Homeless Link's *Support for single homeless people in England – Annual Review 2015*

² 'Coping with Destitution', Oxfam Research Report 2011

³ <https://home.oisc.gov.uk/>

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- 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 have taken 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:

<https://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.⁴ Note that this restriction applies to welfare benefits, homelessness assistance and council housing only. It does not prevent migrants with NRPF from accessing other publically funded services, 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 regularised⁵, 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 welfare benefits, homelessness assistance and council housing because they are subject to immigration control:

- Undocumented or '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. Such migrants will not have permission to work.
- Documented or 'regular' migrants are in the country legally with a valid visa that has the NRPF condition.

⁴ Section 115 Immigration and Asylum Act 1999

⁵ Immigration status can, in some cases, be regularised via Home Office Immigration e.g. getting a new visa or being awarded leave to remain

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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 not excluded from accessing welfare benefits, homelessness assistance and council housing because of their nationality/immigration status but are unable to claim these 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.

(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”). 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. The circumstances of some clients 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 Area⁶ 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

⁶ The UK, Republic of Ireland, Isle of Man and Channel Islands.

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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 whilst they are applying for a National Insurance number and/or waiting for benefits to be awarded. Additionally, many single migrants will not be eligible for homelessness assistance from the local authority because they are not deemed to be in 'priority need'. For more information on local authority statutory duties and how to apply for support please see the Housing Rights website: www.housing-rights.info/02_2_2_How_to_apply.php

Identifying NRPF clients

Client 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 client in order to provide the right support and advice.

In order to establish a client'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
- 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.

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, entitlements can only be clarified through contact with the Home Office in order to establish a person's status. Services should support people to access legal advice/representation prior to doing this. There are several free advice lines that services can call together with the client to get initial immigration advice. The fear of detention and removal means that some clients will be reluctant to consent to their details

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being shared with the Home Office, and they should have access to legal advice in order to make an informed decision about how to proceed⁷. Possible consequences of alerting the Home Office to a migrant's presence in the UK when they have no current immigration permission could be that enforcement action is undertaken, they are detained or they may be issued with reporting instructions to attend an immigration centre on a regular basis. However, without engagement with the Home Office, which usually will mean making an immigration or asylum application, some people will be left destitute who would otherwise be able to regularise their immigration status.

Services are advised to build links with their ICE team in order to have a local point of contact with immigration services. (See 'Role of the Home Office' above.)

Under the Data Protection Act 1998 a migrant can request a copy of their Home Office file for a fee of £10, 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: <https://www.gov.uk/government/publications/requests-for-personal-data-uk-visas-and-immigration>

Please 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 digitalised. Conversely, sometimes new information takes a little time to be updated on the system – which can lead to perceived inaccuracies in data.

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. They should have a Home Office Immigration 'case owner' whose details appear on letters from the Home Office. 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 their case owner to confirm that a claim is in process (i.e. that the client is still an asylum seeker, as there have been cases of miscommunication where clients 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

Asylum Help UK helplines can help clients to complete the form: www.gov.uk/asylum-helplines

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

⁷Individual 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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If an asylum seeker does not have details of the case owner or if there are questions about claiming support, contact the Asylum Support customer contact centre: 0300 123 2235.

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

Refused asylum seekers 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, can be reopened as a 'fresh claim', or if an appeal can be submitted⁸, 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). To contact the Home Office, find the case owner's details on the client's Immigration letters or call the Asylum Support customer contact centre: 0300 123 2235. 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 client is 'appeals rights exhausted' (ARE), has no recourse to public funds and no right to work. There is a risk of detention and removal. The client must 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 asylum seekers 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.

Undocumented or 'irregular' migrants

Undocumented or irregular migrants are those migrants 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.

⁸ 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).

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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.⁹

Regular non-EEA migrants

Regular non-EEA migrants are those 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.

EEA nationals

Currently, all nationals of EEA member states are treated in the same way, except for nationals of Croatia. Croatia acceded to the European Union on 1 July 2013 and transitional arrangements apply until 30 June 2018 (and may be extended for another two years).

EEA nationals and their family members will be eligible for income related benefits if:

- They have a right to reside under EU law; and
- They are either exempt from the habitual residence test or they are habitually resident; and
- They meet the conditionality test, that is they can demonstrate that they are available for and actively seeking work

For claims for benefits made on or after 1 January 2014, no one is considered habitually resident unless he or she has lawfully resided in the Common Travel Area (the UK, Republic of Ireland, Channel Islands or the Isle of Man) for three months.

Any unemployed EEA national who has been in the UK for longer than 3 months can make a benefits claim, but note that only genuine job seekers will be able to maintain the conditionality requirements of Jobcentre Plus. Also, EEA migrant job seekers making a new claim are now usually limited to 3 months' Job Seekers Allowance and may not be entitled to Housing Benefit. EEA nationals who can demonstrate that they have been in the country for 5 years (in accordance with EEA Treaty rules) are not subject to the same restrictions as newer arrivals

The rules around these tests are complicated and HRT decisions are based on case law rather than a single definition of 'habitually resident'. For EEA nationals in the UK, claiming benefits in the UK can be a long process and the client's health and well-being may deteriorate in the meantime. In this case clients may want to discuss options to reconnect to family and friends in home country, and return in a planned way.

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-migrants

www.homeless.org.uk/our-work/resources/entitlements-of-eea-nationals

⁹ Chasing Status (Legal Action Group, October 2014): <http://www.legalactiongroupnews.org.uk/surprised-brits-hit-by-laws-aimed-at-illegal-migrants/>

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 (see www.homeless.org.uk/our-work/resources/entitlements-of-eea-nationals). 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 migrant 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: <http://www.nrpfnetwork.org.uk/information/Pages/immigration.aspx>

Migrants with NRPF who experience domestic violence

Victims of domestic violence 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

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to the NRPF condition. If their relationship breaks down due to domestic violence, 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 whilst 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 violence who do not have leave to enter or remain as the spouse/ civil partner/ unmarried partner/ same sex partner of a settled person. If the migrant has 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 violence 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 violence 0808 2000 247.

Deciding to support to clients 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 a client 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*.¹⁰ 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.¹¹

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 working with Home Office Immigration Enforcement

There is no legal obligation to report clients to the Home Office, and many people will face the prospect of long term destitution without taking steps to resolve their status.

¹⁰ 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

¹¹ 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

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Services can support NRPf clients 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.

For those people who have already contacted the Home Office there may be requirements to sign on at an immigration reporting centre. If such instructions are issued it is very important that the person complies with these, 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. This should reduce the risk of detention and avoid negatively affecting future applications.

Where someone refuses to consent to contact the Home Office, voluntary agencies can be faced with the difficult prospect of providing support indefinitely. Therefore, although no legal obligation exists, some services adopt a policy of actively encouraging people with no immigration status to engage with immigration advice services and the Home Office and withdrawing support after a certain period if the client takes no steps to change their situation.

Engaging with the Home Office does not guarantee the resolution of NRPf client's case. Some clients 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, 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.¹² However, the government has suspended the detention of 'fast track' asylum applicants, so should not be detaining such asylum applicants and should be reviewing the detention of those currently in the system.¹³ Following the Shaw review into the welfare in immigration detention of vulnerable persons, the Home Office is reviewing its policy to define "adults at risk". The Home Office states this will "*have a clear presumption against detention of vulnerable people, unless there is evidence that matters such as criminality, compliance history or imminent removal outweigh the vulnerability factors*".¹⁴ 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. NRPf clients may receive assistance via services

¹² For information on detention and bail see Bail for Immigration Detainees (BID) at: www.biduk.org.

¹³ Government guidance, Cases in detention: interim instruction (17 July 2014). www.gov.uk/government/publications/cases-in-detention-interim-instruction

¹⁴ Government response to Stephen Shaw's review into the welfare in detention of vulnerable persons (14 January 2016). www.gov.uk/government/publications/government-response-to-the-review-on-welfare-in-detention-of-vulnerable-persons

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provided by a local authority using the homelessness grant, for example, cold weather beds, but such provision is likely to be accommodation for a few days only.

Social services support for adults with care needs

A migrant with NRPF is not prohibited from accessing assistance from their local authority's social services department because social services assistance is not a public fund for immigration purposes. However, there are some restrictions to this based on nationality and immigration status.

Local authorities are required to provide destitute migrants with NRPF with accommodation and/or financial assistance when statutory duties are engaged. For adults without children, such assistance can only be provided when the migrant has eligible needs for care and support due to a disability, illness or mental health condition. In England this duty arises under the Care Act 2014, and this guidance refers to this. As social care is a devolved power, equivalent legislation applies in Wales, Scotland and Northern Ireland, so slightly different provisions will apply.

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. However, some groups of migrants are excluded from such assistance.

(i) Exclusions to support

Five groups of migrants are excluded from being able to receive support or assistance under the Care Act 2014 and equivalent legislation in Wales, Scotland and Northern Ireland¹⁵:

- A person with refugee status granted by an EEA country and dependents of such a person;
- Non-British European Economic Area (EEA) nationals and dependents of EEA nationals
- Refused asylum seekers who have failed to comply with removal directions and dependents of such a person
- A person unlawfully present in the UK (including visa over stayers, illegal entrants and refused asylum seekers who claimed asylum in country, rather than at port of entry)
- A refused asylum seeking family that the Home Office has issued with certification confirming that they have failed to take steps to leave the UK voluntarily

Local authorities are obliged to inform the Home Office of anyone presenting who is unlawfully present, a refused asylum seeker who has failed to cooperate with removal directions, and a refused asylum seeking family certified by the Home Office as having not taken steps to leave the UK.

If a migrant requesting assistance from a local authority is in an excluded group, the local authority will consider whether the migrant can freely return to their country of origin. Things that prevent this include:

- Pending human rights applications made to the Home Office or subsequent appeal
- Inability to travel due to illness or medical condition
- Lack of 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 migrant has eligible needs under the Care Act 2014 (see (ii) below), but will regularly review the situation.

¹⁵ Schedule 3 of the Nationality Immigration and Asylum Act 2002

If it appears that there is nothing preventing the migrant from returning to their country of origin, then the local authority will need to undertake a human rights assessment to fully consider the migrant's circumstances in the UK and their country of origin, in order to establish what assistance is necessary to prevent a breach of human rights or European Union treaty rights (for EEA nationals). If the migrant can freely return to their country of origin without this being a breach of their human rights, then the local authority may only offer to provide assistance with travel to that country.

It will be unlawful for a local authority to refuse to assist a migrant who belongs to an excluded group without undertaking a human rights assessment.

(ii) Needs assessments and when accommodation may be provided

There are no specific provisions in the Care Act 2014 relating to when accommodation can be provided. Instead, a migrant 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.¹⁶

¹⁶ The Care and Support (Eligibility Criteria) Regulations 2015

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The local authority is not required to meet needs for 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 migrant 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.¹⁷

The local authority is not permitted to take into account accommodation provided by the Home Office, so an asylum seeker or refused asylum seeker with eligible care and support needs, even if they are provided with asylum support accommodation by the Home Office, may fall to be accommodated by the local authority.

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 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.

Instances when the local authority may use its discretionary power to meet non-eligible needs could include supporting: a pregnant woman, a particularly vulnerable victim of domestic violence, or a person with a communicable disease, such as TB. However, as this is at the local authority's discretion there is no blanket provision of support available for these groups of migrants.

If the adult falls under any of the excluded groups, and there is no barrier in place preventing them from leaving the UK, the local authority will undertake a human rights assessment and may conclude that it has no duty to meet eligible needs and will only provide the adult with assistance to return to their country of origin (see (i) above).

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

Section 117 requires aftercare services to be provided to patients who have who have been detained in hospital when they leave hospital, either immediately or sometime after they have been discharged under the following sections of the Mental Health Act:

- 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)

¹⁷ *R(SG) v London Borough of Haringey* [2015] EWHC 2579 (Admin)

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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.

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 receives aftercare under section 117.

However, if a migrant with NRPF is assessed as not requiring supported accommodation for the purpose of reducing the likelihood of their readmission to hospital, so this cannot be provided under section 117, but still requires accommodation because they are destitute, then the local authority would need to establish whether there is any duty to provide accommodation under the Care Act 2014 (see section (ii) above). Note that the exclusions to such assistance will apply if a migrant falls under the excluded groups, and of the migrant has eligible needs, the provision of support will be subject to a human rights assessment (see (i) above).

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/guidance/Pages/default.aspx

(iv) Care leavers – former looked after children up to 21 or 25 years old

Social services may be required to provide accommodation and financial assistance to care leavers who are NRPF when they turn 18. This duty arises from section 23C(4)(c) of the Children Act 1989, which forms part of the wider leaving care responsibilities that local authorities have towards children who have been looked after under section 20 of that Act for a period of at least 13 weeks since they were 14. Such duties normally apply until the young person is 21 but this could be up to the age of 25 if the young person is undertaking a programme of education or training.

If the care leaver falls under an excluded category then they will be subject to the exclusions to social services assistance, so the provision support will be dependent on a human rights assessment. (See (i) above.)

If a migrant with NRPF has ever been looked after by a local authority in the past, then it is worth checking whether leaving care duties would apply and, if so, on what basis the local authority terminated support. It may be advisable to refer such a young person to a community care solicitor to establish whether the local authority's leaving care duties will apply.

For more information about leaving care duties see Coram Migrant Children's Project: www.childrenslegalcentre.com/index.php?page=migrant_children

(v) Families

Local authorities may be required to provide destitute families with NRPF (where there is a child under 18) with accommodation and/or financial assistance when the child is in need. If the family are destitute then a child will be in need. Support will be provided under section 17 of the Children Act 1989.

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The exclusions to social services support also apply to assistance to families under section 17 of the Children Act 1989, so the local authority would need to carry out a human rights assessment to determine whether assistance can be provided. (See section (i) above.)

For more information see the NRPF Network's practice guidance, *Assessing and Supporting Children and Families who have No Recourse to Public Funds (NRPF)*:

www.nrpfnetwork.org.uk/guidance/Pages/default.aspx

Voluntary Agencies

Services that are providing accommodation services (including some night shelters) often rely on Housing Benefit payments and therefore exclude or limit places for NRPF clients. Other services are funded to 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 which are available from the Strategic Alliance on Migrant Destitution (SAMD) resources page www.homeless.org.uk/samd
- 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 2015¹⁸
- Joseph Rowntree Foundation, *How to improve support and services for destitute migrants*, July 2015¹⁹

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 NRPF clients. 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 them are in NACCOM, a network of such agencies <http://nacom.org.uk/>. Homeless UK is a free website that includes a search category for services for asylum seekers: www.homelessuk.org

Support offers to NRPF clients

Once a client's 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.

¹⁸ <https://nacom.files.wordpress.com/2015/07/models-of-accommodation-and-support-for-destitute-migrants-with-nrpf.pdf>

¹⁹ www.jrf.org.uk/report/how-improve-support-and-services-destitute-migrants

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. Similarly, when trying to find short-term housing and support, it is always helpful to have a medium or long-term plan for regularising the immigration status.

Clients who are NRPF may be reluctant to engage with any services in fear of being detained or removed. Many 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 survival²⁰.

Agencies should aim to be transparent about what support options there are, who can offer support and for how long. Please note that often with clients with NRPF assessments might take longer than normal as you will need to contact different agencies before an action plan can be established. It is advisable to give the client information about every available option at first contact rather than offering options in response to changing circumstances, as this could damage the trust established. For example, providing information about return options at first contact alongside other information is non-directive and ensures the client is aware of a range of options. In contrast, introducing the subject of voluntary return when a client's situation has become critical, for example because asylum is refused, may seem directive and there is a higher risk that the client will disengage as a result.

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:

<http://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), 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 is an organisation, ASAP, that offers advice (advice line 020 3716 0283 Mon, Wed, Fri 2-4pm) and representation before the Asylum Support Tribunal: www.asaproject.org/

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

²⁰ 'Coping with Destitution', Oxfam Research Report 2011

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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.

There have been cuts to the availability of Legal Aid for pursuing Judicial Review claims. The government's proposals to introduce a 'residence test' whereby most undocumented migrants would not receive Legal Aid, despite the merits of their cases, has not yet been introduced although the Court of Appeal has found the test to be lawful.

This means that 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 (eg. Asylum Aid, Joint Council for the Welfare of Immigrants, Rights of Women). Where unable to assist, services can 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 very short supply, the prospects of an asylum seeker or destitute migrant changes radically with appropriate legal advice. A recent report funded by the Future Advice Fund entitled *Models of immigration advice, advocacy and representation for destitute migrants, focusing on refused asylum seekers* 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 homeless sector workers can adopt to support OISC qualified legal practitioners. This report is available at www.homeless.org.uk/samd

Support options

Broadly speaking, there are 4 options for NRPF clients:

1. Return to country of origin²¹
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.

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?

²¹ 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

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- 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?

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 services²²
- 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 is aware that many migrants living in the United Kingdom illegally, often in poor conditions, want to return home voluntarily but many are not aware that help is available and are afraid to approach the Home Office for fear of arrest or detention. Home Office enforcement policy is driven towards encouraging take up of voluntary return rather than enforcing removals, which can be difficult to administer successfully, as well as being costly.

The Immigration Compliance and Enforcement (ICE) teams based across the United Kingdom have a duty to enforce the immigration rules. They also work in a variety of ways to encourage voluntary departures, for example through sustained engagement with faith and voluntary sector organisations which are most likely to come into contact with individuals who do not have leave to remain in the UK. These can take the form of immigration surgeries in gurdwaras, temples, mosques, churches and advice centres, although such practices are not used consistently throughout the country. Home Office ICE teams are expanding such external engagement to encourage more voluntary departures.

Any person who is living in the UK illegally or has been refused permission to enter or stay in the UK can ask to make a voluntary departure, including EEA nationals who are not exercising a right to reside. The Home Office will fund the flight but will expect a person to arrange their own documentation if they do not already have this, unless the person has a vulnerability which means that they will be unable to do this, or will experience great difficulty in doing this. Note that vulnerable adults may qualify for assisted voluntary return (see below), although currently there is no published guidance as to which groups of people would be considered to be vulnerable or what the threshold is. It may therefore be necessary to advocate on behalf of the client for assistance with documentation and/or to get the Home Office to accept them into the Voluntary Returns Service.

²² www.redcross.org.uk/What-we-do/Finding-missing-family

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For those returning voluntarily there are the following benefits:

- They avoid being arrested and having to live in detention until a travel document can be obtained.
- They can leave the UK in a more dignified manner than if their removal is enforced.
- If a removal is enforced by the Home Office, the migrant will face a 10 year re-entry ban. However, a person leaving voluntarily will be subject to a ban of 1-5 years, depending on the circumstances of their departure.
- If they are vulnerable and provided with an assisted return, they may receive a financial package.

To contact the Home Office about voluntary returns and assisted voluntary returns: 0300 004 0202

Note that a client must be at a stage where they are willing to engage with return, as making contact will alert the Home Office to the person's presence in the UK.

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

NRPF clients with no 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 clients 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 a client 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 6th April 2013 the UK has had a statelessness determination procedure which may be appropriate for some of these, 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. Asylum Aid runs a small scale service providing initial advice on individual cases involving statelessness which can be accessed on Tuesdays from 3pm to 4pm by calling their advice line on 020 7354 9264.

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

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- Help the client to get specialist legal advice on immigration status
- Issue letters confirming that the client is destitute (for legal aid, HO accommodation etc)
- Help the client to find accommodation whilst the application is being prepared and/or decided

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 agency²³
- 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)
- 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).

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.
- 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. To be eligible they must meet one of five conditions:

1. Taking all reasonable steps to leave the UK (e.g. Voluntary Return (VR) 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 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. At the time of writing the weekly subsistence amount for an individual is £35.39.

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.

²³ For example www.freedomfromtorture.org or www.helenbamber.org

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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.²⁴

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 nature of subsistence support can also be off-putting (e.g. some clients live at a distance from shops that accept Azure cards but have no travel allowance to reach them). There is also a perception that accepting Section 4 support means signing up to voluntary return, although this is only one of the eligibility criteria.

Housing

While clients 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 exploitation²⁵ and other options might be safer. Services should be aware that if an NRPF client stays with an asylum seeker in Home Office Asylum Support housing, that person'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 NRPF clients 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). Homeless UK is a free website that includes a search category for services for asylum seekers: www.homelessuk.org. 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

²⁴ Contact The Asylum Appeals Project for advice and possibly representation: www.asaproject.org

²⁵ 'Coping with Destitution', Oxfam Research Report 2011

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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.²⁶

Night shelters and Severe Weather Emergency Provision (SWEP)

Depending on their funding, night shelters can offer beds to NRPF clients. Even those 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.²⁷

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://nacom.org.uk/>, many of which offer hosting as well as other accommodation.

Hosting schemes are likely to be short term, with clients moving between hosts. Some schemes will only support clients where there is strong probability that the client's situation will change, for example as an interim measure while a legal case is in process. This may be another incentive for a migrant to seek legal representation and clarify their immigration status and options.

Providing rooms for migrants in shared houses with wrap-around support

There are services across the UK that provide accommodation for migrants 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 for 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 where property prices are more modest.

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

²⁶ For guidance on setting up a services see www.homeless.org.uk/effective-action/setting-up-a-service

²⁷ For guidance on cold weather and SWEP provision see www.homeless.org.uk/effective-action/SWEP-CWP

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the resources page of the Strategic Alliance on Migrant Destitution: www.homeless.org.uk/our-work/resources/resources-on-migrant-destitution-from-our-partners

Private renting

Since 1 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. This scheme has been in operation in parts of the West Midlands since 1 December 2014.

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 slavery and individuals with an outstanding out of time initial asylum claim, or an outstanding appeal against such a claim.²⁸

In practice, most people who have no recourse to public funds will not fall into the categories of those who have a 'right to rent'. 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 will not be able to sub-let a room to someone who does not have a right to rent. People will 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.²⁹

These restrictions do not apply to accommodation in hostels, refuges, hospitals, 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.

²⁸ Home Office, *A short guide for landlords on right to rent (1 February 2016)* www.gov.uk/government/publications/landlords-right-to-rent-checks-guide

²⁹ Home Office, *Right to rent immigration checks: landlords' code of practice* (12 February 2016) www.gov.uk/government/publications/right-to-rent-landlords-code-of-practice%E2%80%8B

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- 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 migrant is street homeless or at risk of homelessness, it is helpful to provide evidence of this if available.
- The local authority will 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.

However, 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 see: www.nrpfnetwork.org.uk/regionalnetworks/Pages/default.aspx

For more information and legal updates about local authority duties towards migrants with NRPF see the NRPF Network's website: www.nrpfnetwork.org.uk/Pages/Home.aspx

Access to healthcare

NHS care is not a public fund for immigration purposes; therefore, a migrant with NRPF is not excluded from accessing this. However, there are some NHS services which are chargeable to certain groups of migrants.

Health services that are free to all migrants include:

- GP treatment
- Emergency care i.e. Accident and Emergency (A&E) services up until the point that the patient is 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, and HIV)
- Family planning services (excluding pregnancy termination)

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- 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 lack of English language. NHS England has produced useful guidance to help migrants overcome barriers in registering with a GP:

www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2015/11/pat-reg-sop-pmc-gp.pdf

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

www.doctorsoftheworld.org.uk/

At the time of writing the government is consulting on extending charging to most primary health services, with the exception of GP appointments.

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:

<http://www.nhs.uk/NHSEngland/Healthcosts/Pages/nhs-low-income-scheme.aspx>

Treatment provided by a hospital, including outpatient 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 in receipt of asylum support (unless they are receiving local authority support under the Care Act 2014, and this support started prior to 1 April 2015)
- 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 a 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 patient's financial circumstances, it would not be cost effective*

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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).’³⁰

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. 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 £1000 or more then this could lead to an application for leave to remain being refused. For more information, see the NRPF Network’s factsheet, *NHS healthcare for migrants with NRPF (England)*: www.nrpfnetwork.org.uk/guidance/Pages/default.aspx

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.³¹

As health is a devolved power, there will be some differences in the types of treatment and migrant groups that are exempt from charging in Wales, Scotland and Northern Ireland.

Useful links & resources

For a more comprehensive list of local specialist services, go to www.homelessuk.org and click on ‘Find a service’ in the menu at the top of the homepage, then click ‘Search all services’. Change Person to ‘Refugees and asylum seekers’ and choose an Area. Click the Area tab again to choose from a more local list.

Homeless Link is not responsible for the content of external websites.

Asylum Aid

www.asylumaid.org.uk/

Action Foundation (Newcastle)

www.actionfoundation.org.uk/index.html

Bail for Immigration Detainees

www.biduk.org/

Boaz Trust (Manchester)

www.boaztrust.org.uk/

Doctors of the World

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

Freedom from Torture

www.freedomfromtorture.org/

³⁰ Department of Health, *Guidance on implementing the overseas charging regulations 2015* (1 February 2016), paragraphs 13.69-70.

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

³¹ Mary Ward Legal Centre provides free legal advice in Debt, Employment, Housing and Welfare Benefits matters to Londoner's who cannot otherwise afford legal advice. www.marywardlegal.org.uk

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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

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

[Annual review of single homelessness support in England 2015](#)

[Welfare entitlements of EEA Nationals](#)

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/

Law Centres Network

www.lawcentres.org.uk/

Mary Ward Legal Centre

www.marywardlegal.org.uk

Migrant Help

www.migranthelp.org/

NACOMM (National No Accommodation Network)

www.nacom.org.uk/

NRPF Network

www.nrpfnetwork.org.uk

Office of the Immigration Services Commissioner

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

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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 organisations working directly with people who become homeless in England. We work to make services better and campaign for policy change that will help end homelessness.

Let's end homelessness together

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