



ISLINGTON

**No Recourse to Public Funds:
An issue for local authorities**

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No Recourse to Public Funds (NRPF)

- The challenges facing the statutory sector in supporting destitute people from abroad with NRPF have become increasingly acute as demand for services grows.
- This is a complex area of work that involves a range of legislation including immigration, community care and human rights law.
- In addition to pressure on services, local authorities are concerned with the destitution and social cohesion issues that arise as a result of people having NRPF.

Local Authority – NRPF Issues:

- Demand for services increasing.
- Complex and overlapping immigration, community care and human rights law.
- No central government funding
- Lack of statutory regulation and guidance

Definition

- No Recourse to Public Funds is defined as:
 - A person subject to immigration control; and
 - Has no entitlement to welfare benefits, public housing or HO asylum support; and
 - Does not have the right to work*.

** Individuals granted leave as spouses, unmarried partners or civil partners are permitted to work.*

Definition

- The words ‘no recourse to public funds’ do not determine whether a service might be provided by a local authority, rather they indicate what services will not be available.
- As people with NRPF are not entitled to support from Housing Services nor are they entitled to access Housing benefits, it falls to Social Services departments to assess a person’s need.

Good Practice

- Humane and customer focused response
- Seek a solution to the destitution
- Advice and assistance to be provided

Good Practice

There are two fundamental steps that an authority should undertake in assessing whether they have a duty to support an individual or an individual with children

- Eligibility test
- Assessment of Need

Assessing Eligibility

- In assessing eligibility a local authority should establish:
 - Territorially responsible
 - Destitution
 - Immigration status
 - Exclusions to support
 - Human Rights

Assessing Needs

- In order to assess needs, local authorities should carry out, as appropriate
 - Community care assessment; or
 - Community mental health assessment; or
 - Child in need assessment

Assessments

- For single adults, the individual needs to demonstrate a need for care and attention arising not only from a lack of accommodation and funds, but also for the prevention of harm or violence or some other circumstance.
- Local authorities are barred by immigration legislation from providing support where the person's need is for accommodation alone.

Domestic Violence Rule

- Under the rule, people admitted to the UK with limited leave to remain as spouses or unmarried partners or civil partners may apply for ILR as long as they can provide evidence that the relationship broke down permanently before the end of their limited leave (or during the ‘marriage or probationary period’) as a result of domestic violence.
- However, whilst this application is pending, people in this situation have no access to public housing provision or welfare benefits.
- As people with NRPF are not entitled to support from Housing Services nor are they entitled to access Housing benefits, it falls to Social Services departments to assess a person’s need.

Assessments

Children & Families:

- If a child is found to be destitute then the local authority has a duty to provide services including accommodation to that child.
- Where the child or their carer is ineligible for support under Schedule 3, Section 54 of the NIAA 2002, it is advisable for the local authority to undertake a Human Rights Assessment to determine if it would be a breach of the individual's human rights to withhold or withdraw support.
- It is good practice for local authorities to seek legal advice for each individual case due to potential conflict between this and the requirements of the Children Act 1989.

Islington approach

- Coordinated response
- Dedicated team
- Identified corporate budget
- Our aim is to assist clients find resolution to their complex circumstances and work jointly across teams within and external to the council.

Islington approach

- The NRPF team provides
 - initial screening of referrals and
 - clear guidance regarding additional factors to be considered.
- Aim to:
 - avoid unrealistic expectations
 - Unnecessary or inappropriate commitment of the council
- Human Rights Assessments

No Recourse to Public Funds

- People with no recourse to public funds are generally a socially isolated and vulnerable group in our community.
- Local authorities are likely to continue to have this corporate responsibility.
- Islington initiated development of the NRPF Network; a network of local authorities focusing on the statutory response to destitute people who have no recourse to public funds.

NRPF Network

The Network aims to:

- **Share** information and good practice amongst local authorities and other agencies working in this area
- **Work** with government departments to raise the practical and policy issues of NRPF
- **Facilitate** reimbursement for local authorities of the costs of providing support to people with NRPF
- **Develop** a strategic response to people with NRPF

9 steps ...

1. Know the basic legislation!

Section 21, National Assistance Act 1948



Section 17, Children's Act 1989



Schedule 3, Nationality Immigration and Asylum Act 2002




Article 3 and Article 8 of the Human Rights Act 1999



9 Steps ...

2. You must carry out assessments - failure to do so will lead to legal challenges
3. You must apply the correct test; Section 21 of the National Assistance Act 1948 not Fair Access to Care
4. NASS accommodation cannot be considered as support otherwise available
5. Failure to provide services to avoid homelessness pending outcome of assessments will be considered as 'perverse' by the courts

9 Steps ...

6. If the person is unlawfully in the UK, or an EU national, there are ***substantial restrictions*** on the level of support that can be provided
 7. If Schedule 3 applies, the local authority has a duty to carry out a Human Rights Assessment to establish what support, if any, will be provided
 8. Child in need assessments must consider the needs of the child both in the UK, and in the parent's country of origin
 9. In the case of Domestic Violence (DV), establish whether an application has been made under the DV rule and consider what duties of support arise under governing legislation
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NRPF Network

- *The network is committed to working in partnership with other agencies including government departments and the voluntary sector to find solutions to the issues that arise with people with NRPF*

Contacts

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