



Home Office

Chris Philp MP
Minister for Immigration Compliance
and the Courts

Home Affairs Committee
Work and Pensions Committee

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Copied to: Christine Jardine MP

01 September 2020

Dear Stephen and Yvette,

Thank you for your letter of 11 May to the Home Secretary regarding the No Recourse to Public Funds (NRPF) condition and the High Court's decision of 7 May in the case of 'W'. I am responding as the Minister for Immigration Compliance and the Courts, I apologise for the delay in my response.

I am also copying this letter to Christine Jardine MP as I had committed to provide her with an update following her Parliamentary Question on 21 July.

You have raised concerns about the lack of reliable published figures on numbers affected by the NRPF condition, including a series of Parliamentary Questions on 7 July to which we had committed to provide a fuller response. I trust this letter addresses your questions.

The public interest in migrants being financially independent and not being a burden on the State is long established. The NRPF conditions are set out in immigration primary legislation and residence requirements in benefits primary legislation.

The majority of migrants visiting, studying, working or joining family in the UK are subject to an NRPF condition until they have obtained indefinite leave to remain (ILR). Migrants here without leave are also subject to NRPF, by virtue of their being in the UK without status. Exceptions are made in respect of some migrants, such as refugees, or families here on the basis of family life/Article 8, where the condition is lifted if the family can provide evidence that they would otherwise be destitute.

Restrictions on accessing public funds are placed on those coming to the UK to work, study or join family members on the principle that they should be expected to maintain and support themselves and their families without posing a burden on the UK's welfare system. However, individuals granted leave under the family and human rights routes can apply to have the NRPF condition lifted (a 'change of conditions' application) if they are destitute or at risk of destitution, if the welfare of their child is at risk due to their low income, or where there are other exceptional financial circumstances.

This Government has acted decisively to ensure that we support individuals through this crisis. For example, the assistance being given under the Coronavirus Job Retention Scheme and the Self-employed Income Support Scheme is not classed as a public fund and is available to all those in work or self-employment respectively, including those with no recourse to public fund status. The support available also includes mortgage holidays, changes to statutory sick pay, and the measures we have introduced to protect renters from eviction.

We also announced additional funding for local authorities in England and for the devolved administrations. This additional funding to councils in England means we have now provided them with over £3.7 billion during this pandemic to support vulnerable groups. This funding ensures that councils can continue to provide vital services, including adult social care and children's services.

It also allows them to provide basic safety net support to individuals, regardless of immigration status, if it is established that there is a genuine care need that does not arise solely from destitution. Furthermore, the Chancellor announced the provision of an additional £750 million in support for the charitable sector.

During the Covid-19 pandemic, we have also extended free school meals eligibility in England to include some groups who have no recourse to public funds in recognition of the difficulties they may be facing during these unique circumstances.

You will appreciate that the situation is changing rapidly, which is why the Home Office continues to keep the situation under review and will make further changes should these be necessary and appropriate.

Regarding the High Court's decision on May 7, the court's ruling was on the need for clarity in the policy relating to those applicants who are seeking to have the no recourse to public funds condition not imposed on them or lifted if already imposed. The full Court Judgment and Order was made public on May 21. The Home Office has noted the Court's judgment and has now amended the guidance for caseworkers in order to comply with the Order.

Does the Home Office hold any figures on how many people are subject to the 'no recourse to public funds' visa condition, and if so, will you make these public? If the department does not hold this information, could you tell us why not, and your estimate of the number of people who are subject to this condition? In their recent report, A Lifeline for All, the Children's Society cited data from the Migration Observatory which suggests there are over 1.1 million people affected by NRPF conditions, including 140,000 children. How accurate is this assessment?

Statistics on applications and decisions for extensions of stay in the UK are published quarterly in the Home Office Immigration Statistics release. The latest release covers data up to the end of March 2020. Data covering the period up to the end of June 2020 will be published on 27 August 2020. The statistics can be found at <https://www.gov.uk/government/collections/immigration-statistics-quarterly-release>.

The statistics themselves do not contain information relating to the NRPF condition; however, NRPF is a standard condition applied to those staying here with a temporary immigration status to protect public funds. As mentioned, ILR is set as the general threshold for permitting migrants to access public funds. Therefore, most extensions of leave for migrants from outside the European Economic Area will be subject to the NRPF conditions as a matter of course.

The Home Office's Chief Statistician recently set out the Department's position in relation to NRPF data in his response to a letter on the subject from the UK Statistics Authority (UKSA). I attach a link to the response:

<https://osr.statisticsauthority.gov.uk/correspondence/response-from-daniel-shaw-to-ed-humpherson-parliamentary-question-response/>.

The response sets out that there are a number of reasons why it is not practical for the Home Office to produce an estimate of the total population subject to NRPF present in the UK at any one time. However, the response committed to investigate other data held by the Department which can inform public understanding of any impacts from application of the NRPF condition and which resulted in publishing information on applications to have the NRPF condition lifted which is further referenced below.

The Chief Statistician's response to the UKSA notes that other organisations have tried to estimate the total population within the UK to which NRPF restrictions will apply. Estimates of this population will likely have been based upon Home Office published statistics <https://www.gov.uk/government/collections/migrationstatistics>. However, such estimates will only provide the numbers of people whose issued entry clearance visa or granted leave to enter/remain include the NRPF clause, which as noted will apply to most of the foreign nationals who come to the UK, including visitors and other temporary migrants who would have no requirement to access funds during their stay.

On the Children's Society report, 'A Lifeline for All' (May 2020), I can confirm that my officials are considering its findings carefully. However, it should be noted that the data used by Migration Observatory is from 2016 and only includes a select sample of applications.

What is the Home Office's estimate of the number of non-UK nationals who are not officially subject to this condition but still cannot access public funds, for example undocumented migrants?

The definition and coverage of undocumented migrants is complex, there are many individual populations that could be included, such as: illegal entrants, overstayers, those with failed asylum claims and those not adhering to the conditions of their visas, many of whom will not be documented.

As recently as last year the Home Office and Office for National Statistics brought together a range of experts, who commented that by its very nature it is extremely difficult to know the exact size of the illegally resident population.

How many people in the past year (or the most recent period for which figures are available) have applied to have the condition lifted, and what proportion of applicants were successful? It would also be helpful to know whether you have seen an increase in the numbers applying to have the condition lifted since March 16.

As set out above, migrants with limited leave to remain under the family and human rights routes can apply to have the NRPF restriction lifted by making a 'change of conditions' application. For these routes, the NRPF condition will be lifted where there is evidence that the applicant is destitute (or at risk of destitution), the welfare of their child is at risk due to their low income, or there are other proven exceptional financial circumstances.

We have now published information relating to change of conditions applications that answers your question above and those raised by both Stephen Timms MP and Christine Jardine MP in their recent Parliamentary Questions. The information can be found at <https://www.gov.uk/government/publications/no-recourse-to-public-funds-applications-to-change-conditions-of-leave-july-2020>.

We are continuing to review what more we can do to make sure those with NRPF are aware of the support available to them. This includes further communications with local authorities and organisations working with migrants.

I trust this provides the reassurance you were seeking.

A handwritten signature in blue ink, appearing to read 'Chris Philp'.

**Chris Philp MP
Minister for Immigration Compliance and the Courts**