

Written evidence submitted by the No Recourse to Public Funds (NRPF) Network, Islington Council (COR0081)

Introduction

1. The No Recourse to Public Funds (NRPF) Network, hosted by Islington Council, provides advice and guidance to local authorities across the UK on statutory support for destitute families, care leavers and adults with care needs who, due to their immigration status, have no recourse to public funds.
2. This submission addresses whether the Home Office has taken sufficient steps to minimise the overall impact of Covid-19 on society, public services and on the economy, with a particular focus on people who have no recourse to public funds.
3. Key points:
 - Failing to allow access to benefits for people with no recourse to public funds whose income is affected by the pandemic is likely to lead to increased destitution and homelessness.
 - In the absence of a wider relaxation of the no recourse to public funds condition, the Home Office has not taken enough steps to ensure that the protections available will adequately prevent people subject to this condition from experiencing destitution.

Impact on coronavirus on people with no recourse to public funds (NRPF)

4. No recourse to public funds (NRPF) is an immigration condition that prohibits access to:
 - Certain benefits¹
 - Homelessness assistance under Part VII of the Housing Act 1996
 - A local authority allocation of social housing under Part VI of the Housing Act 1996
5. A person will have no recourse to public funds when they are a national of a non-EEA country and have:
 - Leave to remain with the NRPF condition
 - Leave to remain subject to a maintenance undertaking e.g. adult dependent relative
 - No current immigration permission e.g. a visa overstayer
6. European Economic Area (EEA) nationals and their family members are not subject to the NRPF condition but may be unable to claim benefits and housing assistance if they have not obtained settled status (indefinite leave to remain) under the EU Settlement Scheme and are not economically active.

¹ <http://www.nrpfnetwork.org.uk/information/Pages/public-funds.aspx>;
<https://www.gov.uk/government/publications/public-funds>

7. Since mid-March 2020, we have received over 80 email enquiries about access to public services and financial support. These are primarily from members of the public with no recourse to public funds who have suddenly lost employment, are unable to find further work and/ or are required to shield or self-isolate. These enquiries have been made by people who are lawfully present with various types of immigration status, including:
 - Tier 1 exceptional talent/ Entrepreneur/ Dependant
 - Tier 2
 - Tier 4 student
 - Tier 5 Youth Mobility Visa
 - Spouse visa
 - Parent of a British child (10-year settlement route)
 - Private life
 - British citizens with a partner who has leave to remain with NRPF
 - Ancestry visa
 - ILR application pending
 - Zambrano carer

8. Correspondents had been undertaking a variety of job roles and employment condition including: teacher, business owner, gig economy, zero hours contracts, shop assistance, restaurants and catering, retail store owner, taxi driver, company director, running a salon from home, hotel worker, cleaner, construction and the arts.

9. Common impacts and concerns that were reported include:
 - that they can no longer afford to pay their bills/ rent and may be at risk of homelessness and/or unable to feed their families;
 - that 80% of a minimum wage income covered through the coronavirus job retention scheme will be insufficient to cover their basic living costs;
 - they won't qualify for Statutory Sick Pay or the schemes for employers or the self-employed;
 - they have never needed to rely on public services and are very worried about applying for something that may have an adverse impact on their current or future immigration status;
 - inability to pay immigration application fees for upcoming leave to remain applications;
 - friends who were supporting them are no longer able to provide assistance due to changes to their financial circumstances; and
 - feelings of rejection and loss of dignity, with one correspondent stating 'I assume that we are now rejected part of this society'.

10. This evidence indicates that people with no recourse to public funds, on various immigration routes are at risk of destitution and homelessness, whether imminently or in the medium-term.

Home Office communications

11. The Home Office Modernised guidance on public funds or information on gov.uk has not been updated to set out what government assistance schemes can or cannot be accessed by a person who has no recourse to public funds.

12. Public confirmation about the job retention scheme not being a public fund was only provided on 9 April in HMRC guidance.²
13. We published a factsheet on 27 March and website information on 17 April to inform people about their rights and entitlements, but without formal confirmation on gov.uk people are still contacting us because they are concerned about what assistance they can access.³

Home Office processes

14. Some protections for certain groups of people with NRPF and these require people to actively make what can be quite complex applications, meet onerous evidential requirements and it will be unclear whether policies are satisfied until Home Office decisions are made.
15. The change of conditions application is available to people the 10-year settlement route (family or private life) and now also to some people on the 5-year settlement route (partner or parent categories).⁴
16. People applying under certain family and private life migration routes can apply for a fee waiver when they cannot afford the application fee and if they meet the requirements set out in Home Office guidance.⁵
17. However, there are problems with relying on this as an adequate means of protection for people who are at risk of destitution due to reasons related to the pandemic:
 - These processes may be an option for people who are on family migration routes but will not assist the majority of people who have raised enquiries with us, for example, a person who has leave to remain granted under the points based system.
 - The onus is on the individual to make an application and to submit adequate supporting evidence. We advise that immigration advice should be sought with these applications due to the difficulties people have had evidencing these requirements. However, this type of case is not covered by legal aid and getting immigration advice at the moment will be more challenging than usual.
 - People who are on the five-year settlement route will be penalised in the long-term if they obtain a change of conditions, as they will face a longer period before obtaining indefinite leave to remain which will be more expensive and precarious.
 - No information or guidance has been provided about how change of conditions or fee waiver applications will be treated for people who need to apply due to

² <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>

³ <http://www.nrpfnetwork.org.uk/Documents/coronavirus-factsheet.pdf>;
<http://www.nrpfnetwork.org.uk/information/Pages/Coronavirus-information.aspx>

⁴ <https://www.gov.uk/government/publications/application-for-change-of-conditions-of-leave-to-allow-access-to-public-funds-if-your-circumstances-change>

⁵ <https://www.gov.uk/government/publications/applications-for-a-fee-waiver-and-refunds>

coronavirus related issues, so it is unclear what evidential thresholds will need to be met.

Impact on local authorities

18. As a consequence of the pandemic, families and adults with care needs who have no recourse to public funds may request assistance under section 17 of the Children Act 1989 or the Care Act 2014, respectively, due to being homeless, at risk of homelessness or unable to afford to meet their basic living needs.
19. Some of the measures introduced by the Government to assist people who lose employment during the pandemic may be accessed by people with no recourse to public funds, but if they do not meet the requirements or this provision is insufficient to adequately protect a person's income and/ or accommodation arrangements, the local authority may be required to provide accommodation and/or financial support when social services' duties are engaged. Data on NRPF service provision for 2018/19 shows that this cost 59 councils £47.5 million/year, with 80% of households exiting support due to obtaining a change of immigration status and recourse to public funds.⁶
20. Additionally, the Government recently announced its strategy to safeguard vulnerable homeless groups, including who have no recourse to public funds, which requires councils to house rough sleepers, and people living in shelters, in accommodation where they will be able to follow government guidance on shielding, self-isolation and social distancing. It is unclear to what extent the Government's Covid-19 emergency funding will adequately meet these costs.⁷
21. This response is also hindered by local authority local welfare funds being classed as public funds for immigration purposes. These are established mechanisms to deliver emergency support, such as food vouchers, to residents but in order to provide this assistance to all residents in need, regardless of their immigration status, the council must establish a workaround to which creates additional bureaucracy at a time when council resources are already stretched.
22. A consequence of the Home Office not relaxing restrictions on access to benefits during the pandemic for people subject to the no recourse to public funds condition is that local government is likely to incur additional costs when accommodation and financial support needs to be provided to enact statutory duties or outside of these duties on public health grounds.

Recommendations

23. In light of the evidence above, we recommend that:

⁶ <http://www.nrpfnetwork.org.uk/Documents/NRPF-connect-annual-report-2018-19.pdf>

⁷ <https://www.gov.uk/government/publications/letter-from-minister-hall-to-local-authorities>

- The no recourse to public funds condition is universally lifted to enable people to access benefits to protect individuals during the pandemic and reduce public health risks caused by the inability to comply with government public health guidance.

24. In the event that the NRPF condition is not relaxed:

- Accessible and clear information is included on gov.uk in one place, which include details of all schemes related to coronavirus and what people can or cannot claim when they have no recourse to public funds.
- Proper provisions are made to enable people whose leave to remain is due to expire can continue to be valid.
- Fee waiver and change of conditions policies are amended to reduce the evidential burden on people.
- Adequately funding local authorities for supporting people with no recourse to public funds when statutory duties are engaged or when this is required on public health grounds.
- Removing the local welfare fund from the list of prohibited public funds.

April 2020