



No Recourse to Public Funds (NRPF)

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Introduction

Families who have dependent children may turn to the local authority for assistance and support if they are unable to access welfare benefits and other state assistance if they are excluded from welfare benefits because they are:

- Present in the UK subject of an immigration condition that prohibits them from accessing welfare benefits (known as a No Recourse to Public Funds endorsement);
- Present in the UK but do not have permission to be here (known as unlawfully or irregular migrants);
- A national of an EEA member state who has not acquired a permanent right of residence in the UK by providing evidence they have exercised their EC Treaty Rights for a period of more than five years, or has been granted EU Settled Status, and thus has Indefinite Leave to Remain in the UK;
- British nationals who have recently returned to the UK after a period of settled residence abroad (failed the Habitual Residence Test);
- Currently applying for permission to be in the UK or appealing a previous refusal of such permission that is on a non-asylum basis.

Families who have one or more dependent child under the age of 18 who are seeking asylum or appealing a decision are entitled to turn to the Home Office for support under

Section 95 of the Immigration and Asylum Act 1999. Those who have been refused asylum and have exhausted their appeal rights are entitled to receive support under Section 4 of the 1999 Act whilst the Home Office makes arrangements for their removal.

Legislation

[Convention Relating to the Status of Refugees \(United Nations, 1951\)](#)

[Children Act 1989](#)

[Human Rights Act 1998](#)

[Immigration and Asylum Act 1999](#)

[Nationality, Immigration and Asylum Act 2002](#)

[Immigration \(European Economic Area\) Regulations 2016](#)

[Immigration Act 2014](#)

[Children and Families Act 2014](#)

[Immigration Act 2016](#)

[Homelessness Reduction Act 2017](#)

[Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020](#)

[Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\)\(EU Exit\) Regulations 2020](#)

[Immigration Rules – Appendix EU](#)

[Local Authority Circular LAC\(2003\)13 – Accommodating Children in Need and their Families.](#)

Documentation

Human Rights Assessment

Social Work Assessment

Child In Need Plan

Policy and procedure

1. Access to social services

- 1.1. Assistance provided under Section 17 of the Children Act 1989 is not classed as a “public fund” for immigration purposes, but some groups of people with NRPF will only be able to get certain types of assistance if this is necessary to prevent a breach of their human rights. These restrictions are set out in Schedule 3 of the Nationality Immigration and Asylum Act 2002 and this procedure should be read in conjunction with the procedure on Foreign Nationals Failed Asylum Seekers and People Unlawfully Present in the UK.
- 1.2. British national families who return to the UK may be eligible upon arrival to receive an assessment of their social care needs from any single local authority of their choice, i.e. the first one they approach. The local authority has no obligation to carry out an assessment under Section 17 of the Children Act 1989 until the child is physically present within their local geographic boundaries.
- 1.3. Section 17(1)(a) of the Children Act 1989 specifies that ‘*It shall be the general duty of every local authority... to safeguard and promote the welfare of children within their area who are in need.*’ The courts have considered how to interpret

the phrase 'within their area' in cases involving families who have been found to be intentionally homeless under homelessness legislation, and have subsequently needed to be referred to social services for support under Section 17 when housing duties have come to an end.

- 1.4. The leading judgment that considers the meaning of 'within their area' is R (Stewart) v LB Wandsworth & Ors (2001). The Court found that the duty to assess under Section 17(1)(a) of the Children Act 1989 is triggered by the physical presence of a child in need in the local authority's area.
- 1.5. As with all referrals to Children's Social Care, the Children's Advice and Duty Service (CADS) will receive the information about the child and their family and add this to Liquidlogic Children's Services (EHM/LCS). CADS will take into account all the circumstances of the referral and make an onward referral to the appropriate Family Assessment and Safeguarding Team (FAST) in whose area the child resides. The CADS practitioner will ensure that the EHM/LCS record contains a clear textual description of the family's current immigration status (which may be different for each family member), their ethnic origin, language spoken, interpreter needs, nationality, and add a Risk flag of "No Recourse to Public Funds". Where copies of passport, ID card or other immigration-related documents is available, these should be scanned and uploaded to Documents.
- 1.6. On receipt of a referral, FAST will complete a Social Work Assessment of the parent(s) and child(ren)'s needs and ensure there are no safeguarding concerns which warrant further protective intervention by Children's Services (for example an enquiry under Section 47 or a need to apply for an order of the court). Where the only need appears to be access to welfare benefits and suitable accommodation, an initial Child In Need Plan will be drafted by the FAST allocated social worker before the team manager liaises with the People from Abroad Team (PFAT) to transfer the case across for further work using the "Initiate Case Transfer" pathway on LCS. PFAT have delegated powers under Section 17 to provide financial and material assistance to NRPF families on behalf of Children's Services.
- 1.7. Families who require further or ongoing involvement by Children's Services (for example due to a Section 47 enquiry or other safeguarding concern) will remain with FAST. PFAT must be alerted to these cases and added as a Supporting Team to the Involvements page on LCS. PFAT may arrange to provide the subsistence support and accommodation costs and maintain a record of this assistance on NRPF Connect for reporting purposes.
- 1.8. Where a case is held by PFAT and subsequent safeguarding concerns arise to the extent that it is no longer appropriate for the case to be held by PFAT and in such circumstances the Team Manager or Practice Consultant in PFAT will liaise with the originating FAST Team Manager to agree a case transfer back to FAST using the "Request Case Transfer" pathway on LCS. If required, PFAT will participate in a Child Protection Strategy Meeting to provide background and the specialist immigration expertise to aid the Section 47 process. The case should not be closed and immediately referred to CADS since it is a transfer, not a new referral.

- 1.9. In some instances, it may be agreed for a case to be joint worked by PFAT and FAST, for example where a case is transferred back to FAST but where ongoing financial support is required.

2. Checking Immigration Status

- 2.1. When a family requests accommodation and/or financial support, PFAT will take steps to confirm the nationality and immigration status of the parents for several purposes:
 - To ascertain any possible entitlement to welfare benefits, housing assistance, employment or asylum support from the Home Office.
 - To identify whether the parent is in an excluded group and so can only be provided with support where this is necessary to avoid a breach of their human rights.
 - Where a parent is in an excluded group, find out whether there are any immigration claims pending with the Home Office or appeal courts, or other legal or practical barriers preventing them from leaving the UK or returning to their country of origin.
- 2.2. Evidence of nationality and immigration status could be obtained from the parents themselves in the form of passport, identity card, Home Office letter, Biometric Residence Permit (BRP) or Asylum Registration Card (ARC). Copies of these documents should be uploaded to LCS.
- 2.3. PFAT will also create a record on NRPF Connect, a database shared with the Home Office to record the referral to the council and detail any financial assistance given.
- 2.4. On receipt of a new referral on NRPF Connect, the Home Office Interventions and Sanctions Team will check Home Office systems for a record and will provide an immigration status check to the local authority.
- 2.5. PFAT will update the Immigration Status on LCS and add any relevant information to the Case Notes.
- 2.6. The Home Office will notify PFAT via the NRPF Connect system of any changes to the family's immigration status and PFAT will update LCS as per para 2.5 (above).

3. Restrictions on Section 17 support or assistance

- 3.1. Schedule 3 of the Nationality Immigration and Asylum Act 2002 sets out the specific groups of people who may only be provided with support or assistance under Section 17 of the Children Act if such support is necessary to prevent a breach of their human rights.
- 3.2. The excluded groups in Schedule 3 are:
 - A person who is not currently seeking asylum and is unlawfully present in the UK, for example a visa overstayer, illegal entrant, refused asylum seeker when the person claimed asylum in-country (usually at the Asylum Screening Unit in Croydon), rather than at port of entry (for example, at an

airport immediately on arrival to the UK before passing through immigration control)

- A person granted refugee status by an EEA state
- Refused asylum seekers who fail to comply with removal directions, and their dependents, i.e., they have been issued with removal directions that provide a set time and means of leaving the UK and have failed to take this up
- Refused asylum seekers with dependent children who have been certified by the Secretary of State as having failed to take steps to leave the UK voluntarily

The exclusion also applies to a dependant of a person who falls under these groups.

- 3.3. Local authorities are not prohibited by Schedule 3 from providing assistance (other than accommodation and financial support) directly to a child in an NRPF family, for example, help required to meet the needs of a disabled child.
- 3.4. Section 17(1)(b) of the Children Act 1989 imposes a general duty to promote the upbringing of children by their family, so local authorities are required to resolve the situation of the family as a whole. As accommodation and financial support is provided to the family, when parents fall into one of the excluded categories, the family as a whole will be treated as excluded. Whilst a child remains living with their parents, the duty of the local authority to provide for the child's needs depends on whether the parent is ineligible under Schedule 3.
- 3.5. Where a family falls within the scope of Schedule 3, practitioners must complete a Human Rights Assessment to determine what support is necessary to avoid a breach of human rights from arising.
- 3.6. Practitioners should seek clarification with their practice consultants or team managers to discuss any cases of this type and agree services to be provided (if any) and for the Human Rights Assessment to be supported and approved. Where a situation is unclear regarding entitlement to services, contact should be made with Norfolk Public Law (NPLaw) to request legal advice.

4. Families who are not subject of Schedule 3 restrictions

- 4.1. Not all families who have NRPF fall within the exclusions set out in Schedule 3. However, they may not be able to access welfare benefits or housing assistance if they have:
 - Limited Leave to enter or remain in the UK with the NRPF condition
 - Pre-Settled Status under the EU Settlement Scheme
 - Derivative right to reside under European Law, for example:
 - a) A primary carer of a British or other EEA child (Zambrano carer)
 - b) A primary carer of a child in education of an EEA worker
 - c) A primary carer of a self-sufficient EEA national child
 - An unresolved claim for asylum
 - Been refused asylum but claimed asylum at the port of entry.
- 4.2. Families who are not subject of Schedule 3 restrictions will not require a Human Rights Assessment but will still require a Social Work Assessment and a Child in Need Plan to be devised if they require NRPF assistance under Section 17.

5. Families who have permission to work (including mixed-immigration status)

- 5.1. When a parent can work but is unable to claim benefits to top up a low income, such as housing benefit and tax credits, and cannot access more affordable social housing, they will often face difficulties funding childcare and sustaining employment that enables them to afford accommodation and provide for their family's living needs. When the child is 'in need' as a result of this, it may be necessary to provide accommodation and/or financial support in the absence of such benefits. The courts have found that this is a positive duty and also that national policies restricting access to mainstream welfare support are lawful because Section 17 of the Children Act 1989 provides a safety net to protect destitute child.
- 5.2. Where parents are working, or has another form of minor income, this will be deducted from the amount of financial assistance provided. Deductions are initially made from subsistence support, and where the parent(s) earn more than the subsistence rates deductions will be made from utility and rent assistance provided. The purpose of this is to ensure that no family receives more financial assistance than is necessary.
- 5.3. In mixed-immigration households (where one or more of the household has NRPF) and cases where the adult is the primary carer of a British or the EEA child ('Zambrano' carers) the local authority will consider what help and support is necessary to avoid family breakdown and promote the child's welfare. Often this will be through providing top-up Section 17 financial support because earnings through employment are insufficient to support the family.

6. Emergency Support

- 6.1. Where a family with NRPF presents for assistance to the local authority and is in immediate need of accommodation and/or financial assistance, arrangements will be made to provide this on an interim arrangement whilst assessments are being carried out.
- 6.2. Where accommodation is required immediately because the family with NRPF have presented as homeless and destitute, they will usually be offered Bed and Breakfast accommodation as a short-term solution.
- 6.3. Where financial assistance is required to pay for food and other essentials, they will be provided as a combination of cash assistance (usually via a pre-payment card) and food bank vouchers.
- 6.4. Interim support will be provided whilst a Social Work Assessment is undertaken and, if appropriate, a Human Rights Assessment.
- 6.5. All financial assistance given must be recorded on NRPF Connect and kept up to date to ensure there is a central record of all expenditure on NRPF supported families. Care Plan Line Items (CPLIs) must also be recorded on LCS by Business Support to evidence the appropriate budgetary approval has been given.

7. People who are freely able to return to their country of origin

- 7.1. As part of the Social Work Assessment the practitioner needs to establish what other support options are available to the family in the UK, or whether return to country of origin may resolve the family's inability to self-support in the UK when the parent is in an excluded group. There will be many cases where such support options will be limited:
- Where the parent has no current immigration permission, is in an excluded group and has a pending human rights application or appeal that has not been determined by the Home Office or courts which constitutes a legal barrier preventing the family from leaving the UK.
 - Where the parent is the primary carer of a British (or EEA national) child and has a right to reside under the EU Settlement Scheme, is not in an excluded group, has permission to work but cannot claim benefits and social housing.
 - Where the parent has leave to remain with a NRPF condition or has Pre-Settled Status under the EU Settlement Scheme, is not in an excluded group, has permission to work but is excluded from benefits and social housing.
- 7.2. In such cases the courts have been clear that the purpose of Section 17 is to provide a safety net of support for families who either cannot leave the UK or who are lawfully present in the UK but are prevented by their immigration status from being able to claim benefits usually provided to families with a low income.
- 7.3. The Court of Appeal, in the case of *R (Kimani) v LB Lambeth (2003)* found that "A State owes no duty under the Convention to provide support to foreign nationals who are permitted to enter their territory but who are in a position freely to return home." Therefore, if a NRPF family have no practical or legal obstacles preventing them from leaving the UK, the local authority would be able to discharge its duties towards them by offering to assist with their travel arrangements, which could include helping to pay for travel tickets. In circumstances where the family have no valid leave to be in the UK, the Home Office Voluntary Returns Service may be able to assist with travel and departure arrangements.

8. Ongoing Financial Support

- 8.1. If the Social Work Assessment (and Human Rights Assessment) conclude that the family should receive ongoing support on the basis of their NRPF status in order to promote the welfare of the child(ren) **and** are unable to leave the UK voluntarily, a Child in Need Plan must be devised which sets out what support is deemed necessary to provide to the family. This plan will be reviewed at least every six months.
- 8.2. PFAT will take steps to identify accommodation in the private-rented sector. Use of B&B accommodation should only ever be used as an emergency or short-term provision. NRPF families will usually be provided with accommodation under a Licence to Occupy, rather than a tenancy agreement.
- 8.3. PFAT will either make subsistence payments by BACS transfer to the parent(s) bank account, or if they are prevented from holding a UK bank account due to

the restrictions imposed by the Immigration Act 2014, they will be provided with a Pre-Payment Card onto which weekly subsistence payments will be made.

- 8.4. Subsistence support will be provided at an equivalent level to Asylum Support under Section 95 of the Immigration and Asylum Act 1999. The rates from April 2021 are:

Single parent (18+)	£39.63 weekly
Couple (18+)	£79.26 weekly
Child under 18	£39.63 weekly
Additional payments	
Expectant mother	£3.00 weekly
Child under 1	£5.00 weekly
Child aged 1-3	£3.00 weekly
Maternity Grant (on receipt of MAT B1 certificate)	£250 one off
Free school meals* (* currently suspended due to the relaxation in the rules for FSM eligibility for NRPF children supported by the local authority under S.17.)	£11.00 weekly

- 8.5. PFAT Business Support will arrange to pay the rent direct to the landlord or letting agent and this will be paid via ContrOCC using a CPLI to trigger weekly rent payments.
- 8.6. PFAT Business Support will arrange for utility bills and council tax to be paid direct to the utility provider/district council via ContrOCC using a CPLI to trigger the necessary payment(s).
- 8.7. Additional needs may be specific to each family and the practitioner will need to consult with their team manager or practice consultant to agree what discretion could be given. For example, a child may have specific health or educational needs, or short-term childcare funding may need to be given to enable them parent to start work and reduce or cease reliance on Section 17 support.
- 8.8. Televisions, TV licences, computers and other IT equipment may not be funded under these arrangements because they are not essential to living needs. All families are able to join their local libraries and can access free computer and wi-fi provision there. This does not prevent donated items from being supplied.
- 8.9. Occasionally, it may be necessary for financial assistance to be provided to make an immigration application to the Home Office so that the family can achieve an immigration status which gives them recourse to public funds. This could be to apply for Leave outside the Immigration Rules or to naturalise as British (e.g. for a child who has lived in the UK for many years). It may also be necessary to pay solicitors fees to enable such an application to be prepared and submitted. Each case will be considered on its own merits.
- 8.10. All financial assistance given must be recorded on NRPF Connect and kept up to date to ensure there is a central record of all expenditure on NRPF supported

families. CPLIs must also be added the LCS record to ensure there is a clear audit trail of budgetary approval and to evidence transparently the costs to the council.

9. Reviewing immigration status

- 9.1. The allocated practitioner will liaise with the Home Office and PFAT will receive updates on the NRPF Connect system about any changes to the family's immigration status. They will also liaise with solicitors, welfare rights advisers and immigration advisers to attempt to resolve the family's immigration status. All cases should be actively and regularly reviewed and any necessary steps to resolve their immigration (and thus NRPF) status should be proactively taken.

10. Acquiring Recourse to Public Funds

- 10.1. Where a family are granted permission to remain in the UK without a NRPF condition or succeed in an NRPF condition on a current visa being removed, they will become entitled to access welfare benefits and homelessness assistance. PFAT will work with the family and liaise with Department for Work and Pensions and NCC's own Welfare Rights Unit to make applications for National Insurance Numbers and welfare benefits to enable the support provided by the local authority under Section 17 to be brought to a close.
- 10.2. Families residing in accommodation arranged by the local authority under a Licence to Occupy will be given notice to vacate their accommodation of no more than 7 days. PFAT will send a Duty to Refer notice to the relevant district council advising them that the accommodation provided under Section 17 is about to end and the family will imminently be homeless.

11. Charges for NHS Services

- 11.1. Services delivered by a GP, treatment for certain contagious diseases (including Coronavirus), and accident and emergency treatment at a hospital, are free of charge to everyone regardless of their immigration status.
- 11.2. Some people will need to pay for hospital treatment and certain community healthcare services, for example, community mental health services, district nursing and drug and alcohol treatment. These services must be paid for up front, unless the treatment is deemed to be 'urgent' or 'immediately necessary' by a clinician. Maternity care, including antenatal appointments, will always be treated as 'immediately necessary'. Anyone who is required to pay but is provided with treatment on this basis will still accrue an NHS debt. Failure to pay an NHS debt of £500 or more could lead to an immigration application being refused.
- 11.3. The main groups of people who will be charged for NHS treatment are:
- Visa overstayers
 - Illegal entrants
 - Refused asylum seeking families (when they are not receiving Home Office asylum support)

- 11.4. Prescriptions may be obtained free of charge if a person is on a low income. They must complete an HC2 form in order to obtain an HC1 certificate. A person receiving accommodation and/or financial support from social services should be able to receive free prescriptions on this basis.
- 11.5. Occasionally it may be necessary for additional Section 17 financial assistance to be provided to pay for NHS prescription fees where an HC1 has been applied for but not yet received. If this is necessary, an NHS receipt should be obtained from the pharmacy and a refund applied for from the NHS Prescription Pricing Authority.

12. Support for asylum seekers and those with an outstanding appeal

- 12.1. NRPf families who have applied to the Home Office for asylum or are waiting for an appeal against a refusal to be determined by the courts are entitled to apply to the Home Office for accommodation and subsistence under Section 95 of the Immigration and Asylum Act 1999. Section 122 of the Act specifically states that local authorities may not provide assistance under Section 17. This includes where there are grounds to believe that support may be provided by the Home Office.
- 12.2. Where an NRPf supported family subsequently make an application for asylum, their Section 17 support must be terminated, and they will be required to apply to the Home Office for accommodation and subsistence under the Section 95 scheme. This could mean they are offered accommodation in a different part of the United Kingdom.

13. Overseas evacuations by the UK government

- 13.1. The Cabinet Office and the Foreign & Commonwealth Office work collaboratively to evacuate UK nationals during times of overseas emergencies. Additional arrangements may be made for those being evacuated to the UK. For further details, see the [Cabinet Office guidance](#).

Procedure's Version Control Record

No:	Published:	Type of changes made:	Reviewed on:	Authorised by:
3	—	—	—	—
2	1 April 2021	Minor revisions and legal updates	—	—
1	20 May 2019	New procedure	06 March 2021	Design Authority