

# **BASW**

The professional association for  
social work and social workers

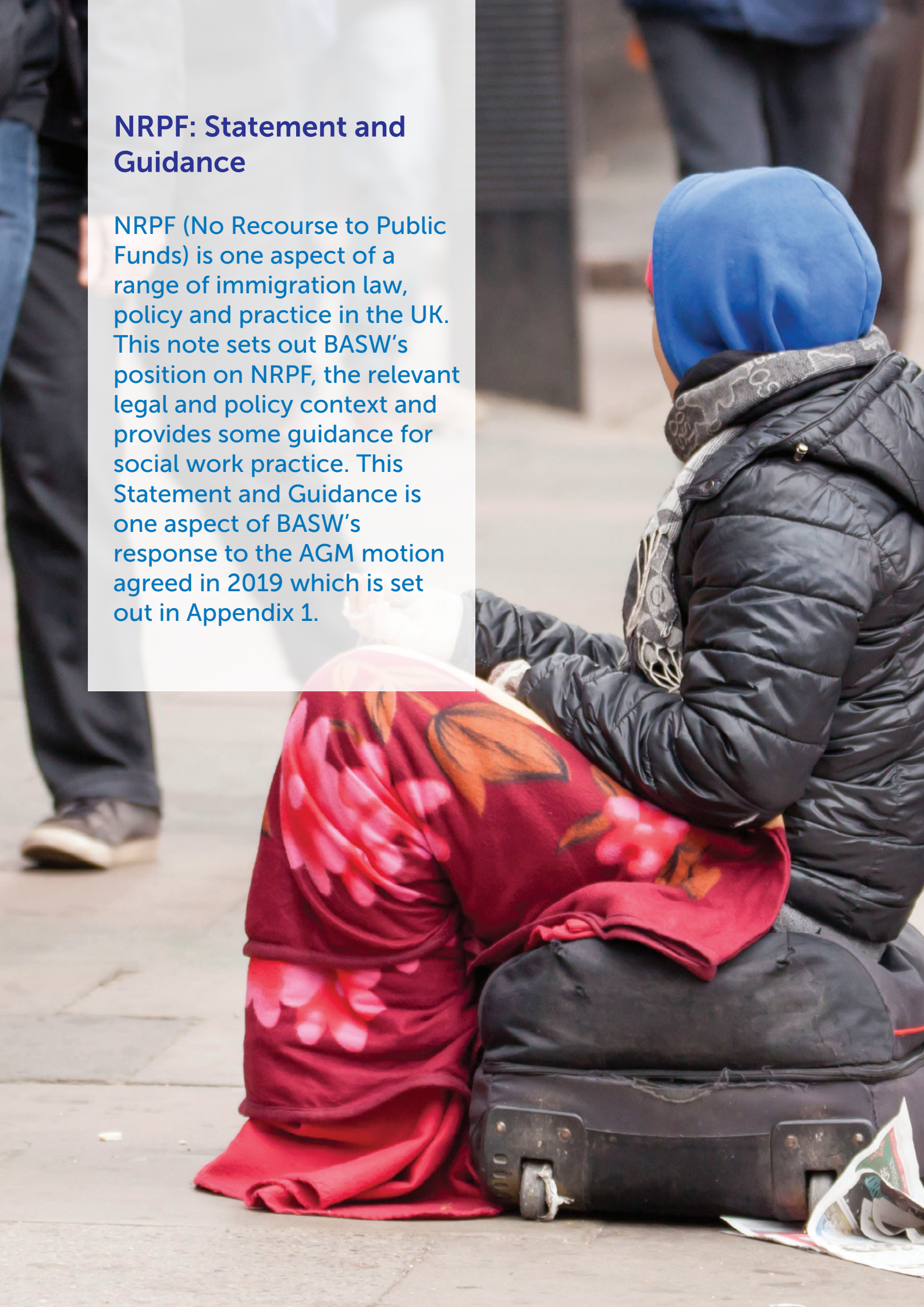


## **NRPF: Statement and Guidance**



## NRPF: Statement and Guidance

NRPF (No Recourse to Public Funds) is one aspect of a range of immigration law, policy and practice in the UK. This note sets out BASW's position on NRPF, the relevant legal and policy context and provides some guidance for social work practice. This Statement and Guidance is one aspect of BASW's response to the AGM motion agreed in 2019 which is set out in Appendix 1.





# 1. POSITION

- The legislation, policies and practices of NRPF have a profoundly negative impact on the most vulnerable in society.
- NRPF has the effect of preventing individuals and families accessing social work services to which they have a legal right.
- No individual or family should be destitute, or near destitution, as a result of NRPF.
- The legislation, policies and application of NRPF to those who are destitute, or who are faced with destitution, result in breaches of human rights law.
- Social workers need to recognise NRPF and respond either directly or by supporting individuals and families to access specialist resources.
- Social workers need to signpost and support people who are NRPF to access specialist legal resources.

## **BASW calls for:**

- *The No Recourse to Public Funds (NRPF) condition to be suspended by government so that all vulnerable individuals are entitled to receive financial support during the Covid-19 outbreak.*
- *BASW defines the length of the Covid-19 outbreak as the duration of the Coronavirus Act 2020. The Act currently expires in April 2022.*
- *A comprehensive independent review of the model of NRPF in relation to those who are destitute, or who face destitution, with a view to the Government replacing the model with a system that is both adequately funded and resourced and is compliant with the UK's commitments to human rights.*







## 2. LEGAL AND POLICY CONTEXT

Immigration law, of which NRPF is a part, is both complex and frequently changing. Case law, i.e. judgments made by the courts on how the law should be interpreted, adds further complexity. Therefore, this Statement and Guidance is not designed to be a comprehensive and definitive guide to the legislation and practice – but rather a summary of the key issues, and to signpost resources. Further, in setting out the ‘headline’ legislation and policies of NRPF, it is necessary to describe them, but describing NRPF should not be confused with defending NRPF. This guide draws heavily on pioneering work undertaken by agencies in the voluntary sector. BASW notes its gratitude to these bodies and records its acknowledgment through-out this text.

### What is NRPF?

No Recourse to Public Funds (NRPF) is part of immigration legislation. It is a category of individuals who, as the name implies, have no recourse to public funds. This legal category was created by the Immigration and Asylum Act 1999. A fuller legal definition and explanation is set out in Appendix 3.

Those with NRPF cannot claim income-based benefits which includes (but is not limited to) Child Benefit, Housing Benefit, Universal Credit, Income Support, free school meals, Disability Living Allowance or Tax Credits.

NRPF status may interact with other aspects of immigration law, for example, the ability to take paid employment legally.

### When we talk about people with NRPF – who are we talking about?

NRPF applies to a very wide range of individuals and families some of whom have substantial financial resources and who consequently will not have any difficulty in meeting their needs.

This Statement and Guidance focusses on people who have NRPF and who are destitute or face destitution. The term ‘destitute’ while used in everyday English also has a specific legal meaning. Here the term ‘destitute’ is used in the legal sense:

Section 95(3) of the 1999 [Immigration] Act provides that a person is destitute if:

- *they do not have adequate accommodation or any means of obtaining it (whether or not their other essential living needs are met) or;*
- *have adequate accommodation or the means of obtaining it but cannot meet their other essential living needs<sup>1</sup>.*

<sup>1</sup> P. 6 Home Office (2019) *Assessing Destitution*. London: Home Office.



Social workers, in the course of their work, can come across the following people who have NRPF and due to one or more of the following circumstances are, or are at risk of, destitution.

- Individuals, or family 'breadwinners', who have lost their job, or have had a significant reduction in their income;
- Family 'breadwinners' have become ill, and are thus unable to work, or who have died;
- Individuals and families who have been evicted from their accommodation and are unable to afford alternative accommodation;
- Individuals who have lost their source of income from outside the UK (e.g. foreign students previously supported by their parents who live overseas);
- Those whose visas have expired;
- Asylum seekers who have had their claim refused, former unaccompanied asylum-seeking children (UASC) who have reached 18 and either been refused refugee status, or have not had a claim registered;
- Individuals who have been trafficked;
- Victims of domestic abuse (and where the spouse holds the visa);
- Migrant domestic workers who have had their contract of employment terminated; and,
- Individuals and families who are undocumented.

This list is illustrative rather than complete. The numbers of people in some of these categories are significant, for some illustrative statistics see Appendix 4.

Social workers may come into contact with individuals or families with NRPF status for a range of reasons – social work involvement may be as a direct result of immigration status, for example, destitution effecting a parent's ability to meet a child's basic needs. It may also be a complicating factor for those with other presenting needs e.g. health care needs for older people or supporting victims of domestic abuse.

## NRPF across the four nations of the UK

Immigration law, policy and its enforcement (through the UK Government Immigration Agencies) are functions of the UK Parliament in Westminster. While the Scottish Parliament, Northern Ireland Assembly and Welsh Senedd can, and do, debate and sometimes challenge, UK immigration law (including NRPF) the power to legislate on this matter remains firmly at Westminster.

In the jargon of government social work is a 'devolved matter' so Scotland, Northern Ireland and Wales have distinct legislation and policy on social work matters. The social work organisational response towards individuals with NRPF in the four nations will therefore vary, with some countries, and consequently the agencies of that country, being able to be more supportive of those with NRPF and facing destitution than others. Nevertheless, the UK Parliament sets the overall restrictions on the services that local authorities can legally offer.

## NRPF and the NHS

Some healthcare is free to all who are subject to immigration law (including those with NRPF) including GP services, NHS Walk-in centres, treatment for certain contagious diseases and Accident and Emergency.

Other NHS treatment that may not be free is dependent on immigration status – rather than whether they have NRPF, so individuals with NRPF who are in touch with social workers may have to pay for health care and treatment. This may include pregnant women or new mothers. An effect is that access to healthcare may be delayed - exacerbating existing health conditions.

The rules regarding what healthcare is free, and what must be paid for, are different in England, Scotland, Northern Ireland and Wales.



## NRPF and the EU Settlement Scheme

Currently, citizens of EU countries are currently entitled to live and work in the UK without restriction and to claim benefits if needed. In January 2020, the UK left the EU and the UK is currently in a 'zone of transition' which will end in December 2020 (if there is a deal) and in January 2021 (if there is no deal). During this period EU citizens need to register with the UK government's EU Settlement Scheme. This would include, for example, social workers who are citizens of EU countries working in the UK and children who are 'looked after' in the UK but are citizens of a non-UK EU country and then turn 18. If individuals do not register by the deadlines given above, they will *de facto* obtain the status of NRPF. This poses the risk of a large increase in need as the NRPF population expands and a large and unbudgeted increase in demand on local authorities if the NRPF provisions are not reviewed.

## NRPF and Undocumented Individuals

Undocumented individuals are sometimes included within the category of NRPF and this deserves some explanation<sup>2</sup>. Undocumented individuals may have entered the UK without paperwork for example, they may have been trafficked into the UK, or they may be children or young people born to people who are undocumented. (Being born in the UK does not automatically confer British citizenship).

Undocumented individuals will, by definition, have no 'UK specific' immigration documentation, e.g. residence permit, entry clearance vignette or biometric residence permit which can be marked 'NRPF', so in the narrow legal sense, they are not identified as NRPF, in practical terms, since they have no documentation they have NRPF.

## NRPF and Human Rights

The term 'human rights' has very specific meanings in law<sup>3</sup> and in legal terms 'a human right' is something that is enforceable in law<sup>4</sup>. At present, while aspects of the application of NRPF have been struck down in law<sup>5</sup>, the NRPF system, as a whole, has not. Further, having 'a human right' is rather different to being able to enforce it in law. This is particularly the case if enforcement involves seeking legal representation and that requires that legal representation is funded. Funding legal representation can be costly, and there are tight restrictions on what can be funded through legal aid.

The BASW publication: 'Social Work and Human Rights: A Practice Guide' notes that:

*'The Human Rights Act 1998 places a duty on all public authorities to ensure decisions for both adults and children comply with the European Convention on Human Rights. Despite exclusions under Schedule 3 of the Nationality, Immigration and Asylum Act 2002, social services provision is not considered a public fund and cannot be automatically refused based on immigration status. A human rights assessment is vital in order to establish whether or not assistance is provided and decisions to refuse support could potentially result in a breach of human rights'* (p. 37, Harms-Smith et al, 2019)

Social workers need to advocate for the human rights of NRPF clients and to challenge decision-making and practices that are counter to the BASW Code of Ethics.

<sup>2</sup> Members of the Windrush Generation are not in the category of undocumented individuals. Members of the Windrush generation have full rights, but the Home Office chose to destroy all the official paperwork evidencing this.

<sup>3</sup> See p. 14 and following: Harms – Smith at al 'Social Work and Human Rights: A Practice Guide. Birmingham: BASW.

<sup>4</sup> See p.14 and following: Harms – Smith et al 'Social Work and Human Rights: A Practice Guide. Birmingham: BASW.

<sup>5</sup> For example, see the recent judgement [www.bailii.org/ew/cases/EWHC/Admin/2020/1299.html](http://www.bailii.org/ew/cases/EWHC/Admin/2020/1299.html)



## Impact of NRPF

An impact of NRPF is to drive many individuals underground. Those whose visas have expired, refused asylum seekers, undocumented migrants and others recognise that being visible to state authorities will hasten the process whereby they are detained and then deported. Victims of domestic abuse who are on a spousal visa may have been told by their abuser that if they leave the relationship, they will be deported. Further, the law places a duty on local authorities to inform the immigration authorities if any undocumented migrants approach them for support<sup>6</sup>.

As a result, individuals and families are likely not to come forward for social work services for which they are entitled and for any one of these individuals to approach an official agency of the state – in this case social services – signals that they are likely to be desperate.

NRPF also has a significant financial impact on local authorities. NRPF is effectively a 'cost shunt', it makes local authorities, bear the costs of central government decisions. Local authorities have seen their budgets reduced year-on-year over the last ten years. At the same time, a move to financially support a family who have NRPF, while being the right thing to do, has long term financial consequences. Social work managers with budgetary responsibilities thus face two pressures, inadequate financial resources to support NRPF plus the reality that financially supporting NRPF individuals may well be an on-going commitment. Whether intentionally or unintentionally the consequence of this is that the threshold of who is 'destitute' or 'near destitution' is driven ever upwards.

## NRPF and social work services

The NRPF Network is a network of local authorities, statutory agencies and other groups which operates to support work with those who have NRPF. This section draws heavily on these resources. The NRPF Network point out:

*Though immigration law prevents certain people from accessing 'public funds' social work services are not considered a 'public fund'.*

*Social workers have the powers under certain legislation to provide some people with NRPF with housing and/or financial support in order to prevent homelessness or destitution.*

Such assistance can be provided to:

- *Families, where there is a child in need (for example, because the child is homeless, or the parent cannot afford to meet the family's basic living needs);*
- *Young people who were formerly looked after by a local authority, for example, because they were an unaccompanied asylum-seeking child (UASC), or other separated migrant child; and,*
- *Adults requiring care and support due to a disability, illness or mental health condition*

The legislation which sets out these responsibilities differs in England, Wales, Scotland and Northern Ireland and is set out in the table opposite.

To establish eligibility for assistance, the local authority will undertake the following assessments:

- *Families – a child in need assessment*
- *Adults with care needs – a needs assessment*

---

<sup>6</sup> Sch 3. Immigration and Asylum Act 1999.



	Legislation which sets out eligibility requirements for support			
	England	Wales	Scotland	Northern Ireland
<b>Families with a child in need</b>	Section 17 Children Act 1989	Section 37 Social Services and Well-being (Wales) Act 2014	Section 22 Children (Scotland) Act 1995	Article 18 of the Children (Northern Ireland) Order 1995
<b>Young person formerly looked after by the local authority</b>	Sections 23C, 23CA, 24A, 24B Children Act 1989	Sections 103-118 Social Services and Well-being (Wales) Act 2014	Sections 29 & 30 Children (Scotland) Act 1995	Children (Leaving Care) Act (Northern Ireland) c.11 2002
<b>Adults with need for care and support</b>	Part 1 of the Care Act 2014	Section 35 Social Services and Well-being (Wales) Act 2014	Section 12 and 13A Social Work (Scotland) Act 1968	Article 7 and 15 The Health and Personal Social Services (Northern Ireland) Order 1972

*People requesting help from social services will need to provide as much evidence as possible to confirm their circumstances, for example, an eviction notice or letter from the person who has been accommodating them explaining why they are no longer able to assist. It is very important that the person provides all information that they are asked for, and if they cannot do so, explain why this is not possible. Social services cannot legally refuse to provide support without making sufficient enquiries to be able to reach such a decision. If a person or family is in urgent need, then emergency assistance can be provided whilst this information is being gathered and assessments are being undertaken.*

(Source: NRPf Network, 2020)

### **NRPf and Covid-19**

Covid-19 has had the effect of highlighting the many fractures in society. Individuals and families with NRPf are no different in that respect to other vulnerable groups. For example, many of those with NRPf are likely to work in low paid, zero-hours contracts, precisely the kind of work where employees are likely to lose their jobs as a result of the pandemic. Many of those with NRPf work in front line roles where they are more exposed to the risk of Covid (e.g. care workers) and many of those with NRPf are more likely to be in overcrowded accommodation, and thus less able to self-isolate.

A recent survey (May, 2020) undertaken by Wolverhampton University<sup>7</sup> showed that there was a lack of information available for people with NRPf: Only 5 of the 151 local authorities in England had publicly available NRPf policies which were accurate, up to date and contained referral contact details during the pandemic, and more than 40 percent of local authority websites either did not have any information at all about NRPf on their website.

<sup>7</sup> Jolly A, Bozena S, Dickson E, Qureshi F, Stamp D and Morgan D (2020). *Local Authority Responses to people with NRPf during the pandemic*. Wolverhampton: University of Wolverhampton.

## NRPF – Social Work Guidance

- Social workers need to be able to recognise when individuals or families have NRPF and either provide direct social work intervention or support them to access appropriate support.
- Immigration law is a complex area and NRPF is part of immigration law. Delay in accessing immigration advice can have very detrimental effects to many who are subject to the immigration system.
- Legal advice on immigration issues – which includes NRPF - must be provided by a suitably qualified solicitor or certified advisor<sup>8</sup>.
- Social workers must signpost and support those who are subject to NRPF to a suitably qualified solicitor or certified immigration advisor (at the appropriate level) if they are not already accessing such services.
- Social workers will want to clarify their role with migrant families from the start, including how the role differs from Home Office agencies, and what information they will share and when.
- Social workers will want to consider using translation and interpretation services. Bear in mind that an individual's good knowledge of 'everyday English' might not be sufficient for expressing nuances, communicating while dealing with strong emotions, or dealing effectively with complex legal issues that relate to making a specific claim for financial support under NRPF.
- Social workers should familiarise themselves with local community and voluntary sector resources that can provide help and support. These resources may be 'generic' (e.g. food banks offer services to all people in poverty, not just those with NRPF) or 'specialist' (e.g. migrant support and advocacy organisations)
- Social workers practice in one, or more, specialisms - that is they may work with children and families, or in adult care, or with people facing mental health challenges, or in the area of mental capacity or in other specialist areas. Social workers should familiarise themselves with

the legal situation with regard to NRPF in their specific area of service.

- Social workers should familiarise themselves with their agency policy and procedures that relate to NRPF. If there are no specific policies, or they are significantly out of date, they should encourage their colleagues and managers to develop appropriate policies.

Many individuals with NRPF will already be known to the immigration authorities. They will be in possession of a biometric card, etc. Other individuals will recognise that they need to regularise their immigration position as far as is possible: for example, they may be asylum seekers who need to formally lodge a claim of asylum. This underscores the need, stated elsewhere in this document, for immediate legal advice. Other individuals will need protecting, for example, they have been trafficked, and an appropriate protective referral will need to be made to the National Referral Mechanism (NRM).

Some individuals will be undocumented and may not wish, or may not understand, the need to take legal advice with a view to formalising their position. But being undocumented carries significant risk, for example, many undocumented migrants have been trafficked and all undocumented migrants are vulnerable to gang-masters and criminal gangs. The law places a duty on local authorities to inform the immigration authorities if any undocumented individuals approach them for support<sup>9</sup>. Social workers need to be aware of this legislation and be transparent in communicating this. Social workers have a responsibility towards promoting the best interests of individuals and groups in society and the avoidance of harm. This may well set up acute ethical dilemmas and this underscores the need for clear agency policies, peer support, access to effective supervision and appropriate agency accountability.

---

<sup>8</sup> For example, an Immigration Advisor registered with the Office of the Immigration Services Commissioner (OISC).

<sup>9</sup> Sch 3. Immigration and Asylum Act 1999.



# REFERENCES

Harms-Smith L and Martinez-Herrero MI with Arnell P, Bolger J, Butler-Warke A, Downie M, Nicholls J and MacDermott D (2019) ***Social Work and Human Rights: A Practice Guide***. Birmingham: BASW

[www.basw.co.uk/system/files/resources/Social%20Work%20and%20Human%20Rights%20A%20Practice%20Guide.%20DEC%202019.pdf](http://www.basw.co.uk/system/files/resources/Social%20Work%20and%20Human%20Rights%20A%20Practice%20Guide.%20DEC%202019.pdf)

Harms-Smith L and Martinez-Herrero MI with Arnell P, Bolger J, Butler-Warke A, Downie M, Nicholls J and MacDermott D (2019) ***Social Work and Human Rights: The International Context***. Birmingham: BASW

[www.basw.co.uk/system/files/resources/Social%20work%20and%20human%20rights%20international%20context..pdf](http://www.basw.co.uk/system/files/resources/Social%20work%20and%20human%20rights%20international%20context..pdf)

Mayor of London / University of Wolverhampton Institute for Community Research and Development. (2020) ***London's Children and Young People who are not British Citizens: A Profile***. London: Greater London Authority. Accessed 20 May 2020.  
[www.london.gov.uk/sites/default/files/final\\_londons\\_children\\_and\\_young\\_people\\_who\\_are\\_not\\_british\\_citizens.pdf](http://www.london.gov.uk/sites/default/files/final_londons_children_and_young_people_who_are_not_british_citizens.pdf)

Islington / Cosla / NRPF Network (2011) ***Social Services Support to People with NRPF: A National Picture***. Accessed 20 May 2020.  
[www.nrpfnetwork.org.uk/policy/Documents/NRPF\\_national\\_picture\\_final.pdf](http://www.nrpfnetwork.org.uk/policy/Documents/NRPF_national_picture_final.pdf)

Jolly A, Bozena S, Dickson E, Qureshi F, Stamp D and Morgan D (2020). ***Local Authority Responses to people with NRPF during the pandemic***. Wolverhampton: University of Wolverhampton.

Pinter I, Compton S, Parhar R, Majid H (May 2020) ***Lifeline for All: Children and Families with No Recourse to Public Funds***. London: The Children's Society. Accessed 8 June 2020.

[www.childrensociety.org.uk/what-we-do/resources-and-publications/a-lifeline-for-all](http://www.childrensociety.org.uk/what-we-do/resources-and-publications/a-lifeline-for-all)

Sigona, N. (2011) ***Irregular Migrant Children and Public Policy***. *Policy Primer*. Oxford: COMPAS/University of Oxford

Sigona N and Hughes V (2012) ***No Way Out, No Way In: Irregular migrant children and families in the UK***. Oxford: COMPAS/University of Oxford.







# APPENDICES

## Appendix 1: AGM Motion 2 – Passed by the BASW AGM 2019

The UK Home Office 'hostile environment policy' is a set of administrative measure designed to make staying in the UK as difficult as possible for people without leave to remain. This is intended to encourage people in this situation to leave voluntarily. The policy was first announced in 2012, when Theresa May was the Home Secretary. It was designed to help fulfil the election manifesto proposals that immigration levels should be reduced. In the words of the Home Secretary 'The aim is to create, here in Britain, a really hostile environment for illegal immigrants'.

This AGM notes the government's inhumane hostile environment immigration policy runs in direct conflict with social work principles and values and is contrary to the BASW Code of Ethics.

We condemn the discrimination and oppression of people who are experts through experience through their immigration status. This affects, in particular, but not exclusively, people who have NRPF (No Recourse to Public Funds).

Accordingly, this AGM instructs BASW to challenge and actively campaign to remove this 'hostile environment policy' from government policy, in pursuit of BASW's ethical principles and values to uphold human rights and social justice.

### **This AGM instructs BASW to:**

- *Condemn the use of the NRPF condition as an anti-immigration tool*
- *Campaign in the areas of the UK where local authority policy and practice fails to support those with NRPF*
- *Work with NHS colleagues to abolish discriminatory healthcare charging for people*
- *Advocate for free school meals and pupil premium support for children whose carers have NRPF where this is not current practice*
- *Oppose the use of embedded Home Office staff in local authorities.*

BASW will proactively support social workers to advocate for the human rights of NRPF clients and to challenge decision making and practices that are counter to the BASW Code of Ethics.

## Appendix 2: Useful Resources

**NRPF Network:** [www.nrpfnetwork.org.uk/Pages/Home.aspx](http://www.nrpfnetwork.org.uk/Pages/Home.aspx)

**Project 17:** [www.project17.org.uk](http://www.project17.org.uk)

**Kalayann:** [www.kalayaan.org.uk](http://www.kalayaan.org.uk)





## Appendix 4: How many people are subject to NRPF?

No figures are available on the total number of people who are subject to NRPF in the UK and are destitute, or who are at risk of destitution.

The NRPF Network, an organisation funded by a number of local authorities, identified 16,331 children whose families came forward to claim assistance in a four-year period. This number reflects those who actually came forward, not those who may have been equally in need, but did not come forward. These figures were for England and Scotland and does not include the number of people who came forward in Northern Ireland and Wales.

An accurate count of the number of individuals in the UK who are undocumented is, by definition, impossible. A study commissioned by the Mayor of London estimated there were some 674,000 undocumented individuals in the UK, some of whom were foreign born nationals and others British-born of undocumented parents, of whom some 332,000 were children and young people<sup>1</sup>.

---

<sup>1</sup> Pinter I, Compton S, Parhar R, Majid H (May 2020) *Lifeline for All: Children and Families with No Recourse to Public Funds*. London: The Children's Society.







## Disclaimer

This guidance provides an introduction to law, practice and resources in this area, but it is not a substitute for a familiarisation with the law, the application of legislation and policy to the service users group worked with, or knowledge of local resources. Decisions that relate to NRPF need to be taken in the context of regular, good supervision and appropriate management accountability

## Images

Images are from a photo library and may not necessarily be photographs of people with NRPF.

## Acknowledgements

Particular thanks are due to Joe Hanley, Gerry Nosowska, Martin Sexton, Amy Stringer.

## Corrections, comments and feedback

NRPF is a complex and evolving field. BASW documents are regularly reviewed. We welcome notifications of any updates, corrections of factual material as well as any comments and feedback. Email us at: [policyadmin@basw.co.uk](mailto:policyadmin@basw.co.uk)

**Cite as:** BASW. (2020). *NRPF: Statement and Guidance*.  
Birmingham: BASW.

Users are welcome to quote from this Statement and Guidance so long as the source is correctly cited as above. Unattributed quotes are forbidden under copyright protection.

# BASW

**The professional association for  
social work and social workers**

[www.basw.co.uk](http://www.basw.co.uk)