

# **No Recourse to Public Funds (NRPF) Policy and Practice Guidance**

## **CONTENTS**

<b>1</b>	<b>INTRODUCTION – WHAT IS NRPF?</b>	<b>Page 3</b>
1.1	LOCAL AUTHORITY SUPPORT FOR INDIVIDUALS/FAMILIES WITH NRPF	Page 3
1.2	SECTION 95 SUPPORT (I&A Act 1999) FROM THE HOME OFFICE	Page 4
1.3	ZAMBRANO CARERS (THE RIGHT TO RESIDE AS A PRIMARY CARER...)	Page 4
<b>2</b>	<b>WHAT IS A PUBLIC FUND?</b>	<b>Page 5</b>
<b>3</b>	<b>LEGAL FRAMEWORK</b>	<b>Page 5</b>
<b>4</b>	<b>PRACTICE GUIDANCE</b>	<b>Page 7</b>
4.1	<b>HUMAN RIGHTS ASSESSMENT (HRA)</b>	<b>Page 8</b>
4.2	<b>EEA NATIONALS / EU STATUS</b>	<b>Page 9</b>
4.2.1	<b>THE IMPACT OF THE UK LEAVING THE EUROPEAN UNION (BREXIT)</b>	<b>Page 10</b>
4.3	<b>ESTABLISHING ELIGIBILITY</b>	<b>Page 10</b>
4.4	<b>ROLES AND RESPONSIBILITIES OF CHILDREN’S SOCIAL CARE TEAMS</b>	<b>Page 11</b>
4.5	<b>PROVIDING SUPPORT UNDER s17 (CA 1989) WITHIN THE DCPT</b>	<b>Page 12</b>
4.6	<b>PROVIDING SUPPORT UNDER s17 (CA 1989) WITHIN THE FAMILY SERVICE</b>	<b>Page 13</b>
4.7	<b>ESCALATION FROM THE FAMILY SERVICE AND STEP-DOWN FROM DCPT</b>	<b>Page 13</b>
4.8	<b>ACCOMMODATING EXTENDED FAMILY MEMBERS</b>	<b>Page 14</b>
4.9	<b>FINANCIAL SUPPORT/RATES</b>	<b>Page 14</b>
4.10	<b>LEGAL ADVICE/COSTS</b>	<b>Page 16</b>
4.11	<b>SECURING BRITISH CITIZENSHIP FOR LOOKED AFTER CHILDREN</b>	<b>Page 17</b>
4.12	<b>ADULT SOCIAL CARE</b>	<b>Page 17</b>
4.13	<b>SURVIVORS OF DOMESTIC ABUSE (DDV CONCESSION)</b>	<b>Page 17</b>
<b>5</b>	<b>REDUCING/CEASING SUPPORT</b>	<b>Page 18</b>
5.1	<b>CEASING SUPPORT FOR NRPF CHILDREN AND FAMILIES</b>	<b>Page 19</b>
5.2	<b>CEASING SUPPORT FOR POST 18 UASC (ARE) AND NRPF STATUS</b>	<b>Page 19</b>
5.2.1	<b>21PLUS SERVICE</b>	<b>Page 20</b>
5.3	<b>CEASING SUPPORT FOR POST 18 CARE LEAVERS (EEA NATIONALS)</b>	<b>Page 21</b>
5.4	<b>ASSISTANCE IN RETURNING HOME (TO COUNTRY OF ORIGIN)</b>	<b>Page 21</b>

## **APPENDICIES**

APPENDIX 1	CONTACT DETAILS FOR THE HOME OFFICE	Page 22
APPENDIX 2	NEW HUMAN RIGHTS ASSESSMENT (HRA)	Page 23
APPENDIX 3	HUMAN RIGHTS ASSESSMENT PROMPT SHEETS	Page 33
APPENDIX 4	GLOSSARY OF ABBREVIATIONS AND KEY TERMS IN RELATION TO NRPF	Page 35
APPENDIX 5	LIST OF ACCEPTABLE EVIDENCE	Page 38
APPENDIX 6	NRPF BUDGET CODES	Page 39
APPENDIX 7a	LETTER FOR SUPPORT WITHDRAWAL – ARE POST 18	Page 40
APPENDIX 7b	LETTER FOR CONFIRMATION OF SUPPORT WITHDRAWAL – ARE POST 18	Page 41
APPENDIX 8a	LETTER FOR NOTIFICATION OF SUPPORT WITHDRAWAL – LEAVE GRANTED	Page 42
APPENDIX 8b	LETTER FOR NOTIFICATION OF SUPPORT WITHDRAWAL – STATUS REFUSED	Page 43
APPENDIX 9a	LETTER FOR NOTIFICATION OF SUPPORT ACCEPTANCE – AT REFERRAL	Page 44
APPENDIX 9b	LETTER FOR NOTIFICATION OF SUPPORT REFUSAL – AT REFERRAL	Page 45
APPENDIX 10a	LETTER FOR NOTIFICATION OF SUPPORT WITHDRAWAL – EEA NATIONAL	Page 46
APPENDIX 10b	LETTER FOR CONFIRMATION OF SUPPORT WITHDRAWAL – EEA NATIONAL	Page 47

## 1 INTRODUCTION – WHAT IS NO RECOURSE TO PUBLIC FUNDS (NRPF)?

A person will have ‘no recourse to public funds’ (NRPF) if they are subject to immigration control where public funds include welfare benefits and public housing (Immigration and Asylum Act 1999). NRPF restrictions affect a wide range of people and can be a condition attached to certain visas (e.g. student and spousal visas) and people who would require leave to enter the UK, but do not have it, are also subject to NRPF (which includes people who have overstayed their visa and asylum seekers who have exhausted their appeal rights). Current asylum seekers cannot usually access mainstream benefits, but can access other financial support and since the UK has left the EU, there are changes for EEA nationals around their status in relation to living and working in the UK. Some EEA/EU citizens may be able to claim benefits if they, or a family member they are dependent on, are exercising their rights under pre-settlement/settlement status (e.g. by working and/or being self-sufficient).

In Nottinghamshire there are, and will always exist, a small number of people who have No Recourse to Public Funds (NRPF) who consider themselves “destitute”. Whilst not all people identifying as NRPF will approach the local authority for support as they may receive this from the Home Office, there will inevitably be a significant number that do.

Nottinghamshire County Council wishes to provide a robust, humane, fair, and transparent response to those with NRPF where barriers exist in returning to their country of origin and alternative, reasonable assistance from national bodies is not available. This policy document sets out the framework upon which assessments of eligibility and need should take place so as to allow correct, robust and legally sound decisions to be made in relation to what support is provided on a case-by-case basis. This document also makes clear where, within the authority, responsibility lies for these assessments and the support provided.

Although this policy refers to support offered by Adult Social Care and other support agencies this policy is to support practice in relation to working with children and families. In supporting children and families, immigration status is a factor. Nevertheless, safeguarding issues need to remain the primary focus for Children’s Social Care. **If you are an agency or professional that is in contact with children and families that are suspected to have NRPF status, then you should contact the Multi-Agency Safeguarding Hub (MASH) or Emergency Duty Team (EDT) as advised in this policy.**

This policy is heavily shaped by legal developments and so will be updated periodically. This is not intended as a comprehensive statement of the law in this area. Practitioners are referred to the guidance issued, and regularly updated, by the NRPF Network (<http://www.nrpfnetwork.org.uk>).

**Where there are immediate child protection concerns for child(ren) then these must take priority over NRPF status issues and therefore child protection policy procedures and guidance should be followed irrespective of any asylum status. If a parent and child(ren) are fleeing domestic abuse, then please refer to Section 4.13 DDV Concession procedures (if appropriate)**

### 1.1 LOCAL AUTHORITY SUPPORT FOR INDIVIDUALS/FAMILIES WITH NO RECOURSE TO PUBLIC FUNDS

Since the UK left the European Union as of 31<sup>st</sup> January 2021, there are various changes to the eligibility of EU Citizens and their recourse to public funds. However, most referrals to a Local Authority around NRPF status will be linked with people identified under Schedule 3 of the Nationality, Immigration and Asylum Act (2002) or those with no European Union Settled Status (EUSS) or restrictions on their status and their recourse to public funds. The four categories of people who are excluded from many Local Authority duties, including the National Assistance Act (1948), Children Act (1989) and the leaving care provisions under the Children (Leaving Care) Act 2000 are:

- People with refugee status granted by an EEA country and any dependents;

- European Economic Area (EEA) and/or EU nationals and their dependents;
- Refused asylum seekers who have failed to comply with removal directions; and
- People unlawfully present in the UK (including those whose visa has expired and refused asylum seekers who did not claim asylum at 'port-of-entry' (see section ).

However, the restrictions set out in Schedule 3 **do not** apply if a Local Authority's failure to provide support would result in a breach of a person's Human Rights or European Community Treaty Rights (for EEA Nationals only and dependant on their status in the UK). Therefore, a **Human Rights Assessment** must be conducted to ensure that refusing or withdrawing support by the Local Authority, would not result in an individual/family's Rights being breached.

The Local Authority has a duty to provide temporary support to children and families whilst undertaking a Human Rights Assessment. This support will be considered at s95 support rate pending the outcome of the Human Rights Assessment. Current s95 support rates can be found at <https://www.gov.uk/asylum-support/what-youll-get>

## **1.2 SECTION 95 SUPPORT (IMMIGRATION AND ASYLUM ACT 1999) FROM THE HOME OFFICE**

Someone with NRPF status may get housing and financial support until their asylum claim is finally determined by the Home Office or appeal courts. Families will continue to receive this help if their claim has been unsuccessful if there was a child under 18 in the household when the final decision was made. This support is often referred to as '*section 95 support*' because it is provided under section 95 of the Immigration and Asylum Act 1999. Financial support is provided as cash payments and may be applied for separately if the asylum seeker has alternative accommodation.

Nottinghamshire County Council will need to consider **all** those with NRPF status presenting to the local authority as to whether they will be entitled to s95 support from the Home Office and so should follow the referral and application process via <https://www.gov.uk/asylum-support/what-youll-get>. This will need to be reviewed and re-referred if there is any change of circumstance for that family if they are being supported by the local authority.

## **1.3 ZAMBRANO CARERS (THE RIGHT TO RESIDE AS A PRIMARY CARER OF A BRITISH CITIZEN)**

This refers to any adult with NRPF that has sole responsibility of dependent British citizens or shared care with another person who must not have a right to reside in the UK on a temporary basis. There is no requirement for the British Citizen to be a child, so the applicant could be the carer of an adult British Citizen. However, if this was the case then there would need to be a referral to Adult Social Care.

In order to be considered within this NRPF policy, the parent or legal guardian/carer needs to be looking after a child with British citizenship (proof is required i.e. passport or birth certificate). The carer will have a right to apply to reside in the UK, and to access employment to continue their primary care responsibilities of the dependant British or (EEA) citizen.

The parent/carer will need to contact the Home Office to apply for the right to remain in the UK. It is usual for Zambrano cases to be provided with right to remain with NRPF status, whilst their application with the Home Office is being assessed. As such, the Local Authority will need to provide temporary financial assistance, if the family is deemed to need financial or other support.

If the family are presenting as being homeless then linking with the appropriate district council for homelessness/housing is advised as once the Zambrano carer has status in the UK then the district council may have duties to find suitable accommodation. Therefore, a joint working approach by the local authority and local housing authority will assist in meeting the children's needs in an appropriate and efficient approach.

**Zambrano cases do not require the completion of a Human Right Assessment (HRA) and so need will be assessed as part of a Child and Family Assessment.**

A child is deemed to be a British Citizen if:

- One parent is a British Citizen, or has permanent right to remain and the child was born in the UK

For the other three categories, the Home Office will need to be contacted for entitlement. These are:

- The child was born in the UK and a parent subsequently becomes British/settled before child turns 18.
- The child was born in the UK and resident here until the age of 10.
- The child was born in the UK prior to 1st July 2006 to a British/settled birth father who was not married to the birth mother.

If a parent/legal guardian is only providing financial assistance with no day-to-day care responsibilities for the British Citizen, then they are excluded from being a Zambrano carer. Since the Zambrano judgement, the courts have established that the primary carer of a non-British EEA national would also have a right to reside under Zambrano if the child being cared for would have to leave the EEA. For further information on Zambrano carer status see:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/981908/eu-settlement-scheme-person-with-a-zambrano-right-to-reside-v4.0-ext.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/981908/eu-settlement-scheme-person-with-a-zambrano-right-to-reside-v4.0-ext.pdf)

## **2 WHAT IS A PUBLIC FUND?**

Section 115 Immigration and Asylum Act 1999 excludes “a person subject to immigration control” from being entitled to receive some welfare benefits. This means that people with NRPf status cannot access:

Attendance Allowance, Housing Benefit, Carer’s Allowance, Income-Based Jobseeker’s Allowance, Child Benefit, Income-Related Employment & Support Allowance, Child Tax Credit, Income Support, Council Tax Benefit, Personal Independence Payment, Council Tax Reduction, Severe Disablement Allowance, Disability Living Allowance, Social Fund Payment, Domestic Rate Relief (Northern Ireland), State Pension Credit, Discretionary Welfare Payment made by a Local Authority, Universal Credit, Working Tax Credit.

Section 117 Immigration and Asylum Act 1999 excludes “a person subject to immigration control” from being entitled to access an allocation of Local Authority Housing and Local Authority Homelessness Assistance.

Nationals of a country with a reciprocal arrangement with the UK may be able to claim certain benefits that are public funds under section 115 Immigration Asylum Act 1999 despite having the NRPf condition. See the Home Office’s Modernised Guidance for more information about this

(<https://www.gov.uk/government/publications/public-funds>).

## **3 LEGAL FRAMEWORK**

Asylum and immigration continue to be a highly sensitive and ever-changing area of law. The legislation is extremely complex, and both the law and practice are subject to frequent changes. This policy cannot cover all the legal complexities and, where necessary, advice should be sought immediately from the Council’s Legal Services. Practitioners are also referred to the detailed guidance and ‘update bulletins’ produced by the NRPf Network. Where such guidance appears to contradict this document, legal advice must be obtained, as nothing in this Policy should be taken as recommending any step which would amount to a breach of the requirements of legislation (including the Human Rights Act) or statutory guidance. Practitioners are reminded that any required assessment and/or decision that need to be made should be done so in a timely manner.

The **Immigration Act 2016** reformed Local Authority support in England for certain destitute migrant families and care leavers with NRPF status. Local Authorities will remain prohibited from providing support to asylum seeking families when they could access accommodation and financial support from the Home Office under section 95 Immigration Asylum Act 1999. Other key aspects to this Bill are:

- Non-EEA primary carers of British Citizen children (Zambrano carers) will not be able to receive accommodation and/or financial assistance under section 17 Children Act 1989; instead, they may be provided with such support by the Local Authority under the new scheme for supporting destitute families with no immigration status under paragraph 10A of Schedule 3 Nationality, Immigration and Asylum Act 2002 (NIAA, 2002).
- There will be an exemption from the right to rent scheme for private tenancies provided by Local Authorities to accommodate migrants under paragraphs 10A and 10B of Schedule 3 (NIAA 2002).
- Refused asylum seeking families will be excluded from support under section 17 (Children Act 1989) when parents claimed asylum in-country rather than at port of entry, or have failed to comply with removal directions, or have been certificated by the Home Office as failing to take steps to leave the UK voluntarily. If any of these apply, then provision of accommodation and/or support by the Local Authority will be subject to a Human Rights Assessment.

Asylum seeking families will cease to be provided with support under section 95 of the Immigration and Asylum Act 1999 when they are refused asylum. They will continue to receive support during a 'grace period' of 90 days from the date their asylum claim is finally determined until support is terminated, in which time they will be expected to decide to leave the UK or demonstrate that they have a 'genuine obstacle to leaving the UK', and therefore qualify for Home Office support for refused asylum seekers.

**Local Authorities have a duty to inform the Home Office of any such person(s) who they suspect or know is unlawfully present in the UK or a refused asylum seeker (Para 14; Schedule 3; NIA Act 2002).** Therefore, we will work together with the Home Office to share relevant information about children and families which are impacting on their status of remaining in the UK.

For Adult Social Care the duty to assess a person's community care needs arises under Section 47 of the National Health Service and Community Care Act (NHSCCA) 1990. The duty to assess depends on the appearance of need, not on the likelihood of services being provided. This means that where there is evidence of a possible health and/or social care need, the responsible authority will be required to undertake a S47 NHSCCA assessment even if it is suspected that the individual may not be eligible for support from the LA.

It is important to remember that in exercising powers, all relevant factors must be considered, and irrelevant ones ignored, and the local authority cannot fetter its discretion by strictly applying a blanket policy.

For Adult Social Care Fair Access to Care Services (FACs) criteria do not apply when assessing whether residential accommodation under Section 21 National Assistance Act 1948 should or must be provided for people with NRPF.

Relevant Legislation:

- Children Act 1989 / Children Act 2004
- Children and Social Work Act 2017 / Children (Leaving Care) Act 2000
- Mental Health Act 1983
- National Assistance Act 1948
- Asylum and Immigration Act 1996
- Immigration and Asylum Act 1999
- Asylum Support Regulations 2000
- Nationality, Immigration and Asylum Act 2002 (section 3 and section 54)

- Withholding and Withdrawal of Support (Travel Assistance and Temporary Accommodation) Regulations 2002
- Asylum and Immigration (Treatment of Claimants etc.) Act 2004
- Immigration, Asylum and Nationality Act 2006
- Immigration (European Economic Area) Regulations 2006
- Immigration Act 2014 / Immigration Act 2016 (pending full enactment)
- Human Rights Act 1998
- UN Convention on Refugees 1951
- European Convention on Human Rights 1952
- European Economic Area (EEA) Community Treaty
- Framework for the Assessment of Children in Need and their Families DOH 2000
- National Health Service and Community Care Act 1990
- Local Government Act 2000
- Localism Act 2011
- Mental Health Act 1983
- Case law: *R (MK) V London Borough of Barking and Dagenham (2013)*
- Case law: *Ruiz Zambrano (European citizenship) [2011] EUECJ C-34/09*
- Case law: *R (Kebede) v Newcastle – care leavers and university tuition fees to be paid for by the local authority*
- Case law: *Ahmed (2013) Upper Tribunal – Zambrano, non-British child*
- Case law: *R (SL) v Westminster– s.21 National Assistance Act, particularly important for cases involving mental health issues*
- *Refugee Action, R (On the Application Of) v SSHD [2014] EWHC 1033*
- *PO v London Borough of Newham [2014] EWHC 2561 (Admin)*

#### **4 PRACTICE GUIDANCE**

##### GENERAL GOOD PRACTICE

All adults with NRPF who present to Nottinghamshire County Council requesting support with accommodation and subsistence should receive a humane and customer-focused response. In cases where there is no duty on Nottinghamshire County Council to provide support, then advice and assistance can be provided to individuals in pursuing other options such as accessing support from a specialist agency or looking to return to their country of origin through the Home Office.

##### CRIMINALITY DISCLOSURE

When an employee of Nottinghamshire County Council (usually from Social Care) first meets/speaks with the family they must make it clear that any offences disclosed will be shared with the Police and the Home Office along with gaining consent to share information with other agencies. If specific details of crimes are disclosed, they must be reported.

##### SAFEGUARDING STATEMENT

It is important to be aware that families/individuals who may be ineligible for services may suffer extreme levels of anxiety and hopelessness as a consequence of any decisions Nottinghamshire County Council or partner agencies' make. Nationally, there have been incidents of self-harm and abandonment of children in such circumstances. It is therefore important that this potential risk is considered as part of the assessment process. In particular, practitioners need to consider the resilience of adults especially those who care for younger children where immediate child protection concerns may be present.

**Where there are immediate child protection concerns for child(ren) then these must take priority over NRPF status issues and therefore child protection policy procedures and guidance should be followed.**

Whilst s47 (CA 1989) enquiries take place then temporary support (including financial) should be agreed with the relevant Children's Service Manager (CSM). If the child(ren) are subject to a Child Protection Plan, then Core Groups will need to consider and outline what support the family is receiving from Social Care.

#### **4.1 HUMAN RIGHTS ASSESSMENT (HRA)**

A Human Rights Assessment (HRA) **should be** completed to identify whether an individual/family would be considered as destitute if support (financial or otherwise) was not issued by the Local Authority and they are identified as person(s) under Schedule 3 of the Nationality, Immigration and Asylum Act (2002).

The purpose of the HRA is to:

- Meet statutory duties imposed by Schedule 3 (Nationality, Immigration and Asylum Act (NIAA) 2002
- Seek a solution to the individual/family's destitution in the UK
- Facilitate an open conversation with the individual/family to consider all their available options
- Seek alternatives to enforced removal by the Home Office
- Provide transparency in the decision-making process, seeking legal advice where necessary.

A HRA is designed for use in relation to requests for support from individuals/families that are subject to immigration control and have NRPF status under:

- Section 115 of the Immigration and Asylum Act 1999 (asylum / immigration)
- And those who fall within the restricted categories in Schedule 3 of the Nationality, Immigration and Asylum Act 2002 (those not seeking asylum and identified from EEA countries)

The HRA needs to pay particular attention to the European Convention on Human Rights (1952):

- **Article 3 - Prohibition of torture or inhuman or degrading treatment or punishment, and**
- **Article 8 – Right to respect for private and family life**

The new HRA template (appendix 2) will often be completed in conjunction with a Child and Family Assessment. It is important to be aware that not all sections on the HRA need completing as they are relevant to the individual/family's reason for having NRPF.

Section 2a (HRA) is for EEA Nationals / EU Citizens

Section 2b (HRA) is for failed asylum seekers/over-stayers in the UK.

#### **CONCLUSION OF THE HUMAN RIGHTS ASSESSMENT**

When completing the HRA, there needs to be clear evidence within the analysis and outcome reached. The most likely outcomes of the HRA are:

- **"Issuing support"** as to not do so would leave the individual/family destitute and would be a breach of their Human Rights / Community Treaty Rights.
- **"Withholding support"** as by doing so would not result in the individual/family being destitute and would not breach their Human Rights / Community Treaty Rights.
- **"Reducing/Removing support"** as by doing so would not result in the individual/family being destitute and would not breach their Human Rights / Community Treaty Rights.

There may be temporary/exceptional circumstances for an individual/family which would mean withdrawal of support by the Local Authority would breach their Community Treaty Rights. Examples of these practical barriers include:



- Women in late stages of pregnancy who are therefore unable to fly and there are no other appropriate transport options available
- People with health conditions which impact on their ability to travel
- People with no travel documents (Refugee Action can offer support in contacting the appropriate Embassy).
- People who have no safe route to return to their country of origin (due to political instability etc.)

It is important to provide good assessment and analysis within the HRA and to refer to the legal framework as to why the Local Authority either will or will not be providing support direct reference to the European Convention on Human Rights (1952) Articles 3/8, and the Community Treaty Rights (for EEA Nationals see 4.2).

For further guidance notes on completing a HRA and examples of good practice (see appendix 3).

## 4.2 EEA NATIONALS / EU STATUS

European Economic Area (EEA) nationals (see appendix 4 for the list of EEA countries) and those with EU Settled Status or Right to Reside in the UK will have the right to live and work in the UK. They **do not** have the NRPF condition imposed on them. However, they may be prevented from claiming public funds when they do not satisfy the eligibility criteria attached to a specific welfare benefit, homelessness assistance or a council housing allocation. Eligibility for welfare benefits and housing for EEA nationals and their family members generally relates to the basis on which the EEA national is living in the UK, for example, as a worker or jobseeker. This is known as having the 'right to reside' or being a 'qualified person'.

Since the UK left the European Union on 31<sup>st</sup> January 2021 there are changes to the current entitlement and rights that EU Citizens have in the UK. In some circumstances, EEA nationals and family members of EEA nationals, who are unable to access public funds, may be able to receive accommodation and financial assistance from Children's Social Care on a temporary basis. This is limited to:

- Families where there are identified child(ren) in need due to being identified as 'destitute' by the Human Rights Assessment.
- A young person from an EEA nation who was formerly looked after by the Local Authority

EEA nationals including those with EU Settled Status and dependants are subject to the exclusions to this type of Social Care assistance under Schedule 3 (NIAA, 2002), and so will only be entitled to receive such support if the Local Authority has determined that this is necessary in order to prevent a breach of a person/family's European Community Treaty Rights under the EU Settlement Scheme. This means that the Local Authority **must** undertake a Human Rights Assessment.

### COMMUNITY TREATY RIGHTS IN THE HUMAN RIGHTS ASSESSMENT (Section 2a of the HRA only)

The Local Authority needs to consider whether the person presenting has any continuing EU Settled Status rights and whether withholding or withdrawing Social Care support would breach any rights.

If no family member is exercising an European Community Treaty Right as a '*qualified person*' then there would be no breach of those Rights if support were withheld or withdrawn. (For further information see <https://www.gov.uk/government/publications/european-economic-area-nationals-qualified-persons>).

Following the completion of the HRA, if the Local Authority identifies that there would be a breach of European Community Treaty Rights then temporary assistance should be provided. If the Local Authority concludes that assistance is not necessary to avoid such a breach, then assistance with travel arrangements/costs back to the EEA national's country of origin may be considered.

Any support offered by the Local Authority to individuals identifying as a qualified person under the European Community Treaty Rights, and removing such support would breach those Rights, should be discussed and agreed with the relevant Team Manager and Children's Service Manager (CSM).

It is always recommended that advice is taken from a Welfare Benefits Advisor around whether an EEA National is entitled to apply for benefits if they have been recently employed within the UK and this work has been '*genuine and effective*', as they may be entitled to apply for benefits whilst job-seeking. Further information around EEA Nationals can be found at <http://www.nrpfnetwork.org.uk/information/Pages/eea-nationals.aspx>.

There will always need to be the consideration of whether any employment by the EEA national is *genuine and effective*. Therefore, if the EEA national is stating that they are going to be in employment shortly, or are in employment but the work is either illegal/unregistered (then it is not genuine) or is not sustainable or at a high enough level of income (then is it not effective), and so therefore, there would be no breach of the European Community Treaty Rights as the work is not genuine and effective.

#### **4.2.1 THE IMPACT OF THE UK LEAVING THE EUROPEAN UNION (BREXIT)**

At this present time, there are several unknowns around Brexit and the impact of this on European Nationals who are living and working in the UK. If you are working with a family who have concerns over their rights of residency in the UK in respect of Brexit, then they should seek advice from an immigration solicitor. If the person with concerns around their status is a Looked After Child or is identified as a Nottinghamshire care leaver, then there will be consideration into Nottinghamshire Social Care funding an initial legal appointment in relation to their status in the UK.

#### **4.3 ESTABLISHING ELIGIBILITY**

In making any decisions on eligibility for support by Nottinghamshire Social Care, decision-makers have to complete three steps.

- Step 1 – Establishing whether Nottinghamshire County Council is the responsible Local Authority for providing support
- Step 2 – Establishing eligibility for support under immigration and other law
- Step 3 – Establishing destitution (can they financially support themselves?)

All three steps have certain complexities and are reliant on current and ever-changing law.

As such, practitioners should also refer to guidance contained within the "NRP Network Practice Guidance for Local Authorities". These documents can be found at the following location online:

<http://www.nrpfnetwork.org.uk/guidance/Pages/default.aspx>

##### Step 1 – ESTABLISHING RESPONSIBILITY

- a. It is important to establish where the individual/family has a local connection as it may be another Local Authority that has responsibility for the individual/family;
- b. Check NRP Connect
- c. Local connection criteria need not always apply, for example, if a person is at risk of violence if they should return to the Local Authority where they have a 'local connection';
- d. Social workers will need to be clear to individuals/families that they will follow up on contact details given by those seeking a service to make enquiries to verify their local connection;
- e. If it is established that the person has a local connection with another Local Authority then there needs to be a referral made by the Social Worker to that relevant Local Authority.

##### Step 2 – ESTABLISHING ELIGIBILITY

- a. The Local Authority can email the Home Office ([EvidenceandEnquiry@homeoffice.gsi.gov.uk](mailto:EvidenceandEnquiry@homeoffice.gsi.gov.uk)) to check on the current 'leave' status of an individual/family concerned. There is a clear template that Social

Workers should use when requesting this information and this should be sent via a secure email account (see appendix 1);

- b. Social workers should have the documentation outlined in 'Key Documents' to establish the status and identity of the applicant and his/her dependents and this should be cross-referenced with the Home Office as fully as possible;
- c. Social workers need to tell all individuals/families (including those identified as over-stayers or in the UK illegally) that the Local Authority has a duty to inform the Home Office of their details (including addresses) due to them having approached the Local Authority for assistance.

### Step 3 – ESTABLISHING DESTITUTION

- a. It is important to build up a clear picture of the individual/family's circumstances and social workers need to assess if the client would be destitute if support by the Local Authority was not issued (**i.e. he/she has no means of supporting him/herself nor family or friends whom he/she can rely on for support**). At the first instance a Child and Family Assessment should be completed, which is then likely to identify that a HRA will need to be completed if the individual/family is confirmed as having NRPF status. It is important that any social care assessment has safeguarding as its primary focus and is not solely concerned with the NRPF status;
- b. Social workers must consider whether the information given by the individual/family both verbally and in documented form is credible. If there are suspicions that some information is not credible, then this must be challenged appropriately and taking care to accurately record concerns as some decisions around destitution could be subject to legal challenge.

## **4.4 ROLES AND RESPONSIBILITIES OF CHILDREN'S SOCIAL CARE TEAMS**

### **MULTI-AGENCY SAFEGUARDING HUB (MASH) / EMERGENCY DUTY TEAM (EDT)**

The MASH/EDT should undertake the main elements of steps 1 & 2 in establishing eligibility.

*Any agency making a referral should be asked to complete pages 1 - 4 (Inc. page 6 if more than one child) of the Early Help Assessment Form (EHAF) as part of their referral.*

The MASH/EDT should ask for and gather the following information upon the referral being received:

1. Are there any child protection concerns? – *If so, then NRPF policy does not need to be followed at this stage as child protection policy supersedes this.*
2. Are there any immediate health concerns?
3. Are the children open to another Local Authority or previously known to Nottinghamshire Social Care? (Where do/did the family live? (Identify local connections – confirm postal address for the family)
4. What support did any other previous Local Authority issue to the family and copies of those assessment(s) and are they still responsible for provided support to the family?
5. What is the proof of NRPF? (Letter from the Home Office/solicitor/pending application/appeal re: previous leave status whilst in the UK);
6. What identity documentation do the family have? (Do they have a Biometric Residence Permit (BRP)) - see (<https://www.gov.uk/biometric-residence-permits>)
7. The MASH should make contact with the Home Office (or via NRPF Connect) to establish immigration status
8. Is there currently an Immigration Legal Advisor involved with the family and if so, what are their details (including permission to speak with them to clarify the current leave status in the UK or application(s) made to the Home Office)
9. Has the family applied to the Home Office for s95 support and if not, then this will need to be undertaken (however temporary support from the local authority will need to be considered)

10. The case should be identified as at least **Amber** for agency checks to be completed within the MASH with key agency information sharing from Housing, Health, Education, Police, etc. (Verbal consent must be gained from parent(s) unless s47 (CA 1989) child protection concerns);

**Before progressing to any Assessment Team the above tasks in the MASH/EDT will need to be have been completed/addressed within the MASH Decisions and Actions Analysis.**

#### **ASSESSMENT TEAMS-COMPLETION OF THE CHILD AND FAMILY ASSESSMENT**

A section 17 (CA 1989) Child and Family Assessment will be appropriate if the individual/family is found/thought to have NRPF status. However, this will be alongside a Human Rights Assessment (HRA) (appendix 2) in order to identify whether the individual/family is facing destitution without social care support. This may result in temporary support being identified. If it is identified that the family are not NRPF then support **will not** be offered, unless there are other child protection concerns warranting involvement at level 4 threshold (Pathway to Provision).

Following the completion of a Child and Family Assessment, if there is a support plan(s) identified, then it is expected for there to be a transfer to the appropriate DCPT/Family Service/other appropriate Social Care Team or another Local Authority in a timely manner as part of a Child in Need/multi-agency meeting.

#### **DISTRICT CHILD PROTECTION TEAMS (DCPTs)**

Upon completion of a Child and Family Assessment (including HRA), if it is agreed that there is a need for support provision by the Local Authority and there are additional complexities or child protection concerns that are not meeting threshold for s47 (CA 1989) involvement, then the case will transfer on s17 Child in Need to the relevant DCPT at a Child in Need Planning Meeting. The Child in Need Plan will then be managed accordingly and reviewed every 6-8 weeks as part of the Child in Need Review process.

#### **FAMILY SERVICE**

Upon completion of a Child and Family Assessment (including HRA), if it is agreed that there is a need for a financial support provision by the Local Authority but there are **no additional complexities or child protection concerns**, then the case should step-down to the Family Service at a multi-agency meeting (using the Child in Need Planning Meeting episode in Mosaic). A support plan will then be managed accordingly within the Family Service by the Rapid Assessment Workers (RAWs) and reviewed every 12 weeks as part of the case review process.

#### **COUNTYWIDE DISABILITY SERVICE (CDS)**

The above procedures for Assessment Teams/DCPTs will apply to the CDS where there is a disabled child(ren) in the family unit where the thresholds are met for Tier 4 social care involvement in relation to the child's disability. However, if the child's disability is not the main involvement factor, then it is likely that the case will remain with either the appropriate DCPT or step-down to the Family Service.

### **4.5 PROVIDING SUPPORT UNDER S17 (CHILDREN ACT 1989) WITHIN THE DCPT**

Cases of NRPF status, where it is assessed by Social Care that support or assistance will be temporarily provided and there are additional complexities or child protection concerns, then the relevant DCPT will case manage under s17 (Children Act 1989). These cases should be kept under regular review, with the responsible Social Worker staying informed of any change in the individual/family's circumstances. This includes changes in a person's immigration status (via checks on NRPF Connect), which may affect the obligation to provide support or assistance. It is expected that the child will be seen **at least** once every 6-weeks, ideally prior to any review(s) being held.

It is expected that regular 6-8 weekly reviews are held until such a time when the concerns other than NRPF are addressed and step-down can happen to the Family Service, or there is an outcome from the Home Office application, response from the s95 application to the Home Office, a return to the country of origin by the

family, alternative support identified for the family, or any other change in circumstances that would require an updated HRA to be completed.

**Prior to any case review it is expected that an update on any Home Office application should be sought and clarified by the worker, as well as a review of financial and other support being provided.**

#### **NRPF LEAD**

The NRPF Lead in Nottinghamshire will complete an annual review of all NRPF cases or earlier if requested by the allocated Rapid Assessment Worker, Social Worker or Team Manager. As part of this process, the Lead will record recommendations and actions as to whether the case should step-down to Family Service, review or change financial arrangements, review the case in respect of any updates from the Home Office/NRPF Connect and whether a new Human Rights Assessment is required, or whether a case needs to remain with DCPT and what actions are required in order to end involvement or step-down to the Family Service etc.

#### **4.6 PROVIDING SUPPORT UNDER S17 (CHILDREN ACT 1989) WITHIN THE FAMILY SERVICE**

Cases of NRPF status where it is assessed by Social Care that support or assistance will be temporarily provided and there are **no additional complexities or child protection concerns**, then this will step-down to the Family Service to support under s17 (Children Act 1989). These cases should be kept under regular review, with the allocated Rapid Assessment Worker staying informed of any change in the individual/family's circumstances. This includes changes in a person's immigration status, which may affect the obligation to provide support or assistance. It is expected that the child will be seen **at least** once every 12-weeks, ideally prior to any review(s) of support being held.

It is expected that a regular 12 weekly (minimum) case reviews will be held until such a time when there is an outcome from the Home Office application or update on NRPF Connect, response from the s95 application to the Home Office, a return to the country of origin by the family, alternative support identified for the family, or any other change in circumstances that would require an updated HRA to be completed.

**Prior to any case review it is expected that an update on any Home Office application should be sought and clarified by the worker, as well as a review of financial and other support being provided.**

#### **4.7 ESCALATION FROM THE FAMILY SERVICE AND STEP-DOWN FROM DCPT**

If during the course of the Family Service supporting a NRPF family, child protection concerns are identified or issues which would identify as being too complex to remain being managed by the Family Service, then a referral will need to be made to the Multi-Agency Safeguarding Hub (MASH) for Level 4 threshold Social Care involvement.

If during the course of the DCPT/CDS supporting a NRPF family under s17 (CA 1989) Child in Need, it is identified by the Social Worker that the case could be managed appropriately by the Family Service, and agreed by the NRPF Lead then this step-down will need to take place at a planned Child in Need Review (with the Family Service being in attendance). Subsequently, following step-down, if child protection concerns are identified or issues which would identify as being too complex to remain being managed by the Family Service, then a referral will need to be made to the Multi-Agency Safeguarding Hub (MASH) for Level 4 threshold Social Care involvement.

If criteria for level 4 threshold is met, and step-down from DCPT was within the last 3 months then this will transfer back to the previous DCPT to undertake an updated Child and Family Assessment, Human Rights Assessment (if appropriate), s17 Child in Need Plan and/or child protection action (as required).

#### **4.8 ACCOMMODATING EXTENDED FAMILY MEMBERS**

Nottinghamshire Children's Social Care **do not** provide accommodation or financial support for extended family members with 'no significant caring responsibility for children within the family' in line with case law: (*R (MK) V London Borough of Barking and Dagenham (2013)*).

#### 4.9 FINANCIAL SUPPORT/RATES

If following an assessment, it is found that Nottinghamshire Social Care has a duty to provide temporary financial support, then the list below outlines what **may be provided**:

- Accommodation costs (equivalent to Housing Benefit rates/Local Housing Allowance) \*1
- Council Tax (equivalent to Council Tax Benefit) - Prior to agreeing to pay Council Tax the Social Worker should contact the District Council requesting a freeze due to current circumstances. If this is refused then the Local Authority should cover the costs.
- Parent Subsistence Costs (equivalent to a basic Universal Allowance Rate if seeking employment of receiving some form of income support)
- Child Benefit (equivalent to the rates for each child in the family)
- School Meals (would be provided if eligible for JSA/ IS) \*2
- School Milk (Years 1 & 2) (would be provided if eligible for JSA/IS)
- Some school uniform \*3
- Tickets to return to Country of Origin (referral to be made for Voluntary Return Scheme first)
- Travel costs to the Airport/Bus or Train Station if the individual/family are returning home
- First GP 'adult' prescription if the health condition impacts on their ability to care for their children \*4
- First instance of emergency dental care and if left untreated impacts upon the ability to care for their children \*5
- Some financial support in purchasing baby related items to pregnant women having their first baby or multiple births e.g. twins/triplets (would have access to a Maternity Grant on some universal benefits)

Levels of finance provided should be **equivalent to current benefit rates**, matched with what the individual/family would receive if they were able to have recourse to public funds based on the good practice recommendations as a result of *Refugee Action, R (On the Application Of) v SSHD [2014] EWHC 1033, and PO v London Borough of Newham [2014] EWHC 2561 (Admin)*. The current benefit rates can be found here: [Universal Credit: What you'll get - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

##### ACCOMMODATION \*1

Any shortfalls in accommodation costs must be made up by the family. If there are extreme differences in costs this should be discussed further and agreed with the appropriate Children's Service Manager. Advice and guidance can be sought from the NRPF Lead or the named Social Work Practice Consultant. Please refer to your local District Council for their Local Housing Allowance Rates.

##### SCHOOL MEALS \*2

The Children and Families Bill (2014) identifies that all children from September 2014 in years 1 & 2 will be entitled to free school meals including children from NRPF families. When outside of this criteria, the Social Worker should in the first instance contact the school to see if they can offer discretionary meals. If this is not an option the Worker should first check if there are any local charities or churches able to offer funding for school meals. If there are no alternatives, then the Local Authority will provide funding for school meals equivalent to the criteria if parents had recourse to public funds and state benefits.

##### SCHOOL UNIFORMS \*3

Families accessing some benefits are entitled to apply for a Budgeting Loan for school clothing. Nottinghamshire County Council do not provide loans. However, funding for school uniforms can be provided in the following circumstances:

- a) If the family have been found to be destitute and school uniform is required immediately not giving the family the opportunity to budget through regular Local Authority payments to afford this.
- b) If the family has more than 1 child in secondary school & cannot afford uniform costs for the second or subsequent children.

Clothing needs should be discussed in the first instance with the school to see what support they are able to offer. However, if agreed, then any purchase should be made directly by Children's Social Care with the school/uniform supplier.

## HEALTH AND DENTAL CARE \*4/5

### **Children**

Free healthcare and dental care is available for all children and young people under the age of 16 or up to the age of 18 if the young person is in full-time education. This includes any children who fall into the NRPF category.

### **Adults**

Adults who have NRPF can access Emergency (A&E) and Primary Health Care (GP). If a prescription is required and the adult holds a medical exemption certificate (because of certain medical conditions) then no charges are made. If an adult does not hold an exemption certificate and is NRPF status then refusal to provide a free prescription can be challenged by way of a letter to the GP asking under what criteria they are excluding the family under, and explaining that the family are not receiving income support due to NRPF status and are in receipt of support from either the Local Authority or the Asylum Support, under the guidance of the Immigration and Asylum Act 1999, and therefore should be eligible for free prescriptions.

The Local Authority can offer to temporarily cover the costs of prescriptions if absence of medication could impact upon the parents' ability to care for his/her children.

Adults who have NRPF status have no entitlement to free Dental Care. The Local Authority can offer to temporarily cover the costs of emergency dental care in the first instance, if left untreated, would impact upon the parents' ability to care for his/her children. The following website [http://www.medicarerights.org/pdf/copay\\_charities.pdf](http://www.medicarerights.org/pdf/copay_charities.pdf) details charities that assist with prescription costs for patients diagnosed with particular illnesses. For further guidance please refer to the NRPF Network Factsheets (<http://www.nrpfnetwork.org.uk>).

## EU/EEA CITIZENS AND ACCESS TO HEALTH PROVISION

EU citizens, regardless of their immigration status, will be entitled to register with a GP and receive NHS primary care services free of charge. To access NHS secondary care services free of charge, a person must be considered 'ordinarily resident' in the UK. EU citizens with settled status and those granted pre-settled status under the EU Settlement Scheme (EUSS) will be considered 'ordinarily resident' in the UK, provided their residence is adopted voluntarily and for a settled purpose.

Those who are awaiting the outcome of an application submitted on or before 30<sup>th</sup> June 2021 will remain entitled to free secondary care, subject to the ordinarily resident test, until the outcome of the application is known. For further information please seek advice from the relevant NHS provider or CCG or visit: [How to access NHS services in England if you are visiting from abroad - NHS \(www.nhs.uk\)](https://www.nhs.uk)

The list below (not exhaustive) outlines **what Children's Social Care will NOT provide financial support for:**

- Outstanding Debts
- Vet fees
- Some School Uniforms

- Money for School Trips
- Legal Advice following the 1<sup>st</sup> appeal
- Application costs with applying for leave to remain via the Home Office (unless falling within the DDV Concession scheme).

All financial support offered to any family by Nottinghamshire Social Care should be based around the child(ren)'s needs. Where it is felt that financial support should be provided to meet a specific need that has been identified then this can be discussed by a Team Manager with the relevant Children's Service Manager for a discretionary funding decision. In all cases allocated workers, Team Managers and Children's Service Managers should apply their own professional judgement. Any financial decision(s) made need to be recorded in the Child in Need/Support Plan and should be case recorded on the child's electronic case record.

#### MAKING PAYMENTS

It is important for correct financial codes to be used when making payments relating to NRPF Cases. Before making any payments, Nottinghamshire Children's Social Care must check if the individual/family has any debts to avoid making payments into a bank account(s) that is already overdrawn. Payments for Council Property rent and Council Tax should be paid **direct** to the relevant District/Borough Council.

Before payments for private rented/mortgage accommodation is provided, the allocated worker should first consider if the landlord/mortgage lender are aware of current immigration circumstances for the individual/family. If they are aware, then the landlord/mortgage lender should be paid directly by Social Care. If the landlord/mortgage lender is unaware of the individual/family's immigration circumstances then payments should be paid directly to the tenant via a bank or post office account unless vulnerabilities are identified (e.g. drug user, mental health issues).

**All payments MUST be recorded on the child's support plan and on the electronic recording system and agreed by the relevant Service Manager. These will be reviewed by the NRPF Lead.**

#### **4.10 LEGAL ADVICE/COSTS**

All NRPF families should be advised to seek legal assistance and advice around their status in the UK. When seeking legal advice there are some legal firms that offer payment plans for individuals/families if the family require this. For those being supported financially by the Local Authority, then limited funds may be provided for the provision of legal advice for the first Home Office application for leave to remain in the UK and 1-hour period of legal advice for the first right of appeal following an application decision being made by the Home Office. Any further legal advice and support must be self-funded by the family. If the family is requesting additional financial support for legal advice, then a HRA should be undertaken to identify whether by not supporting the family, there would be a contravention of their Human Rights.

It is important that Nottinghamshire Social Care employees **do not** offer legal advice or complete legal application forms (including the DDV Concession). Instead of using phrases such as "it would be worth putting in an appeal" we should be saying "it is important that you seek legal advice regarding your situation".

If legal advice or guidance is required from a Local Authority perspective, then we have access to the East Midlands Strategic Migration Partnership Regional Immigration Solicitor. To access this advice please contact the NRPF Lead Children's Service Manager.

#### **4.11 SECURING BRITISH CITIZENSHIP FOR LOOKED AFTER CHILDREN**

The Local Authority has responsibility to ensure that children in their care have effective access to specialist legal advice, so that their citizenship or any entitlement to citizenship is secured. Doing so is an important



means towards safeguarding and promoting their welfare and can avoid problems for the children in the future. This does not mean Social Workers should become British nationality law advisers, but that they recognise that nationality may be an issue and consider it as part of the Care Planning for Looked After Children.

In circumstances where a child/children have Looked After status, then it is the responsibility of the Local Authority to identify and provide (including appropriate funding where required) access to independent legal advice in respect of the child/children's citizenship and/or asylum status. This support should be identified and included in the relevant Care Plans/Pathway Plans. If the person with concerns around their status in the UK is a Nottinghamshire care leaver (under 25 years old) then there will be consideration into Nottinghamshire Social Care funding an initial legal appointment in relation to their status in the UK.

Further information can be accessed via the NRPf Network on:

<http://www.nrpfnetwork.org.uk>

#### **4.12 ADULT SOCIAL CARE**

Where an adult presents to Nottinghamshire Social Care and they have no children in their care, and it appears they may have need for health or social care provision, they will be referred to Adult Social Care via the MASH under the guidance of Adult Social Care's NRPf Policy, Procedure and Guidelines.

#### **4.13 SURVIVORS OF DOMESTIC VIOLENCE (DDV CONCESSION)**

Nottinghamshire County Council has adopted the cross-Government definition of domestic abuse which states that domestic abuse is *"any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse: psychological; physical; sexual; financial; emotional."*

Survivors of domestic abuse who are from abroad and have NRPf status will usually have been granted limited leave to enter the UK as a spouse or partner of a person present and settled in the UK (with citizenship or leave rights). This leave is often granted subject to the condition that the individual will have NRPf status, although individuals granted leave as spouses or partners are permitted to take up employment.

The Home Office have a separate policy for supporting Survivors of Domestic Violence. Where the criteria for the Home Office's Destitution Domestic Violence (DDV) concession scheme (see appendix 8) are met this needs be pursued to enable a temporary period of recourse to public funds whilst their individual case is considered. This will enable access to mainstream provision (such as domestic violence refuges) and should remove the requirement of financial support from Nottinghamshire Social Care.

**EEA Nationals and spouses of Commonwealth soldiers (resident in the UK) do not fall under the category of support within the DDV concession scheme.**

**During the temporary period of access to recourse to public funds under the DDV scheme then it should be ensured that the adult has seen a legal advisor and made an application for leave to remain under the domestic violence concession rule. This should be completed during the course of the Child and Family Assessment.**

If a survivor of domestic abuse refuses to apply for the DDV concession, it is likely that any consequent breach of their Human Rights (e.g. destitution) will be considered as a consequence of the individual's own actions, rather than a consequence of any steps taken by Nottinghamshire Social Care, meaning that they would no longer be eligible for support from the Local Authority and support may be withdrawn.

PERSONS FROM AN EEA COUNTY FLEEING DOMESTIC ABUSE

Spouses and partners of EEA nationals fleeing domestic violence are often identified as being able to return to their country of origin in order to be safe. This may need to be supported by the Local Authority in respect of travel costs. However, EEA nationals fleeing domestic abuse may be entitled to alternative support (depending on their individual circumstances) and should first seek advice from their local Job Centre regarding what support or benefits they may be entitled to. The applicant needs to demonstrate that their need for care and attention is made materially more acute by circumstances arising not just from a lack of accommodation and funds, but also from the effect of domestic abuse.

**Where there are immediate child protection concerns for child(ren) then these must take priority over NRPF status issues and therefore child protection policy procedures and guidance should be followed.**

In some cases, other Local Authorities may place or support families to flee domestic abuse and come to the Nottinghamshire area (staying within refuges or other accommodation). If there is a referral to the MASH in respect of these situations, then contact should be made with the placing/assisting Local Authority and a copy of their completed Child and Family Assessment requested and received before a decision is taken about Nottinghamshire Social Care's responsibility to provide financial assistance and/or other support. It is recommended that there are discussions with Legal Services if it is identified that the fleeing family have been open to and are the responsibility of another Local Authority. If there is a request for transfer of support from one Local Authority to Nottinghamshire Social Care, then the usual inter-authority transfer protocol will apply.

## **5. REDUCING/CEASING SUPPORT**

**Financial support for individuals/families with NRPF is not a permanent arrangement and therefore need to be reduced/removed as soon as appropriate.**

If a family is open to support from a DCPT and they require a reduction in financial support, then a new HRA (see appendix 2) must be completed by the allocated Social Worker to show why support is being reduced. If a family is receiving support from the Family Service and they require a reduction in financial support, then a new HRA (see appendix 2) must be completed jointly by the Rapid Assessment Worker and an allocated Social Work Practice Consultant.

Some examples of why a reduction may happen includes:

- Moving home, different accommodation costs, health concerns, etc.
- Individual/family accessing other monies leading to other payments being reduced

This reduction in support will need to be agreed by the Service Manager and reviewed at the NRPF Panel. If agreed, a letter must be written to the family (see appendix 13) giving the family \*6-weeks' notice of support being reduced (\*or less if the family are returning to their country of origin or other financial support is in place prior to the end of the 6-week notice period). If the individual/family do not speak or read, clear English then a qualified interpreter should be used to read the letter to the family and signed confirmation that this has been done.

### **LEAVE STATUS GRANTED**

If the family have been granted "Leave" status in the UK, then they should be identified as now **having recourse to public funds** and can access benefits. Sometimes, the leave status changes but the family's NRPF status is not updated on their Biometric Residence Permit (BRP) (<https://www.gov.uk/biometric-residence-permits>). If this is the case, then the family will need to complete the below form immediately for NRPF status change:

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

## **5.1 CEASING SUPPORT FOR NRPF CHILDREN AND FAMILIES**

Once there has been a decision by the Home Office in respect of an individual's/family's application for Leave to Remain in the UK then their status in the UK will change, and so might their entitlement to financial support by the Local Authority. It is imperative that Nottinghamshire Social Care are up-to-date with any Home Office decision and so the process of the application with the Home Office should be checked prior to every review being held. In conjunction with the East Midlands Strategic Partnership Local Authority Members, it has been agreed that at the point at which a decision has been made by the Home Office then there will be an immediate twelve-week notification period of withdrawal of funding by the Local Authority and a letter sent to the family to inform them of this decision (see Appendix 8a/8b). A HRA will then be undertaken in order to evidence whether by withdrawing support the family would be destitute.

It is expected that the HRA will be completed within 4 weeks of notification of withdrawal of support. In most cases, this will not be identified, as the Home Office will have either refused status due to it being identified safe for the family to return to their country of origin, or will have issued Leave to Remain status which means that the family would have recourse to public funds. At the conclusion of the Human Rights Assessment a copy should be issued to the family alongside the outcome notification letter (see Appendix 9a/9b). If the case is being held within Family Service then the relevant Team Manager will contact the Social Work Practice Consultant Team to request support from a Social Work Practice Consultant to jointly complete the HRA with the allocated Rapid Assessment Worker. If the case is being managed by the DCPT then the allocated Social Worker will complete the HRA.

If the family's circumstance changes during the notification of withdrawal of support period, then this will need to be included within the HRA or a new HRA initiated. If it is identified that the family would experience destitution if financial support was withdrawn by the Local Authority then the notification period will be suspended and continuing support and review under s17 (CA 1989) will be actioned and further reviewed by the NRPF Review Panel.

Any decision to withdraw support needs to be notified to the Home Office so that they can identify whether support and accommodation will be required by them or assistance (either through voluntary return see section 5.4, or removal) is required.

## **5.2 CEASING SUPPORT FOR POST 18 UASC (APPEALS RIGHTS EXHAUSTED (ARE)) AND NRPF STATUS**

The position after a former UASC has reached 18 years of age can be complicated. If the former UASC has been accommodated under section 20 of the Children Act 1989 and identified as a "former relevant child", then they will (subject to immigration considerations described below) be entitled to leaving care support services, including accommodation where needed, from their Local Authority. These cases will also be reviewed by the NRPF lead.

Former UASC who are not identified as being former relevant children will be entitled to support from the Home Office if their asylum claim is still outstanding or be able to access mainstream benefits if they have been granted leave to remain in the United Kingdom. Access to mainstream benefits for former UASC ends if the person no longer has leave to remain in the United Kingdom which is likely to happen in cases where the former UASC has been refused asylum and the period of limited 'Discretionary Leave to Remain' that was awarded to them before they turned 18 has expired.

From this point, the former UASC is classed as "Appeals Rights Exhausted" (ARE) by the Home Office and will lose access to mainstream benefits as they will now have NRPF status.

It is important to identify whether the former UASC was a Port applicant who declared their intention to claim Asylum on entry to UK and keeps that status until they are removed from the UK as Port applicants will not come under Schedule 3 unless they are issued with removal directions and fail to comply.

If the former UASC is an 'In Country' applicant is someone who has entered the UK illegally and has status in the UK only for as long as they are considered to be an Asylum Seeker (or until such time as they are considered to be fully Appeals Rights Exhausted (ARE)). At that point they revert to their previous status, which is that of unlawfully present in the UK and thus falls within s54. If a former UASC is subject to s54, then they

are expressly prohibited from access to s23/s24 (CA 1989) support, unless to not provide this support, would constitute a breach of their Human Rights. A HRA is still required to establish whether not providing a service under s24 would be a breach to Human Rights. However, without other mitigating factors (E.g. health), then a former UASC with ARE status and no valid claim to remain in the UK, who is choosing not to avail themselves to the support of voluntary return to their country of origin and/or refusing to co-operate with removal instructions by the Home Office would not be experiencing a breach in their Human Rights if the Local Authority refused and withdrew support.

Therefore, it is crucial to identify whether there is a distinction between Port and In Country applicants when first involved with any UASC, as this will determine those who fall into schedule 3 and those who do not.

If a former UASC is identified as having ARE status, then a letter (see Appendix 7a) should be sent by the Local Authority notifying the former UASC of a 12-week notice prior to withdrawal of financial support. During this notice period, a Human Rights Assessment (HRA) should be completed. If there is a change of circumstances or the HRA concludes that support **should not** be withdrawn then the notice period will be suspended at that point. If however, the outcome of the HRA identifies that support will be withdrawn by the Local Authority then a further letter should be sent (see Appendix 7b) confirming the outcome and a referral should be made to the Home Office either via the Voluntary Returns Service or the Home Office Evidence and Enquiry Team who manage persons in the UK who may be removed.

Further guidance on this can be found at <http://www.nrpfnetwork.org.uk/SiteCollectionDocuments/are-former-uasc-paper.pdf>

### **5.2.1 21PLUS SERVICE**

Former Unaccompanied Asylum Seeking Children (UASC) who are identified as qualifying Nottinghamshire care leavers aged 21 – 24 years will be able to access the 21Plus service if they have Refugee, Leave to Remain status, or if they are pending a decision by the Home Office in respect of their asylum application.

However, if the former UASC is aged over 21 years with Appeals Rights Exhausted (ARE) status by the Home Office, then they will not be entitled to access the 21Plus Service, under Schedule 3 of the Nationality, Immigration and Asylum Act (2002), unless by not providing support, advice and/or guidance, would breach the former UASC's rights under the European Convention on Human Rights. In these cases, if it is unclear whether the former UASC would be eligible for access to the 21Plus Service then consideration of a Human Rights Assessment will be completed. However, if a Human Rights Assessment has already been completed by Nottinghamshire Social Care or another Local Authority within the last 12 months and there has been no significant change of circumstances for the former UASC, then a new Human Rights Assessment may not be required.

### **5.3 CEASING SUPPORT FOR POST 18 CARE LEAVERS WHO ARE EEA NATIONALS**

If a young person from an EEA nation has been accommodated under s20 (CA 1989) with the Local Authority for a period which would entitle them to a Leaving Care Service. However, they are identified as having NRPF status then they will need to present to the Benefits Agency to undergo the Habitual Residence Test (HRT) to see if they are entitled to claim benefits. The Local Authority will continue to support the young person whilst pending the outcome of the HRT. If it is then identified that the young person is able to access benefits then Nottinghamshire Social Care will withdraw financial support as appropriate once confirmation has been evidenced that benefits are in place. It is expected that this should be within 6 weeks of the outcome of the HRT. However, if the HRT identifies that the young person has no recourse to public funds then a twelve-week notification letter should be issued (see Appendix 10a) and then a Human Rights Assessment completed within 4 weeks' of the issue letter. If it is identified that European Community Treaty Rights may be breached if financial support is withdrawn, then financial support should continue, notice of withdrawal of support

should be suspended and then ongoing support should be reviewed as part of the Leaving Care Service and the NRPF Review Panel. However, if it is identified that withdrawal of support will not breach European Community Treaty Rights, or the young person has identified genuine and effective employment/self-funding then the notification time period will continue, and a notification letter sent (see Appendix 10b).

If the young person wishes to return to their country of origin, then assistance can be offered by the Local Authority in the manner of travel tickets.

#### **5.4 ASSISTANCE IN RETURNING HOME (TO COUNTRY OF ORIGIN)**

The Voluntary Returns Service (VRS) established by the Home Office work with individuals and families who wish to return to their country of origin with support around travel costs (tickets), travel documents, special assistance and reintegration support (money on their return to their country of origin).

VRS can be contacted on **0300 004 0202** or by emailing [voluntaryreturns@homeoffice.gsi.gov.uk](mailto:voluntaryreturns@homeoffice.gsi.gov.uk)

**Further information is available at** <https://www.gov.uk/return-home-voluntarily/assisted-voluntary-return>

## **APPENDIX 1: CONTACT DETAILS FOR THE HOME OFFICE**

### North, Midlands and Wales Immigration Compliance and Enforcement (ICE) Teams

ICE Teams work with the public and alongside police, HM Revenue & Customs, local authorities and other local partners. Their purpose is to ensure compliance with immigration laws for the benefit of the community and the economy, and to enforce immigration law (including tracking down illegal migrants and targeting companies that flout the rules by employing workers illegally).

#### Local Engagement and Interventions Officer

LEIOs are co-located within ICE Team regions across the UK to effectively support internal and external relationships at a local level, promoting joint working to achieve results based within their areas.

#### Interventions and Sanctions Unit

##### UK Visas and Immigration

Responsible for handling visa applications to come to the UK; applications to extend a stay in the UK on a temporary and permanent basis; and applications for asylum, appeals, correspondence and sponsor management.

##### Immigration Enforcement

Responsible for investigating immigration offences; detaining and removing individuals with no right to be in the UK; and preventing abuse of the immigration system.

**In ALL NRPF/Home Office cases Social Care need to check an individual/family's status by emailing [EvidenceandEnquiry@homeoffice.gsi.gov.uk](mailto:EvidenceandEnquiry@homeoffice.gsi.gov.uk) and requesting the relevant forms to be completed.**

The Home Office have given the below text as being a requirement within any request:

“Under the Data Protection Act 1998 – Section 29(3) I am making enquiries that are concerned with the prevention or detection of crime, or apprehension or prosecution of offenders, where the offence concerned involves any unlawful claim for any payment out of, or any unlawful application of, public funds. The information is also required for the determination of any underlying entitlement. Please advise what this person's immigration status is:

Name:

Alias:

DOB:

Nationality:

UK Address:

Country of Origin address (if known):”

**If you have been involved in an application for DDV and the survivor of domestic violence has not made a valid application within their 3 months Temporary Recourse to Public Funds period then you need to notify the Home Office by emailing details of this to: [I&SDreferrals@homeoffice.gsi.gov.uk](mailto:I&SDreferrals@homeoffice.gsi.gov.uk)**

**If you are withdrawing support from a family, you need to notify the Home Office by emailing details of this to: [I&SDreferrals@homeoffice.gsi.gov.uk](mailto:I&SDreferrals@homeoffice.gsi.gov.uk)**

**Any enquiries sent to the Home Office should be sent from a secure email address.**

## Human Rights Assessment

### Part A: Background information

To be completed in all cases. For help completing this part of the assessment, see [chapter 3 of the practice guidance](#).

#### Main applicant details

Name	
Date of birth	
Nationality	

#### Dependant details (family households)

##### Dependant one

Name	
Date of birth	
Relationship to main applicant	

##### Dependant two

Name	
Date of birth	
Relationship to main applicant	

[Add additional dependants as required.]

#### Eligibility for social services' support

A.1 What is the legal basis for providing support?

Select one option

A.2 Summarise the presenting reasons and/or why the person/family qualifies for accommodation and financial support.

--

A.3 Provide details and the outcome of any needs assessment/care plan/pathway plan that has been undertaken.

A.4 Is the person/ family reliant on the local authority to provide accommodation and financial support to avoid an Article 3 breach arising from their destitution in the UK?

Answer: [Select answer](#)

Briefly explain this answer with reference to the outcome of the needs assessment/care plan/pathway plan. More detail will be required if the local authority is establishing whether a discretionary power is engaged to accommodate an adult with care and support needs and alternative sources of support have not already been considered.

## Excluded group

A.5 Record the current immigration status of the main applicant.

Date of most recent immigration status check:

A.6 Which excluded group applies to the main applicant?

Answer: [Select one excluded group](#)

## Summary

A.7 Does the person/ family qualify for social services' support?

Answer: [Select answer](#)

A.8 Would the person/ family be destitute and at risk of an Article 3 breach if the local authority does not provide support when they qualify for this?

Answer: [Select answer](#)

A.9 Is the main applicant in an excluded group?

Answer: [Select answer](#)

## Next steps

When all answers to questions A.7 – A.9 are 'yes', complete part B of the template.

When one or more answers questions A.7 – A.9 are 'no', do not proceed with the assessment as there is no legal requirement to consider the person's ability to return to their country of origin.



## Part B: Barriers to return

When a person/ family qualifies for social services' support and is in an excluded group, the local authority must identify whether there is a legal barrier or practical obstacle preventing the person/ family from being able to return to their country of origin.

For family households, it is also necessary to record any legal barriers or practical obstacles that may apply to other members within the household.

For help completing this part of the assessment, see [chapter 4 of the practice guidance](#).

### Legal barriers

#### Human rights-based immigration claims

B.1 Does the person have a pending human rights application?

Answer: [Select answer](#)

Provide details with reference to any evidence.

B.2 Does the person have a pending human rights appeal?

Answer: [Select answer](#)

Provide details with reference to any evidence.

B.3 Does the person have an outstanding procedural right to pursue a human rights claim from within the UK?

Answer: [Select answer](#)

Provide details with reference to any evidence.

### Other legal action

B.4 Is there any other legal action pending or legal reason that requires the person to be in the UK or prevents them from leaving?

Answer: [Select answer](#)

Provide details with reference to any evidence.

### Practical obstacles

#### Medical/ health needs

B.5 Does the person have a medical condition, disability, or mental health condition, which prevents them from being able to travel or the local authority from being able to make return arrangements?

Answer: [Select answer](#)

B.6 If they have a health condition affecting travel, provide details with reference to any evidence and any information about how travel may be facilitated.

## Travel documentation

B.7 Does the person have valid travel documentation?

Answer: [Select answer](#)

B.8 If they do not have a valid document, can they reasonably be expected to obtain one?

Answer: [Select answer](#)

Provide details with reference to any evidence. If they can reasonably be expected to obtain travel documentation, explain how this can be obtained.

## Funds

B.9 Does the person have sufficient funds to arrange their travel? [Select answer](#)

B.10 If they do not have funds to arrange travel, explain how travel can be funded and arranged.

## Other obstacles

B.11 Are any other practical obstacles identified? [Select answer](#)

Provide details with reference to any evidence, and explain how any identified obstacles may be overcome.

## Conclusion

B.12 Summarise or list any barriers that have been identified based on the answers given to questions B.1 – B.11.

B.13 What is the outcome of the assessment?

Answer: [Select one outcome](#)

## Next steps

When a barrier to return is identified, the person/ family cannot be expected to return and social services' support can be provided to prevent a breach of human rights, so the assessment can be

concluded. To record what action will be needed to review this situation, complete B.14 & B.15 and sign off the assessment.

When no barriers preventing return have been identified, return to country of origin can be considered and Part C can be completed.

### Further action when a barrier is identified

B.14 Confirm how regularly the status of the barrier needs to be reviewed and how this will be done.

--

Date of next review:

B.15 Confirm when and how the main applicant has been informed about the outcome of the human rights assessment.

--

### Sign-off

	Name	Signature	Date
Caseworker/social worker			
Manager			

## Part C: Considering return

When there are no barriers preventing the person/ family from being able to return to their country of origin, the local authority must consider whether return would give rise to a human rights breach, taking account of the outcome of decisions that have been made by the Home Office and/ or appeal courts. If a barrier to return has been identified in part B then part C does not need to be completed.

For family households, the circumstances of each household member will also need to be considered in this part of the assessment.

For help completing this part of the assessment, see [chapter 5 of the practice guidance](#).

### Summary of relevant issues

C.1 Summarise information relevant to the assessment, such as: brief overview of local authority involvement and costs; health issues and/or care needs; family circumstances; immigration history etc.

### Main applicant's views

C.2 Record the person's views about their life in the UK/ return/ future plans.

For family households include the views of any children (where this is age appropriate).

### Home Office decisions and legal advice

C.3 Record the following information:

- Dates of Home Office/ appeal court decisions relating to relevant immigration or asylum claims.
- The outcome of these decisions.
- Any findings that have been made in relation to human rights breaches (if this information is available/ known).

C.4 Record the date and outcome of most recent independent legal advice sought by the main applicant in relation to their immigration or asylum case.

## Article 2 & Article 3

Article 2: the right to life

Article 3: the right not to be subjected to torture or to inhuman or degrading treatment or punishment

### Issues to consider

C.5 Summarise the relevant issues relating to risk on return that may give rise to a breach of Articles 2 and/or Article 3, such as availability of medical treatment or protection (asylum) grounds.

C.6 Does the main applicant need to obtain further legal advice about their immigration matter before return to country of origin can be considered?

Answer: [Select answer](#)

Explain this answer

### Next steps

When relevant matters have not been put before the Home Office, the local authority will not be able to conclude whether return to country of origin would breach a person's human rights.

If the person requires further legal advice about their immigration options, complete the conclusion (C.12 & C.13) and next steps (C.14 & C.16), or alternatively pause the assessment whilst the person is obtaining advice.

If the person does not require further legal advice, go to C.7.

### Human rights breach

C.7 Would return to country of origin give rise to a breach of Articles 2 or 3?

Answer: [Select answer](#)

Provide details with reference to any evidence and factual information being relied upon, including decisions made by the Home Office/ appeal courts (where applicable).

## Article 8

Article 8: the right to respect for private and family life

### Issues to consider

C.8 Summarise any relevant issues relating to the person's family and/or private life in the UK. For a family ensure that this is considered for all household members.

C.9 Does the main applicant need to obtain further legal advice about their immigration matter before return to country of origin can be considered?

Answer: [Select answer](#)

Explain this answer

### Next steps

When relevant matters have not been put before the Home Office, the local authority will not be able to conclude whether return to country of origin would breach a person's human rights.

If the person requires further legal advice about their immigration options, complete the conclusion (C.12 and C.13) and next steps (C.14 & C.16), or alternatively pause the assessment whilst advice is being obtained.

If the person does not require further legal advice, go to C.10.

### Best interests of a child (family households only)

C.10 Would return to country of origin be in the best interests of any children in the household?

Answer: [Select answer](#)

Explain this answer.

## Human rights breach

C.11 Would return to country of origin give rise to a breach of Article 8?

Answer: [Select answer](#)

Explain this answer making reference to any evidence and factual information being relied upon, including decisions made by the Home Office/ appeal courts (where applicable), and the answer to question C.10.

[Replicate these sections if a potential breach of any other Articles of the European Convention on Human Rights also needs to be considered.]

## Conclusion

C.12 Based on the facts of the case and what can reasonably be established by the local authority, will return to country of origin cause a breach of human rights?

Answer: [Select answer](#)

Explain this answer with reference to the outcome of questions C.6 or C.9 (if the person requires legal advice), or C.7 & C.11 (if return to country of origin has been considered).

C.13 What is the outcome of the human rights assessment?

Answer: [Select one outcome](#)

## Next steps

If relevant matters need to be put before the Home Office before conclusions about return can be drawn, social services' support can be provided to prevent a breach of human rights whilst legal advice is being obtained by the person/ family. To record what action will be need to be taken and how progress will be reviewed, complete C.14 & C.16.

If a breach of human rights can be avoided by return to country of origin, social services' support can be withheld or withdrawn, although the local authority can provide assistance with return and support whilst this is being arranged. To record what action will be need to be taken, complete C.15 & C.16.

## Further action: support provided in the UK

C.14 Confirm what action needs to be taken (such as access to legal advice), how regularly the situation will be reviewed, and how this will be done.

Date of next review:

## Further action: withholding or withdrawing support

C.15 Confirm the proposed next steps, including any support that will be provided whilst return is arranged.

--

End date of service (if applicable):

## Informing the main applicant

C.16 Confirm when and how the main applicant has been informed about the outcome of the human rights assessment. Record their response if support is being withheld or withdrawn.

--

## Sign-off

	Name	Signature	Date
Allocated Worker			
Social Worker (if different to above)			
Team Manager			
<b>NCC NRPF Leads:</b> <ul style="list-style-type: none"><li>• Gail Skillen</li><li>• Matt Wesson</li></ul>			



## **Human Rights Assessment Prompt Sheet**

When completing an Initial Assessment with adults/family who are identifying themselves as having **No Recourse to Public Funds** then you will need to consider the following questions in order to include within the Initial Assessment as to whether the adult/family is “destitute” in accordance with a Human Rights Assessment and therefore require social care support. Alternatively, you can complete a Human Rights Assessment, a template of this is from the NRPF network and found in Appendix (>>) of the NRPF Policy, Procedure and Guidelines (2014).

### **Family Composition**

Completing a genogram is preferable but make sure you include dates of birth, other names and aliases under which individuals in the family are known. Please ensure that name spellings are correct.

### **Confirmation of Identity**

Request to see any birth certificates, nationality documents (passports) or letters from the Home Office in relation to any application the adult(s)/family have made. Take a note of the Home Office Reference number if it is present on an official letter.

### **Background/Chronology**

- Identify whether the adult(s)/family have been supported by social care previously and if so, which area of the UK/World this has been.
- How long has the family/each applicant been in the UK?
- What is their current immigration or asylum status, what is the date of any decision or appeal and what applications remain outstanding (if known)?
- Is there any reason why the family cannot return to their country of origin (please set out in full)?

### **Housing/Employment and Income**

- What is the adult(s)/family’s current financial situation?
- What accommodation is they living in and is this remaining available in the short-term / long-term?
- What previous accommodation has the applicant/family had? How was that lost?
- How has the adult(s)/family supported themselves until now? – Charity donations / local religious/community groups / friends and family members / employment (legal or illegal) – if working then you need to identify which employer this is with and the details of their income and whether they pay tax and national insurance.

### **Family and Environmental Factors**

- Are there any other people or organisations that have provided or could provide any support?
- What other family or relatives do the family have in this country? What contact does the family have with them?

### **Returning to their Country of Origin**

Establish whether or not it is possible for adult(s)/family to return home to their country of origin. What reasons are they presenting for not returning home (choice / wish to wait until the application is responded to by the Home Office / fear of returning to country of origin / cannot afford travel costs)?

- If returning to their country of origin then does the family have:
  - Appropriate finance for travel costs?
  - Passports / travel documents
  - What help would the family need?
- What difficulties, whether in terms of employment, schooling, medical provision or otherwise, would be caused were the family to return to their identified country of origin?

### **Other Considered Information**

- Are there any other factor(s) which have an impact on the adult(s)/family's current situation?
- Is the adult fleeing from domestic violence (please refer to the NRPF Policy, Procedure and Guidelines in relation to the Home Office "DDV Scheme" for those identified as survivors of domestic violence whose status in the UK was reliant on their former partner).

### **Assessment and Recommendations**

You need to consider whether there would be a breach of Article 3 or Article 8 of the UN Convention on Human Rights (1951):

- Article 3: if support were refused or withdrawn would the individual/family be subject to treatment amounting to torture or to inhuman or degrading treatment or punishment.
- Article 8: If the family or individual returned to county of origin, would the right to respect for private and family life be compromised?

In the case of failed asylum seekers, should individual/ family be applying for support under section 4 of the Immigration and Asylum Act 1999 or do they have other means of support?

In the case of clients from the EU, would returning to their country of origin interfere with their exercise of EU Convention rights?

## APPENDIX 4: GLOSSARY OF ABBREVIATIONS AND KEY TERMS IN RELATION TO NRPF

<b>ARE</b>	Appeals rights exhausted
<b>CA</b>	Children Act
<b>DLR</b>	Discretionary Leave to remain
<b>DVR</b>	Domestic violence rule
<b>ECHR</b>	European Convention on Human Rights
<b>EEA</b>	European Economic Area
<b>EU</b>	European Union
<b>HRA</b>	Human Rights Acts
<b>IAA</b>	Immigration and Asylum Act
<b>ILR</b>	Indefinite Leave to Remain
<b>LA</b>	Local Authority
<b>MHA</b>	Mental Health Act 1983
<b>NAA</b>	National Assistance Act
<b>NAM</b>	New Asylum Model
<b>NASS</b>	National Asylum Support Service (now part of UKBA)
<b>NIA</b>	Nationality, Immigration and Asylum Act
<b>NRPF</b>	No recourse to public funds
<b>OISC</b>	Office of Immigration Service Commissioners
<b>SAL</b>	Standard Acknowledgement Letter
<b>UASC</b>	Unaccompanied asylum seeking child
<b>UKBA</b>	United Kingdom Border Agency / Home Office

### DEFINITIONS

#### **ARC**

Application Registration Card, issued by the UKBA to asylum seekers as a form of identification.

#### **ASYLUM SEEKER**

An asylum seeker is a person who is not under 18 and who has made a claim for asylum which has not been determined.

#### **CLANDESTINE ENTRANT**

Illegal entrants who enter the UK without passing through any immigration control.

#### **DISCRETIONARY LEAVE TO REMAIN (DLR)**

A period of leave granted where neither humanitarian leave, refugee status nor leave within Immigration rules is granted.

#### **EUROPEAN UNION/ACCESSION STATES/EEA**

##### **EU Member States**

Austria; Belgium; Denmark; Finland; France; Germany; Greece; Ireland; Italy; Luxemburg; Netherlands; Portugal; Spain; Sweden; UK.

**Accession States**

Cyprus; Czech Republic; Estonia; Hungary; Latvia; Lithuania, Malta; Poland; Slovakia; Slovenia; Bulgaria; Romania. (Malta and Cyprus – full membership rights immediately on joining).

**EEA**

The European Economic Area comprises EU member states, plus Iceland, Norway & Liechtenstein. For freedom of movement purposes Switzerland is also treated by all EEA members as if it is a member of the EEA.

**EXCEPTIONAL LEAVE TO ENTER/REMAIN (ELTE/ELTR)**

Permission to remain or enter the UK. Now replaced by Humanitarian or Discretionary Leave.

**HUMAN RIGHTS ACT (1998) HRA**

Incorporates European Convention on Human Rights (ECHR) into UK law.

**ILLEGAL ENTRANT**

A person who is physically in the UK and has entered in breach of Immigration law.

**ILLEGAL IMMIGRANT**

Not a correct term in Immigration law.

**INDEFINITE LEAVE TO REMAIN/ENTER (ILR/ILE)**

Granted subject to immigration controls. Also referred to as settled status, permanent residence. A family reunion visa is also equivalent to indefinite leave to remain.

**LAWFULLY RESIDENT**

A person who has current permission to remain in the UK or is in the UK awaiting the outcome of an appeal.

**LEAVE OUTSIDE THE RULES**

The UKBA may exercise discretion and grant someone leave to remain even if the person does not meet the criteria of Immigration Rules.

**OVERSTAYER**

A person who was lawfully present in the UK but whose permission has now expired and is in breach of immigration rules and liable to removal.

**NO RECOURSE TO PUBLIC FUNDS (NRPF)**

Individuals and/or families that have entered the UK and are not eligible to claim welfare benefits, including access to housing and some health costs.

**REFUGEE**

The United Nations Geneva Convention of 1951 defines a refugee as:

“Any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such a fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his habitual residence, is unable, or owing to such fear, unwilling to return to it.”

**REFUGEE STATUS**

Recognition by the UKBA of an asylum seeker as a refugee under the 1951 Convention leads to the grant of ILR/ILE. There are various rights including family reunion and issue of travel documents.

**REFUSED ASYLUM SEEKERS**

Also known as “failed asylum seekers” – someone who has claimed asylum, but received a negative decision from the Home Office.

**SAL**

Standard Acknowledgement Letter which is a temporary form of identification until ARC is issued.

**SUBJECT TO IMMIGRATION CONTROL**

Any person who needs leave to enter or remain. Leave may prohibit access to public funds.

**UNACCOMPANIED ASYLUM SEEKING CHILD**

Is a person who, at the time of making the asylum application who:

- Is or, there is no proof to the contrary, under eighteen.
- Is applying for asylum in his or her own right.
- Has no adult relative or guardian to turn to in this country.

**EEA COUNTRIES (as of August 2022)**

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden

<https://www.gov.uk/eu-eea>

## **APPENDIX 5: LIST OF ACCEPTABLE EVIDENCE**

### **Acceptable evidence:**

- Home Office document giving Nottinghamshire County address
- Tenancy agreement showing date of occupancy
- Letter from Benefit Agency/NCC department regarding inability to claim or cessation of benefit
- Letter from legal representative which gives details of current status

### **Acceptable evidence for support:**

Original documents must be provided. In exceptional circumstances, certified copies will be accepted if stamped and certified by the Home Office or Legal Representative. All or some of the following evidence may be required:

- Standard Acknowledgement Letter (SAL)
- Benefits Book
- Biometric Residence Permit (BRP)
- Birth Certificate
- Identification Card (ID Card)
- Asylum Registration Card (ARC)
- Home Office Letters
- Marriage Certificate
- Photographic Evidence
- National Insurance Number (NINo.)
- Passport
- Letter from Legal Representative
- Bank Statements / Building Society Book(s)
- Tenancy Agreement
- P60 / P45
- Driving Licence
- Referral from Voluntary Agency

**APPENDIX 6: NRPF BUDGET CODES (UPDATED AUG 2022)**

103494	DCPT Newark & Bassetlaw
103500	DCPT Mansfield
103497	DCPT Ashfield
103503	DCPT BGR
103484	Assessment Team South (Use: if being stepped-down to the Family Service)
103485	Assessment Team North (Use: if being stepped-down to the Family Service)
104728	Court Team

All UASC should be issued with their own individual budget code, this can be obtained by contacting the Finance Team (County Hall) and should be logged on the front screen of the young person's Framework episode and so the NRPF code should not be used for these cases.

**APPENDIX 7a: TEMPLATE LETTER FOR NOTIFICATION OF SUPPORT WITHDRAWAL – ARE POST 18**

This matter is being dealt with by:



**Name:**

**Reference:**

**Email:**

**Web:** [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk)

**PRIVATE & CONFIDENTIAL**

Address

Date

Dear

**Re: Withdrawal of Financial Support by Nottinghamshire Children, Families and Cultural Services – Leave Status Refused**

We have received notification that you have been refused leave status in the UK and that the Home Office has identified you as having all your Appeals Rights Exhausted (ARE).

Therefore, Nottinghamshire Children, Families and Cultural Services are issuing a twelve-week notification from <DATE OF DECISION> that we shall be withdrawing all financial support to <you/your family> in relation to previously being identified as having No Recourse to Public Funds, with all payments ceasing by <DATE OF WITHDRAWAL>.

The Home Office has identified that it is safe for you to return to your country of origin and as such will not be destitute if the local authority were to withdraw funding. However, we will be in contact with you to undertake a Human Rights Assessment to clarify this under the guidance of the European Convention on Human Rights.

In the meantime, as you currently have no further pending decisions from the Home Office in relation to your leave status, then you may wish to choose to return to your country of origin voluntarily. To discuss this further you can contact the Home Office on 0300 004 0202 or contact your <Social Worker/Personal Advisor> for support around this process.

Yours sincerely,

NAME

TEAM MANAGER

Department

**Nottinghamshire Children, Families and Cultural Services**



**APPENDIX 7b: TEMPLATE LETTER FOR CONFIRMATION OF SUPPORT WITHDRAWAL – ARE POST 18**

This matter is being dealt with by:

**Name:**

**Reference:**

**Tel:**

**Fax:**

**Date:**



**Private and Confidential**

Name

Address

Date

Dear

**Re: Withdrawal of Financial Support by Nottinghamshire Children, Families and Cultural Services – Leave Status Refused**

Following the completion of a Human Rights Assessment, Nottinghamshire Children, Families and Cultural Services have assessed that you will not be identified as destitute under the guidance of the European Convention on Human Rights if financial support from the Local Authority is withdrawn.

Therefore, the twelve-week notification of support withdrawal continues and we shall be withdrawing all financial support to <you/your family> in relation to previously being identified as having No Recourse to Public Funds, with all payments ceasing by <DATE OF WITHDRAWAL>.

It is encouraged that you seek assistance from the Home Office in relation to any accommodation, financial or support needs that you have in respect of you returning to your country of origin.

Yours sincerely,

NAME

TEAM MANAGER

Department

**Nottinghamshire Children, Families and Cultural Services**

**APPENDIX 8a: TEMPLATE LETTER FOR NOTIFICATION OF SUPPORT WITHDRAWAL – LEAVE GRANTED**

This matter is being dealt with by:

**Name:**

**Reference:**

**Tel:**

**Fax:**

**Date:**



**Private and Confidential**

Name

Address

Date

Dear

**Re: Withdrawal of Financial Support from Nottinghamshire Children, Families and Cultural Services – Leave Status Granted**

We have received notification that you have been granted leave status in the UK which should mean that you will now have recourse to public funds.

Therefore, Nottinghamshire Children, Families and Cultural Services are issuing a twelve-week notification from <DATE OF DECISION> that we shall be withdrawing all financial support to <you/your family> in relation to previously being identified as having No Recourse to Public Funds, with all payments ceasing by <DATE OF WITHDRAWAL>.

It is now important for you to complete your applications for appropriate financial support via benefits or employment in accordance to your leave status. You have a responsibility to notify Nottinghamshire Children, Families and Cultural Services when you start receiving your benefit/income payments as at this point there will be a review about withdrawing financial support with immediate effect. Failure to engage and apply for appropriate financial support now that you have been issued recourse to public funds, may result in you having no income if this is not established prior to the current financial support withdrawal date identified above.

Yours sincerely,

NAME

TEAM MANAGER

Department

**Nottinghamshire Children, Families and Cultural Services**

**APPENDIX 8b: TEMPLATE LETTER FOR NOTIFICATION OF SUPPORT WITHDRAWAL – STATUS REFUSED**

This matter is being dealt with by:



**Name:**

**Reference:**

**Email:**

**Web:** [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk)

**PRIVATE & CONFIDENTIAL**

Address

Date

Dear

**Re: Withdrawal of Financial Support by Nottinghamshire Children, Families and Cultural Services – Leave Status Refused**

We have received notification that you have been refused leave status in the UK and you do not have any pending decisions remaining with the Home Office.

Therefore, Nottinghamshire Children, Families and Cultural Services are issuing a twelve-week notification from <DATE OF DECISION> that we shall be withdrawing all financial support to <you/your family> in relation to previously being identified as having No Recourse to Public Funds, with all payments ceasing by <DATE OF WITHDRAWAL>.

The Home Office has identified that it is safe for you to return to your country of origin and as such will not be destitute if the local authority were to withdraw funding. However, we will be in contact with you to undertake a Human Rights Assessment to clarify this under the guidance of the European Convention on Human Rights.

In the meantime, as you currently have no further pending decisions from the Home Office in relation to your leave status, then you may wish to choose to return to your country of origin voluntarily. To discuss this further you can contact the Home Office on 0300 004 0202 or contact your allocated worker for support around this process.

Yours sincerely,

NAME

TEAM MANAGER

Department

**Nottinghamshire Children, Families and Cultural Services**

**APPENDIX 9a: TEMPLATE LETTER FOR NOTIFICATION OF SUPPORT ACCEPTANCE – AT REFERRAL**

This matter is being dealt with by:

**Name:**

**Reference:**

**Tel:**

**Fax:**

**Date:**



**Private and Confidential**

Name

Address

Date

Dear

**Re: Request for Support from Nottinghamshire Children, Families and Cultural Services Accepted.**

Following the completion of a Human Rights Assessment, and evidence of a pending decision regarding an application to the Home Office for leave status, Nottinghamshire Children, Families and Cultural Services have assessed that you will be identified as destitute under the guidance of the European Convention on Human Rights if financial support from the Local Authority is not provided.

Therefore, we will be offering you support (including financial assistance) as of <DATE OF DECISION> as part of an ongoing support plan under the guidance of the Children Act 1989.

The support offered (including financial arrangements) will be reviewed regularly and amended in accordance with any change of your current circumstances or decisions issued by the Home Office in relation to your pending application. You will be notified of any changes by your allocated worker.

If during this period you wish to discuss support with returning to your identified country of origin then please contact <NAME OF WORKER> on <TELEPHONE NUMBER>.

Yours sincerely,

NAME

TEAM MANAGER

Department

**Nottinghamshire Children, Families and Cultural Services**

**APPENDIX 9b: TEMPLATE LETTER FOR NOTIFICATION OF SUPPORT REFUSAL – AT REFERRAL**

This matter is being dealt with by:

**Name:**

**Reference:**

**Tel:**

**Fax:**

**Date:**



**Private and Confidential**

Name

Address

Date

Dear

**Re: Request for Support from Nottinghamshire Children, Families and Cultural Services Refused.**

Following the completion of a Human Rights Assessment, and the request for evidence of a pending decision regarding an application to the Home Office for leave status, Nottinghamshire Children, Families and Cultural Services have assessed that you will not be identified as destitute under the guidance of the European Convention on Human Rights if financial support from the Local Authority is not provided.

Therefore, we will not be offering you support (including financial assistance) at this present time.

It is advised that you speak with the Home Office in respect of your current status in the UK and if you are entitled to support from them in returning to your country of origin.

If you experience a change in your current circumstances or believe that any children in your care are at significant risk of harm then you will need to re-refer via the Multi-Agency Safeguarding Hub (MASH) on 0300 456 4546.

Yours sincerely,

NAME

TEAM MANAGER

Department

**Nottinghamshire Children, Families and Cultural Services**

**APPENDIX 10a: TEMPLATE LETTER FOR NOTIFICATION OF SUPPORT WITHDRAWAL – EEA NATIONAL**

This matter is being dealt with by:



**Name:**

**Reference:**

**Email:**

**Web:** [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk)

**PRIVATE & CONFIDENTIAL**

Address

Date

Dear

**Re: Withdrawal of Financial Support by Nottinghamshire Children, Families and Cultural Services – EEA NATIONAL**

It has been identified that you are currently living in the UK as a European Economic Area (EEA) National. As an outcome of the Habitual Residence Test you have been identified as having No Recourse to Public Funds.

Therefore, Nottinghamshire Children, Families and Cultural Services are issuing a twelve-week notification from <DATE OF DECISION> that we shall be withdrawing all financial support to <you/your family> in relation to your No Recourse to Public Funds status, with all payments ceasing by <DATE OF WITHDRAWAL>.

We will be in contact with you to undertake a Human Rights Assessment to clarify your status under the guidance of the European Convention on Human Rights and the European Community Treaty Rights. However, in the meantime you may wish to choose to return to your country of origin voluntarily. To discuss this further you should contact your allocated worker for support around this.

Yours sincerely,

NAME

TEAM MANAGER

Department

**Nottinghamshire Children, Families and Cultural Services**

**APPENDIX 10b: TEMPLATE LETTER FOR CONFIRMATION OF SUPPORT WITHDRAWAL – EEA NATIONAL**

This matter is being dealt with by:



**Name:**

**Reference:**

**Email:**

**Web:** [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk)

**PRIVATE & CONFIDENTIAL**

Address

Date

Dear

**Re: Withdrawal of Financial Support by Nottinghamshire Children, Families and Cultural Services – EEA NATIONAL**

Following the completion of a Human Rights Assessment, Nottinghamshire Children, Families and Cultural Services have assessed that you will not be identified as destitute under the guidance of the European Convention on Human Rights and would not be in breach of your European Community Treaty Rights if financial support from the Local Authority is not provided.

Therefore, Nottinghamshire Children, Families and Cultural Services shall be withdrawing all financial support to <you/your family> in relation to previously being identified as having No Recourse to Public Funds, with all payments ceasing by <DATE OF WITHDRAWAL>.

In the meantime you may wish to choose to return to your country of origin voluntarily. To discuss this further you should contact your allocated worker for support around this.

Yours sincerely,

NAME

TEAM MANAGER

Department

**Nottinghamshire Children, Families and Cultural Services**