



Nottingham
City Council

Children and Families (including adults)

Policy and practice guidance in respect of those with no recourse to public funds (NRPF)

Agreed by: Tajinder Madahar

Date Agreed: 1st April 2019

To be reviewed: March 2021

Author(s): Samantha Danyluk

Contents

Part 1	NRPF Policy	
Chapter 1	Introduction	3
Chapter 2	Legal Duties	4
Chapter 3	Policy Statement	5
	General	5
	Adults	5
	Families with dependent children	6
	Former unaccompanied asylum seeking children (UASC)	7
	Survivors of domestic abuse	7
	Trafficking	8
	Provision of interim support	9
	Principles and service standards	10
Part 2	Practice guidance for practitioners	
Chapter 4	Practice Guidance	12
	Legal framework	12
	General good practice	13
Chapter 5	Specific practice guidance for assessments	15
	Establishing eligibility	15
	Providing Support	15
	Refusing Support	16
	Interim Support	17
	Families where an adult may be entitled to care from Adult	
	Services in their own right	17
	Survivors of Domestic Abuse	17
Chapter 6	Working towards ceasing support	22
	Withdrawing support	22
	Assistance in returning home	22
Appendices		24

PART 1 – NRPF POLICY

Chapter 1

INTRODUCTION

There are, and will always exist in Nottingham, a small number of people who have no recourse to public funds (NRPF) and are destitute. Whilst not all these people will approach the local authority for support there will inevitably be a significant number that do.

Nottingham City Council (NCC) wishes to provide a robust, humane, fair and transparent response to those with no recourse where barriers exist to return 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 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 that is to be provided.

Chapter 2

LEGAL Framework

2.1 Asylum and immigration continues to be a highly sensitive 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. 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.

2.2 The Immigration Bill 2015-2016 will reform 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 in order 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.

- 2.3 Asylum seeking families will cease to be provided with support under section 95 of the Immigration 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. During this time, they will be expected to arrange 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.
- 2.4 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 affecting their status of remaining in the UK.
- 2.5 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.
- 2.6 It is important to remember that in exercising powers, all relevant factors must be considered, irrelevant ones ignored, and the local authority cannot fetter its discretion by strictly applying a blanket policy.
- 2.7 For Adult Social Care Fair Access to Care Services (FACs) criteria do not apply when assessing whether or not residential accommodation under Section 21 National Assistance Act 1948 should or must be provided for people with NRPF.

Chapter 3

POLICY STATEMENT

3.1 GENERAL

3.1.1 Nottingham City Council (NCC) will strive to meet the needs of those with no recourse to public funds, within the framework of UK legislation, national policy and the responsibilities of local authorities.

3.1.2 NCC will promote links and work collaboratively with other local authorities, voluntary agencies and statutory bodies to ensure that those with no recourse to public funds are assessed, provided with appropriate support and, have their cases resolved in an appropriate manner.

3.2 ADULTS

3.2.1 Where an individual destitute adult presents to NCC, and it appears they may have need for health or social care provision, they will be referred to the **Nottingham Health and Care Point (0300 300 3333)** and a trained practitioner will first determine their immigration status. Their eligibility for services will depend on their level of need and immigration status. If it seems that there is reasonable potential for them to be eligible, then an assessment of their needs will be carried out in accordance with the Assessment Guide (Appendix 5).

3.2.2 Where an eligible need is established, services will be delivered through the appropriate care management process as with all social care services

3.2.3 Vulnerable adults who go missing after services are provided will be reported by their social worker to the Home Office.

3.3 FAMILIES WITH DEPENDENT CHILDREN

3.3.1 Where a family presents to NCC they will be referred to **Children and Families Direct (0115 876 5600)** where a trained practitioner will first assess their level of need. If it seems that there is reasonable potential for them to be eligible for funding then the family will be allocated to a qualified Social Worker.

3.3.2 Where the Social Worker believes that the adult may qualify in their own right for support from adult services then the adult will be referred to Adult Services for a separate assessment. Where a duty to the adult is owed, Adult services will meet the cost of accommodation needs for the adult. Children's Integrated Services will fund the cost of additional bedrooms for any children.

3.3.3 Where the adult does not qualify for support in their own right but the child is eligible for support then Children's Integrated Services, will tailor its support in a way designed to enable the family to stay together where possible. This is in consideration of article 8 of the European Convention on Human Rights (ECHR), the child's human right to respect for private and family life. Separating children from their family at a point of hardship is unlikely to be in their best interests. Families with NRPF will be treated no differently from other families in that separation from parents will only be considered where there are significant safeguarding concerns.

3.4 FORMER UNACCOMPANIED ASYLUM SEEKING CHILDREN (UASC)

3.4.1 When a UASC reaches 18, they may qualify for continued support under the Children Act or as an adult under the National Assistance Act or from NASS, depending on their immigration status.

3.4.2 A decision needs to be made by Head of Service, as to the entitlement no later than 6 months before their 18th birthday. This decision must be made in consultation with the Head of Service Children in Care because their entitlement will be affected by their immigration status at that time. Where a person is a national of an EEA country or unlawfully in the country, NCC is prevented from providing support under the National Assistance Act (s.21 (1) (aa)) unless to fail to provide support would result in a breach of the person's human rights. UASC that are 15 years old will be regarded as children in care with all entitlements and benefits as outlined in Volume 3 Planning Transitions to Adulthood Care Leavers Children Act 1989, April 2011.

3.4.3 Where there is evidence of a possible health and/or social care need, they will be referred to Adult Services at that stage (17½) for an assessment of need pursuant to s.21 of the National Assistance Act 1948. Social workers from both Children's Services and Adult Services will support the individual through

transition. Any decision on financial support under NAA or other welfare legislation will be made by Adult Services in conjunction with the Children in Care Service, who have a duty to provide 'leaving care' services (which can include accommodation in certain circumstances) for UASC in appeal situations where status is not determined until their entitlement to 'leaving care' services ends.

3.5 SURVIVORS OF DOMESTIC ABUSE

3.5.1 Nottingham City 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.*”

3.5.2 Where a survivor of domestic abuse presents to NCC they should be dealt with along the same lines as those set out above in parts 3.2 and 3.3. However, when considering eligibility and in particular “ordinary residence” some exceptions can be made for those that are destitute due to being survivors of domestic abuse.

3.5.3 Where the survivor is ordinarily resident in a different area then the costs and support should be shared between the two authorities.

3.6 VICTIMS OF TRAFFICKING AND MODERN DAY SLAVERY

3.6.1 The Care Act 2014 requires a local authority to undertake an enquiry to prevent or stop abuse or neglect, where the council has reasonable cause to suspect that an adult in its area who has care and support needs (whether these are being met or not), is experiencing or is at risk of this, and is unable to protect themselves from the abuse or neglect due to their needs.

3.6.2 The Statutory Guidance specifies that abuse or neglect includes modern slavery, which encompasses: slavery, human trafficking, forced labour, domestic servitude, and where traffickers and slave masters use whatever means they

have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment.

3.6.3 A person's nationality or immigration status should not prevent a local authority from following its safeguarding procedures when this duty is engaged. Schedule 3 of the Nationality, Immigration and Asylum Act 2002 does not prevent the local authority from undertaking an enquiry and taking any necessary action to stop abuse or neglect.

3.6.4 When a person is identified as being a potential victim of trafficking or modern slavery, the local authority must notify the National Referral Mechanism (NRM). Where the person has NRPF, the safeguarding plan will need to explore what housing options are available. This could include:

- Housing available through the NRM
- Consideration within the needs assessment to establish whether accommodation can be provided under the Care Act 2014; and/or
- Consideration as to whether section 1 of the Localism Act 2011 will require the local authority to provide housing in order to prevent a breach of human rights or to comply with the EU Anti-Trafficking Directive.

3.6.5 Even if no further action is taken following the safeguarding enquiry, the person should be provided with information about housing options if they have NRPF. Information about statutory support options is set out here.

3.6.6 Local authorities are under a duty under section 52 of the Modern Slavery Act 2015 to notify the Home Office about a potential victim of trafficking or modern slavery. This is done by making a referral to the National Referral Mechanism (NRM) if the person's consent is obtained. If the person does not consent to a referral, then the local authority is still required to complete the MS1 notification form.

3.6.7 When a referral is made to the NRM, housing and subsistence support is provided by the Salvation Army and partner organisations during the recovery and reflection period of 45 days, during which time the person can consider their options. They should receive a conclusive grounds decision about whether they

are a victim of trafficking or not as soon as possible after 45 days. When they receive a positive grounds decision they are entitled to further 14 days' support, however, the Home Office considers extensions on a discretionary basis. During this period, victims are expected to decide whether to return to their country of origin or apply for discretionary leave to remain, which if successful will allow the person to have recourse to public funds. If the person receives a negative conclusive grounds decision, then their support will only continue for two days.

- 3.6.8 There are often gaps between the Salvation Army support stopping and the person being able to access benefits following a grant of discretionary leave to remain, leaving victims homeless and destitute.

In the case of R (Galdikas & Ors) v Secretary of State for the Home Department & Ors (2016), a group of EEA nationals who received positive conclusive grounds decisions brought a legal challenge against the Home Office claiming that the support provision following a conclusive grounds decision was not adequate. In this case the judge found that, in order to comply with Article 11 of the EU Anti-Trafficking Directive, which requires the UK to provide support and assistance including 'appropriate and safe accommodation', consideration of an application for discretionary leave to remain includes a duty to provide support pending the determination of this application.

- 3.6.9 This case makes it clear that support should continue following a positive grounds decision whilst the person's discretionary leave application is pending, but does not explicitly state where responsibility lies for providing this. With extensions of NRM support currently being time limited and dependent on the discretion of the Home Office, there will be instances when it falls to the local authority to provide support.

- 3.6.10 Local authority supporting a victim of trafficking or modern slavery may be eligible for accommodation under the Care Act 2014. Where this does not apply, the local authority would need to consider using section 1 of the Localism Act 2011 to provide support.

- 3.6.11 A potential or confirmed victim of trafficking may request a needs assessment with a view to establishing whether they require care and support, including accommodation. Many people who have been subject to trafficking or modern

slavery are reported as experiencing high levels of depression, anxiety and Post Traumatic Stress Disorder. Therefore, it is highly likely that such a person will present with an appearance of need, and so would need to be assessed as usual under the Care Act 2014.

3.6.12 Where a potential victim of trafficking has eligible care and support needs, the local authority will need to consider whether to provide accommodation in order to meet their needs. When a person is receiving housing through the NRM, then the local authority would need to take into account the person's wishes and suitability of the accommodation to determine whether their care and support needs can be met whilst they are living there. For example, the local authority would need to establish whether carers would be permitted to enter a safe house or whether any necessary adaptations can be made in the accommodation. There may therefore be instances when, even though NRM support is available, it falls to the local authority to provide accommodation.

3.6.13 When a person is in a group excluded by Schedule 3 of the Nationality, Immigration and Asylum Act 2002, the local authority will also undertake a human rights assessment because care and support can only be provided where this is necessary to prevent a breach of a person's human rights or EU treaty rights. When a person is waiting for their determination through the NRM or a decision on an application for leave to remain following a positive conclusive grounds decision, then it is likely that the outcome of a human rights assessment would be that any eligible care and support needs will need to be met, at least until these decisions are made. However, when there are no longer any legal or practical barriers preventing the person from leaving the UK, the local authority may not have a duty to provide support if the person can return to their country of origin.

3.7 PROVISION OF INTERIM SUPPORT

3.7.1 Where the issue of interim support presents a challenge, as on the one hand there is a risk that support will be provided unlawfully but conversely there may be an urgent need for interim support around housing and subsistence, an initial judgement will be taken on a cases-by-case basis considering factors such as:

- The apparent likelihood that the household will be eligible
- The urgency of the presenting need

- The possible consequences of not providing support (particularly in homelessness cases)

3.7.2 The Home Office provides accommodation and subsistence support to asylum seeking adults and families under Sections 4 and 95 of the Immigration & Asylum Act 1999. Where there is a delay in the provision of this support, NCC can provide temporary support and assistance depending on the presenting circumstances and eligibility. This may include Interim relief when a decision has been agreed by the Home Office to provide support.

PART 2 – PRACTICE GUIDANCE FOR PRACTITIONERS

Chapter 4

PRACTICE GUIDANCE

Detailed guidance for those assessing families with NRPF can be accessed at:

<http://guidance.nrpfnetwork.org.uk/reader/practice-guidance-families/>

Detailed guidance for those assessing adults with NRPF can be accessed at:

<http://www.nrpfnetwork.org.uk/Documents/Practice-Guidance-Adults-England.pdf>

Chapter 5

5.2 PROVIDING SUPPORT

5.2.1 Where it is assessed that support or assistance must be provided, this should be kept under regular review and the allocated worker must keep themselves informed of any change in the person's circumstances. This includes changes in a person's immigration status, which may affect NCC's obligation to provide support or assistance.

5.2.2 Accommodation and subsistence support should be provided in line with the support packages commonly agreed (Appendix 4) whilst ensuring that the person's needs are sufficiently met.

5.2.3 Their care and support needs should be dealt with in the same way as those who have recourse to public funds (as far as this is possible).

5.3 REFUSING SUPPORT

5.3.1 All assessment decisions must be recorded in writing and authorised by a Team Manager, and the outcome clearly communicated to the person in appropriate language and format. The assessment outcome should clearly state why the applicant is not eligible, or no longer eligible for support. It should also be made clear that, should their circumstances worsen and/or change (though remaining destitute), then they should re-present to NCC for a

reassessment.

- 5.3.2 Any adverse findings (e.g. that a person's account is not truthful) must be put to the person so that they may have a chance to respond. Any new information provided by the person after the decision, or any alternative explanations must be considered.
- 5.3.3 If the person has been receiving support and this is to be withdrawn, reasonable notice must be given to allow the person to make alternative arrangements and what constitutes reasonable notice will depend on the person's circumstances.
- 5.3.4 Information should be given to people ineligible or refused support of voluntary organisations that might be able to provide support (see appendix 13 for details).
- 5.3.5 In regards to EEA migrants (or people who gained refugee status in another EEA state), local authorities have the power to purchase travel tickets to enable an individual to return to their country of origin, when it would be an effective response to avoid a breach of a person's human rights (under Withholding and Withdrawal of Support (Travel Assistance and Temporary Accommodation) Regulations 2002). Embassies may also be able to purchase travel tickets for their nationals. Pending their return to the relevant EEA state, the local authority can provide time-bound interim accommodation, but has no power to provide cash payments.
- 5.3.6 Should practitioners believe that support has been claimed fraudulently, such suspicions should be reported to the responsible Service Manager for consideration as to whether any legal action against the claimant should be considered.

5.4 INTERIM SUPPORT

- 5.4.1 Where the presenting need is urgent, consideration needs to be given to whether or not interim support should be provided pending completion of the assessments.

5.5 **ASSESSING ADULTS ELIGIBLE FOR AFTERCARE UNDER SECTION 117 OF THE MENTAL HEALTH ACT 1983**

5.5.1 Section 117 of the Mental Health Act 1983 applies to those individuals detained under section 3, section 37, Section 47 or Section 48 of the Act.

5.5.2 Those with NRPF remain entitled to services under section 117 of the Mental Health Act 1983. There are no restrictions on what can be considered 'aftercare' however aftercare must meet needs relating to the identified mental illness and reduce the likelihood of readmission into psychiatric hospital.

5.5.3 Accommodation may be required as aftercare and can be provided to those with s117 eligibility if the need for accommodation is:

- a direct result of the original condition which led to the persons detention
- the accommodation required is enhanced specialised accommodation to meet need directly arising from the original condition and
- placement in such accommodation is involuntary due to lack of capacity relating to the original condition

5.5.4 If the above criteria cannot be satisfied then consideration for accommodation under section 8 of the Care Act must take place.

5.5.5 If a person who has NRPF is being considered for discharge from s117 of the Mental Health Act 1983 their NRPF status and their immigration status should be considered as part of this process. An assessment under s8 of the Care Act 2014 may be required to establish entitlement to services. A Human Rights Act assessment would then follow to determine the local authority's duty to provide services.

5.6 **SURVIVORS OF DOMESTIC ABUSE**

5.6.1 Nottingham City 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.”

- 5.6.2 Survivors of domestic violence who are from abroad and have NRPf will usually have been granted limited leave to enter the United Kingdom as a spouse or a fiancé of a person present and settled in the UK. This leave is granted subject to a condition that the individual has no recourse to public funds, although individuals granted leave as spouses or civil partners are permitted to take up employment.
- 5.6.3 Where the criteria for the Home Office’s Destitution Domestic Violence (DDV) concession scheme are met this will be pursued to enable a temporary period of recourse to public funds whilst their case is considered. This will enable access to mainstream provision (such as domestic violence refuges) and should remove the requirement for support from NCC. The Department for Works and Pensions (DWP) should assist in this matter by ensuring that all staff are trained to accept the special proof of entitlement provided to people under the DDV concession. See Appendix 5 for further details of this scheme and how to access it. At the same time it should be ensured that the adult has made an application for indefinite leave to remain under the domestic violence concession rule.
- 5.6.4 If a survivor of domestic abuse refuses to apply for the DDV concession, it is likely that any consequent breach of their Human Rights (by, for example, destitution) will be considered a consequence of the individual’s own actions, rather than a consequence of any steps taken by NCC, meaning that they would not be eligible for support.
- 5.6.5 Spouses and partners of EEA nationals fleeing domestic violence may be entitled to alternative support (depending on their individual circumstances) and should seek advice from the DWP regarding what support or benefits they may be entitled to.
- 5.6.6 Survivors of domestic abuse from abroad will be assessed within the ordinary legal framework.

- 5.6.7 The applicant needs to demonstrate their need for care and support OR their eligible need under section 13 of the Care Act 2014 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. Applicants will need to demonstrate eligibility for support and financial assessments will be undertaken. An ECHR assessment will be carried out if required. Decisions will be served in writing and in person and the applicant will be required to sign for receipt of that decision.
- 5.6.8 For lone survivors, assessment should be made under the provisions of the Care Act 2014 and for families there should be a joint assessment under that Act and under the Children Act 1989.
- 5.6.9 Expectant and Nursing mothers continue to qualify for support under the Care Act 2014 and should be assessed accordingly.
- 5.6.10 Survivors of domestic abuse are more likely to be particularly vulnerable and to meet the criteria for “destitute plus” (see Assessment Guidance).
- 5.6.11 In most cases Schedule 3 of the Nationality, Immigration and Asylum Act 2002 will not apply to them because they will not be here in breach of immigration law. In cases where Schedule 3 does apply, they will be entitled to support if withholding or withdrawing support would result in a breach of their Human Rights.
- 5.6.12 Applications for leave to remain under rule 289A of Immigration Rules should be made with legal advice and applicants should be asked to obtain a specialist Immigration legal advisor.
- 5.6.13 The Council will require evidence of destitution (or imminent destitution), no recourse to public funds and that an application for leave to remain has, or is being made, under rule 289A, before services are provided. Acceptable evidence is a: passport (indicating NRPF), ECHR assessment (including financial assessment), Immigration check, Home Office letter(s), or letter(s) from legal advisor. Where destitution is imminent, the decision of whether or not to provide help and assistance at that point in time should be taken on a

case-by-case basis. The benefits and risks of an early intervention to both the council and the service users should be considered.

5.6.14 This does not affect any immediate short term provision that is provided in cases of urgent need to ensure the welfare and safety of the individual or family.

5.6.15 Assessment and support should be as per that set out within the NRPF Networks Practice Guidance for Local Authorities with the following extra considerations as per 5.6.15 – 5.6.19

5.6.16 **Step 1 Establishing Ordinary residence**

Support under s.17 CA is not based on ordinary residence. Considerations in relation to ordinary residence can apply, however, when assessing whether other sources of support are available to a family. Fleeing domestic abuse is however, likely to be considered a good reason to move from one area to another.

5.6.17 In relation to adult only support, a survivor of domestic violence who flees to another local authority remains ordinarily resident in the local authority from which they fled, until such time as they are permanently housed in another local authority. In these situations, the survivor is still ordinarily resident in their original authority but is physically in need of services in the new authority. Partnership working is advantageous in meeting the individual's needs.

5.6.18 Where there is a duty on the original local authority to provide support to people who have an assessed need for care and attention, the original authority should pay rent and subsistence. The new authority is responsible for providing local services in respect of health, community care, education etc. Should the responsible authority not pay this then NCC will pay these costs instead and will seek to recoup these costs from the responsible authority. Support should not be withheld whilst such disputes are resolved.

5.6.19 **Step 2 Establishing eligibility for support under immigration and other law**

Assessors should be mindful that in most cases Schedule 3 of the Nationality, Immigration and Asylum Act (2002) will not apply to them because they will not be here in breach of immigration law. In cases where Schedule 3 does apply, they will be entitled to support if withholding or withdrawing support would result in a breach of their Human Rights.

5.6.20 **Step 3 Establishing Destitution**

Assessors should be mindful that in assessing whether an individual is destitute-plus domestic violence may be relevant.

Chapter 6

6.1 WITHDRAWING SUPPORT

- 6.1.1 When clients supported under community care legislation are granted indefinite leave to remain in the UK, they no longer have NRPF and are entitled to work or access mainstream benefits.
- 6.1.2 If support is to be withdrawn, a reasonable notice period must be given to enable citizens to make the transition onto mainstream support. Any withdrawal of support will be notified in writing. Any decision to withdraw support must be agreed by a Team Manager
- 6.1.3 This may be a difficult period for clients, particularly single adults, who may not necessarily be deemed in priority need for social housing. Further, adults supported under Section 21 NAA are unlikely to have the funds to afford a rent deposit in order to enter the private rented sector and their additional needs associated with their particular conditions may prevent them from entering into full-time employment.
- 6.1.4 In referring clients for assistance under the Housing Act 1996, it is good practice to make referrals early and to provide the case background, any recent medical information and any assessments of relevance. Explain why the person may not be able to obtain accommodation for themselves and why a rent deposit scheme may be needed.
- 6.1.5 All families who have been supported by Children's Integrated Services will be referred to the Welfare Rights Service.

6.2 ASSISTANCE IN RETURNING HOME

- 6.2.1 Where a person wishes to return voluntarily, and is staying in the UK illegally, or has previously claimed asylum or whose visa has expired, assistance is available from the Home Office. The allocated worker will assist the family in making plans and contacting the Home Office if this is their decision.

APPENDICES

	Page No.
Appendix 1 List of Public Funds	22
Appendix 2 Glossary of abbreviations and key terms	23 - 26
Appendix 3 Appeals Process	27
Appendix 4 Support Provided	28
Appendix 5 DDV concession scheme	29-31
Appendix 6 MARF	32-35

Appendix One: List of Public Funds

- Income based Job Seekers Allowance
- Income Support
- Child Tax Credit
- Working Tax Credit
- A Social Fund payment
- Child Benefit
- Housing Benefit
- Council Tax Benefit
- State Pension Credit
- Attendance Allowance
- Severe Disablement Allowance
- Carers Allowance
- Disability Living Allowance
- An allocation of Local Authority Housing
- Local Authority homelessness assistance

Health care and education do not count as public funds, although an individual's immigration status may affect whether they are eligible for them.

Appendix Two: Glossary of Abbreviations and key terms in relation to NRPF

ARE	Appeals rights exhausted
BRP	Biometric Residency Permit
CA	Children Act
DLR	Discretionary Leave to remain
DVR	Domestic violence rule
ECHR	European Convention on Human Rights
EEA	European Economic Area
EU	European Union
HRA	Human Rights Acts
IAA	Immigration and Asylum Act
ILR	Indefinite Leave to Remain
LLTR	Limited Leave To Remain
LA	Local Authority
MHA	Mental Health Act 1983
NAA	National Assistance Act
NAM	New Asylum Model
NIA	Nationality, Immigration and Asylum Act
NRPF	No recourse to public funds
OISC	Office of Immigration Service Commissioners
SAL	Standard Acknowledgement Letter
UASC	Unaccompanied asylum seeking child

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.

BRP

This is the Biometric Residency Permit card which all families receive once Leave to Remain has been agreed by The Home Office. Families need this card in order to access

all public benefits including housing assistance. If families do not have recourse to public funds, it will say this on the back of the card

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.

LIMITED LEAVE TO REMAIN (LLTR)

Limited Leave to Remain requires family to depart the UK at the end of the specified visa period (30 months), or to make a further application to the Home Office, through either an extension, further leave or indefinite leave to remain, to ensure they retain lawful immigration status.

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.

Appendix Three: Appeals Process (Against decisions made by the council)

- The client will be given 14 (fourteen) days to appeal any decision made by the Council. The client must be advised to submit the grounds, including any supporting evidence, in writing to the Team Manager within 14 days of the date of the letter. The Team Manager will convene an appeals panel which will consist of at least 2 people, and will be constituted from the following classes of personnel: Team Manager, Head of Service, Welfare Rights Officer, Social Worker (Children / Disabilities / Elderly / Mental Health). An interpreter will be provided if required.
- The Client should be invited to attend the appeals panel meeting. A legal representative will not be allowed save for exceptional circumstances although the client will be allowed to bring along a non-legal representative to support them through the process. Any request for a legal representative must be made in advance and the Panel will decide whether or not to allow a legal representative. Should the Panel require legal advice, this will be taken before the Panel meets or, if necessary, after the Panel. Should the Panel wish to have legal advice during the panel meeting itself, the Client will be advised that s/he would in these circumstances be entitled to bring a legal representative. The Panel may adjourn to consider the appeal or request further evidence. The Client will be informed of the decision, in person or in writing by recorded delivery within 5 working days of the panel decision. A copy of the complaints procedure will be included with the decision letter. The decision letter must indicate the reasons and refer to appropriate legislation.
- The decision of the panel is final.
- Any further substantive evidence produced at a later date will be considered if that evidence is validated.

Appendix Four: Support Provided

NCC will assess the level of support required to avoid a breach of the client's human rights. As a guide, NCC will consider this, in financial terms as against Section 95 (s.95) asylum support rates. 2018/2019 rates are detailed in the table below. We will review s.95 rates on a yearly basis to ensure that we continue to reflect this benchmark. Where other support is available to a household then the amount of support provided by NCC will be reduced proportionately.

Type of person/people	£/week
Married or in a civil partnership couple	£75.50
Lone Parent (18 years old or over)	£37.75
Single person (18 years old or over)	£37.75
16/17 year old	£37.75
Under 16 year old	£37.75
Baby under 12 months old	An additional £5
Pregnant women and children under 3 years old	An additional £3

Appendix Five: The Destitution Domestic Violence (DDV) Concession

Introduction

On 1 April 2012 the UK Border Agency (UKBA) introduced the Destitution Domestic Violence (DDV) concession to replace The Sojourner Project. A person who successfully qualifies for this concession will receive temporary leave for three months, which allows them to apply for access to public funds (including jobseeker's allowance, income support and housing benefit). During this three month period the person should make a separate application for indefinite leave to remain under the Domestic Violence Rule.

For more information on the Domestic Violence Rule see the UKBA website:

[http://www.ukba.homeoffice.gov.uk/visas-immigration/settlement/applicationtypes/applicationformset\(dv\)/](http://www.ukba.homeoffice.gov.uk/visas-immigration/settlement/applicationtypes/applicationformset(dv)/).

Who is eligible for the DDV concession?

There are strict eligibility criteria for the concession, which applies to single adults and adults with children. To meet the UKBA's criteria a person must:

- Have entered the UK or been given leave to remain as a spouse, civil partner, unmarried or same sex partner of a British citizen or someone present and settled in the UK; and
- Have had that relationship break down due to domestic violence; and Be destitute and in need of financial help; and
- Intend to make a claim to stay permanently in the UK under the Domestic Violence Rule.

Spouses of EEA nationals do not fall within the scope of the concession and, at the present time, it does not cover the spouses of Commonwealth soldiers resident in the UK.

How to access the DDV concession

A person who meets the eligibility requirements can notify UKBA of their need to access public funds by submitting the 'protecting victims of domestic violence' notification form, which is available online at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/residency/dv-notification-form.doc>.

The notification form can be emailed or posted to UKBA, but email is recommended where possible, since notifications submitted by post are processed more slowly.

What next?

If a person is granted three months leave under the DDV concession this will replace the leave given to enter or remain as a spouse or partner. If a migrant does not submit an application for indefinite leave to remain to the UK Border Agency within the three month period, their leave will come to an end and they will be expected to either apply to regularise their leave in the UK in another category or leave the UK.

The UK Border Agency encourages applicants to submit applications for indefinite leave within six weeks of being granted leave under the concession, which is similar to the time periods that were used in the Sojourner project, to allow them time to make a decision whilst an applicant has access to public funds.

If there is a serious reason why an application is unable to be submitted within the three month temporary leave period, the applicant or their representative must contact the UK Border Agency and discuss the reason of the possible delay.

As long as a person submits an application before their temporary leave expires, their leave will continue until they are either granted further leave, their application is rejected or, if they choose to appeal a rejection, until their appeal rights are exhausted.

What does this mean for local authorities?

Once an eligible person has been granted temporary leave they are eligible to access, or apply to access, public funds, including housing benefit, seek support from domestic violence shelters or apply for a homelessness assessment at their local authority housing office. However, until a person with no recourse to public funds has submitted their notification under the DDV concession, and until UKBA has responded (usually within 1-2 days), an applicant will not have access to public funds.

Social services departments should assess a person or family fleeing domestic violence in these circumstances in the usual way, taking into account a local authority's duty to protect victims of domestic violence¹. Where a person appears eligible for the DDV concession, the proportionate response is likely to be the provision of temporary support while their notification is processed.

The DDV concession only applies to people whose leave to enter or remain in the UK was as a partner of a British citizen or person settled in the UK and so social services departments may come across cases where the concession will not apply. In this situation the presenting person or family should be assessed in the usual way, taking into consideration whether they have no recourse to public funds under Schedule 3 Nationality and Immigration Act 2002.

For more information on assessing and supporting people with NRPF see the NRPF Network's guidance, available online at:

http://www.islington.gov.uk/advice/asylum-immigration/refugees_migrants/nrpf_network/Pages/policy_guidance.aspx.

Frequently asked questions

What evidence needs to be supplied with a notification?

A person notifying UKBA under the DDV concession does not have to supply evidence that they are a victim of domestic violence with their notification, but this evidence will need to be supplied with any later application under the Domestic Violence Rule.

¹ As stated in *Opuz v Turkey* (2009) (Application no. 33401/02)

How long will UKBA take to process a notification?

The DDV concession is still relatively new, but so far the indications are very positive. In the majority of cases, if a notification is submitted to the UK Border Agency before 3pm via email, a decision to grant three months temporary leave is being issued on the same day. Notifications can be submitted via post but this will delay a decision and the applicant potentially having access to vital public services.

The UK Border Agency has a target to outcome notifications within 5 working days of receipt.

How does an eligible person access benefits?

Once UKBA has issued an eligible person with temporary leave to remain they should apply for benefits as usual, for example by applying to the Department for Work and Pensions. As with any benefits application, there will be a gap between applying and receiving financial benefits, but payments should be backdated to the date a valid application was made. During this gap it is possible for an individual to apply for a crisis loan through Jobcentre Plus. A person granted leave under the DDV concession is exempt from both stages of the habitual residency test for benefits.

The UK Border Agency will provide the applicant with a letter to present to the Department for Work and Pensions explaining their status.

Are there any problems with the DDV concession?

So far the DDV concession appears to be working well, but we are monitoring its impact, so please feel free to let us know if you identify any problems.

More Information

Further details about the DDV concession are available:

- By contacting the NRPf Network on: 020 7527 7121 or nrpf@islington.gov.uk.
- On the UKBA website –
<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/residency/FAQs-DDV-concession.pdf>

<http://www.ukba.homeoffice.gov.uk/visas-immigration/while-in-uk/domesticviolence/>
- From DWP –
<http://www.dwp.gov.uk/docs/u2-2012.pdf>
- From the Women's Resource Centre –
http://www.wrc.org.uk/what_we_do/campaigns/women_with_no_recourse_to_public_funds/resources_for_womens_organisations_supporting_women_with_no_recourse_to_public_funds.as

Appendix Six

MARF FORM



Nottingham
City Council

CHILDREN'S SERVICES Multi Agency Request for Services Form (MARF)

This form should be used to make a referral/request for services to Nottingham City Council Children's Services for safeguarding or support services.
(Where you believe there is immediate risk of significant harm please contact the Police.
For urgent safeguarding concerns please make the referral by telephone to 0115 8764800 and submit the MARF (within 48 hours)

Send the MARF to Nottingham City Council Children's Services by secure email: CandFDirect@nottinghamcity.gov.uk

CONSENT AND CONFIDENTIALITY (NB when seeking consent please ensure that parents/carers understand that the information will be shared with services where considered appropriate to do so)

Is this a safeguarding referral?

DETAILS of the child/young person you are making the referral/request about

FAMILY NAME		FIRST NAME (S)	
DOB / AGE/EDD		GENDER	
ETHNICITY		RELIGION	
FIRST LANGUAGE		INTERPRETER NEEDED	
Disability	If you are aware that the child has a diagnosed disability, please provide details including any Education, Health and Care Plan (EHCP).		
NHS No			
ADDRESS			
HOME TELEPHONE		MOBILE No.	
GP ADDRESS		Health Visitor, School Nurse, Family Nurse Practitioner	
NURSERY / SCHOOL / CHILDREN CENTRE			
Has this referra/request been discussed with the			

parent/carer ?					
Has the parent given consent to the referral/request being made?					
What are the parents/carers views about your concerns and this referral/request? What is the family/individual hoping to achieve?					
Has this referral/request been discussed with the child/young person?					
What are the child/young person's views about your concerns and this referral/request? What is the Child/Young Person hoping to achieve?					
If the answer is 'no' to any of the above please state reason why. NB Requests for support services need parent consent.					
Is there any information contained in this referral/request that needs to remain confidential from the child or family? If yes please outline specific information to remain confidential and why.					
<u>NB</u> DETAILS OF THE REFERRER, A PROFESSIONAL, CANNOT REMAIN CONFIDENTIAL UNLESS THERE ARE <u>EXCEPTIONAL</u> CIRCUMSTANCES.					
Name of person completing referral/request					
Relationship to child					
Date					
Telephone number					
Secure email					
Address					
FAMILY COMPOSITION AND HOUSEHOLD MEMBERS					
NAME	M/F	DOB	Relation to child	Ethnicity	Language
SIGNIFICANT OTHERS – NOT IN THE HOUSEHOLD.					
NAME & Contact Details if known	M/F	DOB	Relation to child	Ethnicity	Language

Have you initiated or completed a CAF/ Priority Families Assessment? Yes					
If yes please submit CAF/ Priority families Assessment with this form.					
Name and contact details of Lead Worker:					
Presenting issues in the family household at the time of this referral. This information will be used to pre-check eligibility for Priority Families.					
Parents & children involved in crime or anti-social behaviour		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known			
Children have not been attending school regularly		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known			
Children who need help		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known			
Adults out of work or have serious debt issues		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known			
Young people at risk of worklessness.		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known			
Domestic violence and abuse		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known			
Parents and children with health problems		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known			
DETAILS OF THE REFERRAL/REQUEST—(Harm/Need Statement) What are you worried about?					
Provide reasons for the referral; describe the (significant) harm that has already happened/ likely to happen to the child/unborn. Include how those responsible for the child were involved. If this is a request for support services please state why additional support is needed. .					
What do you know about this family, why are you involved?					
What's Working Well? - What contributes to the child's general wellbeing?					
What's Working Well? Existing Safety -Describe actions taken by parents/caring adults that are proven to help meet the child/young person's needs or reduce the danger /risk when it occurs – give examples of how and when this happened.					
DANGER/WORRY STATEMENT: If things carry on without change, what are you worried will happen in the immediate future, medium and long term. Be specific and base your thinking on research and professional expertise.					
Outline what you are worried the parent/carer may do or not do or will happen in the future and the possible impact of these actions on the child/ren. Which are the most significant for the child and describe the likely impact on their safety or well-being if					

there needs remain unmet?

Having thought about what you're worried about and what is working well, rate how worried you are about _____ today and why ?
Where on a scale of 0-10. Where 10 means that everything that needs to happen for the child to be safe and well is happening and no extra professional involvement is needed
0 means things are so bad the child is no longer able to live at home.

Based on everything that you currently know please provide your safety/wellbeing scale along with the reason why to help us understand your level of worries about the situation.

What needs to happen? SAFETY /WELLBEING GOALS. Describe precisely what outcomes you need to see to be satisfied that _____ is safe and their needs are being. This must directly relate to the Danger/worry Statement.

What needs to change in order to make the situation safer and healthier for the child? What would indicate that progress is being made? What would you need to see to say this problem was really sorted?

ACTION. What do you expect to happen next? (be specific about support being requested and focus for any assessment and who you think should contribute to that assessment)

The information provided here and above will help determine the urgency and nature of any action required, particularly the need for statutory intervention. Please consider whether the child's primary need is for protection and requires urgent statutory intervention.

Please detail any special needs or circumstances of any family member, which may affect this referral or communication and understanding between the family and professional agencies.

DETAILS OF OTHER AGENCIES INVOLVED WITH THE FAMILY/CHILD (REN): The form also allows for other agencies to be listed. Details of agencies involved allows for easier sharing of information and therefore more effective provision of service/support. Please list all agencies, working with the family

Agency	Names	Address and tel. no.	Current involvement

ANY FURTHER RELEVANT INFORMATION