

No Recourse to Public Funds – Children and Families

The Local Authority Perspective



Political Dimensions

- **Limited financial resources to local councils**
- **One spend is at the cost of another**
- **Differing political views in relation to people from abroad**
- **Community cohesion**
- **Local Government**



Overview of legal position

- **Relevant legislation – primarily National Assistance Act, Children Act 1989 and immigration legislation**
- **Considerable case law, shifting sands**

Financial Support

- **Duty or power to provide financial support from residual legislation – s 17 CA 1989**
- **When drafted did not foresee recent developments and LAs not generally seen as having income maintenance responsibilities**

Nationality Immigration and Asylum Act 2002, s54, and Schedule 3

PRECLUDES L.A. PROVIDING SUPPORT UNDER S17 OF THE CHILDREN ACT AND 21 OF THE NATIONAL ASSISTANCE ACT 1948 TO CERTAIN GROUPS OF PEOPLE UNLESS IT IS NECESSARY TO PREVENT A BREACH OF THEIR RIGHTS UNDER ECHR



Nationality Immigration and Asylum Act 2002, s54, and Schedule 3 – relevant groups

- **Citizens of countries in the European Economic Area**
- **Anyone who has claimed asylum in an EEA country**
- **Failed asylum seeker not complying with removal directions**
- **Living in the UK in breach of immigration laws within the meaning of s11 of the same Act**

Nationality Immigration and Asylum Act 2002, s54, and Schedule 3 – relevant groups

Living in the UK in breach of immigration laws, within the meaning of s11 of the same Act INCLUDES visa overstayers even if they have latterly submitted an application to remain.



Nationality Immigration and Asylum Act 2002, s54, and Schedule 3 – guidance to Local Authorities

Can provide accommodation to children under s20 of the Children Act 1989



Children Act 1989

- **S17 – general DUTY to safeguard and promote welfare of children in their area and as far as is consistent with this to promote upbringing in families**
- **MAY provide assistance in kind by provision of accommodation or, in exceptional circumstances in cash**

Profile of Families Who May Seek Support

- Failed asylum seekers who did not have a child when the claim failed
- Failed habitual residents – UK citizens who have lived abroad
- Women who entered the UK for marriage and report domestic violence (**may be ineligible under s54**)
- **Visa overstayers**
- **People coming from EU countries**

Other support

- **Provision of financial support or accommodation s17 CA 1989 is a POWER not a DUTY of the Local Authority**
- **Must look to other means of available support to families**
- **Asylum seekers or failed asylum seekers may be eligible for support from UKBA**
- **Others – need to look to family, friends and other networks**

Domestic Violence

- Often women are visa overstayers, but were they able to submit further applications?
- Often local authorities are supporting notwithstanding s54.
- Recognise that DV takes many forms, not just physical abuse
- Different attitudes to DV in different cultures.
- A number of women are failing their immigration application

Child safeguarding

- **Safeguarding does not just apply in UK and need to consider how needs can be met including overseas**
- **Recognise that provisions of s54 can be at odds with child safeguarding considerations, especially in relation to domestic violence. Caselaw supports offer as accommodation to children under s20 CA 1989 as local authority response.**

NRPF Network

- **Subgroup of ADCS/ADASS asylum taskforce**
- **Adults and children's work**
- **Disseminating knowledge and practice guidance**
- **Policy development**
- **www.islington.gov.uk/Health/ServicesForAdults/nrpf_network**

