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Inside this issue

This briefing focuses on the work currently being undertaken by the No Recourse to Public Funds (NRPF) Network. In this issue, we report back on the latest NRPF Network and Red Cross event in Birmingham, we consider significant developments in case law, the UKBA's proposed Draft (Partial) Immigration and Citizenship Bill, a new training programme run by the NRPF Network and a fresh new look for the NRPF Network webpages.

Families with Children who have No Recourse to Public Funds Event, Birmingham and Midland Institute, July 1st 2008

The Families with Children who have No Recourse to Public Funds (NRPF) event, held at the Birmingham and Midland Institute on 1st of July 2008, was the second of four events hosted by the NRPF Network and the Red Cross addressing specific issues relating to destitute people from abroad with NRPF.

Subsequent conferences this year will address the issues of domestic violence and access to healthcare.

The conference was attended by over 100 delegates from a range of sectors and organisations: 51% from local authorities, 46% from the community and voluntary sector, 1% from health services and 2% from central government.

Presentations were given by a panel of experts, including:

- Carey Baff – Operational Manager, Children's Services, Birmingham City Council

- Frank Hughes – Deputy Director, UK Borders Agency, West Midlands, East Midlands and East of England
- Lisa Nandy - Policy Adviser, Children's Society
- Allan Norman – Principal Social Worker / Solicitor, Birmingham Law Centre

These were followed by questions & answers and four workshops, looking at case studies of visa overstayers, accession state nationals, asylum cases where one parent has assessed care needs and a refused asylum seeker who gives birth in the UK.

This event aimed to consider eligibility for services, barriers to accessing and providing local authority assistance and complex cases, including the limitations placed on local authorities by immigration legislation and child safeguarding duties; and to promote cooperation between local authorities, the voluntary sector and central government.

Key Issues

Key issues highlighted at the event included:

- Difficulties associated with the transition between UKBA support and local authority support on being granted status
- All rights exhausted refused asylum seekers who have a child after the ARE date not being eligible to claim UKBA support
- The potential of the New Asylum Model and case resolution to increase NRPF problems in the short term
- The 'limbo' situation of some nationals not being able to return to their country of origin, yet being unable to work or access mainstream benefits
- The difficulties of contacting case owners within the UKBA
- The length of time it takes for Section 4 support to be issued

Presentation Summaries

Carey Baff – Birmingham City Council

Carey outlined the legal framework in which local authorities determine eligibility for services and conduct assessments for families with children who have NRPF. She highlighted the political pressures facing councils, particularly with the rise of extremist political parties. She also highlighted the limited funds available to social services departments to provide services to NRPF clients. Of particular concern to local authorities is the conflict between child safeguarding duties and immigration legislation, particularly in domestic violence cases.

This presentation can be accessed using the following link and scrolling to the bottom of the page: <http://tinyurl.com/6qpeyz>

Frank Hughes – UK Borders Agency

Frank outlined the current work of the UKBA, its current achievements and targets for the near future. In February 2008 the UKBA launched a three-year strategy to improve confidence in the department. The department is implementing a large programme of

changes including introducing a points system for migrants entering the country to work, fines for employers who employ migrants who are unlawfully in the country, closing down legacy asylum cases and allocating every case to a case owner. Future programmes will focus on deporting criminals, counting foreign nationals in and out of the country and making 'quicker, fairer and firmer' asylum decisions.

Frank stated that there was no reason for refused asylum seekers to be destitute because support was available either through Section 95 or Section 4. There are two schemes run by the International Organisation for Migration (IOM) for those who want to return home – the Voluntary Assisted Return and Reintegration Programme (VARRP) for refused asylum seekers, and the Assisted Voluntary Return for Irregular Migrants (AVRIM). In regards to domestic violence, he stated that government policy is being considered and that they are committed to finding a permanent solution.

Lisa Nandy – Children's Society

Lisa highlighted the increasing number of destitute asylum seeking children presenting to Children's Society projects. She referred to research conducted by the Children's Society on destitution in Birmingham amongst refused asylum seekers: *Living on the Edge of Despair: Destitution amongst Asylum Seeking and Refugee Children*. Some of the reasons they became destitute included poor quality or lack of legal advice, and confusion over entitlements. You can access the report summary here: <http://tinyurl.com/5ftkfu>

Lisa pointed to the planned simplification of immigration law, with the consolidation of immigration legislation post-1971 in a single Act of Parliament. This represents an opportunity to remove the complexities of existing legislation.

Lisa acknowledged the difficult position of local authorities working in a field where children's and immigration law conflict. This is

particularly the case in relation to Section 9. The Children's Society worked with the Association of Directors of Social Services (ADSS) to overturn this policy. However, she also noted some concerns including the lack of consistency across local authorities and difficulties associated with voucher systems.

Allan Norman –Birmingham Law Centre

Allan provided a historical background to NRPF and how government policy and court rulings have shaped the field.

Allan highlighted the importance of understanding the different categories of people subject to immigration control in order to know how to get support for them. He also provided a social work perspective on this issue, noting that children may be at risk of harm whether they are subject to immigration control or not. By diverting a family's concerns to immigration teams within local authorities, children's needs may go unnoticed.

This presentation can be accessed using the following link and scrolling to the bottom of the page: <http://tinyurl.com/6qpeyz>

Participant Feedback

The event was very well attended, with over 100 participants travelling to Birmingham from across the UK. There was a particularly large presence from the voluntary sector. Participants gave positive feedback on the whole and valued in particular the panel of speakers and the opportunity to discuss some of the issues in the workshops.

Some suggestions which we will take forward in planning future events include increasing the length of events, recommending preparatory reading material and providing greater opportunities for networking.

The next conference will take place in Leeds in October on the subject of victims of domestic violence who have NRPF. More information on the conference will be available soon.

R (on the application of M) v Slough Borough Council

Test case R (on the application of M) v Slough Borough Council (July 2008) will potentially impact on current NRPF cases being supported by local authorities under section 21 of the National Assistance Act 1948 (NAA) and on future assessments of eligibility for local authority assistance for people subject to immigration control.

M is a Zimbabwean national who is HIV positive and arrived in the UK in 2001 on a six-month visa and subsequently made an application under Article 3 HRA. M was entitled to UKBA asylum support on account of this application. The local authority, on assessing M, concluded that he was not owed a duty under section 21 NAA on the grounds of his medical condition. This

decision was successfully challenged by judicial review.

The local authority appealed to the Court of Appeal and this was dismissed. The local authority then appealed to the House of Lords who allowed the appeal because they held that his medical condition did not warrant a need for "care and attention" under section 21 NAA.

It was held that the words "care and attention" in the context of the NAA signify being "looked after" physically, for example needing help with dressing, toileting or shopping, or a need to be watched over to prevent harm to oneself or to others. A need for medical treatment alone does not constitute a 'need' under section 21 NAA.

Additionally, section 21 NAA only applies to current needs and not future needs.

At this stage it is not possible to have an accurate understanding of the impact of the ruling. If local authorities are to review current cases and/or to amend assessment processes, they should seek legal advice

prior to making any decisions. The NRP Network guidance for local authorities on assessing and supporting people who have NRP will be updated in light of this judgement in due course.

To access the full judgement, please use the following link: <http://tinyurl.com/5af44x>

Draft (Partial) Immigration and Citizenship Bill – A Call for Evidence from the UKBA and the Home Affairs Committee

The UKBA published a Draft (Partial) Immigration and Citizenship Bill on the 14th of July, which will be presented to Parliament in the next session. The draft Bill broadly covers five key areas: strengthening the UK's borders, introducing a points-based system for economic migrants, 'earning' the right to citizenship or permanent residence, tackling illegal working and restricting rights of appeal, and managing local impacts of immigration.

A copy of the draft Bill, along with a response to the 'Path to Citizenship' consultation, can be accessed using the following link: <http://tinyurl.com/63od39>. The draft Bill extends the period in which migrants will have NRP. Refugees will be exempt from the NRP requirement.

UKBA Public Scrutiny Questionnaire

The UKBA are seeking views on specific elements of the draft Bill and have provided a public scrutiny questionnaire for organisations and individuals to provide feedback.

Specific questions we would welcome views on, with reference to the draft Bill, are:

- Do you think that there should be a clear duty on foreign nationals in the UK to have permission to be here?

- Do you agree we should streamline powers of expulsion to send those without permission home as quickly as possible?
- Do you agree that citizenship should only be given to foreign nationals who show that they deserve the right to stay in the UK?
- Do you agree that we should improve the protection of vulnerable groups within the immigration system?

To access a copy of the questionnaire, please use the following link: <http://tinyurl.com/6f5hed>

Home Affairs Committee Consultation

The Home Affairs Committee, charged with scrutinising the work of the Home Office, is calling for written evidence on the draft Bill before it takes oral evidence in the autumn. The NRP Network will respond to this consultation, focusing on the five key areas covered in the draft Bill and the potential impact on local authorities.

Your Contribution

We would welcome any evidence or comments from your organisation relating specifically to NRP for inclusion in the NRP Network's responses to these consultations. Please send any evidence and/or comments to

**jonathan.price@islington.gov.uk
before the 29th of August.**

NRPF Network Training Programme for Local Authorities

The NRPF Network has developed a training programme for local authorities to enable them to:

- identify who is eligible and who is not eligible for a service from the local authority, based on a solid understanding of the relevant legislation;
- to understand complex cases and identify the best course of action;
- to be familiar with good practice in assessing and supporting NRPF cases;
- and to be aware of the policy context of NRPF and developments in the field.

The training takes place over the course of a full day and trainers will come to your local authority to conduct the training. Past experience has shown that it is beneficial to bring together practitioners from across the local authority for the training – this might include asylum teams, social workers, caseworkers, healthcare professionals, policy officers and managers.

For more information and details of the cost of the training, please see:

<http://tinyurl.com/5pkdut>

NRPF Network Webpages Update – www.islington.gov.uk/nrpfnetwork

The NRPF Network webpages have been updated to reflect the current work of the Network and to improve accessibility. They can be accessed here:

www.islington.gov.uk/nrpfnetwork

The new and updated pages are as follows:

Events

This page provides details about upcoming NRPF Network events; booking forms will also be available here. Past events are also listed on this page, in addition to event reports and copies of panel presentations:

<http://tinyurl.com/6qpeyz>

FAQs

This page provides answers to frequently asked questions about NRPF. Although the answers do not constitute legal advice, they provide options for common scenarios facing local authorities: <http://tinyurl.com/58cra8>

Join the Network

Joining the Network will be easier with our new proforma. This page outlines the benefits of membership: <http://tinyurl.com/6qx95o>

Policy and Research

The NRPF Network's research and policy work is detailed on this page, including responses to government consultations:

<http://tinyurl.com/5aq3th>

Regional Networks

Details of the Regional NRPF Networks are provided on this page, including who to contact in order to attend the meetings, and when and where the meetings take place:

<http://tinyurl.com/5uz9v9>

Resources

Research and policy papers on destitution amongst people subject to immigration control are listed here, with the most recent papers first: <http://tinyurl.com/5k8sp4>

Training

This page provides details of the NRPF Network training programme (more information above), including aims & objectives and costings:

<http://tinyurl.com/5pkdut>

WE WANT TO HEAR FROM YOU

The NRPF Network is starting work to develop guidance on supporting A8 and A2 nationals. To support the development process, we would like to understand current practice, learn about any existing models of good practice and hear about your key issues and challenges.

Please help us by:

- Sending us copies of any guidelines, protocols or other frameworks that you have relating to supporting A8 and A2 nationals;
- Letting us know the key issues that you believe need to be addressed in the guidance.

The NRPF Network is committed to supporting and working with local authorities, the voluntary sector and central government. The Network has over 500 subscribers and our web site attracts over 1000 web hits per month.

We would also like to thank the UK Borders Agency (UKBA) for their continued support to the NRPF Network and for being committed to continued working with local government.

For further information or to unsubscribe, please contact: nrpf@islington.gov.uk or tel 020 7527 7107

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