

## Inside This Issue

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## Inside this issue

The December briefing will focus on accommodation and housing needs of people with no recourse to public funds (NRPF). As people with NRPF are not entitled to any housing or homeless support, social services departments are often being requested to assess people for support. This briefing will also review the past 12 months and the work of the NRPF Network.

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## Accommodation and Housing needs

### Background

The Housing Act 1996 section 185 (2A) as amended by Immigration Asylum Act 1999 has the effect that a person who is not entitled to have recourse to welfare benefits, is not entitled to housing assistance.

The Homeless Act 2002 has further amended sections 160A and 185 of the 1996 Act to prevent individuals who have no entitlement by virtue of Immigration and Asylum Act 1999, to Housing Benefit. The Nationality Immigration and Asylum Act 2002 further curtailed the assistance that can be given to homeless people from abroad subject to immigration control.

Therefore, it falls to Social Services departments to assess if a person's need for care and attention is above and beyond 'mere' destitution, that is, that the person is destitute plus<sup>1</sup>. A person subject to immigration control for the purposes of s115 Immigration and Asylum Act (IAA) 1999 cannot be provided with accommodation under s21 (1)(a) National Assistance Act 1948 if his need for care and attention has arisen solely because he is destitute or because of the actual or anticipated physical effects of him being destitute.

Thus a local authority is barred from providing support where the person's need is for accommodation alone. Local authorities also have a power to provide support to adults with children under s17 of the Children Act 1989. This support can include accommodation and subsistence. A local authority is not prevented from assisting a child under this provision.

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<sup>1</sup> Slough BC v M (2006) EWCA Civ 655

## **Accommodation Support**

Local Authorities vary in the type of accommodation used to house people with NRPF, with some council's establishing spot contracts with housing agents and others using bed and breakfast, hostel accommodation or a combination.

Having spot contracts with accommodation providers or agents is a good way for local authorities to secure good quality, and cost effective accommodation. It also prevents contractual obligations disputes between housing agent and the Council e.g. termination period, costs, repair request etc.

## **Difficulties**

A major difficulty for many local authorities is that they are reliant on the private sector for the procurement of accommodation that meets housing standards; the clients' needs and is cost effective.

A further difficulty is finding accommodation suitable for people with physical disabilities or in wheelchairs. This is due to a general lack of availability of ground floor wheelchair accessible accommodation in the private sector. Accommodation procured for people with no recourse to public funds is considered to be temporary housing and thus installing aids and equipment within the home can be difficult, as the landlord may not consent to adaptations to their property.

## **Good Practice**

Good practice when providing accommodation is to consider the client's needs in light of accommodation available and try and come up with a suitable outcome. This may include taking into consideration a client's age, gender and special needs such as physical disabilities, mental health or physical health needs. Local authorities need to consider what is feasible and what is not. Placing a client in an area they desire may not be feasible but providing accessible accommodation that is clean and safe is feasible. Tensions may often arise between the client and the local authority and efforts should be made to resolve issues or explain the situation.

When providing accommodation, the Council's duty is to provide housing that meets both their own Housing standards plus standards governed by broader legislation<sup>2</sup>. The condition of the property and its suitability to the client should be assessed where possible, prior to the client moving in. Once a client is placed in the accommodation, it is important that regular inspections or checks are completed to ensure that the accommodation still meets Housing standards, the client's needs and that there are no breaches to any conditions of service. However, there may be instances where a client may have to be housed on an emergency basis and that the accommodation may not have been inspected before placement. It is good practice that a post inspection is carried out within 7 days of occupation.

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<sup>2</sup> Gas Safety (Installations and Use) Regulations 1994 (1996), The Electrical Equipment (Safety) Regulation 1994, The Plug & Socket (Safety) Regulations 1994, The Furniture & Furnishings (fire) (Safety) Amendment Regulations 1993

It is important that when placing people with NRPF into accommodation that they are notified of their rights and responsibilities and that they are made aware of any rules or conditions to their service. Conditions of service will usually include stipulations such as no sub-letting, no antisocial behaviour, the accommodation is for residential purposes only and that it is their sole residence. Other restrictions may include no overnight visitors and to notify council if there are any changes in household circumstances.

In situations where an individual refuses to accept accommodation provided by the local authority, it is good practice for the local authority to hear the individual's objections and try and come up with solutions. However, the law merely states that **Section 21 NAA 1948** allows for the provision of residential accommodation and support as part of an accommodation package. It does not stipulate that the accommodation needs to be within the responsible authority's boundaries and does not require the local authority to provide accommodation on the basis of an individual's personal preferences. It is important to remember however, that when placing an adult under section 21 NAA in a neighbouring authority, the original authority retains responsibility for the care and support of the individual<sup>3</sup>. When placing families in neighbouring authorities, the original authority will retain responsibility for the family's care (subsistence and accommodation), however in the event of any child protection concerns, the authority in which the child resides will investigate this. Good practice suggests that the two authorities work together to support the family.

#### **Upcoming courses on Immigration and Housing:**

<http://england.shelter.org.uk/home/home-8458.cfm/course/8777/>

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## **2007 – Year in Review**

The NRPF Network has enjoyed a very busy and successful first year. In addition to establishing a national NRPF Network steering group, we have worked with colleagues around the country to establish regional NRPF groups. Each region has their own pressures and issues and it is important for neighbouring authorities to work together to discuss and resolve the issues that most affect them. Support at a regional level has been further enhanced through the good work of the National Strategic Migration Group, London Councils and the Local Government Association.

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<sup>3</sup> LAC (93)7

## Practice Guidance

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In January 2007, the Network produced practice guidance for practitioners assessing and working with people who have no recourse to public funds. The guidance gives an overview of the NRPf assessment process. Our thanks go to the local authorities that contributed to this, in particular the London Boroughs of Newham, Greenwich and Islington, Manchester City Council, Birmingham City Council and Bradford Metropolitan Borough Council.

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We also produced a human rights assessment, which can be used in assessing cases under Article 3 and 8 of the European Convention on Human Rights. Our thanks go to the London Borough of Lambeth for allowing us to use its template as a basis for this.

The NRPf Network, working with Southall Black Sisters also developed specific guidance on assessing and supporting destitute people from abroad who have no recourse to public funds. Our thanks go to Southall Black Sisters group for contributing to this guidance.

The NRPf Network is looking forward to ongoing and developing further guidance to assist local authorities in meeting their needs to support people from abroad who have no recourse to public funds.

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## Conference

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On 4 July 2007, the British Red Cross and the NRPf Network hosted the first national conference looking at the issue of destitute people from abroad who have no recourse to public funds. Over 100 delegates attended the conference from the voluntary sector, local authorities and central government.

The aim of the conference was to explore the issues relating to NRPf, generate dialogue between stakeholders and improve outcomes for this vulnerable group.

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The British Red Cross and the NRPf network are planning a series of further events in 2008 to continue improving outcomes for people with no recourse to public funds.

## Hearings and Enquiries

The last 12 -18 months have seen a number of key groups looking into the issue of destitution and asylum seekers. The NRPF Network have been involved in submitting evidence to a number of key reports including Amnesty International's research '*Down and out in London*' and Refugee Action's research into destitution among refused asylum seekers in the UK '*The Destitution Trap*'; the Joseph Rowntree Charitable Trust Inquiry into '*Destitution amongst asylum seekers in Leeds*', the Joint Commission on Human Rights Inquiry into the Treatment of Asylum Seekers, the All Party Parliamentary Group hearing on '*Destitution and Denial: The Poverty faced by asylum seekers and refugees in the UK*' and the Independent Asylum Commission hearing into destitution.

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***The NRPF Network is committed to supporting and working with local authorities, the voluntary sector and central government. We currently have over 140 local authorities and voluntary sector agencies signed up as members of the Network and receive regular e-briefings. Our web site also attracts just over 1000 web hits per month. We are looking forward to producing further good quality work in 2008 and thank you all for supporting us.***

***We would also like to thank the Border and Immigration Agency (BIA) for their continued support to the NRPF Network and for being committed to continued working with local government.***

**For further information, please contact:**

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