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This briefing focuses on recent policy updates that impact on people who have no recourse to public funds (NRPF). We discuss the UKBA's proposed changes to the immigration system, changes in access to healthcare for refused asylum seekers and the Red Cross and NRPF Network's upcoming conference in Birmingham.

'Path to Citizenship' – An NRPF Network Response to the UKBA Green Paper

In February 2008, the former Border and Immigration Agency (now UK Borders Agency) published a Green paper entitled '*Path to Citizenship: Next Steps in Reforming the Immigration System.*' The Green paper proposes several changes to the benefits and support system for migrants that will impact on local authorities. In summary, the Green paper proposes to:

- Introduce an additional stage prior to permanent residence entitled 'probationary citizenship'. During this stage migrants will have no recourse to public funds. For refugees, this is for a minimum period of one year and a maximum of five years, following five years of 'temporary residence'. For migrants settling as family members, 'probationary citizenship' will be for a minimum of three years following two years 'temporary residence'. During the probationary citizenship stage, migrants will be expected to meet certain

requirements such as English language proficiency in order to progress to permanent residence.

- Introduce the requirement for migrants to demonstrate that they can support themselves without recourse to public funds in order to progress to the 'probationary citizenship' stage.
- Increase certain fees for immigration applications for migrants who 'tend to consume more in public services' including elderly people and children.

The NRPF Network is concerned that the introduction of the 'probationary citizenship' stage will increase the costs of providing support to individuals and families with NRPF to local authorities. The proposals in effect extend the NRPF category and local authorities will therefore receive more referrals for support.

Local authorities currently provide accommodation and subsistence support to thousands of people who have NRPF but qualify for services due to having care needs in addition to being destitute. Many of these people cannot be returned to their countries of origin because it is not safe, because it would be a breach of their human rights or because they have not been issued with removal directions.

The extension of the NRPF policy to include refugees and migrants who are in the country lawfully will result in increased destitution. Many refugees and migrants will be eligible for local authority support because they will meet the 'destitute plus' criteria.

Furthermore, the NRPF Network is concerned that migrants who receive support from local authorities because they have a community care need will not be able to demonstrate that they can support themselves without recourse to public funds and therefore progress to the stage of 'probationary citizenship'. In such cases, it is unclear how the Home Office would reconcile a refugee's need for protection with their inability to demonstrate their ability to support themselves without recourse to public funds.

In short, the proposals are likely to incur costs for local authorities. If the proposals

are implemented, local authorities should be reimbursed for these costs by central government such that existing resources are not diverted from providing services to other residents.

In addition, the Green paper states that money will be raised by charging migrants who tend to consume more in public services, such as children and elderly relatives, more than others. The NRPF Network is concerned that this targets two of the most vulnerable groups in the community who could least afford it. The Network believes that charging for fees should be means tested rather than arbitrarily decided according to age.

On a broader note, the Network is concerned about the use of NRPF as a policy tool. The policy forces thousands into destitution and this impacts negatively on community safety and community cohesion. It falls on local authorities and the community and voluntary sector to 'manage' this destitution at a local level, which is costly to these agencies and detrimental to the well-being of the individuals and families concerned.

You can access the Network's full response to the Green paper using the following link: <http://tinyurl.com/5aey5y>

Changes in access to healthcare for refused asylum seekers

Refused asylum seekers, following the judgement in test case R (A) v Secretary for State for Health and Middlesex University Hospital NHS Trust, are henceforth eligible for free NHS treatment.

R (A) is a Palestinian refused asylum seeker who has chronic liver cancer and was initially refused free treatment by Middlesex University Hospital NHS Trust, who were following Department of Health guidelines.

Previously, the law stipulated that NHS services must be provided for free, but those who were not 'ordinarily resident' in the UK could be charged for treatment. A distinction was previously made between refused asylum seekers who had made their claim for asylum in country and those who had made their claim at port of entry. On being refused, those who had applied at port of entry were deemed ordinarily resident, whereas those who had applied in country were not.

The judge overruled this distinction, rendering all refused asylum seekers who have been granted temporary admission in the UK 'ordinarily resident' and therefore eligible for free NHS treatment.

Anyone who can demonstrate they are lawfully in the UK should get treatment free of charge. This can involve showing an IS96 form, which are issued when an applicant first makes an asylum claim.

Visa overstayers who have not submitted an application for further leave to remain and undocumented migrants remain ineligible for free NHS secondary care. This

does not apply to treatment for certain serious communicable illnesses and treatment at Accident and Emergency departments.

In regards to accessing primary care, GPs must now treat refused asylum seekers as they would any other UK national; they no longer have any discretion in regards to this. GPs retain discretion in treating visa overstayers who have not submitted an application for further leave to remain and undocumented migrants.

The Home Office has decided to appeal this judgement. Pending the outcome of this appeal, the above guidelines should be observed. The Welsh Assembly Government however has amended its guidance such that refused asylum seekers are now entitled to free healthcare in Wales. The appeal judgement will therefore only apply to those receiving treatment in England.

To access the Department of Health's letter to NHS Trust Chief Executives, please see: <http://tinyurl.com/4ghpwm>

Families with Children who have No Recourse to Public Funds – an upcoming event organised by the Red Cross and the NRPF Network Birmingham and Midland Institute, Birmingham – Tuesday July 1st

This event aims to stimulate discussion on the issues relating specifically to supporting families with children who have no recourse to public funds (NRPF). The event will cover 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. The event will not cover issues relating to unaccompanied

asylum seeking children, although there may be some parallels.

The event also aims to promote cooperation and understanding between local authorities, the voluntary sector and central government. There will be opportunities for delegates to raise concerns relating to service provision for NRPF families and to discuss a wide range of case studies.

Speakers include:

- **Frank Hughes** – Deputy Director, UK Borders Agency, West Midlands, East Midlands and East of England
- **Carey Baff** – Operational Manager, Birmingham City Council
- **Lisa Nandy** – Policy Adviser, Midlands Refugee Project, Children’s Society

There are a few remaining places and the booking form deadline has been extended to Tuesday 17th June. To book your place, please go to:

<http://www.redcross.org.uk/nrpfevent>

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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