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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 NRPF Network/British Red Cross conference on domestic violence and NRPF in Leeds, we discuss the NRPF Network's submissions to consultations on the new immigration legislation and provide a case law update.

Domestic Violence and No Recourse to Public Funds Conference, Leeds Civic Hall, 7th October 2008

The Domestic Violence and No Recourse to Public Funds Conference, held at Leeds Civic Hall on October 7th 2008, was the third event hosted by the NRPF Network and the British Red Cross in 2008 addressing specific issues relating to destitute people from abroad with no recourse to public funds (NRPF).

The conference was attended by 110 delegates from a range of sectors and organisations: 50% from local authorities, 41% from the community and voluntary sector, 5% from central government and 5% from other agencies.

Presentations were given by a panel of experts, including:

- Paul Rowen, Rochdale MP and Liberal Democrat Shadow Work and Pensions Minister
- Olivia Fellas, Chair of NRPF Network and Head of Refugee and Migrant Service, Islington Council

- Hannana Siddiqui, Joint Coordinator, Southall Black Sisters
- Cate Briddick, Legal Officer, Rights of Women

Aims & objectives

The event aimed to:

- explore issues and solutions to the problems of victims of domestic violence who have NRPF;
- discuss good practice in assessing and supporting victims of domestic violence who have NRPF; and
- promote cooperation and understanding between local authorities, the voluntary sector and central government.

KEY ISSUES

Key issues highlighted at the event included:

- Local authority duties to victims of domestic violence with NRPF are complex and there are significant barriers to providing support, especially to single adults

- Applications under the Domestic Violence Rule (DVR) for Indefinite Leave to Remain (ILR) take a long time to process and support for women pending the outcome of applications is patchy and uncoordinated
- Information about waiving the £750 fee for the DVR application should be more widely disseminated, including how destitution is defined and proven
- The need for training on this issue nationwide
- Concern over the impact of the Slough ruling on single adult victims of domestic violence with NRPF in regards to accessing local authority support

PRESENTATION SUMMARIES

Paul Rowen – Rochdale MP and Liberal Democrat Shadow Work and Pensions Minister

Paul has been campaigning on this issue in parliament and has asked questions to ministers on this subject. He noted that the 23rd April 2008 'Day of Action' on domestic violence and NRPF had the effect of making the government reconsider its position on funding for victims of domestic violence on spousal visas.

He highlighted the unacceptable situation of those being 'used and abused' and not knowing where to turn to. He used the example of one woman in Rochdale who had an application pending for ILR under the Domestic Violence Rule (DVR) which was taking a long time and the local authority were unwilling to support her for such a lengthy period. Furthermore, the local refuge did not have the funds to support her.

Paul noted that this issue is so complex that it is difficult for one professional alone to meet the needs of victims. The government have had many initiatives on domestic violence but they have hit a brick wall with this particular issue.

He noted that the problem has increased with the growth of women arriving, mostly from the Indian Subcontinent, for arranged marriages in his constituency. He asserted that this was not a problem associated with religion, but with culture, as many of his clients come from rural areas where practices are different.

Paul noted the pressure on local authority budgets in regard to supporting victims of domestic violence with NRPF and stressed that local authorities need to be supported so that they are trained to carry out this work with victims of domestic violence.

Olvia Fellas – Chair of the NRPF Network and Head of Refugee and Migrant Service, Islington Council

Olvia provided an overview of the key issues facing local authorities in relation to domestic violence and NRPF. There are significant bars on local authorities providing support to victims of domestic violence with NRPF, as dictated by community care and immigration legislation. Further, the threshold for providing single adults has been raised by the recent *M v Slough* judgement.

Local authorities operate within different political contexts, which can make providing services to people with NRPF difficult. Furthermore, demand for services is increasing and the complexity of the legislation governing this area leads to inconsistencies between local authorities.

Olvia referred to research undertaken by Islington Council into support provided to victims of domestic violence with NRPF, which found that 60% of women in refuges in London were being supported by social services. A further 30% were supported by the refuges and 10% by other means. Only 3% of the women in the refuges surveyed had NRPF. The women applying for ILR under the DVR waited for between seven

and twelve months for a decision on their application. To access this research report please use the following link and scroll to the bottom of the page:

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

She noted that those on spousal visas have the right to work and local authorities should explore opportunities for women to support themselves in the UK. This highlights the need for funding towards ESOL and skills development to ensure those on spousal visas can access the labour market.

Olivia referred to the Home Office proposals for retrospective funding of the support provided to victims of domestic violence with applications pending under the DVR. The NRPF Network welcomes this initiative but has concerns over how it will work in practice, particularly over how the funds will cover the period of time it takes for decision to be made on applications, which can be quite lengthy.

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

Hannana Siddiqui – Joint Coordinator, Southall Black Sisters

Southall Black Sisters (SBS) have been campaigning on this issue since 1992. Hannana estimated that around 600 women on spousal visas at any one time are victims of domestic violence and have NRPF in the UK. It is not an unmanageable problem and can be resolved; this relies on changes to national government policy.

In regards to local authority provision in this area, Hannana pointed to examples of good practice such as Islington Council, that have their own NRPF team. However, she noted the lack of consistency of local authority decision-making. She also questioned why voluntary sector organisations were battling with local authorities over this issue.

In 1997, the Labour government introduced the Domestic Violence Concession (now the Domestic Violence Rule), however she said that the effectiveness of this was compromised by the NRPF requirement pending the outcome of applications. SBS tried to introduce an amendment to the Domestic Violence Act in which victims of domestic violence would be exempt from the NRPF requirement, but this was not introduced. At present, there is a discriminatory system in which women without immigration status do not have the same rights as women with status.

There has been a shift in the Government's position and they have proposed the retrospective funding arrangements for victims with applications pending under the DVR. SBS recognises that this proposal is a move in the right direction, however it is not workable and it is not adequate to meet the needs of victims for several reasons: the amount available to victims will not be enough to cover the amount of time it takes to collate applications and wait for a decision; it will only help women who become victims of domestic violence within the two year period to which the DVR applies; and it only helps the women that are successful in their application for ILR.

Hannana said that there was considerable frustration within the voluntary and statutory sector that these proposals were not workable. The victim needs to have money in her hands to enable her to escape the situation in the first instance. Also, local authorities are not qualified to undertake checks on DVR applications, which the proposals recommend. Rather, it is lawyers that should be doing this.

Cate Briddick – Legal Officer, Rights of Women

Cate provided a background to the legislative framework and outlined the services Rights of Women offer.

Cate outlined the requirements for submitting applications for ILR under the Domestic Violence Rule and stressed the importance of using the most up-to-date application form. Previously, only first and second class evidence could be submitted as part of the application, however case law *AI (Pakistan) [2007]* found that the Home Office must accept a broader range of evidence of violence, including evidence that is 'well founded'.

Cate highlighted the legislation under which local authorities may be able to provide support to victims, including subsistence and accommodation. She referred to ILPA's directory of immigration lawyers, which can be found on their website:

<http://www.ilpa.org.uk/>

Although Rights of Women welcome the Home Office proposals to provide retrospective funds towards supporting women while the DVR application is pending, as a recognition of this issue, Cate argued that the proposals would fail to protect women from violence. This is because it only applies to women applying under the DVR, that it would not cover the entire period of the application, including the time during which evidence of the domestic violence was being gathered, and that it would not help the woman escape when she is most at risk.

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

Workshops

Three workshops were held during the second half of the conference, aiming to explore practical solutions to the problems facing victims of domestic violence with NRPF.

Workshop 1, led by Shakeela Lal, Immigration and Asylum Specialist at

Bradford Law Centre, focused on the process of completing applications for Indefinite Leave to Remain (ILR) under the Domestic Violence Rule (DVR).

Shakeela highlighted key points from the UKBA guidance notes on DVR applications and dispelled some common myths that prevent women from applying under the DVR. She stressed that in order to avoid the £750 administration fee for the application, women need to provide evidence that they cannot afford the fee, for example with a letter from social services.

It was highlighted that the evidence of domestic violence required for the application is not prescriptive. Applicants can send in any evidence they wish to, and they should send in as much evidence as they can provide. The forms of evidence listed in sections 3.1 and 3.2 of the form are the most important but sometimes it is not possible to gather this evidence when a woman has fled from her home.

The DVR application and guidance notes can be found on the following page:

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

Workshop 2, led by Curtilis Bristol, Islington Council and Phil Cryer, Bradford Metropolitan Borough Council, considered options for local authority support to victims of domestic violence.

Local authority duties to victims of domestic violence were outlined, including those under Section 21 National Assistance Act 1948 (NAA), Section 17 Children Act 1989 and under the Human Rights Act 1998. Curtilis and Phil also highlighted the potential impact of the Slough judgement (more info below under 'case law update') on support provided under Section 21 NAA and the likelihood that it will take further litigation to fully understand the implications of this ruling.

Workshop 3, led by Diana Barran, Coordinated Action against Domestic Abuse (CAADA), explored shared protocols between the voluntary sector and local authorities in domestic violence cases where victims have NRPF.

Some of the issues raised in the workshop were the need for a shared definition of destitution, whilst being mindful of the definition local authorities use, and a shared definition of domestic violence. In regards to local authority good practice, it was agreed that it would be beneficial for local authorities to have reciprocal agreements for payments when a woman flees from one area to another; the need for a named person within the local authority with responsibility for domestic violence cases was also discussed; and the need for data

on the number of women requesting local authority support. The need for specific guidelines regarding what is required from local authorities and how a multi-agency approach can be used in resolving situations were also highlighted.

Participant feedback

Feedback on the conference was very positive. 78% of participants said the conference had met their expectations and a further 16% said the conference had partly met their expectations. Participants valued the opportunity to network and share ideas, and found the panel presentations particularly useful. Many participants would have liked to see the UKBA on the panel of speakers and for the conference to be longer. Some felt the venue was inadequate.

Draft (partial) Immigration and Citizenship Bill – NRPF Network responses to the Home Affairs Committee and UKBA

The NRPF Network has provided submissions to two consultations on the Draft (partial) Immigration and Citizenship Bill. The first is a response to the call for written evidence by the Home Affairs Committee and the second, a 'Public Scrutiny Questionnaire' designed by the UKBA to seek views on the proposed legislation. The NRPF Network sought views from members on the consultations for inclusion in its responses.

The Bill will be presented to parliament in the next session and proposes to simplify current immigration legislation by consolidating immigration legislation introduced since 1971 into a single Act of Parliament. The Bill proposes to introduce a new stage prior to migrants acquiring British citizenship or permanent residence, entitled 'probationary citizenship'. This stage will increase the length of time in which some

migrants will have no recourse to public funds, and will consequently increase costs to local authorities. We understand that those granted refugee status will be exempt from the NRPF requirement during the 'probationary citizenship' stage.

The Bill also proposes a streamlined approach to removals. Although the Network welcomes a commitment to remove those without 'permission' to be in the UK, this should be done in a sustainable and sensitive way (ideally through assisted voluntary returns programmes). There needs to be resolution to cases currently being supported by local authorities, which may involve exploring options to grant some form of 'permission' and thereby allowing them to work or access mainstream benefits.

Additional concerns highlighted in the submissions include: the introduction of

restrictions for those who voluntarily return seeking to re-enter the UK potentially acting as a disincentive to take up voluntary return, thus compromising the work of local authority caseworkers and social workers who use this option to resolve cases; and charging additional fees for immigration applications for migrants who tend to consume more in public services potentially disadvantaging vulnerable migrants.

The NRP Network is delighted to have been invited to give oral evidence to the Home Affairs Committee on the impact of the draft Bill. The written submissions can be accessed on the 'Policy and Research' page of the NRP Network website or by using the following link and scrolling to the bottom of the page:

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

Case Law Update – R (on the application of M) v Slough Borough Council and R (Gnezele) v Leeds City Council; R (Dayina) v Leeds City Council

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

The impact of the ruling of M v Slough Borough Council remains subject to interpretation. Many local authorities are reviewing cases supported under s21 National Assistance Act 1948 in light of this judgement and in doing so, it is advisable that local authorities seek legal advice. Understanding of this ruling may yet be clarified through subsequent case law.

Other organisations, such as The National AIDS Trust, have published guidance on the implications of the judgement in R (on the application of M) v Slough Borough Council, although this may be challenged by subsequent interpretations. This can be accessed on the following page:

<http://tinyurl.com/5se2ws>

The guidance states that those who do not have any support needs, other than their medication and a place to live, will no longer be entitled to Section 21 support. Where people need some help, such as help with domestic chores, counselling or help adhering to medication, they may be entitled to Section 21 support, subject to assessment.

The key question is not necessarily one of destitution, but of the need for care and

attention (meaning being 'looked after') that is not otherwise available. Formerly, the key question was whether there was a need for care and attention above destitution alone. The provision of medical care is expressly excluded.

It should be emphasised that the NRP Network cannot provide legal advice either generally or in relation to individual cases. In the context of this significant piece of case law, the Network can provide guidance and information including particular issues local authorities may want to consider. Local authorities should contact their legal departments for advice on individual cases and policies more generally.

The NRP Network will be reviewing its Guidance for Local Authorities in light of the Slough judgement. Information about this update will be disseminated via this briefing.

b) R (Gnezele) v Leeds City Council; R (Dayina) v Leeds City Council

This test case sets precedent in cases of expectant and nursing mothers who are refused asylum seekers to whom Section 4 support is available. Local authorities have a power to support expectant and nursing

mothers under Section 21 (1)(aa) National Assistance Act 1948.

Two women requested assistance from Leeds City Council under s21 (1)(aa), on the basis that they were pregnant women in need of care and attention that was not otherwise available to them. The judge dismissed the women's claims, ruling that the claimants were only in need of care and attention due to their destitution. The only

duty, he ruled, was to consider support otherwise available, which in these cases was Section 4 support. In summary, the women could not choose between Section 4 support and support provided by the local authority because they are pregnant and have a preference for the latter.

For a summary of this case, please see: <http://tinyurl.com/5qgoeu>

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 700 members and our website 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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