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# Support for people with no recourse to public funds

## CONFERENCE REPORT

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### 1. Introduction

On 4<sup>th</sup> July 2007, the British Red Cross and the NRPf Network<sup>1</sup> 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.

The key outcomes from the conference on areas support is needed include:

- Further training and information sharing events;
- Lobbying and campaigning, including further development work with central government to raise the practical and policy issues of NRPf;
- Sharing information and good practice amongst network members; and
- Guidance for practitioners.

This report summarises the issues raised on the day and outlines the next steps the Red Cross and NRPf Network will be taking. It does not repeat information from presentations given on the day, which are available separately.

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<sup>1</sup> The NRPf Network is a network of local authorities focusing on the statutory response to destitute people from abroad who have no recourse to public funds.

## 2. Background to NRPF

No Recourse to Public Funds (NRPF) refers to people who are either failed asylum seekers or other migrants who are subject to immigration control and have no entitlement to welfare benefits, Home Office support for asylum seekers or to public housing.

Due to changes in legislation and government policy, the number of destitute people from abroad with no recourse to public funds is known to be increasing, although it is difficult to get verifiable data on actual numbers.

## 3. Local authority obligations to people with no recourse to public funds

Local authorities are reporting that they are faced with increasing numbers of 'destitute plus' people from abroad seeking support. However, they currently receive no central government funding to meet costs and there is a lack of statutory regulation and guidance on how authorities should respond. In addition to the pressure on services, local authorities are concerned about the destitution and social cohesion issues that arise as a result of people having no recourse to public funds.

**Key areas for development identified by the workshops were:**

- **A clearer or common legal position and understanding is needed:** Complex and overlapping immigration, community care and human rights law is interpreted differently by different authorities, and commonly only clarified by case law. The lack of clarity means that provision can vary significantly between local authorities for individuals in identical circumstances. Furthermore, the use of litigation as a means of establishing understanding is expensive.
- **Statutory guidance is needed** to enable consistency across local authorities.
- **A single assessment process is needed:** Different local authorities manage the assessment process differently. For clarity and to avoid duplication there should be a single assessment covering community care, mental health and human rights.
- **Models of good practice for collaborative working** between local authorities, central government and the voluntary sector should be adopted.

- **Information pack for signposting people**
- **A national database is needed:** there is currently no central register of who is supported and by whom. A national database would ensure that individuals were tracked appropriately and could be used to inform policy making.
- **Robust information on the costs of supporting people is needed:** There is currently no robust information either for individual local authorities or as an aggregate on what is being spent. Nor is there such information for the voluntary sector. Robust information could be used to inform policy making and support local authorities to obtain reimbursement.
- **A co-ordinated voluntary sector and local authority response is needed:** The conference highlighted the need for local authorities to work in a co-ordinated way with their local voluntary sector to ensure the best outcomes for this vulnerable group.

#### 4. Entitlements to Section 4 support

Section 4 support is available to failed asylum seekers who are destitute and meet one or more of the criteria below:

- Taking all reasonable steps to leave the UK
- Unable to leave the UK as unable to travel due to a medical reason
- In the opinion of the Secretary-of-State there is no viable route of return
- Judicial Review of asylum claim
- Support is needed to avoid a breach of a person's human rights

**Key areas identified for development were:**

- **Criteria for receiving Section 4 support needs to be better promoted:** Many people continue to believe that in order to qualify for Section 4 support an individual must sign up to voluntarily return to their country of origin. This deters many people from applying for this form of support. Work is needed to better promote the criteria under which individuals can receive Section 4 support.
- **Exclusion of children born after the asylum claim is refused needs to be reviewed:** Currently, if a child is born after the parent's asylum claim has been determined, it is S95 or S4, and in all cases social services have a duty to a child need. However, it was felt that the date of a child's birth should not determine which form of support a child receives. Instead it was proposed that failed asylum seekers with children should be on S95, regardless of when the child was born.

- **Criteria to qualify for Section 4 should be extended:** It was felt that the current criteria make it unduly hard for people to qualify for support and that criteria should be extended to include when people are unable to leave the UK.
- **The effect and appropriateness of providing vouchers needs to be reviewed:** People on Section 4 support receive vouchers rather than cash. This creates a number of practical challenges, including how people report to police (a requirement of Section 4 support), and / or are able to shop for food, as the vouchers cannot be used for transport. In addition, people receiving Section 4 support have been judged to be unable to leave the UK, and in this sense are the same as other Asylum Seekers (who receive cash), the question therefore arises whether their system of support should be different.

## 5. Entitlements of post-18 UASCs

The workshop explored issues relating to people who arrived in the UK as Unaccompanied Asylum Seeking Children (UASC) and have subsequently turned 18.

**The workshop concluded:**

- **The asylum system for children still needs improvement,** particularly for those who are not defined within the 1951 Convention on Human Rights.
- **The additional needs of those leaving care need to be recognised:** Even if Section 4 were available for this group, it does not currently meet their needs – for example it makes no provision for individuals to undertake study or learn independence skills.
- **Support needs to be provided to protect young people from exploitation:** Without support there is a danger that vulnerable young people will ‘disappear’ and be forced into illegal work and exploitation.

## 6. Families at the end of the asylum process

The workshop identified the following areas of concern:

- **Legislation is unclear:** In common with many aspects of NRPF, the legislation is unclear. A key issue is whether children born after the parent’s asylum claim has been refused are eligible for support

under Section 17 (a local authority responsibility), or under Section 4.

- **Lack of provision for families under Section 4:** Currently there is little provision for families under Section 4, with families being provided with vouchers and potentially housed in shared accommodation.
- **Lack of clarity is leading to increased litigation:** Because this area is unclear and lacks guidance from central government, Local Authorities are spending money on Judicial Reviews that might otherwise be spent supporting people.
- **Local authorities face tensions between legal and ethical obligations:** Local authorities are currently limited in terms of the support they are able to provide by how their duties and powers are defined.

## 7. Returning voluntarily

In March 2007, 30% of removals were of people under assisted voluntary returns (AVR).

**Key areas in which the AVR process could be improved:**

- **Reliable information about countries people are returning to:** Voluntary returns need to be safe and sustainable. To improve confidence that return would be safe and sustainable, so allowing individuals to opt for assisted voluntary return, there must be reliable and trustworthy information about the conditions and facilities in the country to which the individual is returning.
- **Support for and monitoring of integration:** Anecdotal accounts suggests that some people returning on AVR programmes are not receiving assistance to integrate. The provision of assistance to re-integrate should be independently evaluated and individual returns monitored. It needs to be acknowledged that in some cases for return to be sustainable, people need to be able to link in to social networks when they return.
- **Better approaches to discussing assisted voluntary returns with people:** To initiate and have meaningful conversations with people about assisted voluntary return there needs to be a relationship of trust. However, such relationships are often undermined by people's destitution.

- **Improving the process for assisted voluntary returns:** People are often unclear about where they are within the assisted voluntary returns process. It would help if individuals applying for AVR received written acknowledgement that their application has been received and written confirmation when an application for AVR has been accepted or refused.

## 8. Accession State nationals and issues arising

Nationals from EEA states represent the single largest group of migrants within the UK, but can often be amongst the most excluded in terms of the ability to access support. For Accession State nationals there is a complex web of rights and duties with associated problems.

### Potential challenges include:

- **Exploitation in labour:** There is a danger that migrants from Accession States are forced into labour under exploitative conditions.
- **Confusion over relevant rights:** As successive waves of states have joined the EEA, the associated rights of their nationals have become increasingly restricted. This has led to confusion over who is entitled to what.
- **Concerns about security issues in the country of origin:** For some individuals there is a sense of discomfort about their ability to return to their country of origin, for example Slovakia, due to the situation in the particular country.
- **Limited ability to provide assistance:** Under current legislation, in many cases if an individual is from an Accession State and has no income or accommodation, the only support the statutory sector is able to provide is support to return to their country of origin.
- **EEA precluded groups within NAA and Children's Act:** migrants from EEA states are excluded from important sources of social protection if they get into trouble
- **ECHR rights:** some social protection can only be accessed if Human Rights would be breached

## 9. Feedback from the Conference and next steps

The Conference was extremely well received, with 85% of delegates reporting that they were very or quite satisfied with the conference and nearly 60% strongly agreeing that the conference was a good use of their time. Having representatives from different sectors was considered helpful, and many people commented that the conference provided useful networking.

The Red Cross and NRPF Network are now taking the key areas forward as follows:

### Influencing activities

The NRPF Network has meetings set up with several members of the BIA, and further meetings are planned. The Network is also seeking to meet with the Department of Health and NHS Confederation to explore issues relating to NRPF and health.

### Guidance

The NRPF Network will shortly be launching guidance on domestic violence. After this it will be developing guidance on children and families and post-18 UASCs.

### Further events

Based on the topic areas people most frequently cited as most interesting or helpful to them, the Red Cross and NRPF Network are seeking to develop events focusing on the duties of local authorities, section 4, children and post-18 UASCs, and legal issues.

These are likely to be targeted at practitioners from local authorities and the voluntary sector and to be regionally based. They will be designed with a workshop format. Information about these will be sent out in the coming months.

## 10. Find out more

If you would like to know more about issues relating to NRPF and our work, and to be kept in touch with future events and activities, please contact us:

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