

Response: Windrush lessons learned review

October 2018

Background

The LGA is a politically-led, cross-party organisation that works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

The No Recourse to Public Funds (NRPF) Network, hosted by Islington Council, provides advice and guidance to local authorities on statutory support for destitute families, care leavers and adults with care needs who, due to their immigration status, have no recourse to public funds.

The consultation forms part of ongoing work across government, other Associations, regions and councils to continually inform and improve sustainably funded support of asylum seekers and refugees.

1. Key points

Although very few people supported by local authorities meet the Windrush criteria, the lessons learned review must consider the wider impact of immigration policies that adversely affect people who have a long term future in the UK and that prevent them from being able to document this.

Local authorities play a vital role in alleviating migrant destitution by providing housing and financial support to families, care leavers and vulnerable adults who are excluded from mainstream welfare benefits due to their immigration status.

The lack of a strategic approach to the resolution of local authority supported cases by the Home Office, and immigration policies that create barriers to obtaining leave to remain, are detrimental to the welfare of children and vulnerable adults, hinder the integration of people whose long-term future is in the UK and have resulted in significant direct costs for local authorities.

Support for people with no recourse to public funds (NRPF) is administered by social services in adherence with safeguarding duties set out in the Children Act 1989 and the Care Act 2014. [1]

This support is unfunded by central government and costs a sample of 50 local authorities at least £43.5 million per year to administer. This unsustainable, unfunded pressure comes at a time in which Councils continue to face significant funding challenges after years of unprecedented reductions, with an overall funding gap of £5.8 billion anticipated by 2020.

Data referenced in this submission clearly demonstrates that the pathway off dependency on social services' support for the majority of households will be obtaining leave to remain with recourse to public funds. With the average time spent on support at just under 2.5 years, this indicates that people experience significant delays throughout the process of achieving leave to remain in the UK. More detailed information is below.



Submission

2. Recommendations

It is hoped that the lessons learnt review can outline how exclusionary immigration policies and barriers to regularising status can adversely impact on local communities and local authority services. Learning from this, local government is keen for Government in the immediate term to:

- Conduct a one-off exercise to systematically grant indefinite leave to remain to individuals or households receiving local authority support where regularisation of immigration status is outstanding; such a targeted approach would in the long-term reduce Home Office casework time.
- Provide financial compensation to local authorities for costs incurred by supporting individuals and families who are restricted from accessing public funds by their immigration status.

The Secretary of State confirmed in 2010 that cases involving applicants who are supported by local authorities would be prioritised, and that decision making processes would be reviewed having regard to the need to safeguard and promote the welfare of children who are in the UK, including timely decision making. [2]

In order to ensure that social services' support only operates as a short-term safety net with effective case resolution, and to take steps to prevent people who have a long term future in the UK from becoming homeless or their integration being inhibited, the following policy recommendations are made:

- Reinstate legal aid for immigration matters
- The NRPF condition is not imposed when leave to remain is granted on human rights grounds, including applications made within and outside of the family and private life rules, and all subsequent grants
- The use of the 10-year settlement route is reviewed (where people are granted leave to remain on human rights grounds and have been accepted as having a long term future in the UK)
- Citizenship fees are significantly reduced and/ or a fee waiver or exemption is introduced for children in low income families, including those receiving section 17 support and who are in the care of social services
- People receiving social services' support are exempted from secondary and community NHS charges
- Applications for asylum support are processed promptly where otherwise the local authority would incur costs of providing support
- Immigration claims made by households receiving local authority support are expedited by Home Office casework teams
- The Government works with local authorities to ensure that the EU Settled Status Scheme will be fully accessible to vulnerable residents or those with complex circumstances to avoid a new group of people becoming NRPF when the transition period ends following the UK's exit from the EU.
- The Government conducts a full review of how policies that excluded people from services on the basis of their immigration status impact on homelessness, integration and demand for social services' support and third sector services.

3. Impact on community cohesion

We welcomed the publication of the Government's Green Paper and the opportunity to feedback on its proposals. Building cohesive communities and helping to shape the environments in which communities flourish lie at the core of councils' day to day business, and the Strategy rightly acknowledges the

importance of locally-led approaches. There are a range of different support schemes in places for people coming to the UK as asylum seekers or refugees, and the LGA has consistently argued for the system to be more joined up.

Destitute families and adults who have NRPF condition are not eligible for most benefits, social housing or homelessness assistance. This condition may therefore lead to hidden homelessness and destitution within communities, with resulting impacts on integration. These families and individuals may struggle to integrate as they do not have stable accommodation, face difficulties engaging in social activities, education and training, and childcare costs may prevent parents from sustaining employment when they have permission to work. The lack of legal aid for immigration matters and prohibitive application fees mean present people with challenges in changing their status.

For people who, due to their lack of documentation or current immigration permission, are unable to access services but have a barrier in place preventing them from leaving the UK, then homelessness and increasing demand on local authority support are highly likely outcomes of policies imposing such sanctions. This Home Office's own evaluation of the right to rent scheme pilot found that, of the people that were identified and referred to Immigration Enforcement, nearly half had barriers to removal in place. More recently, the courts have determined that a local authority could not refuse to provide accommodation to a family under section 17 of the Children Act where the parent was unable to rent in the private sector due to the right to rent scheme, even when they had the means to do so. The right to rent scheme has therefore led to additional burdens on local authorities. [3]

Additionally, local authorities face the risk of failing to adhere to statutory duties and the public sector equality duty, and breaching an individual's human rights, if the incorrect implementation of immigration-based exclusions leads to the denial of services to an undocumented person who actually has lawful status. The move to electronic evidence of status for EU nationals under the EU Settlement Scheme is concerning for this reason.

The impacts of destitution, such as street homelessness and begging, will also be a very visible - and possibly resented - presence in local areas, particularly in areas with existing cohesion challenges. If local agencies are perceived by long standing residents as not taking action on these issues, this can create mistrust and frustration.

Many NRPF households may be resident in communities with large numbers of asylum seeking families and adults supported by the Home Office, and in communities with existing cohesion and deprivation challenges. The placement of large numbers of dispersed asylum seekers in more deprived areas; their inability to work while asylum applications are processed and the limited support available from accommodation providers to facilitate their integration pending asylum decisions, coupled with a lack of funding for councils and other local agencies to meet local costs of support, may also undermine the cohesiveness of local places.

A lack of funding for local government as a whole and specifically on the crucial role councils play in integration and cohesion has had a considerable impact across service areas and substantially affected councils' work, both directly and indirectly, around the cohesion agenda. Further devolution of powers to local government to meet the challenges and opportunities around integration and changing communities must be matched by sufficient and long-term investment in order to tackle the complex and deep-seated issues that undermine cohesion.

4. Data on NRPF households supported by social services

Data from 50 local authorities shows that at the financial year end 2017-18 [4]:

- 2552 households and 4049 dependants were supported
- Cost of accommodation and financial support = £43.5 million per year (average cost of £17,193 per household)
- 67% of households exited local authority support on account of being awarded leave to remain with recourse to public funds
- The average time spent on support increased to 887 days
- 27% of households are non-EEA nationals supported for 1000+ days who are waiting for a final outcome on their immigration case
- The parent or adult in two-thirds of households has no current immigration permission (with the majority pursuing non-asylum immigration claims)
- 20% (324) of children under 18 within non-EEA families are British citizens and 67% (588) children in all families are age 10 or older

References

[1] Local authorities may provide housing and financial support to the following people who are excluded from mainstream benefits and housing services by their immigration status:

- Families to safeguard the welfare of a child in need - section 17 of the Children Act 1989
- Adults with care and support needs - the Care Act 2014
- Vulnerable adults without care needs who are provided with housing to prevent a breach of their human rights – section 1 of the Localism Act 2011
- Former looked after children receiving leaving care support - the Children Act 1989

[2] *Birmingham City Council v Clue* [2010] EWCA Civ 460, paragraph 84.

[3] Home Office, Evaluation of Right to Rent Scheme, 20 October 2015, pp.19-20. <https://www.gov.uk/government/publications/evaluation-of-the-right-to-rent-scheme>; *R (U & U) v Milton Keynes Council* [2017] EWHC 3050 (Admin)

[4] Data from NRPF Connect annual report 2017-18. The database is used by 50 local authorities nationally and is managed by the NRPF Network to enable secure data sharing between local authorities and the Home Office. <http://www.nrpfnetwork.org.uk/Documents/NRPF-connect-annual-report-2017-18.pdf> (NB data on children taken from a separate report at end of September 2018)