

Briefing: 'No Recourse to Public Funds' (NRPF)
Who does it affect? Can it be removed? Is it lawful?
Backbench Business Debate: 8 October 2020

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Summary

1. In the public interest, the 'no recourse to public funds' (NRPF) policy can and should be abolished
2. There is no evidence that the NRPF policy is meeting its policy objectives, but there is considerable evidence that it is causing irreparable harm
3. The NRPF policy is discriminatory; it particularly impacts single mothers, pregnant people, people with disabilities and elderly people, who are unable to afford food and rent as a result
4. The NRPF policy means that people with NRPF cannot afford to self-isolate; most people with NRPF cannot access coronavirus-related support schemes
5. The NRPF policy has been ruled unlawful, and the government has not done enough to redress this
6. The application to remove NRPF is not available to everyone, and it is time-consuming, inaccessible and onerous, often requiring legal representation

The Unity Project

The Unity Project (TUP) assists people to make 'Change of Conditions' applications to remove the NRPF condition. It is the only charity in the UK that exclusively specialises in this, and has made hundreds of these applications. It published an extensive research report in June 2019 that outlines the interconnected disadvantages faced by those with NRPF.¹

What is NRPF and who is affected?

'No recourse to public funds' (NRPF) means having no safety net in times of crisis or hardship. Without this safety net, events like redundancy, pregnancy or ill health can be devastating. Due to the pandemic, even more people are facing or will face unemployment. People are given 'no recourse to public funds' (NRPF) when they are given permission to live in the UK. Such people work, pay taxes and can eventually apply for citizenship in the UK on the basis of their strong ties to the country. They often have British children and partners.

The impact is severe. Our research from before the pandemic evidenced that of a sample of people with NRPF:

- **52% did not have a bed to sleep in**, instead sleeping on the floor or a chair
- **1/3 shared a bedroom with their children and with other people who were not their family**
- **6% of single women had been street homeless with their children**

Can the NRPF condition be removed?

¹ The report is called 'Access Denied: The Cost of the 'No Recourse to Public Funds' Policy'. The report and an executive summary can be downloaded here <https://www.unity-project.org.uk/research>

In limited circumstances, people who are suffering under the NRPF restriction can apply to have it removed.² This application is not an appropriate long-term solution for the following reasons:

1. It takes too long; people suffer every day that they wait.
 - During the pandemic, **families that TUP assisted had to wait over 4 months for a decision** on their application before they could begin any claim for Universal Credit
 - Many **people do not know they are eligible to apply** under this route; without exception, the people TUP support have already been destitute for months or years
2. It is inaccessible.
 - The application includes a **20-page form and often requires hundreds of pages of evidence**, which are often unobtainable, particularly during lockdown.
 - Examples of evidence requested include utility bills from abusive partners or informal landlords and letters from exploitative employers
 - The application form and evidence must be filed online, excluding those without internet or computer access
3. Applicants are unlawfully refused.
 - **In over 20 cases, The Unity Project has successfully challenged refusals of decisions** through judicial review. In each case, the initial refusal was overturned
 - The national **success rate for applications was only 62% before the pandemic**.³ But when the Unity Project step in, **our success rate is 100%**. From our experience this disparity is due to poor decision-making and lack of legal representation rather than ineligibility.

How many people are affected?

Between April and June 2020, 5,665 people applied for the NRPF condition to be removed,⁴ representing an almost 600% increase on the previous quarter, which is partly the result of increased awareness about the application. The Unity Project is extremely concerned about the **623 people/families (11%) whose applications were refused**. Our experience (see above) suggests that these refusals may well have been unlawful, and these applicants are at severe risk.

Who is most affected?

TUP collects demographic and other data for all applicants that we assist. The below statistics are based on our work since we launched in 2017. We are based in London, but have assisted applicants from across the UK. Our data is reflected in national statistics presented in the government's 2020 Policy Equality Statement⁵:

- **82% are women**, of which almost all are **single mothers**
- **97% have dependent children** and **8% are pregnant**

² People on this '10-year-route to settlement' can make a 'Change of Conditions' application to remove the NRPF condition. People who are not on the '10-year-route' are automatically ineligible.

³ 'Data on No Recourse to Public Funds (NRPF): Applications to change conditions of leave, Ad-hoc management information release', 30 July 2020, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904641/No_Recourse_to_Public_Funds_NRPF_-_Applications_to_change_conditions_of_leave_Q2_2020.pdf. Our figure is an average from available data for 2017-2019.

⁴ Ibid.

⁵ 'Policy Equality Statement (PES)', 17 April 2020,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/880531/Policy_Equality_Statement_PES_21_April_2020.pdf

- **32%** have **disabilities**, and/or disabled dependants
- **92%** are **Commonwealth citizens** and all identify as **non-white**
- After the first lockdown (March 2020), **32%** continued work as low-paid **'key workers'**
- All are working for less than the living wage, except where prevented from working (most often by disability or childcare). Several applicants are **working over 50 hours per week** and still unable to make ends meet
- **15%** are subject to **domestic abuse** - this number and the severity of harm dramatically increased during lockdown

The pandemic

The pandemic has made things immeasurably worse. **22% of families that The Unity Project assisted during lockdown had underlying health conditions that put them 'at risk' from the virus. Of these, 54% were forced to continue working throughout lockdown**, despite the potentially fatal consequences. The majority of people we support are living in overcrowded accommodation which makes it impossible for them to self-isolate. Of those we assisted during lockdown, **32% were working as 'key-workers'**.

What's more, many **people with NRPF were ineligible for the temporary coronavirus support schemes.**⁶ Of families we assisted in the 6 months after lockdown, **less than 13% had been able to access the furlough scheme and less than 3% had received a self-employed grant**, due largely to being in precarious employment.

The new Test and Track Support Payment Scheme for people who need to self-isolate needs to be made available for those with NRPF. According to the available guidance⁷ and several local authority websites,⁸ people must be claiming Universal Credit or Working Tax Credits in order to be eligible, de facto excluding people with NRPF.

This poses an unjustifiable risk to those with NRPF and public health.

NRPF policy ruled unlawful

The policy has been challenged in court since its inception on the basis that it is unlawful. There have been three notable court cases which have brought the operation of the policy into disrepute, in 2014⁹, 2019¹⁰ and during lockdown in 2020¹¹.

In the most recent hearing, **the High Court ruled that the policy was unlawful** as it did not prevent destitution, leaving the claimant - an 8-year-old British boy - street homeless with his mother. The policy has since been adjusted, but remains subject to continued legal challenge.

Questions for ministers

⁶ The Children's Society has produced a succinct summary of the support available to people with NRPF, and why this is insufficient to protect them or the public health called 'Claim vs Reality for Migrant Families',

<https://web.archive.org/web/20200909103801/https://www.childrenssociety.org.uk/news-and-blogs/our-blog/claim-vs-reality-for-migrant-families>

⁷ <https://www.gov.uk/government/news/new-payment-for-people-self-isolating-in-highest-risk-areas>

⁸ For example: <https://www.lbbd.gov.uk/news/council-launches-test-and-trace-self-isolation-support-payment-scheme>

⁹ This led to the introduction of the 'Change of Conditions' application. Judgement:

[https://www.bailii.org/uk/cases/UKUT/IAC/2014/\[2014\] UKUT 513 iac.html](https://www.bailii.org/uk/cases/UKUT/IAC/2014/[2014] UKUT 513 iac.html)

¹⁰ <https://dpglaw.co.uk/another-blow-to-theresa-mays-hostile-environment/>

¹¹ Judgement: <https://www.bailii.org/ew/cases/EWHC/Admin/2020/1299.html>

- **Will the Minister specifically explain how a single parent with NRPF is expected to pay rent and feed their family in the following scenarios?**
 - a. If they test positive for coronavirus and have to self-isolate. *(Note: If they are formally employed, they will be entitled to less than £100 in Statutory Sick Pay (SSP), but not to any other support. If they are not formally employed, or are exploited by their employer, they will receive no support at all. It is unclear whether the Test and Trace Scheme excludes people with NRPF (see above))*
 - b. If they are laid off and unable to find employment, particularly when the furlough scheme ends. *(Note: If people have paid national insurance for two years prior, they may be entitled to limited contribution-based benefits such as ESA. If so, these only provide support for missing income, with no additional money to cover the cost of children. Most people are not able to apply for these contribution-based benefits, and therefore will have no income whatsoever.)*
 - c. If they have health conditions which put them at particular risk from the virus. *(Note: They are faced with having no income at all if they stop work.)*
- **What specific aspects of the Windrush Lessons Learned Review findings will the government be applying to this policy area to avoid continued institutional failings in Home Office practice?** For example, how will they ensure the Home Office will:
 - a. 'be more proactive in identifying people affected and put right any detriment detected' and 'better understand and give training on the public sector equality duty (PSED) and its intersection with immigration law'?
 - b. 'make sure the law is much more accessible for the public, enforcement officers, caseworkers, advisers, judges and Home Office policy makers' and 'establish more and clearer guidance on the burden and standard of proof particularly for the information of applicants'?
 - c. 'invest in improving data quality, management information and performance measures'?
- **Will the Minister commit to a public enquiry into the impact of the NRPF policy?**
- According to the government's 2012 policy statement, the NRPF policy was introduced in order 'to reduce burdens on the taxpayer, promote integration and tackle abuse' within an immigration system that is 'transparent, clear, consistent and fair'.¹² **What concrete evidence can the Minister provide to show that the NRPF policy is meeting these stated objectives?**

Real life examples from the last 6 months

Please note, names have been changed; all other information is accurate and based on situations that The Unity Project has encountered in the last six months.

Full-time NHS care workers living in unconverted business unit

David and Olusola work as NHS care assistants. They live together with their 11-year-old British daughter in an unconverted office room in a business centre, as they cannot afford to rent an alternative. The family does not have a bathroom and shares a toilet and basic kitchenette with other tenants of the office building. David and Olusola shower at work, and have to take their daughter to a friend's house to wash. Both Applicants work full-time despite diagnosed health conditions; they

¹² 'Policy Equality Statement', 13 June 2012,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/294067/family-migration-statement.pdf. Note, the same policy statement goes on to state: 'we want to see family migrants thriving here, not struggling to get by.'

pay a friend £40p/m to care for their daughter until they are able to get home from work. They waited over 3 months for a decision on their application to remove the NRPF condition.

Elderly couple reliant on single pension

Valerie used to work as a security guard, but had to give up her job after she was disabled following an accident: she fell down a flight of stairs at a shopping centre two years ago, breaking her foot. She was signed off work for a prolonged period but she and her British husband were unable to manage on the meagre income from his pension. As a result, Valerie went back to work in early 2019, against medical advice. Around a year later, she suffered another injury at work, to her hip this time, and is now unable to walk unaided and in constant pain. She received sick pay from her employer for a few months, but now has no income at all, despite being too disabled to work. The couple are struggling to survive on her elderly husband's pension of less than £800 per month.

Mother of two trapped living with violent ex-partner

Amelia is a self-employed designer, whose work has dried up since the pandemic. She and her two young children are all living with her violent ex-partner in a one bedroom flat as they do not have the financial independence or support that might enable them to leave. Her ex-partner sleeps in the bedroom, and the three of them sleep on a sofa in the living room. Amelia is being treated for chronic back pain as a result of her poor sleeping arrangements. Her ex-partner is physically and emotionally abusive; the police have been called to the flat on occasion, he was recently arrested for attacking Amelia and has now installed listening devices in the flat. He stopped paying any money towards the family a year ago, and Amelia had been paying the £900 monthly rent, but has now fallen into two months' arrears, and she has other debts, too. Both children are asthmatic, and 8-year-old David has special educational needs, which require additional support that Amelia struggles to afford.

Single mother's NRPF application refused for over 6 years

Ada shares a single room with her daughter in a house they share with five adult male strangers, who sometimes take drugs in the shared kitchen. The school support worker and GP have confirmed that the living conditions are harmful. Ada is a NHS healthcare assistant when not caring for her daughter, but her wages of just over £1,000 barely cover rent. She first applied to remove the NRPF condition in 2014 when her daughter was born, as this was the start of her financial struggle. This was refused on the basis of lack of evidence and she was unaware that it may have been challengeable until - six years later - a proactive school support worker referred her for legal advice. Her daughter has therefore known no other life. She waited over 3 months for a decision on her second application to remove NRPF.

Couple on low income in Wales, unable to shield despite health conditions

Naomi and Sam live with their British son in South Wales, although Sam often travels to London to find work. He is HIV positive, but has not been able to comply with government advice to shield, because he is the only earner. Despite continuing to work, the household's collective monthly income is under £1,300, £1,000 of which is spent on rent and household bills.