



Children and Families with No Recourse to Public Funds

Hope Accommodation
Families Advice
Children Compassion
Support Statutory Voluntary Destitution

A report from Overview & Scrutiny





Contents

Preface	3
Summary of Recommendations and Key Principles	5
Glossary	8
1 Introduction	9
1.1 Purpose of the Inquiry	9
1.2 The Inquiry	9
2 Findings: Current Situation	11
2.1 Who has 'No Recourse to Public Funds'?	11
2.2 Who Is Entitled To Assistance?	11
2.3 Duties of the Local Authority	14
3 Findings: NRPF in Birmingham	15
3.1 Children and Families with NRPF in Birmingham	15
3.2 Support provided in Birmingham	15
3.3 Comparisons to other Local Authority Areas	19
3.4 The Home Office View	21
3.5 Legal Challenges	21
3.6 Third Sector involvement	22
4 Findings: Key Issues	25
4.1 Decision-Making at the Home Office	25
4.2 Decision-Making by the City Council	29
4.3 Safeguarding	34
4.4 Partnership and Network Opportunities	34
5 Conclusions and Recommendations	39
5.1 Collaboration	39
5.2 A New Approach?	40
5.3 Gathering and Sharing Data	42
5.4 Working with Government	43
5.5 Recommendations	45



Children and Families with No Recourse to Public Funds

Further information regarding this report can be obtained from:

Lead Review Officer: Name: Emma Williamson

Tel: 0121 464 6870

E-mail: emma_williamson@birmingham.gov.uk

Reports that have been submitted to Council can be downloaded from www.birmingham.gov.uk/scrutiny.



Preface

By Cllr Carl Rice, Chair of the Governance, Resources and Customer Services O&S Committee



This inquiry came about in response to evidence that increasing numbers of families, unable to access mainstream benefits because of their immigration status, were applying to the City Council for support.

These families can find themselves destitute for a number of reasons, and in those circumstances the City Council is obliged to provide support under the Children Act 1989. We therefore looked at the scale of this issue, the cost to the City Council and how it was being managed.

The facts are set out in the report but our main finding was that a consensus approach between the statutory and voluntary sectors was needed to expedite cases in the interests of all concerned.

The longer a case takes to resolve the greater the cost is to the local authority. The length of time taken also has an impact on the families concerned, particularly with regards to their mental health related to the stress and trauma of being in limbo. The sooner a case is resolved then the family can move on and the City Council's responsibility is concluded.

It was clear that cases were taking too long and often that was down to the Home Office. We have therefore recommended that the Home Office be lobbied to improve decision-making. This Committee will also do what it can to raise this issue at a national level through its equivalent in Parliament – the Select Committee process.

However, there are things we can do here too. A key area of support is getting good and timely legal advice. The City Council should look at ensuring that those with NRPF status have good quality accommodation which is linked to help with welfare, health and advocacy to help resolve their situation sooner than it otherwise would be.

This could be provided by the third sector. However, it appeared to Members that there was an adversarial relationship between the statutory agencies and the third sector agencies involved in assisting those with NRPF status. This needs to change and quickly. The missing element appears to be trust – the advocates and the decision makers need to see each other's perspective and have a mutual understanding and appreciation of the difficulties each face.



Children and Families with No Recourse to Public Funds

Our approach to the recommendations has been somewhat different to the usual approach – rather than start with a list of prescriptive recommendations, we agreed to allow officers and voluntary organisations representing families whose status is not known to determine the best way to realise the outcomes we have identified in the report. We have taken this approach in recognition of the fact that they are best placed to identify the actions needed to achieve the outcomes. The Committee will take an early look at the proposed action plan and shape that process. If the Committee feels that insufficient progress has been made, then the matter will be revisited and more prescriptive recommendations issued.

Finally, I wish to thank the witnesses who gave their time and expertise to help us bring together this report.

Councillor Carl Rice

Chair, Governance, Resources and Customer Services Overview and Scrutiny Committee



Summary of Recommendations and Key Principles

	Recommendation	Responsibility	Completion Date
R01	That a package of measures / action plan is developed to improve how the City Council works both with people with NRPF status and with those agencies that support them. The principles set out in this report (below) should underpin this package. An early version of this plan should be brought to this Committee to enable Members to influence it.	Deputy Leader	March 2014
R02	That representation is made to the Home Office to • Address delays in its decision making and in particular prioritise local authority-supported cases for resolution in the same way as those receiving asylum support from the Government; • Stop the practice of issuing leave with NRPF conditions, whereby people are more likely to need local authority support; • Urgently examine on-going cases where the City Council is currently providing support. In addition ways of working more closely and effectively with the DWP should be explored.	Deputy Leader	June 2014
R03	Progress towards achievement of these recommendations should be reported to the Governance, Resources and Customer Services Overview and Scrutiny Committee no later than July 2014. Following the agreement of an action plan, this will be tracked by the Committee alongside the recommendations. The Executive should also report back on the outcomes achieved following this report's publication. Subsequent progress reports will be scheduled by the Committee thereafter, until all recommendations and the action plan are implemented.	Deputy Leader	July 2014



Children and Families with No Recourse to Public Funds

Key Principles

1. The City Council should work in partnership with external organisations and agencies in order to facilitate the resolution of No Recourse to Public Funds (NRPF) cases. Building trust between organisations is key to this. A more collaborative approach must be demonstrated, and a protocol drawn up to establish this new approach between statutory and third sector partners.
2. City Council provision in relation to people with NRPF should be clear and well understood across the City Council.
3. Communication standards should be published and adhered to.
4. A “hub” approach or a single gateway to managing access to NRPF support should be implemented.
5. Consideration should be given to a commissioned approach to NRPF services, whether as a whole or in part.
6. Housing should be a particular focus of this new approach: the process of allocating accommodation should be reviewed (including how prices are determined or monitored) and a more innovative approach to housing with an integrated residential support mechanism should be actively considered.
7. It is in both the City Council’s interest and the interest of the families that good quality advocacy to get issues resolved is available. Providing this as part of a holistic package linked to good quality accommodation should be considered.
8. A mechanism by which data on those with NRPF status who come in contact with the City Council can be recorded would enable better accountability and better planning of resources.
9. The City Council should work with partners to develop a better understanding of those with NRPF in Birmingham, how they are being helped and the costs to the public purse of this (perhaps through collaboration with the West Midlands Strategic Migration Partnership (WMSMP) research into NRPF in the West Midlands and through the opportunity presented by the Centre on Migration, Policy and Practice (COMPAS) research).
10. Consideration should be given to joining NRPF Connect: working with other local authorities and the Home Office Interventions and Sanctions Unit (I&SU) to reduce current backlogs, prevent future escalations of cases and reduce expenditure.
11. There should be a better understanding of what the third sector agencies do and the value of that work to the city.
12. The Home Office should be robustly challenged on the time taken to resolve cases where people are being supported by the City Council. A review of all long term cases with



outstanding applications to the Home Office should be undertaken, with a view to putting in a fresh claim for some cases.

13. In addition, the City Council should take all opportunities (whether alone or in collaboration with other local authorities) to lobby the Home Office to reduce delays in its decision making; prioritise local authority-supported cases for resolution in the same way as those receiving UK Visas & Immigration (UKVI) asylum support; and stop the practice of issuing leave with NRPF conditions.
14. The City Council should work in partnership with the Department for Work and Pensions (DWP) to facilitate the prevention of cases whereby people fall into destitution caused by gaps in the benefits system.



Glossary

ASIRT	Asylum Support and Immigration Resource Team
BSWAID	Birmingham and Solihull Women's Aid
COMPAS	The Centre on Migration, Policy and Practice
CTB	Council Tax Benefit
CTS	Council Tax Support
CYPF	Children, Young People and Families
DDV	Destitute due to domestic violence
DWP	Department for Work and Pensions
EEA	European Economic Area
HB	Housing Benefit
IAA	Immigration and Asylum Act 1999
NINO	National Insurance Number
NRPF	No Recourse to Public Funds
O&S	Overview and Scrutiny
UKBA	UK Border Agency
UKVI	UK Visas & Immigration
WMSMP	West Midlands Strategic Migration Partnership



1 Introduction

1.1 Purpose of the Inquiry

- 1.1.1 'No recourse to public funds' is a condition imposed by the UK Visas & Immigration (UKVI) service on a person who is subject to immigration control, giving them no entitlement to welfare benefits or public housing. The condition also applies to visa over-stayers.
- 1.1.2 Immigration rules require a person arriving in the UK, whether to settle, to visit or to study, to be able to maintain their living, including their accommodation, with no entitlement to benefits or public housing. However, there are situations – whether due to a change in circumstance, a delay in Home Office decision-making or because they may remain in the country beyond their visa limit – these individuals become destitute.
- 1.1.3 In these cases, individuals and families can apply to their local authority for support. Financial support from a local authority is not deemed to be a 'public fund', as it is determined through a statutory assessment process that assesses a person's level of need against a threshold for social services assistance.
- 1.1.4 It was recently reported to the Deputy Leader that this reliance on local authority support has become more prominent in recent years as the numbers of people seeking local authority support are increasing. Changes in immigration rules, benefits and legal aid have all contributed to a significant and growing impact on the financial and staff resources of the City Council.¹
- 1.1.5 The Deputy Leader therefore requested that the Governance, Resources and Customer Services O&S Committee undertake an inquiry into this matter.

1.2 The Inquiry

- 1.2.1 On Friday 4th October the Members of the Governance, Resources and Customer Services Committee met to hear evidence on children and families with NRPF. The decision to concentrate on children and families – rather than all those with NRPF – was made to focus on those areas where the Committee could have the most significant and immediate impact. However, there are many similarities in how cases are dealt with, and our recommendations should assist in all cases relating to NRPF. Our key lines of enquiry were:
- How many families with no recourse to public funds are currently being supported by the City Council and what is the cost involved?

¹ Report of the Lead Officer on Children and Families with No Recourse to Public Funds to the Governance, Resources & Customer Services Overview and Scrutiny Committee, 26th July 2013



Children and Families with No Recourse to Public Funds

- What are the extent of, reasons for and implications of Home Office delays in considering applications for leave to remain, designating settled status and reviewing cases of appeal?
- What are the different statuses given to individuals and families and what does each of these mean in terms of support needed? What are the particular issues in respect of asylum seekers?
- Which service areas are involved and what type of support is provided?
- How do the various City Council service areas work together to support people with no recourse to public funds?
- How are Third Sector organisations involved and what funding streams do they have access to assist them?

1.2.2 Evidence gathering opened with Cllr Ian Ward, Deputy Leader, who outlined the current situation in Birmingham and why this is an issue for the Executive.

1.2.3 Members then heard oral evidence from:

- Geoff Wilkins, Co-ordinator, The Hope Projects;
- Dave Stamp, Project Manager, ASIRT (Asylum Support and Immigration Resource Team);
- Andrew Jolly, Helping Further Project Coordinator, The Children's Society;
- Nasheima Sheikh, Assistant Chief Executive, and Suki Sanghera, Safety Unit Manager, Birmingham and Solihull Women's Aid;
- Shank Patel, Head of Service and Sharon Mullins, NRPF Team Manager, Children, Young People and Families;
- Chris Gibbs, Assistant Director, Revenues & Benefits;
- Jerome O'Ryan and Feizal Hajat, Heads of Service, Legal Services.

1.2.4 Finally, Members had the opportunity to deliberate on the evidence in private and to discuss the best way forward. This report sets out the findings and conclusions, along with recommendations to address the poor situation both the City Council and those people with NRPF are facing.



2 Findings: Current Situation

2.1 Who has 'No Recourse to Public Funds'?

- 2.1.1 Under the Immigration and Asylum Act 1999 people are deemed to have 'no recourse to public funds' (meaning welfare benefits, social housing and homelessness assistance) if they are subject to immigration control. These are people from outside the European Economic Area (EEA) whose visas contain an NRPF condition (e.g. work, student and spousal visas), or who have overstayed their visas. An increasing number of individuals are being granted limited leave to remain with an NRPF condition which means they have a right to work and reside but no right to claim state benefits.
- 2.1.2 In addition, some visas contain an NRPF condition (e.g. work, student and spousal visas), and an increasing number of individuals are being granted discretionary leave to remain which means they have a right to work and reside but no right to claim state benefits.
- 2.1.3 In addition, people from the European Union – who are not subject to immigration law and are free to come to the UK – are not able to claim UK benefit unless and until they meet the conditions of the Habitual Residence Test.

2.2 Who Is Entitled To Assistance?

- 2.2.1 Where people are deemed to have NRPF under the Immigration and Asylum Act 1999 (IAA) and find themselves to be destitute, then they may turn to the local authority under the following Acts:
- Section 21 National Assistance Act 1948 – gives local authorities a duty to accommodate adults who are unwell (who have a 'need for care and attention not otherwise available')
 - Section 17 Children Act 1989 – requires local authorities to identify and meet the needs of children in need in their local area. A destitute child will be in need and the local authority can be required to provide accommodation and subsistence to the child and their parents under this section.
 - Under the leaving care provisions of the Children Act 1989.
- 2.2.2 This Inquiry has mainly concerned itself with the Section 17 support as the focus is on children and families. Under that provision, any individual, professional or the family member themselves can refer a situation of destitution to the City Council's Children, Young People & Families (CYPF) Directorate to initially assess and, if appropriate, support that family.
- 2.2.3 Schedule 3 of IAA restricts Local Authorities from providing support under Section 17 unless refusal would cause a breach of the child's human rights.



Children and Families with No Recourse to Public Funds

2.2.4 In the case of **people from outside the EEA**, case law obliges Local Authorities to provide support where families are destitute and an application for leave to remain is outstanding with the Home Office:

- Visa over-stayers – most of our evidence pointed to these being the largest group in this category (over 90% of cases dealt with by the Children's Society for example fell into this group). In the experience of the agencies which gave evidence to this Inquiry, this group are largely single mothers who entered the UK lawfully on short-term visas, and have declined to return to their countries of origin. In the words of one of our witnesses:

They are also the group with the most insecure status and the least entitlement to services. (The Children's Society)

- Families with applications (initial applications, appeals or representations including under Article 8 of the Human Rights Act) for leave to remain outstanding with the Home Office - Decisions are subject to appeal and up to the point of exhausting all appeal rights the Local Authority will have to continue to provide financial support and assistance;
- There are also those who have been granted discretionary leave to remain and find themselves destitute. Evidence suggests that this group is increasing as the UK Visas & Immigration (UKVI) service use this category more often.

2.2.5 The situation with regards to **asylum seekers** (whether awaiting decision or refused) is different: asylum seekers are not entitled to mainstream welfare benefits or paid employment (in most cases), but they are generally entitled to asylum support from the Home Office under Section 95 of the Immigration and Asylum Act 1999.

2.2.6 Asylum seeking families with children will generally be on this form of support although some families with children may be supported under Section 4 of the same Act where they are failed asylum seekers and destitute. It should be noted however that this does not relieve the City Council of any obligations as case law dictates that support offered under section 4 does not take precedence over the Local Authorities Section 17 duty.

2.2.7 Once someone has been granted leave to remain (where the Home Office has accepted have a well-founded fear of persecution as set out under the Refugee Convention), they should not require support from the local authority because they are able to work and access mainstream benefits. However, in some cases there may be a need for additional support during transition between asylum support and mainstream benefits where families may be left destitute.²

2.2.8 In practice, it is often difficult to either persuade prospective employers or the DWP of these employment rights and difficult for women with caring responsibilities to access employment

² The Children's Society – Written evidence to Birmingham City Council Enquiry Children and Families with No Recourse to Public Funds



opportunities which will cover the costs of childcare and housing. Also, in these cases there is a right to work but it can be difficult to get a National Insurance Number.

- 2.2.9 In the case of **European Union migrants**, there are some cases where migrants become destitute as a result of personal and relationship breakdown and so can claim support.
- 2.2.10 There is also another category requiring support from the Local Authority known as Zambrano carers. These are the primary carers of children who are British Citizens. The case establishes the carers' right to reside and work in the EU but does not provide recourse to public funds. Where not in work and destitute, these families are now wholly reliant on the Children, Young People & Families Directorate for support.
- 2.2.11 It should be noted that these are not necessarily distinct from the above category, since "Zambrano" carers can be either visa overstayers or refused/"failed" asylum seekers.

"Zambrano Families"

Mr Zambrano was a Columbian national living in Belgium with his wife and their three children, two of whom were born there. Mr Zambrano and his wife were both failed asylum seekers and therefore had no entitlement in their own right to remain in Belgium and/or work there without a permit. However, the children born there had acquired Belgian nationality and consequently were citizens of the European Union and beneficiaries of the rights conferred by National and European Rights.

Mr Zambrano successfully argued in the European Appeal Court that if he was to be deported from the European Union that the human rights of his children, who were European Citizens, would be breached. The outcome of this was that the 'Zambrano Family' is one in which the parent or parents will have no recourse to public funds as they are non-EU citizens, but their child/ren are citizens of the EU and have protection of all European and UK statutory rights. For the children of Zambrano families the Local Authority has a duty to support the child/ren through the provisions of Section 17 of the Children's Act and with this their family.

In 2012, the Government introduced regulation in the form of the Social Security (Habitual Residence)(Amendment) Regs 2012 (SI/2587). The effect of this was to regard the Zambrano adult as not habitually resident for the purpose of eligibility to benefits. This same approach was also applicable to JobSeekers Allowance, State Pension Credit, Housing Benefit, Council Tax Benefit, Employment and Support Allowance.

Whilst the full implications of this "right to reside" are (at the time of writing) being contested in the courts, the effect of these regulations to render these families with no recourse to public funds, albeit with the right to secure employment. The result therefore is that Section 17 support will be the only housing and subsistence option available where employment cannot be obtained.

Source: Report of the Lead Officer on Children and Families with No Recourse to Public Funds to the Governance, Resources & Customer Services Overview and Scrutiny Committee, 26th July 2013



2.3 Duties of the Local Authority

2.3.1 Under Section 17 provision, there is a general duty on the Local Authority to assess and provide support to children within their area and with this to provide financial assistance. In establishing the position with regards to families requesting Section 17 support in NRPF cases, the City Council must take the following steps:

- a. Establish that the applicant is resident in the Local Authority area of Birmingham;
- b. Establish that the applicant is an adult with responsibility for children and therefore there is a duty to assess and support under the Children Act 1989;
- c. Establish that the applicant is destitute;
- d. Carry out an immigration check to establish eligibility under immigration legislation – i.e. there is an explicit expectation that in supporting families with No Recourse to Public Funds, the individual adults will have submitted an application to the Home Office and the UKVI for leave to remain in the country;
- e. Check whether the authority is excluded from supporting the person under s.54 of the Nationality, Immigration and Asylum Act 2002; and
- f. Where the applicant falls within one of the excluded groups, carry out a human rights assessment to establish whether there is an obligation on the authority to provide support in order to prevent a breach of a person's human rights.³

2.3.2 This work is conducted by the specialist No Recourse to Public Funds social work team. The value of the work of this team was noted by the Committee and also echoed in the evidence from the NRPF Network:

The work of these teams consistently save the local authority money on account of the ability to ensure that only eligible cases are supported and that individuals and families are assisted in taking steps to regularise their stay in the UK. (NRPF Network)

2.3.3 In doing so (in particular with regard to the latter point), they are supported by Legal Services, in ensuring compliance with legislation, case law outcomes and the ever increasing number of judicial review 'pre-issuing' letters. The Inquiry was told that the cost of this for the last 6 months was approximately £15,000.

2.3.4 Another area of the City Council involved in this work is the Benefits and Advice Service which, amongst other things, administers Housing Benefit (HB) and Council Tax Benefit (CTB).

³ The terms of the Essex Judgement (*[R (on the application of KA) v Essex County Council [2013] EWHC 43 (Fam)]*) make it plain that the Section 17 duty is applicable to families subject to immigration control when it is evident that there is an *arguable* substantive human rights claim, which has a realistic prospect of success if made.



3 Findings: NRPF in Birmingham

3.1 Children and Families with NRPF in Birmingham

3.1.1 At the time of writing, the Children, Young People and Families Directorate was providing support for 163 families with No Recourse to Public Funds, the majority of which are a single adult household with one child. The annual cost of this is £2,208,076 (see section 3.2 below).

3.1.2 In terms of 'Zambrano' families, currently nine such families are supported by the Children, Young People and Family Directorate of the City Council. The current annual level of financial support to these families for rent and subsistence is £121,000:

Working on the premise that the average age of the youngest child is 5, that the primary carer and sole carer whilst being able to work is unable to secure employment and income and hence the City having to support the child/ren until the age of 18, the projected cost of this over 13 years is £1.6 million.⁴

3.1.3 Additionally, another 11 Zambrano families who were being supported by the Local Services Directorate will now be supported by the Children, Young People & Families Directorate. The annual cost is currently £94,000 (rent only). Projecting this again over an average period of 13 years the projected cost is £1.2 million at current levels.

3.1.4 Our witnesses from the third sector agencies noted that:

The number of families supported by the local authority is likely to be a minority of the true number of families who face destitution because of their immigration status in Birmingham. (Children's Society)

3.1.5 The NRPF team have noted an increase of, on average, two or three families each month that the Directorate is being asked to support.

3.2 Support provided in Birmingham

3.2.1 In Birmingham, NRPF families receive a weekly payment of £35 per family member plus a £15 utility payment, i.e. a one child one adult family will receive £85 per week, a two children one adult family will receive £120 and so on. The £15 utility payment is to cover gas and electricity.

3.2.2 The total weekly expenditure in supporting the 163 families is:

⁴ Report of the Lead Officer on Children and Families with No Recourse to Public Funds to the Governance, Resources & Customer Services Overview and Scrutiny Committee, 26th July 2013



Children and Families with No Recourse to Public Funds

- Rent paid to the 163 families: £28,167
- Subsistence paid to the 163 families: £14,296

3.2.3 The weekly expenditure (rent and subsistence) is therefore £42,463. This equates to an annual expenditure of £2,208,076.

3.2.4 We received evidence showing the weekly difference in the welfare benefits payments to that of the current Section 17 payments made to families. In summary, a family consisting of one child and one adult (the majority in Birmingham) would receive £154.78 (income support, child tax credits and child benefit)⁵ whilst the same family receiving assistance under NRPF would receive £69.78.⁶

3.2.5 It was noted during the evidence gathering that largely due to a lack of central government guidance and case law on this matter, the level of support for children and families varies from one local authority to another. There is no statutory guidance on this area and so it has been developed piecemeal through case law.

3.2.6 A breakdown of the support given is set out below.

Accommodation

3.2.7 The City Council can arrange accommodation for those with NRPF, if the conditions set out in section 2.3 above are met. This can include:

- Emergency accommodation – this is usually a B&B or hotel, entire families in a single room, no kitchen and shared bathroom facilities. There is a strong likelihood that this type of accommodation will be subject to challenge as not being suitable. Families can be in this type of accommodation for many months;
- Use of City Council accommodation (where Children's Services pays the rent);
- Hotel accommodation – after emergency accommodation, families move into a hotel/B&B accommodation for the longer term. This is often a bedsit, with a kitchen, but may still have shared facilities. Again families are in this type of accommodation for many months or years.
- Private rented – the Local Authority is arranging private rented accommodation for families through landlords.

3.2.8 This is arranged by the NRPF team. The type and quality of accommodation is open to potential challenge, as is the length of time families spend in B&B style accommodation.

3.2.9 The Children's Society told us that:

⁵ Individual families may receive more if in receipt of Payments related to a disability for either an adult or child or Pension age only benefits such as Winter Fuel Allowance

⁶ This and other illustrations can be found in the submission to this Inquiry – Income Report for UK Families – Welfare Benefit Entitlements Compared with Section 17 Rates, June 2013



Currently most families who are supported by Birmingham City Council are supported by Children's Services, and are provided with a room in temporary B&B accommodation out of the city.

- 3.2.10 However there are plans for Children's Services to offer money towards tenancy instead, thereby offering greater choice, security and stability, as well as being more cost effective.⁷
- 3.2.11 The City Council's Benefits Service will assist where they have been informed that the tenant has no recourse to public funds, by working with the tenant and Children's Services (NRPF section) to assess the tenant's eligibility to Section 17 funding which is allocated in cases of destitution. At the time of writing this report there are 3 cases outstanding awaiting a decision from Children's Services regarding SECTION 17 funding or support.
- 3.2.12 However, where the service has not been informed of the tenant's status, the rent arrears will result in rent recovery action. A total of 20 cases have been identified as housing tenants where they have no recourse to public funds. Of these, since August 2012, 13 referrals have been made to Children's Services and they have approved financial assistance towards the rent liability for 11 of the cases. The remaining 7 cases have created cumulative rent arrears of £18,637 to date.

Housing Benefit and Council Tax Support

- 3.2.13 Neither Housing Benefit (HB) nor Council Tax Support (CTS) are available to those without recourse to public funds.
- 3.2.14 Whilst there is a general rule in HB and CTS legislation requiring both the claimant and partner to possess a National Insurance Number (NINO), there is an exception to this general rule when a member of a couple requires "leave" to remain from the Home Office but does not yet have it – possibly as it has been applied for but not yet granted or it has expired. In such cases the Department for Work and Pensions (DWP) advises that authorities should assign a "dummy" NINO. There are currently 64 claims in payment with a dummy NINO with a claim for HB in Birmingham which are checked on a weekly basis for the allocation of the NINO from DWP.
- 3.2.15 Overall in 2012/13 the Benefit Service received 96 claims from persons from abroad with no recourse to public funds and therefore these claims were not eligible for Housing Benefit or Council Tax Benefit. In the current financial year 2013/14 there have been 65 such cases received.⁸

⁷ Children's Society – Written evidence to Birmingham City Council Enquiry Children and Families with No Recourse to Public Funds

⁸ Report of the Assistant Director, Revenues and Benefits to the Governance, Resources and Customer Services Overview and Scrutiny Inquiry – 4th October 2013



Children and Families with No Recourse to Public Funds

Council Tax

- 3.2.16 Council tax is payable by those with NRPF status. However, following a complaint to the Local Government Ombudsman in respect of the Benefits Service, the CT arrears have been remitted for a NRPF family.
- 3.2.17 The Revenues Service has identified 21 properties where people with no recourse to public funds are resident. The National Asylum Support Service and Department of CYPF are paying council tax for these individuals; with the value for the current financial year being £15,982.50.
- 3.2.18 Again, once the service was aware of the circumstances of these individuals, it was able to liaise with the NRPF team and suspend account recovery and amend the council tax account accordingly (two such cases have been recently investigated and agreed). Where the service is not made aware of an individual with no recourse to public funds, the account will be progressed through normal recovery channels.
- 3.2.19 However, if meeting the cost of Council Tax for those with NRPF is to be the norm, the budget for this needs to be agreed.

Utilities

- 3.2.20 All electricity/gas/water bills are covered by payments by the CYPF Directorate under Section 17 provision.

Subsistence

- 3.2.21 An allowance is paid to families to provide for food and other essentials (usually £5 per child per day). There may be other support provided that has been deemed as necessary in any assessment to prevent destitution.

Free School Meals

- 3.2.22 There is no legal requirement to provide free school meals to children in families with No Recourse to Public Funds, although some schools may do so on a discretionary basis. Currently most schools do provide this.

School Travel

- 3.2.23 Birmingham City Council runs a school transport cost scheme to meet travelling expenses between school and home. Again, this does not form part of Section 17 support, though there are cases of individual schools using their discretion to pay for this.
- 3.2.24 In terms of both free school meals and school travel, the Children's Society notes that:

Despite living in severe poverty and material deprivation, destitute children and those supported by the local authority as a child in need, are generally not eligible for passported benefits such as free school meals, support for the disadvantaged two-year old offer and the pupil premium. This seems to be at



odds with the intentions of these provisions. In some cases we have been successful in advocating directly to schools to use their discretion to offer free school meals to children and support in paying for uniforms. However, this is a lengthy and ineffective process. (The Children's Society)

3.3 Comparisons to other Local Authority Areas

- 3.3.1 Nationally, NRPF is a growing issue for some but not all local authorities. A report recently published by the NRPF Network found that social services departments in 51 local authorities across the UK supported 6,500 people with 'no recourse to public funds' in 2009/10 at a cost of £46.5m.⁹
- 3.3.2 The report found that there has been a dramatic increase in the numbers of supported children and family cases across these local authority areas, although there had been a decline in the number of single adults who are supported for health reasons. The vast majority of these families entered the UK on visas, are waiting for a decision on applications for leave to remain in the UK under the European Convention of Human Rights and would be destitute without local authority support.
- 3.3.3 Data on NRPF in different local authorities is hard to come by, as the data is not collected or collated in many cases. However, we have identified some examples which are included below by way of comparison with Birmingham.

East Midlands Research

- 3.3.4 Research conducted by the East Midlands, funded by the East Midlands Strategic Migration Partnership, looked to identify, scope and cost the support given by local authorities in the region to people who are NRPF.¹⁰
- 3.3.5 The research found that, for the 2012/13 year within these authorities, there were 877 NRPF people supported by local authorities in the East Midlands at a cost for accommodation and subsistence alone of just over £1.6 million. This compares with the 4,000 NRPF people reported across all of England in 2008.
- 3.3.6 The average 2012/13 budget for NRPF people within Children's Services in Derby, Leicester, and Nottingham is £60,000-£90,000. Where local authorities were able to give an individual figure, this is a dramatic rise of 2011/12 figures:

⁹ Social Services Support to People with No Recourse to Public Funds: A National Picture, NRPF Network, March 2011. Of the 204 local authorities with social services responsibilities in England, Scotland and Wales, 83 were identified as likely to have significant NRPF case loads; 51 of these participated in this research.

¹⁰ Dr Trish Roberts-Thomson: NRPF Project Report: East Midlands for the East Midlands Strategic Migration Partnership, July 2013



Children and Families with No Recourse to Public Funds

However, the NRPF costs bear little relationship to numbers of NRPF people supported: the highest numbers of NRPF people are families with children but the largest costs are incurred by a small number of single adults with complex needs.

- 3.3.7 The costs mostly relate to the provision of accommodation and subsistence to NRPF people in the region. They do not take into account any indirect costs associated with legal challenges and court appearances, interpretation, transport costs, not to mention officer time and resources, legal queries or costs to schools or the health services.
- 3.3.8 The research report also noted that:
- Costs are increasing;
 - The highest NRPF costs are attributed to a small number of adults who have complex needs such as mental health problems or are rough sleeping;
 - The costs of providing accommodation is the biggest cost for Children's Services and this is mostly purchased from the private rental sector;
 - There is a huge range of costs per capita NRPF person supported between local authorities Children's and Adults' Services in the region;
 - Local authority costs are very high when cases are sent to judicial review.
- 3.3.9 These issues are reflected in the findings of this Inquiry and will be discussed later in the report.

Other Local Authorities

- 3.3.10 Earlier this year, there were a number of Freedom of Information Requests made by one individual to various Local Authorities asking for information around the number of people supported by that Authority who have no recourse to public funds and the costs involved.
- 3.3.11 An FOI response from **Kent County Council** was made in April 2013. At that time the total number of people supported by Kent County Council with no recourse to public funds, excluding unaccompanied asylum seeking children, was 32. The total cost of accommodation was £195,079.90. The service for unaccompanied asylum seeking children for the year 2012/13 had 145 individuals who had been Appeals Rights Exhausted through the year. The total cost of accommodation for was £657,778.
- 3.3.12 In the financial year 2012/13, the total number of people supported by **London Borough of Hillingdon** with no recourse to public funds was 41. The total cost of accommodation was £653,371. The FOI response was made in July 2013.
- 3.3.13 In the financial year 2012/13 **London Borough of Islington** reported that their No Recourse to Public Funds Team supported a total of 70 clients. As at 31 March 2013 the team was supporting



55 clients. For the financial year 2012/13 the cost of the accommodation for the total number supported was £734,137. The FOI response was made in April 2013.

3.4 The Home Office View

- 3.4.1 The submission this Inquiry received from the Home Office suggested that the circumstances where a local authority should be providing support to those with NRPF ought to be limited. It was acknowledged that delays in considering applications for leave to remain and settled status in the UK can have implications for local authorities.
- 3.4.2 They told us that delays in deciding cases for children and families who were not seeking asylum were down to a number of factors. Predominantly delays were caused by the applicants providing insufficient evidence with their application.
- 3.4.3 For these cases, efforts will be made to improve the service by separating temporary migration applications into four distinct workstreams. For the relevant group, the service was working towards a 12 week service standard. Some cases were being dealt with out of date order.
- 3.4.4 There was an understanding that delays in considering applications for leave to remain could have implications for local authorities and put the view that this was predominately a result of delays in considering asylum applications. The note stated:

However, Asylum seekers and failed asylum seekers are almost always supported directly by the Home Office under the provisions of sections 4 and 95 of the Immigration and Asylum Act 1999. The cost of supporting these cases does not therefore fall to local authorities. The only significant exception are unaccompanied asylum seeking children, and former unaccompanied asylum seeking children who have turned 18 years of age. Funding is provided to local authorities by the Home Office, to cover the costs of supporting both case categories.

- 3.4.5 For the non-asylum cases, it was suggested that participation with the NRPF Connect database, with which the Home Office was an active participant, would be an effective way forward. This is considered later in Chapter 4.

3.5 Legal Challenges

Judicial Review

- 3.5.1 The Local Authority regularly faces threats of Judicial Review in respect of multiple issues that all stem from the same issue: the parents of children who are NRPF are not having their immigration status determined in a timely manner.



Children and Families with No Recourse to Public Funds

- 3.5.2 The Local Authority is challenged when it is deemed to not have provided support to prevent destitution. These are usually resolved in correspondence and by providing support. Alternatively, without prejudice support is offered whilst further assessments/investigations are undertaken.
- 3.5.3 Other challenges relate to the level of support: the current provision is for support and assistance at a flat rate. Legal challenges may be faced in order to raise payments to the level of universal benefits. Increasing the level of weekly subsistence payment to universal benefit levels would represent a weekly increase of 82%.¹¹

Local Government Ombudsman

- 3.5.4 The City Council has received a cluster of complaints from the Local Government Ombudsman concerning failure to consider whether a person with no recourse to public funds was vulnerable and to deal with their council tax debt in accordance with the Debt Recovery Protocol operated by the Benefit Service. The Ombudsman believed these families to be vulnerable due to their extremely low income in comparison to that received by benefit claimants. All the cases have now been resolved to the Ombudsman's satisfaction in that council tax arrears have been remitted, but the Ombudsman had a number of concerns:
- Lack of prompt consideration of their individual circumstance as soon as this was advised, in each case by way of a letter of complaint from solicitors acting on their behalf;
 - Complaints handling and training of staff in the Benefit Service could be improved to help to deal with those with no recourse to public funds; and
 - Liaison between directorates, especially Children, Young People and Families, Adults and Communities, Housing and the Benefit Service in relation to how these families are being supported could be improved.
- 3.5.5 In terms of the internal handling of these cases, this has been addressed by the Benefits Service, including training and closer working with the NRP team.

3.6 Third Sector involvement

- 3.6.1 Statutory support is supplemented by a small number of Third Sector organisations which offer support to families with No Recourse to Public Funds. One of the key lines of enquiry for the inquiry is to explore how these organisations are involved and what funding streams they have available to them.
- 3.6.2 We heard from four such organisations that provide a range of practical and legal support to children and families with NRP. Details of their projects can be found in the submissions to this Inquiry, but in summary:

¹¹ Report of the Lead Officer on Children and Families with No Recourse to Public Funds to the Governance, Resources & Customer Services Overview and Scrutiny Committee, 26th July 2013



- **The Hope Projects** provides hostel type accommodation and works mainly with destitute asylum-seekers with no recourse to public funds in Birmingham and the West Midlands; support includes making cash grants to destitute asylum seekers; providing emergency accommodation for homeless asylum seekers in eight properties in Birmingham; and making one-off grants to mothers of small children who are barred from recourse to public funds. They are funded from charitable trusts and individual donors. In terms of numbers:

In the year ended 31 March 2013 the Hope Destitution Fund closed cases including 38 children and 10 pregnant women. (This was out of a total of 260 cases closed.) In the same year Hope Housing residents included 8 children and six pregnant women. At any one time Hope Housing is usually accommodating two or three such families.

- **ASIRT** (Asylum Support and Immigration Resource Team) provides immigration advice, advocacy, legal representation and practical support to asylum seekers and other people subject to immigration control in the West Midlands. ASIRT is registered with, and regularly audited by, the Office of the Immigration Services Commissioner. As such, they are legally able to give immigration advice, submit asylum and immigration representations and to help with appeals. They will usually have cause to refer around two or three families to Birmingham City Council for an assessment for support under Section 17 of the Children Act each month. From the time of writing this report, there was only one member of staff to support this work. Funding is from a mixture of individual donors, paid for training and specific grants;
- **The Children's Society** is a national charity providing help to vulnerable children, young people and families through a range of services. In Birmingham, the charity runs a project for destitute migrant children that includes rights and entitlements information, referral to legal advice, applications for section 4 support etc; maternity grants in partnership with Hope Projects to provide basic items for new babies; practical items – food parcels, nappies, clothes, toiletries – and group work – stay and play sessions, holiday activities. The project is currently funded by a mix of voluntary income from The Children's Society, The Reaching Communities programme of the National Lottery, and smaller grant making trusts.

Since the opening of the project in 2008 (between October 2008 until August 2013) The Children's Society has worked with over 600 destitute children and parents in the West Midlands, particularly single and pregnant mothers. Some have come to the UK seeking asylum, but increasingly we are working with other migrants who have become destitute – particularly African Caribbean families.

- **Birmingham & Solihull Women's Aid** (BSWAID) assists women and their children with no recourse who experience domestic violence. These totalled 10% of drop in cases in 2012-13. Relevant services offered include drop-in centres – for information and advice (around 10% of



Children and Families with No Recourse to Public Funds

women coming to such drop-ins in 2012/13 had NRPF); emergency accommodation in refuges to women and their children with NRPF; and help to establish the immigration status of the woman and, if applicable, apply for the “destitution due to domestic violence” (DDV) concession. If granted, this allows for leave to remain for 3 months with funding from the Home Office (only married women can apply for a DDV concession as it relates to spousal visas).

- 3.6.3 They all emphasised the importance of not just relieving destitution but working towards securing a longer-term solution for the client. It was also noted by our witnesses that:

the majority of destitute families survived by relying on community support from friends, acquaintances and family, church and other faith groups and voluntary organisations. In our view this kind of limited ad hoc support does not meet the welfare needs of children and means they are growing up living in precarious and sometimes extremely risky circumstances or may incur significant debt just to get by. (Children’s Society)

- 3.6.4 In summary, their accounts of dealing with both the Home Office and City Council in relation to people with NRPF described poor communication and a lack of sufficient involvement. This is discussed later in this report.



4 Findings: Key Issues

4.1 Decision-Making at the Home Office

- 4.1.1 The evidence from all our witnesses pointed to the impact of Home Office decision-making in terms of the length of time decisions are taking and the quality of those decisions.

Length of time in decision-making

- 4.1.2 The UK Border Agency (UKBA) service standards require 95% of decisions to be made in 6 months.¹² In addition, in *R(Clue) v Birmingham City Council*¹³ a clear assurance was provided by the Secretary of State via a letter from the Treasury Solicitor that stated:

In preparation for consideration of these cases, my client has reviewed its priorities and has decided to prioritise consideration of cases supported by local authorities because individuals in this category are not eligible for asylum support. It will therefore prioritise local authority supported cases which fall within either non asylum cases or its existing asylum casework.” (para 84 of the Court of Appeal judgment)

- 4.1.3 Nevertheless, the Home Office has a significant backlog of immigration applications and associated appeals resulting in the financial responsibility to continue to support families with No Recourse to Public Funds remaining with the Local Authority.¹⁴

- 4.1.4 The Children’s Society told us that:

We know for example that the average processing time for initial decisions by the Home Office in asylum cases was 49 days for an adult in 2012/13. However, this does not take into account families who may have applied for asylum or for other types of leave to remain prior to 2012/13, or for any appeals. We know that overall it can take several years to resolve cases fully. (Children’s Society)

- 4.1.5 Evidence from elsewhere supports this: according to research conducted by the NRPF Network, around 60% of cases involving children and families who were supported by local authorities were

¹² <http://www.ukba.homeoffice.gov.uk/visas-immigration/settlement/waitingtimes/>

¹³ [2010] EWCA Civ 460

¹⁴ Report of the Lead Officer on Children and Families with No Recourse to Public Funds to the Governance, Resources & Customer Services Overview and Scrutiny Committee, 26th July 2013



Children and Families with No Recourse to Public Funds

resolved within two years, but a significant proportion of families remain supported by local authorities for several years beyond this.¹⁵

- 4.1.6 The East Midlands research reported that just over half (55%) of NRPF support for families with children lasts for less than one year. However in 21% of cases, support lasted for between two and three years. One case in Northampton was reputed to have been going for 10 years. One of the conclusions from the East Midlands research was:

Most of the costs met by local authorities for NRPF Third Country nationals are due to the slowness of the Home Office in resolving cases. A number of cases languish for years and Unaccompanied Asylum Seeker Children appear to be affected most by this process. (NRPF Project Report: East Midlands, Executive Summary)

- 4.1.7 As this report was being written, the Home Affairs Select Committee published its report on Asylum, and noted:

The time taken to receive an initial decision to an asylum claim has been increasing in the recent past. As we have previously noted, just over half of asylum claims receive an initial decision within a year but during 2012 there was a 63% rise in the of the number of new asylum applicants who have waited more than six months for an initial decision.

- 4.1.8 The reason for such slow decision making was found to be partly caused by the necessary allocation of staff and resources to clearing the 'Legacy Backlog'. However, the deadline for clearing that backlog (March 2013) has passed and "there were still 32,600 asylum cases which had yet to be concluded".¹⁶

- 4.1.9 In Birmingham, officers confirmed that many of the families we work with have been waiting a long time for their Home Office decision. This data is not automatically recorded at present so the figures were not available for this inquiry. The Deputy Leader also raised concerns that the situation was likely to get worse.

- 4.1.10 The Home Office responded directly to this point in its submission to the Inquiry. They told us that delays were:

Predominantly caused by the applicants providing insufficient evidence with their application to substantiate their personal circumstances. In these

¹⁵ NRPF Network (2011) Social Services Support to People with People with No Recourse to Public Funds - A National Picture

¹⁶ Home Affairs Committee: Asylum - Seventh Report of Session 2013–14, 11 October 2013



instances, caseworkers then need to write out to the applicants to request information which will enable them to make a decision on their applications.

- 4.1.11 In addition, with some applications, referrals to external departments are also sometimes required before a decision can be made, including referrals to social services with children at risk cases, UK Human Trafficking Centre, other government departments (e.g. DWP for benefit enquiries) and NHS:

Decisions cannot be made until all of the relevant information is received and we are often reliant on other parties responding to our enquiries (which is usually out of our control). Every effort is made to chase up these enquiries (by email or phone) to ensure a speedy outcome.

- 4.1.12 Different types of applications are dealt with under different workstreams, to “allow us to deal with cases with increased efficiency and offer a more tailored customer service for each work stream”. For most of these, the UK Visas & Immigration (UKVI) service is operating “within service standards”.¹⁷
- 4.1.13 Our witnesses vigorously denied that the main reason for delay was down to the applicants not providing sufficient information but was a result of deliberate delay and poor quality decision making, evidenced through “pitiful reasons” for refusing applications and basic errors in responses.

Quality of Decision-Making

- 4.1.14 The Children’s Society told us:

Research has consistently highlighted problems with the quality of decision-making by the Home Office in asylum claims generally, as well as in family and children’s cases specifically. The first report of the Independent Family Returns Panel highlighted that of families that the UK Border Agency (UKBA) had considered to have no right to be in the UK and should return, 41% (77 out of 186) were subsequently granted leave to remain in the UK. It highlights that the UKBA attempted to remove a significant proportion of families who did in fact have a legitimate right to be in the UK. (Children’s Society¹⁸)

¹⁷ Letter from UK Visas & Immigration (UKVI) service – additional evidence submitted to the Inquiry, 4th October 2013

¹⁸ Quoting evidence from: A Question of Credibility: Why so many initial asylum decisions are overturned on appeal in the UK (2013) Amnesty International: http://www.amnesty.org.uk/uploads/documents/doc_23149.pdf; Untold Stories; Families in the asylum process (2013) UNHCR: http://www.unhcr.org.uk/fileadmin/user_upload/pdf/aUNHCR_Report_Untold_Stories.pdf; UNHCR (2009) Sixth Report of the Quality Initiative Project: http://www.unhcr.org.uk/fileadmin/user_upload/pdf/6_QI_Key_Observations_Recommendations6.pdf



Children and Families with No Recourse to Public Funds

4.1.15 The recent Home Affairs Select Committee report made a similar point, noting that 30% of appeals against initial decisions were allowed in 2012. They cited the United Nations High Commissioner for Refugees' identification of a number of specific failings in the quality of the UK's asylum decision-making:

- Failure by caseworkers to understand the basics of human rights law;
- A lack of understanding by caseworkers of the role of applicants' credibility;
- Frequent use of speculative arguments to undermine credibility;
- Failure to apply the correct methodology to credibility assessment; and
- Lack of consideration of relevant evidence and the placing of unreasonable burdens on applicants to provide supporting evidence.

4.1.16 The report goes on to say that "substandard quality of decision making is being compounded by the inability of case workers to learn from their mistakes".¹⁹

4.1.17 Witnesses to this Inquiry were concerned that the abolition of Legal Aid for immigration cases may exacerbate these issues with decision-making and leave migrants with no means to challenge decisions:

Legal aid cuts mean that migrants can not rely on publicly funded legal representation to challenge Home Office delays or unlawful practices, making them ever more reliant on the services of small, precariously funded organisations such as ASIRT. (ASIRT)

Home Office Policy

4.1.18 At the inquiry session, there was discussion of the "political posturing" that was often seen in terms of immigration, and the impact that might have on Home Office decision-making. The Home Affairs Committee cited another barrier to trust in the system:

Another cause of distrust in the effectiveness in the system is what has been termed the 'culture of disbelief', which describes the tendency of those evaluating applications to start from the assumption that the applicant is not telling the truth.²⁰

4.1.19 Particular concerns with regard to NRPF was anecdotal evidence that the Home Office is increasingly giving people an NRPF condition in relation to their leave, making local authorities bear the potential costs should they become destitute (the East Midlands research refers to this). This was echoed by our witnesses:

¹⁹ Home Affairs Committee: Asylum - Seventh Report of Session 2013–14, 11 October 2013

²⁰ Home Affairs Committee: Asylum - Seventh Report of Session 2013–14, 11 October 2013



It is equally notable that the Home Office has begun granting leave to remain/reside outside the immigration rules, similarly denying them recourse to public funds and again potentially leaving few support options other than Section 17 available to them. (ASIRT)

4.2 Decision-Making by the City Council

4.2.1 The evidence received also contained some criticism of the City Council in respect of decision-making with regard to Section 17 applications. The witnesses from the third sector agencies cited a number of aspects to this:

- A lack of consistent decision-making;
- A large number of applications being supported after intervention or legal action;
- A lack of awareness of NRPF across statutory agencies including the City Council;
- Poor communication; and
- Failure to work with third sector agencies.

4.2.2 In addition, City Council officers identified the lack of good quality data and lack of understanding of the extent of the situation in the city as another barrier to good and consistent decision-making.

4.2.3 Each of these is explored below.

Lack of Consistent Decision-Making

4.2.4 Evidence received from the third sector agencies highlighted varied decision-making in relation to Section 17 applications, particularly when dealing with different local authorities:

Due to a lack of central government guidance and case law on this matter, the level of support for children and families varies greatly from one local authority to another. (Children's Society)

Sometimes families are told there is no support available when in fact, exploration of their situation could reveal that they are entitled to support. This can lead to unnecessary suffering and hardship, and increase vulnerability to abuse and destitution. (BWSAID)

4.2.5 This finding is echoed elsewhere: the East Midlands research highlighted this as:

The most serious criticism of local authority practice in relation to NRPF people is a perceived inconsistency of outcomes noted by the voluntary and community sector involved in supporting NRPF people in the region. (NRPF Project Report : East Midlands)



Children and Families with No Recourse to Public Funds

- 4.2.6 This is partly down to the lack of statutory guidance in respect of Section 17 applications. The NRPF Network has produced practice guidance for social services departments, warning that:

Where this area is not navigated correctly then on the one hand the local authority may inappropriately leave an adult or family destitute and face a costly judicial review, or on the other hand provide expensive subsistence and accommodation to people who are not entitled to this support. (NRPF Network)

- 4.2.7 The Children's Society also questioned the test for support being used by the City Council, as the test for "destitution" (the test used for adults) is different to that of "children in need" (the test for Section 17):

Local authorities appear to be assessing their responsibilities in terms of meeting the basic needs of families to avoid destitution – i.e. to provide food, clothing and shelter – rather than assessing whether support is adequate to meet children's full range of needs and to promote their welfare as set out in statutory guidance.

Increased Support after Intervention

- 4.2.8 Evidence from the Children's Society highlighted the high number of applications for Section 17 support that are granted after some form of intervention:

Since 2008 The Children's Society in Birmingham has made 110 child in need referrals (under Section 17 of the Children Act 1989) to Birmingham children's services on the basis that a family was destitute and the child's welfare needs were not being met. Only 8% of these families were supported by children's services following the referral, while 86% were eventually supported, usually following an intervention from a solicitor. The average time between the referral and the family gaining support was 14 days, with the longest time being 43 days. (The Children's Society)

- 4.2.9 This was explored in greater detail at the evidence gathering session, and officers responded that the 8% referred to an immediate response at the point of referral, whilst later claims were responded to within 8 and 45 days. It was denied that these figures represented a propensity to "just say no", but rather represented the time needed to complete thorough and robust assessments which may include having to liaise with other agencies.

- 4.2.10 What was clear was that this delay of up to 45 days caused some applicants to seek legal help, which in some cases resulted in a letter warning of the intention to take the City Council to a



Judicial Review. This led to the involvement of Legal Services and an additional cost of around £15,000 over the last six months.

Lack of Awareness of NRPF

- 4.2.11 A general lack of awareness of NRPF across statutory agencies including the City Council was reported:

Many mainstream services, having little or no knowledge of the support options potentially available to people subject to immigration control, either advise such individuals wrongly, or else replicate patterns of institutional racism, and so refuse the provision of any service to individuals constructed as “illegal” (ASIRT)

There are many inconsistent responses from agencies as many (including DWP) are not aware of the entitlements that these women have so a high level of advocacy is required to enable them to gain their rights (BSWAID)

- 4.2.12 Again this is not unique to Birmingham and was echoed in the findings of the research conducted in the East Midlands:

The most serious issue was that most officers, except those directly involved, did not know about NRPF. E-mails to generic e-mail addresses and telephone calls to Children's Services across the region repeatedly drew a blank on any understanding of what NRPF meant, who it might affect and or its significance in terms of 'who pays'. The same applied to Adult Services across the region. Very few senior officers appeared to have an understanding of NRPF as shown by the low response rate from many services areas in the region. (NRPF Project Report : East Midlands)

- 4.2.13 This results in people being passed around the organisation before getting the right help, or being given wrong or misleading information on rights and entitlements. In addition, taking opportunities to help people early on not only reduces distress but can reduce the need for long term support. For example, awareness in some schools could be better:

Whilst schools will not necessarily know a child's immigration status, they are likely to see warning signs of destitution earlier, but our experience tells us that schools are not always aware of specialist support available for destitute children, or of the restrictions in access to services for families with NRPF (Children's Society)

- 4.2.14 More worryingly however, it seems that many areas of mainstream children's services are not aware of the existence or role of the NRPF team (which received praise for its experience and



Children and Families with No Recourse to Public Funds

knowledge). It was acknowledged that Birmingham's high vacancy rate for social workers and high workloads were likely to be a factor in this.

- 4.2.15 However, it highlights a lack of coordination between different service areas of the City Council and means opportunities to work better across the organisation are being lost.

Poor Communication

- 4.2.16 The third sector witnesses to the inquiry raised issues around communication, in particular difficulty in contacting the City Council and in getting a timely response.
- 4.2.17 One particular issue focused on recent changes which meant that all calls through to any section of the CYPF Directorate (including those to the NRPF team) should go through one number and email. This was instituted as part of internal efficiency measures.
- 4.2.18 As this was implemented, a fax number set up for Section 17 applications was discontinued. However, as referrals were slow to come through from that central number (linked to the lack of knowledge by CYPF staff identified above), this was reinstated. This caused some confusion and frustration.
- 4.2.19 There was also a lack of clarity over referral protocols and frustration at the lack of both an acknowledgement of an application or substantive response in a reasonable time (see above). There are no performance indicators relating to response times; however there is for completing assessments within 10 days.
- 4.2.20 All our witnesses said that this situation had improved over the last few weeks, both in terms of responsiveness and a more collaborative approach, but that there was room for further improvement.

Lack of Data

- 4.2.21 It was acknowledged throughout the Inquiry that there was a lack of data on the full extent of those with NRPF in Birmingham. As the East Midlands research report noted:

Most local authorities do not collect the data about their NRPF clients in terms of the information asked in the template such as numbers, reasons for support, immigration status, years of support, years in the UK, country of origin and costs to the local authority. This applies both to children's and adult services, the only exception being Leicester City Council Children's Services. As a result much of the data is either not known or not readily available. (NRPF Project Report: East Midlands)

- 4.2.22 One of their recommendations was that:

across local government there must be greater attention to accurate and up to date information on numbers and costs – who, why and for how long, and at



what cost local authorities have been supporting NRPF people. [NRPF Project Report: East Midlands]

4.2.23 Birmingham is no different. The need for a full understanding of what the City Council spends across all those with NRPF (not just those claims relating to Section 17), and the need to monitor that spend and its impact was identified during the Inquiry. It would also be valuable to understand fully the services provided by third sector agencies spend and the value that has for the City Council.

4.2.24 This need for better information was highlighted as part of the Be Birmingham Social Inclusion process which referred to an increasing problem of destitution amongst migrant communities here in Birmingham. Therefore when the final findings of the Social Inclusion Process were published there was an explicit recommendation that more work needs to be urgently undertaken to address this significant problem. Under the commitment around “embracing superdiversity” the following recommendation was made:

Support children and families in Birmingham’s newly arrived communities
Building on work by the Children’s Society, the city council should conduct in-depth research into the causes and effects of child destitution in refugee and migrant communities who are not eligible for support from the state. (Giving Hope Changing Lives Social Inclusion Process)

4.2.25 There has been no work to track this recommendation as yet.

4.2.26 It is also important on an individual basis – if people already known to the City Council are identified as having NRPF status, then this can be taken into account when assessing rent arrears or council tax for example. It was suggested that a database of those with NRPF for statutory and voluntary agencies to check would help.

Working with the Third Sector

4.2.27 It was argued that failings are caused in part by “Local Authorities’ failures to work in partnership with Third Sector organisations/legal representatives”

...the failure to pursue a ‘joined-up’ partnership approach can similarly disadvantage those Local Authorities themselves, exacerbating the delays which can be built into the Home Office’s decision making processes, and thereby elongating the period in which such families need to be reliant on the provision of Section 17 support. (ASIRT)

4.2.28 ASIRT told us that sometimes “we are able to work to a relatively harmonious resolution with the Local Authority and the Home Office”, whilst at other times an “antagonistic approach is adopted by the Local Authority.”



Children and Families with No Recourse to Public Funds

- 4.2.29 An understanding of the position of both third sector and the City Council is needed – particularly around the need for robust mechanisms to ensure help is going to the right people.
- 4.2.30 The third sector agencies we contacted during our evidence gathering did not undertake a merit test as such, but would be clear that they could only offer help if a remedy was possible. There are of course cases where people have exhausted all avenues and cannot be helped further.

4.3 Safeguarding

- 4.3.1 The issue of safeguarding was raised during our inquiry, and the Children's Society clearly see this issue as one of safeguarding. This is partly about the level and extent of destitution amongst children:

Although The Children's Society has worked with destitute¹ children and families since we were founded in 1881, the increasing exclusion of asylum seeking and other migrant families from both mainstream welfare provision and paid employment since the Immigration and Asylum Act 1999 has led to the re-emergence of levels of child poverty that had previously been eradicated.
(Children's Society)

- 4.3.2 Furthermore, children in, or at risk of, destitution are at risk of labour or sexual exploitation and it was felt that this was not sufficiently recognised.
- 4.3.3 The NRPF Team Leader assured the Committee that for any child referred to us in a family of NRPF, the NRPF team will undertake assessment and provide support accordingly. They would identify children as being in need and put in place a "Child in Need Plan", which details support needs and how they will be met. This would be followed by visits every six weeks and multi agency meetings, with discussions around information sharing and how best to support that child. The intervention only ceases when the status is confirmed by UKVI.

4.4 Partnership and Network Opportunities

- 4.4.1 During the course of the evidence gathering, we became aware of some partnership organisations and research opportunities which the City Council should consider in order to resolve some of the issues raised above.
- 4.4.2 One option is the NRPF Network, which consists of local authorities and partner organisations focusing on the statutory duties to migrants with care needs who have no recourse to public funds. The NRPF Network manages the NRPF Connect Database which aims to enable information sharing and faster decision making. In addition there is the West Midlands Strategic Migration Partnership which, whilst dealing mainly with the allocation of dispersed asylum seekers, does have involvement with the issues raised here.



4.4.3 Each of these are explained in more detail below.

NRPF Network

4.4.4 Established in 2006 by Islington Council, the NRPF Network has over 2,700 individual members representing local authorities, the voluntary sector, central government, the police and the NHS, and co-ordinates a number of regional networks operating in several parts of the UK.

4.4.5 The aims and objectives of the Network are to:

- Share information and good practice amongst local authorities and other agencies working in this area;
- Support local authorities in meeting their statutory duties to people with NRPF;
- Work with the UK Border Agency (UKBA) and other government departments to improve the efficiency of resolving local authority-supported NRPF cases; and
- Represent the concerns of local authorities in regards to the NRPF client group.

4.4.6 The Network has published a document which provides guidance to local authorities in assessing and supporting children and families and former looked-after children who have no recourse to public funds.

4.4.7 The Network supports 10 regional NRPF networks which run across the UK, helps share best practice and represents the voice of local authorities in national debate, for example the NRPF Network has recently undertaken work raising awareness about the likely impact on local authorities of a residence test on legal aid.

4.4.8 In the West Midlands, the NRPF Regional Network will be run by the West Midlands Strategic Migration Partnership (see below). There have been no meetings recently but there was, at the time of writing, the intention to set one up within a month. These meetings are likely to focus on information sharing, ensuring local councils are up to date on any legislative changes and training needs. It is also likely that they would be split into two parts: the first for local authority members only, and the second part to be held with third sector partners.

NRPF Connect

4.4.9 In December 2012 following funding from the Home Office, the NRPF Connect database – a secure web-based data-sharing system for local authorities and the Home office working with migrants who have NRPF – was established. It is managed by the NRPF Network and administered by the NRPF Connect Project Team (based at Islington Council).

4.4.10 It comprises 12 local authorities and the Home Office and facilitates the sharing of information on the increasing numbers of destitute migrants seeking statutory support from local authorities. It increases the speed at which cases are resolved leading to greater efficiency savings, an overall reduction in costs to local authorities and a reduction in distress for individuals and families associated with delays in the immigration process.



Children and Families with No Recourse to Public Funds

- 4.4.11 Local authorities input and have full access to their own data and have access to a restricted view of a service user's record entered by another local authority in order to identify whether a case is known to that local authority.
- 4.4.12 The Home Office have set up a dedicated NRPF Connect Team to work with local authorities using NRPF Connect. This team is part of Immigration Enforcement and is based within the Interventions & Sanctions Unit (I&SU). All cases on the Connect database are accessible by this team and they are responsible for actively progressing cases recorded on NRPF Connect to conclusion, working with Home Office caseworking and enforcement colleagues as required. The team will respond to requests for information made over the database and will record progress or changes in circumstances on a client's record.

- 4.4.13 The Home Office told us:

Nine local authorities from around the country uploaded the data of their supported cases onto the database. Local authorities are able to load details of new applicants who approach them for support. These details are checked by the Interventions and Partnerships Team (part of I&SU), who will confirm whether the migrant is known to the Home Office, whether they have recourse to public funds or not, and what their current status is. This then enables the local authority to decide whether the applicant seeking support is genuinely destitute and whether other means of support may be available.

For those cases that have been identified by the local authority, I&SU will liaise with the relevant partner within the Home Office responsible for progressing the case to conclusion (whether it be grant, or refusal leading to removal). I&SU will champion these cases on behalf of the local authority. For those cases that are granted, in line with Home Office Policy, I&SU ensure that case owners ensure that any 'leave to remain' is in accordance with the destitution policy, which exceptionally grants 'recourse to public funds' when required.

The I&SU has a network of Local Engagement and Intervention Officers, who would work along the Immigration Compliance Enforcement Teams to engage with local partners. These officers attend the regional NRPF network forums representing the Home Office and look to resolve any issues which are raised.

- 4.4.14 The database controls what information is shared between local authorities and with the Home Office in line with the Information Sharing Protocol, a central component of the Access Agreement which is signed by the Home Office and any local authority joining.



4.4.15 NRPF Connect is a charged service for both Home Office and local authority users. All local authorities using the system are required to pay an annual user charge of £2,000 to cover training and user-support overheads.

4.4.16 The advantages are that the database facilitates:

- Sharing data with the Home Office, ensuring that the Home Office has the detailed information it needs to prioritise local authority supported cases for resolution and provides a simpler and more effective mechanism for local authorities to undertake immigration status checks, and cross check records with the Home Office;
- Saving money as a quick and effective way to work with the Home Office to minimise the time cases are supported, saving the tax payer money and reducing case loads. The database also helps to identify fraudulent claims for local authority support by cross-matching records from other local authorities and on the Home Office database;
- Improved outcomes for those with NRPF status with faster case resolution and better identification of safeguarding concerns;
- Strategic management of NRPF cases, giving a method for recording, assessing and monitoring NRPF cases, including expenditure; and
- Working together to influence policy change as collective data helps local authorities to identify new trends and highlight the scale of costs to local authorities resulting from policy changes in this area of work.

4.4.17 The East Midlands' research noted the possibilities of the system:

This provides some optimism for local government that the current situation will be addressed although many officers are sceptical and it is early days yet for the system to show its potential. (NRPF Project Report: East Midlands)

4.4.18 Cost savings have been estimated following an in-depth review of the 270 cases supported by Islington Council over a five year period. It was shown that if all cases had taken less than 2 years to resolve:

- Islington would have saved £2.1million in the five year period; and
- £432,200 would be the estimated annual saving by eliminating the extra time needed to resolve the 15 cases that exceeded the 2 year threshold in any given year. Each case required, on average, another two years of support to conclude.

4.4.19 The option to set up a demonstration of the project was offered by the WMSMP during our evidence gathering.



Children and Families with No Recourse to Public Funds

West Midlands Strategic Migration Partnership (WMSMP)

- 4.4.20 West Midlands Strategic Migration Partnership is one of a number of regional networks established following the introduction of a Regional Dispersal Policy in 1999 for people seeking asylum. The Partnership's current aims are to oversee asylum seeker dispersal and facilitate the integration of refugees and migrants in the West Midlands by effective multi-agency working across the Region.
- 4.4.21 The Migration Partnership has worked with Birmingham City Council for a number of years, including initiating and convening a local inter-agency forum which brings together a range of partners (statutory and third sector) across the city on issues relating to newcomers and vulnerable migrants (which would include those with no recourse to public funds). This Forum is chaired by the Integrated Service Head – Strategy, Policy and Commissioning (Local Services Directorate), with secretariat and policy support provided by WMSMP. These are very well attended.
- 4.4.22 WMSMP run training for local authority staff to update them on current legislation and policy – workshops are being planned for early next year. WMSMP works closely with the NRPF network and the Home Office and are working with both to re-establish a regional network to bring together local authority staff to look at both addressing operational issues and look at best practice.
- 4.4.23 The Centre on Migration, Policy and Practice (COMPAS) at the University of Oxford is currently undertaking research into the support provided by local authorities to migrant families who have NRPF. This independent study will highlight this area of service provision on a national platform and will provide a learning opportunity for local authorities across the UK, contextualising their local services and community needs within a broader national picture. The City Council should seek to be as actively engaged in this research process as possible.
- 4.4.24 Following on from the East Midlands SMP research project, cited in this report, WMSMP are planning a similar piece of work and it is anticipated that the regional network will lead on this. This research will provide up to date data and issues in the West Midlands.



5 Conclusions and Recommendations

5.1 Collaboration

- 5.1.1 This inquiry has shown the need for much closer collaboration between the City Council, other statutory agencies and third sector agencies involved in working with those people with NRPF status.
 - 5.1.2 We heard of the good collaboration between third sector agencies but note that this is not replicated in relations with statutory agencies. Within the City Council, the fact that the threat of legal action seemed to expedite case resolution (section 4.2.8) and the problems with email applications (section 4.2.17) clearly indicated that relationships with other agencies were poor.
 - 5.1.3 Yet the benefits are clear: collaboration across agencies helps to run services more efficiently, allows expertise to be shared and ensures that work is not duplicated. It is also likely that the impact of reduced access to legal aid for those with NRPF will create more demand that will need to be addressed. It also facilitates earlier intervention, which would reduce the number of people who need NRPF support, and the length of time for which it is needed.
 - 5.1.4 It appeared to Members that there was an adversarial relationship between the statutory agencies and the third sector agencies involved in assisting those with NRPF status. This needs to change and quickly. A more collaborative relationship needs to be engendered and a timeframe is needed to establish this.
 - 5.1.5 The missing element appears to be trust – the advocates and the decision makers need to see each other's perspectives and have a mutual understanding and appreciation of the difficulties each face. From the City Council perspective, it needs to be clear that there will be robust mechanisms and protection for public money in place, but equally those with NRPF and their advocates need to know that the City Council will be fair in their dealings.
 - 5.1.6 The City Council has taken steps to improve collaboration between service areas (such as that between Revenues and Benefits and the NRPF Team), however more work is needed to ensure that individuals and families with NRPF are identified and getting the right support.
 - 5.1.7 To facilitate this, better awareness of NRPF across the City Council is needed, to ensure that people are pointed to the right help in good time. Communication is also key and should be improved.
- 1. The City Council should work in partnership with external organisations and agencies in order to facilitate the resolution of NRPF cases. Building trust between organisations is key to this. A more collaborative approach must be**



Children and Families with No Recourse to Public Funds

demonstrated, and a protocol drawn up to establish this new approach between statutory and third sector partners.

2. City Council provision in relation to people with NRPF should be clear and well understood across the City Council.
3. Communication standards should be published and adhered to.

5.2 A New Approach?

- 5.2.1 When discussing how this better collaboration might be realised, a number of suggestions were made such as City Council staff and third sector agency staff spending time in each other's offices, co-location or seconding staff across organisations to understand better the demands on each.
- 5.2.2 Whilst these would be welcomed, our evidence demands that a more radical approach is at least considered. We heard during our evidence of some models – for homelessness and domestic violence – whereby a single point of contact or gateway is established:
 - Birmingham and Solihull Women's Aid (BSWAID) receives funding for support and accommodation from statutory sources including Birmingham City Council (through Supporting People Contracts), and national funding from the Ministry of Justice, the Home Office and MARACs (Multi-Agency Risk Assessment Conferences).
 - Homelessness Hubs. BSWAID said their work in these hubs was very effective in preventing homelessness (41% of women presenting as homeless do not go that route because BSWAID give other interventions, which also saves money).
 - St Basils' Youth Hub which provides accommodation and support to young people aged 16-18. The service is line managed by the Head of Service, Children, Young People and Families.
- 5.2.3 There are opportunities to use existing facilities – whether Neighbourhood Offices or Children's Centres across the city – to act as a conduit into a single point of referral. The Committee is clear that there is no new money for this area; it is about adapting what is currently done to get better outcomes.
- 5.2.4 This "hub" approach, perhaps with services run by a commissioned third party, needs to be seriously considered. It seemed to us that the case for considering a commissioned approach was made by the fact that 86% of applications made by the Children's Society were supported – showing that they are largely getting it right. Yet once an application is made, the City Council must carry out its own assessments of merit, which suggests a degree of duplication.
- 5.2.5 Better working between agencies, sharing information and the creation of a single gateway would help reduce instances of agencies concentrating on their primary responsibilities and not taking into account the other issues the family faces, which can lead to families being bounced around from agency to agency.



- 5.2.6 Both the hub and commissioned approach could open the door to working with other agencies, such as the Police, and providing a more rounded response to those asking for support, as organisations such as BSWAID seek to provide in responding to domestic violence cases.
- 5.2.7 Co-ordinating and to some extent consolidating support could also open up avenues to involve other forms of support. For example it was noted that:

Currently, there is no robust mechanism in place that would allow officers to refer cases into a 'work-focused' support model as an alternative to the welfare route or to limited but long-term use of Section 17 funding which is currently used to sustain these families in social housing tenancies.²¹

- 5.2.8 This would also help reduce unnecessary costs on statutory agencies e.g. putting families in Bed & Breakfast or temporary accommodation. Indeed housing seems one area where a commissioned approach could work. Our evidence indicated that accommodation was the biggest cost associated with supporting people with NRPF status and that often it was of very poor quality. BSWAID raised the issue of families being put in Bed & Breakfast or temporary accommodation and the inappropriateness of this.
- 5.2.9 The Hope Projects provides emergency accommodation (including that provided for a peppercorn rate from Housing Associations). They would be keen to work with the City Council's Housing Service to be able to offer accommodation using empty Council owned properties. Another approach would be to look at instituting integrated residential support which would tie accommodation to the wider support needed by those with NRPF status.
- 5.2.10 A key area of support is getting good and timely legal advice. All our witnesses noted the lack of specialist legal advice in this area, and that ASIRT are the only free service available in Birmingham.
- 5.2.11 This is critical as it is in both the City Council's interest and the interest of the families that good quality advocacy is available to get issues resolved. The longer a case takes to resolve the greater the cost is to the local authority. The length of time taken also has an impact on the families concerned, particularly with regards to their mental health related to the stress and trauma of being in limbo. The sooner a case is resolved then the family can move on and the Council's responsibility is concluded. The City Council should therefore consider ensuring that those with NRPF status not only have good quality accommodation, but that this accommodation is linked to advocacy to help resolve their situation sooner than it otherwise would be. We need to look to the not for profit sector to provide that holistic support.

²¹ Report of the Assistant Director, Revenues and Benefits to the Governance, Resources and Customer Services Overview and Scrutiny Inquiry – 4th October 2013



Children and Families with No Recourse to Public Funds

4. A “hub” approach or a single gateway to managing access to NRPF support should be implemented.
5. Consideration should be given to a commissioned approach to NRPF services, whether as a whole or in part.
6. Housing should be a particular focus of this new approach: the process of allocating accommodation should be reviewed (including how prices are determined or monitored) and a more innovative approach to housing with an integrated residential support mechanism should be actively considered.
7. It is in both the City Council’s interest and the interest of the families that good quality advocacy to get issues resolved is available. Providing this as part of a holistic package linked to good quality accommodation should be considered.

5.3 Gathering and Sharing Data

- 5.3.1 There needs to be a better understanding of the extent and cost of NRPF to the city:

A more solid evidence base would allow local government to establish a foundation from which to achieve reforms and costs savings. Moreover it will place local government in a stronger position to ask for central government support for the services it provides to people with NRPF. (NRPF Project Report : East Midlands)

- 5.3.2 This takes two forms: firstly there is a need to record those with NRPF status who come in contact with the City Council by recording data on NRPF referrals and cases supported, which would ensure better accountability, minimise risks and facilitate the resolution of cases.
- 5.3.3 It is also important to gain a wider understanding of what support other statutory agencies and third sector organisations provide and the value it has for the City Council. This would give a clearer picture of expenditure and help design a better funding model. It would also give a solid evidence base for lobbying/working with central government.
- 5.3.4 A wider understanding of the issue across the region, and collaboration with neighbouring authorities would assist in reducing the perception of arbitrary decision-making, as support and its parameters can differ across local authorities. Sharing expertise and information can help ensure we stay up to date and contribute to the policy and strategic work being undertaken.
- 5.3.5 There are opportunities to do this. These include:



- Raising the issue of NRPF through national structures – the WMSMP works with the LGA's Asylum, Refugee and Migrant Task Group, which is one forum where this report's findings could be presented. The report could also be taken to the national NRPF Network;
- Participating in regional NRPF forums to share information and good practice and
- An examination of whether joining NRPF Connect would help reduce costs to the City Council;
- Serious consideration of participating in the COMPAS research (see section 4.4).

5.3.6 Evidence from the third sector agencies indicated that they would welcome involvement with a forum to share information and expertise

- 8. A mechanism by which data on those with NRPF status who come in contact with the City Council can be recorded would enable better accountability and better planning of resources.**
- 9. The City Council should work with partners to develop a better understanding of those with NRPF in Birmingham, how they are being helped and the costs to the public purse of this (perhaps through collaboration with the WMSMP research into NRPF in the West Midlands and through the opportunity presented by the COMPAS research);**
- 10. Consideration should be given to joining NRPF Connect: working with other local authorities and the Home Office Interventions and Sanctions Unit (I&SU) to reduce current backlogs, prevent future escalations of cases and reduce expenditure.**
- 11. There should be a better understanding of what the third sector agencies do and the value of that work to the city;**

5.4 Working with Government

- 5.4.1 Recent Government and court decisions have apparently "saved" money at a national level by restricting access to benefits, but at a cost to Local Authorities for which they receive no specific grant. What should be a national financial commitment has become a local one; and one that will fall mainly on the areas which immigrants have been dispersed to or choose to reside in.
- 5.4.2 In addition, our evidence has pointed to the cost of delayed and poor quality decision-making at the Home Office. The view chimes with widespread criticism of the Home Office (most recently in the Home Affairs Select Committee report of October this year).
- 5.4.3 Birmingham has a significant number of people with NRPF status claiming support and the potential for this to increase has been highlighted. It is therefore critical that action is taken both



Children and Families with No Recourse to Public Funds

to challenge the Home Office but also to work more closely in order to resolve cases most efficiently.

5.4.4 Firstly, pressure ought to be put on the Home Office to:

- Address delays in its decision making and in particular prioritise local authority-supported cases for resolution in the same way as those receiving UK Visas & Immigration (UKVI) service asylum support;²²
- Stop the practice of issuing leave with NRPF conditions, whereby people are more likely to need local authority support.

5.4.5 Secondly, moves should be made to collaborate more closely with the Home Office to resolve individual issues. Resolving cases quickly and efficiently is the best outcome for the City Council, Home Office and the individual. Some local authorities have pursued similar approaches with some success, in particular through participation in NRPF Connect (see above). It was suggested that a review of all long term cases, perhaps with a view to putting in a fresh claim, may help speed up some cases.

5.4.6 However, this is not just about the Home Office. Our evidence also pointed to the need to involve the Department for Work and Pensions (DWP). There are gaps in support when asylum support is discontinued and the DWP confirms that the recipient is receiving mainstream benefits. Those who fall in that gap often come to the Local Authority for support. BSWAID were also concerned that the benefit system does not always recognise the DDV concession; if leave to remain is obtained, there are problems in getting benefits backdated.²³

5.4.7 Both Departments need to see the City Council as key local partner in resolving these issues.

12. The Home Office should be robustly challenged on the time taken to resolve cases where people are being supported by the City Council. A review of all long term cases with outstanding applications to the Home Office should be undertaken, with a view to putting in a fresh claim for some cases.

13. In addition, the City Council should take all opportunities (whether alone or in collaboration with other local authorities) to lobby the Home Office to reduce delays in its decision making; prioritise local authority-supported cases for resolution in the same way as those receiving UKVI asylum support; and stop the practice of issuing leave with NRPF conditions.

²² "Despite repeated statements from the UK Border Agency [now the UK Visa and Immigration Service] about the prioritisation of local authority cases through programmes such as CRD, there is as yet no official policy commitment to doing this"; Social Services Support to People with No Recourse to Public Funds: A National Picture, NRPF Network, March 2011;

²³ Submission from Birmingham & Solihull Women's Aid to Birmingham City Council Scrutiny Inquiry, Sept 2013



- 14. The City Council should work in partnership with the DWP to facilitate the prevention of cases whereby people fall into destitution caused by gaps in the benefits system.**

5.5 Recommendations

- 5.5.1 The issue of local authority support to NRPF people is challenging for local government on a number of levels: the increase in numbers, the availability of robust evidence, local authority cost control and decision making, and its relationships with the Home Office and the voluntary and community sector.
- 5.5.2 It is a very complex and sensitive area and we are aware of the good work already being done. With that in mind, our main recommendation asks the Deputy Leader and his officers to take the 14 principles we have outlined above, and bring forward an action plan to transform the way the City Council deals with people with NRPF status.
- 5.5.3 We have taken this approach in recognition of the fact that the officers are best placed to identify the actions needed to achieve the outcomes. The Committee will take an early look at the proposed action plan (March 2014) and shape that process. If the Committee feels that insufficient progress has been made, then the matter will be revisited and more prescriptive recommendations issued.
- 5.5.4 This action plan should result in a more effective and efficient system, that will reduce the costs of the process. The success of the package will be in the demonstration of:
- Better collaboration across statutory and third sector agencies;
 - Mutual trust and respect between statutory and third sector agencies;
 - Robust data on those with NRPF in Birmingham, how they are being helped and the costs to the public purse of this;
 - A reduction in the cost of providing the service;
 - Quicker referrals and responses to applications for Section 17;
 - Greater awareness of NRPF across Birmingham City Council and improved signposting where necessary.
- 5.5.5 The plan should be developed with the relevant third sector partners so that a consensus is reached on the best way forward.
- 5.5.6 In addition, we recommend that a pro-active approach is taken to working with the Home Office and Department for Work and Pensions. In particular, with regard to the Home Office, there should be robust challenge in respect of the detriment caused to children's welfare in that they have not had access to the support they require, by virtue of their lack of status, or the uncertainty of their status in the UK.



Children and Families with No Recourse to Public Funds

5.5.7 The Governance, Resources and Customer Services O&S Committee will also use its role to lobby on this matter. The Chair of the Committee will forward a copy of this report to Keith Vaz MP, Chair of the Home Affairs Select Committee for consideration. In addition, we will take advantage of the opportunities afforded by the West Midlands Strategic Migration Partnership and LGA to bring our findings to the attention of the Home Office.

	Recommendation	Responsibility	Completion Date
R01	That a package of measures / action plan is developed to improve how the City Council works both with people with NRPF status and with those agencies that supports them. The principles set out in this report should underpin this package. An early version of this plan should be brought to this Committee to enable Members to influence it.	Deputy Leader	March 2014
R02	That representation is made to the Home Office to • Address delays in its decision making and in particular prioritise local authority-supported cases for resolution in the same way as those receiving asylum support from the Government;²⁴ • Stop the practice of issuing leave with NRPF conditions, whereby people are more likely to need local authority support; • Urgently examine on-going cases where the City Council is currently providing support. In addition ways of working more closely and effectively with the DWP should be explored.	Deputy Leader	June 2014
R03	Progress towards achievement of these recommendations should be reported to the Governance, Resources and Customer Services Overview and Scrutiny Committee no later than July 2014. Following the agreement of an action plan, this will be tracked by the Committee alongside the recommendations. The Executive should also report back on the outcomes achieved following this report's publication. Subsequent progress reports will be scheduled by the Committee thereafter, until all recommendations and the action plan are implemented.	Deputy Leader	July 2014

²⁴ "Despite repeated statements from the UK Border Agency [now the UK Visa and Immigration Service] about the prioritisation of local authority cases through programmes such as CRD, there is as yet no official policy commitment to doing this"; Social Services Support to People with No Recourse to Public Funds: A National Picture, NRPF Network, March 2011;