

# Leaders' Committee

## No Recourse to Public Funds

Item no: 4

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<b>Date:</b>	24 March 2015		
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**Summary**      The number of clients with No Recourse to Public Funds (NRPF) is growing rapidly and placing increasing service and financial pressure on local authorities. This is a particularly acute issue in London and has been caused by a range of factors including case law, government policy and broader socio-economic conditions.

This report explores the main challenges of NRPF cases and their impact on London and sets out a number of future actions to alleviate the financial pressure on London local government.

**Recommendations**      Leaders Committee is invited to:

- Endorse the decision of Executive for London Councils officers to take forward the series of actions detailed in paragraph 6.3, and
- Note and comment on any of the issues raised in this report.

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# No Recourse to Public Funds

## 1. Introduction

- 1.1 Local authorities in London are reporting increasing numbers of clients with No Recourse to Public Funds (NRPF). This is creating significant operational and financial pressure on local services at a time of significantly reduced resources for London local government.
- 1.2 Based on the latest available information, there are currently over 1,500 confirmed households receiving some form of support from London boroughs at an annual cost of over £25 million. This is based on a sample of 17 London boroughs with actual expenditure likely to be far higher.
- 1.3 This report explores the main challenges in London and sets out a number of future actions to accelerate positive progress on this issue.

## 2. Background

- 2.1 No recourse to public funds (NRPF) refers to people who are subject to immigration control and have no entitlement to public funds. Public funds<sup>1</sup> cover a range of financial support payments, including, but not limited to income support, housing benefit, disability living allowance and working tax credit. Local authority housing and homelessness assistance also falls under the definition of 'public funds'.
- 2.2 It is worth noting that services not considered public funds for immigration purposes include social services care and support; compulsory school age state education, student grants or loans, NHS treatment and certain work-related welfare benefits (e.g. incapacity benefit).
- 2.3 Individuals with NRPF have very few alternative avenues for support and can be eligible for assistance from their local authority (subject to meeting relevant eligibility criteria). Local authorities have a duty to undertake an assessment of their needs under a combination of the Human Rights Act, the Children Act 1989 and the National Assistance Act 1948. Though, services provided under NRPF are limited under the Immigration and Asylum Act 1999 and the Nationality Immigration and Asylum Act 2002.

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<sup>1</sup> attendance allowance, carer's allowance, child benefit, child tax credit, council tax reduction, disability living allowance, housing benefit, income-based employment and support allowance, income-based jobseeker's allowance, income support, personal independence payment, severe disablement allowance, state pension credit, universal credit, working tax credit. For further information, please see: <http://www.nrpfnetwork.org.uk/Pages/NRPF-information.aspx#publicfund>

### 3. Financial context

- 3.1 There remains no single data source, which provides a comprehensive national view of local government expenditure (or activity) on NRPF clients. Analysis has been undertaken of the NRPF Connect database.<sup>2</sup> At present, it is felt that this provides the most complete picture of NRPF cases and expenditure both nationally and in London. There are currently 28 local authorities signed up to NRPF Connect of which 17<sup>3</sup> are from London.
- 3.2 There are currently over 1,900 households (including approximately 3,300 dependants) receiving some form of accommodation and subsistence provision. This equates to a combined weekly cost of around £580,000, or **£31.4 million** per annum.
- 3.3 Analysis has also been undertaken of the 17 London boroughs using NRPF Connect, The key headlines are as follows:
- There are 1,511 households receiving some form of accommodation and subsistence support, at a combined annual cost of **£25.1 million** in London.
  - This represents 78% of all households on NRPF Connect, and 80% of the total annual cost. This compares to 61% of authorities using NRPF Connect from London.
  - The average time spent on supporting a case is 665 days. However, actual time invested will reflect the nature and complexity of the cases and there is local variation. Average days per case range from c.290 days to c.1100 in different boroughs.
  - The average annual cost per case is around £16,500. Average case costs range between £12,000 and £21,000 per borough. (Anecdotal evidence suggests that some boroughs are facing unit costs beyond these amounts). It is important to note that these figures do not include staff time and overheads. The total average cost to authorities can therefore be expected to be higher.
- 3.4 While information from NRPF Connect is a helpful insight into the pressure across some boroughs, it is noted that this sample size represents just over half of London. Further work is needed with the NRPF Network and the London boroughs to better understand the scale of the issue across London and it is likely that, upon further investigation, these figures will rise. It is also clear from anecdotal evidence that some boroughs may be incurring costs beyond accommodation and subsistence.

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<sup>2</sup> NRPF Connect is a database through which the Home Office and local authorities work together to identify and resolve supported cases through the secure exchange of information. The Home Office has confirmed that this is their preferred method of working.

<sup>3</sup> LBs of Barking, Bexley, Brent, Croydon, Enfield, Greenwich, Hackney, Haringey, Havering, Hounslow, Islington, Lambeth, Merton, Newham, Redbridge, Southwark and Wandsworth

## 4. Growth in demand

- 4.1 It is clear that the number of reported cases of clients with NRPF is increasing. By way of illustration, one borough has seen a rise from four reported cases in 2008 to 142 cases in 2013. There are likely to be a range of local, national and international factors that are driving this increased level of demand across London. These include, but are not limited to:

- **Recent Case Law**

- Zambrano: The European Court of Justice (ECJ) ruling on this case (2011) creates a right to reside and work for sole carers of dependant British Children. The principle of 'Zambrano' is that EEA national children should not be forced to leave the EEA on account of their parent's or guardian's unsettled immigration status.
- Authorities' duty of support to care leavers: Where children have been in the care of the local authority, these responsibilities continue past the age of 18 until they are at least 21 years of age, and beyond if they are pursuing further education or training. This was confirmed as part of the Kebede vs Newcastle City Council [2013] case.

- **Home Office / Central Government policy**

- Dependence on Home Office decision-making: The majority of NRPF cases are supported by local authorities pending the outcome of immigration decisions made by the Home Office. Local authorities can become tied to long periods of support if decisions on applications for Leave to Remain (LTR) are not decided expediently, cases experience significant appeal procedures or removal processes are delayed.
- Changes to the family migration rules allow individuals to apply to stay on right to family / private life grounds, but they will no longer be granted access to public funds unless exceptional circumstances apply.

- **Welfare Reform**

- It may well be the case that some individuals who have previously been supported by friends or family in terms of accommodation (such as the use of a spare room) are no longer able to access this support.
- Time limiting access of European Economic Area (EEA) migrants to allowances such as Jobseeker's Allowance (JSA) and housing benefits may be encouraging individuals to seek local authority support.

- **Visibility of Local Authority Services**

- There appears to be increased knowledge of and referral to local authority services, which are driving up client numbers. Judicial review of local authority decisions continues to attract funding despite a general tightening of legal aid rules for immigration-related work.

## **5. Engagement with Central Government**

5.1 Following concerns raised by local authorities, DCLG have held two Immigration Enforcement Roundtables with representatives from the Home Office and local government (including London Councils) to discuss the increasing financial and service pressure arising from clients with NRPF. These meetings have provided an initial opportunity for local government to raise its concerns and issues with senior civil servants.

5.2 Key messages raised within these discussions included:

- The growing financial pressure on local authorities in London,
- Local authorities are dependent on Home Office decision making and any delays in granting leave or removing the NRPF condition for migrants in receipt of local authority support can impact significantly on local authority resources;
- The efficiency of local authority processes can be reliant on information from the Home Office – late or inaccurate information can affect the optimal level of social care and other support provided.
- There are instances where local authorities are providing support to a family that are destitute, but the Home Office has determined the family are not destitute for the purpose of granting recourse to public funds. Often, the same definition of destitution is being worked to.
- There is potential for clearer guidance and consistency in current Home Office policy and processes that would minimise the number of disputes between the Home Office and local authorities.
- It could be possible for the Home Office to treat local authority supported cases, funded at public expenses, as a priority, to support and alleviate the acute pressure on local authority resources.

5.3 In broad terms, three principal outcomes emerged from these discussions, namely:

- The establishment of the NRPF Steering Group as a forum for future discussions,
- An initial financial scoping exercise undertaken by DCLG under the New Burdens doctrine, and

- Renewed commitment from DCLG and the Home Office to the use of NRPF Connect.

#### *The NRPF Steering Group*

- 5.4 The NRPF Steering group has been established to bring together officials from the Home Office, DWP, DCLG and representatives from the Association of Directors of Children Services, the NRPF Network, London Councils and local authorities. This includes members of the corporate leadership teams of Islington, Lambeth and Croydon.
- 5.5 The Steering Group<sup>4</sup> meets quarterly and will:
- a) Act as a forum through which local government is able to discuss with central government issues of strategic and operational importance in relation to NRPF,
  - b) Provide oversight of NRPF Connect and the effectiveness of other programmes being undertaken to address NRPF caseloads,
  - c) Identify and explore any emerging trends/issues, which impact on the NRPF client group; and
  - d) Discuss areas of future development, including the relationship between the NRPF Network and the Home Office.
- 5.6 The NRPF Steering Group has also developed a two year plan, which includes:
- The development and agreement of a Service Level Agreement setting out agreed standards of operation between the Home Office and local authorities that use Connect.
  - The development of robust Key Performance Indicators to enable the Steering Group to monitor and challenge outcomes from this process.
  - Supplying data as evidence for DCLG's new burdens assessment (see paragraph 5.7 to 5.9).
  - Identifying and addressing areas of Home Office case-working practice that can cause delays in the resolution of local authority supported cases, including reviewing removals casework and the role of the family removals team.
  - Extension of direct access to NRPF Connect for Home Office casework teams.
  - Addressing areas where there are differences in policy understanding/interpretation e.g. the definition of destitution.
  - Broader communications and engagement plan to update local authorities on the work of the group and to share best practice.

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<sup>4</sup> The Group is co-chaired by representatives from the Home Office and members of the corporate management team from LBs of Islington and Croydon respectively.

### *New Burdens*

- 5.7 Following the first roundtable meeting, DCLG officials completed an initial New Burdens scoping exercise. While they recognise the broad financial pressure on local government, the results of this exercise were inconclusive. They hold the view that it is difficult, at this stage, to define precisely some of the issues raised as 'new burdens'.
- 5.8 At the same time, DCLG has stressed the point that NRPF Connect should be given more time to become embedded within local authority and Home Office practices. While it is undoubtedly crucial to consider alternative ways of working as a means of reducing the existing cost burden, it will be important to maintain discussions on funding.
- 5.9 London Councils is engaging with DCLG via established links and through the NRPF Steering Group to progress the discussions on funding and to build up a broader understanding of the financial pressure on local authorities. That said, it is clear that any discussions on funding with DCLG and the Home Office are unlikely to be resolved in the short term and will take place within the wider context (and timetable) of Spending Review 2015.

### *NRPF Connect*

- 5.10 The Home Office and DCLG continue to view the NRPF Connect database as the tool through which local authorities and the Home Office can work effectively to record and resolve cases. Both departments believe that NRPF Connect offers a clear opportunity for reductions to on-going burdens to be achieved and have been keen to promote the system. It is recognised that not all affected London boroughs or authorities nationally subscribe to this service.

## **6. Next Steps**

- 6.1 Developments to date have allowed closer working between the Home Office and local authorities. While there remains scope for improvement, the NRPF Steering Group offers an opportunity through which dialogue can be maintained. That said, it remains the case that progress appears slow and uncertain on the funding considerations and this is an area where efforts may need to be intensified, particularly in terms of influencing discussions during Spending Review 2015. Gaining traction with Ministers and civil servants is likely to require a stronger evidence base than is currently the case.
- 6.2 Following discussion at Executive (February 2015), it was agreed that London Councils officers would take forward a series of steps that would seek to advance the case of London local government on this issue.



6.3 It was resolved that:

- Pressure is maintained to accelerate the discussions on funding through both political and officer engagement,
- Work continues to challenge and influence current Home Office policies and practices, which give rise to the increasing pressure on local authorities (as detailed in paragraph 5.2)
- Continuing dialogue is maintained with the Home Office and DCLG through the London representatives of the NRPF Steering Group,
- London Councils continues to work with the NRPF Network and London boroughs to develop a strong evidence base that fully articulates the level and nature of the financial impact on London local government from NRPF clients, and
- A round of influencing and public affairs engagement is undertaken to ensure that there is a wider understanding of the pressure on London boroughs from those with NRPF. Some escalation to member level may be required to support this.

## **Recommendations**

Leaders Committee is invited to:

- Endorse the decision of Executive for London Councils officers to take forward the series of actions detailed in paragraph 6.3, and
- Note and comment on any of the issues raised in this report.

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## **Financial Implications for London Councils**

None

## **Legal Implications for London Councils**

None

## **Equalities Implications for London Councils**

None