



No Recourse to Public Funds: Financial Implications for Local Authorities

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1. Introduction

The No Recourse to Public Funds (NRPF) Network aims to highlight the practical and policy issues of NRPF and works in partnership with the UK Borders Agency, the Local Government Association, London Councils and other representative agencies to reach resolutions to these issues.

This piece of work has been undertaken by the NRPF Network as part of its grant agreement with the UKBA.

Local authorities are increasingly concerned about the financial implications of supporting individuals who have no recourse to public funds (henceforth NRPF). This report collates data on the numbers of people being supported by local authorities and the associated expenditure by those authorities in carrying out their duties under community care and childcare legislation.

This report aims to:

- demonstrate in financial terms the impact of the no recourse to public funds policy on local authorities and council tax payers across the UK;
- collate accurate data on the numbers of people who have NRPF being supported by local authorities across the UK;
- examine basic trends in numbers and costs;
- make recommendations to the UKBA on how to alleviate this burden on local authorities and reach sustainable solutions.

2. Summary of key points

During the financial year 2007/08, at least **£33.4 million** was spent by 48 local authorities supporting individuals and families who have no recourse to public funds. This is an **increase of 8%** on expenditure incurred in the financial year 2006/07.

At least **3910** individuals were being supported by 48 local authorities during the financial year 2007/08. This is an **increase of 3.6%** on the figures for the financial year 2006/07.

Local authorities receive no funding for these costs from central government. These costs are met from local council taxpayers. These figures are concerning for local authorities, particularly because costs appear to be increasing.

The key recommendations of this report are that in order to minimise this expenditure, the UKBA should work in partnership with local authorities to resolve cases through exploring options to return individuals and families to their countries of origin or by granting status to those who cannot be returned thereby entitling them seek employment or mainstream benefits. In the interim, local authorities should be reimbursed in full for the expenditure they incur fulfilling their statutory duties on people who have NRPF.

3. Background to NRPF

'No recourse to public funds' applies to a person who is subject to immigration control; does not have the right to work;¹ and has no entitlement to welfare benefits, public housing or Home Office asylum support.

NRPF affects a wide range of people who are subject to immigration control, including refused asylum seekers, visa overstayers, post-18 former unaccompanied asylum seeking children and victims of domestic violence in the UK on spouse visas. Many of these people are, for a variety of reasons, unable or unwilling to return to their countries of origin.

Case law has ruled that those who are destitute and in the country lawfully are entitled to local authority support where they are assessed as being in need of care and attention (National Assistance Act, 1948) or, if they are in the country unlawfully, where it would be a breach of their human rights to withhold or withdraw support (Human Rights Act, 1998). Individuals with mental health problems, physical health problems (including HIV), older people and those suffering domestic violence may be entitled to local authority services. In addition, support may be provided by a local authority to a family under the Children Act 1989 where a child is found to be a child in need due to destitution.

The local authority has a duty to provide accommodation and subsistence payments, and any social care required. Rates for subsistence payments are

¹ People granted leave as spouses or civil partners are permitted to take up employment

set by the local authority and accommodation rates vary for each client (depending on the individual property and whether the client has any special requirements) and for various locations across the UK.

The NRPF Network was established in 2006 to:

- share information and good practice amongst local authorities in this area;
- to work with government departments to raise the practical and policy issues of NRPF;
- to facilitate reimbursement for local authorities of the cost of providing support to people with NRPF; and
- to develop a strategic response to people with NRPF.²

4. Research methodology

In September 2007, the joint ADASS / ADCS³ Asylum Taskforce contacted Local Authority Chief Executives across the country and asked them to nominate a lead contact that could provide data on NRPF clients supported by each authority. They were subsequently sent a spreadsheet on which to record the data.

The greatest numbers of service users with NRPF are likely to be supported by local authorities in cities, large towns, asylum dispersal areas and those with a major port of entry within their boundaries. The researchers ensured that these key areas were contacted. Key dispersal areas were determined by identifying authorities that were supporting in excess of 400 asylum seekers (accommodation *and* subsistence) at the end of December 2006.⁴

Forty-eight local authorities provided data for this report, covering the vast majority of urban authorities with social services responsibilities. Eleven additional authorities reported no expenditure.

Limitations of data

The figures provided in this report represent the minimum likely expenditure and numbers of NRPF individuals being supported as the sample represents only roughly 30% of local authorities with social services responsibilities in England, Wales and Scotland. Although the researchers feel that the authorities with the highest likely costs are included, a few were unable to provide data.

A standard spreadsheet was created on which to record data, however it is possible that some costs were recorded differently. For example, costs for adults who have children may have been included under Section 21 NAA 1948 instead of Section 17 Children's Act 1989. However, this should not affect the overall figures.

² For more information, see www.islington.gov.uk/nrpfnetwork

³ Association of Directors of Adult Social Services / Association of Directors of Children's Services Asylum Taskforce. The NRPF Network is a sub-group of the Asylum Taskforce.

⁴ Home Office Asylum Statistics 2006,
<http://www.homeoffice.gov.uk/rds/pdfs07/hosb1407.pdf>

Expenditure is defined for the purposes of this research as accommodation and subsistence costs. This does not include expenditure relating to staff time (casework, social work, legal costs and interpreting) and medication or additional health-related costs. These costs can be substantial. The researchers felt that for the purposes of this research, calculating these costs would be excessively complicated and inconsistent across local authorities.

The figures provided here therefore provide the minimum total expenditure incurred by local authorities in supporting people who have NRPF.

5. Findings

There are 204 local authorities with social services responsibilities in England, Scotland and Wales (150 in England, 32 in Scotland and 22 in Wales). We received data from 48 local authorities that were supporting clients who have NRPF: 44 authorities in England, two from Scotland and two from Wales. All but one of these local authorities are in urban areas. Twenty-eight of these authorities gave data for both adult and children's services; 13 gave data for adult services only; and four gave data for children's services only. Three authorities provided total figures without disaggregating into children's and adult services.

- The minimum figure for expenditure on NRPF individuals in the financial year 2007/08 was **£33.4 million**. The minimum number of NRPF individuals being supported during this period was **3910**.
- The minimum figure for expenditure on NRPF individuals in the financial year 2006/07 was **£30.7 million**. The minimum number of individuals being supported during this period was **3769**.
- Eleven authorities reported no expenditure on NRPF individuals. All but one of these authorities were in less densely populated areas.
- The unadjusted average local authority expenditure on an individual who has NRPF in 2007/8 was **£8,537** per annum.⁵
- Expenditure rose by **8%** from 2006/7 to 2007/8. The increase in expenditure reflects the increase in numbers being supported, the increase in the number of families being supported and the increase in accommodation and subsistence costs.

⁵ This does not take into account the differences in expenditure across local authorities in terms of subsistence payments and accommodation costs

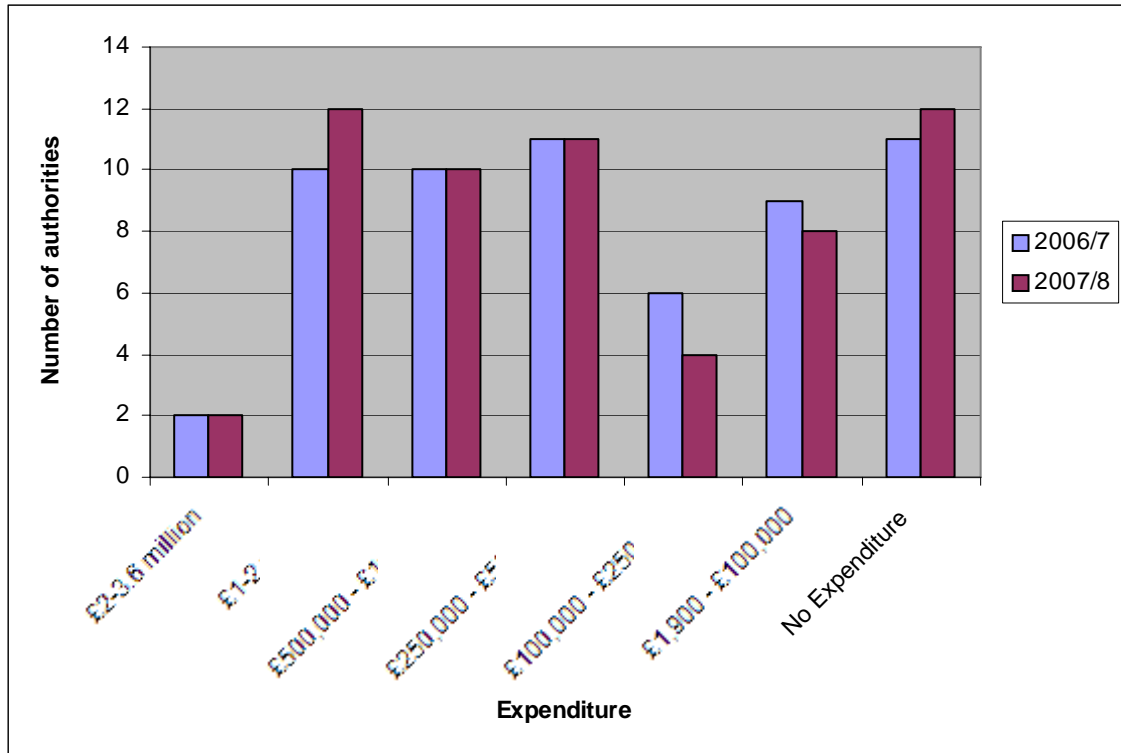
	2006/7	2007/8
Number of adults supported	2,296	2,246
Number of children supported	1,264	1,415
TOTAL NUMBER SUPPORTED	3,769	3,910⁶
Expenditure under Section 21 NAA 1948	£19,779,722	£20,572,461
Expenditure under Section 17, Children's Act 1989	£9,482,811	£11,394,084
Expenditure not disaggregated	£1,430,327	£1,414,702
TOTAL EXPENDITURE	£30,692,860	£33,381,247

Numbers of adults being supported decreased slightly (by 2.2%), whilst numbers of families being supported increased more dramatically (by 10.7%). The table and graph below illustrate the range of expenditure by local authorities, demonstrating that the burden does not fall equally across local authorities.

A greater number of authorities were spending larger sums in 2007/8 than in 2006/7. Most notably, the number of authorities spending between £1m and £2m per annum rose from ten to 12, whilst those spending between £1,900 and £250,000 per annum dropped from 15 to 12. One authority reported no expenditure in 2007/8 because all of its cases were resolved as part of the case resolution programme.

Expenditure	Number of authorities	
	2006/7	2007/8
£2 - 3.6 million	2	2
£1 - 2 million	10	12
£500,000 - £1million	10	10
£250,000 - £500,000	11	11
£100,000 - £250,000	6	4
£1,900 - £100,000	9	8
No Expenditure	11	12
Total	59	59

⁶ These figures include the numbers supported by two authorities that did not disaggregate figures for adult and children



6. Conclusions

A key principle of asylum policy between local and central government is the recognition that this is a national issue. As such, costs must be met centrally and not fall entirely on local authorities and council tax payers.

Increases in demand for services and expenditure on clients who have NRPF is of great concern to local authorities, as this results in funding being diverted from core services to meet this unfunded but statutory cost.

Local authorities are also concerned about the impact of the NRPF policy on community cohesion. Anecdotal evidence from local authority members of the Network indicate the effects of destitution socially are: increased poverty; street homelessness; illegal working; vulnerability to sexual exploitation; increased criminal activity; increased health risk; and increased mental health difficulties.

The figures detailed in this report are significant and have a real impact at a local level, materially and symbolically. It is compounded by the fact that this expenditure is partly unnecessary. The NRPF policy has not proved to systematically induce individuals and families to return to their countries of origin; many choose to stay in the UK either lawfully or unlawfully, despite having NRPF. Essentially, this situation arises because people are not removed at the end point of the asylum / immigration process.

There needs to be agreement in how to find case resolution on legacy cases and other complex 'destitute plus' cases that local authorities are supporting. These cases can be resolved, either by returning people to their countries of

origin at the end of the asylum / immigration process if it is safe to do so, or by granting people temporary or indefinite leave to remain, thereby entitling them to mainstream benefits. Part of the solution however is to recognise that removal (voluntary or enforced) is not an option in a significant number of cases and that leaving people destitute is not in the interests of broader social protection policy. This would free individuals from a state of limbo, enabling them to continue their lives either in the UK or abroad and have the right to work and live dignified lives. It would also significantly reduce the financial burden on local authorities and council taxpayers.

7. Recommendations

(i) Reimburse local authorities

Central government should reimburse local authorities the expenditure incurred on supporting individuals and families who have NRPF, pending their removal (if enforceable) from the UK. Reimbursement should form part of a strategic response to NRPF, which should focus principally on finding sustainable solutions to people's situations.

Reimbursement should cover all costs including accommodation and subsistence costs, and direct support costs such as staffing.

(ii) Work with local authorities to issue detailed guidance on eligibility for local authority assistance

The UKBA should work with local authorities and the NRPF Network to develop detailed guidance to local authorities on their duties to provide services to people with NRPF. This would ensure consistency across local authorities and also that authorities are fulfilling their statutory duties.

(iii) Work with local authorities to find sustainable solutions

The UKBA has begun preliminary work with local authorities to seek resolutions to individual cases being supported by local authorities. Objectives have been set to identify and conclude cases, taking enforcement action where practicable or granting status to cases in accordance with their policies. These objectives have been set out as part of pilot partnerships with local authorities in the UKBA's Enforcement Strategy.

Authorities collect considerable amounts of information on clients whilst supporting them. The UKBA should use this to inform decision-making and help find sustainable solutions to individual cases. Furthermore, the UKBA should consider adopting a casework approach to address individual cases being supported by local authorities in order to reach these solutions more efficiently.

To assist with resolution, cases can be grouped according to immigration status:

- *Legacy cases being supported by local authorities*

Legacy cases being supported by local authorities should be prioritised as part of the case resolution programme currently being rolled out by the UKBA.

Information about clients held by local authorities can be used to determine the best option for individuals and families, whether it is to grant Indefinite Leave to Remain (ILR) or to return individuals/families to their countries of origin.

- *Victims of domestic violence on spouse visas*

The NRPF Network is in discussion with the Domestic and Sexual Violence Unit of the Home Office regarding retrospective funding for those whose applications for ILR under the domestic violence rule is successful (for accommodation and subsistence pending the outcome of the application).

Issues remain however for victims of domestic violence who cannot make an application for ILR under the domestic violence rule because they have been in the UK on a spouse visa for over two years. Consideration needs to be given to either:

- a) extending the eligibility criteria for the Domestic Violence Rule (DVR) to include all women fleeing domestic abuse; or
- b) ensuring a mechanism of processing the application for ILR within the same timelines as that applied to processing DVR applications.⁷

- *Refused asylum seekers and visa overstayers with care needs*

Local authority support is the final resort for those who are unable or unwilling to return to their countries of origin but have care needs. This is however an unsustainable situation.

There are some individuals and families whose removal from the UK is unenforceable on account of a physical or mental health problem, and in such cases the UKBA should consider granting leave to remain, and therefore entitling them to work or access mainstream benefits.

In cases where travel documents cannot be granted, the UKBA should reimburse the local authority for continuing to provide support to the individual until such time that travel documents can be granted.

In cases where return is an option, the UKBA should work with local authorities to seek the best solution for individuals and families. Ideally this would be through assisted voluntary return programmes.

(iv) Revise proposals to extend category of NRPF to include those legally residing in the country.

The recent Border and Immigration Agency Green paper '*Path to Citizenship: Next Steps in Reforming the Immigration System*' proposes a new stage prior to a migrant's entitlement to permanent residence entitled 'probationary citizenship'. During this stage, migrants will have no recourse to public funds. This policy will have substantial implications for local authorities.

The NRPF Network recommends that the new rules exempt migrants who have community care needs from requiring to demonstrate their ability to

⁷ According to UKBA, DVR applications are processed within 20 working days.

support themselves without recourse to public funds. Migrants with community care needs should also remain entitled to mainstream benefits and local authority housing during the probationary citizenship stage.⁸

8. Acknowledgements

We would like to thank the 59 local authorities and the officers that provided data for this report and the UKBA for their continuing financial support to the NRPF Network.

⁸ A more detailed response to the Green paper can be accessed using the following link:

http://www.islington.gov.uk/DownloadableDocuments/HealthandSocialCare/Pdf/nrpf_path_citizenship.pdf