



The
Children's
Society

A Lifeline for All
Children and Families with
No Recourse to Public Funds

Executive Summary

May 2020

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Introduction

There are thousands of children in the UK facing deep, long-term poverty because of strict immigration rules, which mean their families cannot access mainstream benefits or vital support, even in a crisis.

Living in poverty has significant detrimental effects on children's outcomes, both in childhood and later in life. Living on low income negatively affects children's school attainment, cognitive and behavioural development, and their physical and mental health, even for short periods of time (Cooper & Stewart, 2013, 2018). Children in recent migrant families (Vizard, Burchardt, Obolenskaya, Shutes, & Battaglini, 2018) and those with foreign-born parents are at a higher risk of poverty, with almost half of children with foreign-born parents in the UK living in poverty. In fact, children with foreign-born parents make up a quarter of all children in the UK who are in poverty (Hughes & Kenway, 2016). Research from NGOs and academics in recent years has looked at how immigration policies in the UK, which restrict children and families' access to mainstream benefits and vital support and services, contribute to children's experiences of poverty and destitution (Crawley, 2009; Dexter, Capron, & Gregg, 2016; Dickson, 2019; Jolly, 2019; Price & Spencer, 2015; Sigona & Hughes, 2012; Woolley, 2019).

One of the drivers of poverty in modern-day Britain for children in migrant families is the fact that regardless of need or level of income, children, young people and their families are prevented from applying for welfare benefits because of their parents' immigration status or because of conditions placed on their stay in the UK and their ability to settle¹. These are commonly referred to as 'no recourse to public funds' or NRPF conditions. It is government policy to apply the NRPF condition to *'the leave of most migrants in the UK as a legitimate means of maintaining and protecting our economic resources'* (House of Commons, 2020). But as the NRPF Network has argued: *'the imposition of the NRPF condition on families with dependent children gives rise to child poverty and hinders the integration of families who are entitled to settle in the UK permanently'* (NRPF Network, 2018).

This means that even in times of crisis, such as becoming unemployed, fleeing domestic abuse, becoming ill or following the death of a family member, children and families who have 'no recourse to public funds' cannot apply to access the vital safety net of the benefits system to get them back on their feet. The benefits system itself is already highly restricted, and is means-tested and limited to those who need help the most. But if you are an individual or family with 'no recourse to public funds' you are prevented from the social security safety net altogether, regardless of your low income or need. This means you cannot access most benefits like housing benefit, Child Benefit, Universal Credit, Free School Meals, Disability Living Allowance, tax credits, Local Welfare Assistance Schemes, and many other vital support provisions for those facing a financial crisis, disadvantage or with additional needs². Families may be eligible for contribution-based benefits as these are not considered to be

¹ Under section 115 of the Immigration and Asylum Act 1999 (see related link) persons subject to immigration control are excluded from entitlement to a number of welfare benefits: <http://www.legislation.gov.uk/ukpga/1999/33/section/115>

² Paragraph 6 of the Immigration Rules defines benefits considered as public funds. For more information and to see the exceptions that apply, see government guidance on public funds: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772305/Public_funds_v14.0e_xt.pdf

public funds but depend on contributions through National Insurance and other eligibility criteria³.

Some of the most vulnerable families who are most likely to be negatively affected by NRPf conditions are those already facing poverty and other disadvantages. Although the NRPf policy was set out under the Immigration and Asylum Act in 1999, the changes to the Family Migration rules in 2012 introduced a series of changes to how individuals and families apply for settlement – Indefinite Leave to Remain (ILR) – in the UK. This included the introduction of the ten-year route to settlement for those who apply to stay in the UK on Family and Private Life grounds (Article 8 ECHR). In these cases, families must make four applications for 30 months at a time, completing ten years before they can apply for ILR and settle. These are usually families who do not meet the financial and other requirements of the shorter settlement route. Although some families may be able to get the NRPf condition lifted⁴ this only happens in a small number of cases as the process is fraught with difficulties⁵. Furthermore, every time families apply to extend their leave, the NRPf condition can be re-applied, which means that families are plunged back into poverty and homelessness. As a result, children in these families are living in deep poverty throughout their childhood and into adulthood.

This report builds on The Children's Society's 'Making Life Impossible' report which looked at the experiences of destitution among migrant children (Dexter et al., 2016). In this report we focus on the experiences of families who have NRPf conditions attached to their leave to remain in the UK and make a series of recommendations for policy, practice and further research. Among these are an urgent call on government to suspend NRPf conditions, immigration fees and Immigration Health Surcharge so families can access the lifeline of benefits if they need it and can prioritise any savings they have on protecting their children during the Covid-19 outbreak, instead of spending it on Home Office fees. The government should also automatically extend *all* leave to remain, including for those on the ten-year route to settlement whose home is here. While suspending NRPf is not the only change that is needed, it is an important way to provide some much-needed safety and security to children and parents in very desperate circumstances, including many of those who are key workers.

³ For a full list of what are and are not public funds, and all the relevant exemptions, see government guidance: <https://www.gov.uk/government/publications/public-funds>

⁴ Families can apply to have the NRPf conditions on their leave lifted through a Change of Conditions application if they meet certain criteria: <http://www.nrpfnetwork.org.uk/information/Pages/change-of-conditions.aspx>

⁵ According to the Home Office's Policy Equality Statement in 2015, which includes analysis of data from 11,046 main applicants granted leave to remain under the 10- year family and private life routes from 1st January 2014 to 31st December 2014, the vast majority of cases considered - 92% or 10,213 - were granted leave to remain with no recourse to public funds. In only 8% of cases (833) the condition was not imposed or was lifted (Home Office, 2015, p. 4). Although a more recent PES was published on 21st April 2020, it does not contain comparable data on how many grants of leave to remain had NRPf conditions imposed or lifted, so it is difficult to know what proportion of people are affected and how things have changed overall. The most recent PES is available online: <https://www.gov.uk/government/publications/application-for-change-of-conditions-of-leave-to-allow-access-to-public-funds-if-your-circumstances-change>

Sabryna

Sabryna is a single mother from Jamaica with a British child and she has been in the UK for over 17 years. When we spoke to her for this report, she was on her third tranche of leave to remain for 2.5 years so had at least four and a half years to go until she could settle, even though she has a British child and this is their home.

Each time she was granted leave to remain – three times – the ‘no recourse to public funds’ condition was reapplied and she had to spend time and money getting legal support to have the conditions lifted. She told us that despite being a single mum, she has worked since she received her work permit and has tried to work all the hours necessary, but without recourse to public funds she really struggled. She didn’t think that the Home Office took her or her child’s circumstances into account: *“you see that all documented down and yet you turn around and go: “oh, you know what, this is a single mum, she’s struggling, but I’m not going to give her public funds anyway, I’m not going to give her access to [support]. I’m just going to let her and her family suffer” it doesn’t add up”*.

The cumulative effects of the NRPF conditions, cuts to legal aid, the fees and the ten-year route have had a significant impact on Sabryna and her child. Living on low income means that, every two and a half years, Sabryna has been forced to borrow money from her friends and to take out loans to pay for Home Office applications.

Methods

For this report, we analysed case notes from The Children’s Society’s services between 2015 and 2018. The sample included a total of 3,284 case notes which mentioned ‘no recourse to public funds’ or associated terms, and related to 971 service users including children, young people, parents and carers. We also spoke directly to parents in 11 families, representing 21 children, about their experiences of living with NRPF conditions. The families we spoke to between April and June 2019 had experienced periods of uncertainty with their immigration status; some had fled persecution, domestic abuse or had experienced family breakdown; others had overstayed on visas. However, all had human rights-based claims on Family or Private Life grounds and were on the ten-year route to settlement⁶. They had all experienced poverty and destitution as a result of having NRPF conditions, though some had managed to get conditions on their leave to remain lifted⁷ allowing them to apply for support. All but one of the parents we spoke to had been in the UK between nine to twenty years. Most of the children in the families were either British or had been born in the UK. Although they are treated as migrants, the UK is their home and for the children it’s the only home they know.

In addition to data from family interviews, we also analysed new data from the NRPF Network, data from the Migration Observatory and Home Office published statistics, alongside reviewing existing research, to get a better sense of the scale of the issue and the profile of the children and families that are most affected.

⁶ This is before they are eligible to apply for Indefinite Leave to Remain (ILR).

⁷ Families can apply to have the NRPF conditions on their leave lifted through a Change of Conditions application if they meet certain criteria however this process is fraught with difficulties as highlighted in recent litigation: <https://dpglaw.co.uk/high-court-to-consider-suspending-nrpf-policy/>

Key findings

Our report finds that ‘no recourse to public funds’ and other immigration policies are leaving thousands of children growing up in long-term poverty, trapped in cycles of homelessness, destitution and mounting debt and segregated from their communities and peers. Punitive Home Office restrictions hit families on low income most severely and are compounded by other disadvantages such as having a family member with a disability, being a single parent or being an ethnic minority.

- Most of the families we spoke to told us that while they had NRPF, they struggled to meet their children’s even most basic needs, such as paying for food or buying school uniforms, and paying rent and utility bills. For those with additional needs, NRPF conditions mean they are prohibited from applying for Disability Living Allowance or Personal Independence Payments. Although some temporary measures have been implemented during the Covid-19 crisis as a result of litigation⁸, generally families with NRPF cannot access benefits-based Free School Meals (FSMs)⁹ for their children and at the time of our interviews parents spoke about the difficulties they faced not having access to this vital support, which can cost families over £400 per year per child¹⁰.
- Most families we spoke to experienced street homelessness, were forced to sleep on the sofa or floors with friends or other families, or lived in precarious, unstable and unsafe private rented accommodation. This caused parents great anxiety and fear, and made them vulnerable to exploitation. Living in temporary or cramped accommodation and experiencing frequent moves took a heavy toll on children’s well-being, particularly where children had additional needs. The transience, noise, uncertainty and unfamiliarity of temporary accommodation meant that some families had to spend all their time out in parks to manage their child’s behaviour and help them to feel comfortable and settled.
- Most of the families we interviewed (8 out of 11) were headed by single mothers and many had children with additional needs, such as autism. Our analysis suggests that most of the families struggling with NRPF conditions are households where parents are of African, Asian and Caribbean nationalities, predominantly from former British colonies. However, the children themselves are often British citizens, were born or raised here, and have only ever known the UK as their home. These families are likely to face other forms of discrimination, marginalisation and exclusion, in addition to the systematic exclusion from social security support brought about by NRPF conditions.
- Despite working as much as they could – one father worked 90-hour weeks – and often in key jobs like NHS staff, care workers, cleaners or in food preparation, without the

⁸ In response to a letter before action by a family, supported by solicitors at Deighton Pierce Glynn the government agreed on 6th April 2020 to allow some children who otherwise have no recourse to public funds, to be allowed to receive free school meals during the Covid-19 pandemic including those granted leave under Article 8 ECHR Family/Private Life grounds, Zambrano carers and those supported by local authorities under Section 17 Children Act 1989 provision. While this is a very welcome change that will help protect some very vulnerable children during the pandemic, it is not a long-term policy change. It also doesn’t cover other children who have NRPF, for example those who are undocumented but not receiving local authority support: <https://dpqlaw.co.uk/free-school-meals-extended-to-thousands-more-children/>

⁹ Children with NRPF do receive universal infant provisions for those in Reception through to Year 2, and in local areas where wider schemes exist.

¹⁰ <https://www.gov.uk/government/news/free-school-lunch-for-every-child-in-infant-school>

ability to apply for top-up benefits or vital childcare support, their income alone was not enough. This was particularly difficult for single parents whose income was considerably lower: they could not get top-up benefits to support their income and needed to work on zero-hours contracts and in flexible jobs to be able to take care of their children, especially when children had additional learning needs as they were ineligible for vital support like Disability Living Allowance (DLA), which they were able to access when NRPf conditions were lifted. It's important to note that families where parents are working in key worker frontline roles and who will not have the benefits safety net to fall back on will also be at far greater risk of contracting Covid-19.

Joy

Joy is a domiciliary care worker and single mum with an autistic child. She had always been on zero-hours contracts. Having no additional childcare support and being a single parent meant she needed a flexible work contract to take time out to care for her son and to be around when he was picked up and dropped off.

But this also meant that she had little control over her income because her shifts varied, leaving her and her son with very limited income at times, for example when her manager reduced her hours or when a client passed away. She told us that for a period she was only working three hours a week earning only £80 in one month, without the benefit of tax credits or other support. When the NRPf condition was lifted, Joy was able to access Disability Living Allowance for her son.

She knows that her son is aware of her worries: *“every time he comes back from school, [he says] “mum are you okay, don’t worry everything will be okay, I know you are worried I can see it in your face”*.

- Families who are destitute and cannot access mainstream benefits, may be able to access support under Section 17 Children Act 1989, which is often the only safety net available¹¹. Data from the NRPf Network showed that 8,117 families with at least 16,331 dependents were supported by local authorities under Children Act provision between 2015 and 2019 in England and Scotland¹². While many of the families we spoke to eventually received support from local authorities, some experienced ‘gate-keeping’ measures and were turned away before getting support. One mum, who had fled domestic abuse, was told that her child would be taken into care if she didn’t have a place to stay, which left her feeling shattered.
- Other families received good support from social services and had strong advocates on their side. This was critical in protecting families from becoming street-homeless and providing them with some financial support. Even so, the subsistence provided by cash-strapped authorities was often very limited – under £3 per child per day – making it impossible to meet children’s welfare needs. This is echoed by other research

¹¹ The equivalent provisions in other nations are Section 22 Children (Scotland) Act 1995, Section 37 Social Services and Well-being (Wales) Act 2014 and Article 18 of the Children (Northern Ireland) Order 1995.

¹² The NRPf Network Connect database provided data for families supported by 62 local authorities in England and Scotland, while Wales and Northern Ireland data is held separately.

(Dexter et al., 2016; Jolly, 2019; Price & Spencer, 2015). Without central access to mainstream benefits and other mechanisms, the support provided to families is likely to be greatly exacerbated by the Covid-19 crisis as need increases.

- Despite the deep and persistent poverty that families faced, they were still expected to pay thousands of pounds in increasing Home Office application fees and the Immigration Health Surcharge every 2.5 years over ten years to be allowed to settle. A single mum with two children, who has no access to top-up benefits, child benefit or housing benefit, would have to pay over £23,000 altogether over ten years to be allowed to settle if she started her settlement journey in 2012¹³. A family of five – two parents and three children – would have to pay over £39,000 over the same ten-year period.
- Unsurprisingly many of the families we spoke to were forced to take on debts or borrow from friends to pay for these fees, or risked overstaying and becoming undocumented. One single mum who had lived in the UK for 17 years, had a British child and has always worked in social care – including in nursing homes and for the NHS – was forced to take out multiple payday loans and had accrued debts of £15,000. She described herself as feeling trapped in an endless cycle of debt and borrowing. Children and young people’s own lived experiences of destitution, Home Office fees, the ten-year route and the hardship they face are well documented in other research (Dickson, 2019; Let Us Learn, 2018; Makinde, Akaka, & Bawdon, 2019; O’Connell, Knight, & Brannen, 2019).
- There is no publicly available data on how many children and families are currently living in the UK without recourse to public funds as a result of conditions attached to their leave. However, given that the government’s intention is to generally apply NRPF conditions to most migrants (House of Commons, 2020) until they settle, we can assume that most of those who have some form of temporary status in the UK – limited leave to remain or a visa – will have no recourse to public funds. Migration Observatory figures obtained from the Home Office show there were 142,496 children under 18 and 1,002,091 adults who had leave to remain in the UK at 31st December 2016¹⁴.
- Of course, not all children in migrant families are living in poverty or indeed would meet the strict eligibility criteria of mainstream benefits if they were to apply. However, the blanket restrictions mean that even in times of crisis, they are prevented from applying. What the Migration Observatory analysis of those with leave to remain and the GLA estimates on undocumented children living in the UK (Jolly, Thomas, & Stanyer, 2020)¹⁵ highlight is that there are potentially hundreds of thousands of children and adults who have no access to the welfare benefits lifeline, regardless of their needs or the poverty and deprivation they experience.

¹³ For further information see Chapter 2 and the Appendix of the full report.

¹⁴ This includes main applicants and dependents. For detailed explanations of the data and its limitations, see Chapter 2 of the full report. The original figures are available here: <https://migrationobservatory.ox.ac.uk/people-with-leave-to-remain-in-the-uk-by-gender-and-type-of-leave/>

¹⁵ An estimated 215,000 undocumented children living in the UK in 2017 will also have no recourse to public funds because they have no established leave to remain in the UK.

Covid-19 pandemic

In the final stages of writing this report, the Covid-19 pandemic had spread rapidly across the UK, affecting families and communities across the country, causing great heartache, loss and struggle. Though this pandemic will take an irreparable toll on millions of UK families, for some who lose their jobs or income, or become unwell, they will have access to the lifeline provided by mainstream benefits, however inadequate. They will be able to access Universal Credit (UC), Employment and Support Allowance (ESA) and Local Welfare Assistance Schemes (LWAS)¹⁶. Indeed, the Department for Work and Pensions figures showed that nearly a million successful applications for UC were made in the last two weeks of March, when people were advised to work from home as the coronavirus pandemic worsened¹⁷. However, this vital support will not help thousands of children and families who are restricted from applying to the lifeline of mainstream benefits because of NRPF conditions.

In limited circumstances parents may be eligible for contribution-based benefits, which are not public funds, if they have been paying National Insurance contributions and meet other eligibility criteria. However, where they lose their jobs or become unwell, they will not be able to claim UC or income-based ESA, which is already means-tested and only made available to those who need it¹⁸. Although some foreign nationals may be eligible for protections under the Coronavirus Self-Employment Income Support Scheme and the Coronavirus Job Retention Scheme (Gower & Kennedy, 2020), so parents who have leave to remain for example can ask to be furloughed under the scheme where they have childcare responsibilities, they would still not qualify for UC if their salary is reduced or if they lose their job altogether. Families who are undocumented will not have any of these protections, except for support from local authorities, which will be extremely difficult to secure in the current context. For those who lose their only source of income, they will be left entirely destitute or may be forced to go out to work putting themselves, their loved ones and others at risk. As well as serious welfare implications for the children and family members affected, this also carries significant public health risks.

The Home Office has stated that “*Nobody should find themselves starving in this crisis*”. Yet if the Home Office *continues* to apply NRPF conditions to grants of leave to remain and if these punitive restrictions are not suspended, these are real risks (Jolly, 2018). It is essential that *all* children and residents in the UK are protected in this pandemic; children in immigrant families are no exception.

Beyond their immediate living needs, without any income over several months, many families will be unable to pay thousands of pounds of Home Office application fees and the Immigration Health Surcharge when it comes time to renew. Unlike with visa applicants¹⁹, the government has not extended leave to remain for those with Family and Private Life claims on the ten-year route to settlement, whose homes are here in the UK. As our research shows, this includes many key workers such as NHS staff, social care workers, cleaners and others working in critical frontline jobs. As a result, they will be more likely to overstay on their leave to remain or remain undocumented.

¹⁶ Though these too are limited and in need of reforms: <https://www.childrenssociety.org.uk/sites/default/files/crisis-support-one-family-report.pdf>

¹⁷ <https://www.bbc.co.uk/news/uk-politics-52129128>

¹⁸ While income-based ESA is a public fund, contribution-based ESA is not but is based on making contributions through National Insurance: <http://www.nrpfnetwork.org.uk/information/Pages/not-public-funds.aspx#benefits>

¹⁹ <https://www.gov.uk/government/news/visas-extended-for-those-currently-unable-to-return-home-due-to-covid-19>

Our full report details several recommendations to government, local authorities and NGOs. These are the key recommendations to government:

Immediate changes needed:

- During the Covid-19 crisis, we call on the government to suspend NRPf policies without further delay so that families can access the lifeline of social security under the same conditions as everyone else. Individuals and families who need support now should not be forced to jump through bureaucratic hoops to get NRPf conditions lifted.
- The Home Office should issue guidance to its staff *not* to apply the NRPf condition to any new grants of leave to remain.
- The government should suspend immigration fees and the Immigration Health Surcharge on the ten-year route to settlement for at least 12 months so families can prioritise any savings they have on protecting their children during the Covid-19 outbreak, instead of spending it on Home Office fees.
- The government should automatically extend all leave to remain including those on the ten-year route and make this clear in guidance so that those whose leave is expiring during the pandemic are not put at greater risk of losing their jobs and livelihood.
- The government should extend the eligibility under the Domestic Violence Immigration Rule to any migrant survivor of domestic abuse so they can more easily secure a permanent status. The grace period where victims of abuse can temporarily access public funds whilst applying under the Domestic Violence Rule should also be increased from 3 to 6 months.

Longer-term changes needed:

- The Home Office should not apply NRPf conditions to parents with leave to remain in the UK where they have children under 18 years old. Where NRPf conditions have previously been lifted, they should not be re-applied in subsequent applications.
- The Department for Education should change eligibility to Free School Meals to ensure that children without recourse to public funds who are living in poverty continue to have access to Free School Meals beyond the current crisis, regardless of their immigration status.
- The government should reduce application fees to cost price for children, young people and families to prevent more falling into debt or being left undocumented. Fees and settlement routes must be reformed so that they do not punish children and families who are on low income, or push them further into poverty.
- The government should eliminate the ten-year route to settlement which punishes families on low income and keeps children in poverty. This should be reduced to a five-year route as for those who meet the financial requirements.
- The government should extend the deadline to the EUSS, especially in light of Covid-19 and the delays this is likely to cause to application processes, to minimise the risk of vulnerable children and families being left without status and becoming destitute after the deadline.²⁰

²⁰ Our research has shown that EU/EEA children in care and care leavers are particularly at risk of becoming undocumented due to low levels of applications thus far submitted and the low number of receipts of status. We have called upon the government to grant automatic status for these vulnerable young people. Please see

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The Children's Society and our supporters have been there for vulnerable children and young people for more than 130 years.

We believe that every young person should have the support they need in order to enjoy a safe, happy childhood.

That's why we run services and campaigns to make children's lives better and change the systems that are placing them in danger.

Together with our supporters, we're improving the lives of children today and long into the future.

Further information

For more information on this study, or to sign up to receive regular updates, please email [**policy@childsoc.org.uk**](mailto:policy@childsoc.org.uk)

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