Making Life Impossible
How the needs of destitute migrant children are going unmet
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By Zoe Dexter, Lucy Capron and Lucy Gregg
6 in 10 families with no recourse to public funds who applied for Section 17 support under The Children Act 1989 in 2015 were not supported by their local council.

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‘When things get so desperate, or after they’ve spent a few nights sleeping in a police station, that’s when when they come to us.’

The Children’s Society practitioner
Executive Summary

A child’s immigration status, or the immigration status of their parents, can affect every area of their lives. Our services provide support and advocacy to children and families who find themselves destitute and in extremely precarious circumstances because of how their immigration status affects their entitlement to work and to the mainstream welfare and housing system.

Local authorities have a duty under Section 17 of The Children Act 1989 to support ‘children in need’ in their area, and for many destitute migrant families this is the only opportunity they have to feed themselves and put a roof over their heads. However, our practitioners report that local authorities are increasingly putting barriers in place before supporting these families and are using new methods to reduce access to this support. Even where families do get this support, subsistence rates and accommodation are exceptionally poor. Every day, we see how this situation is leaving children hungry and without lunch for school, street homeless or forced to live hours from school and trapped in households engulfed by abusive relationships.

This report examines the circumstances and experiences of families seeking support under Section 17, as well as those who are already living on this support and the problems they continue to face. It provides a timely examination of these problems with the Immigration Bill 2015/16. The bill effectively diverts the support system for these families away from the Children Act framework replacing it with immigration-led provisions, further eroding the focus of public authorities on safeguarding and promoting these children’s welfare. This report highlights multiple case studies from our practice base and makes recommendations for Government to address the needs of destitute migrants families and their children.
Over 50,000 individuals with dependents in the last two years were given ‘no recourse to public funds’ even though they have a legal right to remain in the UK.
Chapter One: Introduction

This report examines support for children and their families provided under Section 17 of the Children Act 1989. For the families we work with, an application for this support is made because, as a result of their immigration status, they are unable to claim benefits and other types of support – known as having ‘No recourse to public funds’ (NRPF) meaning they find themselves destitute and in need of help.

This report is focused on two main groups of children in families claiming or attempting to claim Section 17 support as a result of their immigration status:

1. Children in families whose immigration status is unresolved making them ‘undocumented’
2. Children in families with the legal right to remain in this country but with an attached NRPF condition on their leave to remain.

This report examines the experiences of families with NRPF who are seeking support under Section 17, as well as those who are already living on Section 17 and the problems they continue to face even with support from the local authority.

Section 17 of the Children Act 1989 provides a general duty on local authorities to safeguard and promote the welfare of all ‘children in need’ in their local area – which means they must do whatever possible to ensure sufficient services and measures are in place to promote a child being raised within its own family in cases where a child’s standard of health or development is not being achieved or maintained, or where it is being impaired. An estimated 6,000 children in families with NRPF in the UK are being supported under Section 17. This support is not considered a public fund and includes accommodation, subsistence and help for children with additional needs, such as a disability.

Undocumented migrant children are those who currently have no legal right to remain in the country. Many undocumented children were born here, and the majority of those born abroad entered the UK legally with their parents who then held a valid visa. The fluidity of children’s statuses and the lack of legal aid available for families to resolve their immigration status can mean children fall in and out of services, leaving them exposed to significant risks. These undocumented children are excluded from accessing mainstream welfare benefits, secondary NHS healthcare, Local Authority Homelessness Assistance and Council Housing, and their parents are sometimes not legally allowed to work. Without their parents having access to a regular income, or the means of attaining it, these children can face a life of destitution and are at high risk of abuse and exploitation.

At The Children’s Society we have worked with refugee and migrant children since 1997. In response to increasing numbers of destitute children approaching our services since 2008, we have developed specialist projects to deliver direct advice and advocacy for destitute migrant children. In the past year The Children’s Society supported over 200 children in over 100 families facing destitution due to their immigration status. We are therefore well placed to highlight the circumstances in which these families find themselves.

There are a variety of families and children supported under Section 17. Support is provided to children with disabilities and families who have been assessed as ‘intentionally homeless’, with Section 17 support normally provided on a temporary basis as a safety net for families where there is no alternative in the private sector. It is intended to meet basic needs until such time as families can access mainstream support.

Latest figures show that almost 400,000 children in total were being supported under Section 17, the majority of which is due to abuse and neglect in the household. A local authority can provide a large range of interventions for children in need in their area including, for example, advice, guidance and counselling, occupational, social, cultural and recreational activities and home help (including laundry facility). Financial support is only offered in some circumstances. This report is focused solely
on families who apply for Section 17 support due to facing destitution as a result of their immigration status and being unable to claim public funds.

This report follows the journey of how families with NRPF apply for Section 17, and is structured around the following key areas:

- It begins with an assessment of what drives children and families to need support, and then highlights examples of destitution and risk that families find themselves in before approaching their local council for help.
- It then follows the application process for accessing support from the local authority, including the increasing barriers being faced by many families.
- It concludes with an analysis of the experiences and risks faced by families living on Section 17 support.

Key findings:

- Local authorities are increasingly putting barriers in place before supporting families under Section 17 of the Children Act 1989, and are using new methods to reduce access to this support. This is leaving children destitute and at risk of exploitation. Data from the No Recourse to Public Funds Network – provided specially for this report – shows that only 38% of families who applied for support from their local authority under Section 17 in 2015 (because their children’s welfare required it) were actually supported.

- We estimate that there are approximately 144,000 undocumented children living in England and Wales, with the most children being located in London and the West Midlands. These children and their parents face extreme levels of destitution and risk which are multiple and varied including living in unsafe accommodation, being unable to afford food and engaging in informal sexual relationships for small amounts of money.

- Even if families and their children do manage to receive support under Section 17 this is not the end of their problems. They still experience poverty on a daily basis, with the rates of support provided under Section 17 by local authorities varying across the country. In some circumstances this can mean these families are forced to live on less than £2 per person per day.

- Since 2012, the Home Office has begun placing NRPF conditions on parents who have leave to remain in the UK. In the past two years over 50,000 individuals with dependants were given a condition of NRPF on their limited leave to remain, and our findings show a third of applications to remove these conditions are successful.

This report provides a timely examination of the problems surrounding support under Section 17. The Immigration Bill 2015/16 recently introduced to Parliament actively prevents support being provided by local authorities under Section 17 to families in these circumstances. A new type of support – known as 10A – will now be available to families who would otherwise be destitute. We are concerned that provisions in the bill effectively divert the support for families away from the Children Act framework replacing it with immigration-led provisions, removing the focus on safeguarding and promoting children’s welfare.

Our findings in this report, based on the current system of access to and support under Section 17 support, highlight the high levels of need for these children and the risks families find themselves in throughout the journey in seeking support. It shows that for those eventually receiving support from their local councils this is not the end of their story, with many still living in unsafe and insecure accommodation, being at risk of exploitation and unable to support their children.

Our recommendations are framed to shed light on this often marginalised and hidden group of vulnerable children, and we believe they can be useful in influencing the new regulations on 10A support for families to ensure children are not placed at risk.
Methodology

To undertake this report we have used the following methods and techniques.

**Literature review**
An examination and analysis of relevant existing publications on destitution among migrants in the UK and accessing local authority support.

**Semi-structured interviews**
We undertook seven semi-structured interviews and a roundtable with current and former practitioners of The Children’s Society who are working with destitute families and children based in London, the West Midlands and the North East. The Children’s Society’s practitioners work with families holistically and over the long-term until the situation of a family is stabilised and the welfare of children is protected. This can take many years and require legal intervention. This meant that these interviews were particularly useful for understanding the circumstances of families coming to our services, and the barriers they face in accessing support. However, from these cases it was more difficult to understand the experiences of families who had been refused support from the local authority and whose needs are never met. Therefore we also undertook an additional interview with a professional working with destitute migrant families at Hackney Migrant Centre in order to explore the experiences of families in similar situations but from a drop-in centre perspective. All the quotes in this report are from practitioners we have interviewed for this research.

**Case files**
We undertook an analysis of anonymised casework files provided by The Children’s Society’s practitioners so that we were able to view the developing situation of destitute families during their engagement with The Children’s Society and the ways in which NRPF restrictions and local authority support affects their lives.

**Data requests**
We undertook a number of information requests from central and local government and from our practice base consisting of:

- Freedom of Information requests to the Department for Education and an information request to the No Recourse to Public Funds Network asking about the number of families receiving a ‘child in need’ assessment and the results of these assessments
- Freedom of Information requests to the Home Office for the number of families with NRPF conditions on leave to remain
- A survey to practitioners across England asking for data on the number of families each project has worked with over the last 12 months, to highlight trends including in legal intervention required to seek support from the local authority and success rates for the lifting of NRPF conditions on families with leave to remain.
Making Life Impossible
How the needs of destitute migrant children are going unmet
Chapter Two: Who are undocumented children and where do they live?

Estimated number of undocumented children

There are no official statistics on the numbers of undocumented migrant children in the UK, but there have been a number of estimates. The most widely referenced study by the University of Oxford estimates that 120,000 children of irregular immigration status live in the UK, of which a large majority were born in this country (60-65,000) or migrated here at an early age\(^8\). This means that some of these children may have been successful in gaining British citizenship. Despite this, these children are still greatly affected by the immigration status of their parents, because if the parent of a British child has NRPF then they will normally be restricted from applying for child benefit or child tax credit if the other parent cannot apply for these\(^9\).

A recent study by COMPAS\(^10\) estimated that the total number of families with NRPF supported under Section 17 is likely to be around 3,391 with the total number of supported children at around 5,900. It also found that 23% of the supported families had at least one British child. The lack of reliable data on the numbers of children in this situation makes it difficult for local authorities and other groups to meet their statutory duty to safeguard the welfare of local children.

To gain a more detailed understanding of the issue it is possible, however, to use existing data to map the likely numbers of undocumented children around the country. Data from the 2011 Census on the foreign born population in different areas of the country can be compared with the most recent national estimate of the total numbers of undocumented migrants in the UK\(^11\), which stands at 618,000. Based on this estimate undocumented migrants represent 7.7% of the foreign born population in the UK in 2011. Out of that 7.7% it is suggested that 25% are under the age of 20\(^12\).
It is reasonable to assume that the ratio of documented to undocumented migrants is consistent across the country because the 2011 census indicates that the percentage of foreign born residents who are British Passport holders\(^\text{13}\) is consistent irrespective of how large or small the migrant population is in absolute terms. Therefore, we have applied the 7.7% ratio estimate across England and Wales uniformly.

**Locations of undocumented children**

When this data is mapped, it becomes clear that the distribution of undocumented migrant children is very uneven. Research by COMPAS\(^\text{14}\) emphasises the clustered nature of provision to NRPF families – in 2012–13, the local authority with the highest number of supported families had 11% of the national total; the top 10 had 56% of the national total, and top 20 had 75% of the national total.

<table>
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<th>Region</th>
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<th>Number of children aged under 18</th>
<th>Undocumented children as a percentage of overall children</th>
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Chapter Three: The drivers of destitution

No free legal advice and representation to resolve immigration issues

Relationship breakdown and domestic violence

Low income or not legally able to work

A crisis in the family eg a death

Inadequate and precarious housing which leads to homelessness

Lack of access to public funds, including for parents who have leave to remain

What is destitution?

The Government’s definition of destitution is set out in the Immigration and Asylum Act 1999 and the Nationality, Immigration and Asylum Act 2002. The latter definition states that a person and their dependants are destitute: ‘if they do not have and cannot obtain both (a) adequate accommodation, and (b) food and other essential items’. The Children’s Society defines destitution more broadly, arguing that it is regular access to adequate accommodation and essential needs that is required and that informal networks providing ad hoc, short-term support are not sufficient for families. Other organisations argue destitution encompasses more than economic or material hardship and that it includes those without any legitimate status, basic rights or entitlements. It is felt that an important aspect of being destitute is when people lack security and are limited in the degree to which they can plan and hope for the future15.

Families applying for Section 17 support from their local authority have often reached crisis point. They may have been living in exploitative or risky situations for some time and exhausted the support of informal networks that were once available to them. This chapter explores the situations families may find themselves in when applying for support.

When informal support networks break down families often then have to turn to the local authority for support under Section 17. While families may be able to stay with friends or relatives for some time, The Children’s Society’s practitioners often put in a ‘child in need’ referral to the local authority’s social services if they are evicted from their accommodation or experience a breakdown in relationships with those they are staying with.
‘When things get so desperate, or after they’ve spent a few nights sleeping in a police station, that’s when they come to us.’

This means that children are living in incredibly precarious circumstances that present significant safeguarding, or in some cases, child protection risks. The potential reasons for a family becoming destitute are varied and manifest themselves in different ways according to different immigration statuses of family members.

**Relationship breakdown and domestic violence**

Research has shown that 89% of families with NRPF receiving support under Section 17 (in 2012–13) were single-parent families, mainly headed by mothers. This is also corroborated by information from Home Office caseworkers who report that they see a significant number of female applicants seeking the non-imposition or lifting of the NRPF condition who are single parents with one or more children. This may be because it is more common for children to remain with their mother when a relationship breaks down. Caseworkers also report that female single parents may have previously been stay-at-home mothers.

One of the most common reasons families approach The Children’s Society’s services is relationship breakdown, often as a result of domestic violence. Many of our practitioners spoke of the high level of vulnerability and risk of abuse experienced by families with NRPF, particularly if the parents are undocumented. They also said that the inability of one parent to access public funds or support from the local authority was a driver for abusive relationships continuing. Our practitioners have experienced parents being unable to get statutory support in the mainstream system due to having NRPF, and that they are often afraid of going to the police for fear of detention and/or removal or that their children will be taken away by the authorities.

‘They stay in really horrific abusive relationships for a long time. The perpetrators know [that they could not access support from other agencies] and that was part of the abuse...In my eyes, I think the system allows that to happen.’

Practitioners spoke of mothers who did not know their current immigration status because it had been tied to their abusive partners. One service user had left her abusive partner despite knowing that he had taken their children’s documents and the latest updates on their application for leave to remain in the UK. This mother did not know whether her two young sons had been granted leave, and had to leave the situation due to domestic violence without knowing this information. The NRPF condition – and particularly an undocumented status – leads to a high level of vulnerability for parents and puts children at risk of domestic violence.

‘A lot of the time, we have people coming to us saying my partner said if you leave, you’ll get deported. If you leave, they’ll take your children away. You can’t leave because you’re here illegally...that is really common, we hear that time and time again.’
Low income employment or being prohibited from working legally

Destitute families face a number of vulnerabilities in the UK workforce, impacted by factors such as gender, country of origin, immigration status, occupational level, and proficiency in English, among others. Practitioners said that families who have NRPF were forced to rely on informal and low paid work in jobs such as care work and cleaning. Furthermore, undocumented migrants are likely to be the group most vulnerable to forced labour, due to sometimes being unable to find legal work in the country. Due to a lack of rights, these migrants routinely find themselves working under highly exploitative conditions in the informal economy in order to meet their basic needs. For these reasons migrant parents are generally likely to earn less, even if they have a legal right to remain, and those working without permission are likely to earn even less due to the precarious nature of their situation. Being unable to earn enough money to support their family, or being forced to engage in the exploitative labour market, leaves families with little choice but to apply for Section 17 support from their local council to meet their basic needs and safeguard their children.

Case Study

Ruth and her four year old son were living with her British partner. There was serious domestic violence between her and her partner which escalated – she was badly beaten up and the police were called. The case was put on record. Ruth desperately wanted to leave the property; a referral was made to social services and then the allocated social worker did an assessment and said the family needed alternative accommodation as it was not safe and the child was at risk. When the case was sent over to the NRPF team, there was no response for months and the team still haven’t done anything about the case. The mother has limited leave to remain so can work full-time but on minimum wage with NRPF, so she can’t earn enough money to raise a deposit and find somewhere to live for her and her son. They are being forced to stay living with her partner in the property. Now The Children’s Society has instructed a solicitor and the mother is going to challenge the local authority to take action.
A crisis in the family, for example the death of the main earner

Our practitioners highlighted that a crisis such as the sudden death, illness or disability of a family member could push people into a situation of destitution – particularly if that family member was a British citizen and the main earner in the household. This is because it is possible for a person to get leave to remain in the UK on the basis that they are the partner of someone who is British or has Indefinite Leave to Remain (ILR). This leave is usually provided initially on a probationary period, meaning the partner will not yet have applied for long term status, and so if the relationship ends or breaks down the partner may find themselves undocumented.

Case Study

Ela is a mother originally from Africa now living in the UK. She married a British citizen, with who she had two children who both have British citizenship. The father passed away very unexpectedly. Her husband had previously been supporting her so she had little working experience and relatively poor English. Ela wasn’t able to find a job and even though the children are actually British, she wasn’t able to get child benefit or tax credits because she had NRPF. The Children’s Society got the local MP involved, who contacted the Home Office on the family’s behalf whilst The Children’s Society undertook an appeal to get Ela’s NRPF condition lifted. The appeal was successful and Ela now has access to public funds.
Homelessness and the threat of eviction
The severely limited income of many of these families – as well as their lack of access to housing benefit and other benefits – makes rent very difficult to afford, often resulting in eviction. With relationship breakdown (often linked to domestic violence) being one of the major reasons for referral to The Children’s Society, this means that many parents had recently left their previous home. Families often exhaust their support networks, including friends and faith groups, who invariably provide accommodation, ad hoc financial payments, and emotional support. A common situation found by our practitioners is that these families are asked to leave due to overcrowding, pregnancy, fear of being evicted or getting in trouble for subletting, or simply because of the general emotional and financial pressure of supporting them. Many families are therefore at extreme risk of street homelessness or exploitative situations when they approach their local authority or a local charity for support.

This situation is set to worsen with the introduction of the Government’s ‘right to rent’ scheme in England which from 1st February 2015 requires landlords to check the immigration status of tenants and occupiers before entering into a private residential tenancy agreement. We predict this scheme will increase homelessness and exploitative situations for undocumented families or those with limited leave to remain.

No free legal advice and representation
The vast majority of destitute families approaching The Children’s Society for support with accessing Section 17 either have an application or appeal pending for leave to remain in the UK, meaning their long term future may be in the UK. However, in 2013 the Legal Aid Sentencing and Punishment of Offenders Act (LASPO) 2012 came into effect, removing legal aid for (among other things) most immigration cases – particularly the types of leave families with NRPF are most likely to apply for. Our previous research has highlighted the severe impact of restricting separated or unaccompanied migrant children from free legal support for their immigration cases. However, there is little research into the impact of LASPO on parents with insecure status and their children, and due to legal aid cuts being unable to regularise their own status or the status of their children. Furthermore, many families wait years for a decision from the Home Office on their applications for leave to remain, sometimes they are supported by the local authority under Section 17, and sometimes they are destitute without any form of official support.

NRPF condition placed on families with leave to remain
- Just over 50,000 individuals with dependants in the years 2013–2015 were given a NRPF condition despite the fact that they had leave to remain in the UK
- Over a 10 month period 2,590 people applied to have their NRPF condition on their leave removed and over a third (915) were successful
- 92% of cases granted leave to remain under the 10 year family and private life routes in 2014 were given a no recourse to public fund condition on their leave
- In the last 12 months, 44 families The Children’s Society worked with had an NRPF condition placed on their leave. We submitted 37 (84%) applications for this condition to be lifted. Half of these applications were successful, on average taking three months for the condition to be lifted.

A significant and growing number of people with NRPF are those who have been granted Limited Leave to Remain (LLR). LLR was previously granted with recourse to public funds, however since changes introduced in the Immigration Rules 2012, people with this type of leave to remain now have no access to mainstream support. Families in this situation are able to work, but many are unable to find work or are on an extremely low income. Due to these changes, there are an increasing number of people with the lawful residency in the UK who have no access to mainstream welfare benefits, regardless of whether they have children. This limited leave is normally granted on the basis of having an established family and private life in the UK, and is granted for 30 months, as part of a 10 year route to permanent settlement. Home Office statistics show that in 11,046 cases granted under the 10 year family and private life routes from 1 January 2014 to 31 December 2014, the majority (92%) were granted leave with NRPF.

Our practitioners report that people with a lawful right to remain have increasingly approached The Children’s Society’s services for advice and support on destitution. According to our Freedom of Information requests to the Home Office...
individuals with dependants were granted leave to remain with NRPF conditions in the years 2013–2015. Our practitioners now regularly work to support families to have their NRPF condition lifted. In the last 12 months, 44 families we worked with had an NRPF condition placed on their leave. We submitted 37 (84%) applications for this condition to be lifted. Half of these applications were successfully overturned, on average taking 3 months for the condition to be lifted. This leaves families with the legal right to remain in the UK living in destitute conditions for three months and applying to their local authority for support under Section 17. For those families granted leave to remain on the basis of family or private life, the reasons for lifting NRPF conditions relate to the family being destitute. The number of claimants applying for a lifting of these conditions shows the desperate circumstances children can live in, facing destitution before having their access to mainstream benefits reinstated.

We have found that between December 2014 and September 2015 2,590 people applied to have their NRPF condition on their leave removed and over a third (915) were successful. There has been a significant rise in the likelihood of NRPF conditions being lifted, rising from an average of 59 successful claimants a month between December 2014 and March 2015, to 113 successful claimants a month between April 2015 and September 2015. This rise is significant, with claimants being over 90% more likely to be successful in the more recent months. However, the reasons for this rise are unknown and could be related to increased awareness among individuals and professional advocates that the condition can be lifted if the family are destitute.

‘A lot of the time now for people who’ve got leave to remain, they approach us within a year of receiving their status because they’ve just built up another huge debt because they can’t access public funds. They’re working, but they can only just about survive.’

Most of these families with limited leave to remain in our experience are working households. The parent or parents need to afford rent and childcare but they are unable to access housing benefit, tax credits and child benefits, meaning they are struggling to make ends meet. This situation is exacerbated because our practitioners reported that access to the Government’s ‘two year olds offer’ – a programme that provides free early education to disadvantaged two year olds in England – is often not accessible to these families because they are told they are not eligible. Our practitioners reported that children were only able to access this offer if either a ‘child in need’ plan was in place for the child with the local authority, which is often not the case because (as is highlighted in the next chapter) thorough assessments are not being undertaken, or if a pre-action letter by a solicitor is issued, providing there is strong evidence as to why it would be good for the child to be in a nursery.

Our practitioners reported that if families have their NRPF condition lifted and the family then receives benefits around the same time they make the next application for limited leave, an NRPF condition will be applied again because you won’t be destitute at the time of application. This means some families are experiencing years of going in and out of destitution until they are granted indefinite leave to remain because the NRPF condition means they are not eligible for housing and in-work benefits, so they have to rely on very low wages, which is especially hard for single parents.
According to data from 35 local authorities:

1,719 families requested support

652 were provided with support

6 in 10 families were not supported when they approached their local authority for support.

Data provided by No Recourse to Public Funds Network
Chapter Four: Barriers to accessing Section 17 support

In the last 12 months, The Children’s Society made

56 ‘child in need’ referrals under Section 17, on the basis that a family was destitute and the child’s welfare needs were not being met.

66% of these families needed intervention from a solicitor to receive the support they required.

Approaching services for support is a significant step for many families. In many cases their situation will have become intolerable, informal networks exhausted or their child faces significant risks, including exploitation. Some practitioners emphasised that many parents were worried about approaching services – due to factors such as fears of local authority workers contacting the Home Office adversely affecting a pending application to remain, or fears their child may be taken into care – leading to families not persisting if they are initially turned away without any support. Our work supporting families to access support has led to emerging concerns that local authorities are putting in place new barriers before supporting families under Section 17, leaving children increasingly at risk of destitution and exploitation. This chapter explores the application process for families, the barriers and challenges facing some families in receiving appropriate ‘child in need’ assessments, and the worrying need to resort to legal action to receive support.
Barriers to accessing support for families

In a context of significant and ongoing cuts to local authority budgets, there have been growing reports from our practitioners of barriers to a ‘child in need’ assessment being put in place by local authority staff. Barriers that have been reported by our practitioners include:

■ Reluctance to conduct ‘child in need’ assessments
■ An increasing need to resort to litigation to receive an initial ‘child in need’ assessment
■ The trialling of stricter criteria for deeming a child ‘in need’ and an increasing focus on the ‘credibility’ of the parent as opposed to a child’s well-being
■ Offering low levels of support without having conducted an assessment
■ The presence of Home Office officials during ‘child in need’ assessments.

The Children’s Society is concerned that these ‘gatekeeping’ practices work against children’s best interests and lead to children and their families entering, or remaining in, very precarious, vulnerable situations – for example experiencing domestic violence and street homelessness. This presents a serious child protection concern, because children are remaining in abusive situations and at risk of serious physical and psychological harm. This is an area where the legal framework is set to alter following the measures in the Immigration Bill 2016 – as shown on page 36 – and as such requires further research going forward.

Delaying an initial assessment of need for a child

Statutory guidance on conducting child in need assessments require the assessment be conducted by a qualified social worker and states that a good assessment must consider:

■ The child’s developmental needs
■ The parents or caregiver’s capability to respond appropriately to those needs and the potential impact on the child of any gaps in capability
■ The wider family and family environmental factors

The statutory guidance also outlines timescales for the assessment, which must be acknowledged in one working day and a full assessment of need done no longer than 45 working days after the referral. Social workers must adhere to this statutory guidance, as well as to immigration law and to case law, which has come to define aspects of how support under Section 17 is provided. In addition, the statutory guidance also states that assessments must:

■ Be child-centred and focus on action and outcomes for children
■ Address the child’s needs within their family and wider community
■ Lead to action including the provision and review of services
■ Involve children and families
■ Be transparent and open to challenge.

However, this guidance does not make specific reference to families with NRPF who present as destitute and will be in need of this type of support. Despite this guidance, our practitioner interviews frequently highlighted the difficulties experienced in securing families with NRPF even an initial ‘screening’ assessment by a trained social worker to assess if the family ought to be supported under Section 17. It was reported that many parents were turned away by local authority staff before the screening stage, and that moving to a more substantive assessment was difficult. Decisions to deny support to a family were sometimes reported as having been made without the evidence that could only be provided through the statutory assessment process. These include:

■ Disputing the family’s eligibility to support
■ Suggesting that the family could continue living where they are
■ Suggesting that a family return to their country of origin
■ Suggesting that the children live with their father (where he had settled status).

Such suggestions, without being substantiated by a child-centred assessment, could leave children at risk.
‘I had one young woman and a baby, we sent her along with a letter, and they just wouldn’t see her. They asked “Well, where did you stay last night?” She said, “My church funded a B&B for 7 nights.” “Well get them to do it again, let me persuade them to let you stay there.” The woman and her baby had to stand outside the town hall waiting for anybody to come see her, to take the letter.’

Practitioners have reported that social workers have commented on what is in a family’s house, commenting for example that if a family had nappies and a bag of rice they were clearly not destitute.

In some cases, The Children’s Society (with a solicitor) have had to write to the social worker to explain that the family had picked up food from a food bank using vouchers received from The Children’s Society on a charitable and short-term basis.

By firstly applying this test of genuine destitution, children who may be in need are at risk of not receiving an assessment of their needs, which presents safeguarding concerns for vulnerable migrant families.

‘For one family there hasn’t been any investigation into the welfare of the children, it’s all been about money and accommodation, but not looking at how destitution is affecting the kids.’

This trend contradicts the statutory guidance that a high quality child in need assessment be holistically child-centred. Destitution is not part of the definition of a child in need, but has de facto become so for NRPF families in some cases where this practice is being adopted.
Making Life Impossible
How the needs of destitute migrant children are going unmet
Case Study

Anna has been in the UK since she was 16. She received Limited Leave to Remain (LLR) at the beginning of 2014, as did her two youngest children. Due to this status, she has NRPF and will reapply for her second ‘round’ of leave towards the end of this year. Her oldest son has British citizenship and she will register her second boy as British when he turns 10 this year (he was born in the UK and has lived his entire life here).

Anna was very stressed and on edge when she first met with The Children’s Society’s practitioners. She had been living with her father but had been thrown out when she was pregnant with one of her sons. She has moved in with various friends, and the friend she is currently living with will only house her and her children for one more week. They have nowhere to go after that, which was made clear to social services by The Children’s Society. They live with her friend and her four children, two of whom have autism – nine people in total. Anna sleeps on chairs in the kitchen while her boys sleep in the living room. The flat is dirty with vermin and little furniture, and Anna cannot stay there during the day.

When The Children’s Society practitioner contacted social services to find out any developments on a child in need assessment for Anna’s children, they were told that because Anna had supported herself since she was 16, she should be able to do the same now. The Children’s Society practitioner informed the social services worker that they are working towards having Anna’s NRPF restriction lifted, and that any support would be temporary. Anna cried and explained that she was trying hard to find work but that it was very difficult without a fixed address or passport (she has a biometric residence permit as proof of her LLR status). Despite our practitioner then informing the staff at social services that this family would become homeless in a few days – with a letter from the friend confirming this – they were still told that she was not being truthful about her situation, and that she would be given a ‘destitution assessment’ rather than a ‘child in need’ assessment.
Resorting to legal intervention to receive support

Our practitioners supporting children and advocating on their behalf to receive Section 17 have reported a significant increase in the need to resort to litigation following a ‘child in need’ assessment to secure a clearly destitute family the support they need. Analysis by the NRPF Network for this report, shows that in 2015 1,719 families applied to 35 local authorities for support. Of these, 652 families were provided with support, meaning 6 in 10 families were not supported.

Our practitioners frequently have to resort to legal action because a local authority does not provide a child in need assessment under Section 17 of the Children Act 1989, as they are legally obligated to do. Legal action requires a ‘pre-action’ letter to be issued which sets out the Local Authority’s obligations to the child. In many cases, the local authority will only undertake this assessment after this letter has been issued. In 2015 The Children’s Society made 56 ‘child in need’ referrals under Section 17, on the basis that a family was destitute and the child’s welfare needs were not being met. 66% (37) of these families needed intervention from a solicitor to receive the support they required.

‘Two years ago when I was doing a similar role working with families, advocacy used to work. Generally just my communication with social workers was enough to get that assessment done and to get support secured. But more recently, I’ve had to get a solicitor – and instructions have had to be given – on all counts. It’s only at the point of sending pre-action letters that the local authority will agree to offer support under Section 17, which is now like a triumph.’

Unofficial, piecemeal support

One approach highlighted by practitioners is that some local authorities sometimes elect to accommodate and provide piecemeal financial support to families. This support is very limited and provided on an extremely temporary basis without undertaking an assessment of need, creating extreme levels of anxiety for the children in these families. This method also absolves local authorities of any formal commitment to the family’s children and might only last for several weeks, but at the same time it prevents a full legal challenge being able to be brought on the family’s behalf, leaving them in a limbo which means their precarious situations become even harder to resolve.

Case Study

A family being supported by the Local Authority were initially told they were going to stay at a B&B for five days. The eight year old child was counting down the days and waking up in the middle of the night, terrified that the next day was going to be the day when they had to leave. On that day, both The Children’s Society practitioner and the solicitor were trying to contact the local authority to see if they were going to extend it, and then at around 5pm they said they were going to extend it by three more days, and then by another two days. The boy started to wet himself during the day and the night. He was clearly really worried and the school were really worried about him and his brother, because they were getting really angry and frustrated and a lot more emotional than they used to be. The Children’s Society practitioner said, ‘As much as the parents try and protect them, and not share everything that’s going on, I don’t think you can fully conceal the effects of people’s situations.’
Immigration Officials placed in social work teams

Our practitioners report that there is an increasing number of local authorities that have either a Home Office worker who visits on a regular basis or they have one seconded to the NRPF team on a longer-term basis. They report that the Home Office immigration enforcement officer will attend alongside the NRPF worker, who is not a trained social worker for the ‘destitution assessment’.

‘It’s very intimidating – they wear their uniform and are told by social services that they must come meet with the Home Office worker.’

Our findings highlight that the presence of the Home Office leads to a focus on undertaking an assessment of the parent’s immigration status rather than on the children’s needs. We have experienced cases where social workers, with no role and no qualifications in giving immigration legal advice, tell families that they are going to instruct the Home Office to make a negative decision on their immigration application.

‘They’ll [social workers] say things like, “Well, we’ve got a Home Office worker in the team and we’ve had a look and the Home Office are a bit sceptical about your immigration claim anyway, so we don’t think you’re telling the truth”, or “We’re going to get the Home Office to revoke your leave.”

Furthermore, sometimes documents are taken from families and are not returned even when the parent has leave to remain:

‘We’ve had times where they’re told to come for a meeting with the Home Office at social services, and then the Home Office worker asked for a copy of their documents, and then actually took their documents – they never took them back. With this particular family she has limited leave to remain – I don’t know if it’s a case of trying to intimidate people.’
Chapter Five: The impact on children of living on Section 17 support

Even if families and children do manage to receive support under Section 17, this is not the end of their problems. They still experience poverty on a daily basis because rates of support provided under Section 17 by local authorities can be very low and vary across the country. There is no statutory guidance available to councils on the provision of support to families that are NRPF. This chapter details the experiences of families living on Section 17 and the risks that this can place on children.

Rates for families and children living on Section 17

There is no statutory guidance on the rates of financial support provided under Section 17 of the Children Act 1989. In part this is due to the discretionary nature of providing support, as each child is considered ‘in need’ according to their individual needs, which may require additional financial assistance, such as a child with a disability, longstanding medical needs, or other more complex needs. However, the needs of families with NRPF are overwhelmingly for accommodation and subsistence for food and other essentials, necessitating a basic level of financial support. Therefore, due to the lack of statutory guidance and discretionary nature of the rates of support under Section 17, rates and practices of financial support provision vary both within and between local authorities across the country.

Many of our practitioners report that the rates can be very low. For example, in one case a mother with three children was given just £50 per week to provide for the whole family despite the children being very different ages and therefore having very different needs. Other projects have reported that amounts provided can sometimes be more closely aligned to the £36.95 per person per week provided to asylum seekers (under Section 95 of the Immigration and Asylum Act 1999). These amounts are clearly a very low rate of subsistence to provide for a child and family’s well-being.
‘Sometimes they give the family money for food and clothes, but nothing for accommodation. The rates of support are so random. It depends on the social worker and who is leading the NRPF team.’

‘When you get your first assessment, they just give you whatever money they’ve got on the day, so one week you might get £40, and the next week £30 in a supermarket voucher and £15 in cash. It seems to be really arbitrary. Or you’d go one day and they’d say we don’t have any money in today, you’ll have to come back tomorrow.’

Research by Compas states that many local authorities provide financial support only for the children and not the parents. This is reinforced by testimony from our own practitioners. Although support under Section 17 is on the basis of the child ‘in need’, it is clearly in the child’s best interest for their destitute parents to be enabled to provide for their children’s needs and to maintain a decent standard of health and development within the family. Practitioners reported that often an unexpectedly low amount is provided to a family, with the expectation that informal networks such as friends and faith groups will also support the family.

Poor quality and unsafe accommodation

Families with NRPF who apply for support under Section 17 are overwhelmingly in need of accommodation, finding their informal accommodation arrangements exhausted or too unsafe for their children. Secondary to somewhere to live, families’ needs include other basic necessities such as food, clothing and heating. This urgent need for accommodation specifically illustrates the highlighted ‘crisis point’ families reach before approaching practitioners or local authorities for assistance. And demonstrates the level of material poverty experienced by many families with NRPF – needs which arise from restrictions on employment and access to mainstream welfare benefits. However, our practitioners highlighted that the accommodation provided by local authorities to families supported under Section 17 is often deemed substandard and highly inappropriate.

Research has found that almost two thirds (64%) of properties provided to children under Section 17 support in London are unsuitable and fall short of meeting the practical and emotional needs of the children and their principal carers. 40% of families included in the study had remained in this type of accommodation for more than six months, allowing for these unacceptable housing conditions ‘to have a profound and sustained impact on a child’s life’.

‘Accommodation is always really bad. There were two or three places which they [the local authority] have contracts with. They are just completely inappropriate for children, no playing facilities, few cooking facilities, badly maintained, broken beds, that kind of thing. You have the whole family in one room.’
The problems of accommodation provided under Section 17 include limited access to basic facilities for cooking, heating or washing, which led to hunger and cold; general disrepair leading to damp and mould; pests and vermin infestations; and the lack of adjustments for people with disabilities or other specific health needs. Research has also highlighted that unsuitable accommodation impacts on many other aspects of children’s and families’ lives, leading to lower levels of well-being and impacting on educational attainment of children.

Families living in food poverty

Our services find families with NRPF often experience food poverty. This is because of low level payments under Section 17, as well as often inadequate or absent cooking facilities in B&Bs and other types of unsuitable housing. This leads to families needing to access food banks, being unable to cook healthy, nutritious food for young children in a B&B with no kitchen, and unable to buy a satisfactory amount of food for the family. Our practitioners report children going to school hungry, or with mouldy bread or a packet of crisps for their lunch:

‘We have schools referring to Children’s Services thinking it is a safeguarding issue, but it isn’t neglect, it’s that the family have been desperately trying to maintain their income and that they didn’t have access to the food they needed.’

In our London project all the families on Section 17 support and those waiting for a decision from the local authority were recorded as needing food banks in order to feed their families. The previous Government’s announcement that all children in reception and Years 1 and 2 are entitled to a free school meal is welcomed. Yet children older than Year 2 who are in a family with NRPF will not normally be eligible for free school meals because eligibility is based on benefits claimed by the parents, which are public funds. This is despite the high level of need in these families and the fact that this may be the only time in the day the child will have a hot, nutritious meal. Our practitioners reported that access to food banks for some families with NRPF is not without its challenges, with some unable to access food banks because their status presents an anomaly which food banks sometimes aren’t able to effectively process.

Case Study

Eve from Nigeria arrived in the UK in 2003. Eve was granted Limited Leave to Remain and has a child who is British. The leave she received had a NRPF condition placed on it, meaning she was not entitled to mainstream benefits. Eve rents a one bedroom flat. She has been working but part-time and has had to do nights due to childcare requirements during the day. She has to leave the children overnight with a friend’s daughter. Her earnings are not enough to pay rent, buy food and other essentials and she is in rent arrears – her landlord has issued her an eviction notice. Eve tried to access a food bank from an organisation specifically working with migrants, but she could not access it because her status states she is able to work – which makes her ineligible for the food bank’s help. She called another food bank who said she needed a referral from an agency and that she wouldn’t be able to access it as she was not on benefits. However, she is unable to access benefits due to the NRPF condition on her status, leaving her without support but unable to buy food for her children.
Children accessing education

UK legislation and Article 28 of the UN Convention on the Rights of the Child highlight that all under 18 year olds have the right to education without discrimination. Therefore children who are undocumented should not face difficulty entering and accessing primary and secondary education. However, practitioners we interviewed reported that families are usually accommodated out of the local area in which they had originally sought help, and are often placed in B&Bs or hostel accommodation far from children’s schools. Practitioners spoke of how parents were desperate to keep their children in their current school due to the stability this provided. A lengthy journey to school on an empty stomach, after having left overcrowded and unhygienic accommodation, is likely to adversely affect children’s well-being and attainment at school. Due to the very low rate of financial support provided under Section 17, affording transport to school, uniforms and school trips also proved extremely difficult for families. Our recent report on the costs of school for example, highlighted that school related costs make up a large proportion of family budgets with families spending on average around £800 per year on school costs. Some schools were known to be cooperative and supportive of families – for example funding free school meals and providing emergency funds for school uniforms. However, a supportive environment depended on the individual school, and it was noted by our practitioners that in areas with larger numbers of families that are NRPF this is more challenging for the school and they become unable to sustainably use their discretionary emergency funds for this group of students.

Case Study

Sophia and her three daughters – aged 12, 7 and 3 – with outstanding immigration applications have moved accommodation eight times in eight years, many times moving away from the children’s schools. The eldest has had to change school because of these moves. The family now get up at 6am so as to get to school on time. The youngest two daughters go to the same primary school one and a half hours journey away. They have to get two buses. The seven year old goes to school at 8.50am but the three year old does not go until 12.15pm. The mother therefore does not have time to go home, so she has to wait around to pick them both up at 3.30pm. The children are extremely tired and they often sleep on the buses to and from school. The mother is reluctant to move the children as it is a good school and she knows it very well.
**Transactional sex work**

Due to restrictions on employment and the extremely low income of many destitute families, as well as their vulnerability to abuse due to their immigration status, many parents are forced to engage in informal, potentially exploitative, abusive and dangerous work. Practitioners spoke frequently of situations in which mothers and their children were provided with accommodation and some money from informal acquaintances with the expectation that there would be sexual relations.

‘There are a lot of ambiguous transactional relationships, where you have guys saying, “you can stay with me, and I’ll provide for you and your kids, but you have to sleep with me” – that’s really common...A lot of the time, they [mothers] don’t really say directly, but I know that’s what’s happening, because you can gauge that from a conversation you’re having with someone. That [situation] is very regular.’

‘The mother was engaging in sex work so that she had money to pay for school dinners for her 13 year old daughter, until we got involved and negotiated so that the school would give her free school lunches. She had been going out, meeting people on buses, and performing sex acts for about £5 here and there...she had to do what she could to feed her kids.’

Many families are pressed to stay in risky living situations because they feel that they have nowhere else to go, and are unable to access mainstream benefits or gainful employment that would allow them to independently move away and find safety. Our practitioners report other types of exploitation and ‘ambiguous transactional relationships’ – predominately in exchange for accommodation – including parents being forced to provide free labour, such as cleaning and babysitting.

This situation also clearly demonstrates why the ability to draw upon an informal support network should not preclude families with NRPF from being considered destitute – this condition, particularly if they are undocumented, often leads to families living in risky, extremely insecure, exploitative situations.

It is our view that alternative types of support should not be used as a means to remove families from the definition of destitution. It is unacceptable that informal networks are being relied upon by local authorities as a substitute for the support which should be provided under the Children Act 1989.

The reality of destitution means that a reliance on family, friends and other relationships leaves families open to highly insecure ways of supporting themselves. This leaves them dependent on others and potentially in highly exploitative situations. In our view this reliance on informal networks should trigger a ‘child in need’ assessment.
Families being pushed into debt

Many of the families our practitioners work with have significant debt, compounded by their exclusion from benefits, which would normally assist families on a low income. Many of these debts relate to housing, with legal fees and charges for secondary healthcare presented as other significant sources of debt.

Housing

Debts associated with housing were mentioned frequently by the majority of practitioners interviewed for this research, including rent arrears, utility bills, and costs of the eviction process.

‘The family I’m working with at the moment is really stressed out, and it’s affecting her [mother’s] mental health, the fact that she can only afford to pay for her rent and for food, but she has credit card debt, gas and electricity arrears. There’s not really any solution – we referred her to a [money advice centre] but they can’t set her up with a payment plan because she’s only getting Section 17 support. That is a huge, huge weight on her shoulders. She’s worked all her life.’

Case Study

Grace arrived in the UK with leave to remain linked to the fact she is a spouse of her husband. Her two daughters are aged five and seven. She experienced domestic violence in this relationship, and the couple have separated for this reason. The older daughter witnessed this abuse, and the children see their father only if he calls at the house gate. Grace had made an application for leave to remain, as she no longer has regular status in the UK because she has separated from her husband. She and her daughters have lived in the UK for over seven years, and there is a risk of female genital mutilation for her oldest daughter if they return. Her initial application was refused and she then appealed. Grace had been working as a care worker, but left due to deterioration in her mental health. When she tried to return to work, her previous employer called the Home Office, who informed them she was no longer entitled to work in the UK. Unable to work, she is currently living off her savings – however these are running out: she had recently paid rent but no other bills, accruing debt because of credit card debts and energy bills. She has been referred for psychological support, but is unsure about accessing this as she is worried about doing so. Her oldest daughter gives a lot of care and support for her mother, missing out on revision classes for her GCSEs in the process.
Legal fees
The vast majority of families approaching local authorities for support under Section 17 have an application for leave to remain pending with the Home Office. With legal aid removed for this type of application, families must approach private solicitors and find the money to pay for them. The application fees for limited or indefinite leave to remain range from around £500 to £1,000 per application. Given the difficulty faced in obtaining financial support for legal representation and assistance, large numbers of undocumented people will struggle to secure funds for the application process for regularisation. Families are left with little choice but to continue with their undocumented status. Practitioners frequently mentioned inefficient or unscrupulous solicitors exploiting the limited funds of destitute families. Furthermore, the length of time taken for applications to be given a final decision means that those families may pay out legal fees over several years.

‘A lot of the debt – not always, but a lot of the time – they’re being exploited by solicitors who keep charging them extortionate amounts of money. So they have to borrow money from other people.’

‘One solicitor is holding her [service user] passport and biometric card until she pays him back, so she’s taken a loan from [a high interest lender] – it’s just taking a really long time and she can’t get her documents.’

Healthcare
The immigration status of an individual affects entitlement to secondary care, which refers to services provided by medical specialists who generally do not have the first contact with a patient. This includes most hospital treatment for example. Our practitioners report that the largest difficulty for families in this regard relates most commonly to antenatal care. By effectively denying this group access to secondary healthcare, it leaves vulnerable families further isolated from services and their health and well-being is seriously affected. Even when these families do get treatment – because it is seen as ‘urgent and necessary’ – research suggests that payment is at times being pursued from destitute service users despite it being clear they will be unable to pay. These families also have applications pending to regularise their status, and such debts adversely affect their case, with debts over a £1000 preventing further applications for leave to remain. For example, one family we are working with has recently received retrospective bills for NHS charges going back to 2006 and totalling up to £18,500. The family has an appeal pending with the Home Office on Article 8 grounds (right to family life) and there is a possibility that these debts are going to impact upon whether the appeal is granted or not.

The 2014 Immigration Act is likely to further exacerbate this situation because it laid the foundations for charging migrants for primary healthcare including, for example, immunisations, community mental health services and prescriptions. The Department of Health has recently consulted on this policy and the Government is likely to introduce these changes through regulation. We expect this change to mean that families who have no regular income or access to mainstream support will be unlikely to be able to pay even nominal charges – and research has shown this is likely to act as a disincentive to try to access services, leaving the most vulnerable children at the highest risk of ill health.
‘She had been going out, meeting people on buses, and performing sex acts for about £5 here and there...she had to do what she could to feed her kids.’

The Children’s Society practitioner
Chapter Six: Conclusion and Recommendations

Section 17 support under the Children Act 1989 provides a lifeline for children living in this country who would otherwise be destitute. The drivers of destitution are complex, ranging from domestic violence to being given a NRPF condition on leave to remain in the country. What all these children share however, is the threat of destitution should they be unable to receive support.

This report has shown the acute needs of these children, often living in highly risky and potentially exploitative situations. But despite this need, these families face significant barriers to receiving an appropriate assessment by their local authority. Resorting to the threat of legal action is unfortunately all too common to ensure children receive even minimal levels of support, whilst they are often living in unsuitable and unsafe accommodation.

With the implementation of the current Immigration Bill forthcoming, this report provides a timely account from our practitioners, shedding light on the lived experiences of families trying to access this vital safety net for children in need in this country. Our recommendations would ensure these children are better assessed according to their need, rather than on their immigration status or the status of their parents.

Recommendations

- Subsistence support for families with NRPF under Section 17 and Section 10A should never be lower than that provided for destitute families seeking asylum. Both should be aligned to mainstream benefit rates paid for living expenses, where accommodation is provided. Where accommodation includes utilities (such as heating, lighting and water rates) which would normally be expected to be paid from living expenses, it is appropriate to make some deductions. However, these must be reasonable and comparable to those made from housing benefit where gas, electricity and water bills are covered within rent payments. In addition, as with mainstream support, family members with a disability should get additional support for care and mobility needs.

- Statutory guidance on the provision of accommodation under Section 17 support and the forthcoming 10A support should be drawn in line with the ‘Decent Homes Standard’.

Home Office decision-making

- 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.

- Families with children under 18 years old who have had their NRPF condition lifted should not have this condition reapplied without an assessment of the child’s needs.
Assessments of need

- ‘Child in need’ assessments should always be undertaken by a qualified social worker – as is stated in statutory guidance – and this should be stated in new regulations resulting from the Immigration Bill 2015/16 on Section 10A support for families.

- A ‘child in need’ assessment for children and their families facing destitution should always recognise the risks and potentially exploitative situations families face if they are reliant on informal networks and short-term ad hoc support from voluntary organisations. This should be made clear and explicit in statutory guidance and any new regulations resulting from the Immigration Bill 2015/16 on Section 10A support for families.

Passported benefits and the provision of a safety net

- Families with NRPF with children should have access to nursery places to make sure children can benefit from early years provision like all other children in disadvantaged families.

- The Education Act 1996 should be amended to ensure children in families that have NRPF are entitled to receive free school meals.

- Local Welfare Provision funding should be removed from the definition of ‘public funds’ in Paragraph 6 of the Immigration Rules.

- Families with NRPF who are being supported by the local authority under Section 17 or 10A should be exempt from all secondary NHS charges and any forthcoming primary NHS charges.
The impact of the Immigration Bill on support for families

The Government is currently debating an Immigration Bill. Provisions in this bill actively prevent local authorities from providing Section 17 to certain categories of migrant families and their children. The Bill proposes replacing Section 17 support for these families with a new form of support – known as 10A – which will enable local authorities to provide for accommodation and subsistence needs of destitute families without immigration status in certain circumstances. Whereas a ‘child in need’ assessment under Section 17 would currently have to take into account children’s broader needs to learn, grow and develop, the current provisions suggest that children and families will only be provided with the bare minimums such as accommodation and subsistence – and could in some circumstances be left entirely without support and street homeless and at significantly higher risk of exploitation and abuse.

The Government has committed to laying regulations on the detail of the new 10A support that will give the opportunity for further debate on:

- How families will receive 10A support
- How the assessments will be conducted
- The level of support decided in regulations.

This report provides evidence of the risks faced by families aiming to access – and already living on – the current Section 17 system and identifies recommendations for change when the new regulations are debated.

Our recommendations and findings in this report, although based on the current system of Section 17 support, should be applied to the new 10A support system for families to ensure no child in the UK faces destitution and exploitation because of their parents’ immigration status.
Making Life Impossible
How the needs of destitute migrant children are going unmet
The Children’s Society’s work with refugees and migrants

We have worked with refugee and migrant children since 1997 and currently work with destitute migrant young people and families in various ways across England. In response to increasing numbers of destitute children approaching our services since 2008, we developed specialist projects to support destitute migrant children and families in the North East, West Midlands and London. Since then we have found growing numbers of undocumented and other families and children with NRPF approaching our services, often experiencing the most extreme poverty and exclusion.

In the calendar year 2015, our projects supporting refugees and migrants worked with over 650 children, care leavers and families, taking referrals from a range of partners including social workers, health professionals and education providers.

The map shows our services supporting NRPF families.

**London**
- Family Voice: advice, advocacy and support for refugee and migrant families who face destitution in London (focused on Newham, Lewisham, Croydon and Hackney)
- Supported Options Project: advice, advocacy and case work support to asylum-seeking and migrant young people with irregular immigration status aged 13–21
- Destitution Project: advice, advocacy and case work support for young migrants, asylum seekers and refugees aged 14–21 who are destitute or at risk of destitution

**West Midlands**
(Birmingham, Coventry, Black Country)
- Helping Further: supporting children and families affected by destitution, specifically with families who have NRPF
North East and Yorkshire

- Supporting Migrants, Asylum Seekers and Refugees Together (SMART): Drop-in advice service: Targeted support for children, young people and families
- Help Each Asylum seeker and Refugee to Settle (HEART): Advocacy support to asylum seeking families
Appendix 1: Definitions

**Section 17 of the Children Act 1989** requires that local authorities have a duty to safeguard and promote the welfare of all children ‘in need’ in their area, and to promote the upbringing of such children by their families. The vast majority of cases of children in need are related to abuse or neglect, family dysfunction, or disability, and are out of the scope for this study. However, Section 17 has a broad scope and can include the provision of accommodation and financial support where families with dependent children are destitute. 391,000 children were found to be in need as of 31 March 2015, and families with NRPF make up a very small proportion of this number. However, due to their exclusion from other statutory support mechanisms, local authority support under Section 17 of whatever level or appropriateness becomes the only way for many of these families to access any assistance to house and feed their children.

**NRPF** refers to a condition imposed on a person who is subject to immigration control, meaning that they require permission to enter or remain in the UK but don’t yet have it. The condition means that they are excluded from claiming ‘public funds’ (see Appendix 2 for more details of these). This condition applies to the vast majority of people who migrate to the UK; whether to work, study, join their family, seek asylum, or to visit, as well as those who overstay their visa and are thus ‘undocumented’.

**Children ‘in need’** A child is defined in Section 17 of the Children Act 1989 as ‘in need’ if they are ‘unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for [him] of services by a local authority; [his] health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or [he] is disabled’

The No Recourse to Public Funds Network state that a destitute child ‘may be considered a child in need and therefore may be eligible for local authority assistance. If there are no child in need concerns other than destitution, the local authority must consider whether other financial support can be accessed by the family.’ The Public Law Project states that ‘a destitute child will almost certainly be “in need”, owing to the reality of the poverty of destitution, within the broader scope of the definition of destitution employed by this report’.
## Appendix 2: What is considered a public fund

<table>
<thead>
<tr>
<th>Services not considered a public fund</th>
<th>Public funds</th>
<th>Support not considered a public fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Health Service (NHS) treatment*</td>
<td>Attendance allowance</td>
<td>Contribution-based employment and support allowance (ESA)</td>
</tr>
<tr>
<td>Local Education Authority (LEA) schooling - primary and secondary</td>
<td>Carer’s allowance</td>
<td>Contribution based jobseeker’s allowance</td>
</tr>
<tr>
<td>Universal free school meals for Years 1 and 2**</td>
<td>Child benefit***</td>
<td>Guardian’s allowance Incapacity benefit</td>
</tr>
<tr>
<td>Free childcare for three and four year old children**</td>
<td>Child tax credit***</td>
<td>Maternity allowance Retirement pension</td>
</tr>
<tr>
<td></td>
<td>Council tax benefit</td>
<td>Statutory maternity pay</td>
</tr>
<tr>
<td></td>
<td>Council tax reduction</td>
<td>Statutory sickness pay</td>
</tr>
<tr>
<td></td>
<td>Disability living allowance</td>
<td>Widow’s benefit and bereavement benefit</td>
</tr>
<tr>
<td></td>
<td>Housing and homelessness assistance</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Housing benefit</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Income-based jobseeker’s</td>
<td></td>
</tr>
</tbody>
</table>

*Section 175 NHS Act 2006 empowers the Secretary of State for Health to make regulations to charge some people who are not ordinarily resident in the UK for some hospital treatments. These rules only apply to secondary healthcare56.

**For older children at state schools, normally eligibility for free school meals is linked to the parent being in receipt of certain welfare benefits, all of which are public funds, so a child may not be entitled to free school meals if their parent(s) have NRPF and cannot claim these benefits. Local authorities have their own policies regarding free school meals and some may provide this universally to all children. A similar approach is applied for childcare provision, where families that are NRPF are entitled to the universal provision for three and four year olds, but not able to access the disadvantaged two year old offer.

***If the parent of a British child has NRPF then they will normally be restricted from applying for child benefit or child tax credit if the other parent cannot apply for these. However, the rules around claiming child benefit are complex and specialist. Child and working tax credits are claimed jointly by couples. If only one member of a couple is subject to immigration control, then for tax credits purposes, neither are treated as being subject to immigration control57.

****Following changes to the definition of ‘public funds’ in the Immigration Rules, presented to Parliament on 11 March 2016, local welfare provision schemes in Scotland, Northern Ireland and local authorities in England and Wales are now categorised as a public fund58.
References


3. This figure is based on data from 35 Local Authorities who are members of NRPF Connect. These 35 encompass the majority of local authorities across England supporting families with NRPF.

4. The Home Office does not hold information that can be provided in a meaningful way on how many children under the age of 18 were dependents of adults granted leave to remain in the UK with a NRPF condition on their leave. This means the true scale of children leaving without access to mainstream benefits and at risk of destitution is largely unknown.

5. Immigration Bill 2015/16 Schedule 12: Availability of local authority support


12. Ibid.

13. Whilst having a British Passport is not an exact proxy for settlement because not all settled migrants have a British Passport, it does give an indication that the proportions of different categories of migrants are similar across the UK.


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20 Ibid.


27 Written Question by David Lammy MP (22nd February 2016) http://www.parliament.uk/business/publications/written-questions-answers-statements/written-questions-answers/?page=1&max=20&questiontype=AllQuestions&house=commons&member=206


29 Ibid.


33 NRPF Connect http://www.nrpfnetwork.org.uk/nrpfconnect/Pages/default.aspx


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38 Ibid. page 18


42 Local authorities have a duty to provide full-time education for all children of compulsory school age resident in that local authority, as outlined in Section 14 of the Education Act 1996


45 NHS (Charges to Overseas Visitors) Regulations 2011


47 ‘Immediately necessary treatment’ is needed to save a life, or to prevent a condition from becoming immediately life threatening, or to prevent permanent serious damage from occurring. Urgent treatment would cover situations where treatment is not immediately necessary, but cannot wait until the patient returns home.


53 Ibid.


56 National Health Service Act 2006 Power to Charge generally - Section 175 http://www.legislation.gov.uk/ukpga/2006/41/section/175

57 NRPF Network Information pages http://www.nrpfnetwork.org.uk/information/Pages/public-funds.aspx

Section 17 support under the Children Act 1989 provides a lifeline for children living in this country who would otherwise be destitute.
It is a painful fact that many children and young people in Britain today are still suffering extreme hardship, abuse and neglect.

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