Home Office

Permitting access to public funds

Version 5.0

Guidance on allowing access to public funds for those on family, private life, Appendix Child Relative (Sponsors with Protection) (Appendix CRP) and Hong Kong British National (Overseas) (BN(O)) routes, as well as when to consider exercising discretion for those on other immigration routes.

Contents

About this guidance

This guidance tells caseworkers how to consider whether to lift or not impose the no recourse to public funds (NRPF) condition for applicants granted permission within the family, private life, Appendix Child Relative (Sponsors with Protection) ('Appendix CRP'), and Hong Kong BN(O) routes, as well as when to consider exercising discretion for those on other immigration routes.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors relating to the family and private life routes, then email the Family Policy team.

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors relating to the Appendix CRP route, then email the Asylum Policy Secretariat.

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors relating to the Hong Kong BN(O) routes, then email the BN(O) route policy team.

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors relating to the exercise of discretion for those in other immigration routes, then email the Family Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then email the Guidance Review, Atlas and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **5.0**
- published for Home Office staff on **16 April 2025**

Changes from last version of this guidance

Guidance updated to amend references to Appendix CRP and to include additional information on how to consider cases where:

- an applicant raises exceptional circumstances
- the case involves someone with a disability
- the applicant is supported by a third party
- an applicant granted permission without access to public funds between 8 July 2012 and 28 July 2014 on the 10-year family and private life routes, or outside

the rules under ECHR Article 8 on the basis of exceptional circumstances, requests a reconsideration.

Related content
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Access to public funds for those in family, private life, Appendix CRP and Hong Kong BN(O) routes

General

Those seeking to establish their family or private life in the UK must do so on a basis that prevents burdens on the taxpayer and promotes integration. The family and private life Immigration Rules are predicated in part on safeguarding the economic wellbeing of the UK, which is a legitimate aim under Article 8 of the European Convention on Human Rights (ECHR) (the right to respect for private and family life) for which necessary and proportionate interference in Article 8 rights can be justified.

The Immigration Rules are approved by Parliament and govern the no recourse to public funds (NRPF) policy in grants of permission made under the family, private life and Hong Kong BN(O) routes under the relevant rules, and in grants of permission made otherwise under ECHR Article 8 on the basis of exceptional circumstances.

This approach now carries the full weight of primary legislation under Part 5A of the Nationality, Immigration and Asylum Act 2002, inserted by section 19 of the Immigration Act 2014 and implemented on 28 July 2014. This sets out public interest considerations concerning the maintenance of effective immigration controls and other considerations which apply where a court or tribunal is considering whether a decision made under the Immigration Acts breaches a person's right to respect for private and family life under Article 8. In particular, it sets out in section 117B(3) of the 2002 act inserted by section 19 of the Immigration Act 2014, that:

> ‘It is in the public interest, and in particular in the interests of the economic wellbeing of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are financially independent, because such persons –
>
> a) are not a burden on taxpayers, and
> b) are better able to integrate into society.’

However, notwithstanding the above, in accordance with Section 55 of the Borders, Citizenship and Immigration Act 2009, the best interests of a child, whether that child is the applicant or a dependant of the applicant, must be taken into account as a primary, although not the only, consideration when deciding whether it is reasonable to impose or maintain an NRPF condition.

The position in Appendix FM, Appendix Private Life and Appendix CRP

Paragraphs GEN.1.11A, PL 10.5, PL 25.1 and CRP 9.1 provide the basis for those in the family and private life routes for exceptions to the wider policy on most migrants not having access to public funds. **In all cases where an applicant is being or has**

been granted permission under the following paragraphs, consideration must be given to whether the applicant meets the criteria to have the NRPF condition not imposed or lifted:

- D-ECP.1.2., D-LTRP.1.2. (the 10-year partner route)
- D-ECC.1.1., D-LTRC.1.1. (the child route)
- ECPT.1.2. or D-LTRPT.1.2. (the 10 year parent route)
- PL 9.1. and PL 23.1 (the private life routes)
- CRP 9.2. (Appendix CRP)

The relevant criteria are:

- the applicant is destitute as defined in section 95 of the Immigration and Asylum Act 1999, or is at risk of imminent destitution
- the close relative sponsor is destitute as defined in section 95 of the Immigration and Asylum Act 1999, or is at risk of imminent destitution **(CRP route only)**
- there are reasons relating to the welfare of a relevant child which outweigh the considerations for imposing or maintaining the condition (treating the best interests of a relevant child as a primary consideration)
- the applicant is facing exceptional circumstances affecting their income or expenditure

The position in Appendix Hong Kong British National (Overseas)

Paragraph HK 65.1 provides that a person in the UK with permission on the Hong Kong BN(O) route may have that permission varied to remove the NRPF condition where they have provided the decision-maker with satisfactory evidence that:

- the applicant is destitute, as defined in section 95 of the Immigration and Asylum Act 1999, or is at risk of imminent destitution
- there are reasons relating to the welfare of a relevant child which outweigh the considerations for maintaining the condition (treating the best interests of a relevant child as a primary consideration)
- the applicant is facing exceptional circumstances affecting their income or expenditure

The position in Appendix CRP

Appendix CRP allows for a close relative with protection status in the UK to sponsor a child to stay with or join them where there are serious and compelling circumstances. This can be in situations where the child has no family other than the close relative in the UK that could reasonably be expected to support or care for them. Appendix CRP requires sponsors to demonstrate that suitable arrangements have been made for the child's care which serves to both ensure that children may only come to the UK under this route where it is in their best interest and prevents further strain on local authorities.

As such, where a child is granted permission which expires on the same date as their close relative's permission under paragraph CRP 8.1, as outlined under paragraph CRP 9.1., they will be subject to a no access to public funds condition.

However, where entry clearance or permission to stay is granted, and where the following criteria is met under paragraph CRP 9.2., the child's permission must not be subject to a condition of no access to public funds:

- the close relative in the UK is destitute as defined in section 95 of the Immigration and Asylum Act 1999, or is at risk of imminent destitution
- there are reasons relating to the welfare of the applicant which outweigh the considerations for imposing or maintaining the condition (treating the best interests of a relevant child as a primary consideration)
- the applicant is facing exceptional circumstances affecting their income or expenditure

CRP 9.3 goes on to clarify that for the purposes of CRP 9.2, 'relevant child' means a person who:

- is under the age of 18 years on the date of application
- would be affected by a decision to impose or maintain the no access to public funds condition based on the information provided by the applicant

Eligibility for the non-imposition or lifting of the NRPF condition

Applicants are eligible to be considered under this guidance when you are granting them permission:

- on the 10-year route as a partner or parent under Appendix FM
- as a child under Appendix FM
- under Appendix Private Life
- under Appendix Hong Kong British National (Overseas) where the applicant has permission within the route
- under Appendix CRP

When granting such permission, you must consider whether there is evidence to suggest that the NRPF condition should not be applied.

In addition, applicants who have been granted permission with the NRPF condition within the Appendix FM, Appendix Private Life, Appendix CRP and Hong Kong BN(O) routes can ask for it to be lifted via a Change of Conditions application.

Evidence

In all cases the applicant must provide relevant documents to evidence their financial circumstances and need for public funds. Where they claim that there are reasons relating to the welfare of a child which outweigh the considerations for imposing the

condition or that they are facing exceptional circumstances affecting their income or expenditure, they must also provide documentary evidence to support this.

Evidential flexibility may apply in situations where certain pieces of evidence cannot be obtained.

Evidential flexibility

Evidential flexibility is a principle which allows you to decide a case without requiring every piece of evidence or information set out in the application form.

This is only likely to be applicable in exceptional circumstances where either:

- the additional missing evidence is unnecessary because the other evidence provided is clear and compelling
- there is a compelling reason why the evidence cannot be provided

The onus is on the applicant to provide sufficient evidence to satisfy you that they meet the criteria for being granted access to public funds, but there will be some cases where providing evidence is more difficult than others.

If you are satisfied that the applicant has provided clear and compelling evidence of their financial circumstances and this demonstrates that they meet the relevant criteria, then evidential flexibility can be applied. **If you are unsure, refer to a senior caseworker before applying evidential flexibility.**

Each case must still be considered on its own individual merits in line with the current guidance. If further evidence is required, you may make further enquiries, but it remains the responsibility of the applicant to sufficiently evidence their claimed financial circumstances, or to provide a credible explanation of why such evidence is not available.

If you believe the applicant may qualify for access to public funds in circumstances where all requested documentary evidence has not been provided but remain unsure, refer to a senior caseworker before applying evidential flexibility.

How to assess whether the applicant is destitute

A person is destitute if:

- they do not have adequate accommodation or any means of obtaining it (whether or not their other essential living needs are met)
- they have adequate accommodation or the means of obtaining it, but cannot meet their other essential living needs

There are no fixed monetary values attached to the destitution test in this context. This means that you can take account of an applicant's individual circumstances in reaching your decision.

What constitutes ‘adequate accommodation’ and ‘essential living needs’ and the costs of these may be different in different cases, depending on a number of factors, including (but not restricted to):

- whether an applicant is supporting any dependants and, if so:
  - their number
  - age
  - needs
- the part of the UK an applicant lives in
- whether an applicant or someone dependant on them has a disability which may affect their income, outgoings and/or mean they require adjustments to be made to their accommodation (see: Disability)

The following questions will help you assess whether the applicant is destitute.

Does the applicant currently have somewhere to live?

- are they street homeless
- have they recently been evicted with no increase in income since then
- are they relying on accommodation from a friend or charity
- are they staying in shared accommodation with a partner from whom they are separated

Is that accommodation adequate?

- is there evidence of overcrowding, for example confirmation of overcrowding from a local authority, or would it be considered overcrowded based on the Shelter guidance
- is there any evidence that it contravenes public health regulations, for example no clean water, lack of heating
- do they need any adjustments to the accommodation because of a disability

Can the applicant afford their accommodation and essential living needs?

- how much do they pay for rent, council tax, essential bills, and other essential living needs - combined, is this greater than their income
- are their accommodation costs reasonable for where they live, or could they reasonably be expected to move somewhere less expensive
- are they relying on support from family, friends, a charity or local authority
- do they have savings or assets on which they can rely
- essential living needs also include the costs of maintaining interpersonal relationships and accessing a reasonable level of social, cultural and religious life - can these be met
- does the applicant (or an immediate family member) have increased expenditure because they have support and accommodation needs arising from their disability

A broad breakdown of these essential living needs and the weekly cost associated with them, and which may be used as a guide, can be found in the latest report on review of cash allowance paid to asylum seekers.

If the answer to any of the questions in bold is no, you must grant access to public funds.

Where an applicant is currently in receipt of public funds and you are granting further permission, you must consider whether the applicant could continue to afford their accommodation and essential living needs if the NRPF condition was imposed.

How to assess imminent risk of destitution

A person is at imminent risk of destitution if at the time the application is received, they have accommodation and can meet their essential living needs, but **there are reasons why this is unlikely to continue beyond 3 months from the date of application.**

The following questions will help you assess whether the applicant is at imminent risk of destitution.

Will the applicant have somewhere to live in 3 months' time?

- are they likely to be evicted
- if their accommodation is being provided for by someone else, is it likely that they will be able to continue to rely on this in 3 months' time

Is the accommodation likely to be adequate in 3 months' time?

- is there anything that would affect this over the next 3 months, for example will it become overcrowded

Will the applicant be able to afford their accommodation and essential living needs in 3 months' time?

- is their income likely to change over the next 3 months (for example will they become unemployed)
- are the costs of their accommodation or essential living needs likely to increase
- will any savings drop below the threshold in place for eligibility for access to Universal Credit

If the answer to any of the questions in bold is no, you must grant access to public funds.

How to assess needs of children

Is the applicant's income enough to meet the needs of any dependent children?

The aim of this consideration is to assess whether a decision to impose, or not lift, the NRPF condition would have a disproportionate impact on a child's welfare. To do this, you will first need to understand the family's financial circumstances in order to consider the impact on the child.

You must consider whether preventing access to public funds would lead to the child:

- experiencing a lower level of wellbeing than they currently enjoy
- being deprived of something beneficial to which they currently have access
- not being able to access a specific item of recognised benefit normal for a child

You must consider any childcare that may be needed if the parent is working, any needs relating to school attendance (such as the cost of school trips or uniforms), or any other items that a child could reasonably be expected to benefit from but would not otherwise be considered essential, such as books or toys.

The best interests of any relevant child

Having assessed the likely effect on any relevant child of imposing, or maintaining, an NRPF condition on the applicant, you must then consider whether it would be in the best interests of any relevant child to impose, or to maintain, such a condition.

If an NRPF condition would not be in the best interests of any relevant child and would significantly impact on a child's needs, you must consider whether, in all the circumstances, and treating the best interests of any relevant child as a primary (but not the only) consideration, the adverse effect of an NRPF condition on the child outweighs any other considerations for imposing or maintaining it.

How to assess exceptional circumstances

There is discretion to lift or not to impose the NRPF condition on the grounds that, although the applicant is not destitute (or imminently destitute), they have exceptional circumstances which require them to be permitted access to public funds. This may include circumstances resulting from disability. Accordingly, you must give careful consideration to any representations to this effect made by applicants.

In all cases, it is for the applicant to provide compelling evidence that there is something exceptional about their financial circumstances affecting their income or expenditure that justifies lifting or not imposing the NRPF condition, even though they are not destitute or at risk of imminent destitution and the NRPF condition is not preventing them from meeting their child's needs. Cases which meet this threshold are likely to be rare. If the applicant has raised exceptional circumstances affecting their income or expenditure, or there are reasons for regarding them as engaged, and insufficient detail has been provided, you must ask for further information.

A decision on whether there are exceptional circumstances affecting income or expenditure that justify permitting access to public funds must be made on a case-

by-case basis, taking into account the applicant's individual circumstances, those of any dependant family members and all the information and evidence the applicant has provided.

Exceptional circumstances that may be raised and that you must consider include (but are not limited to):

- disability or serious illness (see: Disability)
- domestic abuse
- bereavement
- natural disaster
- domestic or other emergency

In all cases, you must assess the impact of the exceptional circumstances on the applicant's income and / or expenditure. In cases involving disability, you must also consider whether an applicant has the financial support required to meet needs arising from their disability.

A decision to allow access to public funds on the basis of exceptional circumstances affecting income or expenditure must be approved by a senior caseworker.

Requesting further evidence or information

If an applicant has provided minimal or no evidence in their application, and it appears that the applicant has made an error with, or omitted in error, supporting evidence, or further information or verification of evidence is needed to make a decision, you should provide an opportunity for the additional information to be provided. For example, you should consider contacting the applicant:

- if evidence is missing that you believe the applicant has, or could obtain
- if evidence is inadequate but could be further clarified – for example, if an employer's letter has been provided but it is missing relevant information, for example, it does not confirm the applicant's gross annual salary

Where there are exceptional circumstances and it is clear an applicant needs more time to submit evidence, it may be necessary to make an additional request or to provide more time for the evidence to be provided. For example, exceptional circumstances may include victims of domestic abuse or if the applicant is homeless. Applicants must be told when the request is made that if they fail to provide additional information in response to the request, their change of conditions application will be refused.

Additional guidance on specific topics

Disability

If there is evidence that an applicant or a member of their immediate family unit has a physical or mental disability, you must carefully assess their individual essential

living needs and accommodation requirements, taking into consideration whether their disability affects their ability to earn enough money to meet their needs and those of their dependants. Those with disabilities may have increased expenditure because of their specific support and accommodation needs. Where an applicant or their family member has outgoings related to meeting those needs, you must regard these as essential living costs. This could include, for example, attendance at day centres or adjustments to accommodation.

You must consider the impact the disability has on the applicant's ability to meet their essential living needs. Where you decide the applicant is not destitute or at imminent risk of destitution, you must go on to consider whether the effect of the disability creates exceptional circumstances which mean the applicant requires access to public funds. See: How to assess exceptional circumstances

Where someone the applicant relies on for financial support is in receipt of welfare benefits, child benefit or tax credits, this income is relevant when assessing whether the applicant meets the criteria for being granted access to public funds. This includes all benefits paid to mitigate the impact of being on a low income. However, certain benefits are paid to meet the specific essential needs of the recipient and to help with extra living costs if they have both:

- a long-term physical or mental health condition or disability
- difficulty doing certain everyday tasks or getting around because of their condition

Where a benefit is paid on this basis, it should not generally be regarded as relevant income for the purposes of an income/expenditure assessment of the household. This includes the following:

- Disability Living Allowance
- Personal Independence Payment
- Adult Disability Payment (paid by Social Security Scotland)
- Child Disability Payment (paid by Social Security Scotland)
- Attendance allowance
- Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme
- Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme

However, where there is evidence that payment of one or more of the above benefits is being used for non-essential or luxury spending unrelated to the specific essential needs of the recipient, you must consider whether it would be reasonable for this income to be taken into account when undertaking an income / expenditure assessment. This is likely to be relevant only in rare cases and you must seek senior caseworker advice before rejecting an application on this basis.

If it appears that one or more of the above benefits is being saved to the extent that there are sufficient funds to potentially provide for the living needs of the family, you must request further information to establish the purpose of the savings. Where they relate to intended purchases of non-essential or luxury items, you must consider

whether it would be reasonable for this income to be taken into account when undertaking an income/expenditure assessment. This is likely to be relevant only in rare cases and you must seek senior caseworker advice before you reject an application on this basis.

If you believe a particular benefit may be being paid to meet the specific support needs of someone with a long-term health condition or disability, and it is not listed above, you should seek senior caseworker advice who may seek further advice by emailing the Family Policy team, where required.

Example scenario 1: An applicant who has permission within the family life route makes a Change of Conditions application so that they can access public funds. They care for their disabled partner who receives PIP payments which are being used to meet the essential living costs of the family. There is no evidence of luxury or non-essential spending.

In this scenario, you must not consider the PIP payments as part of the wider family income as these funds are paid specifically to meet the recipient's essential needs. If the applicant is unable to meet their essential living needs after discounting the PIP payment, you should grant the application for a change of conditions and allow the applicant access to public funds.

Example scenario 2: An applicant with permission in the Hong Kong BN(O) route applies for a change of conditions. They receive PIP and their partner is in paid employment. The applicant saves the entirety of their weekly PIP payments and has a significant amount of money in their savings account.

You ask the applicant why they are saving their PIP payments. The applicant advises that they are planning a family holiday. In this scenario, you should consider the PIP payments as part of the wider family income. The payments are not being used to meet the recipient's essential needs and are instead being saved for non-essential purposes.

Evidence of disability

Where any disability, or physical or mental health condition is raised it should be accompanied by relevant information such as confirmation or other documentary evidence from a doctor or other healthcare or social care professional. Where insufficient evidence has been provided, you must consider contacting the applicant directly to discuss how they can evidence their disability, physical or mental health condition. You must seek senior caseworker advice where you are unsure whether to contact an applicant.

If there is evidence that an applicant has special needs and may need assistance to explain their case clearly, you can signpost them to other agencies who may be able to assist, such as Citizens Advice. For details of an applicant's local branch see: Citizens Advice.

If it is established an applicant has a particular disability, or physical or mental health condition and this means that they are unable to provide all the relevant information and evidence, you must consider applying evidential flexibility.

The applicant is receiving support under the Immigration and Asylum Act 1999

Where an applicant is supported under section 95 or section 4 of the Immigration and Asylum Act 1999, they will already have been assessed as destitute. You may grant access to public funds where it is clear that there has been no change in an applicant's underlying financial circumstances since the last assessment of destitution which would affect their eligibility for support.

Where support under section 95 or section 4 of the 1999 Act has been discontinued, an applicant will need to produce evidence of their financial position and accommodation arrangements since then.

The applicant is receiving support from a local authority

Where an applicant and their family are in receipt of support from a local authority, the local authority will have conducted its own assessment of an applicant's circumstances. The receipt of such support will generally mean that an applicant would otherwise be destitute. This does not mean that applicants must apply to the local authority before they can qualify to have the NRPF condition lifted.

There is no requirement to reach the same conclusion as the local authority. Where a person has been in receipt of local authority support, they will generally be considered destitute, and you should allow access to public funds. However, you must not automatically reject a request to allow access to public funds because a local authority has refused support. You may still grant a request for the NRPF condition to be lifted or not imposed where it is appropriate to do so having made a separate assessment of the evidence.

In all cases you must consider an applicant's financial circumstances, based on the information and evidence they have provided, to determine whether they meet the criteria for being allowed access to public funds.

The applicant is financially supported by a third party

Where the applicant is being supported by a third party you must consider:

- is the amount of support provided sufficient to prevent the applicant from falling into destitution or meet the needs of any relevant child?
- is it reasonable to expect the support to continue?

In all cases, the onus is on the applicant to evidence their accommodation and financial circumstances. Where they are being (or have until recently been) provided with support from a third party, they should normally be asked to provide evidence of the third party's finances and/or accommodation. This is so you can assess whether

the third party has sufficient funds and/or accommodation to provide the applicant and any dependants with ongoing support to meet their needs.

You must assess the credibility of the claim where the third party either:

- refuses to provide the relevant evidence of accommodation and / or finances
- advises that they are not able or willing to utilise their accommodation and / or income to provide the applicant with ongoing support to meet their needs

The onus is on the applicant to evidence their claim and explain why their circumstances have changed such that the support provided is either insufficient to meet their needs or cannot continue. That explanation must be clearly recorded on the relevant casework system so that it can be accessed by those assessing future applications.

As well as assessing the general credibility of any such a claim, it will be useful to consider:

- how long has the third party provided the applicant with support?
- what is the relationship between the applicant and the third party?

A third party who has provided the applicant with adequate support may prefer that support to be provided at public expense. However, where you determine, based on a full assessment of the evidence, that they will continue to support the applicant if the NRPF condition is not lifted and that support is adequate, the applicant is not destitute or at risk of imminent destitution.

The mere fact that a third party says they are unwilling and/or unable to continue to provide support does not necessarily mean they will withdraw support in the absence of an alternative source of support. You must determine whether there is an imminent risk of destitution, based on all the evidence the applicant has provided. This is in accordance with the judgment in SAG & Ors v Secretary of State for the Home Department [2024] EWHC 2984 (Admin) (21 November 2024)

Example scenario 3: A young adult with permission on the basis of their family life with their parents and siblings applies to access public funds. They provide evidence to show they are living with their parents in the family home. The applicant's parents have provided them with full financial support throughout their life, including paying their student fees to attend university. The applicant has no income of their own and states their parents have advised they will no longer provide them with accommodation and financial support. You should ask the applicant to provide evidence of their parents' accommodation and financial circumstances and to explain why the support given cannot continue. You should assess the credibility of any response received.

Example scenario 4: An applicant on the private life route applies to access public funds as they claim to be at imminent risk of destitution. They provide evidence to show they are living with their sibling and have done so for a number of years. The sibling provides a letter to say the applicant can no longer live with them. They do not state why or provide any further evidence. You should ask for evidence from the

applicant's sibling showing why they are no longer able or willing to allow the applicant to live with them. You should assess the credibility of any response received. If no explanation or supporting evidence is provided, you should consider, having assessed the totality of the evidence, whether the applicant's sibling does, in fact, intend to make the applicant homeless.

Related content
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Making a decision on the condition code

Where you decide that the criteria have been met for lifting or not imposing the no recourse to public funds (NRPF) condition code (condition code 1), you must apply condition code 1A which allows access to public funds.

An applicant granted access to public funds will still have to meet the relevant eligibility criteria for any welfare benefit for which they apply.

Subsequent permission applications

When an applicant who was last granted permission without the NRPF condition code or has had that condition code lifted since they were last granted permission, applies for further permission on the 10 year partner or parent route, child route, private life routes, Appendix CRP or Hong Kong (BN(O)) route, you must assess whether they continue to meet the criteria for accessing public funds.

A previous grant of permission without the NRPF condition can be a strong indicator of ongoing need for access to public funds. However, this must not be automatic, and you must be satisfied on each occasion that the criteria are met. Although those on the 5-year partner or parent route are not entitled to public funds when they are granted permission, they can request for this restriction to be lifted during their period of permission. In cases where the NRPF condition code has been lifted for someone on the 5-year routes, their circumstances will be re-assessed when they apply for further permission and consideration must be given to whether they meet all requirements, including the relevant financial requirement.

Where someone:

- applies for further permission on the 5-year partner route
- meets the requirements of the rules (including the financial requirement) and so could be granted permission on the 5-year route; and
- is receiving public funds when they make their application or has requested access to public funds within their application

you must contact them to ask whether they wish to be granted permission on the 5-year partner route with no recourse to public funds or vary their application to enable them to be considered for permission on the 10-year partner route.

Grants of permission under earlier public funds policies

In light of the Upper Tribunal judgment in R (on the application of Khadija BA Fakih) v Secretary of State for the Home Department IJR [2014] UKUT 00513(IAC), an applicant may seek a reconsideration where they were granted with the NRPF condition between 8 July 2012 and 28 July 2014 under the 10-year partner, parent or private life Immigration Rules, or outside the rules under ECHR Article 8 on the basis

of exceptional circumstances. They should do this by completing a change of conditions application.

If you receive such an application, you should email the Family Policy team.

Grounds for refusal

You may refuse a request for access to public funds from an applicant with permission in family, private life, Appendix CRP or Hong Kong BN(O) routes where they have not provided evidence to prove that:

- they are destitute
- they are at risk of imminent destitution
- there are reasons relating to the welfare of a child which outweigh the considerations for imposing the condition
- they are facing exceptional circumstances affecting their income or expenditure

This includes where they have failed to provide reliable evidence of the availability of accommodation, provision of essential living needs, income level and outgoings, and overall financial circumstances.

You can also refuse a request where it is reasonable to conclude that the applicant has intentionally disposed of funds, for instance, by voluntarily giving or loaning funds to a third party.

Evidence of significant expenditure on non-essential items such as expensive holidays, second cars, or gambling, can be an indication that the applicant has not met the criteria for being granted access to public funds.

Related content
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Appeals

Appeals against refusal under the family or private life rules

You must refer to the rights of appeal guidance (internal link) for information on appeal rights.

Where a human rights appeal is allowed and the Tribunal have found that the requirements of the relevant rules are met, you must grant the permission that the appellant qualified for under the Immigration Rules.

Where the Tribunal finds the relevant rules have not been met, but allows the human rights appeal on the basis of exceptional circumstances family life grounds, the appellant must be granted permission in accordance with paragraph GEN 3.2.(3) of Appendix FM for a period of 30 months.

In cases where an appeal has been allowed and permission granted under the following paragraphs, consideration must be given to whether the applicant meets the criteria to have the NRPF condition not imposed:

- D-ECP.1.2., D-LTRP.1.2. (the 10-year partner route)
- D-ECC.1.1., D-LTRC.1.1. (the child route)
- ECPT.1.2. or D-LTRPT.1.2. (the 10 year parent route)
- PL 9.1. or PL 23.1 (the private life routes)
- CRP 9.2. (Appendix CRP)

As above, the no recourse to public funds (NRPF) condition must not be imposed, or must be lifted if already imposed, if the applicant has provided evidence that:

- they are destitute
- they are at risk of imminent destitution
- there are reasons relating to the welfare of a child which outweigh the considerations for imposing the condition
- they are facing exceptional circumstances affecting their income or expenditure

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Access to public funds for those whose permission is not within the family, private life, Appendix CRP or Hong Kong BN(O) routes

This section of the guidance covers the discretion the Home Office has to lift the no recourse to public funds (NRPF) condition in cases that fall outside the policy on the above routes (family, private life, Appendix CRP, or Hong Kong BN(O)).

If there is another route available to consider lifting the NRPF condition, then it would be appropriate to follow that process, for example, for those with restricted leave. Discretion should only be considered if no other route is available.

When considering an application to lift the NRPF condition from a route outside the family, private life, Appendix CRP or Hong Kong BN(O) routes, you should have regard to the general policy objective, which remains the same: to maintain a firm, but fair and efficient immigration system that requires temporary migrants to generally financially support themselves and their families without recourse to public funds.

For these cases discretion will only be used where there are particularly compelling circumstances which justify giving access to public funds and lifting the NRPF condition. Occasions when discretion is used are likely to be rare. In all cases, the onus is on the applicant to provide sufficient evidence to satisfy the decision maker that the NRPF condition should be lifted. In considering whether to lift the NRPF condition where the applicant has permission on a route where the standard condition is that the person does not have access to public funds, you should consider the following:

- there is a general expectation that migrants to the UK should be able to maintain and accommodate themselves and their family members without recourse to public funds
- most routes require a person to demonstrate that they can financially support themselves and their family members whilst in the UK
- if the person has the right to work in the UK, they should normally be expected to support themselves and their family members through work not public funds
- it will normally be appropriate for a person to leave the UK if they can no longer comply with the conditions of their permission or cannot financially support themselves and their families in the UK
- the best interests of a child affected by the decision on whether to lift the NRPF condition is a primary, although not the only, consideration
- notwithstanding the above principles, whether there are particularly compelling circumstances which mean the NRPF condition should be lifted

The particular circumstances of each case must be considered in light of all the information and evidence provided. In determining whether there are particularly compelling circumstances, you must consider all relevant factors raised.

Where it is accepted that there are particularly compelling circumstances which mean the NRPF condition should be lifted it must also be established that at least one of the following applies:

- the applicant is destitute as defined in section 95 of the Immigration and Asylum Act 1999, or is at risk of imminent destitution
- there are reasons relating to the welfare of a relevant child which outweigh the considerations for imposing or maintaining the condition
- the applicant is facing exceptional circumstances affecting their income or expenditure

For further information on a relevant child see the section on How to assess the needs of children.

Considering the application

Consideration of applying discretion under this guidance must take into account the evidence, which is provided, the best interests of any child/children affected and whether there are particularly compelling circumstances.

As one of the principles is that an applicant who cannot support themselves or their family should leave the UK, a relevant factor will be whether the applicant has demonstrated that they cannot be expected to leave the UK.

If the reasons why the applicant cannot be expected to leave are linked to a risk of persecution or ill treatment on return to their home country then the appropriate action is for them to make an asylum (protection) claim, where they will normally be entitled to apply for asylum support, not for the NRPF condition to be lifted.

If evidence has not been provided to show particularly compelling circumstances or whether the best interests of the child outweighs the reasons for maintaining the NRPF condition, you should contact the applicant to ask them to provide it.

Generally, it will not be regarded as a particularly compelling circumstance where an applicant has been granted permission on the basis they can maintain themselves and their family members without access to public funds and their circumstances change and they can no longer do so, regardless of the reason. The appropriate action is for them to leave the UK. Similarly, if they have the right to work but are not earning enough to support themselves and their family, they should normally be expected to leave the UK. It will also not be regarded as a particularly compelling circumstance if the individual lacks the financial means to leave the UK, such as travel costs or a passport application fee.

Considering discretion where a child is affected by the decision

The consideration of discretion must take into account the circumstances of each case and the impact on children in the UK. Section 55 of the Borders, Citizenship and Immigration Act 2009 places an obligation on the Secretary of State to have regard to the need to safeguard and promote the welfare of children in the UK when carrying out immigration, asylum and nationality functions.

This requires consideration to be made of the best interests of the child as a primary, but not the only, consideration in decisions that have an impact on a child. This is particularly important where the decision may result in the child being destitute, where there are obvious factors that adversely affect the child, or where a parent caring for the child asks us to take particular circumstances into account. All decisions must demonstrate that the child's best interests have been considered.

For further information on the best interests of any relevant child see the section on How to assess the needs of children.

Families or children may highlight the differences in quality of education, health and wider public services and economic or social opportunities between the UK and their home country and argue that these mean that it is in the best interests of the child for them to stay in the UK. Such differences would not normally themselves be sufficiently compelling to mean the family cannot be expected to leave the UK if they are no longer able to financially support themselves in the UK. Many parents reasonably and legitimately take their children to live in other countries even though it can cause a degree of disruption. You must make an assessment based on the individual facts of the case, taking into account the principles set out above as well as the impact of the decision on an affected child.

Considering whether an applicant can be expected to leave the UK

Circumstances in which it might be accepted that a person cannot be expected to leave the UK include:

- where there are serious medical grounds which prevent the person or a dependent family member from being able to travel - in such cases medical evidence will be required to demonstrate the reasons for not being able to travel
- where there are reasons why it is not reasonable to expect any dependent child to leave the UK and this outweighs the need to maintain the NRPF condition (for further information see section 'Considering discretion in respect of those with children')

Considering an application while a family or private life claim or application is made

As part of an application to lift the NRPF condition, an applicant may seek to rely on their family and private life in the UK.

The existence of an outstanding family or private life application or claim in itself is not a particularly compelling circumstance which warrants the lifting of the NRPF condition. For example, the applicant may be able to seek support from another family member or make a family life application from overseas (for example if in the UK as a visitor). You must therefore still apply the central test, which is whether the applicant has provided evidence of particularly compelling circumstances for the NRPF being lifted.

If a change of conditions application is submitted where the applicant has already made a valid application for permission to stay in the UK on a family or human rights route, where possible the change of conditions application should not be considered in isolation but considered alongside that application. If that application is refused and there is no extant permission (and no 3C leave) the change of conditions request will fall away as the person will be an overstayer. However, where this joint consideration is not possible, or the person still has extant permission you must consider the change of conditions request, taking into account the decision on the application.

It is not appropriate to fully assess the merits of an applicant's family or private life claim when considering the change of conditions request. Such a decision should be taken by the specialist family/private life caseworker assessing a valid application under that route. However, it is likely to be reasonable to expect a person to leave the UK if they are here for a temporary purpose or if the whole family can leave together.

An assessment must be based on the applicant's individual circumstances and consideration of any relevant information or evidence provided.

Considering an application while a human rights appeal is outstanding

The existence of an outstanding human rights appeal, for example based on family or private life, is not in itself a particularly compelling circumstance. If there is no further evidence of any particularly compelling circumstances, the Change of Conditions application falls to be refused.

Each case will need to be considered on a case-by-case basis and all considerations to apply discretion should be referred to a senior caseworker.

Making a decision

If the applicant has not provided evidence of particularly compelling circumstances, then you do not need to consider whether they are destitute. They are expected to leave the UK and remove themselves from any destitution they have found themselves in whilst in the UK.

If you accept there is evidence of particularly compelling circumstances, you will need to consider the application for change of conditions as set out in the section in this guidance 'How to assess whether the applicant is destitute'.

Cancellation of permission to enter or stay

The information provided as part of the application to lift the NRPF condition may provide information which suggests the applicant is no longer meeting the requirements of the Immigration Rules of the route they are on.

If a decision is made not to lift the NRPF condition, the case should be referred for consideration of cancellation of their permission to enter or stay. This referral should include any reasons why it is considered, as a result of the Change of Conditions application, the person may no longer meet the requirements of the Rules under which they were granted permission. A copy of the Change of Conditions application and any accompanying representations will be available on the Home Office document database.

To refer a case for cancellation of permission to be considered email Status Review Unit.

For further information on cancellation, see: Cancellation and curtailment of permission guidance.

Future applications

A decision taken on lifting or not lifting the NRPF condition is not a decision which determines the outcome of a claim for permission on any other basis. The decision relates only to the NRPF condition attached to their existing permission.

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