

# Cross Government Guidance for local authorities and councils in England on rights and entitlements to service and support for migrants subject to a No Recourse to Public Funds (NRPF) condition

Version 1.0

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# About this guidance

Local authorities provide a range of services and support across England, and this support requires collaboration and coordination with government departments. This guidance has been produced jointly by the Home Office; the Ministry for Housing, Communities and Local Government; the Department for Education; the Department for Work and Pensions; and the Department for Health and Social Care.

This guidance (with extensive reference to the [Public Funds guidance](#));

- explains how an individual's immigration status will typically impact on their ability to access public funds;
- explains benefit entitlements for those with permission under the EU Settlement Scheme;
- provides information for local authorities and councils regarding their statutory duties to support people subject to a NRPF condition;
- provides information for local authorities and councils regarding their discretionary powers and limitations in offering support to people subject to a NRPF condition; and
- provides links to the relevant legislation regarding relevant duties, discretionary powers and restrictions.

## **This guidance covers England only.**

Local authorities and councils in Scotland can refer to the guidance published by Convention of Scottish local authorities: [Migrants' rights and entitlements guidance \(Scotland\)](#).

Local authorities and councils in Wales can refer to the guidance published by Welsh Government: [No recourse to public funds \(NRPF\): guidance](#).

There is no singular body in Northern Ireland responsible for providing support to people with NRPF. Health and Social Care Trusts may provide health and/or social care support based on a professional assessment of need. People with NRPF requiring support can also approach the community and voluntary sector for further support around their NRPF condition.

## How to use this guidance

This guidance is intended to assist local authorities with supporting individuals who are subject to NRPF. High level information is provided throughout the guidance

which sets out a local authority's statutory duties in supporting individuals with NRPF and the discretionary powers available to provide support.

While the guidance explains the effect of the provisions for individuals subject to a NRPF condition, it is not a definitive statement of, or a substitute for, the law itself. Local authorities are required to make their own assessment of an individual's status, circumstances and support needs.

Local Authorities can also refer to NRPF Network practice guidance for further information - <https://nrpfnetwork.org.uk/information-and-resources/practice-guidance>

This guidance is **not** intended as legal advice, nor does it dictate actions (either generally or in relation to individual cases) for local authorities and councils. Local authorities and councils should consult or seek their own legal advice where relevant to ensure adherence to applicable laws and regulations.

## Contacts

If you have any questions about the guidance or think that the guidance has factual errors, then please email the [accesscompliance removals and enforcement@homeoffice.gov.uk](mailto:accesscompliance removals and enforcement@homeoffice.gov.uk) inbox.

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 you can email the [accesscompliance removals and enforcement@homeoffice.gov.uk](mailto:accesscompliance removals and enforcement@homeoffice.gov.uk) inbox.

Please note that the government intends for this guidance to be a live document. If needed updates and amendments can be made.

## Publication

Below is information on when this version of the guidance was published:  
version **1.0** published for local authorities and councils in England on 14 August 2026.

# No Recourse to Public Funds

No Recourse to Public Funds (NRPF) is a standard condition applied to most categories of temporary immigration permission, which prevents those who are subject to immigration control, as set out in [section 115 of the Immigration and Asylum Act 1999](#), from accessing certain public funded services and benefits.

The expectation of the UK Government is that in general, migrants coming to the UK should be able to maintain and accommodate themselves and their dependants without recourse to public funds.

Further information can be found in the [Public Funds guidance](#).

## Who has recourse to public funds?

In general, only British Citizens and other permanent residents, such as Irish nationals, those with indefinite permission to enter or stay, and those with settled status under the EU Settlement Scheme are entitled to access public funds (benefits and services).

When applying for permission to enter or stay in the UK, most migrants must demonstrate that they can financially support themselves and their dependants. For this reason, the majority of temporary migrants (for example, those coming to visit, study or work in the UK) are granted permission subject to an NRPF condition. Those here without lawful status, for example, those who entered the UK illegally or overstayed their visa, are also unable to access public funds.

See [immigration routes table](#) within the Public Funds Guidance for a list of immigration routes that have the NRPF condition applied. This list is non-exhaustive.

Some migrants with temporary permission to stay, such as, refugees, those granted humanitarian protection, and discretionary permission may also be able to access public funds, if eligible, in the same way as British citizens and other permanent residents.

What constitutes a public fund for immigration purposes is set out in section 115 of the Immigration and Asylum Act 1999 ('the Act 1999') and paragraph 6 of the Immigration Rules. More information can be found at:

<https://www.legislation.gov.uk/ukpga/1999/33/section/115> and <https://www.gov.uk/guidance/immigration-rules/immigration-rules-introduction>.

Migrants who have had the NRPF condition lifted from their immigration permission by way of 'change of conditions' application may also be able to access public funds, if eligible, in the same way as British citizens and other permanent residents.

If an individual is in the UK without a valid immigration status, it is expected that they return to their home country.

Further information can be found in the [Public Funds guidance](#).

## Which benefits are classified as public funds for immigration purposes?

Not all benefits and local authority housing assistance are classed as public funds for immigration purposes. Only the benefits and services set out in [section 115 of the Immigration and Asylum Act 1999](#) and at [paragraph 6 of the Immigration Rules](#) are classed as public funds.

This includes most welfare benefits, including Universal Credit, social fund payments as well as housing support. It does not include welfare benefits which are based on National Insurance contributions (contributory benefits) or periods of employment (statutory payments), which individuals can access even where they are subject to a NRPF condition.

Please refer to the [benefits table](#) within the Public Funds guidance where a complete list of 'public funds' for immigration purpose can be found, including information on which department is responsible for administering it. You will be able to find details of other restrictions in respect of access to social housing, homelessness assistance, and social care within the Public Funds guidance.

## Change of Conditions

Some individuals with the NRPF condition can apply to change the conditions attached to their immigration permission. This is known as a 'change of conditions' application.

Those in the UK with permission granted under the following routes, can apply for free to have their NRPF condition lifted by making a 'change of conditions' application:

- Family or Private Life routes;
- Appendix Child Relative (Sponsors with Protection); or
- Hong Kong British National (Overseas).

An individual on these routes can apply to have their NRPF condition lifted if:

- they are destitute or 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 (treating the best interests of a relevant child as a primary consideration); or

- they are facing exceptional circumstances affecting their income or expenditure.

For all other immigration routes the general expectation is that the individual will return to their home country should they become unable to meet their essential living needs in the UK.

If there are particularly compelling circumstances as to why leaving the UK is not possible, discretion can be used by the caseworker assessing the case to consider if the circumstances justify access to public funds. However, it must be noted that it is rare for cases to meet this threshold.

For further information, please see: [Apply to change your permission to allow access to public funds - GOV.UK](#)

## Section 3C Leave

Many migrants may apply to extend their existing permission. The purpose of Section 3C leave is to prevent a person who makes an in-time application to extend their leave, from becoming an overstayer whilst awaiting a decision on that application, and while any appeal or administrative review they are entitled to is pending.

In these circumstances, those who make an in-time application to extend their permission (on the same or a different basis), or an in-time successful fee waiver application, will have section 3C leave under section 3C of the Immigration Act 1971.

In general, an individual who has section 3C leave will be lawfully present and any immigration conditions attached to their extant leave, such as permission to work or recourse (or no recourse) to public funds, will continue to apply.

More information on section 3C leave can be found within the [3C and 3D leave Guidance](#) and the [Application validation, variation and withdrawal](#) Guidance.

## Breach of NRPF condition and exceptions

It may be considered that there has been a breach of a NRPF condition where a person who is subject to a NRPF condition has been in receipt of a benefit listed as a 'public fund' for immigration purposes. This breach could have an impact on an individual's status or future immigration applications.

However, there are several situations in which being in receipt of a public fund would not result in a breach of a NRPF condition. For example, there are exceptions for nationals from certain countries with reciprocal social security agreements. Further details of these [exceptions](#) can also be found in the Public Funds Guidance.



# Establishing an individual's immigration status and eligibility to access public funds

## Establishing an individual's immigration status

Local authorities can confirm the immigration status of an individual in several ways.

The Home Office's Online Immigration Checking Services can be accessed using this link: [Check someone's immigration status: use their share code - GOV.UK \(www.gov.uk\)](https://www.gov.uk/check-immigration-status).

Local authorities can verify a person's immigration status information using the Recourse to Public Funds (RTPF) Checker to instantly 'look up' and view a person's digital immigration status.

Councils subscribed to NRPF Connect can look-up a digital status on the RTPF Checker and/or undertake a status check with the Home Office.

Local authorities that do not subscribe to NRPF Connect or the RTPF checker or who do not have an Immigration Officer on-site can complete the *local authority stencil* and submit to Status Verification, Enquiries and Checking (SVEC) to confirm and verify someone's immigration status information.

## NRPF Connect

NRPF Connect is a case management tool used by councils to record details of households with no recourse to public funds that are provided with accommodation and/or financial support when social care duties are engaged. NRPF Connect is operated by the NRPF Network in partnership with the Home Office.

The Home Office NRPF team:

- Responds to local authority immigration status requests and queries raised on NRPF Connect in line with a service level agreement
- Liaises with Home Office casework teams on behalf of councils to request progression and case prioritisation
- Conducts targeted work, such as reviewing long-standing cases, and escalates financially supported cases with other casework teams when appropriate

NRPF Connect provides councils with information to support effective decision making in compliance with statutory duties, immigration legislation and best practice

principles. It also helps build a better understanding of this area of social care provision locally and nationally.

Councils subscribing to the system have a contractual responsibility to keep records up-to-date and identify key users within their authority.

The NRPF Network provides more information and user support about the RTPF Checker and NRPF Connect. For more information about NRPF Connect, see the [NRPF Network website](#).

## Homelessness Escalation Service

The Homelessness Escalation Service (HES) provides immigration status information, and an escalation service designed to help non-UK national rough sleepers, (or those at imminent risk of such) to access services and support to which they are entitled (where they are granted permission to stay), or otherwise to allow those supporting them to decide what actions to take in the full knowledge of their immigration status.

Following referrals from HES users, the actions taken by HES staff fall into two key parts:

- The HES will identify whether the individual has an ongoing or outstanding immigration application and contact the appropriate department within Migration and Borders to request progression and prioritisation.
- Where there is no open application - HES can confirm whether the customer does or does not hold Permission to Stay (PTS). Customers can then access appropriate support or be directed to appropriate services they are entitled to access.

The HES can also provide signposting to HES users to assist them in finding information on the gov.uk.

Referrals should be submitted to:

[UKVIHomelessnessEscalations@homeoffice.gov.uk](mailto:UKVIHomelessnessEscalations@homeoffice.gov.uk)

The user agreement and more detailed information about the service can be found here: [Homelessness Escalations Service \(HES\) - GOV.UK](#)

# Access to public funds for specific immigration routes

## Indefinite permission to enter or stay subject to a maintenance undertaking

Migrants who have been granted indefinite permission to enter or stay in the UK under the Adult Dependent Relative (ADR) route will usually be subject to a maintenance undertaking<sup>1</sup> and in general, will not be able to access benefits classed as public funds and services for the first five years following their arrival or grant of permission in the UK.

However, there are exceptions under [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000](#) which allowed access to certain public funds benefits. This includes:

- Attendance Allowance;
- Severe Disablement Allowance;
- Carer's Allowance;
- Disability Living Allowance;
- Social Fund payments;
- Health in Pregnancy Grant;
- or Personal Independence Payment, subject to eligibility.

Further information on [maintenance undertaking](#) can be found in the Public Funds guidance.

## Asylum seekers

An individual must have left their own country and be unable to go back, due to a fear of persecution to claim asylum.

Asylum seekers are individuals who are waiting to receive a decision on their asylum claim. They do not have access to public funds. A separate support system is in place for asylum seekers. The level of support provided will be dependent on certain eligibility criteria being met.

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<sup>1</sup> A maintenance undertaking is a written agreement given by a sponsor. This agreement will mean that the sponsor will be responsible for the maintenance, accommodation and care of a person for the period of any permission granted, or for 5 years from the date the applicant is given indefinite permission to enter or remain.

## Asylum Support

Asylum seekers and their dependants who would otherwise be destitute can obtain support from the Home Office whilst their claim and any appeal is being considered. Asylum seekers can apply for accommodation, subsistence, or both accommodation and subsistence support.

Asylum Support may also be available to failed or inadmissible asylum seekers via what is known as '[section 4 support](#)'. They will be required to meet at least one of the five conditions set out in the Immigration and [Asylum \(Provision of Accommodation to Failed Asylum Seekers\) Regulations 2005](#).

Those conditions broadly require for individuals to be taking all reasonable steps to leave the United Kingdom, or for there to be a practical or legal obstacle to an individual leaving the UK. Further information on section 4 support can be found [here](#). For more information, see [Asylum support: What you'll get - GOV.UK](#)

If granted refugee status, individuals will have access to public funds and will be eligible to receive mainstream benefits in the same way as British Citizens and other permanent residents.

## Unaccompanied Asylum-Seeking Children

An unaccompanied asylum-seeking child (UASC) is a person aged under 18, applying for asylum in his or her own right, who is separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so.

Generally, UASC become 'looked after' children when they are supported by a local authority under Section 20 of the Children Act 1989. An unaccompanied child is entitled to the same support from the local authority as any other 'looked after' child, regardless of their immigration status. The fact that asylum seekers awaiting a decision on their asylum claim do not have access to public funds does not have an impact on the support that unaccompanied children awaiting such a decision should receive from the local authority under children's social care legislation.

The 2017 statutory guidance on the [Care of unaccompanied migrant children and child victims of modern slavery - GOV.UK](#) sets out how these children should be cared for.

### Unaccompanied Asylum-Seeking Children - Children Act 1989

Local Authorities in England have various duties under the [Children Act 1989](#), in particular, a duty under sections 17 and 20 of the [Children Act 1989](#).

Unaccompanied asylum-seeking children will be considered to be 'children in need' as defined in section 17(10) of the Children Act 1989. In England, section 17 places a general duty on every local authority to safeguard and promote the welfare of children in need within their area by providing services appropriate to those children's needs. Section 20 requires every local authority to provide accommodation for children in need within their area who appear to them to require accommodation because:

- there is no person who has parental responsibility for them
- they have been lost or abandoned
- the person who has been caring for them is not able to provide them with suitable accommodation

A child accommodated by a local authority in England under section 20 of the Children Act 1989 will become a looked-after child after 24 hours of being continuously accommodated.

### **Healthcare (England only)**

Healthcare under the National Health Service (NHS) is provided free at the point of use for those ordinarily resident in the UK. Other people not ordinarily resident, may need to pay, unless they or the service they receive is exempt from charge.

Asylum seekers who have an outstanding application asylum application, or who are in receipt of Section 95 or Section 4(2) support are exempt from NHS charges. Immediately necessary or urgent treatment will always be provided, regardless of ability to pay.

For further information see [NHS visitor and migrant cost recovery programme - GOV.UK](#)

## **EEA (European Economic Area) and Swiss citizens and their family members**

Since 1 January 2021, EEA and Swiss citizens (apart from Irish nationals) and their family members are subject to the same immigration controls as non-EEA nationals and are required to demonstrate their immigration permission if they wish to live and work in the UK. An EEA or Swiss citizen entering the UK without valid permission to stay or permission to enter will be treated as a standard visitor.

## EU Settlement Scheme (EUSS)

Individuals granted status under the EU Settlement Scheme (either settled status or pre-settled status) are not subject to the No Recourse to Public Funds (NRPF) condition.

Public funds can be accessed by:

- EEA and Swiss migrants and their family members with settled status.
- Pre-settled status holders who satisfy the relevant right to reside requirements under social security legislation. While pre-settled status does not carry an NRPF condition, eligibility for certain benefits depends on the individual demonstrating a qualifying right to reside. This broadly reflects the position that applied before the end of the EU exit transition period. Family members and joining family members holding an EUSS family permit within the first three months of residence in the UK subject to eligibility criteria being met. This would normally require for the EEA family member that they are joining to hold status under the EU Settlement Scheme, unless they are a qualifying Irish national or a qualifying EEA/British dual national.

Individuals who acquire settled status following a period of continuous residence are generally able to access benefits and services on the same basis as UK nationals (subject to eligibility criteria being met).

In addition, individuals with pre-settled status may be able to access Universal Credit on a case-by-case basis if they have no qualifying right to reside and would otherwise be destitute (in line with AT case) - see DWP guidance - A10/2024 Revised: The AT Court of Appeal judgment and the EU Charter of Fundamental Rights assessment - GOV.UK

Further information can be found in:

- Homelessness code of guidance for local authorities - Chapter 7: Eligibility for assistance - Guidance - GOV.UK
- [‘European Economic Area \(EEA\) citizens and access to public funds’](#) section within the Public Funds Guidance and for further information.

## Migrant victims of domestic abuse

### Migrant victim of domestic abuse concession

The Migrant Victims of Domestic Abuse Concession (MVDAC) provides short-term protection for eligible migrant partners in the UK (on family, work, or study visas) who self-identify as victims of domestic abuse. MVDAC grants three months Leave Outside the Rules with access to public funds, enabling immediate safety and financial independence.

During this period, individuals may apply for a new immigration route, including under Appendix Victim of Domestic Abuse (VDA) (see below), or prepare to depart the UK. Applying for settlement under the VDA rules is not possible for all the groups who can qualify for the MVDAC.

More information on the MVDAC can be found within the [MVDAC guidance](#).

### **Settlement for Victims of Domestic Abuse via Appendix Victim of Domestic Abuse (VDA)**

Appendix VDA offers immediate settlement to eligible victims and their dependent children where their relationship has broken down due to abuse.

The eligibility requirements for Appendix VDA currently provide for people whose relationship has broken down because of domestic abuse and where they had entered the UK with a legitimate expectation of settlement based on their relationship.

### **Transnational marriage abandonment<sup>2</sup>**

Victims of domestic abuse who are abandoned overseas, as part of the abuse, can apply for entry clearance granting immediate settlement from outside the UK under Appendix VDA and therefore have access to public funds upon entry to the UK.

More information on Appendix VDA can be found within the [Appendix VDA guidance](#).

### **Statutory duties for tier one local authorities**

Part 4 of the Domestic Abuse Act 2021 imposes a duty on local authorities to ensure victims of domestic abuse and their children can access support in safe accommodation when needed. Victims with no recourse to public funds can also access support under this provision. Please see the local authorities' responsibilities section of this guidance.

### **Additional support for migrant victims of domestic abuse**

The Support for Migrant Victims Scheme is a Home Office funded programme providing support for migrant victims of domestic abuse with No Recourse to Public Funds. The scheme is delivered by Southall Black Sisters and their delivery partners across the UK and provides support for migrant victims of domestic abuse, including accommodation, subsistence, counselling and immigration support. See their website for details: [SMV Scheme - Southall Black Sisters](#).

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<sup>2</sup> Transnational marriage abandonment is a form of domestic abuse whereby the abusive party abandons their partner overseas and their permission to stay in the UK expires and/or they are left without access to their passport or immigration documents, preventing their return to the UK.

Advice and support agencies, particularly women's refuges and support services (including those specifically providing for BME women) offer information, advice and assistance on safe accommodation and financial support. Contact the National Domestic Violence Helpline for list of agencies, Tel: 0808 2000 247.

Social care services (particularly if the victim is a pregnant woman, is with children or is especially vulnerable due to age, disability or ill health) may provide help in accordance with the Children Act 1989, and the Care Act 2014.

The victim may wish to seek independent legal advice about whether they can pursue any maintenance support from their sponsor through the Family Courts.

## **Appendix EU - EU Settlement Scheme (EUSS) and domestic abuse provisions Summary**

While the deadline for applying to the EUSS for most people was 30<sup>th</sup> June 2021, applicants can still apply where that deadline did not apply to them or if they have reasonable grounds for applying late (such as where they were prevented from applying by the deadline applicable to them because they are or were a victim of domestic violence or abuse (or the family member of such a victim)). The EUSS allows a partner and other affected family members to retain a right of residence where the partner's relationship has broken down permanently due to domestic abuse.

Any family member within the scope of the EUSS (a spouse, civil partner, durable partner, child, dependent parent or dependent relative) whose family relationship with a relevant EEA citizen (or qualifying British citizen, having returned with them to the UK after living together in the EEA, or relevant sponsor) has broken down permanently as a result of domestic violence or abuse will have a continued right of residence where this is warranted by domestic violence or abuse against them or another family member.

Late EUSS applications can also be made by children, care leavers and adults with care and support needs or who lack capacity

The applicant must have been resident in the UK when the relevant family relationship broke down permanently as a result of domestic violence or abuse.

They are able to rely on this, together with their own continuous residence in the UK, in applying for status under the EUSS under sub-paragraph (d) or sub-paragraph (e) of the definition of 'family member who has retained the right of residence' in Annex 1 to Appendix EU.

## **Access to public funds**

Pre-settled status holders are not subject to NRPF but do need to be exercising a qualifying right to reside (as before the post-EU exit transition period) under benefits legislation to access certain benefits.



Access to benefits and services on comparable terms to UK nationals will be granted if individuals go on to acquire settled status (subject to continuous residence requirements being met).

Individuals may be able to access Universal Credit on a case-by-case basis if they have no qualifying right to reside and would otherwise be destitute (in line with AT case) - see DWP guidance - [A10/2024 Revised: The AT Court of Appeal judgment and the EU Charter of Fundamental Rights assessment - GOV.UK](#)

Please also see the [Homelessness code of guidance for local authorities - Chapter 7: Eligibility for assistance - Guidance - GOV.UK](#)

# Local Authority administered public funds and services

## Social housing and homelessness assistance

Entitlement to social housing and homelessness assistance are classed as 'public funds' for immigration purposes, and therefore people with a NRPF condition are generally not eligible for either form of support.

Local authorities are nevertheless required to provide information and advice for everyone in their district, regardless of immigration status, about the housing and support options that may be available to them.

Local authorities must also consider whether they have any other statutory duties or discretionary powers to accommodate individuals who are ineligible for homelessness assistance. For example, where a household includes children or where an individual has care and support needs. In such cases, local authorities may provide information about immigration-related support services and, where appropriate, make referrals to social services or other relevant agencies.

Statutory guidance for local housing authorities in England on social housing and homelessness duties is available at: [Social housing allocations guidance - GOV.UK](#) and [Homelessness code of guidance for local authorities - Guidance - GOV.UK](#)

Further information on social housing and homelessness assistance can be found at [page 29](#) of the Public Funds guidance.

## Local Welfare schemes

A discretionary payment made by a local authority under Section 1 of the Localism Act 2011 has been defined as a public fund for immigration purposes under the Immigration Rules since 30 March 2022. Therefore, anyone with an NRPF condition is generally unable to access such support.

It is worth noting that these schemes are often called different things by different local authorities, but they are generally based on the same underlying statutory power under Section 1 of the Localism Act 2011.

## Crisis Resilience Fund

The Crisis and Resilience Fund (CRF) ("The Fund") has been made available to local authorities (LAs) in England to support low-income households who encounter a financial shock and to support activity that builds individual and community financial resilience.

This funding covers the period of 1 April 2026 to 31 March 2029 inclusive (“The Fund Period”). This includes specified funding for housing support.

For further details please see paragraphs 28 to 34 and Annex A of the CRF guidance which relate to NRPF - [Crisis and Resilience Fund: Guidance for local authorities in England \(1 April 2026 to 31 March 2029\) - GOV.UK](#). The Local Authority must consider on a case-by-case basis the legal powers and duties they have in determining whether an individual with NRPF should be assisted through the CRF.

## Benefits/payments and services not classed as public funds for immigration purposes

Any benefit, payment or service that is not listed under [section 115 of the Immigration and Asylum Act 1999](#) and at [paragraph 6 of the Immigration Rules](#) is not classed as ‘public funds’ for immigration purposes and as a result, accessing such support would not constitute as a breach of a NRPF condition.

For example, individuals with NRPF who have paid the necessary National Insurance contributions or have relevant periods of employment or self-employment can claim contributory benefits and statutory payments such as New Style Jobseekers Allowance, Statutory Sick Pay and State Pension. As with all benefits, individuals must satisfy the relevant eligibility criteria as set by the administering department.

Another example of support not listed as a public fund for immigration purposes is Free School Meals. Children from households with NRPF may be eligible to receive Free School Meals under the provisions introduced to support families on low incomes. This ensures that children can access support regardless of their background or circumstances, including the immigration status of their parents.

Eligibility is determined in accordance with Department for Education’s published guidance. The guidance for this can be found here: [Providing free school meals to families with no recourse to public funds \(NRPF\) - GOV.UK](#)

Further examples of benefits and statutory payments that are not considered to be restricted for immigration purposes can be found within the [Public Funds guidance](#),

The examples above are not an exhaustive list. Other benefits, payments and services may fall outside the definition of public funds for immigration purposes and can therefore be accessed without breaching a NRPF condition. However, they will be subject to eligibility requirements as set by the department responsible for the fund or service. In some cases, eligibility may relate to immigration status, or a person’s ability to access public funds. **Any queries regarding eligibility should be raised with the department responsible for the benefit, payment or service.**

# Local Authority responsibilities towards children

## General Information and statutory framework – Children Act 1989

This guidance covers England only.

Local authorities have statutory duties to safeguard and promote the welfare of children in their area.

Under section 17 of the Children Act 1989, local authorities are under a general duty to provide support for children who are unlikely to reach or maintain a satisfactory level of health or development, or their health or development will be significantly impaired without the provision of services, or the child is disabled. This duty applies regardless of a child's immigration status and therefore continue to apply to children in households with no recourse to public funds (NRPF)

*Working Together to Safeguard Children* is statutory guidance to help, protect and promote the welfare of children. It provides further guidance on support and services under section 17 and can be viewed here: [Working together to safeguard children 2023: statutory guidance](#).

## Local authority responsibilities towards children and families who are subject to the No Recourse to Public Funds (NRPF) condition

Local authorities retain statutory duties towards children and families that meet the criteria for support irrespective of their immigration status. Where a child is assessed as being in need, including where they require safeguarding or welfare support, local authorities **must act under section 17 of the Children Act 1989**. This duty applies equally to children in families subject to an NRPF condition and those with no lawful status. The defining criteria for support in these circumstances are determined locally by local authorities, however, the presence of an NRPF condition **must not** be a barrier to the discharge of section 17 duties towards children. Local authorities are therefore required to consider the child's needs, circumstances, and safety, and provide appropriate support where necessary.

Immigration restrictions do not remove or diminish safeguarding duties, and authorities should ensure frontline practitioners understand the distinction between restricted access to public funds and their ongoing statutory responsibilities for child protection and safeguarding.

Further statutory government guidance on section 17 is available here - [Working together to safeguard children 2023: statutory guidance](#). Chapter three specifically includes section 17 protections.

Social and social care services, as provided by local authorities are not classed as 'public funds' for immigration purposes and can be accessed by a person regardless of their immigration status, including a person who is subject to the NRPF condition, in some circumstances. This applies where a need has been identified under the Children Act 1989, the Care Act, or by relying on the General Power of Competence under the Localism Act. These statutory duties are detailed further below.

## Access to school-based education

[The Education Act 1996](#) requires all children of compulsory school age within a local authority area in England to receive suitable full-time education, regardless of immigration status, and the [School Standards and Framework Act 1998](#) requires state-funded schools to admit children on application unless a school's admission authority can claim what is called 'prejudice'. Prejudice can be claimed because a school is full but cannot be claimed because of a child's immigration status or first language.

These rights and duties apply in respect of all children who are in England. Guidance for schools and local authorities is here: [School applications for foreign national children and children resident outside England - GOV.UK](#)

# Statutory duty to support under the Care Act 2014

## General Information and statutory framework

### The Care Act 2014

The Care Act 2014 (“the Care Act”) sets out the statutory duties and responsibilities of local authorities in England towards adults with care and support needs.

These general duties include:

- Promoting individual wellbeing
- Preventing needs for care and support
- Promoting integration of care and support with health services
- Providing information and advice about care and support
- Promoting diversity and quality in provision of services
- Safeguarding adults at risk of abuse or neglect

Under the Care Act a local authority in England has a duty to assess the care and support needs of adults living in their area regardless of the person’s immigration status. Where an individual is found to have eligible needs, the local authority may be required to provide appropriate care and support in accordance with the Act.

Local authorities must also provide information and advice on services and personalisation in social care, with a focus on “wellbeing” in accordance with section 1 of the Act. (Carers under 18 are mainly provided for under the Children and Families Act 2014.)

Local authorities may have a duty to provide support under **the Care Act 2014**, to adult migrants who are subject to the NRPF condition, or in the UK without lawful status if there is a genuine care need that does not arise solely from destitution. Access to social care is barred where the need arises solely from destitution or because of the anticipated physical effects of destitution: [Care Act 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2014/19/section/21).

### Exception for persons subject to immigration control

Section 21 of the Care Act states that a local authority may not meet the needs for care and support of an adult to whom section 115 of the Immigration and Asylum Act 1999 applies and whose needs for care and support have arisen solely because:

- the adult is destitute, or

- the adult's needs result from the physical effects, or anticipated physical effects, of being destitute.

Section 21(5) of the Care Act also states that a local authority may not perform the duty under section 2(1) of the Care Act (Preventing needs for care and support) in relation to an adult to whom section 115 of the Immigration Act 1999 applies and whose needs for care and support have arisen, or for whom such needs may in the future arise, solely because they are destitute or because of the physical, or anticipated physical, effects of being destitute. In such circumstances, the person may apply to the Home Office for asylum support.

## Asylum seekers with care needs

The Home Office has published guidance about its interpretation of the Care Act framework, and its approach to their duties and obligations owed to asylum seekers with disabilities, care needs or both in the context of asylum support. You can find this guidance here: [Asylum seekers with care needs: caseworker guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/asylum-seekers-with-care-needs-caseworker-guidance)

### Related content

[Contents](#)

# Local authority responsibilities and restrictions overview

## Restrictions - Section 54 and Schedule 3 of the Nationality, Immigration and Asylum Act 2002

Section 54 and Schedule 3 to the Nationality, Immigration and Asylum Act 2002 excludes certain categories of persons from local authority support or assistance. Paragraph 1 of schedule 3 contains a list of support and assistance to which the schedule applies.

There are exceptions for which schedule 3 does not prevent support or assistance. These are set out in paragraph 2 and 3 of the schedule, and include children, British and Irish citizens and where it is necessary to avoid a breach of human rights.

Further information on the list of support and assistance to which the schedule applies and full list of exceptions to the schedule can be found at: [Nationality, Immigration and Asylum Act 2002 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2002/51/schedule/3).

It is for local authorities to determine what support they can lawfully provide to individuals with restricted eligibility based upon assessments of an individual's status, circumstances and support needs. When carrying out this assessment, local authorities will wish to consider their statutory duties and discretionary powers.

Further information can be accessed via the NRPF Network's detailed practice guidance 'when and how to undertake a human rights assessment' which contains a template human rights assessment: [NRPF Network | When and how to undertake a human rights assessment](#)

This guidance has been developed in line with findings from the courts and through the NRPF Networks engagement with the Home Office to understand how best to implement Schedule 3.

## Statutory duties

### Support for children

Local authorities have a general duty to safeguard and promote the welfare of "children in need" in their area under the Children Act 1989. Support provided to a child by local authorities under such legislation is not dependent on the immigration status of the child or their parent(s).



Local authorities have the primary responsibility for supporting care leavers as set out in the Children Act 1989.

A person is a former relevant child if that person is (a) over 18 and either (b) that person has been a relevant child (and would be one if that person was under 18) or (c) that person was a LAC when they attained the age of 18, and immediately before ceasing to be a LAC was an eligible child (CA 1989 s.23C).

The local authorities' duties towards care leavers are set out in Part III of and Schedule 2 to the Children Act 1989 (CA 1989) and the Care Leavers (England) Regulations 2010 ("the Care Leavers Regulations") and depend on the status of the child. The Department for Education also publishes a suite of statutory guidance relating to the CA 1989, volume 3 of that guidance deal with planning transition to adulthood for care leavers.

This includes unaccompanied asylum seekers (UASC) who have been given the right to remain. A UASC is defined as an individual, who is under 18 when the asylum application is submitted, is not being cared for by an adult who by law has responsibility to do so, is separated from their parents and has applied for asylum in the United Kingdom in their own right.

## **Discretionary power: General Power of Competence (Section 1 of the Localism Act 2011)**

### **Localism Act and the general power of competence.**

The general power of competence (Section 1, Localism Act 2011) enables local authorities to provide shelter and support to some people who are ineligible for statutory accommodation under the Housing Act 1996 or access to public funds because of their immigration status. This power cannot be used to provide a service equivalent to statutory support through alternative avenues.

In assessing whether a person can be assisted using the general power of competence, the local authority must consider whether a person is prevented from receiving assistance by the provisions in Schedule 3 to the Nationality, Immigration, and Asylum Act (NIAA) 2002. Schedule 3 does not prevent the provision of assistance to a child, irrespective of their immigration status. Other exceptions are set out in paragraphs 2 and 3 of Schedule 3.

There is a distinction between:

1. People with permission to enter or stay in the UK who do not have access to public funds and
2. People with no access to public funds who may not be helped using the General Power of Competence as a result of the restrictions in Schedule 3 NIAA 2002, such as those who are in the UK unlawfully, certain failed asylum seekers and those with refugee status abroad.

For the first group, the local authority has the power to provide shelter, and some support but not to replicate support to which they are barred by statute from providing (for example, Housing Act 1996 support), and may take decisions according to local circumstances, available resources.

For the second group, the ability to provide support is limited to circumstances where it is necessary to avoid a breach of their rights under the European Convention on Human Rights (as defined in the Human Rights Act 1998).

It is worth noting that the first group is also protected by the Human Rights Act 1998 in addition to the support a local authority has discretion to provide as set out above.

Under the General Power of Competence, there are 2 types of payment that a local authority can make:

### **Entitlement payment**

An entitlement payment is one which is administered to a cohort of people who meet pre-determined conditions, without the local authority exercising discretion as to whether they should receive the payment or support, and how much they should receive. Examples would include the recent energy rebate scheme, where households received an automatic payment of £150 if they met the conditions prescribed in the Council Tax Rebate Scheme.

### **Discretionary payment**

A discretionary payment is where a local authority has the scope to determine who to award payments to or where the local authority has the option of opting out of any government schemes, meaning there is no obligation on the local authority to make these payments. However, discretionary payments made under section 1 of the Localism Act 2011 are listed as public funds within paragraph 6 of the Immigration Rules and cannot be given to those who have a NRPF condition. See: [Localism Act 2011](#).

## Other legal powers

In extreme situations, for example, in the context of the COVID-19 pandemic, where there are likely to be additional risks to life in that locality, that should be considered and may give rise to the possibility of using other legal powers.

For example, as the **R (Ncube) v Brighton and Hove City Council case** highlighted, there were discretionary powers local authorities could use during the pandemic, namely section 138 of the Local Government Act 1972 and section 2B of the National Health Service Act 2006 to support some individuals otherwise ineligible for statutory support.