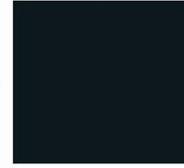




The
Children's
Society



Domestic Abuse in Families with No Recourse to Public Funds (NRPF)

Briefing for the Domestic Abuse Bill 2020

Summary

Thousands of families in the UK do not have access to public funds due to a condition of their immigration status (known as NRPF – no recourse to public funds). The Children's Society, Project 17 and The Unity Project work with these families, who are particularly vulnerable to all forms of abuse, exploitation and destitution because of the barriers they face in accessing support. Our organisations are supporting calls from the Violence Against Women and Girls sector to ensure the Domestic Abuse Bill recognises the multiple vulnerabilities migrant victims and their children face, and that it protects all survivors of domestic abuse regardless of their immigration status. We call on the government to ensure the Bill addresses the complex, multifaceted barriers that families and children experiencing domestic abuse can face when they have a precarious immigration status and no access to public funds.

Access to the welfare system and legal tools can provide protection from abuse and destitution. Similarly, perpetrators of abuse can weaponise their victim's lack of access to support and public funds, putting them and their children at serious risk of violence. The forthcoming Domestic Abuse Bill must ensure that all migrant victims and their children can apply for indefinite leave to remain and access the support they need.

Introduction

This briefing sets out our concerns for children living within households where one parent abuses the other and the victim does not have no recourse to public funds (NRPF). This may be because they are either undocumented or have been granted leave to remain with the condition that they have no access to public funds (NRPF).

It recommends that the forthcoming Domestic Abuse Bill:

- Recognises that all survivors of domestic abuse, regardless of age or immigration status, are entitled to support, equal access to welfare systems and legal tools that can provide protection from abuse.
- Includes accompanying guidance which makes clear that those providing Section 17 support for children and their families base support on the child's need and best interests, not their parents' immigration status.
- Extends provision for securing Indefinite Leave to Remain (ILR) through the Domestic Violence Rule to any migrant survivor of domestic abuse in the UK; and extends the scope and duration of the Destitute Domestic Violence Concession (DDVC) accordingly.

No Recourse to Public Funds

NRPF is a condition imposed on someone due to their immigration status.¹ Section 115 of the Immigration and Asylum Act 1999² states that a person will have NRPF if they are 'subject to immigration control'. A person is subject to immigration control if they have:

- Leave to remain or enter the UK with the NRPF condition, examples include: spouse visa, student visa, limited leave granted under family or private life rules.

¹ <http://www.nrpfnetwork.org.uk/information/Pages/who-has-NRPF.aspx>

² <http://www.legislation.gov.uk/ukpga/1999/33/section/115>

- Leave to remain or enter the UK that is subject to a maintenance undertaking, examples include: ILR as the adult dependent relative of a person with settled status.
- No leave to remain or enter when the person is required to have this, examples include: visa over-stayers or asylum over-stayers, undocumented people and illegal entrants.

Number of families barred from accessing public funds

Children’s access to public funds is dictated by their parents’ eligibility, even if the children are British nationals, or have secure status in the UK. This means that affected children and families are prevented from accessing in-work and out-of-work benefits such as child benefit, tax credits, Universal Credit, income support, local welfare assistance schemes, housing benefit and social housing. They also miss out on passported benefits specifically targeting disadvantaged families such as Free School Meals, Pupil Premium and for some, the disadvantaged two-year-old offer of nursery places. The Children’s Society have undertaken extensive work into the effect this has on children, from their development to the increased risks that they face.

The Children’s Society’s research has found that, between 2013 and 2015, more than **50,000 individuals** with dependants were granted leave to remain in the UK along with an NRPf condition, which means they have no access to mainstream welfare support.³ According to the University of Wolverhampton and the Greater London Authority, there are currently **250,000 undocumented migrant children living in the UK** and more than half of them were born here.⁴ This means there are hundreds of thousands of families and children living in the UK without a welfare safety net to fall back on if abuse starts occurring within the home.

Furthermore, as the UK leaves the European Union, the number of families without access to public funds is set to rise. Between 3-4 million EU nationals, including an estimated 700,000 children with non-Irish EU parents⁵, will become subject to immigration control following Brexit. The Children’s Society have consistently highlighted the likelihood that some vulnerable groups will be unable to apply before the EU Settlement Scheme deadline⁶, and will therefore become undocumented and not be able to access public funds.

Case study from Project 17

Maria came to the UK from the Caribbean. She had limited leave to remain with NRPf. Her partner became extremely abusive after they had a child. Maria was living in her partner’s accommodation and had nowhere else to go. She felt trapped. When she approached social services for help, she was interviewed by an immigration officer from the Home Office. Maria was then refused support and told social services couldn’t help her. Maria also applied to the Home Office to get her NRPf condition lifted, but they didn’t believe she was destitute. With the support of Project 17 and after a solicitor threatened the local authority with legal action, Maria and her daughter were provided with accommodation.

Section 17 support for victims of domestic abuse with NRPf

Without the welfare safety net, families are often forced to turn to local authority Children’s Services for support under Section 17 of the Children Act 1989.⁷ This legislation outlines the duty of local authorities in England and Wales to safeguard and promote the wellbeing of children in their area who are ‘in need’ and to promote the upbringing of children by their families. In reality, Section 17 is increasingly being used as a safety net for families who fall through the gaps of mainstream welfare benefit provision, though it was not designed for this purpose⁸. Data from the NRPf Network shows that in 2017-2018, of the 1,805 families

³ <https://www.childrenssociety.org.uk/sites/default/files/making-life-impossible.pdf>

⁴ <https://www.london.gov.uk/what-we-do/communities/migrants-and-refugees/londons-children-and-young-people-who-are-not-british-citizens>

⁵ <https://migrationobservatory.ox.ac.uk/children-under-the-age-of-18-by-nationality-2018/>

⁶ <https://www.childrenssociety.org.uk/what-we-do/resources-and-publications/eu-settlement-scheme-in-relation-to-looked-after-children-and>

⁷ <https://www.legislation.gov.uk/ukpga/1989/41/section/17>

⁸ Support by local authorities is provided under s17 Children Act 1989 or equivalent legislation in Scotland. Section 17 places a duty upon local authorities to provide services for children and their families, where children are found to be in need in their area.

⁹ <https://www.project17.org.uk/seen-and-heard>

supported by 50 local authorities,¹⁰ 12% were families with an NRPF condition attached to their leave.¹¹ Local authorities are struggling to keep up with the needs of children in these circumstances.

The Children's Society's services across the country and Project 17's service in London support families with NRPF that are fleeing domestic abuse. Through this, we have encountered families facing a number of difficulties when approaching local authorities for Section 17 support. **This includes social workers assessing that it is safe for children to be placed with the abusive parent, as they have access to secure accommodation and income**, even in cases where that parent has previously posed a safeguarding risk following violence towards the children. We have also encountered local authorities threatening to take children into statutory care rather than support a destitute parent (without leave to remain) who is fleeing abuse along with their children, even when the parent has not been identified as posing any safeguarding risks to their children.

We have experienced **local authority practice where Section 17 support is refused to a destitute family fleeing domestic abuse, on the basis that they do not have a pending immigration application**. Although we recognise the pressures on local authorities, in some cases this practice prevents vulnerable children and families from accessing vital support. This creates a culture of fear, where families in dangerous circumstances are too afraid to approach local authorities for support in case the victim is forcibly separated from their children. We always attempt to exhaust advocacy routes first. However, in many cases our organisations have found it is only following legal intervention that families are able to get the support they desperately need to safeguard children and parents.

The Domestic Abuse Bill's accompanying guidance should protect against such instances of local authority gatekeeping by making it clear that Section 17 support for children is based on the child's need and best interests, not their parents' immigration status.

Case study from The Children's Society

Ruth and her four-year-old son were living with her British partner. There were escalating incidences of domestic violence from her abusive partner towards her, on one occasion she was badly beaten up and the police were called. The case was put on record. Ruth desperately wanted to leave the property. A referral was made to social services. The allocated social worker did an assessment and said the family needed alternative accommodation as it was not safe and the child was at risk. When the case was sent over to the NRPF team, there was no response for months and the team still have not done anything about the case. The mother has limited leave to remain so can work full-time, but on minimum wage with NRPF. This means she cannot earn enough money to raise a deposit and find somewhere alternative to live with her son. They are being forced to stay living with her abusive partner in the property. At the time of this briefing, The Children's Society had instructed a solicitor and the mother was going to challenge the local authority to take action.

Domestic abuse, NRPF and destitution

The families The Children's Society, Project 17 and The Unity Project support within our services are often at the epicentre of multiple disadvantage. Research has shown that 89% of families with NRPF receiving support under Section 17¹² and 85% of those who have applied to the Home Office to request recourse to public funds due to destitution were single-parent families¹³, mainly headed by mothers. Our services have seen a similar trend. Our practitioners report that following a family separation due to domestic abuse, previously stay-at-home mothers are inevitably then required to find work – this is a time consuming and difficult process as they have often been out of work for a number of years and have experienced trauma related to their experiences of domestic abuse. Without the support of public funds such as job seekers' allowance, these now single-parent families are often pushed into abject poverty. The cycle of abuse,

¹⁰ The data is based on information from 50 local authorities that use the NRPF Connect database.

¹¹ <http://www.nrpfnetwork.org.uk/Documents/NRPF-connect-annual-report-2017-18.pdf>

¹² Price, J. and Spencer, S. (2015) Safeguarding children from destitution: Local authority responses to families with 'no recourse to public funds': <https://www.compas.ox.ac.uk/project/local-government-welfare-responses-to-children-and-families-who-have-no-recourse>

¹³ Woolley, A. (2019) Access Denied: The cost of the 'no recourse to public funds' policy: <https://www.unity-project.org.uk/research>

vulnerability and poverty is all too clear – these families are at breaking point and systematic barriers and cycles such as this are preventing victims from leaving abusive partners.

The coercive control a perpetrator often has over their victim means there are many layers of internal and external barriers that prevent victims from leaving their abusive partner. Victims for example first need to consider the welfare and stability of their children as well as their own emotional and physical well-being. Many of these barriers are also socio-economic – a victim needs to judge whether they are financially capable of becoming a single-parent family. What's more, if a victim is unable to access public funds or support from the local authority this often results in further harm as they lack the financial resource and statutory support to leave their abusive partner.

In addition, a victim's irregular immigration status is often used as a means of control, making them acutely vulnerable to further abuse on this basis. For example, we know of perpetrators **using threats of reporting their victims to the Home Office and other authorities as a control tactic**, when that victim has no leave to remain and cannot access most public funds. Our practitioners tell us that parents are often afraid to go to the police for fear of detention, forced removal or that their children will be taken away by the authorities.

The Children's Society have supported mothers who did not know their current immigration status because it had been tied to their abusive partners and they were kept uninformed. The NRPf condition – and particularly an irregular or undocumented immigration status – leads to a high level of vulnerability and often perpetuates the abuse and exploitation of parents subject to NRPf conditions. As one practitioner stated in our research:

“A lot of the time, we have people coming to us saying my partner said if you leave, you'll get deported. If you leave, they'll take your children away. You can't leave because you're here illegally...that is really common, we hear that time and time again.”

Case study from First Love Foundation (FLF)

Tamma and her family were referred to FLF in October 2018 after her partner Sayid was arrested and charged with domestic abuse related offences. Tamma had approached her local jobcentre for assistance but was turned away. The family were assessed for Section 17 support but no financial assistance was made available. Tamma could not afford school uniform for her youngest child. Their social worker reported that the family had very little furniture in their home and that the accommodation was in a pitiful state. The family became at risk of eviction when a Section 8 Notice seeking possession was served due to unpaid rent.

Tamma's children were assessed as being at risk of neglect and became subject to Child Protection proceedings. In the meantime, Sayid was given an eight-week suspended sentence and released due to time already served. Sayid immediately returned to the family home, and due to her financial situation, Tamma decided to reconcile with Sayid, believing her children would be better off as he would be able to access welfare benefits until he could source another job. Safeguards were put into place and the family were supported to apply for Universal Credit.

FLF generally works with clients from 3-5 weeks with a maximum of 3-4 hour sessions. This case took six months, 23 phone calls, 54 interagency emails and 20 sessions with the family. FLF have calculated this case took approximately 80 hours of the project worker's time.

Domestic Abuse Bill: What needs to improve?

Under section 2.1 of the draft bill it states that 'No child should ever experience the trauma caused by domestic abuse'¹⁴. Children's access to public funds is tied to their parents and while the bill acknowledges the adverse impact domestic abuse has on children, it affords no further protection to migrant victims of domestic abuse migrant families with insecure immigration statuses and NRPf and therefore children within these families, despite the overwhelming evidence that being destitute is linked to experiences of domestic abuse.

¹⁴https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772202/CCS1218158068-Web_Accessible.pdf

The Destitute Domestic Violence Concession (DDVC) is one route to support for some migrant victims of domestic abuse. The DDVC provides temporary access to public funds and eligibility to apply for ILR using the Domestic Violence Indefinite Leave (DVILR) provisions within the Immigration Rules. **However a victim can only apply for the DDVC if they have been granted a visa or leave to remain as the spouse or partner of a British Citizen or settled person.** It does not cover those victims, for example, who come to the UK on their own and experience domestic abuse.

The **Bill should recognise that all survivors of domestic abuse, regardless of age or immigration status, are entitled to support**, equal access to welfare systems and other such legal tools that can provide protection from abuse. It is concerning that the proposed elements of the bill pertaining to support for migrant women do not address the complex barriers and multiple disadvantages they face. These are often further compounded by the 'hostile environment' policies that limit access to vital services because of immigration status.

The Children's Society, Project 17 and The Unity Project are supporting calls from the Violence Against Women and Girls sector to amend the Domestic Abuse Bill to ensure it protects all survivors of domestic abuse. The government have a duty under the UNCRC to ensure every child can live free from abuse – yet the limited routes available for migrant victims of domestic abuse to apply for secure immigration status means migrant children and their non-abusive parent are often trapped within a cycle of destitution, vulnerability and abuse.

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