



Leave to remain with ‘No Recourse to Public Funds’

A guide for immigration practitioners preparing a ‘change of conditions’ application for people who are destitute

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What is the 'NRPF' condition?

Most people with limited leave to remain have a 'no recourse to public funds' or 'NRPF' condition attached to their leave. This means that the holder of leave will not be able to access:

- Most welfare benefits
- Social housing and homelessness support from the local council

A list of what counts as a public fund is found at Section 115 of the Immigration and Asylum Act 1999 and paragraph 6 of the Immigration Rules.

It does not include education or NHS services and therefore the NRPF condition does not prevent people accessing these.

It also does not include local authority support such as support under S.17 Children's Act 1989.



What is a 'change of conditions' application?

In certain circumstances it is possible to apply for the NRPF condition to be removed after leave is granted. This is known as a 'change of conditions' application.

This application can only be made *after* leave to remain has been granted.

If successful, the NRPF condition will be removed for the length of the remaining leave, enabling the holder to access welfare benefits and housing assistance.



There is no Home Office fee to pay, so applications are free to submit.

There is no legal aid available for these applications.

Who can apply?

A person can only apply for a change of conditions if they have already been granted leave to remain in the UK under one of the following categories:

1. As a **partner or parent** under paragraph EX.1 of Appendix FM (10 year route to settlement). This includes leave:
 - As a partner of a British or settled person
 - As a parent of a British child, or a child who has resided in the UK for at least 7 years
2. **Private life** (under paragraph 276 ADE of the Immigration Rules). This includes leave granted to persons:
 - Who have lived in the UK continuously for at least 20 years
 - To children (under 18) who have lived in the UK for at least 7 years and it would not be reasonable to expect them to leave the UK
 - To persons aged between 18 and 25 years old, who have lived in the UK for more than half their life
3. Outside the rules on the basis of **exceptional circumstances** relating to family or private life.

NOTE: If a person has leave under Appendix FM other than under paragraph EX.1, applying for a change of conditions will alert to the Home Office to the fact that the person no longer meets the financial requirements and their leave may be curtailed.

What does the applicant need to show?

The applicant will also need to show that one of the following circumstances applies in their case:

Since being granted leave to remain their financial circumstances have changed and they:

- have become destitute; or
- there are now particularly compelling reasons relating to the welfare of a child on account of the parent's very low income; or
- there are now exceptional circumstances relating to their financial circumstances.

Alternatively, the applicant may show that one of the above circumstances applied at the time that the leave to remain decision was made, but no evidence of this was submitted to the Home Office.



What is 'destitution'?

The Home Office uses the definition of destitution set out in s.95(3) of the Immigration and Asylum Act 1999:

s.95(3). This provides that a person is destitute if:

- (a) he does not have adequate accommodation or any means of obtaining it (whether or not his other essential living needs are met); or
- (b) he has adequate accommodation or the means of obtaining it, but cannot meet his other essential living needs



It is not necessary for a person to be street homeless for their accommodation to be 'inadequate.' What counts as 'adequate accommodation' will be different in different cases, for example a person may have a disability and require adaptations to be made to their home.

Accommodation or financial support provided under section 17 of the Children Act 1989 or the Care Act 2014 will not stop a person showing they are destitute, in fact it should help their case.



How to apply

In order to request a change of conditions the applicant must provide the following:

1. A completed 'request for a change of conditions of leave granted on the basis of private or family life' form. This can be downloaded from www.gov.uk;
2. Their existing Biometric Residence Card and Passport;
3. Documentary evidence that they meet the requirements of the policy granting recourse to public funds.

The address to send the application to is on the form. The application should be sent by recorded delivery.

Providing sufficient evidence that the requirements of the policy are met is key to preparing a successful change of conditions application.

If insufficient evidence is provided, the Home Office will refuse to change the conditions of leave.

Witness Statement

The applicant should provide a witness statement setting out the following information:

1. What their current **financial circumstances** are and how they are maintaining themselves and any dependents. They should list all sources of income and explain whether they are regular and can be relied on (*e.g. friends, employment, child support*)
2. If applicable, how and why their **circumstances have changed** (*e.g. separation from partner, their friends are no longer able to support them, job loss*)
3. If they are a single parent, whether they have sought/receive **child maintenance** from the other parent (*if they don't get support, encourage them to contact Child Maintenance Options on 0800 988 0988. Explain this action in their statement or explain why it is not practical e.g. the other parent is not in UK or their identity is not known etc*)
4. Their **housing situation**, and whether it is stable and adequate (*e.g. they are living with friends and have been asked to leave, rent arrears, overcrowding, eviction, 'sofa surfing'*)
5. If **working** part-time, explain why they cannot work longer hours (*e.g. childcare, health problems*)
6. If **not working**, explain why this is (*e.g. very young children, illness or disability*)
7. Steps taken to **improve their situation** and why they have not worked (*e.g. job applications and outcomes, property searches and the outcome*)

Evidence of Housing

The applicant should include as many of the following documents as possible. Always use original documents:

1. Letter from local authority confirming any support provided under s.17 Children's Act 1989
2. A letter from any person providing accommodation explaining
 - a. the arrangement (e.g. whether they pay rent or stay for free)
 - b. where the person sleeps and if there is enough space
 - c. the reason and date they need to leave (if applicable)
3. Letters from professionals confirming the housing situation (charities, GP, health visitor, school, church) and the impact this has on the family
4. Tenancy agreement
5. Rent account showing arrears
6. Notice to quit from landlord
7. Letters from court
8. Possession order from the court
9. Warrant from the court
10. of inadequate accommodation

Evidence of Income

The applicant should provide as many of the following documents as possible. Always use original documents:

1. Most recent 6 months' **bank statements** for all accounts in UK and abroad. *These should be originals. If printouts are provided by the bank they must be certified as genuine by the bank on each page. Statements should be annotated with an explanation for all income and expenditure (alternatively this could be set out in a witness statement)*
2. Award letters for any **benefits** received. *If the applicant has been claiming benefits they are not entitled to, advise them close the claims before submitting the application and provide evidence that claims have been closed.*
3. Letter confirming any **child maintenance** received or attempts to access child maintenance
4. Statements confirming any **support from friends or family**. *These should be signed and dated and detail:*
 - a. *Amount and type of support and whether it is regular or a one-off*
 - b. *Whether it can continue or will stop (if stopping, explain when)*
 - c. *Why they cannot do more (e.g. they cannot afford it)*
5. Letter from the Local Authority confirming **support under s.17** of the Children's Act 1989 *(this should specify the date when support started and the amount of any subsistence received)*
6. **Letters from any professionals** who are providing financial support or who can confirm the financial situation and the impact that it is having on the family (charities, GP, health visitor, school, church)
7. Proof of receipt of **food bank vouchers**.

Evidence of employment

The applicant should include as many of the following original documents as possible:

1. Contract of employment
2. Most recent 6 months' payslips for all jobs
3. P45
4. P60
5. If job-hunting, copies of applications and rejection letters

Evidence of debts

Depending on the applicant's circumstances this may include the following documents:

1. Credit card statements
2. Store card account statements
3. Correspondence from debt recovery agencies
4. Correspondence from utility providers or other companies regarding overdue payments
5. Warning or Final demand letters
6. A default notice or a letter before action
7. Court Orders

Evidence of expenses

The applicant should include as many of the following original documents as possible:

1. **Utility bills** dated within last 6 months (*e.g. gas, electricity, water*)
2. **Mobile phone** contract/bills
3. If the person tops up their mobile phone or pays gas and electric on the meter, they should provide **receipts**
4. Evidence of payment of **TV License**
5. **Estimated expenditure** on food, toiletries and clothing (and receipts where possible)
6. **Travel receipts** (*where a smartcard such as an Oyster is used, print the journey history*)

You should provide a table showing monthly income and expenditure.

Source of income	Amount	Frequency	Evidence
<i>Wages</i>	<i>£280.00</i>	<i>Monthly</i>	<i>Payslips, contact of employment and annotated bank statement</i>
<i>Working Tax credit</i>	<i>£201.57</i>	<i>2 weekly</i>	<i>Benefit award letter and bank statement</i>
<i>Sarah Smith (aunt)</i>	<i>£150</i>	<i>Monthly</i>	<i>Letter from Sarah Smith and bank statement</i>
Expenditure	Amount	Frequency	Evidence
<i>Rent</i>	<i>£400</i>	<i>Monthly</i>	<i>Tenancy agreement and annotated bank statement</i>
<i>Food</i>	<i>£400 (approx.)</i>	<i>Monthly</i>	<i>Estimated, see also annotated bank statements</i>
<i>Gas</i>	<i>£63</i>	<i>Monthly</i>	<i>Utility bill and annotated bank statement</i>

Other evidence

Include as many of the following as possible.

1. **Medical evidence**/evidence of any disabilities;
2. Evidence of **domestic violence**
3. **Anything else** which may help to demonstrate the applicant's circumstances

And finally...

Remember that if successful the NRPf condition will only be removed for the duration of the period of leave to remain. If the applicant does not provide evidence that they are destitute at the time of their next immigration application for further leave, the NRPf condition will be imposed again.

There is no right of appeal against a refusal to change conditions. The only option is to submit a new application with further evidence, or if it appears that refusal decision was unlawfully made, to apply for Judicial Review.

