



Introduction

Food poverty is a growing concern in the UK. Dowler et al defines food poverty as ‘the inability to acquire or consume an adequate or sufficient quantity of food in socially acceptable ways, or the uncertainty that one will be able to do so.’¹ Food poverty increases across the UK have emerged in the context of austerity, welfare reform, rising cost of living, increases in food and fuel prices, and stagnant wages. An assessment of welfare reforms since 2010 showed that these policies affected those in the bottom income deciles the most, in particular, single parents, ethnic minorities, migrants and people with disabilities.² A recent study on household food poverty in low-income families found that welfare and immigration policies were ‘creating hunger among children and families’³. The link between welfare reform and food poverty is well understood, but there is little research around the relationship between immigration policy and food poverty. As such, this briefing explores the ways in which the ‘no recourse to public funds’ condition causes food poverty within some migrant communities.

¹Dowler, E., Turner, S., and Dobson, B. (2001). *Poverty Bites: Food, Health and Poor Families*. London: Child Poverty Action Group

²Portes, J. and Reed, H. (2018). *The Cumulative Impact of Tax and Welfare Reforms*. Manchester: Equality and Human Rights Commission. <https://www.equalityhumanrights.com/sites/default/files/cumulative-impact-assessment-report.pdf>

³O’Connell, R., Knight, A., and Brannen, J. (2019). *Living Hand to Mouth: Children and Food in Low-Income Families*. London: Child Poverty Action Group

1. No recourse to public funds

'No recourse to public funds' (NRPF) is an immigration condition imposed on people 'subject to immigration control'.⁴ It affects both migrants without leave to remain in the UK and individuals with time-limited leave subject to an NRPF restriction, as well as those who have leave as a result of a maintenance undertaking (e.g. a sponsor has agreed to cover their expenses and accommodation). A person with NRPF cannot access most welfare benefits or social housing, but they can access publicly funded services that are not listed as 'public funds' for immigration purposes. Individuals without leave to remain in the UK are also not legally entitled to seek paid employment.

The NRPF condition is one of a number of immigration policies that are among the key causes of destitution amongst migrant communities. Research has found that women, disabled people, pregnant women, and children are disproportionately impacted by the negative effects of the NRPF condition.⁵

Without the safety net of social security, many individuals with NRPF end up living in extreme poverty and become totally

reliant on support from food banks, charities, friends, and faith groups.⁶

The government does not hold data on the number of people with NRPF but research has estimated that there are between 373,000-719,000⁷ undocumented migrants and 120,000 undocumented children in the UK.⁸ The overall number of children affected by NRPF is likely to be higher as it would include children with permission to live in the UK and children with British citizenship whose parents have NRPF.

1.1 Asylum support

Destitute asylum seekers can access asylum support under Section 95 and Section 4 of the Immigration and Asylum Act 1999.

Accommodation and/or cash support under Section 95 can be provided once a person has submitted their asylum claim until a final decision had been made on their claim. If people are granted refugee status, they can seek employment and access standard benefits.

Support levels are very low at £37.75 per person per week or just over £5 a day.

⁴Section 115 Immigration and Asylum Act 1999
<https://www.legislation.gov.uk/ukpga/1999/33/contents>

⁵Woolley, A. (2019). *Access Denied: The cost of the "no recourse to public funds" policy*. London: The Unity Project
<https://static1.squarespace.com/static/590060b0893fc01f949b1c8a/t/5d0bb6100099f70001faad9c/1561048725178/Access+Denied+-+the+cost+of+the+No+Recourse+to+Public+Funds+policy.+The+Unity+Project.+June+2019.pdf>

⁶Dexter, Z. et al. (2015). *Making Life Impossible: How the needs of destitute migrant children are going unmet*. London: The Children's Society

<https://www.childrenssociety.org.uk/sites/default/files/making-life-impossible.pdf>; Jolly, A. (2018). "You Just Have to Work with

What You've Got" Practitioner Research with Precarious Migrant Families. *Social Work in Action*, 30(2), 99-116
<https://doi.org/10.1080/09503153.2017.1385756>

⁷ Gordon, I. et al. (2009). *Economic impact on the London and UK economy of an earned regularisation of irregular migrants to the UK*. London: Greater London Authority

⁸Sigona, N. and Hughes, V. (2012). *No Way Out, No Way In: Irregular Migrant Children and Families in the UK*. Oxford: Oxford University Press
https://www.compas.ox.ac.uk/2012/pr-2012-undocumented_migrant_children/

Section 4 support, provided to refused asylum-seekers who meet a narrow set of criteria⁹, is even lower—£35.39 per person per week alongside accommodation.

Small additional payments are available to pregnant women (£3 a week) and mothers of children under 3 (£5 a week for babies under 1 and £3 a week for 1-3 year olds).

Home Office decision making around entitlement to asylum support can be poor, with decisions on destitution overturned on appeal at a rate of between 60% (2015) and 82% (2008).¹⁰ Asylum seekers can also experience lengthy delays before receiving a decision on their application.¹¹

1.2 Local authority support for families with NRPF

Many families with NRPF will not be eligible to claim asylum, but may be able to regularise their immigration status on human rights grounds. They will therefore be unable to access asylum support or mainstream welfare benefits and social housing. In these circumstances, families may be able to access accommodation and limited financial support from a local authority under Section 17 of the Children Act 1989. Section 17 places a duty on local authorities to safeguard and promote the welfare of children 'in need' in their area. An estimated 5,900 children from families

with NRPF across England and Wales received section 17 support in 2012-2013.¹² But the pressures of austerity and cuts to local authority budgets have left local authorities largely unwilling and unable to provide such support. Six in ten families who try to access section 17 support are refused and unlawful local authority 'gatekeeping' is widespread.¹³

There is no statutory guidance on the provision of Section 17 support for this purpose, which means support varies considerably across local authorities. Rates of financial support can be as low as £2 per person per day, and families in receipt of support are often unable to afford essential items such as school uniform, nutritious food and transport.¹⁴

⁹ ASAP (2018). *Section 4 Support*. http://www.asaproject.org/uploads/Factsheet_2_-_Section_4_support.pdf

¹⁰ ASAP (2015). *A Decade of Disbelieving Destitution*. <http://www.asaproject.org/uploads/ASAP-Summary-A-Decade-of-disbelieving-destitution-Oct-2015.pdf>

¹¹ Ibid.

¹² Price, J. and Spencer, S. (2015). *Safeguarding children from destitution: Local authority responses to families with 'no recourse to public funds'*. Oxford: Oxford University Press

www.compas.ox.ac.uk/

¹³ Dexter, Z. et al. (2015)

¹⁴ Ibid.

Case study

A and her partner have 4 young children. A has an outstanding immigration application but is unable to work or access public funds because of her immigration status.

A can only buy fruit and vegetables about once a month. She cannot afford breakfast so the children do not eat in the mornings, they simply drink milk.

One of the children has developed a stomach problem because she does not have a sufficiently nutritious diet. A is forced to regularly skip meals and was unable to breastfeed her two youngest children as she was not eating enough to produce breast milk.

When A approached social services for support under section 17, she was wrongly refused because the family were not homeless. After advocacy support from Project 17, the family were provided with just £61.80 a week.

1.3 Food poverty amongst families with NRPF

Many families with NRPF are unable to afford or access adequate or nutritious food partly because of their exclusion from the welfare system.

This issue can be further compounded by the fact that many of the families who are food insecure live in unsuitable accommodation, such as B&Bs, without access to adequate cooking facilities and

storage.¹⁵ Recent research by Project 17 found that the children involved in their study reported issues with accommodation provided by local authorities such as living with rats, not having access to cooking facilities, cockroach infestations and not having basic furniture such as a table or chairs to eat off.¹⁶

A number of measures that currently exist to help mitigate food insecurity for pregnant women and children, such as Healthy Start Vouchers or Free School Meals, are not accessible to people with NRPF due to the fact that the eligibility criteria for many of these schemes is tied to 'qualifying benefits', which means they are ineligible.

It would only cost the government £437 per year to provide a child with a school meal during term time.¹⁷ The United Nations Committee on Economic and Social Rights states that "all children within a State, including those with an undocumented status, have a right to receive education and access to adequate food and affordable health care". Yet children whose parents have NRPF—excepting those in receipt of Section 95 asylum support—are currently unable to automatically access free school meals beyond year 2, when universal free school meal entitlement ends.¹⁸ Many families cannot afford to fund their children's meals, and without

¹⁵Dexter, Z. et al (2015); Threipland, C. (2015). *A Place to Call Home: A report into the standard of housing provided to children in need in London*. London: Hackney Community Law Centre <https://www.hclc.org.uk/wp-content/uploads/2015/12/A-Place-To-Call-Home-Electronic-Report1.pdf>

¹⁶ Dickson, E. (2019). *Not Seen, Not Heard: Children's Experiences of the Hostile Environment*. London: Project 17

<https://www.project17.org.uk/media/70571/Not-seen-not-heard-1-.pdf>

¹⁷Long, R. (2017). Briefing paper: School meals and nutritional standards (England).

https://dera.ioe.ac.uk/30596/1/SN04195_Redacted.pdf

¹⁸<https://www.gov.uk/guidance/universal-infant-free-school-meals-guide-for-schools-and-local-authorities>

provision from the school these children are faced with the choice of either skipping meals or being pushed into debt.¹⁹

The consequences of food insecurity in childhood can result in both short term and long term physical and mental health problems including poor growth, lower academic achievement, as well as an increased risk of serious diseases such as cancers or heart disease.²⁰

The current policy of many emergency food aid providers is to only provide a limited number of vouchers per year to individuals who access their services. This short-term support is often inadequate for individuals with NRPF, who may live in extreme poverty for extended periods of time with little to no access to other forms of support. The Children's Society has also reported that individuals with NRPF are sometimes unable to access food banks because their immigration status presents 'an anomaly which food banks sometimes aren't able to effectively process.'²¹

It is important to recognise that emergency food aid will not be able to tackle the underlying issues that are causing food insecurity. It is therefore crucial that the focus be put on efforts that tackle the overarching policies that cause destitution and hardship.²²

¹⁹<https://nelmacampaigns.wordpress.com/free-school-meals/>

²⁰O'Connell, R., Knight, A, and Brannen, J. (2018). *Holiday hunger requires radical long term solutions*. London: The BMJ. <https://blogs.bmj.com/bmj/2018/08/15/holiday-hunger-requires-radical-long-term-solutions/>

²¹Dexter, Z. et al (2015)

Case study

B has an outstanding immigration application with the Home Office and is awaiting the outcome. She has no right to work and cannot access public funds.

One of B's children, C, developed the eating disorder Pica, characterised by sufferers eating non-nutritional items and was assessed by a practitioner. C was regularly eating plasterboard, foam like materials from his pillow, stuffing from his coat and fibre from his socks and jumpers. C felt a lot of shame about this.

The practitioner concluded that it was difficult for C to be supported to reduce the amount of foam and plasterboard he was eating as he was extremely hungry. C told his mum the main reason he was eating the non-food items was because he was so hungry.

2. Right to Food

The right to food is enshrined in a number of human rights standards including the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights.²³ The right to food is seen as indispensable

²² Sustain (2019) Why we need the right to food https://www.sustainweb.org/publications/why_we_need_the_right_to_food/?section=

²³United Nations Office of the High Commissioner for Human Rights. (2010). *The Right to Adequate Food*. New York and Geneva: UN

to the fulfilment of all other rights included in the International Bill of Human Rights.²⁴

In accordance with human rights standards, states should ensure that all people within *their borders* regardless of their immigration status are able to access food and other necessities such as healthcare or shelter without any form of discrimination.²⁵ However despite the UK government making numerous commitments to the Right to Food on the international stage, we currently lack a legally binding right to food framework.²⁶

We suggest that the lack of a domestic right to food framework is an important factor which allows for an estimated 8.4 million people in the UK to experience household food insecurity.²⁷ Despite insufficient data, we are still able to see that some groups of people are disproportionately affected. For example 3% of food bank users are asylum seekers yet only 0.1% of households in the UK apply to seek asylum, and single parents, of which 90% are women, are twice as likely to be food insecure than the average population.²⁸

The right to food would guarantee that the state is legally obliged to provide secure the conditions whereby its citizens are able to eat well, and must offer assistance when they are unable to do so unaided. This requires integrating the right throughout decision making, and providing scope for challenge and remedies when the right is breached.

²⁴Office of the High Commissioner for Human Rights. (1999). *CESCR General Comment No. 12: The Right to Adequate Food (Art. 11)* <https://www.refworld.org/pdfid/4538838c11.pdf>

²⁵United Nations Office of the High Commissioner for Human Rights. (2014). *The Economic, Social and Cultural Rights of Migrants in an Irregular Situation*. New York and Geneva: UN https://www.ohchr.org/Documents/Publications/HR-PUB-14-1_en.pdf

²⁶Sustain (2019) Why we need the right to food

https://www.sustainweb.org/publications/why_we_need_the_right_to_food/?section=

²⁷Taylor, A. and Loopstra, R. (2016) *Too Poor to Eat: Food Insecurity in the UK*. London: The Food Foundation

²⁸Singh, J. (2019) *Research and Creativity: Making a Play about Food Poverty in the UK*. <https://www.peoplesknowledge.org/creativityfoodpoverty/>

Conclusion

This briefing has suggested that the NRPF condition is a driver of food poverty. The immigration condition restricts some migrants from having the financial means through work or entitlements to welfare benefits to access sufficient nutritional and culturally appropriate food. As a result, individuals experience food poverty over extensive periods of time, and are often forced to rely solely on support from food aid providers, charities, religious organisations, and friends.

There are currently insufficient legal safeguards in place to prevent anyone, including migrants with NRPF, from experiencing food poverty. To tackle hunger amongst individuals affected by NRPF we suggest a twofold approach: tackling food poverty on a universal basis whilst at the same time bringing an end to an immigration policy effectively facilitating destitution.

Recommendations

1. The extension of universal free school meals beyond year 2 so that no child goes hungry during the school day.
2. The development of a right to food framework that includes a legally binding universal right to food alongside broader incorporation of socio-economic rights.
3. The abolishment of the 'no recourse to public funds' condition in order to safeguard migrant communities from destitution.
4. For the government to ensure that immigration policy is in line with its international human rights obligations.
5. Ensure that the government has robust monitoring of household food insecurity that takes into account all vulnerable groups, including individuals with NRPF

Glossary

No recourse to public funds: an immigration condition imposed on people 'subject to immigration control' (Immigration and Asylum Act 1999). The definition of a person 'subject to immigration control' covers non-EEA nationals who fall into one of the following categories:

- Needs leave to enter or remain in the UK, but does not have it;
- Has leave to enter or remain, which is subject to a 'no recourse to public funds restriction'
- Has leave to remain given as a result of a maintenance undertaking (e.g. a sponsor has agreed to cover their costs and accommodation)
- In some cases, where someone is appealing a refusal to vary their leave.

Right to Food: "the right to have regular, permanent and free access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life, free of fear".¹

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