

COVID-19 Response Planning: Supporting Migrants with No Recourse to Public Funds

A framework to support local authorities and their partners in local decision making

What is the purpose of this document?

To provide guidance for local decision-making on supporting people with No Recourse to Public Funds (NRPF) during the COVID-19 outbreak. Local authorities have statutory safeguarding duties towards all people in Scotland, regardless of their immigration status. They also have duties to protect public health. The guidance sets out considerations for fulfilling these duties during this period and supporting people who are additionally vulnerable because of their immigration status

Who does the guidance relate to?

- **Migrant workers, students and people with spousal visas** who have lawful leave to remain subject to NRPF conditions;
- **Migrants from outside of the European Economic Area (EEA) who have overstayed their visas** [*Note: the Home Office have put in place provisions for those whose visas are due to expire between January and May 2020*]
- **Refused Asylum seekers** who are appeal rights exhausted (ARE asylum seekers)
- **Some EEA and Swiss citizens** who are not working, job-seeking or self-employed and have not yet applied for Settled Status.

The guidance **does not** directly relate to support for asylum seekers and refugees, because they have different entitlements to services. Refugees have recourse to public funds and should be supported in the same way as any other local resident. Asylum seekers, who would otherwise be destitute, are entitled to accommodation and support from the Home Office.

Who should read it?

- Local authority officers including health and social care, adult protection and children's services, housing and homelessness and welfare advice
- NHS Directors of Public Health and IJB Chief Officers
- Those involved in local resilience partnerships
- Anyone who is involved in planning and providing support to migrant communities or individuals during the COVID-19 outbreak.

The guidance will be updated and reviewed periodically. Contact details for feedback and queries are provided at the end of the document.

COVID-19 Response Planning: Supporting Migrants with No Recourse to Public Funds

A framework to support local authorities and their partners in local decision making

This document provides a framework to assist local authorities and their partners to support people with NRPF during the COVID-19 pandemic. It sets out the legal basis and other considerations for providing support during the response phase of the pandemic, with a specific focus on people with NRPF who are roofless/rough sleeping, or vulnerable from a safeguarding perspective.

The framework is divided into four sections:

Section 1 (pages 2-10)

- provides information on the purpose and scope of the framework
- highlights risks for people with NRPF during the pandemic
- describes the support that can and cannot be accessed by people in these circumstances at UK level

Section 2 (pages 11-21)

- provides information on local actions that can be taken to support people
- suggests stages of an effective service response and funds that can be used
- outlines measures that can be taken to provide accommodation; financial assistance; food; healthcare and wider services

Section 3 (pages 22-25)

- Provides an overview of relevant legislation

Section 4 (page 26)

- Provides further links to useful information

SECTION ONE: INTRODUCTION AND CONTEXT

Local authorities and their partners are currently responding to a public health crisis due to the coronavirus (COVID-19) pandemic. This includes protecting people from the virus, supporting communities to comply with government advice on self-isolation and social distancing, and providing additional protection to especially vulnerable people. These measures apply to everyone in the UK, regardless of their nationality or immigration status. Local Government is also playing a crucial role in responding to the social and economic impacts of the pandemic and is providing a rapid humanitarian response within local communities to address food insecurity and poverty.

This framework is designed to assist local authorities to provide an effective and non-discriminatory public health and humanitarian response to support people with No Recourse to Public Funds (NRPF).

Key points

- **Local authorities have statutory Public Health duties to provide emergency accommodation to all people with NRPF who are roofless or rough sleeping during the pandemic in order to protect them from the virus and mitigate public health risks.**
- **They must also provide any support necessary to safeguard vulnerable people, including children in families with NRPF and adults with community care needs under statutory safeguarding duties.**
- **Local Authorities can provide financial support, food or other emergency assistance, so long as the source of funding is not a prohibited public fund (such as the Scottish Welfare Fund).**
- **Local authorities may want to work in partnership to ensure that support can be provided effectively to people with NRPF.**
- **In circumstances where an individual is receiving assistance solely on public health grounds, this will be provided on a temporary basis, as part of an emergency response to the COVID-19 pandemic.**
- **Any support provided and costs incurred should be clearly recorded and reviewed, in line with changes in public health advice and/or any relevant changes in UK immigration rules during this period.**

1.1 Strategic Position

On Friday 20 March 2020, COSLA Group Leaders unanimously agreed that Local Government should meet the accommodation and financial needs of people with No Recourse to Public Funds (NRPF), who require assistance, as part of the wider response to the COVID-19 outbreak. This reflects the statutory duties placed on councils to protect public health and to safeguard vulnerable people. This position, and the work of Local Government and partners to implement it, will help to ensure that public health and poverty mitigation measures in place to address the COVID-19 outbreak are accessible to everyone in Scotland.

The decision means in practice that local authorities **should**:

- provide temporary access to accommodation and, any necessary financial assistance, to support people with NRPF who are in need during this period;
- take any other relevant measures required to protect public health; and

- continue to support the needs of especially vulnerable groups, including families with children and adults with community care needs, under statutory safeguarding duties.

The Coronavirus Act 2020 reinforces the power of local authorities to act more quickly to provide emergency financial support or accommodation to all individuals in their area – regardless of immigration status – to support an effective public health response to COVID-19. The UK Government has specifically advised local authorities in England to utilise alternative powers and funding to assist those with NRPF who are sleeping rough. Their [letter](#) specified that, in ensure these groups are suitably accommodated, local authorities should “utilise alternative powers and funding to assist those with no recourse to public funds”.

The Scottish Government has announced a £350m community support package which should help local authorities and their partners to assist communities at highest risk – both in terms of complying with public health guidance, and poverty mitigation and other resilience measures. This funding package includes a £50m Hardship Fund and £30m of a Food Fund which will be distributed to Local Authorities to support local resilience, and is intended to support the types of interventions outlined in this guidance.

Despite these measures, local authorities will be under considerable pressure and that demands on services will be high. COSLA is therefore working with colleagues across the UK, including other Local Government associations and the third sector, to urge the UK government to lift NRPF restrictions during this period, and to make mainstream benefits and services fully accessible to everyone in the UK, regardless of their immigration status. This is in line with our longer term political position. A letter from COSLA, LGA and WLGA to the Home Secretary in this regard can be accessed [here](#).

At present UK Government policy is unchanged. However, on 6-7 May the High Court will hear a case on the legality of the NRPF policy, which could lead to significant change. COSLA will update local authorities on the outcome and any relevant implications for service delivery. In the meantime, it is advised that local authorities use this framework as they seek to support people with NRPF as part of their response to vulnerable communities.

1.2 Purpose and how to use the framework

The framework has been produced by COSLA with legal advice from JustRight Scotland. It has had input from local authorities, Public Health Scotland, NRPF Network, third sector partners and Scottish Government and draws on emerging evidence and resources available to support local authorities.

It should be read in conjunction with other relevant guidance, including:

- [COVID-19 Information and Guidance for Non-Health Care Settings](#)
- [COVID-19: Information and Guidance for Social and Community Care & Residential Settings](#)
- [Supplementary Child Protection Guidance](#)

- [Migrants' Rights and Entitlements to Local Authority Services and Support](#)
- [Coronavirus \(COVID-19\): Food Fund guidance for local authorities](#)
- A full list of [COVID-19 guidance](#) can be found on the Scottish Government's website.

It is **not** intended to constitute advice in relation to any specific case. Every attempt has been made to present up to date and accurate information, and it will be updated periodically. However the pace of change is very fast and local authorities should check whether there have been significant changes or announcements since the publication of this guidance.

Local authority decision makers are advised to check the current legal position and seek advice from their legal team on individual cases. They should also seek advice from key colleagues including Chief Social Work Officers, Heads of Housing, Integrated Joint Board Chief Officers, equalities officers, internal resilience teams, and NHS Directors of Public Health, and should refer to up to date public health advice on [NHS inform](#). Councils will additionally want to ensure that their approach to supporting people with NRPf takes full advantage of various other networks of support being developed and delivered both nationally and locally in response to COVID-19. This includes the £350m Communities Funding package made up of different funding streams which provide for essential assistance in local areas.

COSLA will regularly update the COVID-19 section of the [Migration Scotland](#) website with any further guidance, changes or additional information to assist councils with local responses. The NRPf Network have also produced a helpful [Fact Sheet](#) that may assist councils and they will be regularly updating their website with resources specific to people subject to immigration control.

1.3 Scope of the framework

Who does it apply to?

The framework is to assist councils in supporting anyone who is subject to NRPf conditions or other restrictions on access to public services applied through immigration legislation. At the time of publication this includes:

- **Non-EEA national students, workers and people with spousal visas** who have lawful leave to remain subject to NRPf conditions;
- **Non-EEA nationals who have overstayed their visas, and appeal rights exhausted (ARE) asylum seekers**, who no longer have leave to remain but are unable to return home and require assistance from the local authority; and
- **Some EEA and Swiss citizens who are not working, job-seeking or self-employed and have not yet applied for Settled Status.**

The UK is currently in the transition period and during this time EU citizens in the UK retain the rights that they had prior to the UK leaving the EU. An individual may have settled status, pre-settled status or they may not yet have applied to the EU settlement scheme. This should have no impact on their right to access services.

Who does it not apply to?

The guidance is **not** designed to meet the needs of asylum seekers, refugees or anyone who is entitled to access public funds, although some of the considerations may be applicable to support other vulnerable groups.

Asylum seekers

Someone who is seeking asylum, and would otherwise be destitute, is entitled to accommodation and financial assistance provided through the Home Office Asylum Support System. **Support may be required from the local authority to enable them to access this in the interim.** The Home Office is currently reviewing all its asylum processes and the situation is evolving fairly rapidly. Officers are advised to seek clarity from Scottish Refugee Council or the British Red Cross (contact details are provided at the end of the document) as to the basis on which current asylum seekers and a broader group of appeal rights exhausted (ARE) asylum seekers can access asylum support due to the COVID-19 epidemic, and UK and foreign government restrictions on travel.

Refugees

People with recognised Refugee Status, including people who have been resettled under the Vulnerable Persons Resettlement Scheme **have recourse to public funds**. They should receive the same service response as the wider community, although they are likely to need additional help to access housing and benefits. In some cases, people may identify as a refugee but have a form of discretionary leave to remain status. This is a visa status which may include an NRPF condition, in which case this guidance **does** apply to them.

How long does it apply for?

The framework outlines measures that can be taken to assist people during the COVID-19 pandemic. It applies initially for the period of time that UK and Scottish Government public health guidance advises people to practice social distancing and social isolation and is subject to review. The context is changing rapidly, therefore it will be updated periodically to reflect any significant changes in policy and legislation. In order to maintain an up to date picture of the needs of migrants, provision that is in place and costs incurred by Local Government during this period, local authority Directors of Finance have been asked to complete a template issued by COSLA recording all additional costs incurred as a result of COVID-19 responses.

Additionally local authorities are asked to provide updates on local developments to eloise@cosla.gov.uk or aniat@cosla.gov.uk.

1.4 Risks and Vulnerabilities for people with NRPF during the COVID-19 Pandemic

People with NRPF and some EEA citizens face specific risks and vulnerabilities during the COVID-19 pandemic that require additional planning during the response.

People with NRPF:

- cannot access local authority housing or make a homelessness application
- cannot access mainstream income benefits (such as income support, housing benefit or Universal Credit)
- are restricted from accessing the Scottish Welfare Fund:

Some EEA nationals:

- may not meet the Habitual Residency Test and therefore cannot access some income-based benefits, including Housing Benefit*

This puts them at especially high risk of poverty and destitution. It can lead to discrimination and social exclusion as well as creating risks of exploitation, trafficking and abuse, all of which may be heightened during the COVID-19 crisis.

***Note:** Support from the local authority should not be based on whether or not an EEA national has applied for or secured status under the EU Settlement Scheme.

Individuals and families with NRPF are more likely to be severely affected by the restrictions that we are all subject to. People with NRPF:

- face particular risks of homelessness and rough sleeping as well as food insecurity and poverty during the COVID-19 pandemic;
- may be reliant on support from community based services, including for daily access to food and other essentials, which may now have new or increased demand from the wider community;
- may live in insecure accommodation or casual arrangements and be at risk of eviction and/or exploitation by private landlords (although legal measures have been introduced to prevent private landlords from evicting tenants during the pandemic, this may not stop people from being made homeless);
- face significant risks of financial hardship and insecurity as a result of loss of income if unable to work, particularly those in lower paid jobs;
- may additionally face barriers to accessing health services and other essential information, for example because of language barriers or because they are not connected to other services;
- can have a high risk of mental health issues exacerbated by uncertain immigration status and separation from family;
- are more likely to not have access to a bank account and therefore rely on cash, which some shops are moving away from;
- can face high risks of exploitation and abuse, including risks of taking up unregulated or illegal work to survive during this period; and
- EU nationals additionally may also face challenges in claiming any benefits they are entitled to, for example because of difficulties evidencing residency or contribution.

The combined impact of all of these factors is a risk of extreme poverty, which will be exacerbated by the need to social distance or self-isolate. There are particular risks for:

- **Single adults who are not currently in receipt of local authority support** are at highest risk of rough sleeping and are likely to struggle to comply with current public health advice on self-isolation or social distancing
- **Women** who may be vulnerable to exploitation, violence and domestic abuse because of their insecure immigration status and lack of access to public funds.
- **Children within families who have NRPF** and are currently receiving support from the local authority may have a package of support in place that is no longer sufficient to meet their basic needs. They may also struggle to access wider services (for example, as a result of school closures).

Some people with NRPF may already be known to local authorities, or will be receiving and/or connected to support via the third sector. However, this may not be the case for people who have been previously self-sufficient and who have been put at risk of destitution because of the economic impacts of the COVID-19 pandemic.

It is important to note that there are risks for individuals who are already in receipt of support from the local authority, as well as for those who are not.

The impact of Covid-19 and associated public health measures have also created new risks of destitution. The number of vulnerable people with NRPF and EEA nationals requiring assistance may therefore increase in this period.

1.5 UK Government benefits and COVID-19 support

The Government has announced a series of measures to help people who have are unable to work due to contracting coronavirus or having to self-isolate, or who have lost their employment or closed a business due to coronavirus.

Financial support

The following types of assistance **are not** 'public funds' for immigration purposes and **can** be claimed by a person who has NRPF, providing that they meet the relevant requirements:

- Statutory Sick Pay (SSP)
- Contributory-based Jobseekers Allowance (JSA)
- Contributory-based Employment and Support Allowance (ESA)
- Wages paid through the Coronavirus Job Retention Scheme ('furloughed workers')
- Coronavirus Self-employment Income Support Scheme
- Work-related benefits

The following types of assistance **are** 'public funds' for immigration purposes and **cannot** be claimed by a person who has NRPF:

- Universal Credit

- Other benefits listed in [Migrants Rights and Entitlements to Local Authority Services](#)

Visa Overstayers - extension of leave

Individuals in the UK whose visas expire between 24 January 2020 and 31 May 2020 can apply to the Home Office to have their visa extended to 31 May. Individuals on long term visas can apply to switch their visa from within the UK until 31 May 2020.

The form can be accessed [here](#).

1.6 Leave to Remain with NRPF - Applying for a change of condition

People affected by NRPF conditions can make an application to the Home Office to lift the restriction. People are eligible to apply [online](#) if:

- 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 their very low income, or there are now exceptional circumstances in their case relating to their financial circumstances; or
- they were destitute, or there were particularly compelling reasons relating to the welfare of a child on account of their very low income, or there were exceptional circumstances in their case relating to their financial circumstances, at the time of their application being considered, but they could not provide evidence of this and now wish to send in this evidence.

Local authorities may want to assist people in these circumstances to explore this option, or work with a partner organisation to do so. However, this can take a number of weeks and will not replace the need for temporary support where someone is destitute or otherwise in need in the interim.

[More information](#) about the process and full details of the eligibility criteria can be found on the UK Government's website.

1.7 Section 4 support for people who are Appeals Rights Exhausted (ARE)

People who have previously sought asylum and been rejected and required to return to their country of origin may now be eligible for Section 4 asylum support due to the travel restrictions. Local Authorities may want to assist people in contacting Scottish Refugee Council or British Red Cross to assist with a new claim for support. Contact details are provided at the end of this document.

1.8 EEA Nationals - Applying for Settled Status

EEA nationals' rights remain unchanged during the UK Transition Period from the EU, which ends on 31 December 2020. They will have until June 2021 to apply to the EU [Settlement Scheme](#). If their application is successful, they will be granted [either settled or pre-settled status](#).

The Home Office is continuing to process applications, but in the light of the coronavirus outbreak they will take longer than usual and some of their support services and application routes have temporarily changed. For example, their [EU Settlement Resolution Centre](#) telephone lines are currently closed. The Resolution Centre will, however, continue to respond to email enquiries which can be made [via the online contact form](#) and provide a call back function when required. Emails from support organisations will be prioritised where possible.

The ID document scanner locations have been suspended at this time. The postal route for submitting Identity evidence is currently suspended. The Home Office is unable to accept any documents by post at this time, but all documents already sent to them will be returned as quickly as possible. Applications can still be made online using the 'EU Exit ID Document check' app. Additional support is available to those EU citizens in the UK who do not have the appropriate access, skills or confidence to apply online. [Assisted Digital](#) can offer assistance over the phone.

Scottish local authorities that are supporting EU nationals to make applications to the EU Settlement Scheme can still access support provided by IOM, in partnership with COSLA. Local authorities can contact Cristina Carletti mcarletti@iom.int or lorraine@cosla.gov.uk for more information. If an EEA national is granted Settled Status they will then also be able to access the same entitlements as UK nationals and may be able to resolve their destitution through access to Universal Credit.

SECTION TWO: LOCAL ACTIONS TO SUPPORT PEOPLE WITH NRPF

Local authorities will need to take additional steps to support people with NRPF during the response and may need to adapt their normal practices due to significant extra pressure on services and reduced staff capacity (i.e. due to illness and possible redeployment). This section is intended to assist local planning and considerations for service delivery.

Key points

- **Local authorities have statutory safeguarding duties towards all people in Scotland, regardless of immigration status, under universal social care legislation.**
- **Local authorities can – and in some cases must, under these duties – provide support to individuals and families with NRPF to mitigate a public health risk, safeguard a person in need or because there is a practical barrier to travel abroad at the time of assessment.**
- **In the current context, emergency accommodation will need to be provided to anyone who is roofless / rough sleeping, so that they can comply with the public health guidelines on social distancing and isolation. If they also have vulnerabilities, such as risk of domestic abuse, then they may also qualify for assistance on safeguarding grounds.**
- **People who have NRPF who are destitute may also need to be provided with the means to access food and other basic items to mitigate food insecurity and severe poverty.**
- **It is advised that local authorities work with local and national partners to maximise available support across the statutory and non-statutory sectors.**
- **New sources of funding announced by the Scottish Government in response to COVID-19 (including the Food Fund, Supporting Communities Fund and Hardship Fund) are not listed as public funds for immigration purposes, and can be used by local authorities and other partners to support people with NRPF.**
- **When capacity allows and it is reasonably practical, local authorities will need to review any support that they are providing, to ensure that it is consistent with UK immigration regulations and statutory safeguarding duties, and plan to support people out of destitution.**
- **Plans will need to be put in place for managing the withdrawal of support or services provided solely on the basis of a public health need, e.g. accommodation for rough sleepers with NRPF which is provided in order to support self-isolation and social distancing.**

2.1 Managing an effective response

National guidance on [Migrants Rights and Entitlements to Local Authority services](#) sets out the steps that should ordinarily be taken when providing support to someone who is destitute and has NRPF. [Section 14.1](#) in particular is designed to assist social services. In the response to COVID-19, typical arrangements may not apply and, in many cases, the first point of contact for destitute people with NRPF is now likely to be a housing service (i.e. at the point of homelessness).

There are significant additional pressures on frontline services, due to reduced staffing levels as result of staff sickness or redeployment, changes to normal service operations and an increase in demand for support, particularly for health and social care and homelessness services. In these circumstances, emergency legislation has been enacted which enables local authorities to act more quickly to provide emergency financial support or accommodation to all individuals in their area, regardless of immigration status. Councils may need to be flexible about the procedures for assessing and supporting people with NRPF who request assistance and will need to prioritise high risk groups and those with the most urgent needs.

The specific steps taken to support people with NRPF will be decided locally. However, the guidance provides some initial recommendations. It also outlines possible sources of funding that might be used to provide assistance, along with examples of how some local authorities have already responded. Partnership work with local partners including health services and third sector organisations is likely to be especially crucial for supporting people with NRPF, particularly in areas where there is higher demand on local authority support. In order to reach the people most at risk, action will need to be coordinated by local authorities, usually via local resilience partnerships, and should involve people from all sectors, including community food organisations and local businesses.

Stages of response

The stages below are designed to assist officers responsible for managing or delivering a service response to support people with NRPF who are vulnerable or at risk of destitution during the COVID-19 response. It sets out broad stages of an approach to meet the needs of individuals and families with NRPF. This is not an exhaustive or prescriptive process, but is designed to assist you in your work.

Stage 1: Provision of accommodation and financial support

- *Ensure people have access to emergency/temporary accommodation if at risk of rooflessness/ rough sleeping*
- *Ensure people have access to food and other basic essentials if otherwise unable to support themselves*
- *Where there is a safeguarding concern, notify social work teams so that they are aware and can respond appropriately*

Stage 2: Review and monitor support

- *Assess wider needs of the individual or family where there is a safeguarding concern (i.e. using GIRFEC or Community Care assessment as necessary)*
- *Review and ensure that the support is appropriate to meet all presenting needs and is being delivered using funds that are not restricted for immigration purposes*
- *Clearly record the support that is provided, decisions taken and information about the costs*

Stage 3: Establish pathways out of destitution

- *Work with the individual or family to plan for a route out of destitution either directly or by referring to specialist services e.g. helping them to make relevant applications to the Home Office for a change in immigration status; referring to specialist immigration / legal advice and other services as necessary*
- *Plan for the withdrawal of any temporary support provided on public health grounds, including making referrals to third sector services where they are available*

2.2 Funds that can be used to support people with NRPF

It is important when putting a local approach in place that local authorities are aware of funds that can be used to assist people with NRPF. Not all public funds are restricted for immigration purpose. Replacement free school meals, food vouchers and other gift in kind support as well as support from social services can all be made accessible to people with NRPF, as long as they do not appear on the list of restricted public funds for immigration purposes. It is important to make use of these sources of support wherever possible.

Any new funding provided by Scottish Government to assist with the local response to COVID-19, including the Food Fund, Hardship Fund and Supporting Communities Fund can also be made accessible to people with NRPF as they are not on the list of restricted funds. It is important to note that some funds are accessible only to the third sector, whilst others are distributed to local authorities. Strategic consideration of the response to people with NRPF may therefore be needed by local resilience partnerships, to ensure that all resources are maximised effectively and that support can be co-ordinated across the statutory and third sectors.

It is also important to remember that EEA nationals can directly access the Scottish Welfare Fund but other migrants with NRPF conditions cannot. If councils provide this to someone with NRPF it could lead to people with leave to remain who have NRPF to be in breach of their conditions. Funding provided by Scottish Government to support local resilience and hardship plans can however be utilised and may provide some flexibility to support people with NRPF.

COSLA is working closely with partners to establish the ongoing costs of providing financial assistance to destitute people with NRPF. Any expenditure incurred as a

result of the public health response to COVID-19 should be recorded by local authorities, to support effective case management and ensure a clear record of expenditure by the local authority. COSLA has issued a template to Directors of Finance to record all additional costs incurred due to COVID-19 responses and the costs should be included within this return.

COSLA is further convening a consortium of charities at national level to strengthen the role of the third sector in meeting the needs of destitute people with NRPF. Please share updates on the needs of people with NRPF in your area and local expenditure as well as any challenges you are facing in putting a local response in place to eloise@cosla.gov.uk so that we can keep an up to date and accurate picture.

2.3 Provision of Accommodation

During the virus outbreak it is important to ensure that people have accommodation to reduce the spread of the virus. Emergency/temporary accommodation (or provision of funds to support people to maintain existing arrangements) will need to be put in place quickly for people who are roofless/ rough sleeping in order to help them to comply with public health guidelines. For families with children or adults with eligible care needs under universal social care legislation (including women at risk of domestic abuse), this should be provided as normal under the statutory safeguarding duties during this period (see section 3 for more detail).

Due to housing demand, cost and supply, local authorities are presented with very significant challenges in sourcing suitable temporary accommodation for people with NRPF, therefore the information outlines options that may be available locally and the range of responses that may be put in place.

People with NRPF

- Accommodation can be provided to all people with NRPF on an emergency/temporary basis, for as long as there is a public health emergency and measures like social distancing are in place.
- For families with children and adults with care needs, support will need to be provided under social work duties for as long as they have an eligible need (i.e. this is not dependent on public health guidelines).
- Whilst people with NRPF cannot access mainstream homelessness services or housing options, the authority can fund direct provision of accommodation using, for example, hardship funds or other non-public funds locally.
- Decisions about the type of accommodation provided will likely depend on local supply and can include accommodation in the social rented sector, private tenancies, Bed and Breakfasts (B&Bs) or hotel rooms.
- Refuge accommodation may also be provided to support women and children at risk of domestic abuse.
- Alternatively, local authorities might provide discretionary payments to support people with NRPF to maintain an existing tenancy.
- Third sector partners may be prepared to work with local authorities to provide or manage temporary accommodation for people with NRPF. This can be helpful in circumstances where there is a specific pressure on the local authority services

and where a partner has the appropriate experience and capacity to deliver accommodation support.

- Third sector partners may require additional funding to be able to operate a service safely to meet the needs of people with NRPF (see below for information on how Scottish Government funding might be able to assist).
- Consideration will be needed for COVID-19 advice for non-health care settings to ensure that any services provided are compliant with public health advice, in particular [section 2.7](#), and [sections 15.5](#) and [15.6](#) of the COSLA guidance on migrants' rights and entitlements.

EEA Nationals

- The rights of EU/EEA nationals during the transition period have not changed. People do not need to provide evidence of settled status to access services.
- Local authorities can provide emergency accommodation to EEA nationals who would not ordinarily have full entitlements to local authority housing.
- Local authorities might also provide discretionary payments to support EEA nationals to maintain an existing tenancy, for example if they are no longer able to access Housing Benefit and have experienced a reduction in income or job loss during the pandemic.
- When capacity allows, local authorities will want to support EEA nationals with welfare advice and support, to make an application to, or challenge a decision by, DWP and access any entitlements to benefits that can meet their housing costs.

Scottish Government Support

Where there are specific pressures on local authorities, for example in areas with high levels of rough sleeping and higher numbers of people with NRPF, the Scottish Government has been scoping ways to assist third sector providers to increase their capacity. This includes the potential provision of funding to third sector partners to deliver accommodation to people with NRPF, where this is possible.

If your local authority is experiencing significant challenges in providing a local accommodation response they should contact graham.thomson@gov.scot in the first instance.

2.4 Provision of financial support

Provision of emergency grants and financial assistance is likely to be required for people with NRPF who are destitute and do not have access to mainstream benefits. Support can be provided by the local authority in a number of forms, as long as it is **not** from a restricted fund, to address poverty and food insecurity. This includes direct payments or gifts in kind. The extent to which local authorities choose to provide support will vary depending on the rights and entitlements of the individuals or households requiring support and the types of support that are available locally.

Families with children and adults with care needs:

- Local authorities will need to continue to provide financial or equivalent assistance on an ongoing basis to destitute children and adults who are in need, under social work duties.

- Direct payments from local authorities to families or individuals are typically the most effective way to meet their needs and may be provided as cash, cheque or bank transfer payment, depending on access to a bank account.
- Handling and provision of cash payments during this period may not be possible, i.e. where social work services are not operating a face to face service, and in some cases shops may not be accepting cash during this period. In these circumstances, other temporary arrangements, such as the provision of pre-paid supermarket vouchers and emergency food parcels may need to be put in place as suitable alternatives.
- Local authorities with higher numbers of people requiring direct payment support during this period may want to consider establishing an arrangement via Paypoint or other mechanisms that support greater efficiency.
- It is recognised that approaches will vary locally and will depend on the administrative capacity to manage local system changes at this time.
- When deciding the amount of financial support to provide, a local authority should take into account the needs of the family or individual and the cost of living and daily essentials. Levels of support provided will need to be sufficient to support their health and wellbeing, and to provide an appropriate standard of living during this period.
- It may also be necessary to review the amounts currently paid to people receiving social services' support to reflect the impact of having to stay at home for longer periods than usual and the importance of maintaining physical and mental wellbeing during the pandemic. For example, payments may need to take account of the need to access books, writing and drawing materials for children, or increased use of utilities.
- Support levels should be monitored routinely and may need to be adjusted in light of changes in family or individual circumstances, or economic changes during this period such as a sudden increase in the cost of food. More information on financial support can be found at [section 8.5](#) of [Migrants Rights and Entitlements to Local Authority Services](#).

Destitute adults without care needs

- Single adults and households without children who do not have identified care needs may also require support if they are destitute and unable to access food and other essentials.
- In these circumstances, local authorities may need to provide urgent humanitarian assistance to prevent hunger and food insecurity and to meet wider needs.
- The type of support provided is at the discretion of the authority and could include financial assistance, emergency food and essentials such as toiletries, food vouchers or other small grants (see sections 2.5 and 2.6 below).
- Local authorities should include this group in any emergency food provision where this is possible and/or seek to connect individuals to assistance that can be provided by third sector partners locally.
- Local authorities should consider developing partnerships with the third sector to ensure that targeted support can be provided for this group. This may include organisations that routinely work with people with NRPF or other organisations who provide community based support to everyone in the local area.

EEA Nationals

- Local authorities can use the Scottish Welfare Fund to assist EEA nationals who are experiencing poverty because of restrictions in access to some mainstream benefits.
- Local authorities may need to provide assistance on an ongoing basis during this period, until the individual or family's circumstances or entitlements change.
- When capacity allows, local authorities may want to support EEA nationals with welfare advice, support to make an application to, or challenge a decision taken by, DWP and access any entitlements to benefits that can meet their needs and essential living costs.

2.5 Provision of Food

Food insecurity and risks of hunger are a specific consideration when supporting people with NRPF. There are no legal barriers to providing emergency food assistance to people with NRPF during the pandemic.

- The Scottish Government has put a £70 million Food Fund in place support for those who would otherwise be unable to access food through the usual routes. This is not a public fund for immigration purposes, therefore it can be used to fund services or supports that are accessible to people with NRPF.
- COSLA Group Leaders agreed distribution of the Food Fund on 03 April 2020. [Guidance for local authorities is now available.](#) It sets out principles for utilising the fund. It also highlights that local partners may use resource from their Food Fund allocation to support households that are marginalised, noting that community organisations may be well placed to provide this as part of a coordinated approach.
- Local authorities can make use of new funding available locally and ensure local resilience responses to address food poverty and food insecurity are accessible to people with NRPF. They may want to develop partnerships with community based providers to ensure that available funds for emergency food provision target and reach this group and that any culturally specific needs can be met.
- Specific consideration should be given to families with children with NRPF, ensuring access to any replacement free school meals provision and/or other measures introduced locally to assist non-shielded people to access emergency food provision.

2.6 Access to Health Care

Local Authorities will want to ensure that anyone they support with NRPF is registered with a GP and that they have, and are able to understand, the most up to date information on the COVID-19 pandemic and public health advice. No charge can be made to an overseas visitor / someone living in the UK with NRPF for the diagnosis or treatment of COVID-19 and they can access health services if required.

- People with NRPF have a right to be registered with a GP. During the pandemic it is especially important that people are registered with a local practice and that their GP has their up to date contact details. Information on how to access healthcare and ensure people with NRPF are registered with a GP can be found

here: <http://www.migrationscotland.org.uk/migrants-rights-entitlements/eligibility-other-publicly-funded-services/4-10-nhs-treatment>. The individual should telephone their practice requesting to register as a new patient. If they experience any issues getting registered they should contact the health board.

- NHS Inform also has information about COVID-19 in a number of different community languages which could be shared with / promoted to people with NRPF and other migrants living in the local authority area: <https://www.nhsinform.scot/translations>.
- Reassurance should be given that no charges apply for testing or treatment of COVID-19: <https://www.nhsinform.scot/care-support-and-rights/health-rights/access/healthcare-for-overseas-visitors>.
- Some people with NRPF may need access to an interpreter and that this should be provided by their GP / Health Board / local authority (depending on the service they are using).
- [Doctors of the World](#) have also provided translated resources informed by the UK Government and NHS England advice. Whilst this is not a Scottish specific resource it may still be useful as a reference to assist people.

Shielding

Shielding is for people, including children, who are at very high risk of severe illness from COVID-19. People at very high risk of severe illness from COVID-19 should strictly follow shielding measures. People in this higher risk group include:

- those who have had an organ transplant and remain on ongoing immunosuppression medication;
- those with cancer who are undergoing active chemotherapy or radiotherapy
- those with cancers of the blood or bone marrow such as leukaemia who are at any stage of treatment;
- those with severe chest conditions such as cystic fibrosis or severe asthma (requiring hospital admissions or courses of steroid tablets);
- those with rare diseases that significantly increase the risk of infections such as SCID and homozygous sickle cell;
- those with severe diseases of body systems, such as severe kidney disease (dialysis); and
- those who are pregnant with significant heart disease (congenital or acquired)

NHS Scotland are directly contacting people with these conditions to provide further advice and some migrants with NRPF will have been contacted already. Plans are being made for a wide range of help and support to allow people to stay at home and be shielded from the virus. There are particular rules people need to follow to keep themselves safe. Further information on shielding is available on the NHS Inform website: <https://www.nhsinform.scot/illnesses-and-conditions/infections-and-poisoning/coronavirus-covid-19/coronavirus-covid-19-shielding>.

Shielding is for the protection of the individual. It is their choice to decide whether to follow the measures, however, it is important that people understand this information.

What to do if someone dies

The Scottish Government has published COVID-19 guidance on preparation for burial or cremation for religious organisations, faith and cultural groups:

<https://www.gov.scot/publications/coronavirus-covid-19-religious-organisations-faith-and-cultural-groups---preparation-for-burial-or-cremation-of-covid-19-deceased/> . It

includes advice that, since there is a small but real risk of transmission from the body of the deceased, the advice is that mourners should not take part in any rituals or practices that bring them into close contact with the body of an individual who has died from, or with symptoms of, COVID-19 for the duration of the pandemic. Given the very significant risk for vulnerable and extremely vulnerable people who come into contact with the virus, it is strongly advised that they have no contact with the body. This includes washing, preparing or dressing the body.

Restrictions are also now in place so that only immediate family members can be physically present at funerals (whether or not the death was due to COVID-19). This message has been communicated to faith groups and funeral directors. Information about the restrictions should be communicated very sensitively.

2.7 Other essentials and wider support

People with NRPF are excluded from accessing funds which are listed as public funds in relation to S115 of the Immigration and Asylum Act 1999 and paragraph 6 of the Immigration Rules, but can be provided with a range of other discretionary supports if required to address emergency needs. It is recognised that due to pressure on services, the focus will be on meeting priority needs. However, the following actions may also be considered:

- Inclusion of the needs of people with NRPF within the design and provision of local responses to assist additionally vulnerable / non-shielded groups e.g. measures to address social isolation or respond to mental health risks.
- Consideration should be given of the fact that newly arrived migrants in particular, may lack some of the knowledge and support networks necessary to access wider community assistance and may need referral to services for support.
- Migrants and asylum seekers may need assistance to ensure they can communicate with relatives who may be overseas, support services and to access legal advice, including through the provision of phones and phone cards.
- Supporting children within families with NRPF – families with children who have NRPF may benefit from referrals to services provided by local partners, including family support if they are experiencing high levels of stress during this period. Relevant connections will also need to be made with education and early learning and childcare services to ensure that families with children can access the appropriate learning offers and other support.
- During this time, people with insecure immigration status may also need to access legal advice or advocacy services, for example if they want to make an application to the Home Office or better understand their legal rights. Useful contacts are highlighted in Section Four of this guidance.

Local authorities may want to consider developing partnerships with the third sector to ensure that wider support can be provided for this group.

2.8 Good Practice

The [NRPF Network](#) has set out steps that councils may take to assist people with NRPF who are receiving accommodation and financial support under safeguarding duties. These are outlined below:

- Maintain regular telephone or email contact where a person has been diagnosed with coronavirus or is required to self-isolate.
- Provide reassurance and help a person to understand and follow any advice given to them by medical professionals and/or their housing provider.
- Ensure that the service has an accurate record of elderly people and people with complex medical conditions who may be more seriously affected if they contract coronavirus; maintain regular contact to monitor their wellbeing.
- Provide information to people about how they can reduce risks and keep updated about school closures etc.
- Provide information to people who are working about their rights to statutory sick pay if they are required to self-isolate or are unable to work due to contracting the virus.
- Ensure that each person's contact details are up to date and that people receiving support on safeguarding grounds are provided with contact details for their social worker / caseworker and their housing provider.

Case Study

The below is an example of how one local authority in Scotland has responded to the crisis:

“In order to assess the extra stresses on families with NRPF and support them during the coronavirus pandemic, social workers are having weekly contact with Families by phone and updating assessments of need where required. When possible translated information is being provided about the coronavirus, self-isolation and how to keep safe and is being shared with families. Families are being monitored for extra financial pressures and additional stresses. Social work have supports in place to be able to access food parcels and, extra funding is being given in recognition that the families are not receiving free school meals. Risks of face to face contact have been reduced by weekly payments and emergency money being given via paypoint, whereby families can receive a code to their phone and access money from any paypoint in shops and Supermarkets. Where a family do not have a phone, assistance will be given to access one both to be able to give money, but also to improve communication where families need extra support. We are using apps to aid communication.”

2.9 Transitions from Support

Where support has been provided solely on public health grounds, the legal basis for providing assistance will cease after the pandemic. It is also assumed that new

funding sources that have been made available by the Scottish Government will not continue. Local authorities will need to plan for the withdrawal of support in these circumstances.

In some cases, people with NRPF may be able to transition to mainstream support because they receive a successful change in conditions from the Home Office or can regain employment. Councils can continue to work with households to facilitate their transitions to mainstream housing services in these circumstances and will need to ensure that people are not made homeless during this process.

Where support is withdrawn, local authorities will want to make referrals for the individual to community based organisations for assistance with accommodation and support. Section 12 of the [Migrants Rights and Entitlements Guidance](#) provides more information. This is anticipated to be an especially challenging situation for people with NRPF and will present significant difficulties for local authorities. COSLA will continue to work with Scottish Government and other partners to explore the best ways of transitioning support and assisting vulnerable people during the recovery phase of the pandemic.

SECTION THREE: RELEVANT LEGISLATION

This section summarises the primary legal basis under which local authorities are currently providing support to people with NRPF and EU citizens. It is designed to provide reassurance to local authorities on relevant powers and duties that are engaged when supporting people with NRPF during the COVID-19 pandemic from a public health, safeguarding and human rights perspective.

Officers will want to consult their own legal teams on how these duties apply as part of their planning process and / or review of temporary arrangements, and to clarify the legal basis they are using to deliver support.

Key points

- **Local authorities can – and in some cases must – provide support to individuals and families with NRPF if they are satisfied it is necessary to do so to mitigate a public health risk, or because a person is in need due to illness or because there is a practical barrier to travel abroad at the time of assessment.**
- **Support may be required to enable individuals to comply with travel restrictions within the UK, and to implement public health advice as it relates to social distancing and social isolation.**
- **Local authorities can provide direct financial support and accommodation under these powers, so long as the source of funding is not a restricted public fund (such as the Scottish Welfare Fund).**
- **Local authorities can provide emergency accommodation where they have reason to believe that an EU citizen may be eligible for assistance.**
- **The Coronavirus Act 2020 reinforces the power of local authorities to act more quickly to provide emergency financial support or accommodation to all individuals in their area – regardless of immigration status – to support an effective public health response, exercising these powers under the Social Work (Scotland) Act 1968.**

Current Legislation

Safeguarding duties

Local authorities have statutory safeguarding duties towards all people in Scotland, regardless of immigration status, arising from universal social care legislation. Key relevant legislation includes:

- ***Children within families: Section 22 of the Children (Scotland) Act 1995***
- ***Adults with care needs: Section 12 of the Social Work (Scotland) Act 1968***

It should be noted that other social care legislation (including with respect to adult support and protection and supporting carers in Scotland) may place a duty on the local authority to support a vulnerable person or family. For those eligible under the above legislation, support provided can include financial assistance, accommodation, or both.

As set out in [Migrants Rights and Entitlements to Local Authority Services](#), for ineligible groups, support can only be provided where there is a risk that a person's human rights may be breached if support is not provided. A human rights breach could occur, for example, if there is a practical barrier to returning to their country of origin. When a local authority provides support on this basis (i.e. because it has a statutory duty, or to prevent a human rights breach), this support is not classed as a 'public fund' for immigration purposes.

Public Health and COVID-19

Beyond these existing duties, NRPF individuals and families may require support (including the provision of housing) on personal health or public health grounds. Section 9.15 of the COSLA guidance states (our emphasis):

“In order to mitigate a public health risk [...] or if a person is in need due to their illness [...] then Section 12 of the Social Work (Scotland) Act 1968 may be engaged, and accommodation and financial support are provided in addition to any other community care services that are required.”

If a person has, or is suspected to have, COVID-19, they must isolate to prevent transmission, and to safeguard their own physical health. No access to accommodation in which to isolate would constitute a public health risk. Local authorities have the power to determine, in these circumstances, that a failure to provide accommodation poses a public health risk.

The Public Health (Scotland) Act 2008 places duties on NHS boards and on local authorities to protect public health in their areas and sets out respective areas of responsibility and a duty to co-operate in carrying out their duties under the Act. NHS Boards have the duty, therefore, to identify a public health need – for example that an individual or family requires to be quarantined – and may require to work with a local authority to establish how that need will be met. Covid-19 was designated as a notifiable disease for purposes of the Public Health (Scotland) Act 2008 in February 2020.

Human Rights

Section 9.15 of the COSLA guidance also states:

“The local authority would also need to undertake [...] a human rights assessment to determine whether return to country of origin is possible to avoid a breach of human rights, including considering whether the

person's ability to travel is affected by their illness or medical condition. It is likely that a communicable disease that presents a public health risk would be a practical barrier to travel and return."

At the time of writing, the UK government has ordered severe restrictions on all travel within the UK and the Foreign and Commonwealth Office is advising against all but essential travel anywhere in the world. Many countries are imposing unprecedented entry restrictions and large numbers of flights have been suspended. Furthermore, a person with the symptoms of COVID-19 may be too sick to travel, and may be turned away by any air carriers that are operating. This presents a practical barrier to migrants with NRPf returning to their country of origin. Local authorities therefore have a justification on human rights grounds to assist those whose return to their country of origin is impossible at this time.

Homelessness Assistance & Accommodation (EU Citizens)

Sections 28 & 29 of Housing (Scotland) Act 1987 require a local authority to take homelessness applications and make temporary accommodation available where they believe someone may be homeless. Only following this can they go on to assess the applicant in line with the statutory enquiries that are prescribed by law. It is only when a local authority is confident and able to reason their decision that someone is ineligible for homeless assistance that a local authority may refuse to accept a homelessness application. Where there is any doubt as to whether someone may be eligible for homelessness assistance, the local authority should take a homelessness application, provide accommodation and *then* make enquiries. This is particularly relevant to cases where an EU citizen requires to make an application but does not have all their documentation to hand.

Coronavirus Act 2020

In March 2020 the UK Government tabled emergency legislation in response to the COVID-19 pandemic, and this has now passed into law. Clauses 15 and 16 of the Coronavirus Act 2020 specifically relax the duty on local authorities to conduct a needs assessment under the Social Work (Scotland) Act 1968, in order to provide support for those in urgent need without delay. The Act does not change the legal basis for providing support to people under devolved legislation, nor the eligibility criteria councils put in place. However, it does enable local authorities to dispense with the requirement of conducting a needs assessment, where it would be impractical or cause undesirable delay. It protects local authorities against legal action if there are delays in providing assessments (that were already in train when the COVID-19 crisis began to unfold).

Local authorities may still consider undertaking assessments as a crucial part of the process of supporting vulnerable children and adults and have discretion over how to interpret and implement this change locally as part of an effective public protection response. COSLA will provide updates on this legislation and implications for supporting migrants on our [Migration Scotland](#) website.

Other relevant legislation and considerations

COSLA is seeking to work with the Scottish Government, SOLAR and legal advisors in Scotland to monitor the legal position and will provide relevant updates as they are available.

SECTION FOUR: FURTHER INFORMATION

Support for refugees and asylum seekers

Scottish Refugee Council

Offices are currently closed but support for individuals and partners can be accessed by calling 0141 223 7979. Opening hours are available at <https://www.scottishrefugeecouncil.org.uk/important-service-update/>

British Red Cross

Offices are currently closed but support for individuals and partners can be accessed during office hours: 07590 445367.

Useful links

Other information that might be useful to authorities can be found here:

- NHS Inform: <https://www.nhsinform.scot/illnesses-and-conditions/infections-and-poisoning/coronavirus-covid-19>
- Scottish Government: <https://www.gov.scot/coronavirus-covid-19/>
- JustRight Scotland: <https://www.justrightscotland.org.uk>
- COSLA Migration Team: <http://www.migrationscotland.org.uk>
- NRPF Network: <http://www.nrpfnetwork.org.uk/Pages/Home.aspx>

NRPF Network

COSLA is developing an online network to support local authorities to stay up to date on developments in this area and to connect with other local authorities. Please contact annat@cosla.gov.uk if you would like to join the network and be included in any future communications.

Contact

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