

Executive summary

Introduction

[The Unity Project](#) is a voluntary project that supports families and individuals that have ‘No Recourse to Public Funds’ (NRPF) and are facing extreme poverty and/or homelessness. The majority of people we see are single mothers with at least two young children. We provide weekly casework sessions and workshops for those with NRPF to make ‘Change of Conditions’ (CoC) applications to remove the NRPF condition from their leave to remain.

Since opening in May 2017, we have received referrals for over 300 individuals. In the last year, we have had a 100% success rate for our applications, sometimes following a legal challenge.

The research was produced in partnership with law firm Deighton Pierce Glynn and an independent advisory committee including experts from The Children’s Society, the Centre on Migration, Policy and Society (COMPAS), University of Oxford and the NRPF Network.

The research sought to establish:

- a) if, and how, the NRPF condition disproportionately affects certain vulnerable groups; and
- b) whether the current statutory remedy - the ‘Change of Conditions’ (CoC) application - functions effectively as a safeguard against destitution.

Legal framework

- Most non-EU migrants in the UK who are granted temporary leave to remain on a route to settlement are subject to the NRPF condition and, therefore, not entitled to receive most mainstream benefits.
- Changes made to the Immigration Rules in 2012 increased the number of people subject to NRPF and the length of time people spend without access to public funds.¹
- The findings of the research were considered in the context of the Equality Act 2010, which is designed to protect people against discrimination, to assess whether the Home Office is compliant with its legal duties.
- The Equality Act 2010 identifies characteristics, such as disability, age and gender, which make certain groups vulnerable to discrimination. It establishes the public sector equality duty (PSED) which mandates that all public bodies, including the Home Office, give due regard to the need to eliminate discrimination, advance equality of opportunity and foster integration and participation in public life for these groups.

¹ <https://www.gov.uk/government/collections/family-and-private-life-rule-changes-9-july-2012>

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Key findings

Who is affected?

The research demonstrated that women, including pregnant and maternity stage women, disabled people, and BME British children are disproportionately affected by the NRPF condition and more likely to experience destitution.

These groups all share ‘protected characteristics’ according to the Equality Act 2010 and, as outlined above, public bodies are therefore mandated to remove or minimise the disadvantage they face.

1. Women constitute an estimated 85% of those applying to have the NRPF condition removed from their leave to remain on the basis of destitution, as determined by data from the Home Office, The Unity Project and six external organisations (p.27).
 - a. Nearly all of these women are single mothers, who are restricted from accessing employment due to limited access to government-subsidised childcare.
 - b. The risk of being subject to domestic abuse is more acute for women, particularly migrant women, and support/alternatives are limited for those with NRPF.
 - c. Indirect sex-based discrimination is also faced by pregnant women subject to NRPF, who are at a high risk of destitution.
2. British children whose parents are subject to NRPF receive less favourable treatment than their peers who have British parents because of their parents' national origins. Examples of this unequal treatment include British children from NRPF families being excluded from free childcare, free school meals and child-related benefits, such as Child Tax Credits. 90% of the families involved in this study had at least one British child (p.23).
3. Disabled people, pregnant women, new mothers and elderly people are often unable to work and simultaneously face higher outgoing costs, compounding the negative impact of the NRPF condition.

The majority of those supported by The Unity Project who experienced destitution due to NRPF were in work (p.31).

However, the NRPF condition prevents people on low-incomes from earning a living wage through employment because it excludes them from in-work benefits. It also restricts people’s ability to work - and disincentivises work - due to lack of access to free childcare that is otherwise available through state-funded initiatives.

How are they affected?

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- Nearly all of the families with NRPF surveyed for this research, the majority of which were headed by single mothers, had experienced severely inadequate and overcrowded accommodation.
- 52% of respondents said they had been forced to sleep on the floor or a chair, while a third of parents surveyed said their children had to sleep in a room with people who were not their family. 6% of single women surveyed had been street homelessness with their children.
- More than half said there had been at least one day when their children had not been able to eat a hot meal because they could not afford it.
- These experiences obviously raise acute child welfare concerns (p.38).

Is the ‘Change of Conditions’ application an adequate safeguard?

- The research found that the ‘Change of Conditions’ application process is inaccessible for those without at least a medium level of literacy in English.
- Evidence requirements are onerous and often unrealistic. 90% of those surveyed who attempted to make the application independently were unsuccessful. Of these, 95.5% were later successful when assisted by The Unity Project (p.47).
- Case law has established that compliance with Article 3 of the European Convention on Human Rights (and therefore the Human Rights Act 1998) requires steps to be taken to *prevent* destitution. The ‘Change of Conditions’ application instead responds to existing destitution which may have been avoidable.
- A range of organisations, including The Unity Project, have attempted to gather relevant data from the Home Office to understand trends and patterns.
- In the context of this research project, we submitted Freedom of Information requests to establish the total number of people with NRPF, the total number of CoC applications made in the last three years, and the demographics of applicants. However, the published responses seemed inaccurate, not least because they contradicted the government’s own published immigration statistics, as well as data from The Unity Project’s case set (p.12).
- The data on the demographics of those subject to NRPF is not readily or publicly available, indicating the Home Office does not disaggregate equality data. Without this data the NRPF policy cannot be scrutinised, and scrutiny is a key mechanism for monitoring government policy.
- Further, without this data the Home Office is not able to demonstrate that it has complied with the PSED in relation to the NRPF policy.

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Recommendations

Policy recommendations are set out in full in pages 57-58 of the report, and more briefly below. These relate to what the Government needs to consider and implement to ensure that the Home Office NRPF policy is not continuing to have a negative impact on vulnerable groups.

Considering the scale of the impacts of the NRPF policy, the report recommends that the NRPF condition no longer be imposed on any person on the ten-year route to settlement. Short of this recommendation, and while the condition is still applied to people on the ten-year route, the report recommends various changes in order to mitigate its worst effects.

These recommendations include:

- not imposing the condition on certain vulnerable groups, including people with ‘protected characteristics’, disabled adults supported under the Care Act 2014, families supported under s.17 of the Children’s Act 1989, and parents of British children;
- making the ‘Change of Conditions’ application process accessible and reducing the evidential threshold;
- extending access to in-work benefits and state-funded childcare so as to address the way the policy currently disincentives and restricts access to work;
- a comprehensive consultation with stakeholders and experts, especially with regard to the Government’s duties under Section 55 of the Immigration Act 2009 in terms of the welfare of children and to the Equality Act 2010 in terms of applicants with protected characteristics;
- preparation for a full children’s rights impact assessment (CRIA);
- proactive and transparent collection and publication of relevant data (e.g. demographics of applicants).