



## LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

### AGENDA

#### 11th Meeting, 2021 (Session 5)

Wednesday 10 March 2021

The Committee will meet at 9.00 am in a virtual meeting which will be broadcast on [www.scottishparliament.tv](http://www.scottishparliament.tv).

1. **Decision on taking business in private:** The Committee will decide whether to take items 4 and 5 in private.
2. **No Recourse to Public Funds:** The Committee will take evidence from—  
  
Susanne Millar, Interim Chief Officer, Glasgow City Council and the Glasgow City Health and Social Care Partnership;  
  
Eloise Nutbrown, Policy Manager, Migration Population and Diversity, COSLA;  
  
Girijamba Polubothu, Manager, Shakti Women's Aid;  
  
and then from—  
  
Robina Qureshi, Director, Positive Action in Housing;  
  
Jen Ang, Co-Founder & Director, JustRight Scotland;  
  
Graham O'Neill, Policy Manager, Scottish Refugee Council.
3. **Subordinate legislation:** The Committee will consider the following negative instrument—  
  
The Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Order 2021 (2021/98)
4. **No Recourse to Public Funds:** The Committee will consider the evidence heard earlier in the meeting.

5. **Licensing of Static Mobile Homes with permanent residents:** The Committee will consider an analysis of responses to its call for views.
6. **Travelling Funfairs (Licensing) (Scotland) Bill (in private):** The Committee will consider a draft Stage 1 report.

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The papers for this meeting are as follows—

**Agenda item 2**

NRPF\_ClerksPaper

LGC/S5/21/11/1

PRIVATE PAPER

LGC/S5/21/11/2  
(P)

**Agenda item 3**

Note by the Clerk

LGC/S5/21/11/3

**Agenda item 5**

PRIVATE PAPER

LGC/S5/21/11/4  
(P)

**Agenda item 6**

PRIVATE PAPER

LGC/S5/21/11/5  
(P)

## Local Government and Communities Committee

### 11th Meeting, (Session 5) 24 February 2021

#### No Recourse to Public Funds – Note by the clerk

##### Introduction

1. The Committee's attention was drawn to the vulnerability of asylum seekers and those with insecure immigration status following the tragic events of last summer 2020. In particular, the Committee was concerned at the plight of people with no recourse to public funds (NRPF) and the gaps that those seeking to help them in local authorities and the third sector have found in the system.

##### Who has No Recourse to Public Funds?

2. [No Recourse to Public Funds](#) applies to people who are 'subject to immigration control', i.e. people with the following immigration status types:
  - Requires leave to enter or remain in the UK but does not have it (is without leave) (e.g. visa overstayer, illegal entrant, asylum seeker)
  - Has leave to enter or remain in the UK which is subject to a condition that they have NRPF (e.g. spouse of a settled person, Tier 4 student and their dependents, leave to remain under family or private life rule)
  - Has leave to enter or remain in the UK that is subject to a maintenance undertaking (e.g. adult dependent relative of a British citizen or person with settled status for first five years they are in the UK) <sup>1</sup>
3. The [summary of the guidance](#) on NRPF states that the 'no recourse to public funds' condition prevents people from accessing most mainstream social security benefits, homelessness assistance and a local authority allocation of social housing, although there are some exceptions which may mean a particular benefit can be claimed by a person with NRPF. People with NRPF are not prevented from accessing other publicly funded services, although these can be restricted due to their immigration status or length of residence. Local authorities also have duties to safeguard the welfare of children, young people leaving care and vulnerable adults and, in certain cases, a referral can be made to the relevant social work team when a family or vulnerable adult with NRPF is at risk of homelessness.

##### Committee Scrutiny

4. The Committee agreed to write to a range of organisations to seek information on the support and assistance provided to individuals who have NRPF at its meeting on [Friday 4 September 2020](#). The Committee requested further information on the following—
  - Has your organisation been providing support to people with NRPF, and if so, what support have you been providing? What are the practical challenges?

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<sup>1</sup> Taken from Migration Scotland's guidance on [Migrant's Rights and Entitlements](#)

- What does the UK Government and Scottish Government need to do, if anything, to support providers of services in the local government and third sectors who are assisting people with NRPF?
  - How has Covid impacted the support available to people with NRPF?
  - From your perspective, have local authorities been able to support people with NRPF sufficiently during the pandemic?
5. In addition, the Committee sought updates on recent developments relating to people with NRPF from Scottish and UK Government, COSLA and Glasgow City Health and Social Care Partnership. The correspondence and submissions received are available on the Committee's [No Recourse to Public Funds inquiry page](#).
6. At its [meeting on 23 December 2020](#) the Committee agreed to hold a one-off evidence session on individuals with NRPF to explore the above and any other relevant issues. At its meeting on 10 March 2021, the Committee will hear from the following regarding the provision of support to people who have NRPF:

Panel 1

- Susanne Millar, Interim Chief Officer, Glasgow City Council and the Glasgow City Health and Social Care Partnership;
- Eloise Nutbrown, Policy Manager, Migration Population and Diversity, COSLA;
- Girijamba Polubothu, Manager, Shakti Women's Aid;

Panel 2

- Robina Qureshi, Director, Positive Action in Housing;
  - Jen Ang, Co-Founder & Director, JustRight Scotland;
  - Graham O'Neill, Policy Manager, Scottish Refugee Council.
7. Written submissions from those taking part in the evidence session are attached at Annexes A-F. In addition, the Committee sought written evidence from Hemat Gryffe Women's Aid, and this is attached at Annexe G.

**ANNEXE A**

Submission from Glasgow and the Glasgow City Health and Social Care Partnership

**1. Do you know how many residents in your local authority have NRPF?**

There is currently no routine data set collating the number of people who have no recourse to public funds living within Glasgow. The Home Office usually supports between 500 - 600 adults on Section 4 support in Glasgow at any one time. During COVID, the Home Office started supporting people on COVID grounds only Section 4 support and this population is at risk of evictions when the Home Office negative decisions cessations start. However partners estimate the following:

- Approximately 20 males in GNS operated service at a time
- Currently GNS also has hotel beds in Ibis hotel for another 20 adult males
- Approximately 7 (5 males 2 females) in RST managed flats, as part of the DASSproject
- Approximately 180 people in flats managed by Mears, often described as “overstayers”, but almost all of whom are now on Section 4 support (Covid Grounds). They are at acute risk of eviction when this basis for support ends via HomeOffice policy. Cessations have started in England and we are not sure when they will start in Scotland. Approximately 15% of this population are women.
- A small number of people in hosting arranged by Positive Action in Housing; approximately 20
- Unknown number of individuals in precarious and survival homeless situations Current estimates based on available data would suggest around 70 people.

In addition to this figure Glasgow HSCP are currently supporting 25 families with costs and support associated with accommodation issues. All of these cases remain under review.

**2. In general terms how do you support people with NRPF, what powers do you have to do so? What are the practical barriers to helping?**

Glasgow City HSCP have well established procedures and guidance to support social work staff in the provision of assistance to migrants with no recourse to public funds as attached. These procedures were established in July 2018 and underpin the basis of decision making including access to support arrangements and circumstances which may exclude support in accordance with schedule 3 of the Nationality, Immigration and Asylum Act 2002. The procedures also set out the categories of persons who are not eligible for support via section 12 or 13A of the Social Work (Scotland) Act 1968, or section 22, 29 or 30 of the Children (Scotland) Act 1995.

People who have ‘no recourse to public funds’ are not able to access public services such as homelessness and social care assistance, and most social security benefits. These services are dependent on a person’s immigration status. Therefore, Local Authorities have very limited powers to provide accommodation, support and assistance.

**Assessment for assistance under homelessness legislations**

An applicant will be assessed to identify entitlement to accommodation under the Housing (Scotland) Act 1987 and other legislation to determine entitlement to recourse to public funds. If the Council determines that it has a duty to provide accommodation, the household will also be assessed for wider supports at this stage.

### **Support under Adult Support and Protection**

If the person does not qualify for Homelessness assistance as a consequence of having no recourse to public funds, then a referral to adult services may be made for an assessment to determine whether the person requires support and assistance due to a community care need.

### **Advice and Assistance**

Where the Council has no duty due to the person having no recourse to public funds then the HSCP will provide advice and assistance. The advice and information will be tailored to the information circumstances of the household but will cover:

- o Alternative sources of accommodation
- o Community supports to avoid destitution
- o Sources of specialist legal advice

### **3. In what ways has the council provided support to people with NRPF during the pandemic, in terms of housing, financial support and food?**

During the ongoing pandemic, to support public health objectives the Council and City partners have provided accommodation, support and food to a total of **92 people** who had no recourse to public fund, and as at 15 October 2020 we continue to provide this assistance to **34 people** from this total.

In addition, both the Scottish Government and the HSCP funded the Glasgow Night Shelter for Destitute Asylum Seekers to relocate to the Ibis Hotel during the pandemic period. (**7 people** with no recourse to public funds continue to be supported at the Ibis Hotel)

## Submission from COSLA

To support our response to the Committee we sought an update from local authorities. In the timescales provided, information was provided by eleven local authorities. We understand that Glasgow City Council have also been contacted separately on these issues. The data provided varies between councils in terms of the level of detail and methodology so is an estimation rather than an accurate or robust assessment. However, it provides a sense of the issues and is supplemented by our wider understanding from work with the UK NRPF Network of Local Authorities and ongoing engagement with our member councils.

### **1. Do you know how many local authorities have residents who have NRPF and where most are found?**

It is not possible to determine the number of people living in Scotland with NRPF or which local authority areas they are most likely to live in. This is because data is not currently collected at national or local level. However, it is assumed that every local authority area will have some residents who have NRPF or EEA nationals with similar restrictions on their entitlements to benefits. Under current Free Movement arrangements with the EU, people from the European Economic Area (EEA nationals) have been able to move freely to and within the UK, and similarly, any migrants who are subject to immigration control living in the UK are able to move within and between local authority areas.

It is assumed that areas with the highest numbers of people are likely to be larger cities and university areas, where there are greater employment and study opportunities as well as larger communities from overseas but also in rural areas where there is a prevalence of seasonal employment including food processing, agriculture, hospitality and tourism. Informal exercises conducted by COSLA have highlighted that Glasgow, which is an asylum dispersal area, as well as Edinburgh, typically have the highest number of people requiring assistance because they have NRPF, followed by Dundee and Aberdeen. Other areas including Perth and Kinross, Dumfries and Galloway and Highland Council also indicated awareness of temporary residents working in seasonal employment such as food processing and agricultural work, as well as hospitality and tourism.

Nine of the local authorities that responded to our information request confirmed that they had needed to provide support to people with NRPF who are destitute and in need of assistance under statutory safeguarding duties (as is the case for some people during the Covid-19 pandemic) and public health duties and all were aware of the presence of people with NRPF in their local area.

Of these nine councils:

- We can estimate that between 300-500 people with NRPF have received support from a local authority in the last twelve month period because they are destitute;
- Approximately half of all of those supported were children under 18; and



- The majority of families or individuals were from outside of the European Economic Area (non-EEA nationals), although some EEA nationals were also included in these figures.
- \* **Note that data is not routinely collected and a number of the authorities calculate their support based on the number of households supported, while others calculate their support based on the number of individuals. It is therefore not currently possible to provide a reliable overall figure.**

Increasingly many authorities are also reporting higher numbers of people from the EEA who may have an insecure status because they have not yet applied for leave to remain under the EU Settlement Scheme. It is anticipated that, after the deadline passes for applications to be made, there will be an increase in people from these countries who are subject to immigration control and have insecure status and NRPF in every part of Scotland. There is also the potential for rising need / new needs as the pandemic impacts on people's health, employment, wages / incomes, living costs, and housing security, putting migrants with NRPF at risk of changed status or financial circumstances and potentially destitution.

People currently known to councils with NRPF generally fall into one or more of the following categories:

- people whose immigration status is discovered to be irregular (e.g. following hospitalisation as a result of significant ill-health) who then seek to regularise their status;
- people whose status alters as a result of a change in their circumstances (e.g. people resident in the UK on the basis of a spousal visa whose relationship breaks down);
- people who have applied for asylum but had their application refused and are in the process of appealing;
- people who have exhausted their rights of appeal but for whom further steps are required by other authorities before they can return to their country of origin (e.g. confirmation of identity and / or provision of travel documentation by their home country); and
- European Economic Area citizens who have the right to be in the UK but whose eligibility to publicly funded services is unclear or non-existent.

Additionally, as a result of the Covid-19 pandemic, requests for support have been received from:

- people with NRPF who have the right to work but have lost that work due to the pandemic;
- people who have been supported informally by friends or family members who can no longer afford to assist them; and
- people wishing to return to their country of origin (or otherwise leave the UK) but who have been stranded due to Covid-19 travel restrictions and have NRPF for the duration of their stay.

## **2. In general terms how do local authorities support people with NRPF? What powers and resources do they have to do so? What are the practical barrier to helping?**

### Safeguarding powers and duties

Local authorities have statutory safeguarding duties towards children who are in need and adults with care needs, regardless of their immigration status, under the following devolved legislation:

- Section 22 of the Children (Scotland) Act 1995 - to a family to meet a child's needs;
- Sections 29 & 30 of the Children (Scotland) Act 1995 - to a young person eligible for aftercare;
- Sections 12 or 13A of the Social Work (Scotland) Act 1968 – to an adult in need; and
- Section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

Under this legislation, a local authority has the power – and in some cases a duty – to 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. The legislation permits them to provide financial support to meet essential housing and living costs to some especially vulnerable people / households with NRPF in order to adequately safeguard their welfare and prevent a breach of their human rights.

The amount of support that is typically provided is discretionary and based on the needs identified by social services. However, it is also balanced against the resources available to the local authority. At present there is no dedicated funding stream to support local authorities to meet these costs which must be met out of existing budgets (typically budgets allocated for child and adult protection in line with the legislative basis for provision). Support can and may require to be provided for long periods of time, until the person is no longer destitute and in need of support.

The UK Government's immigration rules set out the parameters for this support, requiring local authorities to act only in cases of destitution and where there is a legal or practical barrier to the person or household with children resolving their destitution by leaving the UK. The immigration restrictions therefore require that local authorities withdraw or refuse any assistance in these circumstances. Under devolved legislation support can be provided whilst an assessment is undertaken.

### Public Health Duties

During the Covid-19 pandemic additional powers and duties have also been used to provide support under Section 4 of the Public Health Scotland (Act) 2008. Covid-19 was designated as a notifiable disease for purposes of the Act in February 2020. This enabled this legislation to be used to provide support including financial assistance and emergency accommodation.

The legislation places a duty on NHS Boards and local authorities to cooperate in carrying out their duties under the Act. This includes Health Boards carrying out necessary steps to identify public health needs and working with local authorities to establish how those needs will be met.

### Non-public funds

In addition to local authority or social services support, other forms of support can also be provided i.e. any service, benefit / grant or other financial support or gift in kind that is not listed as a public fund for immigration purposes. This might include Free School Meals; Early Learning and Childcare; the provision of food through food banks or to those self-isolating.

### Challenges and barriers to provision

The most significant barrier to providing devolved support from a local authority perspective is the lack of available funding to meet the costs of delivery. This includes a lack of funding within Local Government to provide regular payments to destitute people under statutory safeguarding duties and to meet ongoing housing and utilities costs. COSLA has consistently highlighted that these payments are a form of devolved social security that local authorities are required under devolved legislation and human rights obligations to provide to safeguard children and vulnerable adults with NRPF. However, there is no central government funding (from the UK or Scottish Governments) to meet the costs and no support to ensure that the payments can be safely and effectively administered.

High costs of support are a particular challenge for Glasgow City Council and City of Edinburgh Council who are providing support to the highest numbers of people. For example, over £1m per annum was recorded by City of Edinburgh Council for meeting emergency accommodation costs alone in 2020. In addition to this, smaller local authorities have also cited financial pressures as a barrier to support, citing the disproportionately high costs of providing assistance in areas where staff capacity is also limited. An example includes one small local authority providing residential care / accommodation under the Mental Health Act to an individual who had been destitute for two years. Other authorities have also cited examples of providing support for individuals for several years – up to ten years in one case. The costs therefore vary widely in terms of the length of time someone remains destitute with NRPF.

The cost and local availability of housing also creates barriers to providing support, with some local areas struggling to identify affordable housing options. In these cases, local authorities have to meet the costs of rent in the Private Rented Sector or provide bed and breakfast and hotel options due to a lack of available social housing. Rent arrears in many cases can run into extremely high amounts. In one local authority case, rent arrears for an EEA national were cited to be above £20,000 for one household, which is a significant cost for the local authority and a challenging level of debt for the individual. The inability of women with NRPF being able to access Housing Benefit additionally causes a specific barrier and challenge to them being able to access refuge services and specialist provision. There is a lack of clarity around how best to apply legal duties in order to protect women at risk of

domestic abuse and a lack of clarity on the options for meeting housing and support costs for those in need of assistance.

The NRPF Network's UK-wide data is the most reliable data source available to support our understanding of the implications of NRPF policy for local authority budgets and services at a macro level and is gathered from 59 local authorities (including four in Scotland). Their latest analysis is based on the number of households with NRPF that requested support from councils in Scotland and England during the financial year April 2019 to March 2020. The collective costs to those councils of providing accommodation and financial support when social services' duties were engaged, is set out in the [NRPF Connect annual data report for 2019-2020 \(PDF\)](#). In summary, at the end of March 2020, 2450 households were supported at an annual cost of £44 million, with accommodation and financial support costing on average £17,887 per year for a household.

Although councils saw an overall reduction in spend of £118,000 per week (12% over the year) due to fewer households receiving support than at the start of the year, the number of requests for support increased by 11% from the previous year and the average number of days a household received support remained high, at just over 2 years. The high average for days on support per-household can partly be attributed to a significant proportion (27%) of non-EEA national households being supported for over 1000 days due to longstanding unresolved immigration matters. It is a concern that the average time these households have been supported for is 5 years and 4 months.

In addition to direct funding costs, administrative pressures - including staff time and capacity to manage specialist services for people with NRPF - has also been cited as a barrier. In local areas with high numbers of cases and also those with little experience of providing support to migrants and asylum seekers, the legal, practical and financial complexities of assessing and meeting support needs creates a significant strain on already stretched services. While COSLA has provided guidance and training on these issues they remain challenging and we have previously called for investment in additional advice and case workers to assist local service delivery. In turn, availability of good quality legal advice for people with NRPF and local authorities is also a barrier in many parts of the country – services are overstretched in the central belt and there are significant gaps in other parts of the country, particularly in remote and rural areas.

The lack of data to identify people who are in need and to estimate the resource allocation needs across and within local authorities is challenging from a service planning and policy perspective. The 'hidden' needs, vulnerabilities and traumas experienced by people with NRPF who are destitute, their anxieties about engagement with the Home Office and with statutory services can also all reduce the level of support that can be successfully provided.

Equally, financial pressures on third sector providers and limited capacity for their service delivery outside of the central belt is a significant challenge and prevents the delivery of good multiagency support. The third sector plays a key role in assisting in

cases where someone does not have eligibility for local authority support and in the provision of specialist services.

### **3. Have local authorities provided support to people with NRPF during the pandemic, in terms of housing, financial support and food?**

Local authorities have worked hard to provide support to people with NRPF throughout the pandemic, in line with their public health duties and the advice in the Covid-19 framework. Local Authorities have rapidly re-designed the way they deliver essential services including housing and homelessness services, emergency food provision, adult and children's services during the crisis. Restrictions on travel, the need to shift rapidly to remote working and diminished capacity in some services due to staff sickness and necessary redeployment have been a challenging context for delivery.

The support that has been provided to people with NRPF can be summarised as follows:

- Emergency accommodation has been provided to anyone experiencing homelessness and rough sleeping, regardless of immigration status, in line with public health duties;
- Financial support and subsistence expenses has been provided in line with both public health and statutory safeguarding duties – in some cases, support has been provided to assist people self-isolating and systems have been put in place to ensure those with NRPF in receipt of ongoing support from social work can still access payments;
- Advice on entitlement to services, signposting to other agencies, community language support or, more usually, some combination of these has been provided in some local authority areas;
- Additional support during the pandemic has also been provided in the form of food parcels and, where required, extra finance to compensate for the lack of provision of school meals during lockdown; and
- In some local authorities, investment has been made in OISC accredited advice services.

Support that has been provided necessarily varies from local authority area to local authority area, dependent on need and resources available locally. Additional support has also been provided in some parts of the country via the third sector through flexible hardship and wellbeing funds from the Scottish Government. While this support has been very welcome, it is recognised that this approach has not enabled a strategic approach to resourcing partnerships and meeting identified needs nationally.

Working with Scottish Government and COSLA, Local Authorities have also rapidly designed a new delivery mechanism for the Social Isolation Support Grant (SISG) which will make it accessible to people with NRPF on low incomes. Using the Public Health Scotland Act 2008, the cash grant will be available on a discretionary basis to people with NRPF (who are unable to access it via the primary mechanism, the Scottish Welfare Fund, which is a public fund for immigration purposes). This will enable people to self-isolate in line with public health guidelines and support an

inclusive response to the crisis. Local authorities are developing new processes in order to administer this locally and COSLA is working to produce communications resources to better promote awareness of this support.

## **Conclusion**

COSLA's view is that, as we move forward, flexible funding is needed to enable local authorities to meet the costs of providing safe levels of financial and housing support under statutory safeguarding duties. Through the anti-destitution strategy, work is needed across national and local government to develop policy and funding models that can effectively and consistently meet urgent needs of people with NRPF experiencing destitution.

COSLA also supports the need for more funding to assist third sector and specialist partners to provide assistance to those who will not be eligible for local authority support when public health duties cease to apply. This work is essential alongside ongoing and collective engagement with the UK Government to seek to change the application of NRPF rules.

We encourage the Committee to support this position and to consider it further as it scrutinises response to the public health crisis and, in the longer term, the anti-destitution strategy.

## Consortium to Support People with No Recourse to Public Funds

### Supporting EEA nationals and migrants with No Recourse to Public Funds during Covid-19 and in the recovery phase.

#### Summary report.

People with No Recourse to Public Funds (NRPF) and some EEA nationals have faced significant health risks during the COVID-19 pandemic and are especially vulnerable to the emerging social and economic impacts. This paper sets out discussions across local government and the third sector on emerging challenges for people in these circumstances and outlines some potential priorities for discussion during recovery planning. It is intended to support and inform national and local government policy development and decision-making.

In April 2020, COSLA convened a consortium of organisations working to support migrant families and communities in order to better understand and monitor the emergency response to COVID-19 and how measures were being accessed by people with NRPF. The Consortium aimed to strengthen collaboration across local government and the third sector. Membership included COSLA, Scottish Government and some of the leading third sector organisations working with migrant communities: British Red Cross, Glasgow Night Shelter, Scottish Refugee Council, Simon Community, Shelter, Women's Aid and Refugee Survival Trust and others. Three thematic sub-groups were formed to further consider emerging issues and access to services. These were as follows:

1. **Accommodation;**
2. **Food and financial support; and**
3. **Legal advice and advocacy.**

Issues stemming from those discussions were further considered by the local authority NRPF Network (Scotland) including officers from social services, housing and welfare who have expertise in and responsibilities for supporting vulnerable migrants in their local areas.

This report summarises discussions across these groups and identifies areas the group considered to be high level priorities and possible action areas to ensure support is available for people with NRPF and some EEA nationals during the 'step down' and 'recovery' period, focusing primarily but not exclusively on people at risk of destitution and rough sleeping.

#### **Covid-19 Impact on People with No Recourse to Public**

NRPF is a condition which applies to people with certain types of immigration status and it prevents them from accessing most mainstream social security benefits. Most commonly groups of people with NRPF will include: people granted leave to remain in the UK subject to NRPF (as worker, student or a family member), asylum seekers

whose claim have been refused and who exhausted their rights to appeal, and people who unlawfully reside or cannot evidence their right to reside in the UK. Work of the consortium also included in this group some EEA nationals who were unable to establish or evidence their right to access some of the mainstream social security benefits.

People with NRPF have faced specific risks during the pandemic, and will continue to do as we move through step- down and into the recovery period:

- They are unable to access mainstream social housing and homelessness services and therefore are more likely to be at risk of homeless and rough sleeping; in over-crowded and unsuitable housing, and in types of housing that put them at further risk of abuse and exploitation.
- They are excluded from the mainstream benefit system, including Universal Credit and Scottish Welfare Fund which are two of the main policy levers for mitigating the poverty impacts of Covid-19.
- They are faced with additional barriers in securing and maintaining a sustainable position in the job market. People with NRPF are either not permitted to work or, where they have permission to work, they are often working in lower wage jobs, precarious work and/or sectors that are heavily impacted by the pandemic. This includes essential workers - health and social care staff, shop workers and delivery staff, who are at higher risk of the contracting the virus; and as workers in sectors that have been most heavily impacted by job losses, including hospitality and tourism. Limited access to childcare additionally impacted on people's ability to maintain position in the job market during the pandemic.
- They are at risk of exploitation and abuse, including trafficking, labour and sexual exploitation and domestic abuse. This risk may increase once restrictions on social movement and emergency COVID-19 support are phased out impacts affecting people's ability to secure work and other means of support.
- They are at higher risk of exclusion, loneliness, isolation and mental health issues, and may experience higher levels of anxiety and stress during this period, e.g. because of separation from family, misinformation and immigration uncertainty.
- They are more likely to face other significant barriers such as language and cultural barriers to access information, services and support.
- Women and children in these circumstances are also more likely to be in severe risk of experiencing domestic abuse and face additional challenges in accessing safe accommodation and support.

In rapid response to the pandemic, emergency support was put in place by government and the third sector to address some of the most urgent needs of people with NRPF- temporary accommodation and emergency food provision. This was done to protect both the health of individuals by reducing risk of contracting Covid-19 and to support efforts to reduce the spread of the virus for the benefit of overall public health. The Scottish Government set out a £350 million funding package in March that could be used by local authorities and the third sector to meet people's needs and included people with NRPF in the COVID-19 support options available to wider communities as far as this was possible to do.



COSLA produced a short [framework](#) supplementing the guidance on Migrants Rights and Entitlements to Local Authority Services setting out legal basis and other considerations for providing support during the response phase of the pandemic. It assists local authorities to provide support to people with NRPF who are roofless/rough sleeping or who have specific safeguarding concerns using their powers under social work legislation.

### **Emerging issues and priorities**

Further to organising and coordinating emergency response to COVID-19 the Consortium considered and discussed ongoing needs of people with insecure immigration status who are experiencing destitution, homelessness and food insecurity. It is recognised that existing funding and delivery models do not sufficiently meet basic needs of vulnerable people with NRPF. Moreover, the pre-existing welfare concerns which have been exacerbated by the coronavirus pandemic are likely to continue and significantly increase when the emergency support measures are withdrawn.

Three thematic sub- groups have met to discuss and identify recommended areas for priority consideration and scope options that could be taken forward to ensure that the basic safety net continue to be in place for destitute and homeless migrants.

#### **a) Accommodation sub- group**

*The sub-group focused on how we support people who are currently receiving temporary accommodation under emergency public health measures and who are at risk of homelessness including rough sleeping when these services are withdrawn. The discussion lead to identification of critical issues.*

- Planning for safe transitions for people with NRPF and some EEA nationals who do not have established entitlements to settled accommodation (including LA housing and homelessness services) when the legal basis for supporting people with NRPF changes and temporary funding comes to an end.
- Planning and preparation for a potential spike in destitution amongst people with NRPF and some EEA nationals who are currently in settled accommodation who are at risk of homelessness when temporary measures to prevent evictions are lifted i.e. because of a loss of employment/income or because they are experiencing domestic abuse.
- Meeting challenges in delivering our commitments to End Homelessness Together for people in these circumstances.

It was agreed that there was a need to develop a human rights-based pathway to access safe accommodation and support for people who are destitute and have NRPF to be developed.

#### **b) Food and Financial Security**

*The sub-group focused on the impact are unable to access mainstream support when the COVID-19 emergency Food Fund is fully distributed. It also considered other essential needs that people may struggle to meet and*

*explored sustainable ways to provide people with access to food and financial resources in long- term. The discussion lead to identification of following considerations:*

- Predicting the scale of the need and future demand to be able to address the problems of access to food and financial support during the COVID-19 recovery and in the longer term. Currently there is a wide range of support available, funded by Local Government and Scottish Government in the form of access to food and crisis grants, some of which will come to an end when the COVID-19 emergency funding streams will be withdrawn. It is expected that in the context of diminishing resources the demand for services and support will increase as a result of the wider economic instability.
- Understanding existing capacity of services and provision to plan for long-term service delivery. Comprehensive and detailed understanding of the use of services until now and careful monitoring through recovery phase would facilitate a better cross- sector response to emerging pressures. Mapping of services, partnerships and delivery models operating across Scotland would enable better management of resource and expand the reach of all vulnerable groups across geographical locations.
- Coordination at a local level involving statutory and non-statutory support providers, including referral routes, signposting, regional food and crisis grant provision and communication. There is also a need to understand how existing support can be made more accessible, sustainable and inclusive to people with NRPF and EEA nationals.
- Fair access to statutory financial support including financial aid under local authority social work powers for those with eligible needs. More guidance and support is needed for local authority staff to establish clear referral routes and fair levels of minimum payments and crisis payments from social services under section 12/ section 22. Additional options for central crisis payments should be explored, such as maintenance of suspended limit on applications for Community Care Grants available from Scottish Welfare Fund (for EEA nationals and eligible migrants) during the COVID-19 pandemic. It was noted that models for centralised crisis grant provision have been successful in other countries.
- Fair access to food and financial grants. In medium and long-term people should have sustainable and repeat access to resources to meet their essential needs. Access to financial grants and dignified food provision, digital access and support for travel should be coordinated and delivered on a local level. The post COVID-19 period and requirement for social distancing would require agencies to redesign their services which creates an opportunity for new models to be introduced and tested.

### **c) Advocacy and Legal Advice**

*This sub-group focused on key challenges in supporting people to regularise their immigration status in order to be able to access mainstream safety net and establish legal routes out of destitution. Members considered what additional work is needed to ensure that people are well informed about options available to them under the COVID-19 response and beyond, and what effect the changing*

*circumstances will have on the rights and entitlements of migrants in Scotland to access services and supports. The discussion lead to identification of critical issues.*

- Assessing the demand for legal advice in upcoming months to plan for services. Supporting organisations noticed a decrease in the number of queries as they moved to remote/ online service provision. It is expected that in the recovery period and post COVID-19 the demand on support and already limited legal services will significantly increase. Existing services had been overstretched prior to the pandemic and are unlikely to be able to meet the upcoming demand.
- Improving accessibility to good quality legal advice. It is recognised that currently available immigration advice will be insufficient to meet the demand. Capacity of organisations providing immigration advice had been a prolonged issue impacting on people's ability to regularise their immigration status. There is need for early intervention and development of triage programmes and routes to signpost to advice and support (which are cheaper and more effective in the long term), at the point individuals are accessing other services (e.g. emergency accommodation) during COVID-19 and after. The importance and cost of interpreting must be accounted for in funding models.
- Improving access to IT resources. IT illiteracy and difficulties in accessing IT is a major issue as services are likely to continue to provide support over the phone and online. It is expected that demand for already limited access to shared IT (e.g. libraries) will increase post COVID-19 due to more people needing to contact services digitally.
- Managing the impact of closure of services (such as ELTS, Life in the UK testing centres, SSCs) on individual immigration applications and wider knock on effect of a backlog and new submissions as services become limited by physical distancing measures. Additionally, we need to consider resource limitations in the light of expected crisis- how to ensure advocacy and legal advice is adequately resourced and what would be the impact on individuals and communities if they weren't.
- Increasing access to knowledge and training. There is ongoing need to increase institutional knowledge amongst Local Authorities and supporting organisations to ensure understanding and manage risks for people with NRPF incorrectly accessing public funds. Increased awareness of migrants' rights and entitlements amongst frontline staff will improve access to and quality of support and direct signposting.
- Addressing rights of workers with NRPF. Clarity is needed on what support migrant workers with NRPF can access if they become unemployed or their income reduces (e.g. reduction in hours) due to COVID-19 or if they can no longer work due to unpaid caring responsibilities (e.g. childcare or due to illness).

## **Recommendations**

Whilst immigration restrictions make it more challenging to provide an inclusive public health response and address poverty and destitution of people with NRPF, there are legal and viable ways to extend essential services and support at devolved level. It has been demonstrated during the crisis response, there are measures which can be

taken when there is a public health emergency or notifiable health condition. The Consortium discussed ways in which the national approach can help boost the capacity at local level to support people and to protect people's basic human rights, including for those with insecure immigration status. The Consortium suggested that these will need to support the role of local authorities in meeting the needs of those with statutory entitlements to assistance (including families with children and adults with eligible care needs) and the role of the third sector in supporting people who are prohibited from accessing local authority social work support.

The following ten high level priority areas were identified for consideration during recovery planning and future policy development:

- i. **Gradually withdraw temporary emergency accommodation and provision of services within hotel and B&B accommodation for people with NRPF**, ensuring that people can either access other accommodation options or legal advice in order to make safe transitions to settled housing, or longer term accommodation.
- ii. **Provide social work assessments and referral pathways** to local authority supported accommodation for those with eligible needs, including women and children who have experienced domestic abuse. This work will need to support Local Government's capacity to meet the growing needs of women with NRPF who are experiencing domestic abuse, and families with children, and to identify any wider measures necessary to address public health risks as well as ongoing risks of racism and discrimination, trafficking or abuse that some people with insecure immigration status may face during this period.
- iii. **Provide help to meet housing costs for people with NRPF and EEA nationals** who are currently within settled accommodation but who have become destitute or are at risk of homelessness. Work is needed to scope what might be possible to support people to within accommodation, including looking at how discretionary housing payments and support from social services under current legislation can be resourced and supported.
- iv. **Identify, develop and test community-based accommodation options** with wrap-around services for those without established entitlements to statutory support, working with the third sector to map legal accommodation options and identifying the funding and partnership models that could enable these to be tested and scaled.
- v. **Provide legal advice and specialist advocacy services** to people with insecure immigration status, ensuring appropriate services are in place to help people to regularise their status and access entitlements to mainstream services wherever possible, including rights under the EU Settlement Scheme.
- vi. **Provide targeted welfare advice and employability services** for EEA nationals and people with NRPF who are permitted to work so that they can access their entitlements and increase household incomes through employment, ensuring appropriate services are in place to help people maximise any entitlements available and find routes out of destitution.

- vii. **Ensure access to financial support** under local authority's statutory social work duties for those with eligible needs, including the development of safe payment rates for adults and families with children. Maintenance of more flexible access to financial assistance available from Scottish Welfare Fund (for EEA nationals and eligible migrants), as implemented during the COVID-19 pandemic, should be explored.
- viii. **Ensure access to community-based food and crisis grants.** As temporary emergency measures to assist people to access food and financial support during the crisis are withdrawn, a clear 'step down' plan is needed to ensure that destitute people with NRPF can continue to access essential support. This includes considerations for transitioning to community-based models of food and crisis grant provision and ensuring that there is effective co-ordination and signposting.
- ix. **Collective advocate for UK Government policy change.** There is a need to work together to collectively press for changes in UK policy, including joint calls to remove NRPF conditions, and the Habitual Residency Test requirements for EEA nationals, particularly for the most vulnerable people who are at risk of destitution, and to enable people to access mainstream services and support.

It was agreed that innovation, political leadership and co-ordination is needed to identify new ways of working and clarify the approach across government and with civil society – as well as sufficient resources and efforts to build capacity within systems to respond to people's needs.

## Submission from Shakti Women's Aid

### **1. Has your organisation been providing support to people with NRPF, and if so, what support have you been providing? What are the practical challenges?**

Shakti Women's has been supporting women with no recourse to public funds since it was established in 1986. We also sit on the national NRPF campaign body and have been instrumental in bringing in the DDVC. Supporting women with NRPF has not been an easy journey and the journey continues to be difficult.

The main aim of our support is to help women rebuild safer and independent lives for themselves and their children (if any) and we do this by offering the following support service

- Provide information and emotional support to women to enable them to make informed choices suitable to their circumstances; support them to gain courage to leave their abusive relationships
- Carry out Risk assessments and where appropriate make referrals to MARAC
- In applying for DDVC application, if applicable, (not all women are eligible)
- Support women link in with the immigration solicitors and help them to collect all the necessary evidence of domestic abuse to support their application
- Provide advocacy support to women enabling them to express/represent themselves and their situation effectively
- Provide information about their rights in this country and support them to deal with their trauma caused by DA they have been through
- Work closely with local food banks to access food for women, refer them (where appropriate) to food bank; provide food vouchers
- Support them to access accommodation and financial (benefits)
- Try to look for alternative funds for women.
- Work closely with other agencies to access services for women especially bilingual counselling
- Work closely with police to put in safety measures
- Work closely with social work where necessary and appropriate
- Help them access employment/training/education (where they are eligible)
- Help them to register with GP
- Help their children to enrol into education
- 

### **Challenges:**

No accommodation available for women with NRPF, local authorities are hesitant to accommodate women with NRPF. When we make a referral to Social Work, under Children Scotland Act section 12 and 22, they are reluctant to support women and their children.

Edinburgh local authority has a protocol to support women with NRPF. However, in Tayside, Fife and Forth Valley where Shakti has its outreach services women NRPF

are often left without any support. Shakti receives referrals from all over Scotland and find that the situation is similar in most local authorities.

Destitute domestic violence concession (DDVC) is not straightforward, it takes a while to be granted and women should not wait to access accommodation and financial support especially when they are at risk of harm.

Although we have DDV concession it is not used by agencies to access support for women with NRPF (this is frustrating as a campaigner). Agencies are reluctant to take women with NRPF mainly for three reasons, firstly, they lack knowledge and understanding of how DDVC works; secondly, do not have the resources to meet the additional work that comes with these cases; thirdly, they are not interested.

One of the challenges for us as an organisation is not sufficient funding available to support women with NRPF. We are aware many women and their children living in abusive relationships due to their unstable immigration status.

As one of the 2 Women's Aids for BME women, their children and young people in Scotland we feel it is our duty to campaign for the rights of BME women and to have services available to all women across the Scotland irrespective of their immigration status – this is big challenge

**Definition of domestic abuse** is another big challenge as it is not inclusive of abuse from other family members within a household and this is a challenge when DA services do not take referrals when the abuser is not a husband, ex-partner or partner. In honour based violence cases, perpetrators are not always the husband or the partner. We had women fleeing forced marriage who were refused support because the perpetrators were family members

## **2. What does the UK Government and Scottish Government need to do, if anything, to support providers of services in the local government and third sectors who are assisting people with NRPF?**

Women in crisis should be able to get support regardless of their immigration status. Most of the frontline staff at housing are not aware of immigration rules around domestic abuse and the DDV concession therefore, women who are entitled to accommodation are often refused when they are present as homeless. The situation is similar with welfare benefits.

Shakti staff feel isolated in supporting women with NRPF and other agencies do not take responsibility in supporting women with NRPF. In some cases, staff had to contact MPS and MSPs to get support for these women.

Currently, Women with NRPF who have children are depending on the Children Scotland Act section 12 and 22 to get accommodation and financial support; however there is no consistency in social work practice in this area. Edinburgh has a very clear NRPF protocol but not other local authorities in Scotland – it is at the discretion of the social work. Therefore, SG should develop a standalone legislation without depending on any loophole such as the Children Scotland Act to support

women with NRPF irrespective of their immigration status. There should be clarity on entitlement to housing and benefits.

What SG needs to do is

- SG should be proactive in involve BME organisations who work with women with lived experiences in policy development and major decision making in developing services for women with NRPF
- Provide Specific funding for organisations that support women with NRPF to help women to access information, advice and support services before crises occurs, reducing the risk of destitution due to NRPF; access to appropriate legal advice or support them to regularise their immigration status or establish access to support they are entitled to
- Provide funds for training other agencies on issues affecting BME women and how they can support them

What else can SG do

- Provide a permanent and long-term solution, enabling all women to have living expenses and access to refuges and local authority accommodation pending a final decision on applications to remain in the UK.
- Reform the Domestic Violence Rule so that all types of evidence of domestic violence are accepted.
- Extend the Domestic Violence Rule to all abused women with an insecure immigration status and introduce similar protection for trafficked women subjected to sexual and economic abuse and to overseas domestic workers experiencing violence from employers.
- Provide adequate levels of legal aid so that there is access to good quality legal advice and assistance.

### **3. How has Covid impacted the support available to people with NRPF?**

Women living in remote areas became more isolated. Leaving abusive relationship became difficult with their complex immigration status. Some of the women who left they faced further barriers. Not having enough money and access to Wi-Fi made it difficult to stay connected to the outer world. Bank would not open bank accounts for women.

One woman was not able to leave because no one will offer her accommodation. She was forced to live with the abusive partner. A woman's aid refuge refuse to give accommodation to one woman saying that, 'the case was complicated, and they were short of staff'. A few women return to their abusers

### **Additional challenges**

Some of our women are not only living with the perpetrator but also with other extended family members. For those who left their abusive relationship, COVID 19 has given the family members and the community member a strong reason to reinforce the religious, cultural beliefs of the women and the institutional discrimination faced by BME in general, thus encouraging women to return to the perpetrators.



We have a few women either had taken the perpetrator back into their homes or returned to the perpetrator or contemplating on returning to the perpetrator.

- The main challenge for the outreach staff to support clients who are still with the perpetrators, and at this time particularly so as the perpetrators are at home all the time and clients have a very small window of opportunities to call for support or leave especially the clients with uncertain immigration issues and limited English
- The most difficult cases are those who are living with other family members, are not on benefits and or have lost their income. The added financial stress has magnified, and clients are reporting the abuse has escalated along with depression and not feeling safe at home.
- These clients are most vulnerable as a referral to foodbank cannot be made as the clients fear this will raise questions, they won't have an answer for – this is mainly for those with immigration issues.

Shakti had to use telephone interpreting service for a few women who we could not provide the language support and the bills for interpreting is very high.

**4. From your perspective, have local authorities been able to support people with NRPF sufficiently during the pandemic?**

Only in Edinburgh. In other areas, this was not the case. One woman tried to get accommodation and she was refused and then reconciled with her husband. Local authorities did not have clear guidelines about this issue. Crisis grant was not open to with women NRPF during the pandemic. Shakti workers contacted local charities and food banks to help their clients.

But it is still not enough. Many women still fall through the gaps and cannot access this support. Ultimately the campaign is still fighting for the no recourse requirement to be abolished for abused women who have insecure immigration status.

## Submission from Positive Action in Housing (PAiH)

- 1. Has your organisation been providing support to people with NRPF, and if so, what support have you been providing? What are the practical challenges?**

### TARGET GROUPS

PAiH provides advice and support to individuals from ethnic minority backgrounds, which entails a number of people with No Recourse to Public Funds:

- Asylum seekers
- People with a form of Leave to Remain with a NRPF condition
- EU Nationals not exercising Treaty Rights

### FORMS OF SUPPORT

More specifically, support and advice provided entail:

#### Money and essentials

- Access to emergency monetary support (Crisis grant) - especially to destitute asylum seekers, asylum seekers without Home Office support
- Access to household items and basic essentials via our volunteer-based support and delivery network
- Access to food parcels via referrals to local food banks
- Access to other forms of charitable support
- Provision of hosting options for asylum seekers with no Home Office support, new refugees and migrants who fall under different immigration categories (Students, LTR - human rights, 20-year rule etc., visa overstayers, trafficking victims)

#### Admin assistance and advice

- Assistance on access to benefits (admin support, disputes, process) for people who have newly obtained LTR (in transition to access benefits), for client applying for Indefinite Leave To Remain based on long term residency or end of DLR
- Assistance to access legal advice - applications for change of NRPF conditions on LTR
- Assistance on access to Home Office Support (Section 95/Section 4) for asylum seekers
- Advice on Housing Options: referrals to Social Work, assistance/advice on Housing search: application to Housing associations, search for private housing, assistance on tenant/landlord relationship, requests for rent reliefs

## PRACTICAL CHALLENGES

- In-person service in a context of language barrier: Providing our advice and information by phone and online is challenging and difficult to say who has been excluded when demand for our service has been so high
- Hosting: social-distancing restrictions limiting abilities to establish new hostings
- Supporting first time claimants with low digital literacy through the U.C claims online , gathering relevant evidence to support claims they might be entitled to, long wait to receive support and associated anxiety.
- Expected challenge in the future: newly-arrived EU citizens treated as non-EU citizens

### **2. What does the UK Government and Scottish Government need to do, if anything, to support providers of services in the local government and third sectors who are assisting people with NRPF?**

- More inclusive implementation of NRPF regulation by local authorities: NRPF training, distribution of COSLA guidance on migrant support. Continued treatment of this as a public health issue, access to Covid homelessness accommodation and support
- Limit the number of Leave to Remain with NRPF conditions: Reduce the proportion of people granted Leave to Remain with a NRPF condition, especially for people who have been in the UK for several years. See also work by Natalia Farmer, Caledonian University on NRPF: “No controversy, no issue : the unfolding of 'no recourse to public funds' (NRPF) and insecure immigration status in social work”
- Labour Regulation: For individuals whom the job is the only safety net: more protective labour laws and stronger enforcement of labour law to avoid abusive employers’ practices (low salary, changing hours, restricted access to the furlough scheme)
- Accessibility of Universal Credit: There needs to be a much greater focus from the government on ensuring that the universal credit system provides timely security for those who need it, alongside investment in enabling those who lose their jobs to access employment.
- Social Work Payments: Scottish Government should set and fund reasonable and standardised Social Work payments for NRPF people. Currently Local Authorities treat NRPF payments in disparate ways and provide very small cash payments for NRPF people. Resources put into assessment of cases is disproportionate to the amount of money paid to people in very high levels of need.

### **3. How has Covid impacted the support available to people with NRPF?**

- All projects: In some cases it has improved access to accommodation and support for street homeless EEA nationals, asylum seekers and refugees.

- Asylum seekers: due to Covid-19 restrictions, the usual course of Home Office accommodation support delivery was disrupted, leading recipients of Section 98 and Section 4 to staying for a long time in accommodation deemed to be suitable for short-term only: Home Office hotels
- Loss of salary with no or limited compensation: People who lost jobs and could not count on benefits support except the furlough scheme - in many cases, people in more precarious jobs (not official employment, 0-hour contracts, self-employed, hearsay of employers' fraud refusing redistribution of furlough money) could not access the furlough scheme and have still not received benefits support.
- Full-time Students → only allowed part-time work, many times on precarious contracts, lost income, were not self-sufficient anymore - could not access homelessness assistance, or Council emergency support, accumulated rent arrears

**4. From your perspective, have local authorities been able to support people with NRPF sufficiently during the pandemic?**

We appreciate the ability of the Scottish Government and local authorities to quickly distribute large amounts of money to charities and allow charities to use funding at their discretion. This was key to ensuring quick access to support for those who would otherwise have access to no other form of support.

We also notice the irony of questions sent to charities about support provided to people with an NRPF condition while the very point of this disposition is to limit availability of support for a number of groups. The very issue of NRPF dispositions is that it makes a number of support channels legally unavailable to people likely to need it. Essentially, it would be best to repeal the NRPF condition altogether.

## Submission from Scottish Women's Rights Centre (SWRC) / JustRight Scotland

### About Us

[JustRight Scotland](#) is a registered charity established by an experienced group of human rights lawyers. We use the law to defend and extend people's rights, working towards a model of collaborative social justice – lawyers working with non-lawyers and others – towards the shared aims of increasing access to justice and reducing inequality in Scotland. We do this by providing direct legal advice to individuals and organisations, running outreach legal surgeries and helplines, delivering rights information, training and legal education, and contributing to research, policy and influencing work. We work across a number of policy areas including women's legal justice and gender-based violence, trafficking and exploitation, disability and trans justice, and migration and citizenship.

The [Scottish Women's Rights Centre \(SWRC\)](#) is a unique collaborative project, between JustRight Scotland, Rape Crisis Scotland and the University of Strathclyde Law Clinic, that provides free legal information, advice and representation to women affected by violence and abuse. The SWRC exists because of abuses of power and because a gap persists between women's experience of violence and abuse and their access to justice. The SWRC strives to fill these gaps by working with specialist solicitors and experienced advocacy workers. Informed by our direct work with victims/survivors of violence and abuse, we seek to influence national policy, research and training to improve processes and systems, and ultimately to improve the outcomes for women who have experienced gender-based violence (GBV).

At JustRight Scotland we understand that the ability of local government to deliver the support, justice and safety desperately needed by migrants subject to the no recourse to public funds condition (NRPF) is restricted by the devolution settlement which leaves immigration policy reserved to Westminster. JustRight Scotland is on record expressing our opposition to the continuation of hostile environment policies by the UK Government and the harmful practices of the Home Office. We have provided legal and policy input where possible, to local authorities in order for them to deliver what they can whilst respecting legislative boundaries in order to act with humanity and fairness towards migrants who are at risk of, or already living in, destitution.<sup>2</sup> We firmly believe that NRPF is a harmful policy that is putting the lives of migrants across Scotland at risk. The recent High Court ruling which found part of NRPF policy unlawful,<sup>3</sup> has resulted in a slight softening of NRPF restrictions, however the

<sup>2</sup> We are co-authors of Scottish Govt/COSLA's "Migrant Rights and Entitlements: Guide to Local Authorities" (<http://www.migrationscotland.org.uk/migrants-rights-entitlements/>) (2019) and to the COSLA "Covid19 Response Planning: Framework for Supporting Migrants with No Recourse to Public Funds" (<http://www.migrationscotland.org.uk/uploads/Guidance%20Covid%2019%20Supporting%20People%20with%20NRPF%20200420%20%28002%29.pdf>) (20 April 2020).

<sup>3</sup> *R (W, A Child By His Litigation Friend J) v The Secretary of State for the Home Department & Anor*

policy must be scrapped altogether and a clear and legitimate funding route to support migrants who need financial, legal, wellbeing or third sector support must be created.

**1. Has your organisation been providing support to people with NRPF, and if so, what support have you been providing? What are the practical challenges?**

JustRight Scotland and the Scottish Women's Rights Centre provide legal advice and representation to individuals and families who are subject to the no recourse to public funds condition (NRPF), as well as second-tier advice to organisations that support people with NRPF, and legal information and professional training on the rights of people with NRPF.

We do this work in the context of giving advice on immigration, EU law and asylum law, on the rights of survivors of trafficking and exploitation, and on the rights of survivors of gender-based violence, including sexual harassment, rape and domestic violence.

We also host the [Just Citizens](#) project which is making the case for everyone living in Scotland to be able to access equal rights, regardless of their immigration status. The project works to ensure everyone living in Scotland has the right to belong, including EU citizens, refugees, asylum seekers and migrants from many other backgrounds, as well as native Scots. The project is led by the JustCitizens advisory panel, people with lived experience of migration and the immigration system, and we will be working together to develop a "social citizenship" model for Scotland.

In our response below we seek to highlight specific cases to demonstrate clearly the lived experience of migrants and asylum seekers, and the reality of harm caused by current policies and systemic inequalities, drawing on our legal casework, our JustCitizens advisory panel, and frontline casework from our partner organisations.

**Barriers to accessing accommodation and financial support** – The most obvious direct impact of the NRPF condition is to restrict access to most mainstream forms of accommodation and financial support. For NRPF individuals and families who are not permitted to work (because they do not have lawful status) or who are not able to work (because of disability, caring responsibilities or for some other reason), the combination of an inability to work and a prohibition on accessing public benefits will likely result in destitution and homelessness, at a level of severity and for periods of time that will exceed the average experience of a non-migrant in similar circumstances, living in Scotland.

**Increased risk of exploitation and harm for women with NRPF** – Destitution and homelessness – or the risk of destitution and homelessness – also increases the risk of exploitation and harm for women with NRPF. The NRPF condition can effectively trap women in abusive relationships, particularly where they depend on perpetrators of abuse and are unable to flee because of the lack of accessible options, including safe refuge spaces. Similarly, the NRPF condition can increase vulnerability to other

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[2020] EWHC 1299 (Admin) (21 May 2020)  
(<https://www.bailii.org/ew/cases/EWHC/Admin/2020/1299.html>)

forms of exploitation, including trafficking and physical or sexual abuse. This vulnerability is compounded where women also have uncertain immigration status and are fearful of contact with statutory authorities, including the police, the NHS and social services.

**Barriers to accessing the legal advice** – Destitution and homelessness also constitute barriers to people accessing the legal advice people with NRPF require to change their situation. They may not have the time needed to research where to access advice or information when they are working to simply keep themselves alive and safe, day to day (particularly when there is conflating and complex information for them to decipher). The cost of access to technology (including access to mobile data) can be prohibitive – a factor that has become more important as legal advice during Covid-19 is increasingly offered primarily, or solely, online. Finally, some migrants may face a language barrier which either prevents them accessing services or creates additional challenges if they (or an advising agency) requires to pay for interpretation/translation services.

## **2. What does the UK Government and Scottish Government need to do, if anything, to support providers of services in the local government and third sectors who are assisting people with NRPF?**

### **For the UK Government:**

- **There must be an overdue, urgent review of the NRPF condition**, particularly after repeated evidence of the negative human rights impacts of the policy. For example, the deeply harmful impact on women fleeing abusive relationships but with no right to publicly funded support services or shelters or to those living in destitution with no access to publicly funded housing or food banks. NRPF is one element of the wider implementation of a suite of hostile environment policies which include the closing of formal and safe routes for asylum seekers, increasing costs of citizenship and intensified scrutiny. In order to create a safer and fairer Scotland for migrants, NRPF should be reviewed through a human rights lens alongside wider UK immigration policy and Home Office processes.
- Our work with migrants has given us clear insight into the dire experience of many under NRPF and **we call for the NRPF policy to be repealed**. However, at the very least we recommend that due to Covid-19 NRPF restrictions be suspended for a reasonable period of time to ensure the health and wellbeing of migrants and as a necessary wider public health benefit.<sup>4</sup>
- The [#LiftTheBan campaign](#) to extend the right to work to asylum seekers offers a practical opportunity to reduce asylum seeker destitution for some people.  
Giving asylum seekers the right to work not only recognises that our sense of

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<sup>4</sup> We refer to the example of the Portuguese government, which has taken practical steps to suspend restrictions on access to public services for some migrants as part of their emergency response to the Covid-19 pandemic. See *The Independent*, "Coronavirus: Portugal to treat migrants as residents during the pandemic," 28 March 2020, (<https://www.independent.co.uk/news/world/europe/coronavirus-portugal-migrants-asylumseekers-treatment-residents-a9431831.html>).

human dignity is linked to our ability to contribute to society, but will also support economic growth and promote integration, as well as reduce the cost of asylum support overall. **We join the call for the UK government to lift the ban on employment of asylum seekers** as an urgent and effective response to these economic challenges.

**For the Scottish Government:**

- **The Scottish Government must pursue every route possible within devolved powers to mitigate the impact of NRPF on migrants in Scotland.** For example, exploring avenues to create access to funding (potentially through devolved social security measures) for migrants who are at risk of destitution as a consequence of their NRPF status.  
We believe that the global pandemic provides a reasonable cause for current measures to be improved or enhanced to ensure the human rights of migrants are being realised and respected in Scotland. Under the current restrictions, the Scottish Government is complicit in allowing migrants and migrant families to live in poverty and to continue to experience injustice. For similar reasons, local authorities must meet their obligations to safeguard vulnerable adults and children, and promote the welfare of all children in their area, regardless of their nationality or migration status.
- In particular, we call for the Scottish Government to:
  - **Co-ordinate a cross-government response** to identify and redress the harmful impact of NRPF on individuals and families and to rethink structural biases in our current processes to ensure better outcomes in future. We recommend this builds on current work led by COSLA and the NRPF practitioners network, and set out in the Ending Homelessness Together Action Plan, but with the scope to draw together a wide range of bodies involved in services that impact the lives of people with NRPF. We also recommend this work is designed and delivered with people with lived experience of NRPF.
  - Ensure **early access to free, confidential legal advice** for people with NRPF as an effective means of identifying routes out of destitution and homelessness for people with NRPF, and of improving outcomes by reducing vulnerability to exploitation and abuse. This work should be accessible to people with NRPF, meaning its planning and delivery takes account of the barriers faced by them in accessing advice, and it should be delivered holistically, meaning that legal advice agencies should have capacity and expertise to effectively signpost and refer clients to an appropriate range of partner organisations to address other, related needs as they are identified.
  - **Explore the effectiveness of using statutory guidance or primary legislation** to achieve greater protection against harm and ensure access to a minimum standard of accommodation and support for people and families with NRPF.
  - We call on the Scottish Government to extend targeted public health / poverty alleviation and measures to migrants with NRPF. For example, **we support the recent call by BEMIS and the Poverty Truth Commission for the £500**



**discretionary payment for those on low incomes who are forced to self-isolate to be extended to migrants with NRPF.** We appreciate that this will require assessment against an income and evidence threshold, however, we would implore that any route taken to pursue this is not restrictively bureaucratic and that funding can be provided quickly, given how quickly the already precarious circumstances of some migrants can rapidly change, particularly during Covid-19.

- The Scottish Government has on many occasions (including in response to a recent letter from JustRight Scotland) expressed their opposition to the UK Government's hostile environment policies. The growing opposition to NRPF is a clear opportunity to increase pressure on this issue. As such we would recommend that the **Scottish Government takes this forward and explores potential policy and legal routes to express their opposition to UK hostile environment policies, including NRPF.**
- **The Scottish Government should provide long-term and sustainable funding to organisations which are on the ground and providing frontline and potentially lifesaving services for migrants.** Crucially, these are also organisations taking a proactive community focused, anti-racist and intersectional approach and should be supported to continue to do so.

Our JustCitizens panel explains:

*"The biggest thing I would want to happen is Trust. There is a lack of trust from the local councils, a lack of trust from the Scottish Government, a lack of trust from mainstream organisations. We have experienced this as a grassroots organisation led by black folk - you highlight the issues in the community and there is a question mark somewhere, somehow, over what you are saying.*

*Grassroots and BAME organisations reach communities. They are the heartbeat of the people experiencing these challenges and are often led by people with lived experience. They are providing emotional support, physical support, financial support, and helping people integrate. When you come to us, you can find the comfort that people are seeking when they are living with fear and hunger and isolation."*

- **The Scottish Government should create clearer and more formal routes for people with lived experience of NRPF and of being a migrant in Scotland to have input to policy, decision making and accountability.** Repeatedly, in our work with migrants they express their fatigue and frustration caused by consultation which "seems to go nowhere". A small number of "representatives" from the migrant community are asked for their input, often asked to repeat their stories of trauma (without follow up and support for their wellbeing). Despite participating, they express frustration that they receive no feedback and do not see any of the needed improvement in their lives.

Our JustCitizens panel adds:

*“When they come to consult with you it is like they have already made up their minds and that is what feels tokenistic. I want to know: who gets to write the report?”*

*“And...I don't want you to take this the wrong way, but when it is BME women who have led the work, led the campaign, fed into the evidence...and it is white women sitting at the table, that doesn't feel right.”*

### **3. How has Covid impacted the support available to people with NRPF?**

The impact of Covid-19 has been felt significantly by the migrant community and in particular those with NRPF. Whilst many of those with NRPF are able to work, with Covid-19 restrictions many found themselves with reduced hours (and therefore reduced income) or made redundant. Others lost out on income as they were themselves in the shielding/isolating category or may have been a carer for those with underlying health conditions. As such, additional financial and physical access barriers to obtaining support have significantly increased during Covid-19.

As the Poverty Truth Commission highlighted earlier [this week](#), for those under NRPF who must follow the law by self-isolating (and therefore not working) they risk living for 14 days without food, heat or shelter.

Covid-19 has also exacerbated existing inequalities. We know that those from [Black, Asian and Minority Ethnic backgrounds are more likely to die](#) as a consequence of contracting Covid-19, that [disabled people are more likely to be made redundant due to the economic consequences](#) and [women are taking on disproportionate levels of care](#). For migrants, the impact of Covid-19 has been deeply felt through financial insecurity and loss of income, the unsafe housing of asylum seekers in hotels, food insecurity and the reality that migrants are significantly [more likely to be in low-paid, frontline and key work \(e.g. retail and healthcare\)](#) where there is a higher chance of Covid-19 exposure). It is also important to note, that these inequalities do not exist in isolation from one another and many in Scotland experience multiple and compounding inequalities (for example, migrant women with NRPF).

Organisations who advocate for, support and provide services which are open to all migrants may be publicly funded, however pursue additional funds through donations, specialist funding or trusts to enable them to support those with NRPF. Due to Covid-19, the ability to fundraise and sustain services which support all migrants is under considerable strain, especially as services are in higher demand. Organisations providing support for people with NRPF are, often, also providing a wider range of services for communities experiencing inequalities. Given the disproportionate impact of Covid-19 on BME, disabled and working-class communities and women, support services are in huge demand with already limited funds.

As mentioned previously, many support services (particularly, legal, advocacy and information services) have moved online and to access them there is the requirement of access to technology, affordability of data or broadband and assumption of a level of digital literacy. All of these factors act as additional barriers to potentially accessing critical support.

## NRPF Individuals and Families

As outlined above, we have seen Covid-19 increasing barriers to accessing support for NRPF individuals and families.

Our JustCitizens panel gave these examples:

*“Yesterday we were speaking to a lady who has NRPF. Her kids were born in Scotland and she is an asylum seeker... With all the support [that local councils say are available for low income families], these kids are left out. The parents can’t access that support. She said it is like they are “not recognised” - the kids are born here in Scotland, but they do not count.”*

*“There is another lady, in a similar situation, with children. They contacted their MP to see if they can get extra support from the council. Because everyone is shouting about this extra support that is available [for families during Covid-19]. They contacted the social services, and they said unfortunately they cannot get support because they are NRPF, they do not have a category they fit into [for support].”*

In a letter written by JustRight Scotland in May 2020 to the First Minister, Nicola Sturgeon MSP, and the Home Secretary, Priti Patel, MP, we shared a case study of a young person we have worked with also impacted by these issues:

*A 16-year-old girl, fleeing domestic abuse in the family was not provided with ‘looked after’ care by her local authority for several weeks, supposedly due to Covid-19 restrictions and uncertainty about her migration status. She was placed in inappropriate homeless accommodation with no fixed financial support, and was forced to rely on food parcels from a local charity and handouts from a social worker to top-up her phone. She was isolated and put in an unacceptably vulnerable position.*

## Asylum Seekers

The Committee will also be aware that there have recently been three deaths of people in Glasgow who were accommodated and supported by the Home Office through the Asylum Support system: Adnan Walid Elbi, Badreddin Abedlla Adam and Mercy Baguma.

Glasgow MPs have recently [called for a fatal accident inquiry](#) into the deaths of these three asylum seekers, and we observe that many of the challenges faced by these asylum seekers in accessing the support and protection that they require — and to which they have a right under our own Scots welfare legislation — are also commonly faced by people with NRPF.

We recommend that lessons drawn from any such inquiry should be closely reviewed by the UK and Scottish government in evaluating the wider impact of NRPF and of local authority responses to people with NRPF.

## EU Citizens

Our partner organisations, the [EU Citizens Rights Project](#) and [Feniks Counselling, Personal Development and Support Services](#), support EU citizens in Scotland to apply for Settled Status and access their rights.

They tell us that from the beginning of the pandemic (early March 2020) the UK government has stopped issuing National Insurance Numbers (NINOs). The service is still unavailable to EU nationals.<sup>5</sup>

As Gabriela Ingle from the EU Citizens Rights Project explains:

*“As insignificant as this may appear, people without the NINo cannot access certain benefits (e.g. child benefit), have a lot of problems with finding or keeping employment (many employers just won’t interview or employ candidates with no NINo), and many were just sacked instead of being furloughed (again, the job retention scheme is much more complicated for those with no NINo).”<sup>6</sup>*

It is also important to remember that, at present, EU citizens who have Pre-Settled Status are not automatically eligible for Universal Credit and many other UK Department of Work and Pensions (DWP) means-tested benefits.

This means that EU citizens who live in Scotland but do not have Settled Status are at greater risk of destitution – either because they cannot access the proof of eligibility they require to access benefits and services they have a right to access, or because they are excluded by law from certain benefits and services. We caution that this risk is particularly concerning in the context of Covid-19, and an imminent recession, during which we expect to see higher unemployment and an increase in individuals and families being pushed towards the poverty line.

We also refer here to the additional discrimination that women can face in making successful applications for either Settled Status or to meet the evidential requirements to qualify for benefits. As carers, mothers and part-time workers (often in precarious work) they may lack the required documentary evidence and as a result lose out on the entitlement to reside and the benefits that they have a right to secure. In addition, women experiencing domestic abuse face additional barriers, where their perpetrator creates financial dependency and women are prevented from working.

As in our comments above, whilst EU citizens may not be strictly NRPF, we suggest that the destitution and vulnerability that arises as a direct consequence of their

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<sup>5</sup> From the GOV.UK website: 'You can currently only apply for a National Insurance number in England, Scotland and Wales if you have entered the UK **on a visa**. You cannot apply for a National Insurance number in Northern Ireland. This is because of coronavirus (COVID-19).' (<https://www.gov.uk/apply-national-insurance-number>)

<sup>6</sup> See for example, Chartered Institute of Taxation, “Job Retention Scheme Applications for Employees with no NINo,” (<https://www.tax.org.uk/policy-technical/technical-news/job-retentionscheme-applications-employees-no-national-insurance>)

“migrant” status and the UK hostile environment rules are in common with those faced by asylum seekers and people with NRPF. We also propose therefore that the pressing need for solutions be urgently examined alongside the Committee’s inquiry into local authority support for people who are NRPF and for asylum seekers.

### **All Migrants – NRPF and/or Subject to Restrictions on Access to Benefits**

In summary, the above case studies, drawn from our legal casework, the lived experience of our JustCitizens, and the casework of our partner organisations tend towards this conclusion – expressed by a member of our JustCitizens panel:

*“Covid is continuing to leave people out. On the surface it looks like [the government has said] everyone is getting support but underneath people are left out but it is making things worse.*

*[P]eople used to travel and meet a friend and get [charitable and informal] support and advice here and there but now they can’t. Covid has really hit these communities hard. It is still hitting these communities really hard.”*

#### **4. From your perspective, have local authorities been able to support people with NRPF sufficiently during the pandemic?**

Local authorities, with the support of on-the-ground services and third sector organisations have made welcome interventions to protect the wellbeing of migrants. This has included providing short-term accommodation for street homeless EU citizens in hotels, and allocating funding to services such as the Glasgow Night Shelter to provide immediate support to people with NRPF.

However, there have been considerable gaps in provision which have put migrants’ lives at risk. The decision by Mears to house asylum seekers in hotels has had harmful consequences, with many migrants [reporting](#) that they were forcibly moved (away from what they believe to be safer accommodation) with little notice. Whilst this was argued to be for migrants’ safety during Covid-19, communal accommodation (including communal dining) has arguably, put them at more risk. [Migrants have reported substandard meals](#), a lack of support and an impact on their mental wellbeing. This has resulted in calls for a public inquiry into the Mears Group failure to meet a duty of care to migrants, which JustRight Scotland supports.

In order for local authorities to be able to deliver the care and support needed by the migrant community and specifically those with NRPF, there must be a consistent approach between authorities which includes further funding allocated, safer accommodation and clear routes for financial, legal and wellbeing support. When speaking to national organisations and stakeholders who support those with NRPF, this lack of consistency between local authorities has been emphasised, particularly in emergency support for migrant women escaping abusive relationships and in need of access to housing. They state that fear, a lack of knowledge and an unnecessarily complex policy environment prevent local authority staff from providing the life-saving interventions that women with NRPF may need.

As Girijamba Polubothu from [Shakti Women's Aid](#) explains:

*“Local authorities are hesitant to accommodate women with NRPF. We make a referral to social services but there is no consistency in service across Scotland... One woman wasn't able to leave because no one will offer her accommodation. She was forced to live with the abusive partner.”*

The death of Mercy Beguma, the experiences of those on our JustCitizens panel and the casework we deal with on a daily basis illustrate that, despite efforts, migrants with NRPF who are in need of potentially life-saving support are falling through the cracks and being let down by harmful UK Government policy which is then implemented by our local authorities.

## Conclusion

Whilst we have worked with COSLA, the Scottish Government and individual local authorities and understand that there have been considerable efforts delivered to create a fairer and safer Scotland for all migrants, this is far from being realised whilst NRPF restrictions continue.

With the current lack of access to support and at times, dangerous and precarious housing and employment situation migrants with NRPF find themselves stuck in, local authorities are not able to meet their duty of care to migrants and are not able to support the realisation of the vision in the [New Scots: Refugee Integration Strategy](#) which states an ambition for Scotland to be “...a place of safety for everyone, where people are able to live free from persecution as valued members of communities.”

Throughout the pandemic we have witnessed measures being implemented that were once considered unobtainable: hotels used to accommodate those who are homeless and increases in financial support for those who have lost income. These measures need to continue (and in many cases need to be extended) through the duration of the pandemic to ensure the safety of migrants lives and to take seriously wider public health responsibilities.

However, a longer-term plan to support NRPF migrants is required which takes into consideration the longer term economic, social and health consequences that are likely to exist beyond the duration of the immediate crisis. This can only happen through a human rights and equalities focused approach which sees an end to hostile environment policies from Westminster, however significant positive change can be made through the Scottish Government pursuing every avenue possible to mitigate the impact of NRPF and enabling local authorities to take action to protect some of their most isolated and ignored residents.

## Submission from Scottish Refugee Council

### Key recommendations

- The No Recourse to Public Funds (NRPF) regime is a form of UK State hostility to migrants, it exerts needless and at times severe harm on at least over 2million people in the UK, and the regime should at worst be substantially revised and curtailed and at best, completely scrapped.
- Scottish Ministers, CoSLA and local government and the refugee, migrant and housing rights sectors should continue and accelerate a dual strategy against NRPF:
  - (a) deliver a funded and practical Scottish anti-destitution strategy, to be implemented from 2021, by public and third sectors and experts-by experience and
  - (b) campaign relentlessly and collectively with fellow devolved government and local government and third sectors across the UK, to change and ideally end NRPF.
- That this Committee pick up the baton from the Equalities and Human Rights Committee's pioneering Hidden Lives New Beginnings inquiry report, and initiate its own Inquiry into NRPF as it affects Scotland and how it can overcome at the UK level. The need for such an Inquiry is great, stemming from Covid-19 and the public health and economic crises that are now ensuing.

1. Scottish Refugee Council supports women, men and children subject to the UK Government's No Recourse to Public Funds (NRPF) regime, in its Immigration Rules. The bulk of this work has been to assist people seeking, granted and refused refugee protection.
2. SRC regards the NRPF regime as a form of *UK State-hostility to migrants*. We recognise that reads as a pejorative statement. Therefore, it is important that we explain why we hold this view as we do not make the comment lightly, rather we offer it as we think the sheer breadth and severity of NRPF on people justifies describing and framing in this way.
3. First, the NRPF system derives from a *legal power – not a duty – available to the Home Secretary*<sup>7</sup>, via s3 Immigration Act 1971. That the UK Parliament did not stipulate it as a requirement that those granted limited to enter or remain in the UK must be subject to NRPF, rather they merely give the State a discretionary power to do so.
4. Second, since 2012 and the "hostile environment" in particular, *NRPF conditions are routinely placed, on most migrants' leave to remain*. In other words, it has become an institutional practice. Those put in that regime have to fight hard, often through quasi- or fully- legal processes to get out of it and have their NRPF conditions lifted, but for those with no leave to remain, then it is very difficult to access the few limited statutory entitlements such as for

<sup>7</sup> <https://www.freemovement.org.uk/what-is-the-no-recourse-to-public-funds-condition/>



vulnerable adults or families with children. Frequently, the best many can hope for in practice is charitable support.

5. Third, it is *deeply hypocritical and unfair*: for those with NRPF conditions on their leave, their only source of income is work, and if they lose that, then there is little to no social safety net. So despite contributing to the public revenues through income tax and NI, they find there is no effective social security for them and any dependents, which is unfair and creates risks to safety and wellbeing.
6. Fourth, it is *intended to exert control and make life more difficult than it needs or should be* for people simply wishing to contribute – often through work – in their local towns, cities and communities. The UK State intention is normally explained with arguments that those subject to NRPF are such so as not to be a “burden on the taxpayer” and to “promote integration”<sup>8</sup>. The former lacks credibility as migrants’ employment rates, especially since 2006 to date, are relatively high in volume and % terms vis-a-vis UK-born workers<sup>9</sup>. The second is illogical, as reducing access via NRPF increases isolation not integration.
7. Fifth, it is *discriminatory*, as by its nature it disproportionately harms persons of non-UK nationality (so ethnic minorities in a UK context) as well as exerts particularly disproportionate and adverse impacts on migrant families<sup>10</sup> especially upon women and children, in reflection that it is normally women who are the primary and sometimes only care-giver for their children<sup>11</sup>.
8. Finally, whilst NRPF is a not general prohibition on public funds<sup>12</sup> – a fact to be noted and reassure those in devolved governments and public authorities generally, minded to fund work against NRPF – but it does still prohibit access to critical social protections<sup>13</sup>, notably homelessness assistance, social security and crisis provision, such as the Scottish Welfare Fund. This means the *effects of being subject to NRPF are not trivial but severe*, and lead to precarious lives, acute risks of domestic abuse<sup>14</sup> or exploitation and mental health problems.
9. This unfairness, harm, risk, discriminatory impact and the sheer severity of NRPF, stem from an institutional and we think especially since 2012, an ideologically-motivated use of this discretionary power. As it is only in the UK State’s gift to apply this power, knowing what it does to people, then imposing

<sup>8</sup> Part 5A of the Nationality, Immigration and Asylum Act 2002. [Section 117B\(3\)](#)

<sup>9</sup> <https://migrationobservatory.ox.ac.uk/resources/briefings/characteristics-%20and-outcomes-of-migrants-in-the-uk-labour-market/>

<sup>10</sup> <https://www.childrensociety.org.uk/sites/default/files/2020-10/a-lifeline-for-all-summary.pdf>

<sup>11</sup> <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>

<sup>12</sup> p19 <https://www.homeless.org.uk/sites/default/files/site-attachments/JRF%20support-destitute-migrants-full.pdf>

<sup>13</sup> <http://www.migrationscotland.org.uk/migrants-rights-entitlements/public-funds-immigration-purposes>

<sup>14</sup> <https://www.holyrood.com/inside-politics/view,nowhere-to-go-how-no-recourse-to-public-funds-is-leaving-vulnerable-women-without-support>



it is a conscious act by the UK State in the full knowledge that it may and often does render people's lives far more precarious and difficult. This is unnerving as it is a consciously harmful and severe act by the Home Office on behalf of the UK State, to put migrants at far greater risk of insecurity and precariousness existence.

10. The Home Office refuse<sup>15</sup> to publish either evidence or statistics to support the effectiveness of NRPF or enable understanding and analysis of its full reach in UK society. However, it is estimated that 1.4million<sup>16</sup> people are likely to have NRPF conditions on their visa and leave to remain, across the UK. For the especially vulnerable group of undocumented migrants subject to NRPF, recent research estimates there may be up to 745,000 in the UK. Therefore, it is likely that there are at least 2million+ across the UK who are trapped in different ways under a NRPF regime that prohibits access to the most basic rights of public homelessness assistance, social security and crisis support and emergency payments.
11. **Our conviction is that it really does not need to be like this and, at the very least, there needs to a critical review of NRPF towards either ending it altogether and / or replacing it with a scheme on access to public funds that is evidenced and targeted and not over-extensive or so intrusive into the lives of those subject to the NRPF system. In other words, there should be nothing inevitable about NRPF, and something does need to change**, particularly as the Covid-19-induced recessions<sup>17</sup> will leave many<sup>18</sup> with NRPF conditions destitute, if and when they lose their jobs or have hours cut.
12. We welcome the Scottish government's<sup>19</sup> and CoSLA's<sup>20</sup> increasingly vocal and sustained opposition to NRPF and we urge them to join forces with fellow devolved and local governments across the UK, together with migrant, refugee and housing rights bodies, to campaign relentlessly in the post-Covid recovery for an end to NRPF and a different system of support for migrants within communities, to be instituted. The alternative does not bear thinking of a perfect storm of a public health crisis and economic recession that evidence

<sup>15</sup> <https://www.independent.co.uk/news/uk/home-news/home-office-watchdog-immigration-policy-uk-statistics-a9581091.html>

<sup>16</sup> <https://www.independent.co.uk/news/uk/home-news/bame-no-recourse-public-funds-poverty-survey-nrpf-a9586776.html>; <https://migrationobservatory.ox.ac.uk/resources/commentaries/between-a-rock-and-a-hard-place-the-covid-19-crisis-and-migrants-with-no-recourse-to-public-funds-nrpf/>; and

<sup>17</sup> <https://voxeu.org/article/large-and-unequal-impact-covid-19-workers>; and <https://www.coronavirusandtheeconomy.com/question/how-will-coronavirus-and-recession-affect-uk-immigration>

<sup>18</sup> <https://www.ippr.org/blog/migrant-workers-and-coronavirus>

<sup>19</sup> <https://www.gov.scot/news/helping-those-with-no-access-to-public-funds/>; and pp41-43 <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2020/10/ending-homelessness-together-updated-action-plan-september-2020/documents/ending-homelessness-together-updated-action-plan-october-2020/ending-homelessness-together-updated-action-plan-october-2020/govscot%3Adocument/ending-homelessness-together-updated-action-plan-october-2020.pdf>

<sup>20</sup> <https://www.cosla.gov.uk/news/april-2020/scottish-local-government-joins-call-for-change-to-immigration-rules-to-help-vulnerable-migrants>

already confirms is hitting those in the poorest and most densely population communities hardest to the point of Covid-19 deaths<sup>21</sup>.

13. Many migrants as part of wider BAME groups in such communities – so including those seeking asylum who are routinely moved into areas of multiple deprivation – are right now being left by the Home Office and the NRPF regime at a particularly dangerous intersection, with - for example - 3,000 refused asylum across the UK<sup>22</sup> (and approximately 300 in Glasgow<sup>23</sup>) potentially subject to evictions into homelessness between now and Christmas, in the midst of an escalating pandemic which we as a country are now being told is on a trajectory to surpass even lockdown level Covid-19 hospitalisations and is already significantly above lockdown prevalence, partly but not only due to increased community testing. **We urge the Committee to make the strongest possible representations to the Home Office to desist from the grossly irresponsible and frankly dangerous plan to evict refused asylum seekers into street homelessness in a pandemic, risking their lives and safety as well as undermining local public health stabilisation and recovery plans.**
14. The Home Office are frequently made acutely aware of the harm its NRPF regime generally and decisions it in, like asylum evictions and homelessness - exert on those subject to it. They are also well aware of the impacts and the escalating and serious concerns, which we share, held by devolved governments and local authorities of the systemic, irresponsible and we think unsustainable displacement of responsibilities and costs from Whitehall departments like the Home Office onto the rest of the UK. It is frequently these devolved governments, councils and third sector services that have to step in, sometimes effectively and collaboratively, sometimes not especially if “gatekeeping” happens.
15. But the underlying point is that those least well-equipped locally are still having to step into the vacuum left by the Home Office and sister Whitehall departments, due to their centralised and rigid NRPF regime. Despite all these adverse effects on the people and the local areas, the UK State, via its Home Office, persists in defending NPPF, even including through our higher Courts<sup>24</sup>. It is depressingly instructive that this persistence is extending even throughout the unprecedented Covid-19 public health pandemic that has engulfed the UK and the wider world since the start of 2020.

<sup>21</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/908434/Disparities\\_in\\_the\\_risk\\_and\\_outcomes\\_of\\_COVID\\_August\\_2020\\_update.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/908434/Disparities_in_the_risk_and_outcomes_of_COVID_August_2020_update.pdf); and

<https://www.theguardian.com/world/2020/sep/05/covid-19-could-be-endemic-in-deprived-parts-of-england>

<sup>22</sup> <https://www.theguardian.com/uk-news/2020/sep/19/home-office-plans-to-evict-thousands-of-refused-asylum-seekers>; and <https://www.theguardian.com/uk-news/2020/oct/07/home-office-urged-to-halt-evictions-of-refused-asylum-seekers>

<sup>23</sup> <https://twitter.com/JenLaydenSNP/status/1313126616386670592/photo/1> and Scottish Refugee Council’s letter on the early warning on the risk of evictions restarting at

[https://www.parliament.scot/S5\\_Local\\_Gov/20200529SFCtoconvener.pdf](https://www.parliament.scot/S5_Local_Gov/20200529SFCtoconvener.pdf)

<sup>24</sup> <https://ukhumanrightsblog.com/2020/06/03/the-law-of-humanity-home-office-no-recourse-to-public-funds-policy-ruled-unlawful/>

16. The term, NRPF, also diverts us from what it is actually suffered as. Routine use of technical terms like NRPF, rather than starting with its real human impacts as UK State-induced harm or violence, silences lived experience. We say this not as a criticism of those that use the term – like this Committee or ourselves – for the obvious and sensible purposes of being clear about what is the subject of inquiry. Rather, it is to make the point that, without centring lived experience in our learning - as our friends at Just Right Scotland did in their response to this Committee - we cannot understand from a policy, never mind a moral perspective, why this NRPF regime is such an urgent political issue that needs through collective action by public and third sectors and communities in the UK, to be resolved soon.
17. **NRPF is a UK State hostility to many migrants in this country and for some it feels like violence. People classed as migrants in the UK, as we know, contribute so much socially, economically and culturally to Scotland and the rest of the UK. For people to be subject to such a draconian and harmful and dangerous system is unacceptable and, we hope, in the Covid-19 phase and recovery, it is untenable also. We recommend an urgent review of NRPF and that it is ended entirely. We urge this Committee to lend its weight to that call and furthermore for the Scottish Government, CoSLA and the refugee and housing rights third sectors and those with lived experience to collaborate with partners across the UK so that NRPF, in the current Covid-19 phase and in recovery out of this pandemic, is ended.**
18. For the migrants we work most with: people seeking, granted or refused refugee protection, they are placed, generally whilst their asylum claim if finally determined, in a parallel and pitifully low asylum support system. This is not only morally indefensible but economically nonsensical<sup>25</sup>. **This is why the ban on people seeking asylum, from working should urgently be lifted<sup>26</sup>.** The Home Office will often say that this support system is separate from the NRPF regime. In a technical sense it is. But what is really going is that it is separate from social security and wider social protections generally, which we think is wrong and the bottom line is that those seeking refugee protection should have access to socio-economic rights of work, social security and housing, until their application is finally determined.
19. The asylum support system is in our analysis and experience, a pitifully poor one, with a depressingly perverse definition of “essential living needs”<sup>27</sup> which is in no way sufficient for a dignified life. If one is ultimately refused asylum, then they lose even that pitiful amount and are shunted by the Home office out of this asylum support system and typically straight into homelessness and the wider and grim NRPF regime again. For us, what is really going on here is the Home Office, persisting with a NRPF regime that is intended and is actually quite effective at making life more difficult for many migrants in the UK. The asylum support system is merely the ugly face of NRPF presented to

<sup>25</sup> <https://capx.co/lifting-the-ban-on-asylum-seekers-working-is-common-sense-and-good-economics/>

<sup>26</sup> <https://www.refugee-action.org.uk/lift-the-ban/>

<sup>27</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/673545/Report\\_on\\_review\\_of\\_cash\\_allowance\\_paid\\_to\\_asylum\\_seekers\\_-\\_2017\\_-\\_final..pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/673545/Report_on_review_of_cash_allowance_paid_to_asylum_seekers_-_2017_-_final..pdf)

people seeking protection and safety in the UK, whilst their application is decided. The Home office often say there are proud of asylum support and the author has even heard some officials describe it as “gold-plated”. We regard such as indicative of a moral amnesia that is upsettingly and coldly understandable when read as consistent with Home Office detachment from the searing human impact of their policies. The Williams report into the Windrush scandal is relevant<sup>28</sup>.

20. Despite the welcome measures instituted by the Home Office at the start of lockdown, under the wider public health imperative, to a) suspend support cessations and evictions and b) to enable remote or paper-based access to the asylum procedure, most of these measures have now been withdrawn by a Home Office sadly determined to get back to its “business-as-usual”, precisely at a time when the Covid-19 pandemic was escalating and, in fact, had been endemic in many of the poorest areas and communities, which are commonly where people seeking asylum are housed by the Home Office and its commercial accommodation companies. So, for example, the Home Office announced on 15 September, with no apparent consultation or consent from local authorities or their Public Health Directors, that they were restarting evictions of refused asylum seekers. We are aware of these starting in Covid-19 “hotspots” such as Halifax, Manchester and other areas. As Glasgow City Council said recently, this is “unconscionable” action by the Home Office.
21. Our overarching sense is that Covid-19 has been adverse for refugee communities especially in terms of extensive social isolation, escalating mental health problems and more severe poverty. We published research - [The Impact of Covid-19 on Refugees and Refugee-Assisting Organisations in Scotland](#) – that detailed some of these impacts with the following standing out: a) one in three people with refugee status reported that their recent mental health had been poor or very poor; b) among those waiting for an asylum decision, that figure was higher, with 40% reporting poor or very poor mental health; c) many related their mental health feelings to loneliness and isolation: 37% of those in the asylum system surveyed said they had contact with friends or relatives just a few times a month; d) food poverty was severe: 70% of those surveyed said they did not have enough money to buy food and that this was a serious problem; and e) many organisations surveyed reported high levels of digital poverty and exclusion suffered across those seeking, granted and refused protection.
22. The wider point is that Covid-19 has exposed and aggravated – rather than instituted new – problems of pre-existing vulnerabilities and trauma and poverty especially amongst the asylum population in Glasgow and, indeed across the UK. It has reconfirmed the inadequacy of the Home Office asylum “support” system. Associated to this, is how the pandemic has exposed *pre-Covid-19 mismanagement* of the asylum procedure itself and the support and

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<sup>28</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/876336/6.5577\\_HO\\_Windrush\\_Lessons\\_Learned\\_Review\\_LoResFinal.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876336/6.5577_HO_Windrush_Lessons_Learned_Review_LoResFinal.pdf)

accommodation system<sup>29</sup>. Pre-Covid-19, the trend was more folk stuck in asylum “limbo” waiting at least 6months for even an initial decision<sup>30</sup> on their claim, through to a “support” package “priced” at ½ the social security minimum and then an accommodation estate riven<sup>31</sup> by poor-quality private housing, with room-sharing (esp., in London), HMOs and shared flats – and generally “packing people-in” – being the norm not the exception<sup>32</sup>.

23. So, this was an accommodation estate that had no contingency as we entered lockdown, which more than anything else accounts for the rapid increase in the use of institutional accommodation since lockdown – such as hitherto “hotels”<sup>33</sup>, repurposed detention centres<sup>34</sup> and military barracks<sup>35</sup> -, with this trend afoot before Covid-19 but the pace of that drift away from community dispersal model to an institutional accommodation regime<sup>36</sup>, quickening ever since. It is no accident that the commercial accommodation contractors – Mears, Serco and Clearsprings - across the UK, are holding onto much of this institutional accommodation, with three “hotels” still in use in Glasgow, 91 across the UK, with the institutional accommodation population now at 10,000 people from 2,500 pre-lockdown<sup>37</sup>.

24. As a refugee rights charity, we work across the international protection spectrum. Much of our work is in the asylum part on this spectrum. This reflects that Glasgow was the first asylum dispersal area in the UK, when that dispersal policy was instituted in 2000, and it has been the largest such area ever since, with 5,000 asylum seekers in the city, supported by the Home Office. Through our refugee integration, family and anti-destitution services, we see first-hand and daily the resilience of those seeking, granted or refused refugee protection. Sadly, we also witness the harm that the asylum system exerts on people, via its systematic denial of socio-economic rights: no right to work, no right to social security, no right to where you live, no right against homelessness and risk of detention, indefinitely.

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<sup>29</sup> <https://www.nao.org.uk/report/asylum-accommodation-and-support/>

<sup>30</sup> In December 2015, of 18,111 applicants waiting for an initial decision, 3,626 (20%) had been waiting for at least 6months. By December 2019, of 40,018 applicants awaiting their initial decision, 22,549 (56%) were waiting at least 6months. Since Covid-19 lockdown, unsurprisingly the numbers of people waiting for even an initial decision has risen further still – at end of June 2020 it was 38,756 (72%) – but the trend is pre-Covid-19.

<sup>31</sup> Home Affairs Committee asylum accommodation inquiry (December 2018); Independent Chief Inspector of Borders and Immigration asylum accommodation inspection (November 2018); and Home Affairs Committee asylum accommodation inquiry (January 2017).

<sup>32</sup> Paras.33-48

[https://publications.parliament.uk/pa/cm5801/cmselect/cmhaff/562/56205.htm#\\_idTextAnchor029](https://publications.parliament.uk/pa/cm5801/cmselect/cmhaff/562/56205.htm#_idTextAnchor029)

<sup>33</sup> <https://www.theguardian.com/uk-news/2020/apr/22/glasgow-asylum-seekers-told-to-pack-up-with-an-hours-notice>

<sup>34</sup> <https://www.theguardian.com/uk-news/2020/aug/18/yarls-wood-to-house-arrivals-from-small-boats-crossing-channel>

<sup>35</sup> <https://www.theguardian.com/uk-news/2020/oct/11/revealed-the-squalor-inside-ex-mod-camps-being-used-to-house-refugees>

<sup>36</sup> <https://politics.co.uk/comment-analysis/2020/08/26/defend-the-defenceless-we-can-t-let-the-home-office-restart>

<sup>37</sup> Q22-25 <https://committees.parliament.uk/oralevidence/958/default/>



25. In a real sense, the asylum support system contorts what should be a source of pride from any country, to help those in their time of greatest need. It was also a de facto and grim pilot to the UK Government's shameful and unapologetic "hostile environment" programme, institutionalised and accelerated by the Immigration Acts in 2014 and 2016. These required State and non-State actors, such as health workers, teachers and landlords, to check migrants' immigration status with many, to their credit, resisting such requirements. Such matters should be undertaken by Home Office immigration officials not professionals or lay people not trained or competent to do such work. As was predicted at the Bill stages of these legislation, some of it was racial discrimination, such as the "right to rent"<sup>38</sup> scheme.
26. Women, men and children are simply here to seek safety, peace of mind, and a semblance of normality in their lives again. They have suffered forced displacement and arduous, often exploitative migratory journeys. Too often they are met with a system mired in suspicion and control and surveillance and with pressure points of homelessness, especially for those refused asylum who are routinely rendered destitute in the UK. It is well known that, needlessly and in our experience quite disgracefully, destitution and homelessness are stock parts of successive UK government's asylum policies.
27. The Equalities and Human Rights Committee (E&HRC) noted this in its Inquiry report, Hidden Lives New Beginnings<sup>39</sup>. It is a stark feature of this UK asylum system that once the substantive decision has been made, one has no more than a month and frequently less to leave their accommodation with the pitiful £39 per week asylum support stopped. Those recognised as refugees remain at risk of falling into destitution<sup>40</sup> and those refused are rendered such<sup>41</sup>. The human impact of this is grave, at times leading to conditions of desperation and mental health problems and even deaths, as well as acute vulnerability to exploitation and slavery, for people rendered destitute through the asylum process in Glasgow and indeed across the UK.
28. We have seen some of the tragic extremities of the severe and situational vulnerabilities that those in the asylum support system, and especially those shunted out of it, suffer, with people dying both in Glasgow<sup>42</sup> and in Manchester<sup>43</sup> since lockdown, with a further 16 people dying across the UK in

<sup>38</sup> <https://www.jcwi.org.uk/news/court-of-appeal-agrees-that-the-right-to-rent-scheme-causes-racial-discrimination>

<sup>39</sup> <https://digitalpublications.parliament.scot/Committees/Report/EHRiC/2017/5/22/Hidden-Lives---New-Beginnings--Destitution--asylum-and-insecure-immigration-status-in-Scotland#Destitution-and-asylum>

<sup>40</sup> <https://www.redcross.org.uk/about-us/what-we-do/we-speak-up-for-change/improving-the-lives-of-refugees/refugee-move-on-period##> and <https://www.tandfonline.com/doi/full/10.1080/1369183X.2017.1341717>

<sup>41</sup> <https://digitalpublications.parliament.scot/Committees/Report/EHRiC/2017/5/22/Hidden-Lives---New-Beginnings--Destitution--asylum-and-insecure-immigration-status-in-Scotland#Number-of-people-who-are-destitute> and [https://www.scottishrefugeecouncil.org.uk/wp-content/uploads/2019/10/From\\_Pillar\\_to\\_Post\\_Report\\_2019.pdf](https://www.scottishrefugeecouncil.org.uk/wp-content/uploads/2019/10/From_Pillar_to_Post_Report_2019.pdf)

<sup>42</sup> <https://theferret.scot/revealed-16-asylum-seekers-died-six-months/>

<sup>43</sup> <https://www.theguardian.com/uk-news/2020/aug/23/yemeni-asylum-seeker-found-dead-in-manchester-hotel-room>

the asylum system in the 6months leading up to lockdown in March this year. These tragedies have exposed that, again typically, the Home Office have no policy to handle deaths in asylum support and accommodation, with the extent of their statements being *that they will not* contribute to either funeral costs or repatriation of the body<sup>44</sup>. **As it happens the Home Office do have a policy for deaths in immigration detention<sup>45</sup>, so it can be done and whilst we recommend a tailored policy for asylum support and accommodation, this policy gap needs filled and urgently.**

29. For all these reasons and the fact that three people in the asylum system have lost their lives in recent months in Glasgow, **we further reiterate<sup>46</sup> a) our full support to the Glasgow MPs' request<sup>47</sup> to the Lord Advocate that he use his discretionary power to initiate a Fatal Accident Inquiry into deaths and risks thereto of people in the asylum process in Glasgow. In that vein, the Home Office must also urgently b) complete and publish its evaluation<sup>48</sup> into the tragic events, deaths and wider practices by it and its contractors in the asylum support and accommodation system in Glasgow since lockdown started in March. This evaluation report should also c) be sent by the Immigration Minister, as was recently requested<sup>49</sup> in the UK Parliament, as a matter of urgency to the Lord Advocate, to inform his considerations on the said, potential Fatal Accident Inquiry.**
30. Winding back a little, from summer 2016 to 2017, we worked intensively with partners and the E&HRC to secure<sup>50</sup> and support what was, in our opinion, a landmark Inquiry on destitution in asylum and the wider immigration system in Scotland. This Inquiry report<sup>51</sup> and its recommendations were the direct catalyst for an overdue national acknowledgement in Scotland of (a) that the destitution of migrants was persistent and growing; (b) an acknowledgment and essential fresh commitment at the highest level in Scottish governance – so led by Scottish Ministers<sup>52</sup> and political leaders in CoSLA<sup>53</sup> – that whilst this violation was not caused by Scotland we still needed to act practically and concerted manner, as we could not wait or rely on UK government policy shifts, quite the contrary; and (c) that the need for a genuine and national effort against such a

<sup>44</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/817696/asylum-support-policy-bulletins-v8.0.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/817696/asylum-support-policy-bulletins-v8.0.pdf) and <https://www.thedetail.tv/articles/asylum-seeker-deaths>

<sup>45</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/909328/DSO\\_08\\_2014\\_Death\\_in\\_Detention\\_v6.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/909328/DSO_08_2014_Death_in_Detention_v6.pdf)

<sup>46</sup><https://www.scottishrefugeecouncil.org.uk/scottish-refugee-council-calls-for-full-and-independent-public-inquiry-into-park-inn-tragedy/>

<sup>47</sup><https://www.bbc.co.uk/news/uk-scotland-glasgow-west-54226239>

<sup>48</sup><https://www.paii.org/home-office-to-commission-an-evaluation-of-asylum-seeker-housing/>

<sup>49</sup><https://www.theyworkforyou.com/debates/?id=2020-09-28b.15.2>

<sup>50</sup>[https://www.parliament.scot/S5\\_Equal\\_Opps/Inquiries/Destitution\\_Asylum\\_Insecure\\_Immigration\\_revised\\_Call\\_for\\_Evidence\\_Final\\_20170224.pdf](https://www.parliament.scot/S5_Equal_Opps/Inquiries/Destitution_Asylum_Insecure_Immigration_revised_Call_for_Evidence_Final_20170224.pdf)

<sup>51</sup>[https://www.parliament.scot/S5\\_Equal\\_Opps/Reports/EHRC\\_3rd\\_Report\\_2017.pdf](https://www.parliament.scot/S5_Equal_Opps/Reports/EHRC_3rd_Report_2017.pdf)

<sup>52</sup>[https://www.parliament.scot/S5\\_Equal\\_Opps/Inquiries/Scottish\\_Government\\_Response\\_to\\_Hidden\\_Lives\\_New\\_Beginnings\\_20170721.pdf](https://www.parliament.scot/S5_Equal_Opps/Inquiries/Scottish_Government_Response_to_Hidden_Lives_New_Beginnings_20170721.pdf) and [https://www.parliament.scot/S5\\_Equal\\_Opps/Inquiries/20170807\\_Cab\\_Sec\\_to\\_Minister\\_for\\_Immigration.p](https://www.parliament.scot/S5_Equal_Opps/Inquiries/20170807_Cab_Sec_to_Minister_for_Immigration.pdf)  
[df](https://www.parliament.scot/S5_Equal_Opps/Inquiries/20170807_Cab_Sec_to_Minister_for_Immigration.pdf)

<sup>53</sup>[https://www.parliament.scot/S5\\_Equal\\_Opps/20180115\\_Response\\_from\\_COSLA\\_on\\_destitution\\_reccs.pdf](https://www.parliament.scot/S5_Equal_Opps/20180115_Response_from_COSLA_on_destitution_reccs.pdf)

human rights violation was urgent as, at that time, (i) the UK Government's "hostile environment" programme was in its dreadful full swing; (ii) Windrush<sup>54</sup> was unfolding and but had not yet penetrated national consciousness; and (iii) the EU referendum process was placing undue and irresponsible and adverse political emphasis on migration. And, within that frame, escalating worries amongst migrants on their futures, notably many EU nationals<sup>55</sup> concerned about the Leave outcome.

31. The Hidden Lives New Beginnings report recommended many actions, all of which were vital, but for us it was its call for a Scottish strategy<sup>56</sup> against migrant destitution that is the most important. We are aware as anyone of the pitfalls of "strategies" especially if they lack political support, therefore resources and most damaging of all, when their mere existence gives a misleading appearance of action and priority where there is none. We were concerned about the delay in getting this Scottish strategy developed and implemented and we shared that with Scottish Ministers in 2017 and 2018. However, we do not have that concern now. We do see a serious commitment<sup>57</sup> in 2019 and throughout 2020 from Scottish Ministers and political leaders and officials within CoSLA to make this Scottish strategy a substantial and long-term and funded intervention to mitigate and prevent destitution of migrants in Scotland.
32. We say a bit more about that below, but suffice it to say that we are anticipating the publication of this Strategy before the next Scottish Parliament elections and note that much of its learning and priorities in its formation, have actually started to be implemented before and, in particular, since Covid-19 lockdown and restriction were instituted. The excellent work of the CoSLA migration partnership in its Covid-19 framework on anti-destitution<sup>58</sup> and public health-framed<sup>59</sup> and underlying<sup>60</sup> guidance on NRPF in a Covid-19 pandemic were early and insightful illustrations of the commitment, expertise and ability to collaborate with the third sector. Our view as now is the rapidity and quality of that response not only informed the Scottish response to Covid-19 as it affects migrants, it also showed the Scottish anti-destitution strategy in action before it has even being published. This gives confidence.

<sup>54</sup> [https://www.freedomfromtorture.org/news/windrush-and-the-hostile-environment-all-you-need-to-know?gclid=CjwKCAjw\\_Y8BRBiEiwA5MCBJiAurB3Aio42HLSfx\\_nFce1FmfWocxjtC8xoRg09Rc-PZFA9kV\\_UexoCGK4QAvD\\_BwE](https://www.freedomfromtorture.org/news/windrush-and-the-hostile-environment-all-you-need-to-know?gclid=CjwKCAjw_Y8BRBiEiwA5MCBJiAurB3Aio42HLSfx_nFce1FmfWocxjtC8xoRg09Rc-PZFA9kV_UexoCGK4QAvD_BwE)

<sup>55</sup> [https://docs.wixstatic.com/ugd/0d3854\\_861a1394f575497b89c37415aad8e066.pdf](https://docs.wixstatic.com/ugd/0d3854_861a1394f575497b89c37415aad8e066.pdf)

<sup>56</sup> <https://digitalpublications.parliament.scot/Committees/Report/EHRiC/2017/5/22/Hidden-Lives---New-Beginnings--Destitution--asylum-and-insecure-immigration-status-in-Scotland#Conclusions-and-recommendation>

<sup>57</sup> p156,

<https://www.gov.scot/binaries/content/documents/govscot/publications/publication/2019/09/protecting-scotlands-future-governments-programme-scotland-2019-20/documents/governments-programme-scotland-2019-20/governments-programme-scotland-2019-20/govscot%3Adocument/governments-programme-scotland-2019-20.pdf>

<sup>58</sup> Section on No Recourse to Public Funds, [https://external.parliament.scot/S5\\_Equal\\_Opps/Minutes/COSLA\\_-\\_Formatted.pdf](https://external.parliament.scot/S5_Equal_Opps/Minutes/COSLA_-_Formatted.pdf)

<sup>59</sup> [http://www.migrationscotland.org.uk/uploads/Guidance%20Covid%2019%20Supporting%20People%20with%20NRPF%20200420\\_0.pdf](http://www.migrationscotland.org.uk/uploads/Guidance%20Covid%2019%20Supporting%20People%20with%20NRPF%20200420_0.pdf)

<sup>60</sup> <http://www.migrationscotland.org.uk/migrants-rights-entitlements/introduction/1-1-how-use-guidance>



33. The Hidden Lives New Beginnings report also reflected the E&HRC's deliberately practical focus on what Scotland "can do" via its devolved competences, services and resources. The Inquiry report, therefore, did not confine itself to, in our opinion, very justified critiques of pretty dreadful UK policy on immigration-related destitution, such as via especially the NRPF regime. Rather it broke new ground by concentrating many recommendations on Scottish agencies and what they could do together, via a national strategy and guidance etc., so harnessing the fuller power of collaboration across public and third sectors and communities. For us, that was and remains a *truly crucial shift* that must not be lost.
34. This focus on what we can do in Scotland, was not in any way motivated to give an undue or unfair focus on Scottish institutions, who are not the cause of many of problems suffered by migrants with insecure status and / or subject to the NRPF regime, but it was simply to hold the conviction that we cannot - certainly never from a genuine human rights perspective - confine or limit our anti-destitution work to legitimate critiques of UK policies. People affected by these policies, and the NRPF regime in particular, deserve better and our experience has been since the Inquiry report and responses to it, is that same intolerance is percolating in a practical and collaborative way within Scottish Government, CoSLA, the refugee *and* housing rights sector<sup>61</sup>, with the Ending Homelessness Together<sup>62</sup> agenda vital.
35. However, all of that said, matters are by no means perfect and there needs to be clear improvement – for instance – in how vulnerable migrants can practicably access local authority vulnerable persons' entitlement, but our overarching point is that Scotland has come a long way since summer 2016 and the genesis of the Hidden Lives New Beginning inquiry report a year later, in that now the country has started to seriously acknowledge the problem and, more importantly, start to take the political and practical steps to mitigate and prevent migrant destitution, including targeting NRPF itself. **We therefore warmly welcome this Committee taking such a close interest, and urge it to consider initiating a formal inquiry – given the huge impact of Covid-19 and the disproportionate effects of NRPF – in order that the progress against migrant destitution is not lost and, indeed, is strengthened.**
36. The wider policy push is that there is much that we can and we must do in Scotland to mitigate and even prevent this suffering. That humanitarian impulse was bolstered by a wider socio-economic imperative e.g. that UK-immigration-induced destitution was exerting and shunting<sup>63</sup> unfair and disproportionate

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<sup>61</sup> <https://everyonehome.scot/pdf/route-map-2.pdf>

<sup>62</sup> pp41-43 and Actions 58-61,

<https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2020/10/ending-homelessness-together-updated-action-plan-september-2020/documents/ending-homelessness-together-updated-action-plan-october-2020/ending-homelessness-together-updated-action-plan-october-2020/govscot%3Adocument/ending-homelessness-together-updated-action-plan-october-2020.pdf>

<sup>63</sup> This structural problem, in the context of the Home Office's asylum dispersal and, therein, outsourced accommodation system, by the UK Parliament's Home Affairs Committee, in its frequent and recent inquiries in these matters, please refer to: (i) paras.140-142 institutional (asylum and detention) accommodation inquiry

costs and pressures on public and third sectors and communities, none of which were funded or, in respect of certain key services (such as local authority homelessness assistance and social security) ordinarily and lawfully able to provide these services to those subject to NRPF. In this socio-economic sense, the mischief was systemic responsibility and cost-shunting from UK policies, in this instance immigration and asylum policies but we see the same pattern in, for example, UK welfare or housing benefit policy.

37. By way of illustration, the Home Office via its outsourced accommodation contractor (from 2012-2019=Serco and 2019 to date=Mears), move people seeking asylum to Glasgow on a no-choice basis. This “dispersal” is heavily concentrated also to the north of England, the Midlands, and south Wales with multiple deprivation areas<sup>64</sup> being the companies’ areas of choice. Local authorities and services get no direct funding<sup>65</sup> in this dispersal programme. All of the Home Office resources (some £4billion over 10years) is distributed to its three accommodation contractors. There is no resource whatsoever, for councils to help those refused asylum and rendered destitute by the Home Office and its contractor. And, in this vein, it is crucial to note that this cost-shunting is replicated in the wider immigration system, whereby for example, local authorities pay out millions<sup>66</sup> to accommodate and support vulnerable migrants – especially families under Children’s legislation in Scotland and the rest of the UK, none of which is directly funded or compensated by the UK Government.
38. And, to be clear, those made destitute after being refused asylum are not typically subject to Enforced returns or Voluntary “assisted” return. In fact, only a small minority of Enforced removals are asylum-related with a downward trend from 2014 to date and Voluntary “assisted” returns across the UK are commonly in the low hundreds and, again, the trend is less especially since it was taken “in-house” by the Home Office from 2016. For example, only 313 of the 1852 Enforced returns in Q2 2019 were asylum-related. There were only 443 voluntary “assisted” returns in the same period, of which 215 were asylum-related<sup>67</sup>. Therefore, for the vast majority of people refused asylum across the

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(July 2020); (ii) paras.79-80 and 89 asylum accommodation inquiry (December 2018); (iii) para.118 asylum accommodation inquiry (January 2017).

<sup>64</sup> Of the UK’s 382 councils, 35 accounted for 73% of asylum seekers on asylum support. These councils are in the poorest parts of the north of England, Yorkshire and Humber, the Midlands, Wales, and Glasgow. They have all suffered deep cuts to local services’ spending. The Scottish and Welsh governments mitigated these cuts in relation to those suffered in England, but the scale of reductions in England since 2010 are close to 25% with the severest cuts being generally associated with areas of multiple deprivation (for more details, please refer to – (i) for asylum dispersal association with multiple deprivation -

<https://migrationobservatory.ox.ac.uk/resources/briefings/migration-to-the-uk-asylum/> and (ii) for cuts to local authority spending especially in England - <https://www.cam.ac.uk/research/news/austerity-cuts-twice-as-deep-in-england-as-rest-of-britain>

<sup>65</sup> This structural issue has been subject to frequent critique, most recently by the National Audit Office in its inspection into asylum accommodation and support (July 2020), please refer to para.4.8, p46 at <https://www.nao.org.uk/wp-content/uploads/2020/07/Asylum-accommodation-and-support.pdf>.

<sup>66</sup> <https://www.nrpfnetwork.org.uk/information-and-resources/policy/funding-for-councils>

<sup>67</sup> Returns table rt02q (volume 1), <https://www.gov.uk/government/publications/immigration-statistics-year-ending-june-2019/how-many-people-are-detained-or-retained#about-the-statistics>

UK, they are routinely rendered street homeless by the Home Office, which is an unacceptable and widespread practice, endangering their safety. This is but one aspect of the NRPF regime, but it illustrates the deep irresponsibility and dishonesty of Home Office, which clearly risks safety. Those risks are of course magnified in the escalating pandemic and heightened further when the street homelessness is done to BAME groups in areas of multiple deprivation, and NRPF.

39. For years, a significant minority of those rendered street homeless, or subject to Enforced removals, or asked to engage with Voluntary “assisted” return schemes, have actually got valid protection claims. Home Office asylum decisions are not only, as was highlighted earlier, subject to lengthy delays. They are also frequently tainted with poor quality initial decisions that are overturned on appeal. From 2015 to 2019, for example, the positive grant rate uplift from initial and appeal stage ranged around 20% most years. So, in 2015, 37% of appeals resulted in grants and by 2019, the success rate was 44%<sup>68</sup>. That appellate success rate drives a consistent uplift from initial to final asylum grant rates. Recent uplifts are 40% to 59% (2015); 32% to 51% (2016); 29% to 47% (2017) and 42% to 56% (2018)<sup>69</sup>. Home office mismanagement of the asylum procedure, evidenced by this persistent slowness in making often incorrect initial decisions, increases what should be preventable pressures in the system. Individuals left in limbo, not allowed to work, with local authorities, communities and services bearing the brunt. Yet again, we are witnessing UK Government cost-shunting.
40. Given these structural problems in just the asylum part of NRPF, bearing down on already over-stretched devolved governments and local authorities and third sector services, it has never been more important for (a) those areas to collaborate and campaign together for either substantial revision of NRPF or ideally (b) that it is just scrapped altogether. Furthermore, (c) in a Scotland setting, the only sensible way to effectively mitigate immigration-induced destitution, grounded in the NRPF regime, is to collaborate with the public sector maximising its statutory responsibilities, channelling funds to the third sector lawfully and smartly, and then that third sector to steps-in with pilot interventions and with its innovation and flexibility. The Everyone Home Collective’s human rights Route-Map against migrant destitution<sup>70</sup> has been and will be especially important in defining the third sector contribution. It is positive this collaborative approach is named as the way that the Scottish anti-destitution strategy and Ending homelessness together plans will be delivered.
41. Thankfully, that is the structure and relationships that were forming before Covid-19, especially via the development of the closely-related Scottish anti-destitution strategy and Ending homelessness together action plans – and if anything which have accelerated since Covid-19. It is notable and welcome that Scottish Ministers and CoSLA political leaders, and some local authorities, have

<sup>68</sup> Asylum statistics (February 2020) at Asy\_D06 - Asylum appeals raised at the First-Tier Tribunal, Home Office

<sup>69</sup> Asylum statistics (August 2019) at Asy\_D04 – Outcome analysis of asylum applications

<sup>70</sup> <https://everyonehome.scot/pdf/route-map-2.pdf>

been able and willing to lead collaborative discussion and put significant funding in including for accommodation, legal and advocacy support and health interventions. Notable pilots that predated and, if anything continued during Covid-19 responses, in the asylum space include: (a) continuation of the DASS<sup>71</sup> project; (b) the new Glasgow accommodation-based pathway<sup>72</sup> applying Housing First principles to asylum destitution; and (c) the Stop Lock Change Evictions Coalition<sup>73</sup> that matured into the Humanitarian Project<sup>74</sup>. Particularly encouraging has also been the continuing or emerging expert-by-experience groups: (a) Voices Network<sup>75</sup>, (b) lived experience being at the core of the wider Just Citizens project<sup>76</sup> and (c) the Refugees Ending Destitution that blends community development expertise at Govan Community Project with policy influencing at SRC, plus, finally, (d) the lived experience strand in the Everyone Home Collective's work.

42. In summary, the thread that goes through the above, is – in Scotland – there is a shared desire in the public and third sector agencies to not tolerate UK immigration-induced destitution as an unfortunate and devastating fact, but to do something about it, and to prevent or mitigate its worst effects. This response is not perfect but it is a far better one than the national vacuum of 2016 and we should not lose sight of this progress. Taking responsibility in these ways is a necessary condition for making inroads against destitution aggravated or caused by the NRPF regime. It is not a sufficient one. That entails accelerating the work to deliver a Scottish anti-destitution strategy, and test and scale up some of the new pilots in it. Alongside that, at the UK level, the need is simple: campaign to end NRPF. That is easier said than done but there is no alternative, we must work try as hard as we can.

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<sup>71</sup> <https://www.rst.org.uk/dass>

<sup>72</sup> <https://glasgownightshelter.org/about-us/>

<sup>73</sup> <https://www.scottishrefugeecouncil.org.uk/wp-content/uploads/2020/01/Stop-Lock-Changes-FINAL-VERSION.pdf>

<sup>74</sup> <https://www.gov.scot/news/supporting-asylum-seekers-1/>

<sup>75</sup> <https://www.redcross.org.uk/about-us/what-we-do/how-we-support-refugees/avail-project##>

<sup>76</sup> <https://www.justrightscotland.org.uk/our-work/justright-for-all/rethinking-citizenship/>

## ANNEXE G

## Submission from Hemat Gryffe Women's Aid

**BACKGROUND**

Hemat Gryffe Women's Aid provides temporary refuge accommodation and outreach support services primarily to women, children and young people from the Asian, Black and Minority Ethnic community experiencing domestic abuse, forced marriage and honour-based abuse at the hands of their husbands, partners, or extended family members. Hemat Gryffe Women's Aid provide a culturally sensitive specialised service and bilingual support. It is the policy of the organisation to support all women.

The principal office is based at Flat 0/1, 24 Willowbank Street, Glasgow, G3 6LZ. The organisation is a limited company enjoying charitable status. There are currently 8 staff members employed who have attained a range of qualifications, skills, and considerable years of experience. All staff are working from home due to the COVID19 Pandemic. Women have been admitted to the refuge during the pandemic and one-to-one support continues, utilising a range of virtual platforms, telephone, text messages and WhatsApp messages.

Hemat Gryffe Women's Aid response to the bulleted point questions raised are as follows: -

Q1	<b>Has your organisation been providing support to people with NRPF and if so, what support have you been providing? What are the practical challenges?</b>
HGWA response	<p>A substantial part of Hemat Gryffe Women's Aid workload involves supporting women experiencing domestic abuse who are subject to immigration control. It is our experience that women are unaware they have a precarious immigration status and only discover this difficulty upon fleeing the abusive relationship. Women subject to immigration control have no recourse to public funds therefore they cannot access housing accommodation and welfare benefits. These immigration conditions exacerbate the difficulties abused immigrant women experience leaving them isolated and marginalised.</p> <p>Hemat Gryffe Women's Aid staff have working knowledge of the UK/EU immigration rules. UK Immigration law comprises a plethora of legislation, immigration rules, case law and concessions. Marriage migration to the UK is regulated by immigration rules. These rules are integral to and articulate the UK Government's immigration policy. The rules affecting EU nationals were amended to reflect the UK departure from the European Union.</p> <p>The assistance provided to a woman accords with her immigration status. Different immigration rules apply depending upon the immigration status of the woman. Hemat Gryffe Women's Aid provide</p>

general information to a woman fleeing domestic abuse who has a precarious immigration status, and she is signposted to other agencies for example a Solicitor. Practical and emotional support is provided in relation to the domestic abuse and trauma endured due to the breakdown of the relationship.

**Hemat Gryffe Women's Aid support for women with NRPF**

- The immigration status of a woman is required to be disclosed during the initial referral stage to ensure that correct information is given.
- A woman is given information via the telephone or via virtual platforms as staff are working from home.
- A woman is told of the practical difficulties associated with her immigration status and what we can do to help to keep her safe at the initial referral stage.
- Not all women who have the no recourse to public funds condition attached to their visa can access housing and accommodation.
- There are agencies within the statutory and voluntary sector unaware of the existence of the no recourse to public funds condition and the impact of same upon a woman fleeing domestic abuse.
- A large amount of time is spent educating third parties as to the difficulties associated with the immigration rules and what is required prior to a woman being admitted to refuge and reasons why refuge/homeless accommodation is not immediately accessible.
- Training and awareness raising is provided by Hemat Gryffe Women's Aid.
- Social Work services will only provide support where a woman has children.
- Hemat Gryffe Women's Aid anticipate an increase of abused women who have not applied for settled or pre-settled status under the EU rules following BREXIT.

- It is our experience that a woman enduring domestic abuse who has no recourse to public funds is not aware of the immigration rules or that help is available.
- It is our experience that a woman enduring domestic abuse who has no recourse to public funds is manipulated by a perpetrator(s) who shall deliberately mislead as her a result of which she is scared to flee.

**Women who enter the UK for the purpose of marriage on a Spousal Visa whose marriage subsequently breaks down because of domestic abuse.**

- A woman is told of the procedure that requires to be followed to access the Destitution Domestic Violence Concession (DDV) to allow her to make an application to regulate her residency as a victim of domestic abuse enabling her to access accommodation and welfare benefits.
- The immigration rules attached to Appendix FM in relation to victims of domestic abuse are explained including the evidential criteria that requires to be satisfied prior to an application (SET DV) being submitted by a Solicitor.
- The initial documentation required by the department of UK Visas and Immigration (UKVI) is submitted by us via email in relation to the breakdown of the marriage during the probationary period as a consequence of domestic abuse. This notification informs (UKVI) that a woman is being supported by Hemat Gryffe Women's Aid and she intends to apply for Leave Outside the Rules (LOTR) as a victim of domestic violence.
- Only once LOTR is granted a woman be admitted to refuge.
- A woman who cannot access refuge receives outreach support from Hemat Gryffe Women's Aid.
- Affidavit's and statements are provided by staff submitted with the (SET DV) application.

**Women who are EU nationals**

- A woman who is an EU national can only access refuge/homeless accommodation where EU rules are satisfied. Eligibility for means-tested benefits, such as Universal Credit, is determined by a European Economic Area (EEA) national's immigration status and, in some cases, whether they are exercising a right to reside in the UK. Eligibility tests apply to



	<p>EEA nationals and their family members according to their immigration position.</p> <ul style="list-style-type: none"> <li>• Support to apply for settled or pre-settled status can take up to 3 months.</li> <li>• To access benefits a woman must evidence that she or her partner were exercising treaty rights prior to December 2020 and that they have the right to reside in the UK. It is our experience that a woman fleeing domestic abuse will not have the necessary evidence resulting in a delay being occasioned to her receiving benefit.</li> <li>• Whilst a woman is waiting for a decision on her benefit application, she is destitute, and subsistence is provided by Hemat Gryffe Women's Aid</li> <li>• A woman can apply to the Scottish Welfare Fund for assistance once benefits are in place.</li> <li>• A woman can only make one application to the Scottish Welfare Fund.</li> <li>• A woman with children is supported to seek Social Work assistance long term.</li> <li>• A woman without children cannot access Social Work assistance.</li> <li>• Social Work Services will intervene where there are adult support &amp; protection concerns.</li> <li>• A single woman is supported by Hemat Gryffe Women's Aid to access the Scottish Welfare Fund and/or the Red Cross, who currently have funding available for women who have no recourse to public funds who are destitute.</li> </ul> <p style="text-align: center;"><b><u>Asylum seeking women</u></b></p> <ul style="list-style-type: none"> <li>• There is a separate category of immigration rules affecting women who are asylum seekers.</li> <li>• An asylum-seeking woman can access housing and subsistence from Asylum support teams.</li> <li>• Hemat Gryffe Women's Aid will make the necessary referrals for a woman to other relevant organisations for example an Immigration Solicitor or Asylum support.</li> </ul>
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	<ul style="list-style-type: none"> <li>Hemat Gryffe Women's Aid provide outreach as well as emotional and other practical support in relation to the domestic abuse experienced.</li> </ul>
<b>Q2</b>	<b>What does the UK Government and the Scottish Government need to do, if anything to support providers of services in the local government and third sectors who are assisting people with NRPF</b>
HGWA Response	<p>Hemat Gryffe Women's Aid believe that the no recourse to public funds conditions should be abolished.</p> <p>Women need to be informed that help and support is available should their marriage breakdown because of domestic abuse.</p> <p>What also needs to be considered is the delay between submitting the notification to the UKVI and the LOTR letter being issued. Due to this delay a woman cannot access refuge/homeless accommodation and require staying with friends or relatives or remain in the abusive relationship until the LOTR letter is granted. This places women in a dangerous position because of the procedure denying them access to immediate specialised support and safety.</p> <p>Immigrant women require to be informed of their rights and insecure legal status prior to entry to the UK.</p> <p>In 2017, Hemat Gryffe Women's Aid staff member, Elaine McLaughlin completed a PhD research considering the impact of no recourse to public funds upon domestically abused women from a South Asian Background. The focus of the research involved women who had entered the UK for marriage purpose on a Spousal Visa. During the research, she was awarded a prize by Police Scotland at an event facilitated by the Scottish Institute for Policing Research. The prize afforded her the opportunity to work with Police Scotland. Working with Police Scotland a leaflet was developed to be issued to immigrant women entering Glasgow/Edinburgh airports informing them of their rights should the marriage breakdown during the probationary period because of domestic abuse. A copy of the <a href="#">leaflet is attached in this link</a>. Hemat Gryffe Women's Aid believe that something of a similar nature requires to be rolled out across Scotland and throughout the UK informing immigrant women who have a no recourse to public funds of their rights should their marriage break down as a consequence of domestic abuse.</p> <p>The research also identified a range of social and structural challenges encountered by immigrant women constrained in a domestic abuse relationship as a spousal visa holder.</p>

Q3	How has COVID impacted the support available to people with NRPF?
HGWA response	<p>Since COVID19 pandemic Hemat Gryffe Women's Aid have provided support to 61 women fleeing domestic abuse with an insecure immigration status.</p> <ul style="list-style-type: none"> <li>• 14 women seeking asylum.</li> <li>• 4 EU/EEA nationals.</li> <li>• 43 women had no recourse to public funds. 35 were spousal visa holders, 8 visitor visa or student visa or whose visa status is unknown.</li> </ul> <p>Hemat Gryffe Women's Aid continue to support women fleeing domestic abuse with no recourse to public funds.</p> <p>Hemat Gryffe Women's Aid provide support using a range of virtual platforms.</p> <p>It is difficult for a woman to flee or seek support/information in relation to the domestic abuse they are enduring due to the lock down rule imposed.</p> <p>Hemat Gryffe Women's Aid have a regular radio advert on a Radio Awaz a popular minority ethnic radio station providing women with information in relation to service provision.</p> <p>Hemat Gryffe Women's Aid have updated our multilingual website with feedback provided by women supported in the service to empower women to call for support.</p> <p>Hemat Gryffe Women's Aid are in the process of including a live chat facility on our website to communication with the staff for a woman requiring support.</p>
Q4	From your perspective, have local authorities been able to support people with NRPF sufficiently during the pandemic?
HGWA response	<p>During the pandemic Glasgow City Council have relaxed their policy around women fleeing domestic abuse who have no recourse to public funds.</p> <p>Local casework teams are providing accommodation to women because of the pandemic.</p> <p>Hemat Gryffe Women's Aid organise accommodation for women with no recourse to public funds with the assistance of homeless case work teams.</p>

	<p>Hemat Gryffe Women's Aid enjoy positive working relationships with the Glasgow (and other local authority areas) homeless case work teams.</p> <p>Hemat Gryffe Women's Aid are concerned at the long-term safety of abused women who have no recourse to public funds who are currently being accommodated and whether this will be sustained in the long term.</p> <p>Glasgow City Council 'Family Support Project' fund has a £100,000 voucher scheme to allocate up to £1000 in vouchers to be issued to a pregnant woman, a woman with children, a woman involved in court dispute attempting to secure contact/residence (this is including temporary accommodation and permanent accommodation). The voucher is to allow a woman to purchase of essential items not provided through the Scottish Welfare Fund (SWF). Hemat Gryffe Women's Aid have been notified that this scheme excludes a woman who is without recourse to public funds.</p> <p>The Scottish Welfare Fund is inaccessible to domestic abuse victims with no recourse to public funds.</p>
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**Local Government and Communities Committee**

**11<sup>th</sup> Meeting, 2020 (Session 5), Wednesday 10 March 2021**

**Subordinate Legislation**

**Overview of instrument**

1. The following instrument, subject to negative procedure, is being considered at today's meeting:
  - [The Town and Country Planning \(Cairnryan Border Control Posts\) \(EU Exit\) \(Scotland\) Special Development Order 2021 \(2021/98\)](#)

**The Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Order 2021 (2021/98)**

**Purpose**

2. The purpose of the instrument is to grant temporary planning permission for the development of new border control infrastructure in the vicinity of the ports at Cairnryan, subject to conditions, and to obtaining site-specific approval from the Scottish Ministers.

**Background**

3. The Policy Note explains that following the end of the EU exit implementation period, goods entering the UK from the EU are subject to the same border entry requirements and controls as goods from the rest of the world. Enforcement is to be delivered through inspection facilities located at Border Control Posts and is understood to require to be operational by 1 July 2021.
4. The Policy Note explains that at the time of making this Order, a preferred site is yet to be selected. The Order therefore grants permission for provision of the facilities on land located within 15 miles of the Cairnryan ports (excluding certain sites such as conservation areas, national scenic areas, sites of special scientific interest and European sites).
5. Further detail on the Order is set out in the policy note attached at **Annexe A**.
6. The Minister for Local Government, Housing and Planning wrote to the Committee, on 23 February, informing it of his intention to lay an SSI for a Special Development Order, exercising powers under section 30 of the Town and Country Planning (Scotland) Act 1997. This letter is attached at **Annexe B**.
7. The instrument was laid before the parliament on 24 February 2021 and comes into force on 25 March 2021. It is subject to the negative procedure.

8. An electronic copy of the instrument is available at:

<https://www.legislation.gov.uk/ssi/2021/98/contents/made>

9. No motion to annul this instrument has been lodged.

### **Delegated Powers and Law Reform Committee consideration**

10. The Delegated Powers and Law Reform Committee (DPLRC) considered the instrument at its meeting on [2 March 2021](#) and [determined](#) that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

### **Committee Consideration**

11. The Committee is not required to report on negative instruments, but should it wish to do so, the deadline for reporting is 29 March 2021.

### **Procedure**

12. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).
13. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
14. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
15. Each negative instrument appears on the Local Government and Communities Committee’s agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not always possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.
16. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

## ANNEXE A

## POLICY NOTE

**THE TOWN AND COUNTRY PLANNING (CAIRNRYAN BORDER CONTROL POSTS) (EU EXIT) (SCOTLAND) SPECIAL DEVELOPMENT ORDER 2021****SSI 2021/98**

The above instrument ("the Order") was made in exercise of the powers conferred by section 30(2)(b) of the Town and Country Planning (Scotland) Act 1997. The instrument is subject to negative procedure.

**Purpose of the instrument**

The Order grants temporary planning permission for the development of new border control infrastructure in the vicinity of the ports at Cairnryan subject to conditions. Before development can take place, site-specific approval must be sought from the Scottish Ministers in accordance with the procedures specified in the Order.

**Policy Objectives**

Following the end of the EU Exit implementation period, goods entering the UK from the EU are subject to the same border entry requirements and controls as rest of the world goods. Scottish Ministers are responsible for the enforcement of checks on animals, plants, plant products, product of animal origin and high risk foods not of animal origin. Enforcement is delivered through inspection facilities located at Border Control Posts (BCP).

In most cases, BCPs are being provided by port operators<sup>1</sup>. However, the two ferry terminals at Cairnryan (the Port of Cairnryan and Loch Ryan Port) in Dumfries and Galloway do not have the necessary physical space to accommodate the required infrastructure and facilities within their boundaries. In accordance with the UK Border Operating Model, it is for government to provide facilities at an inland site in such circumstances. At the time of making the Order, it is understood that BCP need to be operational by 1 July 2021.

The purpose of the Order is to support the timely delivery of this nationally important border infrastructure, and in doing so, help to prevent or limit disruption that may occur in and around Cairnryan if the required facilities are not provided, or if their operation is significantly delayed.

At the time of making the Order, specifications for the Cairnryan BCP have not been finalised and a preferred site is yet to be selected. The Order is intended to provide additional planning certainty while such details remain outstanding. Specifically, article 3 of the Order grants temporary planning permission for the provision of the BCP facilities on land located within 15 miles of the Cairnryan ports (see article 1(2) of and schedule 1 to the Order). The permission granted by the Order does not apply to land specified at paragraphs 2 and 3 of schedule 1, which includes conservation areas, national scenic areas, sites of special scientific interest or European sites. The permission granted by the Order is also subject to a number of conditions and limitations.

Article 4(1) provides that the use of a specific site as a BCP must be expressly approved by Scottish Ministers before development can take place under the Order. Such site-specific approval must be sought through a written submission which includes the information and details specified in article 4(2) of the Order. This includes an analysis of likely environmental effects and an assessment of traffic impacts.

Before this site-specific approval is sought, those parties specified in schedule 3 to the Order must be given the opportunity to comment on the development proposals. These include owners and occupiers adjacent to the proposed development site and on access routes to the site, Dumfries and Galloway Council, the relevant community council(s) and statutory environmental bodies (NatureScot, Scottish Environmental Protection Agency and Historic Environment Scotland).

The planning permission granted by the Order is for a limited period and use of the land as authorised by the planning permission must discontinue five years after the development becomes operational, with all reinstatement works completed a year later. Paragraph 1 of schedule 2 to the Order provides that development authorised by the Order can only be carried out by, or on behalf of, the Scottish Ministers.

The Order has been prepared as a contingency measure: it does not preclude planning permission for Cairnryan border infrastructure being sought through an application submitted to Dumfries and Galloway Council should such an approach be compatible with operational timescales of the BCP.

### **Consultation**

The delivery timescales associated with the provision of the BCP at Cairnryan are such that full public consultation has not been possible prior to making the Order. However, Scottish Government has engaged with key partners and stakeholders regarding the emerging proposals. These include:

- Dumfries and Galloway Council
- Relevant port/ferry operators
- Scottish Environmental Protection Agency
- Nature Scotland
- Historic Environment Scotland
- UK Government
- South of Scotland Enterprise

As noted above, the Order requires consultation to be carried out with those parties specified in schedule 3 before site-specific approval is sought from the Scottish Ministers under article 4(1). A report summarising the outcome of this consultation must be included in the written submission made to Scottish Ministers when such site-specific approval is sought.

### **Impact Assessments**

As well as a Business and Regulatory Impact Assessment (BRIA), covered in the next section, we have also carried out an Equality Impact Assessment (EqIA) and Children's Rights and Wellbeing Impact Assessment (CRWIA). These assessments did not identify negative impacts but acknowledged that specific impacts are

uncertain at this time because the scale and location of the Cairnryan BCP are yet to be finalised. We have screened out the need for a Fairer Scotland Duty Assessment and Island Communities Impact Assessment as the Order relates solely to border infrastructure required to serve the ports at Cairnryan.

### **Financial Effects**

A BRIA has been completed and is attached. By supporting the timely delivery of the Cairnryan BCP, the Order is considered to help avoid the costs to businesses that could arise if the required border facilities are not provided or if their delivery is substantially delayed. The extent of these potential costs has not been quantified.

Scottish Government  
Directorate for Local Government and Communities  
February 2021



**ANNEXE B**

Letter from Minister for Local Government, Housing and Planning Kevin Stewart MSP

23 February 2021

Dear James

**CAIRNRYAN BORDER CONTROL POST: SPECIAL DEVELOPMENT ORDER**

I am writing to let you know of my intention to lay a SSI for a Special Development Order on 24 February, exercising powers under section 30 of the Town and Country Planning (Scotland) Act 1997. The Order will grant temporary planning permission for the development of new border control infrastructure within an area of search around the ports at Cairnryan, subject to conditions and to obtaining Scottish Ministers' approval of a site-specific proposal following an appropriate engagement process.

The power to make special development orders is a long-standing feature of the planning system, but has not been regularly used in recent years and I wanted to take this opportunity to explain our reasoning on this occasion.

Following the end of the EU Exit implementation period, goods entering the UK from the EU are subject to the same border entry requirements and controls as rest of the world goods. Scottish Ministers are responsible for the enforcement of checks on animals, plants, plant products, product of animal origin and high risk foods not of animal origin. Enforcement is delivered through inspection facilities located at Border Control Posts (BCP).

At most points of entry, BCPs are being provided by port operators within their existing boundaries, under Permitted Development Rights. However, the two ferry terminals at Cairnryan (the Port of Cairnryan and Loch Ryan Port) in Dumfries and Galloway do not have the necessary physical space to accommodate the required infrastructure and facilities within their boundaries. In line with the UK Border Operating Model, it is for government to provide facilities at an inland site in such circumstances. At the time of making the Order, it is understood that the Cairnryan BCP needs to enter operation in the second half of 2021.

In view of the demanding delivery timescale, the purpose of the Order is to support the timely delivery of this nationally important border infrastructure, and in doing so, help to prevent or limit disruption that may occur if the required facilities are not provided, or if their operation is significantly delayed.

At the time of making the Order, specifications for the Cairnryan BCP have not been finalised and a preferred site is yet to be selected. The Order is intended to provide additional planning certainty while such details remain outstanding. The Order has been prepared principally as a contingency measure: it does not preclude planning permission for Cairnryan border infrastructure being sought through an application

submitted to Dumfries and Galloway Council should such an approach be compatible with operational timescales of the BCP.

Subject to Parliamentary approval, the Order will grant temporary planning permission for the provision of the BCP facilities on land located within 15 miles of the Cairnryan ports, although the intention is for the facility to be as close as is practical to the ports. The permission granted by the Order does not apply to certain specified designations including conservation areas, national scenic areas, sites of special scientific interest or European sites. The permission granted by the Order is also subject to a number of conditions and limitations.

To ensure appropriate scrutiny of proposals, before any development can take place under the Order, site-specific approval will need to be obtained from Scottish Ministers through a written submission, which includes, among other things, an analysis of likely environmental effects and an assessment of traffic impacts.

Before this site-specific approval is sought, the SDO requires that relevant parties must be given the opportunity to comment on the development proposals. These include owners and occupiers adjacent to the proposed development site and on access routes to the site, Dumfries and Galloway Council, the relevant community council(s) and statutory environmental bodies (NatureScot, Scottish Environmental Protection Agency and Historic Environment Scotland).

The delivery timescales linked to provision of the BCP at Cairnryan are such that full public consultation has not been possible prior to making the Order. However, the Scottish Government has engaged with key partners and stakeholders regarding the emerging proposals, including: Dumfries and Galloway Council; relevant port/ferry operators; SEPA; NatureScot; Historic Environment Scotland; UK Government; and South of Scotland Enterprise.

As set out above, before site-specific approval is sought, the SDO requires that a number of parties must be consulted on proposals. We anticipate that this process (and any additional, non-statutory consultation) will help to identify potential impacts and any mitigation which may be required.

I hope the Committee finds this information helpful.

Kind regards

**KEVIN STEWART**