

## 3. Supporting Families with No Recourse to Public Funds (NRPF)

### KEY LEGISLATION

Children Acts 1989 & 2004

Immigration & Asylum Act 1999

Nationality, Immigration & Asylum Act 2002 (NIAA)

Child Poverty Act 2010

Equality Act 2010

Human Rights Act 1998

### 3.1 INTRODUCTION

- 3.1.2 This policy is concerned with financial support by Manchester City Council ('MCC') for the families of children in need in its area whose immigration status means that they have no recourse to public funds ("NRPF") and consequently cannot access mainstream welfare services such as social housing and central government benefits, or who have restricted access on account of their immigration status. This includes families where carers are lawfully present such as former *Zambrano families who have applied for settled status and EU citizens without access to housing and benefits*. This policy does not apply to asylum-seekers or others for whom the Home Office has agreed to provide support.
- 3.1.3 For the purposes of section 11(2) of the Children Act 2004, this policy ensures that MCC's functions are discharged having regard to the need to safeguard and promote the welfare of children in its area. At all times and for all purposes under this policy.
- 3.1.4 This policy reflects the general principles set out below.
- 3.1.5 A child in need is a child who, in MCC's view, meets one or more of the conditions laid down in section 17(10) of the Children Act 1989.
- 3.1.6 It is the duty of MCC in respect of the children it finds to be in need, to safeguard and promote their welfare and, so far as is consistent with that duty,

to promote their upbringing by their families, by providing a range and level of services appropriate to those needs.

- 3.1.7 Services may include accommodation, assistance in kind and cash.
- 3.1.8 Section 17 of the Children Act 1989 ('section 17') does not impose a specific housing duty towards each child in need; services provided under the section are not intended to be a substitute for central government welfare benefits.
- 3.1.9 Relevant services may also be provided to a family member of the child in need if, on assessment, it is agreed that to do so would safeguard and/or promote the child's welfare.
- 3.1.10 An adult parent / carer who has no recourse to public funds and is subject to immigration control is likely to be ineligible for section 17 services by reason of Schedule 3, NIAA. However, when it is in the best interests of the child for the family to remain together payments may be made to the extent that such services are considered necessary to prevent a breach of their human rights under the Human Rights Act 1998.
- 3.1.11 An assessment must be carried out to determine the needs of a particular child, in line with statutory guidance and with proper consideration of the best interests of the child.
- 3.1.12 Support for families with NRPF should not be fixed to set rates or other forms of statutory support without any scope for flexibility to ensure the needs of an individual child are met.
- 3.1.13 Local authorities must undertake a rational and consistent approach to decision making, which may involve cross-checking with internal guidance or other statutory support schemes so long as this does not constrain the local authority's obligation to have regard to the impact of any decision on a child's welfare.
- 3.1.14 Schedule 3 of the NIAA has the effect of limiting the support that can be given to some categories of persons who have NRPF. Those in the UK unlawfully are excluded from local authority support by Schedule 3. They are limited to relief from destitution and other breaches of human rights and their support may be "capped" as explained in *BCD v Birmingham Children's Trust* [2023] EWHC 137 (Admin).

- 3.1.15 Asylum support rates are the absolute minimum necessary to maintain essential living costs for a failed asylum seeker and are unlikely to be sufficient to safeguard and promote the welfare of a child in need and by extension the essential needs of a parent on whom the child depends for care as explained in *R(C,T,M and U v London Borough of Southwark* [2016] EWCA Civ 707 and *BCD v Birmingham Children's Trust* [2023] EWHC 137 (Admin).
- 3.1.16 Persons lawfully in the UK such as Zambrano carers and EU citizens who may be NRPF in that they have no access to mainstream benefits are still entitled to support under section 17 which is wider than the limited provision under Schedule 3 and it is unlawful to provide them with the same level of support as children cared for by persons without the right to be in the UK. They are in a different statutory category to persons without the right to be in the UK, see *BCD v Birmingham Children's Trust* [2023] EWHC 137 (Admin).
- 3.1.17 Support rates must be kept under review informed by national statistics on inflation and the cost of living.
- 3.1.18 Support is generally provided on a short-term basis pending voluntary departure from the UK, a decision by the Home Office to grant of leave to remain, removal action, or the availability of other means of support including (when permissible) employment. Cases will therefore be reviewed on a quarterly interval at child in need meetings / NRPF review meetings to ascertain the status of any outstanding immigration claim and/or to review the need for continued support.
- 3.1.19 This policy is not intended to replace parental responsibility for a child where that is available. It premises that a child's welfare and support are primarily the responsibility of both parents.

## 3.2 BACKGROUND

- 3.2.1 This policy reflects the following local conditions.
- 3.2.2 A significant proportion of families living in the Manchester area have insufficient income or means to take them above the poverty line.
- 3.2.3 The indicative rates for the statutory category of persons subject to immigration control set out below are considered sufficient, with careful housekeeping, to be adequate not merely to meet the nutritional and other essential living needs of parents having regard to local prices and supplies,

but also to safeguard and/or promote the child’s welfare. They are to be seen in the wider context of a package of support which includes accommodation and other local authority services where the assessment identifies them. These being services that Central Government does not provide but which enhances this support through provision of services were assessed as needed by the child. The policies of other local authorities and considerations in other statutory schemes have been taken into account to ensure that the rates are not entirely misaligned. However, MCC has set its own rates, having regard to local conditions, and has not merely proposed rates from any other source. Utility rates are based on average costs provided by the industry. Amounts of support will vary from case to case and will be the subject of individual assessment.

### 3.2.4 The steps that will be considered if there was a referral

<b>WHEN A FAMILY IS FIRST REFERRED OR IF A QUERY RELATED TO IMMIGRATION IS REFERRED TO EITHER SERVICE:</b>	
<b>Children Social Care (AGS/MASH) should:</b>	<b>NRPF Team should:</b>
<p>Be aware of the kinds of families who could fall under the NRPF condition, including:</p> <ul style="list-style-type: none"> <li>• Visa overstayers</li> <li>• Asylum seekers or refused asylum seekers</li> <li>• Spousal visa</li> <li>• Student visas</li> <li>• Leave to Remain with NRPF</li> <li>• Zambrano Carers</li> </ul> <p>Get in touch with the NRPF team for advice and to flag the case as a potential referral ahead of referral to consider if a children and families assessment is needed</p> <p>Investigate to establish whether the child is a child in need.</p> <p>Assess if there are other potential concerns relating to the family, including: child protection and safeguarding, private fostering arrangements, risk of child trafficking.</p>	<p>NRPF Duty / Manager to direct social workers to relevant advice and guidance at <a href="http://www.nrpfnetwork.org.uk">www.nrpfnetwork.org.uk</a></p> <p>Provide over the phone or email guidance on next steps: Mon-Fri 9am-4.30pm: Duty tel. 0161 227 3901</p> <p>Carry out pre-assessment / triage and consider if a referral to AGS is required</p> <p>Investigate claims of destitution. This would include a review of bank statements, letters and/ or verbal statements from family and friends regarding previous support and assessing what alternative support networks are available to financially assist.</p> <p>Investigate to establish ‘territorial responsibility’ - are they the responsibility of Manchester?</p> <p>Investigate to establish immigration status.</p>

	<p>In the case of a partner on a (valid) spousal visa fleeing domestic violence, the partner to seek immigration legal advice and apply to the Home Office under the DDV Concession.</p> <p>If necessary, arrange and provide emergency accommodation and subsistence payments whilst an assessment is undertaken.</p> <p>If already open to children’s social work teams: will Inform the involved social worker with details of the level of support to be provided and the conditions under which the support is to be provided.</p>
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3.2.5 There is no statutory duty to consult on this policy nor is it considered necessary to do so. This policy will be reviewed within 12 months but can be reviewed earlier if circumstances change and parents and others will be encouraged to provide feedback which will be considered upon that review. This policy applies to both new and existing parents.

### 3.3 DATA PROTECTION

3.3.1 Personal information given to us is subject to the General Data Protection Regulations Act 2018 and will be used to assess needs and provide services if eligible. MCC reserves the right to share this information with external agencies who assist in the provision of services and any government departments who have a statutory right to such disclosure. To enable MCC to carry out the assessment it requires the parent’s consent/agreement to make enquiries with third parties to assist the assessment process.

### 3.4. CONDITIONS OF SUPPORT

- 3.4.1 Support under this policy is provided on the following conditions.
- 3.4.2 Each parent submits to a means test and will use his or her best endeavours to provide MCC with all the information MCC will reasonably require to ascertain their financial position.

- 3.4.3 Where a parent is entitled to apply for leave to remain and/or to remove a restriction or limitation on access to public funds, he must do so immediately unless, in MCC's view, exceptional circumstances apply.
- 3.4.4 A parent with an outstanding immigration application agrees to share information with MCC as to the nature and progress of that application, including instructing any immigration lawyers engaged on his behalf to provide regular updates to MCC, and further agrees to take all reasonable steps within his power to expedite the determination of any such application.
- 3.4.5 Where a parent is entitled to work in the UK and, in MCC's view, it is reasonable and practicable for him to take up employment, he must actively seek work and not refuse any reasonable offer of employment.

### 3.5 PROVISION OF SERVICES

- 3.5.1 The services to be provided under this policy are set out in the following paragraphs.
- 3.5.2 Accommodation and Financial support payments at the indicative rates or the welfare standard for parents lawfully present and on the terms set out below dependent on the statutory category of the person with NRPF.
- 3.5.3 Other services, pursuant to Part 1 of Schedule 1 to the Children Act 1989, to the extent that MCC considers them appropriate.

### 3.6 Financial Support

- 3.6.1 The indicative rates set out below apply to persons in the statutory categories subject to immigration control.
- 3.6.2 If a parent in any category is found to have relevant means or other resources of their own, including an offer of employment that MCC considers it reasonable to accept, the rate/s may be reduced accordingly. If an assessment of a parent in any category identifies a need for extra support, consideration will be given to making further payments, the final decision to be that of the delegated senior manager.
- 3.6.3 The amount of any Child Benefit and/or Child Tax Credit receivable by the parent will be deducted from the total support rate.

3.6.4 Any assets, income, or other support (either in UK or home country) the parent has may also be considered and where MCC believes that it is reasonable for the parent to make use of these assets, income or other support then support from MCC may be reduced or withheld accordingly.

3.6.5 The indicative rates for persons in categories subject to Schedule 3 are:

Weekly rates	
Rates per Person (whether an adult or a child but subject to paragraph 3.5)	£49.55
Utilities provided to adult as additional (monthly):	Water £12.00 Gas and Electricity £30.00 £15 each for Gas and Electricity.
Nursing money	£5.00 (child under 1 year / expectant mothers)  £3.00 (child 1 – 3)
Maternity Grant	£300.00 per child

3.6.6 When MCC is providing or paying for accommodation as well as making subsistence payments, the rent or accommodation charge will be paid separately and in addition to the financial support payment.

3.6.7 Parents in the category who are not excluded by virtue of Schedule 3 NIAA - with the right to be in the UK and where the children, whether British or foreign national, are in need and requiring support the extent of the support will be determined through MCC's assessment of the child's welfare needs and is not benchmarked to the indicative rates above.

3.6.8 These needs are not subject to Schedule 3 NIAA limits and a "welfare standard" of support will be applied. Each family will be assessed on an individual basis considering any additional needs, services or support provided as part of their accommodation package. Support will be guided by welfare benefits levels and will usually be paid at Universal Credit rates, which MCC has assessed as being an appropriate rate to provide for the essentials of daily living and to meet

MCC’s duty set out at para 3.5 above. To do this MCC makes weekly payments to each adult and any children they have. They then pay additional amounts that cover rent and utility bills. For the avoidance of doubt payments under the indicative rates will not be made to parents in this category.

### 3.7. DISABILITY

3.7.1 A child may be “in need” because he is disabled. Alternatively, a child may have a disabled parent. MCC recognises that persons with disability sometimes have higher support needs than others. Accordingly, where an assessment shows that such additional needs exist, by way of adjustment MCC will consider the payment of an enhanced rate which will generally be a maximum of 10% uplift of the indicative rate for that person as shown above. However, this is merely a starting point, and each case will be considered on its own merits, the final decision to be that of the delegated senior manager.

### 3.8 ASSESSMENTS

3.8.1 All families supported under section 17 are assessed to ensure that the individual needs of the child or children are met and that MCC is upholding its duty to safeguard and promote the welfare of those children to the extent that is applicable.

<b>IF A DECISION IS MADE TO ASSESS</b>	
<b>CHILDREN’S SOCIAL CARE SHOULD:</b>	<b>NRPF CASEWORKER SHOULD:</b>
<p>Complete a joint visit with the NRPF worker within 5 working days, unless there is immediate safeguarding needs</p> <p>Complete a Child in Need Assessment within 35 working days from referral unless agreed by Children’s Services Team Manager that further time is necessary (45 days)</p>	<p>Complete an NRPF Assessment.</p> <p>Determine if the family falls under Section 54 and Schedule 3, (exclusion to Section 17 support) of the Nationality, Immigration and Asylum Act 2002.</p> <p>Complete a Human Rights Assessment (where appropriate) within 28 working days of referral to ascertain if withdrawing or withholding services would be a breach of their human rights under Article 3 and Article 8 the Human Rights Act 1998 (European Convention on Human Rights, 1950).</p>
<b>IF THE FAMILY IS NOT ELIGIBLE FOR SUPPORT THROUGH NRPF OR CLOSING CHILDREN’S SERVICES</b>	



<b>CHILDREN SOCIAL CARE SHOULD:</b>	<b>NRPF CASEWORKER SHOULD:</b>
<p>Meet with the family to explain the decision and outcome of the assessment</p> <p>Write to the family explaining the decision – signed off by the appropriate team manager</p>	<p>Depending on individual circumstances, provide up to a 14-day notice period until termination of support.</p> <p>Work with the family to support assisted voluntary return to their country of origin.</p> <p>Refer to Children Social Care if there are safeguarding concerns.</p> <p>Signpost to relevant supportive agencies for further advice and support as appropriate.</p>
<b>IF THE FAMILY IS ELIGIBLE FOR SUPPORT OR A SOCIAL WORK CHILDREN AND FAMILIES' ASSESSMENT</b>	
<b>CHILDREN SOCIAL CARE SHOULD:</b>	<b>NRPF CASEWORKER SHOULD:</b>
<p>Continue with their Children and Family / CIN Planning / CP Planning</p> <p>Work with NRPF caseworker to inform assessment</p> <p>Provide additional support that falls outside the remit of NRPF Team</p> <p>Cease assessment if it is deemed that NRPF Team is providing all necessary support to the family</p>	<p>Put in place recommendations of assessment. This may include provision of:</p> <ul style="list-style-type: none"> <li>• Hotel stay when this would be for a short time</li> <li>• Self-contained accommodation</li> <li>• Subsistence support</li> <li>• Referral to immigration solicitor / advisers</li> <li>• Referral to CSC if there are child protection concerns</li> <li>• Refer to relevant supportive agencies e.g., food banks, NHS Healthy Start, ESOL, Rainbow Haven etc.</li> </ul>
<b>IF ASSESSMENT FROM NRPF CONCLUDED THAT THEY ARE WITHDRAWING SUPPORT OR THE FAMILY DECLINE TO WORK WITH EITHER SERVICE</b>	
<b>CHILDREN SOCIAL CARE SHOULD:</b>	<b>NRPF CASEWORKER SHOULD:</b>
<p>Review the case to establish if there are any remaining Child in Need or child protection issues.</p> <p>Write to the family to confirm the decision including the start of a 14-day notice period until NRPF support will finish.</p>	<p>When granted access to public funds, signpost/ refer/ support the family to access benefits, housing support, employment and appropriate support agencies.</p> <p>If appropriate, a referral to Housing Solution Services will be made as soon as the caseworker is aware of the family's eligibility to access public funds.</p>

<p>Hold an exit interview with the family.</p>	<ul style="list-style-type: none"> <li>• Three working days' notice will be given when the family is staying in hotels and B&amp;Bs.</li> <li>• 14-day notice will be given when family is staying in self-contained accommodation.</li> </ul> <p>Signpost the family to agencies that may provide support to apply for benefits.</p> <p>Referral to Children Social Care if there are outstanding child in need concerns.</p> <p>Provide family with advice about steps that can be taken to avoid future re-representation for support from social services.</p> <p>Provide family with voluntary return advice to their country of origin where the family is excluded from local authority support.</p>
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## 9. OTHER INCREASES

3.9.1 MCC seeks to ensure that its rates are fair for all and allow the efficient management of scarce resources. Families may be supported by MCC for years due to Home Office delays in managing applications. However, all rates may be varied initially at the discretion of the NRPF Team Manager on a case-by-case basis on the request of the parent or via social worker assessment. Any such increase must thereafter be referred to the delegated senior manager for approval based upon the child's assessed needs. If there is any subsequent change in the circumstances of the family, the support payments will be reviewed and recalculated if appropriate.

3.9.2 The amount of financial support may vary, for example:

3.9.3 Support payments may be higher if there are significant additional needs.

3.9.4 Support payments may be higher where a child has been assessed by a social worker to have additional individual needs necessary to promote their welfare and wellbeing.

3.9.5 Support payments may be lower if the family are residing in accommodation which provides for essential living needs.

3.9.6 Support payments will be lower if care needs are being met through an alternative method in accordance with the Care Act 2014.

### 3.10. WHAT SHOULD THIS MONEY BE USED FOR?

3.10.1 Payments are intended to cover essential living needs and meet the child's welfare needs for the families. Financial support should not be saved or transferred to other people.

3.10.2 If in receipt of any additional income the social worker / NRPF caseworker must be informed about that change of circumstances and any other relevant information.

3.10.3 Failure to do this could result in subsistence and/or accommodation being withdrawn.

### 3.11. HOW WILL PAYMENTS BE MADE?

3.11.1 The method of payment is a mixture of BACS, via post office payment or cash depending on the circumstances of the family.

### 3.12. FRAUD

3.12.1 MCC has a duty to ensure that taxpayers' money is appropriately used and to ensure that assistance is provided only where it is genuinely needed. MCC will therefore investigate any case in which there are proper grounds to doubt the genuineness of the claim, or where the parent has knowingly failed to report a material change in circumstances.

3.12.2 Depending on the severity of the matter, MCC reserves the right to avail itself of all or any lawful means of recovering over-payments and/or informing the police.

### 3.13. BREACH OF CONDITION OF SUPPORT

3.13.1 Support provided for in this policy is given on condition that the parent and/or his dependant(s) adheres to the terms and conditions attached to it. Those

terms and conditions will be shared with the parent at assessment. A breach of the conditions of support may lead to an early suspension or discontinuation of support.

3.13.2 In particular, the parent must keep MCC fully informed of any material changes in his circumstances and provide promptly and as accurately as possible, when asked, any information MCC reasonably requires.

### 3.14. WITHDRAWAL OF SUPPORT

3.14.1 MCC will generally provide 14 days' notice before support is withdrawn. However, in cases where MCC considers it appropriate to do so, a shorter notice period may be provided. The assessing officer will take all reasonable steps to discuss the matter with the client to ensure that s/he is informed of the reasons.

### 3.15. EQUALITY ACT DUTIES

3.15.1 MCC's public sector equality duty under the Equality Act 2010 requires it to have due regard, in both the adoption and application of this policy, in relation to persons with a protected characteristic under that Act, to certain goals set out in section 149. In addition, the services MCC provides under this policy must not discriminate either directly or indirectly against such persons unless any such discrimination is justified as being a proportionate means of achieving a legitimate aim. For the purposes of the Equality Act, the primary aim of this policy is to provide, as part of a broader range of services, an effective and sustainable means of safeguarding and promoting the welfare of children in need whilst empowering clients to work (where that is permitted), providing their own means of support, accessing it where it is available, or making their own arrangements to leave the UK (where that is required by the Home Office).

3.15.2 This policy will clearly affect persons with the protected characteristic of "race". To a lesser although significant extent it will also affect persons with the protected characteristics of "disability" and "sex", the latter because experience shows that the majority of single parents are women. Children affected by this policy will have the protected characteristic of "age", as could their parent/s, and grandparent/s if the child's primary carer.

3.15.3 This policy is expected to have a positive and beneficial impact because it will enable services to be provided to families who would otherwise be without the means of support or who might find it more difficult to support themselves on

account of their protected characteristic/s. Further, by incentivising parents to take responsibility for their own support, it will promote the upbringing of children by their own families.

3.15.4 If level of support provided by the indicative rates or the welfare level is thought to be too low to safeguard and/or promote the welfare of children in need, or not be conducive to family life, this may be mitigated by carrying out a personal assessment in each case, to tailor services to meet specific needs. The provision of accommodation and other services, the disability uplift would require authorisation. With such safeguards in place, it is considered this policy strikes the right balance between meeting needs and promoting welfare within a limited budget. No alternative measure is considered practicable, having regard to the available funding, without compromising essential front-line services.

### 3.16. COMMENCEMENT, REVIEW & FEEDBACK

3.16.1 This policy will commence on 01/10/2023. This policy considered the rates of other Local Authorities with the helpful availability of these online, the current cost of living crisis and inflationary rates. This is a national issue and families with and without recourse to public funds are equally affected in this crisis. Any additional financial support will be based on the individual family's assessed needs. MCC has limited amount of finance to discharge its duties to families with no recourse to public funds.

3.16.2 This policy supersedes MCC's previous procedures based on NRPF Network Guidance on the provision of financial payments to the families of children in need who have no recourse to public funds. It will be subject to a general review after twelve months to ensure that it remains fit for the purpose. Parents and others with an interest in this policy may comment upon it by writing to [cflg@manchester.gov.uk](mailto:cflg@manchester.gov.uk) marked clearly "NRPF Policy Review" All such comments will be collated and considered upon the policy review.

### 3.17. POLICY REVIEW DATE

3.17.1 This policy will be reviewed by 1<sup>st</sup> November 2024