

Support for homeless non-UK nationals with no access to public funds during COVID-19

*A rapid evidence review for the Kerslake Commission
Research commissioned by St. Mungo's*

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Executive Summary

Objectives

The overall aims of the rapid evidence review were:

- to understand better all of the reasons why people may not have access to public funds;
- to consider the evidence relating to support to resolve homelessness for those in this situation;
- to identify the key issues where policy solutions need to be considered.

Information sources

The main sources of information were:

- Government documentation and data;
- Documentation and data from London Councils and the GLA;
- Mainly factual material from a range of charities and others involved in giving advice and support;
- Evidence given to the MHCLG Select Committee and the Committee's own reports.

The majority of material available is fundamentally descriptive. There is as yet very little analysis or assessment available.

Numbers of those with NRPF and those with NRPF helped by Everyone In

Data on the numbers affected by NRPF and the numbers of those with NRPF status are both very poor.

- The Home Office accepts that there are no accurate data on NRPF even in terms of numbers.
- The data on *Everyone In* itself are mainly limited to counting numbers with very limited explanation. The government provides no information on the numbers who are subject to NRPF. London Councils and the GLA have provided information for London where the problem is concentrated.
- Determining whether an individual is NRPF – or has the potential to have their conditions amended – is problematic.
- The largest numbers coming forward to LAs and advisory services are lone parents with young children.
- The majority of those who sleep rough are single people and usually male. In the pandemic individuals who became unemployed and those who had informal accommodation have been increasingly at risk.

Everyone In and NRPF

The government brought in *Everyone In* under the public health emergency and it was immediately accepted that this meant everyone – including those subject to NRPF. However, from May 2020 the government's position on support and funding became less clear. The *Ncube v Brighton and Hove* case has helped clarify the position but decisions still need to be made on case by case basis.

Those accommodated under *Everyone In* included not just people who were actually sleeping rough at the time but also large numbers of people who were already accommodated but in unsafe accommodation.

Those subject to NRPF were likely to be disproportionately affected both because of

- loss of income/accommodation as a result of covid; and because
- those in trouble who have no recourse to public funds cannot apply for temporary accommodation and had been supported by charities in night shelters and other covid-unsafe accommodation.

Move on accommodation

By necessity those providing move-on support have been mainly charities – including better equipped night shelters but also housing associations.

Nothing is known in the literature about how effective move-on accommodation has been (and very little about what it is). There is almost certainly informal information available from LAs and other organisations.

Operational aspects

There are huge complexities in determining status and in supporting those with NRPF to clarify their position. This means both that there are heavy legal costs and great insecurities for those affected.

There has been massive improvement in collaboration between the range of organisations involved– but still significant differences in advice and support available between areas.

There have also been increases in the availability of advice and support including about ways out of NRPF (including helping people to return to their country of origin; clarifying status and helping people to change conditions towards settled status).

Housing associations have also developed many ways of providing housing support that does not involve public funds.

Co-ordinating advice services and support for those with NRPF is a key on-going requirement – as is providing secure accommodation without the use of public funds.

Concluding comment

The evidence shows that NRPF status is a significant cause of homelessness. It is also why many people remain in emergency accommodation and why move-on accommodation is such a problem. It is very difficult to see how the government can meet their objectives to end rough sleeping while it continues.

Key Findings

Benefits available to those with NRPF

Despite not having access to public funds¹, those under the NRPF condition may receive accommodation and housing support from other sources. These are:

1. Social services

- a) Support for families with dependent children designated as NRPF under Children Act provisions when children are found to be a child in need of social services. This may also apply if the child is currently homeless, at risk of becoming homeless, or when their parents lack resources to provide for the family's basic needs.
- b) Support may be used to provide for families waiting for a Home Office decision in relation to section 95 Asylum support.
- c) Support for adults assessed as needy under the Care Act 2014. There has to be explicit care needs outlined. An adult who is at risk of becoming, or is already, homeless does not qualify on those grounds alone.
- d) Support for adult asylum seekers with care and support needs if they are not already accommodated by the Home Office.
- e) To provide for those who are in breach of immigration laws in order to prevent a breach of human rights.
- f) Support for pregnant women with reference to accommodation section 19(1) of the Care Act 2014
- g) Support for care leavers and former unaccompanied children with ongoing support needs and rights including those who came through the asylum system as well as migrant care leavers who came into care through other means (e.g. abuse/neglect) but whose status has not been secured (Coram 2018).

2. Home Office

- a) Destitute asylum seekers and, in some cases, appeal rights exhausted (ARE) asylum seekers who are not covered by the support offered by the social services.
- b) The Home Office can also provide accommodation and financial support to a person who is subject to immigration bail under schedule 10 of the Immigration Act 2016.

Moreover, there are a list of benefits that are not considered to be restricted for immigration purposes:

- a) Contribution-based Jobseeker's Allowance
- b) Guardian's Allowance (if in receipt of Child Benefit);
- c) Incapacity Benefit
- d) Contribution-based Employment and Support Allowance (ESA)
- e) Maternity Allowance
- f) Retirement Pension
- g) Statutory Maternity Pay
- h) Statutory Sickness Pay

¹ Public funds include a range of income-based in-work and out-of-work benefits that are given to people on a low income, as well as housing support. These are: attendance allowance, carer's allowance, child benefit, child tax benefit, child tax credit, council tax benefit, council tax reduction or council tax support, discretionary welfare payment, disability living allowance, domestic rate relief (Northern Ireland), housing benefit, income-based employment and support allowance, income based jobseeker's allowance, income support, personal independence payment, sever disablement allowance, social fund payment, state pension credit, universal credit, working tax credit. They also include passported benefits such as free school meals, pupil premium and so on. Contributory benefits are not considered to be public funds. (GOV.UK 2020).

- i) Widow's Benefit and Bereavement Benefit

3. **Housing Support available**

Generally, support and accommodation has been available for households with children or adults in need of care and attention, and is not available to most undocumented migrants unless they have made a human rights based application to remain (Hutton and Lukes 2015). Indeed, local authorities will only provide accommodation and support to migrants with NRPF when statutory duties are engaged. Councils and other relevant organisations may offer support to return home in some cases. If support is offered it may include paying private sector rents, placement in specialist accommodation, or support while staying in the community (Homeless Link 2021): 21).

The main models of support being provided or explored for people with no recourse to public funds are:

- a) Hosting
- b) Rooms in a shared house with wrap-around support
- c) Rooms for migrants within a mixed shared house
- d) Support communities
- e) Night Shelters
- f) Hostels
- g) assessment services such as No Second Night Out (NSNO) (which often represent the main route out of homelessness for NRPF clients).

Additionally, housing associations can respond to the housing and support need of people with no recourse to public funds in various ways. In particular, these are often small but innovative responses, that can be outside housing associations' normal business but are often part of their charitable objectives (Hutton and Lukes, 2015; HCLGC,2021).

In particular, housing associations can:

- a) Take direct applications from people with no recourse to public funds;
- b) Directly accommodate asylum seekers and refused asylum seekers with no recourse to public funds;
- c) Provide free hostel and refuge spaces;
- d) Offer peppercorn rent schemes within their existing properties;
- e) Provide working accommodation for people with no recourse currently working or looking for work;
- f) Offer cross subsidy models;
- g) Offer accommodation with legal advice to people with no recourse who may have a chance of a change in status;
- h) Get involved in local partnerships with local services, local authorities, migration charities and immigration advice providers;
- i) Provide housing management to migration charities for a fixed fee per property;
- j) Support migration charities with training, resources and funding;
- k) Address support needs by providing housing-related, person-centred and trauma-informed support.

No recourse to public funds and Everyone In

During the pandemic, Councils have accommodated rough sleepers with NRPF as part of the Government's 'Everyone In' scheme (MHCLG 2020a). While the plan has been carried out by local authorities, they partly relied on some funding streams from the Government allocated during the health crisis to support and provide accommodation to vulnerable groups (e.g. £3.2 billion to help homeless and rough sleepers with emergency accommodation) (HCLGC, 2020; 2021) .

In particular, as the NRPf network reported, in March 2020, following the Everyone In policy, the Government directed local authorities temporarily to suspend usual eligibility rules to respond to the Covid-19 public health emergency and protect all rough sleepers by providing accommodation, regardless of their immigration status. However, no changes have been made to benefit or housing eligibility criteria during the pandemic. Although people with NRPf may be supported by a local authority under the Children Act 1989 or Care Act 2014, many adults accommodated through 'Everyone in' do not qualify for such assistance anymore². Courts have ruled that section 1 of the Localism Act 2011 cannot be used to provide accommodation when a person is ineligible under the Housing Act 1996 and the Care Act 2014. But, according to the [Ncube v Brighton and Hove City Council](#)³, the High Court found that in order to save lives by alleviating the effect of the Covid-19 pandemic through the 'Everyone In' scheme, or a successor initiative, a local authority can rely upon powers under section 138 of the Local Government Act 1972 and section 2B of the National Health Service Act 2006 to accommodate a person with no recourse to public funds (NRPf 2021: 3). The Judge also found that the general provision of section 1 of the Localism Act 2011 cannot be used where there is no other statutory basis to provide accommodation. Therefore, the powers under section 1 of the Localism Act 2011 must be exercised by local authorities to accommodate rough sleepers where it is necessary to avoid a breach of their human or EU rights (NRPf 2021: 3; HCLG)C,2021).

Back in May 2020, Housing Minister Christopher Pincher had already reminded local authorities about legal restrictions on offering support to those ineligible for benefits, and that individual assessments should take place. So, since May 2020, an *individual approach* has remained the main route that local authorities can follow to assess support available to people with no recourse to public funds (MHCLG 2020a). This has been reiterated in May 2021 by MHCLG in its response to the Housing Select Committee report (MHCLG 2021a).

Profile of NRPf individuals

On May 2021, MHCLG declared that it "is not possible to provide accurate figures on the number of people in the UK who are subject to NRPf at any given time" (MHCLG 2021a). MHCLG added that the no recourse to public funds condition applies to millions of visa applications, including visitors and temporary migrants. Therefore, information captured by the Home Office cannot be used to measure accurately all those subject to no recourse to public funds. However, the Rough Sleeping Snapshot gives a breakdown of the nationalities of individuals found to be rough sleeping in England. The latest published data estimated that of those rough sleeping on a single night in autumn 2020, 472 people (18%) were EU (Non-UK) nationals, and 128 people (5%) were from outside the EU and the UK (MHCLG 2021b).

While there are few reliable data on people that might be affected by the NRPf condition (Parliament 2020), Home Office figures published by the Migration Observatory at the University of Oxford show that by the end of 2019 there were 1.376 million people in the UK with valid limited leave to remain based on those who were granted initial visas from 2004 onwards. As the government's policy is to generally apply NRPf conditions to all those with limited leave to remain or a visa, it is likely that most of these will be affected although not all of these would be living on low income, facing hardship or disadvantage or eligible for income-based benefits even if they were not restricted by their status. These figures include 488,200 people on work visas and 545,800 on student visas. The Migration Observatory notes that these figures may be an overestimate as many people with visas may have left the country or never came in the first place (Migration Observatory 2020). On the other hand, these figures do not capture all those with limited leave to remain affected by NRPf conditions. For example, the figures which are based on Migrant Journey data from the Home Office, only capture those who came in on out-of-country visa applications excluding those who arrived without a visa such as asylum seekers or victims of trafficking who may have still

² Written evidence submitted by the NRPf Network, (IOC 346) <https://committees.parliament.uk/writtenevidence/17568/html/>

³ [2021] EWHC 578 (Admin), [2021] WLR(D) 169, <http://www.bailii.org/ew/cases/EWHC/Admin/2021/578.html>

ended up with leave to remain on human rights grounds. The figures also exclude those who had gaps between grants of leave to remain longer than 12 months. Finally these figures do not capture the numbers of British citizen children who are nevertheless affected by NRPF conditions on their parents' status (Pinter et al, 2020). The NRPF Network noted that in the fiscal year 2019-2020, 2,450 households with NRPF status received assistance from 66 councils across the UK at a cost of £44 million (Miller 2020). The figures for London and the UK above indicate that NRPF is largely a London centered issue.

Based on samples of cases it is estimated that the vast majority of all NRPF people in need of help are of BAME backgrounds. In a study by Citizens Advice, around 80% of those who seek NRPF advice share this background, with 33% being Asian and 32% black (2020). In contrast, during the same period around 80% of people supported overall by Citizens Advice were white (Citizens Advice 2020). In a survey funded by the Strategic Legal Fund (Woolley 2019), the national origin of respondents was reported as:

Country	Share
Ghana	39%
Nigeria	39%
Jamaica	10.6%
Bangladesh	1.5%
Guinea	1.5%
Pakistan	1.5%
Sierra Leone	1.5%
St Lucia	1.5%

The same study found that upwards of 85% of the studied sample seeking to have their NRPF condition removed are women and nearly all of them single mothers. The average number of children is 2 with around 90% of all families having at least one British child. 30% of all adults included in the study self-reported as disabled and 11% of all children were also designated as such. In the studies reviewed as part of the survey, around 70-79% of all people were in the age group 26-45 years old (Woolley 2019).

Finally, as of 31 July 2021, London Councils reported that in London 2272 people are currently in emergency accommodation as part of the Everyone In response: 525 are Non-EEA nationals with no recourse to public funds and 534 EEA nationals who have not exercised their treaty rights and have limited access to benefits. Most people with no recourse to public funds in emergency accommodation are concentrated in the north east (on a total of 464 people in emergency accommodation, 128 non-EEA with NRPF and 131 EEA with limited access to benefits) and north west (on a total of 483 people in emergency accommodation, 110 are non-EEA with NRPF and 117 are EEA with limited access to benefits) areas of the capital.⁴

Need for help

In a study In December 2020, Citizens Advice reported that they had advised on 7,700 issues related to NRPF since Covid-19 was declared a global pandemic in March 2020. This represents an

⁴ Data estimates from the London Councils as of 31 July 2021.

increase of 91% compared to the previous year. The most common issues Citizens Advice employees have encountered during this period have been (Citizens Advice 2020):

1. People unable to afford to self-isolate
2. Debt, especially related to rent-arrears
3. Job loss and redundancy
4. People finding it almost impossible to have their NRPF status lifted

A study by Wolverhampton University and others (Dickson et al 2020) showed that people with NRPF status had inadequate information in part because local authorities did not include the information on their websites and that they struggled to access basic necessities. It also suggested that those who caught covid were more likely to die. A recent study by the Joint Council for the Welfare of Immigrants found that migrants with the NRPF condition have been much less able to self-isolate during the pandemic compared to those with access to public funds. This is largely due to the fact that many live in relatively cramped accommodation. A majority of respondents reported living in accommodation where they have to share a bed with their partner and child, and a third of respondents reported that their child had to sleep in a room with people who were not their family (Gardner 2021). The unsuitability of their living situation is also manifested through its precariousness. Data from a sample of Citizens Advice cases show an uptick in forms mentioning rent arrears, eviction, or homelessness from 6% in 2019 to 58% in 2020. This leads to additional stress as rough sleeping may be grounds for deportation (Citizens Advice 2020). In one study, 6% of sampled individuals had experienced street homelessness with their children (Woolley 2019). This issue is exacerbated by the fact that many people with NRPF have lost their jobs in the pandemic as they work in frontline industries, like hospitality and cleaning (Citizens Advice 2020). People who face destitution can petition to have their NRPF condition changed. However, 90% of people surveyed who attempted to have their status changed unassisted were unsuccessful. Of these, 95% were subsequently successful upon receiving help (Woolley 2019).

Research questions

The present review is structured around the following questions:

- How many non-UK nationals were helped as part of Everyone In? How does this break down by location, immigration status/reason people are not eligible for benefits, other demographics?
- What were the routes into homelessness for non-UK nationals with no access to public funds during the pandemic?
- Which measures, policies, practices or joint working have worked well for people sleeping rough with no access to public funds during the pandemic? In contrast, which measures, policies, practices or joint working do you think have not worked well and why?

Measures considered include, but are not limited to, immigration advice, employment support, and voluntary reconnection.

Method

The review relied on Google Search to find sources of grey literature, government and institutional reports structuring the research around the following key words: no recourse to public funds, NRPF, homelessness, rough sleeping, night shelters, Covid-19 and Everyone In.

The review considered as sources of evidence main publications addressing the support provided to people with no recourse to public funds by the Home Office, House of Commons Select Committees (Housing, Communities and Local Government, Work and Pensions and Home Affairs), evidence submitted to the Housing, Community and Local Government Select Committee, publications from main charities dealing with people with no recourse such as the NRPF Network. Also, data estimates are based on data provided by the MHCLG, the Home Office and London Councils.

Defining the Issue

No Recourse to Public Funds (NRPF) relates to those who cannot access benefits due to their immigration status. Public funds are to be defined as non-contributory or income based. This applies to all non-UK nationals who have not been granted leave to enter or remain when they are required to have it, or those with limited leave to enter to visit, study, work, or join family in the UK. Not all benefits are considered public funds. For instance, NRPF designated individuals to claim certain contributory benefits.

Individuals affected

NRPF generally applies to all those who under section 115 of the Immigration and Asylum Act 1999 are 'subject to immigration control'. These are:

1. People with leave to enter or remain in the UK as a:
 - a) Visitor
 - b) Worker
 - c) Spouse
 - d) Student
 - e) Anyone granted leave to remain on human rights or discretionary grounds including under family or private life immigration rules
2. People with leave to enter or remain in the UK who are subject to a maintenance undertaking (e.g. indefinite leave to remain as the adult dependent relative of a person with settled status - five year prohibition on claiming public funds).
3. People who have lost their documentation.

4. People with no leave to enter or remain in the UK or whose status has not yet been determined:
 - a) Asylum seekers;
 - b) Visa overstayer;
 - c) Appeal rights exhausted (ARE) asylum seekers;
 - d) Refugees who do not yet have the documentation necessary to claim benefits;
 - e) Illegal entrant or other irregular or undocumented migrants.
5. Care leavers who came into the UK as Unaccompanied Asylum Seeking Children (UASC) UASC who have 'aged out' of the care system, who are yet to receive a determination of protection claim or whose claim has been refused.
6. 'Zambrano' carers: primary carers of British citizen children, where the primary carer is not an EEA national.

EEA nationals are now also 'subject to immigration control' and may be required to obtain leave to enter or remain. Different residence rights and entitlements apply to EEA nationals who lived in the UK prior to 31 December 2020 as these are eligible for the EU Settlement Scheme (NRPF Network 2021a). Those who arrived in the UK before 31 December 2020, are habitually resident in the UK and who have secured settled status (equivalent to indefinite leave to remain) through the EU Settlement Scheme will be eligible for public funds. Those with pre-settled status (similar to limited leave to remain) will need to be exercising a qualifying right to reside. EEA nationals who arrived in the UK on or after 1 January 2021 will be subject to immigration control and will generally not have recourse to public funds. To work, live or study in the UK, they will need to acquire a visa as other non-EEA nationals and will generally have NRPF conditions applied to their status. Additionally, those who do not have a leave to enter or remain when they are required to have one (unlawfully present) will be subject to the NRPF condition.

In certain cases – namely those with leave to remain on the basis of family or private life or those holding Hong Kong BN(O) visas - individuals or families may make an application to the Home Office for a 'Change of Conditions' to have the NRPF condition lifted. To qualify individuals or families must prove that they are either currently, or facing imminent danger of becoming, destitute, facing severe financial circumstances, or can provide compelling reasons relating to a child in need⁵ (NRPF Network 2021b).

⁵ This was the subject of recent litigation in the High Court which found the NRPF policy to be incompatible with the Secretary of State's duty to safeguard and promote the welfare of the child under Section 55 of the Borders, Citizenship and Immigration Act 2009. The Home Office is still considering how to implement this judgement. <https://dpglaw.co.uk/wp-content/uploads/2021/04/APPROVED-JUDGMENT-in-ST-v-SSHD-CO.5025.2019.pdf>

Review of the Evidence: answering the questions

How many non-UK nationals were helped as part of Everyone In? How does this break down by location, immigration status/reason people are not eligible for benefits, other demographics?

As the Housing Communities and Local Government Committee reported the most recent data on the Everyone In scheme from January 2021 found that “around 37,430 people had been helped into some form of accommodation, with 26,167 moved on into more settled accommodation and 11,263 remaining in emergency accommodation, an increase from 9,809 in November 2020. Data on how many of these 11,263 are ineligible for benefits is more difficult to pin down” (HCLGL 2021a:9). The NAO also estimated that in September 2020 those ineligible for benefits numbered around 2,000 (approximately 50% of the total) of those staying in hotels and other emergency accommodation in London under Everyone In (NAO 2021). In its interim report in April 2020, the Housing Communities and Local Government Committee recommended that the Government needed to improve its support to councils for people with no recourse to public funds during the crisis, or hundreds would return to the streets with potentially disastrous consequences. At that point, there was an estimated 900 people with NRPF housed in London, and possibly double that number across England. That cohort has now grown significantly. Baroness Casey explained how important it was to have certainty on the numbers of people who are “legally here but have no recourse to public funds” (HCLGC 2021).

According to the Housing Select Committee, MHCLG does not currently collect data on the number of individuals with NRPF in emergency accommodation or in move on accommodation, but that data collected at the end of May 2020 suggested that around 2,500 of the 14,610 people in emergency accommodation were people who would not normally be eligible for statutory homelessness assistance. This 2,500 includes, but is not limited to, those with NRPF (HCLGC 2021).

The Work and Pensions Committee concluded in its report on the DWP’s response to the pandemic that it could not “understand why the Government does not appear to hold any reliable data on the number of people with NRPF”. The Committee also reported in June 2020 that, although there is no official estimate of the number of people with NRPF, it is likely that the number exceeds 1 million and includes at least 100,000 children (WPC 2021). However, the Minister for Future Borders and Immigration explained in a Parliamentary Question on 2 June 2020 that the data were “not assured to the standard required by ONS for publication” and the Home Office had determined it would be “too costly” to provide it. When this issue was further pursued by the UK Statistics Authority, the Head of Profession for Statistics at the Home Office, Daniel Shaw, wrote to Ed Humpherson, Director General for Regulation at the Office for Statistics Regulation, explaining that at the moment “no complete figures of visas subject to NRPF conditions can be produced” because of the limitations of Home Office administrative data.

However, the NRPF Network reported that between 2019 and 2020, 66 local authorities supported 2450 households with an annual expenditure of around £44 million. The NRPF Network added that the Home Office responded to 14,625 requests for immigration status information over the database (NRPF Network 2020: 1-2). 5,232 requests for support were recorded, an increase of 11% compared to 2018/2019. Average number of days on support for families and adult cases was 758 (2 years). The average was 1055 days for single adults and 629 days for family households (NRPF Network 2020: 2). According to the NRPF Network, 27% of ‘unresolved / non-EEA’ family and adult households have been supported for over 1,000 days, with the average time on support for the ‘1000 day’ cases being 1,932 days (5 years and 4 months). 77% of households exited support because they were granted leave to remain, enabling them to access mainstream benefits and

housing, and/or employment (82% for family households). Households where the main applicant has EEA nationality or is exercising a European residence right increased from 9% of total supported caseload at year-end in 2018-2019 to 13% as of the 31 March 2020 (family and adult cases combined) (NRPF Network 2020: 2).

Therefore, while there are few reliable data on people that might be affected by the NRPF condition (Parliament 2020), in June 2020, new research for Citizens Advice (2020), conducted by the Migration Observatory at the University of Oxford, suggested that nearly 1.4 million people had no recourse to public funds (NRPF) in the UK, with the burden of restrictions falling on Black and Asian people or people from other minority ethnic backgrounds (BAME). As the government's policy is to generally apply NRPF conditions to all those with limited leave to remain or a visa, it is likely that most of these will be affected although not all of these would be living on low income, facing hardship or disadvantage or eligible for income-based benefits even if they were not restricted by their status. These figures include 488,200 people on work visas and 545,800 on student visas. The Migration Observatory notes that these figures may be an overestimate as many people with visas may have left the country or never came in the first place (Migration Observatory 2020). On the other hand, these figures do not capture all those with limited leave to remain affected by NRPF conditions. For example, the figures which are based on Migrant Journey data from the Home Office, only capture those who came in on out-of-country visa applications excluding those who arrived without a visa such as asylum seekers or victims of trafficking who may have still ended up with leave to remain on human rights grounds. The figures also exclude those who had gaps between grants of leave to remain longer than 12 months. Finally these figures do not capture the numbers of British citizen children who are nevertheless affected by NRPF conditions on their parents' status. The NRPF Network noted that in the fiscal year 2019-2020, 2,450 households with NRPF status received assistance from 66 councils across the UK at a cost of £44 million (Miller 2020). The figures for London and the UK above indicate that NRPF is largely a London centered issue.

Finally, as of 31 July 2021, London Councils reported that in London 2272 people are currently in emergency accommodation as part of the Everyone In response: 525 are Non-EEA nationals with no recourse to public funds and 534 EEA nationals who have not exercised their treaty rights and have limited access to benefits. Most people with no recourse to public funds in emergency accommodation are concentrated in the north east (on a total of 464 people in emergency accommodation, 128 non-EEA with NRPF and 131 EEA with limited access to benefits) and north west (on a total of 483 people in emergency accommodation, 110 are non-EEA with NRPF and 117 are EEA with limited access to benefits) areas of the capital.⁶

During the pandemic the Government also introduced a digitized application form for migrants with leave under the Family and Human Rights routes to have the NRPF restrictions lifted by making a change of conditions' application if there has been a change in their financial circumstances (Home Office 2020a). Figures for the 2nd quarter (April to June) 2020 show a sharp increase in applications during the Covid-19 lockdown. This increase was particularly marked in the latter part of April and early May, peaking at 1,292 applications in the week ending 03 May 2020 although numbers have fallen in subsequent weeks. By the end of June the 4-weekly average was around 380 (Home Office 2020b: 3). Then, in May 2021, MHCLG reported that in the fourth quarter of 2020, 1,048 people on these routes had had the NRPF condition lifted following a request made to the Home Office. This is a lower figure than the 4,563 who had the NRPF condition lifted in the first quarter immediately following the onset of the global pandemic (MHCLG 2021a).

Finally, on May 2021, MHCLG published its response to the Housing, Communities and Local Government Select Committee March report and repeated that it "is not possible to provide accurate figure on the number of people in UK who are subject to NRPF at any given time" (MHCLG 2021a). MHCLG added that the no recourse to public funds condition applies to millions of visa applications, including visitors and temporary migrants. Therefore, information captured by the Home Office

⁶ Data estimates from the London Councils as of 31 July 2021.

cannot be used to measure accurately all those subject to no recourse to public funds at any one time. However, the Rough Sleeping Snapshot gives a breakdown of the nationalities of individuals found to be rough sleeping in England. The latest published data estimated that of those rough sleeping on a single night in autumn 2020, 472 people (18%) were EU (Non-UK) nationals, and 128 people (5%) were from outside the EU and the UK (MHCLG 2021b).

What were the routes into homelessness for non-UK nationals with no access to public funds during the pandemic?

Before the pandemic: general provisions for people with no recourse to public funds

As the Home Office reported, the UK's social security and welfare provisions are primarily for those who are lawfully resident and settled in the UK. Temporary migrants and those in the UK without lawful status are generally subject to a no recourse to public funds (NRPF) condition which prevents them from accessing some benefits and services. Not all temporary migrants are subject to an NRPF condition, including refugees and those granted humanitarian protection. In order to be eligible to access certain benefits and other support and assistance, non-British citizens will need to be living in the UK (for example having indefinite permission to stay or enter or having a no time limit on their stay) and are not subject to an NRPF condition. Departments that administer benefits, and Local Authorities, apply residence tests to assess the entitlement of individuals to access certain benefits and services. As part of these tests, most applicants for local authority housing or welfare benefits must demonstrate that they are ordinarily or habitually resident in the UK, even if they have *lawful and legal* leave to remain (Home Office 2021a: 9). For immigration purposes, benefits and services classed as public funds are set out in s115 of the Immigration and Asylum Act 1999 and at paragraph 6 of the Immigration Rules. With a few exceptions, people who require immigration permission (including those who do not have permission) are generally subject to an NRPF condition attached to their permission to enter or stay. Therefore, they are usually not entitled to access the taxpayer funded benefits and services set out at s115 and rule 6. Those who claim public funds despite being subject to an NRPF condition may be committing an offence in law and can be liable to having their immigration permission curtailed and any further immigration applications refused (Home Office 2021a: 10). However, if migrants are identified as asylum seekers, they, in principle although not always in practice, will be provided with accommodation and support to meet essential living needs if they would otherwise be destitute whilst their claim is considered. Support consists of fully furnished and equipped accommodation with no utility bills or Council Tax to pay, and a cash allowance to cover the cost of essential living needs. If they are granted refugee status they have access to public funds and are eligible to receive mainstream benefits in the same way as British Citizens and other permanent residents (Home Office 2020a). However, the new plan for immigration that has been under consultation until May 2021 proposes changes to the way the UK fulfils its international obligation to those seeking asylum. In particular, it aims at introducing a new Temporary Protection Status without recourse to public funds for some refugees depending on whether they entered the UK via a regular or irregular route (Refugee Council 2021: 1).

In particular, people with no recourse to public funds cannot access: attendance allowance, carers allowance, child benefit, child tax credit, council tax benefit, council tax reduction or support, discretionary welfare payments, disability living allowance, domestic rate relief, housing benefit, income-based employment and support allowance, income-based jobseeker's allowance, income support, personal independence payment, severe disablement allowance, social fund payment, state pension credit, universal credit and working tax credit (Home Office 2021a: 36). On the other hand, benefits which are generally not considered as public funds are instead contribution-based jobseeker's allowance, guardian allowance, incapacity benefit, contribution-based employment and support allowance (ESA), maternity allowance, retirement pension, statutory maternity pay, statutory sickness pay, widow's benefit and bereavement benefit (Home Office 2021a: 12). Moreover, Working Tax Credit (WTC) and Child Tax Credit (CTC) have been replaced by Universal Credit. It is therefore no longer possible and only frontier workers can make a new claim for WTC or CTC (Home Office 2021a: 16).

As for healthcare service provision, NHS treatment is not classed as a public fund for immigration purposes and can be accessed by person regardless of their immigration status, including a person

who is subject to the 'no recourse to public funds' condition. In particular, GP and nurse consultations in primary care, treatment provided by a GP and other primary care services are free of charge to all whether registering with a GP as an NHS patient, or accessing NHS services as a temporary patient. A temporary patient is someone who is in the area for more than 24 hours and less than 3 months. For secondary care services, the UK's healthcare system is residence-based. This means that a person must be living lawfully in the UK on a properly settled basis to be entitled to free healthcare (GOV.UK 2021). Therefore, a person's immigration status will affect whether they are required to pay for some types of treatment (NPRF Network n.d.). The Immigration Health Charge (IHS) wants to ensure that temporary, non-EEA migrants (staying more than 6 months in the UK) contribute to the NHS including those with no recourse to public funds. Migrants who pay the surcharge can access health services on broadly the same basis as British citizens and other permanent residents. However, they tend to be double-taxed as they make contributions through work and have to pay the IHS surcharge. Some health and social care workers are refunded the surcharge as well (Department of Health and Social Care 2021a). There are also some exemptions to this rule for people who look after their children, asylum seekers, those who are imprisoned or detained and for certain services even for people with irregular status such as family planning services, STIs, palliative care etc. (Department of Health and Social Care 2021a). Conversely, citizens of an EU country, Norway, Iceland, Liechtenstein or Switzerland, who were living lawfully in the UK on or before 31 December 2020 are able to use the NHS in England if they hold pre-settled or settled status. With few exceptions, those who wanted to continue residing in the UK, to maintain their entitlement to free NHS healthcare after 30 June 2021, needed to apply to the EU Settlement Scheme. Once they have been granted either pre-settled or settled status, or while their application is pending, they will not be charged for healthcare, as long as they continue to be ordinarily resident in the UK. They may be asked to show that you hold pre-settled or settled status when seeking healthcare (Department of Health and Social Care 2021b).

No Recourse to public funds and homelessness

People who are subject to immigration control are not eligible for local authority allocated social housing or homelessness assistance until they have obtained indefinite permission to stay or specified forms of limited permission which are not subject to the NRPF condition. S118 and s119 of the Immigration and Asylum Act 1999, and s61 and Schedule 2 of the Housing Act 2014 apply (Home Office 2021a: 19). However, from December 2020, those granted settled status under the EU Settlement scheme, those granted pre-settled status under the EU settlement scheme able to demonstrate they are exercising a qualifying right to reside, those with EU rights saved under the Citizens' Rights can continue to access these services during the grace period (Home Office 2021a: 19)⁷. Frontier workers protected under the agreements will also be eligible to apply for local

⁷ On May 2021, the Department for Work and Pensions published a circular to inform local authorities on a recent Court of Appeal decision pertaining the issue of whether the amendments made by EU Exit Regulations to income-related benefits are discriminatory under the European Union law and if so, whether that discrimination was justified. The amendments made by SI 2019/872 provided that pre-settled status granted to European Economic Area (EEA) nationals and their family members was not sufficient in itself to satisfy the right to reside for the purposes of the habitual residence test. Indeed, a Court of Appeal case saw two Romanian nationals who were granted pre-settled status under the EU Settlement Scheme in 2019 being refused Universal Credit on the grounds that pre-settled status is not a right to reside which enables access to means-tested benefits. The claimants argued that the non-entitlement to benefits, despite having limited leave to remain in the UK with no conditions restricting recourse to public funds, was in breach of the EU right to not be discriminated against on the ground of nationality in comparison with UK nationals. If, the High Court held that the claimants could rely upon Article 18 of the Treaty on the Functioning of the European Union to protect themselves against unlawful discrimination on the grounds of nationality and the discrimination treatment they had suffered was lawful because it was justified. Then, the Court of Appeal determined that as they had been granted a right of residence under UK law, and as EU laws still applied until the end of the transition period on 31 December 2020 the claimants could rely on the EU Treaty's prohibition on discrimination, which covers social assistance. The Court also found that the exclusion of pre-settled status as a right to reside which enables a claimant to access means-tested benefits was prohibited as made clear in previous cases. This rule was directly discriminatory on the grounds of nationality and therefore unlawful as this type of discrimination cannot be justified under EU law. If this decision were to be implemented, it would mean that those with pre-settled status, who are present in the UK, (and provided that they made a claim prior to the end of the transition period) have a qualifying right to reside that allows access to means-tested benefits in the same way as those with settled

authority allocated social housing or homelessness assistance. Conversely, EEA citizens coming to the UK under the new points-based immigration system from 31 December 2020 will have the same access to benefits as non-EEA migrants. Moreover, all non-British citizens (excluding Irish citizens) who arrive in the UK from 1 January 2021, will be restricted from accessing non-contributory benefits, and an allocation of local authority based social housing or homelessness assistance until they have achieved indefinite permission to stay (typically after 5 years' residence in the UK) (Home Office 2021a:19).

No recourse to public funds and rough sleeping

Among the main reasons that can lead to people sleeping rough or becoming street homeless, Shelter includes the no recourse to public funds condition (Shelter 2006). Also, the Housing Select Committee highlighted that the *no recourse to public funds condition* has been an obstacle to reducing rough sleeping for a long time: “the pandemic has just shone a spotlight on its impact. If the Government is serious about meeting its manifesto commitment to end rough sleeping by 2024, it must reform the no recourse to public funds policy” (HCLGC 2121).

Foreign nationals who do not have recourse to public funds are sometimes ineligible for services available to other rough sleepers. This exacerbates their problems by making it harder for them to move off the streets. Failed asylum seekers who are moved out of NASS accommodation while they wait for a safe passage home are another group represented in the street population without recourse to public funds. This group is not legally allowed to work in the UK and so cannot seek employment to secure money for accommodation. Moreover, on December 2020, immigration rules pertaining rough sleepers were amended to introduce a new framework against which immigration applications are assessed or permission to stay cancelled on suitability grounds. The Home Office reported that the rule was amended on 6 April 2021 to clarify that permission may only be refused or canceled where a person has repeatedly and unreasonably refused suitable offers of support and engaged in persistent anti-social behaviour (Home Office 2021b: 4). The Home Office added that “there are important safeguards in place to ensure vulnerable migrants who are destitute and have community care needs, including issues relating to human rights or the wellbeing of children, can receive some support”(Home Office 2021b: 6). Offers of support are generally commensurate with needs. Rough sleepers are considered in priority need when they are vulnerable as a result of mental illness or physical disability. Others will not be in priority need but, if eligible, will be owed the “relief” duty under section 189B of the Housing Act 1996. Where the relief duty applies, the Home Office has now established that it can be brought to an end if a person deliberately and unreasonably refuses to co-operate with the local housing authority in relation to securing accommodation (Home Office 2021b: 7-8)⁸.

Finally, before the Everyone In initiative those with no recourse to public funds could not access hostels for single homeless people, although there were some charities which provided night shelters and day centers for street homeless people, they could use (Shelter 2006). In particular, people with no recourse to public funds are eligible to access the “no second night out scheme”. Launched in 2011, in conjunction with the London Mayor’s Task Force, No Second Night Out provides a rapid response for people sleeping rough for the first time. In London, outreach teams refer people sleeping rough to one of three London hubs that are open 24 hours a day, 365 days a

status. In other words, they are said to have a right to reside which is sufficient for the purposes of satisfying the habitual residence test. (Department for Work and Pensions 2021)

⁸ The [Homelessness Code of Guidance](#) sets out the circumstances where a duty to a person would come to an end. The aim of the duty is to encourage those who are homeless or at risk of becoming homeless to take responsibility for working proactively with their local authority and commissioned outreach services and provider team to resolve the problem as soon as possible but not to create challenges for vulnerable people who may have difficulty in participating in the homeless prevention activities of their local authority. Moreover, the [Rough Sleeping Support Service](#) (RSSS) was launched in 2018 to offer an enhanced service for local authorities and registered charities by providing a single point of contact to help establish a rough sleeper’s immigration status and to help staff assess their entitlements such as whether they have access to public funds, including housing.

year. The hubs are not an accommodation project, but a safe environment away from the street where a team of assessment and reconnection professionals can carry out a comprehensive assessment and talk to people who are new to rough sleeping through the options available to them (e.g. emergency accommodation) to end their rough sleeping (St. Mungo's n.d.).

No recourse to public funds and the Government's Coronavirus Response

Many of the wide-ranging coronavirus measures the Government put in place during the pandemic were not considered public funds and therefore were available to migrants with no recourse to public funds. These range from protection for renters from eviction, a mortgage holiday for those who need it, as well as support for those vulnerable and in need of assistance. They also include the Coronavirus Job Retention Scheme and the Self-Employed Income Support Scheme. Those with no recourse to public funds have access to statutory sick pay and some other work-related benefits and Employment and Support Allowance.

On 26 March 2020, Luke Hall MP, Minister for Local Government and Homelessness, wrote to every local authority in England asking them to house all people sleeping rough, calling on them specifically to "utilise alternative powers and funding to assist those with no recourse to public funds who require shelter and other forms of support due to the COVID-19 pandemic" (MHCLG 2020a). In 2020, the Government also announced the provision of additional funding for local authorities in England and additional funding for the devolved administrations (£3.2 billion) to support and provide accommodation to vulnerable groups during this pandemic. However, witnesses declared to the Home Office that the letter was missing clear instructions and funding. In evidence to the Housing Communities and Local Government Committee on the issue of homelessness in May 2020, the Minister Luke Hall MP, told members that "the legal position on those with no recourse to public funds was not changed" (HCLGC 2020: Q42).

In April 2020, the Home Office released the Policy Equality Statement (PES) which assessed whether the No Recourse to Public Funds Policy met the requirements of the Equality Act 2010 Part 3 (ss.28-31), which prohibits direct and indirect discrimination in relation to relevant protected characteristics (Home Office 2020c: 2). In this case the relevant protected characteristics were age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. The assessment showed that the imposition of a NRPf condition on the grant of limited leave is a fair and practical way of ensuring that migrants are financially able to support themselves and their dependants without the country's limited resources. It is lifted, at the latest, at the point where the migrant achieves settled status. However, any negative impacts of the Policy needs to be mitigated by appropriate measures, and individuals whose applications for leave to remain have been granted with no recourse to public funds may subsequently apply for the condition to be lifted using a Change of Conditions application process which is free of charge (Home Office 2020c: 21). Therefore, in accordance with the PES, if any of the above protected characteristics disproportionately affect the financial situation of people who do not access public funds, those circumstances will be carefully evaluated by the decision maker and may be grounds for lifting the no recourse to public funds condition (Home Office 2020c).

However, in May the High Court found the NRPf policy "as presently formulated" in breach of Article 3 of the European Convention on Human Rights which prohibits inhuman and degrading treatment. The Home Office policy stipulated that NRPf conditions might only be lifted where the individual was destitute or where there were particularly compelling reasons relating to welfare of children on account of very low income, or exceptional circumstances in a person's case relating to their financial circumstances. In May 2020, Lord Justice Bean and Mr Justice Chamberlain also concluded that "s. 3(1)(c)(ii) of the 1971 [Immigration] Act does not authorise the imposition or maintenance of a condition of NRPf where the applicant is suffering inhuman and degrading treatment by reason of lack of resources or will imminently suffer such treatment without recourse to

public funds".⁹ The judgment further found that guidance to Government caseworkers had the potential to mislead caseworkers by suggesting that they had discretion whether to impose, or lift, NRPF conditions. The Court required the Home Office to publish an instruction confirming caseworkers were under a duty to do so, where there was an imminent risk of an applicant falling into destitution without recourse to public funds¹⁰. Updated guidance was accordingly published by the Home Office on 29 May 2020, confirming that "in all cases where an applicant has been granted leave, or is seeking leave, under the family or private life routes the NRPF condition must be lifted or not imposed if an applicant is destitute or is at risk of imminent destitution without recourse to public funds" (Home Office 2020d: . The guidance document later advises caseworkers that "It is good practice to check before concluding consideration of an application where a specific request has been made for access to public funds that the risk of imminent destitution has been properly addressed" (Home Office 2020d: 92).

During the pandemic the Government has also extended the visas of overseas health and care workers, free of charge, for one year (Home Office 2020e). Then, it ensured that treatment that clinicians consider as immediately necessary or urgent must always be provided regardless of the patient ability to pay. Additionally, Covid-19 has been added to the list of communicable diseases. This means that anyone experiencing symptoms regardless of their immigration status will be treated for free. No charges apply to testing for Covid-19, even if the result is negative, or to any treatment provided for Covid-19 if the result is positive or up to the point that it is negatively diagnosed. NHS staff have also been asked to ensure that patients who are known to be undergoing testing and treatment for Covid-19 only are not subject to Home Office status checks (Public Health England 2021).

The Government also recognised that NRPF restrictions can make it difficult for migrant victims of domestic abuse to access safe accommodation, particularly when many refugees rely on housing benefit to fund their services. The Destitution Domestic Violence Concession (DDVC) has been designed to address this issue for those who have been granted leave to enter or remain in the UK on a partner visa and who therefore have a reasonable expectation of securing indefinite leave to remain (Home Office 2020a). For those who are eligible, the DDVC provides a period of three months' leave outside the Immigration Rules independent from their sponsor, as well as recourse to public funds to support them to find safe accommodation whilst they apply for indefinite leave to remain under the Immigration Rules. As noted, the DDVC is only available to migrants on a UK partner visa, however the Home Office announced it had opened in May 2020 a £1.5 million pilot fund to support those with no recourse to public funds in securing safe accommodation (Home Office 2020a). The Home Office will then use this pilot to assess the level of support needed for migrant victims, in order to inform future funding decisions. Separately, as part of the Domestic Abuse Bill, the Home Office ensured in May 2020 to review of the Government's response to migrant victims of domestic abuse during the report phase of the Bill. Finally, the Home Office announced in May 2020 £2 million in funding to improve domestic abuse charities online tools such as websites and chat rooms (Home Office 2020a).

Finally, the Government has also temporarily extended the eligibility criteria for free school meals to support some families with no recourse to public funds, in recognition of the difficulties they may be facing during these unique circumstances (Department of Education 2020).

No recourse to public funds and available support from local authorities during the pandemic

As mentioned before, local authorities may provide basic safety net support, regardless of immigration status, if it is established that there is a genuine care need that does not arise solely

⁹ [2020] EWHC 1299 (Admin), 21 May 2020, para 61 <https://www.bailii.org/ew/cases/EWHC/Admin/2020/1299.html>

¹⁰ [2020] EWHC 1299 (Admin), 21 May 2020, paras 76–77 <https://www.bailii.org/ew/cases/EWHC/Admin/2020/1299.html>

from destitution, for example, where there are community care needs, migrants with serious health problems or family cases where the wellbeing of a child is in question.

People with the NRPf condition can be supported by a local authority when duties are engaged under the [Children Act 1989](#)¹¹ or the [Care Act 2014](#)¹², but many adults accommodated through Everyone In would not qualify for such assistance. Non-UK nationals face additional restrictions for eligibility under the Care Act 2014 based on immigration status. While section 1 of the [Localism Act 2011](#)¹³ (known as the ‘general power of competence’) confers a general power on local authorities to benefit the persons resident or present in its area, they are precluded from giving assistance under this power where other legislation prohibits it. However, this general power of competence to help individuals with NRPf was limited under case law. Shelter has noted that the High Court held in 2018 that a local authority could not provide an EEA national with no right to reside accommodation because of section 185 of the Housing Act 1996, which casts doubt on a prior judgment that a local authority must provide accommodation to avoid a breach of article 3 of the European Convention on Human Rights (HCLGC 2021: 22). In particular, since two High Court rulings ([AR v Hammersmith and Fulham Council](#)¹⁴ and [Aburas v Southwark Council](#)¹⁵) the general power of competence under section 1 of the Localism Act 2011 could not be used for the purpose of accommodating a person who is ineligible under Part VII of the Housing Act 1996 (NRPf Network 2021: 3).

However, as noted before and according to the [Ncube v Brighton and Hove City Council](#)¹⁶, the High Court has now provided much clarity about when the law enables councils to accommodate people who are ineligible under Part VII during the pandemic. The Judge found that in order to save lives by alleviating the effect of the Covid-19 pandemic through the ‘Everyone In’ scheme, or a successor initiative, a local authority can rely upon powers under section 138 of the Local Government Act 1972 and section 2B of the National Health Service Act 2006 to accommodate a person with no recourse to public funds. The Judge also found that the general provision of section 1 of the Localism Act 2011 cannot be used where there is no other statutory basis to provide accommodation (NRPf Network 2021: 3). Therefore, the powers under section 1 of the Localism Act 2011 must be exercised by local authorities to accommodate rough sleepers where it is necessary to avoid a breach of their human or EU rights, noting that in such circumstances it was not a barrier to support if they were ineligible under the Housing Act.¹⁷

Then, the Government, in its response to the Housing, Communities and Local Government Select Committee report on protecting rough sleepers and renters, specified that local authorities have powers “to use their judgement in assessing the support they may lawfully give to each person on an individual basis” (MHCLG 2020b: 7), and that these powers would be used to making such decisions on accommodating individuals who might otherwise be ineligible, during extreme weather for example, where there is a risk to life (MHCLG 2020b: 7). This statement was also confirmed in May 2021 (MHCLG 2020b).

The Minister for Rough Sleeping and Housing also wrote to the Housing Select Committee setting out the funding streams that the Government put in place to help rough sleepers in England from March 2020, reiterating the position that it was up to local authorities to judge for themselves whom they should spend it on (MHCLG 2021c). Hence, since May 2020, Everyone In funding cannot be spent on individuals with no recourse to public funds, while the Cold Weather Fund can be spent on everyone. The Housing Select Committee declared that limiting spending in such a manner

¹¹ Children Act 1989, <http://www.legislation.gov.uk/ukpga/1989/41/contents>

¹² Care Act 2014, <https://www.legislation.gov.uk/ukpga/2014/23/contents>

¹³ S2 Localism Act 2011, <https://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

¹⁴ [2018] EWHC 3453 (Admin), <http://www.bailii.org/ew/cases/EWHC/Admin/2018/3453.html>

¹⁵ [2019] EWHC 2754 (Admin), <http://www.bailii.org/ew/cases/EWHC/Admin/2019/2754.html>

¹⁶ [2021] EWHC 578 (Admin), [2021] WLR(D) 169, <http://www.bailii.org/ew/cases/EWHC/Admin/2021/578.html>

¹⁷ Written Evidence submitted by Garden Court Chamber (IOC 355), para 9./

undermines a broad discretionary power and prevents local authorities from helping whomever they like unless they spend out of their own pocket” (HCLGC 2021: 14).

The Select Committee on Housing also reported that the Government told local authorities they can use their discretion in individual cases has led to a variety of responses across the country – so the situation is less clear than in March 2020. The Committee added that it is now less clear whether the Government expects councils to be taking in new rough sleepers subject to NRPF, and whether it considers it acceptable for councils to evict currently accommodated rough sleepers with NRPF if it determines it has no legal duty to house them. There is evidence that some people in this cohort are already being asked to leave accommodation, due to councils believing Everyone In to have finished. Homeless Link reported that this was the case in most London boroughs and probably in other places (Homeless Link 2019). Crisis wrote that some local authorities had already started putting in place restrictions on who to help¹⁸. Shelter stated that, as a result of the shift in direction from the Department, “people were increasingly turned away by councils, and many of those who had initially been accommodated were asked to leave because there was no legal duty to accommodate”¹⁹. Additionally, in the earlier round of evidence presented to the Housing Select Committee last November, the Local Governments Association (LGA) reported that they saw a 110 per cent increase during the pandemic in people with no recourse to public funds seeking help. Therefore, they believe councils do not have enough resources to keep providing support to people with no recourse²⁰. Westminster City Council also confirmed that local authorities resorted to different approaches across London, with different boroughs providing very different forms of assistance to people with no recourse to public funds²¹. London Councils also added that with funding for ‘Everyone In’ coming to an end, no alternative measures were put in place effectively to help destitute non-UK nationals to access mainstream support. Indeed, they reported that “unless these individuals can find employment sufficient to meet their housing costs or their immigration status can be normalised the possibility of securing them affordable move-on accommodation is extremely limited”²². Also Crisis declared that the biggest challenge facing local authorities is in their ability to move those housed in emergency accommodation successfully into permanent and secure housing, and this is especially true for people with no recourse to public funds as there are very limited move-on options available for them²³. The same concern was shared by the NRPF Network²⁴. To address these issues some local authorities such as Islington Council invested on their NRPF services which became an integral part of their homelessness response to the pandemic provided by their Housing Needs and Strategy Division²⁵.

In this context, the National Audit Office (NAO) report also showed how the Everyone In resulted in a large number of people remaining in emergency accommodation and not being able to move on from it because they had no recourse to public funds (NAO 2021: 10). In particular, the NAO added that after May 2020 there was an increased inconsistency among local authorities in who they were prepared to take in, particularly regarding non-UK nationals with no recourse to public funds (NAO 2021: 24). Consequently, the use of an *individual approach* to assess no recourse to public funds cases resulted in some local authorities taking “a tougher line on or ceasing to take in new rough sleepers who were ineligible for benefits, and by seeking to move on those already in emergency accommodation” (NAO 2021: 25). In June and July, as the national lockdown was eased, for local authorities it became more and more difficult to maintain that all rough sleepers were facing a risk to life by staying on the streets which had been the basis to support those with no recourse to public funds in hotels or move them from emergency to move on accommodation (NAO 2021: 26).

¹⁸ Written evidence submitted by Crisis (IOC 345)

¹⁹ Written evidence submitted by Shelter (IOC 348)

²⁰ Written evidence submitted by the Local Government Association (IOC 323)

²¹ Written evidence submitted by Westminster City Council (IOC 330)

²² Written evidence submitted by London Councils (IOC 340)

²³ Written evidence submitted by Crisis (IOC 345)

²⁴ Written evidence submitted by the NRPF Network (IOC 346)

²⁵ Written evidence submitted by Islington Council (IOC 356)

Similarly, the Work and Pensions Select Committee criticised the lack of clarity over whether people with NRPF can access support from their local authority. In the 2020 Budget, the Government announced a £500 million hardship fund for local authorities to support vulnerable people financially in their local area through council tax relief and other discretionary support. On 24 March, the Government published guidance for local authorities on allocating their share of the hardship fund. It remained unclear whether people with NRPF can access this support (MHCLG 2020d). In correspondence, DWP Ministers told the Work and Pensions Select Committee that the hardship fund is not classed as a 'public fund' under Home Office regulations. However, the Committee reported that this message does not appear to have filtered down to local authorities (WPC 2020: 78). Azmina Siddique of the Children's Society noted the lack of "clear guidance" on whether "the hardship fund or money from local welfare assistance schemes, which are public funds, can be used to help those with no recourse to public funds" (WPC 2020: 78), including people who are at risk of homelessness.

Although, as the Housing Select Committee reported in March 2021, "the Government believes Everyone In continues to exist but by its own admission it is no longer helping everyone". The principle of Everyone In was that everyone, no matter what their normal eligibility for homelessness assistance, would be provided with accommodation to self-isolate by their local authority. The Government made a clear decision to change this from May 2020 onwards. The Permanent Secretary admitted that what at the beginning was a very broad intervention is now focused on individual assessments. This backtracking by the Government led to councils deeming individuals ineligible for support when they in fact have legal powers to support such individuals under the Local Government Act 1972 and NHS Act 2006" (HCLGC 2021: 16). Therefore, the Housing Select Committee recommended the Government to return to the initial commitment established by the Everyone In providing legal clarity for local authorities. It also called on the government to issue clear guidance immediately to local authorities stating that "they can and should use their legal powers under the Local Government Act 1972 and NHS Act 2006 to find accommodation for those otherwise ineligible for support during a public health emergency. The guidance should clearly state that this applies whenever there is a lockdown or other strict national restrictions due to a public health emergency, whether for any current or further covid-19 measures, or any other future pandemic. The Government should ensure that this guidance includes clear instructions on which funding streams can be used to support people with NRPF who are homeless or at risk of homelessness during the crisis" (HCLGC 2021: 17).

However, in May 2021 in response to the Housing Select Committee, MHCLG reiterated that funding provided to local authorities to tackle homelessness and rough sleeping can be used to support anyone, including those with no recourse to public funds (MHCLG 2021a).

Policy and practice in relation to support offered to people with NRPF who would not be eligible for assistance under normal circumstances have varied significantly across local authority-areas during the pandemic (Dickson et al. 2020: 11). Councils have taken varying positions on whether people with NRPF should be accommodated because of Covid-19. Dickson et al. conducted a survey to assess how the support that local authorities offered to people with NRPF - at least during the first phase of the pandemic - varied among them. They reported inconsistency "across and sometimes within local authorities around whether it should be the responsibility of councils to make basic-needs provision (food, hygiene items) for single homeless people placed in hotels or whether the voluntary sector should be responsible for this. In many areas it has not been clear whether single homeless people with NRPF should approach the housing office, the outreach team or the NRPF team for assistance, with some people being bounced back and forth between different council agencies." (Dickson et al, 2020: 11).

Housing support from the charitable sector available for those with no recourse to public funds

In a report commissioned for Housing Justice, NACCOM and Praxis, Hutton and Lukes explained that generally support and accommodation has been available for households with children or adults in need of care and attention, and is not available to most undocumented migrants unless they have made a human rights based application to remain (Hutton and Lukes 2015). Indeed, local authorities will only provide accommodation and support to migrants with NRPF when statutory duties are engaged. Councils may offer support to return home in other cases. If support is offered it may include paying private sector rents, placement in specialist accommodation, or support while staying in the community. In particular, Homeless Link clarified that when an adult immigrant with no recourse to public funds is referred to social services (Homeless Link 2021: 21):

- A referral would need to be made to the local authority's adult social services department or mental health team.
- The referral will need to be addressed to the correct local authority based on the residence criteria.
- The threshold for undertaking an assessment is low (e.g. demonstrate the need for care and support regardless the level of need or the adult's financial resources).
- The local authority has the power to meet urgent needs for care and supported before the assessment is completed.
- The local authority will check the immigration status with the Home Office to establish whether the exclusions apply and whether a human rights assessment will be needed.

Hutton and Lukes added that local authorities coordinate strategies and fund or commission services to reduce rough sleeping in their areas (Hutton and Lukes 2015). Commissioned services include hostels, day centres, outreach and other services including 'reconnection' to the last place where the homeless person had settled accommodation. Services for rough sleepers are also provided by non-commissioned voluntary, faith and community groups, such as night shelters offering short term accommodation for homeless people, including those with NRPF. Most shelters operate a referral system from local agencies. Streetlink, the national rough sleeper referral line can also link rough sleepers to appropriate local services.

They note that co-ordinating advice services and support for those with NRPF is a key on-going requirement, as it is providing secure accommodation without the use of public funds, e.g. through housing associations.

Hutton and Lukes also identified the main models of support being provided or explored for people with no recourse to public funds by the non-profitable sector (Hutton and Lukes 2015):

- **Hosting:** all the range of initiatives around the country to offer accommodation to destituted immigrants in the home of volunteer 'hosts' (e.g. NACOMM is the National No Accommodation Network which provides information on projects supporting destitute no recourse to public funds clients).
- **Providing rooms in a shared house with wrap-around support:** accommodation provided by groups with one or more houses which they lease on a short-term basis to a number of migrants with NRPF who then share the same house (e.g. Just Homes). Homeless Link reports that "by providing wrap-around support in the form of day to day humanitarian support, access to immigration advice and support with living independently, migrants have a better chance of regularising their status and moving into mainstream provision" (Homeless Link 2021:27).
- **Providing rooms for migrants within a mixed shared house:** accommodation provided by groups who offer one or more rooms for migrants with NRPF in a house which is otherwise rented out to refugees with status.

- **Community projects:** to support destitute migrants intended to create communities by seeking to minimize differences between migrant service users and those providing the services, involving both groups in joint activities and decision-making.
- **Night Shelters:** free and affordable accommodation for limited periods of time, sometimes on a night by night basis. Homeless Link explained that depending on their funding, night shelters can offer beds to NRPF clients and shelters are the services most commonly supporting people with NRPF. Even shelters that receive some public funds should be able to accommodate NRPF clients as well, for example by using charitable donations or the local authority homelessness grant to fund some beds. Many shelters only operate in the winter months so this is often only a short term solution. During severe weather local authorities have emergency SWEP provision to prevent deaths on the streets. This should be accessible to all clients as a humanitarian measure regardless of status, but it is also very short term. However, due to the Covid-19 crisis, current health advice is that shared sleeping spaces are not safe, so this may affect the capacity of shelters and SWEP (Homeless Link 2021: 26).
- **Hostels:** although there are no hostels specifically for people with no recourse to public funds, there are some which set aside a small number of places or fund-raise to do so.

The National Housing Federation reported that the pandemic produced a phenomenal effort from housing associations, local governments and charity partners to accommodate rough sleepers, including those with no recourse to public funds, although they are not eligible for local authority homelessness assistance or means-tested welfare benefits since the end of the Everyone In (National Housing Federation 2020). The National Housing Federation also stated that housing associations can respond to the housing and support need of people with no recourse to public funds in various ways. In particular, “these are often small but innovative responses, and can be outside housing associations’ normal business but are often part of their charitable objectives. Housing associations have expertise in asset management, maintenance and support provision, which means they can provide appropriate accommodation. This can also be achieved in partnership with destitution charities and local authorities in order to support people with NRPF who are at risk of homelessness” (National Housing Federation 2020: 3). In particular, Housing Associations can:

- **Take direct applications from people with no recourse to public funds** if the tenancy is not granted to discharge a local authority duty and they apply directly to that housing association to rent the property (this is not possible if they do not have the right to work or rent).
- **Directly accommodate asylum seekers and refused asylum seekers** with no recourse to public funds after they checked the tenant’s right to rent. Some types of accommodation such as hostels and refuges are excluded.
- **Provide free hostel and refuge spaces** if they run homeless hostels and they can set aside bed spaces that are rent-free for people with no recourse to public funds. In particular, refuge accommodation for people fleeing abuse is exempt from restrictions under the Immigration Act.
- **Offer peppercorn rent schemes** within their existing properties directly to people with no recourse to public funds who have the right to rent or to migration charities who support them for little or no rent. This is usually a small number of properties and is more feasible in low rent areas but not impossible in higher rent areas. These can be under-occupied buildings, hard to let properties, buildings due for sale, out of use properties, old community buildings and non-residential properties. Housing associations may use government grant to provide a property to be occupied by someone with NRPF. The property itself is not a ‘public fund’ and so is not included under the restrictions. The rent can be funded in a variety of ways: grants, individual donations or renting other properties in a way that generates a small surplus which can cover the cost.

- **Provide working accommodation** for people with no recourse currently in work or looking for work who struggle to access social housing and cannot afford private rental accommodation. This accommodation is often shared, which can ensure peer support, and residents can gain skills through running the property together. The housing association can provide links with training, employment and volunteering opportunities to support residents with the right to work into employment. This can help people move on to independent housing.
- **Other cross subsidy models.** In particular, if housing associations have large buildings, they can use them to offer a portfolio of different projects and use surplus revenue from some of them to fund others such as: providing rooms for migrants within a mixed shared house, provide accommodation funded by social services when there is a legal responsibility towards migrants with no recourse under the Children's Act 1989 and the Care Act 2014 section 17. Homeless Link reports that Across England there are a variety of services testing cross-subsidy models in which free housing is provided to those without access to public funds provided they are engaging with support to regularise their status. Funding has been secured through social investment in order to purchase properties which, in turn, are let to local authorities to provide temporary accommodation or to house refugees claiming Housing Benefit. The revenue earned through this model enables the provision of a small number of bed spaces for those with NRPF (Homeless Link 2021: 27).
- **Provide community sponsorship and social investment** to resettle people with no recourse until they are ready to live independently.
- **Offer accommodation with legal advice** to people with no recourse who may have a chance of a change in status (if destitute or at risk of destitution, in other exceptional financial circumstances or with child whose welfare is a risk due to low income) or who are fleeing domestic abuse.
- **Get involved in local partnerships** with local services, local authorities, migration charities and immigration advice provider to develop a shared action plan based on local needs, understand the local context of migrant destitution, share information, coordinate and implement joint working.
- **Provide housing management** to migration charities for a fixed fee per property. This type of partnership can improve the standard of the accommodation provided for migrants with and without recourse to public funds.
- **Support migration charities with training, resources and funding** to accommodate people with no recourse.
- **Address support needs** by providing housing-related, person-centred and trauma-informed support to people with no recourse to public funds.

As regards concerns about the legality of support that charities can provide to people with no recourse to public funds, Homeless Link reported that it is Home Office Immigration Enforcement's role to take action where necessary, not the role of charities (Homeless Link 2021). Therefore, there is no obligation on services to contact the Home Office and no legal barriers in providing free housing to migrants with no immigration status. However, a key issue for voluntary services remains the funding restrictions and whether they can use funds to support no recourse to public funds clients. Services often take an overly cautious approach to working with these clients due to a lack of understanding of different types of immigration status and entitlements.

Homeless link also reported that "statutory agencies are restricted in the support they can provide to NRPF clients, because most are not eligible for key services such as housing allocation, homelessness or housing benefit. Access to social services support and accommodation may be restricted to some migrants with NRPF. However, local authorities may allocate grants to voluntary organisations and advice agencies to provide services within their area which may be accessible to migrants with NRPF. People with NRPF may receive assistance via services provided by a local

authority using the homelessness grant, for example cold weather beds. Such accommodation is typically for a few days only, however under Covid-19 many local authorities have significantly extended this type of provision” (2021: 14). Homeless Link reported that there are small number of accommodation providers that are able to house people with no recourse to public funds in the short or long term. This type of provision is not available in all areas, but services should check with local accommodation providers in case they can offer space to NRPF clients (e.g. bed spaces paid for by funding streams other than Housing Benefit). Some refuges for victims of domestic abuse may have beds available for women with no recourse. As regards private renting, since February 2016, landlords in England have been required to check the immigration status of new tenants and in practice most people with NRPF do not meet the right to rent categories (Homeless Link 2021: 28). However these restrictions do not apply to accommodation in hostels, refuges, hospitals and hospices provided by local authorities or the Home Offices under duties towards asylum seekers or to some student accommodation. Some charities and homelessness organisations are also not co-operating (Homelessness Link, 2021).

Additional assistance available to people with no recourse to public funds

The NRPF Network reported that when accommodation is provided to a person with no recourse to public funds, the local authority will also need to ensure a form of subsistence support is provided to cover their basic living needs. Emergency options, such as food vouchers may not fully meet the person’s needs if accommodation is to be provided for several weeks or months (NRPF Network 2021: 5). Staff will also need to engage with individuals who are accommodated to identify and assist how they can achieve a sustainable solution to their homelessness (NRPF Network 2021: 5). In most cases, this will be achieved by a change of immigration status that enables the person to access employment and/or benefits (e.g. application under the EU Settlement Scheme or a change of conditions).

Following the cuts to Legal Aid under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), migrants find it difficult to obtain free legal advice and assistance in resolving their immigration issues/status (Homeless Link 2021: 20). The NRPF Network reported that as legal aid is not available for most immigration cases, it will be necessary to identify what advice is available in the local area and whether any MHCLG funding can be used to meet gaps or increase capacity (NRPF Network 2021: 5). Homeless Link reports that if a migrant’s case is not covered by Legal Aid then it still may be possible to apply for exceptional funding. Exceptional funding is available to people who have a strong case and whose human rights or EU rights would be breached if they did not have Legal Aid (Homeless Link 2021: 20). Moreover, there are usually CABs, law centres or other organisations able to assist under other project funding, or able to give second tier advice.

Support with accessing employment may be necessary for EEA nationals with pre-settled status and people with leave to remain that confers permission to work. People who are seeking asylum or are Appeal Rights Exhausted (ARE) asylum seekers will also need to be identified and assisted to transfer to Home Office support, where appropriate (NRPF Network 2021: 5).

Additionally, the NRPF Network reported that Section 19(1) of the [Care Act 2014](#)²⁶ provides a power for local authorities to meet non eligible care and support needs for adults due to disability, illness, or mental health condition. Section 19(3) also provides a power to meet urgent needs whilst an assessment is undertaken. Therefore, accommodation can be provided pending the outcome of an assessment and in some instances where a person has care needs that do not meet the eligibility criteria. Social services are not required to meet care and support needs that have arisen solely due to destitution (NRPF Network 2021: 5). Provisions in the [Coronavirus Act 2020](#)²⁷ allow for Care Act ‘easements’ to be implemented by a local authority when certain circumstances apply. If applied, the local authority will have a power to meet needs and would only have a duty to meet

²⁶ Care Act 2014, <https://www.legislation.gov.uk/ukpga/2014/23/contents>

²⁷ Coronavirus Act 2020, <https://www.legislation.gov.uk/ukpga/2020/7/contents/enacted>

care and support needs when failure to do so would breach the person's human rights. The easements may only be applied when a local authority is unable to meet acute needs due to a depleted workforce or significant service demand (NRPF Network 2021: 5-6).

The NRPF Network also provided guidance on the type of accommodation and financial support that can be offered to families. Indeed, the Section 17 of the [Children Act 1989](#)²⁸ will be engaged to provide accommodation and/ or financial support to a family where the child is assessed as being in need because of their parent's lack of income or resources to be able to meet their living and/or housing needs. The local authority will need to determine what interventions are needed to protect the welfare of children, to reduce public health risks, and to comply with government instructions to accommodate people who are at risk of rough sleeping, including those who have no recourse to public funds (NRPF Network 2021: 6). Additionally, to exclude social services support for people with no recourse to public funds, Schedule 3 of the [Nationality, Immigration and Asylum Act 2002](#)²⁹ places a bar on a local authority providing support under the Care Act 2014 or section 17 of the Children Act 1989 to a person who is 'in breach of immigration laws', unless this is necessary to prevent a breach of human rights. When the exclusion applies, the local authority will undertake a human rights assessment to determine whether the person is able to return to their country of origin to avoid a human rights breach, which may arise from their situation of destitution in the UK (NRPF Network 2021: 6). Also, the NRPF Network reported that Covid-related travel disruptions determined that this exclusion could not be pursued as people were not allowed to travel and forcing them to go back to their country of origin during the pandemic would have constituted a breach in their human rights (NRPF Network 2021: 6). This exclusion also applies to support or assistance provided under section 1 of the Localism Act 2011 but does not apply to section 138 of the [Local Government Act 1972](#)³⁰ and s.2B National Health Service Act 2006³¹ (NRPF Network 2021: 7).

NRPF Network also identified best practices that local authorities could implement to provide subsistence payments to people with no recourse to public funds due to health risks caused by the pandemic (e.g. issuing pre-paid cards, paying funds directly into personal bank accounts, providing payments to cover longer periods of times).

As for emergency support, the Government has left it at the discretion of local authorities to decide what emergency support may be provided to residents with no recourse to public funds and has not added Test and Trace Support Payments³² or assistance funded by the COVID Winter Grants³³ to the list of public funds that a person who is subject to the 'no recourse to public funds' (NRPF) condition cannot access.

Given the restrictions in place to providing support to people with no recourse to public funds, Homeless Link explained that only once a person's immigration status has been established, can services identify specific options for support (Homeless Link 2021: 20). Through provision of information (in written and/or verbal translation where necessary), discussion with the client, legal advice and partnership working with external agencies, a plan can be agreed. NRPF clients will need both medium/long term solutions around their immigration status and short term solutions to alleviate destitution. Homeless Link reported that services should always and promptly communicate short-term and medium to long-term support options available to clients with no recourse. In particular, "when trying to find short-term housing and support, it is always helpful to have a medium or long-term plan for regularising immigration status in order to estimate for what

²⁸ Children Act 1989, <http://www.legislation.gov.uk/ukpga/1989/41/contents>

²⁹ Nationality, Immigration and Asylum Act 2002, <http://www.legislation.gov.uk/ukpga/2002/41/contents>

³⁰ Local Government Act 1972, <https://www.legislation.gov.uk/ukpga/1972/70/contents>

³¹ National Health Service Act 2006, <https://www.legislation.gov.uk/ukpga/2006/41/contents>

³² Test and Trace Support Payment represents a payment of £500 that can be made to a person who is contacted by the NHS (Test and Trace or the app) and needs to self-isolate but cannot work from home.

³³ The COVID Winter grant scheme can be used by local authorities to support vulnerable individuals and families who are most in need across England with the cost of food, energy (heating, cooking, lighting), water bills (including sewerage) and other essentials.

length of time support might be required, and to help the individual to plan accordingly” (Homeless Link 2021: 20).

Supporting ways out of NRPF

Homeless Link identifies four main ways forward for no recourse to public funds or undocumented clients and how they might be helped.:

- **Return to country of origin.** Services can provide information on return options, provide support in contacting family and friends in the country of origin, and research the situation in the country of origin, finding local agencies that could help them to return and integrate. Homelessness services should consider the route of return that a person is offered, particularly if the individual is vulnerable.
- **Regularise immigration status to remain in the UK legally.** Services can work with clients to help establish their status, to gather evidence, to get specialist legal advice on immigration status and how to apply to change conditions to enable settled status, issue letters confirming that the clients is destitute, help the client find accommodation.
- **Start or re-start a claim for asylum.** Services can help the client gather relevant evidence on the situation in the country of origin or relevant medical evidence.
- **Get support to alleviate destitution.** Services can provide information to check their eligibility for Section 4 hardship support³⁴ and about accommodation options available to NRPF; support clients to access basic support from days centres, food banks etc.; help clients apply for appropriate short-term funding to alleviate basic destitution; provide specialist help to apply for local authority support if appropriate; support regular migrants with permission to work to access employment again.

Support for no recourse to public funds in London: a review from London Councils

Before the pandemic, London Councils carried out a detailed survey of London boroughs to understand the nature of support they provided to people with no recourse to public funds. The survey showed that London boroughs spent £53.7 million in support of an estimated 2,881 households with NRPF in 2016/17. The estimated average total annual expenditure was nearly £1.7 million per borough. The estimated average annual cost per household was nearly £19,000 (London Councils n.d.). Additionally, the survey exposed many differences across London boroughs in addressing the needs of people with no recourse to public funds. In particular, pressures have not been uniform across London, with boroughs reporting both caseloads and expenditure at levels significantly above the London average. The survey also showed that the average time spent supporting cases was 22 months in 2016/17 (London Councils n.d.). 94 per cent of reported NRPF expenditure was on just three cost categories: accommodation (65 per cent), council employees (15 per cent) and Subsistence (14 per cent) (London Councils n.d.). Support was primarily provided through duties aligned with Children’s Services under the Children Act 1989 (London Councils n.d.). Thus, London Councils have called several times on the Government to provide additional funding to assist people with no recourse to public funds. Many of those have complex needs requiring support over a sustained period that must be funded from diminishing resources in the context of rising service delivery costs³⁵.

In the past years, twenty-five London boroughs have been using NRPF Connect to improve case management and cost control in relation to people with no recourse to public funds. NRPF Connect is an integrated database and case management system delivered by the NRPF Network e (London

³⁴ Refused asylum seekers who are destitute can apply for hardship support from the Home Office, known as Section 4 support.

³⁵ Written evidence submitted by London Councils, (IOC 340)

Councils n.d.). It helps local authorities meet their data management and immigration status checking needs in relation to supporting adults, families and care leavers with NRPF, as well as enabling accurate monitoring of caseloads. Resolution of cases is achieved via the direct interaction on a case by case basis with the Home Office, underpinned by a Service Level Agreement between NRPF Connect and the Home Office (London Councils n.d.). Overall, NRPF Connect helps local authorities save money by reducing staff time spent chasing the Home Office for information; spent gathering and consolidating information about caseloads in terms of cost and immigration status for data sharing or monitoring purposes. It also helps local authorities getting priority cases resolved with urgency by the Home Office or preventing fraudulent claims being made in multiple authorities (London Councils n.d.). Local Authorities in London have also sought to assist particularly vulnerable groups through the London Councils Grants Programme. This has provided essential support for projects that have benefitted a significant number of vulnerable individuals, many of whom have already challenging personal circumstances compounded by their NRPF status (London Councils n.d.).

During the pandemic, councils have provided subsistence support for households not able to access benefits, working with the voluntary sector; they offered accommodation to all rough sleepers and vulnerable homeless people including migrants with NRPF; they employed a flexible support in terms of social services provision for people with NRPF, and they extended free school meals eligibility including some children of groups who have NRPF³⁶. This resulted in a massive improvement in collaboration between the range of organisations involved and London Councils, although there are still significant differences in advice and support available between areas.

In their written evidence to the Housing Select Committee in November 2020, London Councils highlighted how funding for 'Everyone In' had come to an end and the Government was asking local authorities to use an individual approach to provide support to people with no recourse to public funds. London Councils claimed that no alternative measures were put in place to allow destitute non-UK nationals to access mainstream support. According to London Councils, London boroughs estimated that 30 per cent of individuals currently sleeping rough in London have NRPF status and this could increase further as the suspension of asylum cessations has been lifted. Accommodation and support options for these individuals are extremely limited³⁷.

Additionally, from the 1st of December 2020 changes to the Immigration Rules made rough sleeping a legal ground to cancel or refuse permission to be in the UK. London Councils believe this will deter already vulnerable people from seeking help to be accommodated off the streets and put them at greater risk of exploitation and infection from COVID-19. To this end, London Councils called for European Economic Area nationals to be eligible for Housing Benefit until 21st June 2021, more resources to support those eligible to make applications for settled status, and for a 12-month reprieve for individuals with NRPF³⁸. Additionally, London Councils have also asked that the Government make available a specific, ring-fenced funding available to all local authorities to cover the actual cost of supporting people with NRPF through this crisis and to fully fund local authorities to continue to accommodate and meet the subsistence needs of all migrants with NRPF during the pandemic (Lungu-Mulenga 2020).

In November 2020, the Mayor of London also reported to the Housing Select Committee that those with NRPF and EEA nationals not currently entitled to welfare benefits are among people being refused assistance by local authorities. Therefore, he recommended to extend benefit entitlements to all renters, including those with NRPF and EEA nationals³⁹.

³⁶ Written evidence submitted by London Councils, (IOC 340)

³⁷ Written evidence submitted by London Councils, (IOC 340)

³⁸ Written evidence submitted by London Councils, (IOC 340)

³⁹ Written evidence submitted by the Mayor of London (IOC 364)

Which measures, policies, practices or joint working have worked well for people sleeping rough with no access to public funds during the pandemic? In contrast, which measures, policies, practices or joint working do you think have not worked well and why?

What worked well

'Everyone In' has resulted in accommodation being provided to a significant number of people who are usually ineligible for assistance under Part VII of the Housing Act 1996 and who do not qualify for support from social services.

Moreover, the pandemic produced a phenomenal effort from housing associations, local government and charity partners to co-ordinate their operations effectively to accommodate rough sleepers, including those with no recourse to public funds, although they are not eligible for local authority homelessness assistance or means-tested welfare benefits since the end of Everyone In (National Housing Federation 2020). Most importantly, charities and local authorities experimented with new ways of support provision, being able to adapt quickly to changing circumstances.

By conducting a survey on voluntary organizations and councils dealing with people with NRPF during the pandemic, Dickson et al. showed that "some organisations found that the COVID-19 crisis had led to improved relations with councils and increased local-authority responsiveness to the needs of people with NRPF. A number of organizations reported positive steps taken by local authorities in relation to the single-homeless NRPF cohort and many were complementary to the efforts made to accommodate people who would not ordinarily be eligible.

According to Dickson et al, examples of good practice developed during the pandemic that were identified by local authorities such as: improved understanding of NRPF across different departments; more coordinated work with the voluntary sector and outreach teams; and the provision of accommodation to those who would not normally be entitled to support (2020: 51). Other benefits of the pandemic in improving services for people with NRPF included: local authorities working in partnerships across different directorates (e.g. housing and children's social care); councils partnering up with voluntary and community organisations to provide support, and temporarily lowering or suspending eligibility thresholds to ensure people were not put at risk of contracting COVID-19 (Dickson et al. 2020: 71).

Most local authorities identified policy changes that would improve support for people with NRPF in the suspension or ending of NRPF; in adjustments to the welfare system to allow people with NRPF to access welfare benefits; in funding to provide accommodation; increased access to free immigration advice; and quicker resolution of cases by the Home Office. Some local authorities suggested that specific groups affected by NRPF should be given access to welfare benefits (such as those with 'Limited Leave to Remain' who had been working but had lost employment during the pandemic). One local authority officer said they would like the local authority to continue to support young people with NRPF in the same way after the end of lockdown (Dickson et al. 2020: 51).

Main challenges

As the Housing Select Committee reported in March 2021, "the Government believes Everyone in continues to exist but by its own admission it is no longer helping everyone" (HCLGC 2021:16). The principle of Everyone In was that everyone, no matter what their normal eligibility for homelessness assistance, would be provided with accommodation to self-isolate by their local authority. The

Government made a clear decision to change this from May 2020 onwards (HCLGC 2021:16). The Permanent Secretary admitted that what at the beginning was a very broad intervention is now focused on individual assessments. This backtracking by the Government led to councils deeming individuals ineligible for support when they in fact have legal powers to support such individuals under the Local Government Act 1972 and NHS Act 2006 (HCLGC 2021: 16).

Additionally, the use of a *case-by-case* approach to assess no recourse to public funds cases from May onwards resulted in some local authorities taking a tougher line or ceasing to take in new rough sleepers who were ineligible for benefits (NAO 2021: 25). Therefore, those who were not eligible for public funds would once again have to depend mainly on the charitable sector, from where many of them originally came into emergency accommodation. Everyone In also resulted in a large number of people remaining in emergency accommodation and not being able to move on because they had no recourse to public funds. Indeed, where complex immigration matters need to be addressed, and when certain groups with leave to remain continue to be excluded from accessing benefits, (e.g., EEA nationals with pre-settled status who are unable to work), many people who have been provided with emergency accommodation still face difficulties moving on to longer-term housing, leaving local authorities with ongoing support costs.

Indeed, as Dickson et al. stated, during the COVID-19 pandemic many local authorities had provided support to homeless people with no recourse to public funds who were not eligible for statutory support under normal circumstances (2020: 39). However, many concerns have been reported by frontline organizations in relation to the quality of this provision. Also, some organizations were frustrated by the lack of responsiveness and coherent planning on the part of councils. In particular, they noticed a lack of a clear pathway for individuals and supporting organisations to provide accommodation and support to people with NRPF; the gatekeeping of accommodation provisions by housing officers (e.g. test of eligibility); local authorities offering hotel accommodation only to verified rough sleepers; local authorities threatening people with NRPF that data would be shared with the Home Office; people too scared to seek support fearing their information could be used by immigration officers; attacks on clients' credibility; requests for unobtainable evidence; people being told to rely on their support network or that they could not be assisted because they had NRPF; people not being found by outreach services; difficulty in obtaining support; poor quality of accommodation provision; people being told that no housing was available; people being housed in non self-contained accommodation or not receiving adequate substance misuse and mental health support etc. (Dickson et al. 2020: 30). Thus, the Dickson et al. research showed a mixed picture of the relationship between local authorities and voluntary sector organizations around NRPF during the pandemic, with a range of organizations stating that Covid-19 improved the relationships with councils and increased their responsiveness to people with NRPF needs but others reporting frustration and lack of receptiveness (2020: 36).

Although the Government initially committed to providing additional funding for local authorities to support and provide accommodation to vulnerable groups during this pandemic, clear instructions on funding were usually missing, especially in relation to the no recourse cohort. Indeed, the funding streams the Government put in place to help rough sleepers in England from March 2020 relied on local authorities case-by-case discretionary decisions. Then, since May 2020, the Everyone In funding could not be spent anymore on individuals with no recourse to public funds. Thus, as the Housing Select Committee declared, limiting spending in such a manner undermined a broad discretionary power and prevents local authorities from helping whomever they like unless they spend out of their own pocket" (HCLGC 2021: 14).

Finally, as the Housing Select Committee has repeatedly reported, MHCLG does not currently collect data on the number of individuals with NRPF in emergency accommodation or in move on accommodation. This makes it extremely difficult to make clear estimates on how many people with no recourse have been supported with accommodation during the pandemic (HCLGC 2021).

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<https://committees.parliament.uk/writtenevidence/17568/html/>

Written evidence submitted by Westminster City, (IOC 330)
Council <https://committees.parliament.uk/writtenevidence/17362/html/>

ANNEX I: The numbers

As the Housing Communities and Local Government Committee reported the most recent data on the Everyone In scheme from January 2021 found that “around 37,430 people had been helped into some form of accommodation, with 26,167 moved on into more settled accommodation and 11,263 remaining in emergency accommodation, an increase from 9,809 in November 2020. Data on how many of these 11,263 are ineligible for benefits is more difficult to pin down” (HCLGL 2021a:9). The NAO estimated that in September 2020 those ineligible for benefits numbered around 2,000 (approximately 50% of the total) of those staying in hotels and other emergency accommodation in London under Everyone In (NAO 2021). According to the Housing Select Committee, MHCLG does not currently collect data on the number of individuals with NRPF in emergency accommodation or in move on accommodation, but that data collected at the end of May 2020 suggested that around 2,500 of the 14,610 people in emergency accommodation were people who would not normally be eligible for statutory homelessness assistance. This 2,500 includes, but is not limited to, those with NRPF (HCLGC 2021).

Then, as of 31 July 2021, London Councils reported that in London 2272 people are currently in emergency accommodation as part of the Everyone In response: 525 are Non-EEA nationals with no recourse to public funds and 534 EEA nationals who have not exercised their treaty rights and have limited access to benefits. Most people with no recourse to public funds in emergency accommodation are concentrated in the north east (on a total of 464 people in emergency accommodation, 128 non-EEA with NRPF and 131 EEA with limited access to benefits) and north west (on a total of 483 people in emergency accommodation, 110 are non-EEA with NRPF and 117 are EEA with limited access to benefits) areas of the capital.⁴⁰

⁴⁰ Data estimates from the London Councils as of 31 July 2021.

Sub-regional data on rough sleepers in London

Data reported in the following tables have been collected by London Councils from the weekly accommodation survey sent to all London boroughs and the GLA. Sub-regional data are based on the STP footprints and not the London Council's Sub-regions.

Rough Sleeping - London sub-regional overview

Data for week to 23/06/21	Rough Sleepers	Still sleeping rough	People still in Emergency Accommodation	People in Emergency Accommodation with NRPF (non-EEA)	People in Emergency Accommodation with limited access to benefits (EEA)	Homelessness approaches in the past month	People moved to Settled Accommodation
NORTH CENTRAL							
Barnet; Camden; Enfield; Haringey; Islington	425	100	325	62	88	1248	955
NORTH EAST							
Barking and Dagenham; City of London; Hackney; Haringey; Newham; Redbridge; Tower Hamlets; Waltham Forest	567	103	464	128	131	1875	1073
NORTH WEST							
Brent; Ealing; Hammersmith and Fulham; Harrow; Hillingdon; Hounslow; Kensington and Chelsea; Westminster	737	254	483	110	117	2076	1344
SOUTH EAST							
Bexley; Bromley; Greenwich; Lambeth; Lewisham; Southwark	325	95	230	38	18	1660	716
SOUTH WEST							
Croydon; Kingston upon Thames; Merton; Richmond upon Thames; Sutton; Wandsworth	418	71	347	18	72	894	628
LONDON BOROUGH TOTAL	623	623	1849	356	426	7753	4716
GLA	0	0	423	169	108	0	487
LONDON TOTAL	623	623	2272	525	534	7753	5203

Source: Data from London Councils – London accommodation Data for week to 31/07/21.

London overview – non-UK nationals with limited entitlements

	Data for	02/06/21	09/06/21	16/06/21	23/06/21	30/06/21	07/07/21	14/07/21	31/07/21
A (Non-EEA nationals with no recourse to public funds)	Non-EEA nationals with no recourse to public funds	560	566	561	549	544	534	540	525
	Of A, waiting for a decision on their immigration application	175	164	185	188	190	179	190	200
	Of A, working towards completing an immigration application	153	166	205	228	217	214	214	216
	Of A, appear to be non-EEA nationals with NRPF, but have not yet received immigration advice or no further details are known	71	143	86	81	82	84	44	46
	Of A, other	51	51	52	54	55	57	66	59
	Of A, no further information provided by borough	110	42	32	-2	0	0	26	4
B (EEA nationals with limited access to benefits)	EEA nationals with limited access to benefits	686	659	651	645	640	618	573	534
	Of B, waiting for a decision on their EUSS settled status application	162	173	179	206	219	226	227	233
	Of B, in the process of completing an EUSS settled status application	108	106	107	109	76	74	61	32
	Of B, have EUSS pre-settled status or are in the process of completing an EUSS pre-settled status application	195	190	205	204	224	203	223	212
	Of B, appear to be EEA nationals who do not	55	82	59	72	49	47	23	27

	have access to benefits, but have not yet received immigration advice or no further details are known								
	Of B, other	75	78	76	72	73	72	37	42
	Of B, no further information provided by borough	91	30	25	-18	1	-4	2	-2
C (Still sleeping rough)	Still sleeping rough	609	573	592	595	577	599	574	623
	Of C, non-EEA nationals with no recourse to public funds	39	47	50	57	57	58	73	48
	Of C, EEA nationals with limited access to benefits	142	145	149	146	137	144	143	119
	Of C, insufficient information known in order to estimate/ determine their nationality or immigration status	157	127	124	128	121	117	122	127

Source: Data from London Councils – London accommodation Data for week to 31/07/21.

Rough Sleepers

Data reported in the following tables have been collected by MHCLG and London councils who gathered management information about the support for those sleeping rough or at risk of sleeping rough, as part of the 'get everyone in' campaign during the COVID-19 pandemic. It provides the latest snapshot for January 2021, and includes monthly single night snapshots of rough sleeping.

Total number of people who are sleeping rough on a single night by local authority district - England, December 2020 to January 2021				
Region/Local authority	2018 (RS Stats Live Tables)	2019 (Rough Sleeping Initiative)	December 2020	January 2021
<i>England</i>	4677	4266	1,743	1,461
London	1283	1136	539	421
Barking and Dagenham	9	14	9	8
Barnet	24	24	7	7
Bexley	5	9	16	3
Brent	30	25	12	9
Bromley	6	8	1	1
Camden	141	65	35	41
City of London	67	41	14	22
Croydon	15	6	8	12
Ealing	33	20	22	14
Enfield	78	24	19	19
Greenwich	7	16	11	7
Hackney	23	14	14	4
Hammersmith and Fulham	12	2	6	4
Haringey	32	33	6	4
Harrow	13	10	6	6
Havering	2	8	1	3
Hillingdon	70	106	9	12
Hounslow	18	8	5	7
Islington	43	51	3	3
Kensington and Chelsea	20	19	4	4
Kingston upon Thames	23	20	5	6
Lambeth	50	43	20	20
Lewisham	5	16	7	5
Merton	23	15	6	3
Newham	79	64	17	8
Redbridge	26	16	5	15
Richmond upon Thames	14	14	4	3
Southwark	47	44	20	17
Sutton	5	5	1	2
Tower Hamlets	10	17	24	21
Waltham Forest	22	18	14	10
Wandsworth	25	28	8	10
Westminster	306	333	200	111

Source: GOV.UK. (2021), Coronavirus (COVID-19) Emergency Accommodation Survey Data, <https://www.gov.uk/government/publications/coronavirus-covid-19-emergency-accommodation-survey-data-january-2021>

Total number of people who have moved on into settled accommodation or supported housing since the Covid-19 response began, by local authority district				
England, September, November, December 2020 and January 2021				
Region/Local authority	September 2020	November 2020	December 2020	January 2021
<i>England</i>	19.583	23.193	24.756	26.167
London	3.277	3.791	4.013	4.185
Barking and Dagenham	13	16	16	17
Barnet	15	24	33	37
Bexley	0	0	0	10
Brent	124	191	196	196
Bromley	3	3	4	5
Camden	237	250	258	262
City of London	37	44	51	51
Croydon	101	111	112	119
Ealing	133	143	147	151
Enfield	87	124	127	144
Greater London Authority	556	587	616	623
Greenwich	68	79	79	84
Hackney	0	5	5	5
Hammersmith and Fulham	127	151	163	169
Haringey	174	221	227	232
Harrow	16	16	16	16
Havering	1	2	8	15
Hillingdon	54	101	109	112
Hounslow	21	30	47	54
Islington	42	44	45	46
Kensington and Chelsea	39	46	47	53
Kingston upon Thames	2	20	22	26
Lambeth	77	83	83	85
Lewisham	122	145	155	162
Merton	70	83	92	93
Newham	41	58	75	90
Redbridge	62	66	67	69
Richmond upon Thames	12	20	25	29
Southwark	752	799	832	840
Sutton	48	53	62	71
Tower Hamlets	41	52	59	64
Waltham Forest	14	17	21	25
Wandsworth	13	22	29	34
Westminster	175	185	185	196

Source: GOV.UK. (2021), Coronavirus (COVID-19) Emergency Accommodation Survey Data
<https://www.gov.uk/government/publications/coronavirus-covid-19-emergency-accommodation-survey-data-january-2021>

Total number of people sleeping rough or at risk of sleeping rough who are currently being provided emergency accommodation in response to Covid-19 pandemic, by local authority district

England, September, November, December 2020 and January 2021

Region/Local authority	September 2020	November 2020	December 2020	January 2021
<i>England</i>	10.509	9.809	9.673	11.263
London	3.852	3.154	3.199	3.509
Barking and Dagenham	18	15	16	17
Barnet	137	128	129	137
Bexley	50	40	44	40
Brent	126	63	55	50
Bromley	56	58	61	68
Camden	166	46	37	48
City of London	46	70	65	83
Croydon	58	38	33	68
Ealing	204	184	194	196
Enfield	207	176	176	169
Greater London Authority	616	497	526	730
Greenwich	63	28	32	36
Hackney	108	82	76	67
Hammersmith and Fulham	50	67	51	48
Haringey	227	158	157	157
Harrow	21	21	21	21
Havering	8	40	18	21
Hillingdon	103	99	97	98
Hounslow	165	157	151	162
Islington	261	109	91	115
Kensington and Chelsea	13	20	20	25
Kingston upon Thames	106	69	69	62
Lambeth	10	0	0	9
Lewisham	87	79	82	52
Merton	5	39	44	47
Newham	210	148	140	136
Redbridge	219	197	195	210
Richmond upon Thames	43	42	43	55
Southwark	108	91	179	85
Sutton	97	115	107	100
Tower Hamlets	48	59	60	62
Waltham Forest	54	53	50	58
Wandsworth	145	142	149	176
Westminster	17	24	31	101

Source: GOV.UK. (2021), Coronavirus (COVID-19) Emergency Accommodation Survey Data

<https://www.gov.uk/government/publications/coronavirus-covid-19-emergency-accommodation-survey-data-january-2021>