Sandwell Metropolitan Borough Council Children and Families
No Recourse to Public Funds (NRPF) Protocol

Introduction

The NRPF protocol covers the assessment process and support provisions for families with children who have no recourse to public funds (NRPF) in the UK and who require Child in Need or Child Protection services from Sandwell Council and the Children Act 1989. NRPF applies to a person who is subject to immigration control; may not have the right to work (this depends on their immigration status) and has no entitlement to other benefits, public housing or Home Office asylum support. Because of these restrictions on accessing benefits, dependent children of NRPF parents are at risk of becoming children in need as defined in Section 17 Children Act 1989 on account of destitution, homelessness and the potential instability of their familial environment.

This protocol outlines SMBC responsibilities and addresses the circumstances in which financial support can be provided to families with NRPF for accommodation and subsistence purposes.

The purpose of the protocol is:

- To uphold statutory obligations in service delivery through robust assessment and review processes.
- To seek solutions to the destitution faced by presenting NRPF families, including assisting families in resolving their immigration status in the UK.
- To support families with the right to work to find durable solutions to enable them to support their families independently.
- To maintain strong communication with the Home Office so that the issues faced by NRPF families are addressed in partnership.
- To work in partnership with the Home Office to reduce the risk of NRPF families found ineligible for local authority funding from remaining in the UK unlawfully.

No Recourse to Public Funds (NRPF)

No Recourse to Public Funds is a condition imposed by the Home Office on people from abroad who are subject to immigration control and you do not have settled status in the UK. The immigration status of those with NRPF can include asylum seekers, failed asylum seekers, people who have entered the UK on visas, people granted leave under Zambrano as sole
carers of British children, people granted limited leave with NRPF condition attached, in some cases nationals of the European Economic Area (EEA) and people unlawfully present in the UK for example visa overstayers.

The Home Office
The Home Office is responsible for managing border control for the United Kingdom, enforcing immigration and customs regulations and considering applications for permission to enter or stay in the UK, citizenship and asylum. Sandwell Council will work with the Home Office to establish immigration status of families and individuals approaching the local authority for support under social services legislation. The Home Office provides accommodation and subsistence services to asylum seekers under Section 95 of the Immigration and Asylum Act 1999 and accommodation and non-cash subsistence to failed asylum seekers under Section 4 of the Immigration and Asylum Act 1999.

NRPF support
A family who is supported by Sandwell Council because they have no recourse to public funds and to withhold support would breach their human rights is supported under Section 17 of the Children Act 1989 until they are either granted status, leave the UK or after relevant changes in their circumstances. Each supported family will be reviewed at least every four months.

Schedule 3, Nationality Immigration and Asylum Act (NIAA) 2002
Schedule 3, NIAA 2002 (Appendix A) is legislation which restricts four categories of persons from a number of social services support provisions (including powers which can be exercised in relation to adults under section 17, 23C, 24A or 24B of the Children Act 1989). Schedule 3 is designed to prevent individuals and families who are able to freely return home from relying on social services support as an alternate welfare system. In cases where Schedule 3 applies, the local authority must consider whether the withholding or withdrawing of support would breach the families human rights or, in the case of European Economic Area (EEA) nationals, European Union (EU) Community Treaty rights.

Human Rights Assessment (HRA)
Where an individual or family falls within one of the excluded groups as defined by Schedule 3 NIAA 2002, a Human Rights Assessment (HRA) must be completed to establish whether the Council should exercise its powers to prevent a breach of the family's human rights or Community Treaty rights (EEA nationals). A Single Assessment /Child in Need (CIN) assessment is still required and it will need to consider whether the child will be a child in
need in the parent’s country of origin. If it is determined that the limits of the Council’s power is to assist the family in returning, the HRA will establish what support is required in order to facilitate resettlement in the parents country of origin.

Section 17 Children Act 1989 and NRPF considerations
Section 17 of the Children Act 1989 concerns the duty of local authorities to safeguard and promote the welfare of children within their area who are in need; and, so far as is consistent with that duty, to promote the upbringing of such children by their families (s17 (1) Children Act 1989). In the case of families who have NRPF, the destitution and instability faced by dependent children is likely to bring the child within the remit of this legislation. The following extracts are relevant in relation to CIN and NRPF:

(3) Any service provided by an authority in the exercise of functions conferred on them by this section may be provided for the family of a particular child in need or for any member of his family, if it is provided with a view to safeguarding or promoting the child’s welfare.

(10) For the purposes of this part a child shall be taken to be in need if-

(a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining a reasonable standard of health or development without the provision for him of services by a local authority under this part;

(b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services;

or

(c) he is disabled,

The provision of s17 Children Act 1989 support to a family with NRPF will be limited if the parent/guardian is caught by the restrictions to support under Schedule 3, NIAA 2002.

Section 47 Children Act 1989 and NRPF considerations
S47 Children Act 1989 provides for the following:

(1) Where local authority –

(a) are informed that a child who lives, or is found, in their area –

(i) is the subject of an emergency protection order; or

(ii) is in police protection; or
(b) have reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm,

The authority shall make, or cause to be made such enquiries as they consider necessary to enable them to decide whether they should take any action to safeguard or promote the child’s welfare.

When instigating child protection procedures in line with S 47 of the Children Act 1989, the welfare of the child is paramount. It should be noted that Schedule 3 NIAA 2002 specifically covers powers which can be exercised in relation to adults (S 17, 23C, 24A, or 24B of the Children Act 1989); duties to children, such as that provided under S20 and S47 of the Children Act are not restricted. If child protection procedures are in place, the immigration status of the parent must still be taken into consideration however, as this may affect both the parent’s future ability to meet the financial needs of the child (on account of being NRPF) and on services that the council may look to provide under section 17 of the Children Act 1989.

**Country of Origin**

Country of Origin refers to the nationality of the parent who is NRPF in the UK. In cases where Schedule 3 applies the Council must consider the offer of assistance to the family or individual in returning home as the limits of its power under section 17 Children Act 1989. In considering whether a child might be a child in need in the parent’s country of origin, country of origin information from both the Home Office and the parent’s embassy must be taken into account in the Single Assessment Child in Need Plan and Human Rights Assessment.

**1. Family first presents**

1.1 Where there have already been investigations initiated under section 47 Children Act 1989, or where Single Assessments/Child in Need Assessments are already being completed, establish whether the family’s immigration status may need consideration under NRPF criteria.

1.2 Local authorities have general duty to safeguard and promote the welfare of children in their area. Under section 17, the responsibility for assessment and provision of services for children in need falls to the local authority in whose area the child in need is physically present (*R (on the application of Sandra Stewart) v LB Hammersmith and Fulham, Lambeth and Wandsworth [2001] EWHC Admin 709*). Some exceptions to this general position apply only when the child is subject
to a care order or an interim care order in another local authority, accommodated and supported by another local authority, subject of a child protection plan in another local authority and/or in receipt of services other than rent and subsistence from another local authority.

2. Initial Screening – undertaken by Single Assessment Team

2.1 The Children’s Services allocated social worker within the Single assessment Team will undertake an assessment of eligibility based on information provided by the family.

This will include:

2.1.1 Gathering evidence of destitution such as bank statements, letters from friends concerning support previously provided etc.

2.1.2 Evidence that the child is Child In Need in Sandwell

2.1.3 Confirmation of immigration status in the UK e.g. passports, birth certificates, Home Office/Immigration documents, visas

2.1.4 Documentation for the children to ensure that they are the legal dependents of the presenting parent or guardian for example passports, birth certificates

2.1.5 Document whether or not the authority is excluded from supporting the person under Section 54 and Schedule 3 of the Nationality Immigration and Asylum Act 2002 and the reasons why.

2.1.6 If a referral is received from a solicitor company, notify Sandwell Council Legal Services. Any subsequent correspondence with the client’s solicitors during the assessment process must be sent via SMBC Legal Services

3. Determining whether emergency accommodation and support is necessary, - undertaken by Single Assessment Team

3.1 If the family is homeless on the day of referral and urgently requires assistance, temporary emergency accommodation can be provided on a without prejudice basis pending the outcome of the Human Rights Assessment.
3.2 Any decision to provide temporary accommodation will be made by the Team Manager, who will record the reasons why and ensure the relevant paperwork has been signed by the social worker and applicant before the accommodation /financial support is provided. The paperwork (Emergency Temporary Support Letter) outlines the level of subsistence that will be issued and the address of the accommodation provided on a without prejudice basis. The letter will be signed by the applicant and Social worker and placed on file.

3.3 NRPF applicable subsistence payments can be paid to the family. Any additional income of funds received by the family (such as child benefit payments or any money earned through paid employment) will be deducted.

3.4 Any financial support provided to the family must be collected each week by the parent from Sandwell Council House, Oldbury

3.5 If the family are accommodated outside of Sandwell (this should only happen if there is absolutely no availability of suitable accommodation in Sandwell), an email should be sent to the Children’s Services/Safeguarding Lead of the local authority area where the family has been placed notifying them that a child whose parents have No Recourse to Public Funds has been temporarily placed in their area by Sandwell children services who are providing emergency temporary support pending the outcome of the Single Assessment and Human Rights Assessments.


4.1 Schedule 3 of the Nationality Immigration and Asylum Act (NIAA) 2002 limits the Council’s power to provide support under section 17 of the Children Act unless it is deemed necessary to prevent a breach of the families human rights, or, in the case of EEA nationals, a breach of Community Treaty rights.

4.2 For those caught by Schedule 3 a Child in Need Assessment (Single Assessment) and a Human Rights Assessment must be carried out. In determining whether services are required to avoid a breach of human rights or community treaty rights, the Council must consider in its assessments whether the family can return to the parent’s country of origin. This is because case law has confirmed that there is no obligation to support under
ECHR where family is freely able to return home in order to avoid a breach of human rights in the UK.

4.3 For those who are not caught by schedule 3 (including those who have an open application for leave to remain that is currently being considered by the Home Office) the local authority should not consider returning the family to the parent’s country of origin. If the family is considered to be destitute then temporary support should be provided while the claim is being considered and the needs of the child met as identified in the Child in Need plan.

4.4 All assessments should be presented at the NRPF panel where future pathways and support/or withdrawal or withholding of support will be considered.

4.5 The Team Manager is responsible for signing off the Human Rights Assessment and the Single Assessment /Child in Need Plan. The parent or guardian must be given a copy of the completed assessments once they have been finally determined and agreed by NRPF panel and have the opportunity to comment on the findings of the assessments.

5. **NRPF family assessed as eligible for ongoing Section 17 Children Act support**

5.1 If the family is deemed eligible for support from Sandwell Council, the allocated social worker will be responsible for ensuring that the family is informed, in writing, of this decision. The acceptance letter will outline the reasons why ongoing NRPF support is required.

5.2 The allocated social worker will be responsible for releasing the completed Single Assessment /Child in Need Plan and, if applicable the Human Rights Assessment.

5.3 The allocated social worker will be responsible for ensuring that the assessed needs of the child are met and that the family is linked to relevant support agencies within Sandwell as required. This will include signposting the adult to a Connexions Advisor if they have permission to work.

5.4 Sandwell Council Childrens Services will reassess the family every four months to be certain they are entitled to local authority NRPF support and in line with the child’s Child in Need plan.
5.5 The allocated worker will work with the family to try and ascertain how their immigration status in the UK can be best resolved. Where it is clear that the family has strong grounds for remaining in the UK, or where they cannot be reasonably expected to return to their country of origin, the family will be expected to make representations to the Home Office for leave to remain.

6. Family Caught by Schedule 3

6.1 In cases where schedule 3 of the NIAA 2002 applies, the family will be excluded from receiving accommodation and subsistence services under section 17 of the Children Act, unless withholding support would breach their human rights or their treaty rights.

   6.1.1 The local authority must consider what support *is necessary* in order to avoid a breach of the family’s convention rights under the Human Rights Act 1999.

   6.1.2 Case law provides that the local authority should consider whether the family are freely able to return to the parent’s country of origin without there being a breach of human rights or EU community treaty rights.

   6.1.3 The child in need assessment will need to consider the needs and the best interests of the child both in the UK, as a dependent of a parent with NRPF, and in the parents country of origin if they were to return home.

   6.1.4 Schedule 3 places a reporting requirement on the local authority to inform Home Office Enforcements and Removals

6.2 The Single Assessment/Child in Need Assessment must contain country of origin information throughout the assessment; referring to what the situation would be should the family return home under each heading of the assessment.

6.3 Having considered the latest country of origin information from the Home Office and the relevant embassy as well as the individual facts of the case, the finding of the NRPF panel may be that the child/children would cease to be in need if they were to return to the parent’s country of origin. The assessments will evidence general Internet enquiries of the existence of health care and educational services, access to employment and assistance
that can be provided by relatives or friends as well as information of charitable support networks in the parent’s country of origin.

6.4 If it has been determined in the Single Assessment/Child in Need Assessment and the Human Rights Assessment that returning to country of origin would not constitute a breach of human rights or European Union treaty rights, the Council will not have the power to continue section 17 Children Act support by reason of Schedule 3 NIAA 2002.

6.5 Where the Council has reached a decision to withhold or withdraw support under Schedule 3, the key findings and reasons must be outlined in the Human Rights Assessment.

6.6 The family will be provided with an appointment (with an interpreter if necessary) to discuss the findings of the assessment. The human rights assessment must state that support will be withdrawn 28 days from the date of the appointment (unless the support was clearly only for the duration of the assessment in which case 48 hours notice will suffice). This provides a reasonable period of time for the applicant to challenge the decision made and to seek legal advice. There will be occasions where the notice period may vary on account of exceptional circumstances of an individual case. Any representations made against the decision to withdraw services will be fully considered by the council.

6.7 The allocated social worker will work with the family to make sure they are assisted in returning to their country of origin. This will include ensuring the family make an urgent appointment with the Home Office for Voluntary Return or in the case of EEA nationals, or if the family is ineligible for assistance in returning home from the Home Office Voluntary Return Programme ensure the family cooperates with their embassy to obtain travel documents (if necessary) to take up a return package that is offered by the Council.

6.8. If there are no legal or practical obstacles to prevent a failed asylum seeker returning to his country of origin, the denial of support by the local authority would not constitute a breach of that person’s Convention rights. He has the choice to return to his country of origin. Neither Art 3 nor Art 8 imposes a duty on the United Kingdom to provide support for a failed asylum-seeker when there is no impediment to his returning. (R (Kimani) v LB Lambeth).

7. Parent refuses to return to country of origin
7.1 Where the Council has carried out the necessary assessments in line with their legal duties and concluded that the family can freely return to country of origin without a breach of human rights and an applicant then refuses an offer of assistance in returning home any degradation caused will not result from a human rights breach by Sandwell Council, but from the applicant’s own decision to refuse the offer of assistance. *R (on the application of AW) v Croydon LBA; R (on the application of A, D and Y) v Hackney LBC and another (2006).*

7.2 Sandwell Children Services have a duty to promote the welfare of all children in the Borough, and will undertake thorough assessments and work closely with families to assess the options available in order to keep the family together and the children safe from harm. Equally, the Council is required by law to take into account the immigration restrictions to social services support and must have regard in this assessment for the core aim of schedule 3, which is to “discourage from coming to, remaining in and consuming the resources of the UK certain classes of persons who can reasonably be expected to look to other countries for their livelihood” (Lord Phillips MR in *R (K) v Lambeth* paragraph 24).
SMBC NRPF Children’s Panel

The purpose of NRPF panel is to review and take decisions on all matters relating to Children and Families with No Recourse to Public Funds to ensure that NRPF children are safeguarded, their needs are assessed and recorded appropriately and families are advised and supported consistently.

Social workers and their team managers will present their completed Single Assessment and Human Rights Assessment to panel to be reviewed and considered.

NRPF Panel will make recommendations for any support and action necessary in line with immigration legislation, relevant case law and NRPF guidance and procedures.

Panel decisions will be recorded and appropriately incorporated into the HRA by the social worker/team manager and must be signed by the NRPF Panel Chairperson before being given to the family. The HRA will also be placed on the child’s file. The decision maker for all NRPF support is the Chair of NRPF Panel.

Fortnightly panel meetings will be held at Sandwell Council House.

Business support will book 20 minute appointment slots for all cases to be presented at panel. The agenda will include the names and dates of birth of all parents and children as well as the Home Office reference numbers for all new cases.

An updated list of all cases currently supported by SMBC will be provided for each panel for review by the Chair and Newcomers Strategic Lead.

All Human Rights Assessments must be made available electronically to Panel members at least two days prior to Panel

All open NRPF cases will be reviewed by dates determined at panel until the case can be closed to Childrens Services.

Membership
Chair: Melanie Barnet, Group Head, Childrens Services
Advisor: Lynda Lawrence, Newcomers Strategic Lead
Lian Knight, Social Care Officer, Care Management, Childrens Services
Business Support and note recorder: Sonia Leadbeater (PA to Group Head)
SMBC Children & Families NRPF Process and Procedure

Any request for support from Children’s Services made by persons from abroad with No Recourse to Public Funds must be assessed by completing the Single Assessment / Child in Need Plan and a Human Rights Assessment (HRA) to determine whether or not refusing support would breach their Human Rights.

Only social workers who have completed NRPF training should undertake the HRA and present this to NRPF Panel for a decision on the appropriate action to follow.

Quarterly in-house training opportunities will be provided for SMBC Children’s social workers and team managers to ensure they have up-to-date and accurate information to enable them to complete Human Rights Assessments.

All human rights assessments should be completed swiftly and within four weeks.

Emergency / temporary support can only be provided without prejudice pending the outcome of the assessments if agreed by the Team Manager and all associated documents have been signed.

No information relating to the decision or course of action being taken should be communicated to the family (verbally or written) until it has been incorporated into the HRA and determined what may or may not constitute a breach of Human Rights. The human rights assessment should only be shared with the family once the go-ahead has been given at panel and it has been signed off by the panel Chair.

Any future updated information must be incorporated into the HRA and only communicated to the applicant once it has been signed by the Team Manager.

The Human Rights Assessment must be supported with copies of all relevant documents such as

- Proof / copy of any application to the Home Office for leave to remain, Home Office decision letters
- A copy of passport/ID/Birth Certificate
- Copies of any bank statements, post office accounts

All subsistence payments to the family must be made via FS1’s and collected by the family weekly from the Council House in Oldbury.

Financial support and accommodation is provided on the basis that the applicant will inform SMBC of any changes in their circumstances that will affect their need for support.

In the event of overpayment due to failure to notify, collection of the overpayment will be considered.

Public funds are: Income-based Jobseeker’s Allowance; Income Support; Child Tax Credit; Working Tax Credit; Child Benefit; Housing Benefit; Council Tax Benefit; State Pension Credit; Attendance Allowance; Severe Disablement Allowance; Carers Allowance; Disability Living Allowance.

Allocation of local authority housing and local authority homelessness assistance (temporary accommodation) is considered public funds.

Healthcare and education do not count as public funds. All children and families should be supported to access health services as required and should register with a GP. Children should be supported to access preschool and school education and support.
Processes relevant to migrant children and families affected by NRPF due to various immigration statuses.

Asylum Seekers

Open asylum application (Article 3 claim) based on fear of persecution and is eligible for s95 support from Home Office if they are destitute.

If a family is eligible for S95 support a Local authority is prohibited from providing accommodation and subsistence. If the applicant is destitute and needs accommodation they must apply for Asylum Support (accommodation and subsistence) from the home office by completing an Asylum Support Application UK, Telephone: 0808 8000 631 Monday to Friday, 8am to 5.30pm.

If it is not possible to get help via the telephone link above then the Home Office website https://www.gov.uk/asylum-support/how-to-claim has useful information. The Asylum Support Application Form (ASF1) can be downloaded and completed by the applicant. It can then be sent by email to: asylumsupportlAReferrals@homeoffice.gsi.gov.uk

Refused Asylum Seekers

This group of migrants have made an Asylum Claim under Article 3 and it has been refused on the basis that the person/family would have no persecution in Country of Origin. Families with children under 18 may be eligible for continues Home Office s95 support. If they are eligible for s95 support a Local authority is prohibited from providing accommodation and subsistence. Complete an Asylum Support Application UK, Telephone: 0808 8000 631, Monday to Friday, 8am to 5.30pm. If the family is only eligible for Home Office Section 4 Support then the Local Authority cannot discharge their duty to assess under NRPF (Newcastle Judgement).

If it is not possible to get help via the telephone link above then the Home Office website https://www.gov.uk/asylum-support/how-to-claim has useful information. The Asylum Support Application Form (ASF1) can be downloaded and completed by the applicant. It can then be sent by email to: asylumsupportlAReferrals@homeoffice.gsi.gov.uk

People with limited leave   Spousal Visas

Lawfully present (unless the spousal visa has expired) - if DV is reason for marriage breakdown while visa is still valid Home Office provide 3 month leave to remain with access to mainstream benefits i.e. not NRPF including housing and council tax benefit

Destitute Domestic Violence Concession. Social worker can email request through to Home office. Decision should be within a day or two. Therefore if the family is destitute provide time bound accommodation and support from Children Services s17 until Concession is agreed (usually within 2 days) and refer to Housing Options as the family will be entitled to Temporary Accommodation and support from Housing Options. They will be eligible for mainstream benefits and legal aid to assist with the Immigration Claim
for 3 months. During the 3 months they must submit a substantive claim for leave to remain. If granted will result in ILR.


DomesticViolence2@homeoffice.gsi.gov.uk

Limited leave, -Managed Migration for Employment Purposes

People granted this type of limited leave for work purposes are lawfully present and have the right to work. They are lawfully present in the UK, Employment would be the basis for the visa being provided- otherwise they may be in breach. If they are temporarily unable to work due to a crisis situation and request support from the LA the test is whether they destitute, or whether they are able to pay for the support they need. If they are found to be financially destitute then time limited support such as accommodation may be necessary until crisis situation is resolved.

Limited leave, - Visitors Visa

A person granted this type of leave is lawfully present. They normally would have proven to the Home Office that they are able to support themselves for the duration of their visit (or a relative/sponsor would have assumed responsibility for their time in UK). If the person has experienced a crisis and is destitute then time limited support may be necessary until crisis situation is resolved.

Limited Leave to Remain based on Article 8 Family Life without recourse to public funds (30 months)

Lawfully present. Has right to work. Normally granted limited leave with no recourse to public funds because they have demonstrated their family are able to support them when the application was submitted and granted (otherwise they would have been given recourse to public funds at time of grant). Test is, Are they destitute, if so why? , what has happened since visa was granted? If they are then time limited support may be necessary until crisis situation is resolved. If they are supported by the local authority because their circumstances have changed and they are destitute the family must submit a Change of Circumstances application to the Home Office and request Recourse to Public Funds. They will need support finding a private affordable tenancy in their name, and finding work. They are not eligible for Mainstream Benefits or Temporary Accommodation and Housing Benefit. Childrens Services must plan for longer term affordable Housing solutions for the family.

Families supported by Sandwell Childrens Services who receive a grant of LTR with NRPF

Continue supporting until family are able to support themselves. Family has right to rent therefore Childrens Services will need to work with family to find affordable Private Rented accommodation (they are not eligible to Council Housing or Homelessness
Assistance/Temporary Accommodation). Refer to Brushstrokes who will support them with understanding and maintaining a tenancy as well as with training to find employment. Ensure family apply for Change of circumstances to get recourse to public funds (based on being destitute and receiving s17 NRPF support from the local authority before the leave was granted).

Once family are able to work, NRPF payments for accommodation and subsistence can be reduced, with the ultimate aim is for family to self-support.

**Limited Leave to Remain based on Article 8 Family Life with recourse to public funds (30 months)**

Lawfully present, has right to work and benefits. Are they destitute? If they are then time limited support may be necessary until situation is resolved. They are not eligible for Temporary Accommodation therefore Childrens Services must plan for longer term affordable Housing solutions for the family. Support with finding private affordable tenancy in their name, claiming all applicable benefits and finding work.

**Families supported by Sandwell Childrens Services who receive a grant of LTR with RPF**

Family has right to rent therefore Childrens Services will need to work with family to find affordable Private Rented accommodation (they are not eligible to Council Housing or Homelessness Assistance/Temporary Accommodation). Family should apply for mainstream benefits as soon as they are notified of decision and NRPF subsistence can payments can stop by giving 2 weeks’ notice. The family can request emergency benefit payments from DWP. Once the family take on a private tenancy in their own name Brushstrokes will support them with understanding and maintaining a tenancy as well as with training to find employment. They will also assist with applying for Housing Benefit, which can be paid directly to the landlord. Ensure family apply for Change of circumstances to get recourse to public funds (based on being destitute and receiving s17 NRPF support from the local authority before the leave was granted).

NRPF payments can be reduced/withdrawn as soon as mainstream benefits have been agreed and Housing Benefit covers rent, with the ultimate aim for family to self-support.

**Zambrano Carer. Zambrano residency card**

Lawfully present. Has right to work. Granted limited leave with no recourse to public funds because they have demonstrated they are the sole carer for a British Child. If they are destitute they will need support finding a private affordable tenancy in their name, and finding work (bearing in mind the caring responsibility of lone parent). They are not eligible for Mainstream Benefits or Temporary Accommodation and Housing Benefit. Childrens Services must plan for longer term affordable Housing solutions for the family.
Zambrano Families supported by Sandwell Childrens Service’s when granted leave.

Continue supporting until family are able to support themselves through work. Family has right to rent therefore Childrens Services will need to work with family to find affordable Private Rented accommodation (they are not eligible to Council Housing or Homelessness Assistance (Temporary Accommodation). Refer to Brushstrokes who will support them with understanding and maintaining a tenancy as well as with training to find employment.

Once family are able to work, NRPF payments for accommodation and subsistence can be reduced, with the ultimate aim is for family to self-support.

Visa Overstayers and illegal entrants

Unlawfully present, caught by Schedule 3. Lead assessment is Human Rights Assessment to see if there are any barriers to return to country of origin. HRA must be signed on front page so that LA can conduct assessment and lawfully notify Home office that family have requested support (use template document and send by secure email). May need short term temporary emergency support pending the outcome of the HRA.

The Single assessment must focus on the child’s best interest in returning to parents’ Country of Origin and identify any practical and legal barriers to travel.

European Economic Area Nationals (and People with Refugee Status from EEA country)

Lead assessment is Human Rights Assessment. Short term support pending return to Country of Origin, or short term support to overcome current crisis may be required.

Lawfully present, has right to work and in certain cases the right to receive benefits Key question is: Are they exercising Treaty Rights? If not, then the HRA needs to test whether it would be a breach of Human Rights if they were to return to Country of origin, and if there are any barriers currently preventing return e.g. lack of travel documents.

If they are destitute then time limited support may be necessary until crisis situation is resolved. They are not eligible for Temporary Accommodation therefore Childrens Services may need to plan for longer term affordable Housing solutions for the family. If EU nationals are exercising EU Treaty Rights and it is concluded expecting them to return would be a breach of those Treaty Rights, then they have the right to rent they may need support in finding affordable accommodation within the private rented sector.

If there are no legal or practical barriers to return to the EU Country of Origin where the family would have access to public funds then the LA’s refusal of support does not constitute a breach of Human Rights.
Home Office Voluntary Departure Service – Operational from 1 January 2016

The Home Office Voluntary Departure service provides practical support and assistance for those who have no right to reside in the UK, and who want to return to their country of origin.

The Voluntary Departure Service can be contacted by:

Telephone: 0300 004 0202 (Monday – Friday between 09.00 and 17.30)
Fax: 0870 336 9544
Web www.gov.uk/return-home-voluntarily

Assisted Departures

The new service includes the provision of additional assistance to those who need it – previously this level of support was accessed through the external AVR programme. The service delivered by the VDS will continue to offer a dignified return for families and for those individuals with the most complex needs, with a focus on those identified as vulnerable.

Applicants for additional support have up to 3 months to prepare for their return home. They travel home to their town or village as a regular passenger.

The service continues to provide up to £2,000 in reintegration support for those who are eligible; this can pay for in-country business set up, temporary accommodation, training and education for children.
Notification of Family being supported by local authority caught by Schedule 3 with no recourse to public funds

Social workers supporting NRPF Families who are subject to immigration control but have no leave to remain and caught by schedule 3 of the Nationality Immigration and Asylum Act 2002, must notify the Home office that the family are receiving financial support and accommodation (including emergency temporary support pending the outcome of the Assessments) from the local authority.

Once the Front page of the Human Rights Assessment has been completed, using the wording below as a template, send email to: ICEWestMidlands@homeoffice.gsi.gov.uk

Re: All family members Full NAME, Home Office reference number and DOBs, Family’s previous address

This email has been sent to notify you that the above named family became known to Sandwell Children’s Services on DATE and support (financial assistance and accommodation) has been provided SINCE……

Sandwell Children’s Services is providing NAMEs with accommodation at the at Full Address . SMBC is also providing financial support under S17 Children Act 1989 and NAME receives £? Amount subsistence payment from the local authority . This is because NAME has requested support from local authority by presenting as Destitute and having No Recourse to Public Funds and NAME is unable to support and provide for her children while in the UK.
Template - Temporary Emergency Support without Prejudice pending the outcome of the Human Rights Assessment. SIGNED PRIOR TO PROVIDING SUPPORT

To <Family names> My Ref:
Your Ref:
Please ask for:
Tel No:
Date:

Dear <Name of Main applicant >

Re: <Family names, Home Office Reference Number and D.o.B. >

<name> became known to Sandwell Children Services on <date>.

Sandwell Children Services is providing <client name, home office reference number and date of birth of all children> with temporary emergency accommodation and (only include if accommodation is actually being provided) financial support of insert weekly amount under S17 Children Act 1989 from <date> at <Full address where accommodation is being provided> as an emergency temporary measure without prejudice pending the outcome of a Human Rights Assessment. This is because <parent’s name> has requested support from Sandwell Children’s Services by claiming to be destitute and has No Recourse to Public Funds. <parent’s name> is stating that she is unable to support and provide for <Name of son/daughter>. If the assessments concludes that withholding support would not be a breach of <Family names, d.o.b.s > Human Rights, then this support will be terminated within 24 hours of providing the completed Human Rights Assessment to the family.

{Name>
Social Care Assistant/Social Worker

I confirm I understand the content of this letter and agree to provide full and accurate information to Sandwell MBC in order for assessments to be completed.

<Adult Applicant: Name >  < Date>

Name of Interpreter............... Language used to communicate.......................
Sample letter terminating support following grant of indefinite leave to remain (not for those granted Limited Leave with Recourse to Public Funds)

To <Family names>

My Ref:

Your Ref:

Please ask for:

Tel No:

Date:

Dear Name
We are writing to inform you that Sandwell Metropolitan Borough Council Children’s Services is terminating support to you and your family. We have been notified that you have been granted leave to remain with recourse to public funds by the Home Office.

Financial support (including accommodation) will cease to you and your family 14 days from the date of this letter by .............. (date). Sandwell Metropolitan Borough Council Housing Options service will assist you to seek alternative accommodation if necessary. You will also need to register with Job Centre for mainstream benefits.

You must contact Sandwell Housing Options on 0121 569 6000 option 3, explaining that you have been granted leave to remain and your NRPF support from Children’s Services will stop on ..........

Housing Options will give you an appointment within 5 days to discuss your support and housing needs, and sign post you to Job Centre Plus and SMBC Welfare Rights Team to get assistance with getting National Insurance Number. They may refer you to Supporting People Service if they think this is necessary.

Please contact ............if you have any queries.

Yours sincerely

{Name>
Social Care Assistant/Social Worker