

Briefing on: No Recourse to Public Funds and Accommodation: The Reality People Face

Produced as background reading for the registered members of the APPG on No Recourse to Public Funds and the APPG on Temporary Accommodation ahead of the 23 of November 2022 panel discussion.

Background

People subject to no recourse to public funds (NRPF) are prohibited from accessing mainstream benefits. They are also ineligible for homelessness support; interim accommodation; temporary housing; and the allocation of social housing, such as council and housing association properties. Victims of domestic violence with NRPF often struggle to access refuge spaces as refuge beds are generally paid for by Universal Credit, which is a public fund. As a result, many families with NRPF are at risk of homelessness without any statutory regulations to protect them when accessing support and accommodation. There is no mandatory duty¹ to provide interim accommodation for families with children who are subject to NRPF.

Some people with NRPF are entitled to accommodation and financial support from local authority social care services. This includes families with children who are 'in need' under section 17 of the Children Act 1989 (CA) and adults who require assistance under the Care Act

¹ There is no equivalent of s188 Housing Act 1996, which sets out an interim duty to secure accommodation where enquiries are being made into a homeless application ('the s. 188 duty'). The s. 188 duty arises where a local authority has reason to believe that an applicant may be homeless, eligible for assistance and have a priority need.

2014. Accommodation can be provided to meet assessed needs, even if the applicants have no recourse to public funds.

However, the provision of accommodation from social care services is not regulated by the same or similar statutory guidance as mainstream homelessness support. Consequently families are often refused interim accommodation in the first instance and housed in inadequate accommodation for long periods of time. The standard of the accommodation is unregulated and often of poor quality, resulting in health inequalities and poor outcomes for children and people with care needs. The additional pressures of austerity and cuts to local authority budgets, coupled with rising rents and inflation make it extremely difficult for some local authorities to provide adequate housing.

The devastating and avoidable death of 2 year old Awaab Ishak due to damp and mould in his home has highlighted the urgent need for enforceable standards of suitability in accommodation being provided to families in section 17 and temporary accommodation generally.

Interim accommodation under Section 17 of the Children Act 1989

Under section 17 of the Children Act 1989, social services have a general duty to safeguard and promote the welfare of children 'in need' in their area. This means that section 17 CA can be used to assist children and provide accommodation for the whole family. The current statutory guidance relating to this is the "Working Together to Safeguard Children" guidance 2018, which provides that the purpose of an assessment is to gather information about a child to quickly decide whether the child is 'in need', stating that the provision of support should not be delayed². The guidance is the only reference when advocating for interim accommodation to be provided for a family, pending the outcome of an assessment. The NRPF Network, which represents local authorities, has also produced guidance for local authorities on the provision of interim support under section 17, but this is not binding³.

The lack of clear guidance results in many local authorities refusing to provide support to families until an assessment has been completed, even if the family is homeless in the interim.

² Paragraph 52 "Working Together to Safeguard Children" 2018
(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942454/Working_together_to_safeguard_children_inter_agency_guidance.pdf)

³ 'Practice Guidance for Local Authorities - Assessing and Supporting Children & Families who have No Recourse to Public Funds' April 2018
(<https://guidance.nrpfnetwork.org.uk/reader/practice-guidance-families/>)

Suitability of accommodation provided under s17 Children's Act 1989

Section 17 accommodation is generally provided on a no-choice basis. It is routinely of extremely poor quality. Families can experience a multitude of problems, such as overcrowding; lack of space; disrepair; damp and mould; lack of cooking facilities; as well as sharing of toilets and bathrooms with other households. This often unregulated and inadequate accommodation can have long lasting effects on families and children. Reported issues with accommodation are commonly not rectified by local authorities or private landlords. Families report feeling that s.17 accommodation and the treatment they receive from social services is degrading, belittling and leaves children feeling confused, isolated and scared. Local authorities often pay high rents to private landlords who fail to take action to improve the properties. Councils are unable to use their housing stock to support families with no recourse to public funds as this is expressly forbidden by their immigration condition.

Families provided with accommodation under the Children Act often live long-term in hotels, hostels and houses of multiple occupation (HMOs). A lack of cooking space and facilities mean children can be left without adequate nutrition as their parents are unable to cook for them. Families are often forced to rely on expensive and unhealthy takeaway food options. For parents with children with food allergies this is particularly difficult.

Families are often accommodated in hotels or HMOs which also house adults with care and support needs, and children can often be exposed to threatening or anti-social behaviour from other residents.

The lack of private toilet facilities means families with children and young girls find themselves sharing these facilities with strangers unknown to the family. Parents may have to take all their children to shared bathrooms each time anyone needs to use the toilet to avoid leaving young children unsupervised.

The accommodation can often be far away from children's schools and connections. However, as accommodation is often provided on a temporary basis, families do not want to change schools or interrupt the stability that school creates. As a result, families often travel several hours each day, which is exhausting for children and has a detrimental impact on education.

Lack of guidance

There is no statutory guidance or requirement that the property provided under Children Act is “suitable” for the family, so any challenge is restricted to the adequacy of support, and rationality grounds. As described above, the provision of accommodation is often inadequate.

The statutory guidance on the suitability of certain types of accommodation in the context of discharging homelessness duties under the Housing Act 1996⁴ and the Homelessness Code of Guidance⁵, does not directly apply to decisions relating to the accommodation provided to NRPF families under s17 CA. The Homelessness Code of Guidance 2002, states that bed and breakfast accommodation is not suitable for families and must be used only as a last resort and for no more than six weeks. However, this six-week limit does not apply where accommodation is provided under the CA. As a result it is not uncommon to see families stuck in hotel accommodation for more than a year at a time.

The lack of statutory guidance leaves children vulnerable to placement in unsuitable accommodation with little legal recourse to challenge the accommodation according to set standards. The use of unlicensed houses of multiple occupation (HMOs)⁶ to accommodate families under the Children Act is deeply worrying, and although unlawful, the lack of clear enforceable standards is a contributing factor to the often extremely poor, dangerous, and unsuitable accommodation provided under section 17. The inadequate accommodation can have long-lasting negative impacts on children and their families. Due to the lack of proper enforceable standards and guidance in this area, the only redress for families is judicial review; which is an expensive, lengthy and often inaccessible remedy.

Temporary accommodation

For those with recourse to public funds, temporary accommodation has become a long-term housing solution for too many vulnerable homeless households in England. Longer stays in this insecure, often poor-quality, accommodation can result in serious impact on the health and wellbeing of residents.

For families with children, this can lead to long-term physical and mental health issues, disengagement from education and diminished future opportunities. As well as more immediate

⁴ <https://www.legislation.gov.uk/ukpga/1996/52/contents>

⁵ <https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities>

⁶ Project 17 has encountered this unlawful practice multiple times through casework. Landlords in these circumstances do not abide by the licensing and standards regime under Part 2 of the Housing Act 2004 which is designed to regulate room sizes in order to prevent overcrowding

impacts such as serious safeguarding concerns, inability to access school or register with nearby primary healthcare services. For single homeless individuals, it also leads to worsening mental and physical health, often coupled with trauma and a further entrenchment in homelessness.

Currently there are 95,060 households, including 119,840 children, living in temporary accommodation. Although sufficient affordable housing would be a game-changer, we cannot wait to take action until more housing is built. We need immediate action to improve experiences in temporary accommodation in order to improve the health, wellbeing and outlook for all those currently living in this housing.

Asks:

The APPG for Households in Temporary Accommodation is calling for TA to be included in the new Social Housing Regulation Bill to ensure that all properties used to accommodate homeless households are regulated and minimum standard enforced.

The APPG on No Recourse to Public Funds is calling for the introduction of statutory guidance on accommodation standards for those people with no recourse to public funds supported under the Children Act 1989 and the Care Act 2014, in line with existing standards for homelessness support.