

CITY OF
WOLVERHAMPTON
COUNCIL

Response to Request for Information

Reference FOI 003662
Date 12 June 2019

Families with No Recourse to Public Funds (NPF)

Request:

We write to request the following information under the FOIA in relation to assessments of, and the provision of support to, families with No Recourse to Public Funds ("NRPF") seeking access to support under section 17 of the Children Act 1989. If you require any further clarification as to our request, kindly inform us promptly and we would be happy to assist.

Contact details

1. Does your local authority have a separate team dealing with requests for support under section 17 Children Act 1989, for example an 'NRPF team'
[Yes, a NRPF Team was established in January 2019. All children and families are screened via the MASH.](#)
2. If yes, please provide contact details for this team (telephone and email)
[MASH: Civic Centre, St.Peter's Square, City Centre, WV1 1RT](#)
[Strengthening Families: No Recourse to Public Funds Team, Civic Centre, St.Peter's Square, City Centre, WV1 1RT](#)
3. If no, please confirm where referrals for such support should be directed to and the contact details (telephone and email)
[N/A](#)
4. Please also provide contact details for the relevant legal team supporting children's services or dedicated NRPF team
[Legal Services, Civic Centre, St.Peter's Square, City Centre, WV1 1RT](#)

Policies

5. Do you have any guidance or policy documents or other such written material in respect of undertaking assessments and providing support pursuant to section 17 of the Children Act 1989 to families with no recourse to public funds (including documents specific to this issue, or of more general application but covering this issue)?
[Please see information attached.](#)
6. If yes, please provide us with a copy.
[Please see information attached.](#)

Subsistence

7. Do you pay a set rate of financial subsistence to families with no recourse to public funds?
[Please see information attached.](#)
8. If yes, what is paid?
[Please see information attached.](#)
9. How has that figure been reached? E.g. is it by reference to Child Benefit rates, asylum support (section 4 or section 95 rates)?
[Asylum Support Rate](#)
10. When was this level set?
[April 2018](#)
11. Who took this decision?
[Cabinet](#)
12. Please provide copies of any reports, minutes, decision documents detailing the setting of this rate.
[With reference to question 12, your request for information has now been considered and the City of Wolverhampton Council is not obliged to supply the information you requested for the reasons set out below.](#)

[Section 17 of the Freedom of Information Act 2000 requires City of Wolverhampton Council, when refusing to provide such information \(because the information is exempt\) to provide you, the applicant with a notice which:](#)

- [\(a\) states the fact,](#)
- [\(b\) specifies the exemption in question and](#)
- [\(c\) states \(if that would not otherwise be apparent\) why the exemption applies:](#)

[In relation to your particular request, the following exemption applies:](#)

[Section 21 – Information reasonably accessible to the applicant by other means](#)

[We can confirm that the department holds information that you have asked for in relation to the above. However, the information is exempt under section 21 of the FOI Act because it is reasonably accessible to you, and I am pleased to inform you that you can access it on our website via the following link:](#)

<https://wolverhampton.moderngov.co.uk/ieDecisionDetails.aspx?AllId=44695>

[Section 21\(1\) of the Freedom of Information Act exempts disclosure of information that is reasonably accessible by other means, and the terms of the exemption mean that we do not have to consider whether or not it would be in the public interest for you to have the information.](#)

You can find out more about Section 21 by reading the extract from the Act, available at: <http://www.legislation.gov.uk/ukpga/2000/36/section/21>

13. If you do not pay a set rate of financial subsistence to families with no recourse to public funds, do you have any guidelines relating to rates of financial support?
14. If yes, please provide a copy.
[Please see information attached.](#)

Statistical information

15. How many referrals for section 17 support for families with NRPF were received in 2018? Please take 'referrals' to include both self-presentations and referrals from other agencies or organisations.
[26](#)
16. How many assessments were undertaken by the NRPF team in 2018?
[There was no NRPF team identified in 2018.](#)
17. In how many of these cases was accommodation and/or subsistence support given?
[26](#)

People

No Recourse to Public Funds (NRPF)

Guidance

Purpose:

To outline how we assess and support children, young people and families and adults who have no recourse to public funds to ensure their safety and wellbeing

This document must be read in conjunction with the National NRPF Practice Guidance

<http://guidance.nrpfnetwork.org.uk/wp-content/uploads/2016/10/practice-guidance-families.pdf>

<http://www.nrpfnetwork.org.uk/Documents/Practice-Guidance-Adults-England.pdf>

Approved by – Director of Children’s Services

Published – 19.03.18

Review Date – March 2019

REVIEW LOG			
Date	Version	Comments	Approved by
	1.0	Memo – previously circulated by JW.	
2017/2018	1.1	Guidance produced.	Director of Children's Services
This system of recording review dates is designed to ensure staff at all times use the correct version of the up to date Policy.			

CONSULTATION
<p>The following people have been consulted on this policy:</p> <ul style="list-style-type: none"> • NRPF Policy Working Group <ul style="list-style-type: none"> • Head of Service Community Financial Support • Head of Service Child Protection • Head of Service Early Intervention • New Community Strategic Lead Consultant • Welfare Rights Officer - CYP • Legal Services • People Leadership Team

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1.0 INTRODUCTION

This policy and procedure has been produced to assist practitioners working with children, young people and families and adults to assess the appropriate support and necessary actions they must take where they have no recourse to public funds in Wolverhampton, to ensure that interventions are legally robust, fair and consistent.

This policy and procedure has been split into two sections:

- **Section A** Children and families who have no recourse to public funds
- **Section B** Adults who have no recourse to public funds

1.1 Who has 'no resource to public funds' NRPF?

No recourse to public funds (NRPF) applies to migrants who are 'subject to immigration control' and as a result of this have no entitlement to certain welfare benefits, local authority housing and homelessness assistance.

The definition of 'subject to immigration control' is set out in section 115 (9) Immigration and Asylum Act 1999, and includes non-EEA nationals who:

- require leave to enter or remain in the UK but do not have it;
- have leave to enter or remain in the UK which is subject to a condition that they do not have recourse to public funds; or
- have leave to enter or remain in the UK given as a result of a maintenance undertaking (for example, adult dependant relatives of people with settled status).

If an adult has immigration permission with NRPF, the statement 'no public funds' will be written on their immigration documentation. If there is no such statement, then it should be assumed that they do have access to public funds.

Additionally, there are other groups of migrants that may request subsistence and/or accommodation from the local authority under community care provisions because they are unable to access welfare benefits and local authority housing, and therefore require NRPF services:

- European Economic Area (EEA) nationals are not subject to immigration control but may not be able to access certain welfare benefits and homelessness assistance if they fail the right to reside and/or habitual residence tests, which are applied when determining eligibility for these services.

- Asylum seekers and refused asylum seekers with care needs, regardless of whether they are eligible to receive section 4 or section 95 asylum support. See appendix F for the support that is provided under section 4 or section 95 asylum support.

EEA nationals do not have the no recourse to public funds (NRPF) condition imposed on them. However, may be prevented from claiming welfare benefits, homelessness assistance or getting a housing allocation from the council when they do not meet the eligibility criteria for these services.

Eligibility for welfare benefits and housing for EEA nationals and their family members generally relates to the basis on which the EEA national is living in the UK, for example, as a worker or jobseeker. This is often referred to as having the 'right to reside' or being a 'qualified person' or 'exercising a treaty right'.

Establishing whether an EEA national has the right to reside in the UK can be complex, as is establishing benefit eligibility. Restrictions to benefits include:

- Three month residence requirement for income-based jobseeker's allowance, child benefit & child tax credits
- Minimum earnings threshold to determine whether a person is a 'worker' when claiming housing benefit, income-based jobseeker's allowance, child benefit, child tax credit
- EEA 'jobseekers' are unable to claim housing benefit

1.2 Who are people with No Recourse to Public Funds

People who have no recourse to public funds are those who have no legal entitlement to financial support or assistance from the state because of restrictions to their immigration status in the UK. They may self-refer for support or are referred from other agencies.

Children's Social Care are likely to be approached by families with children or by children or young people who are unaccompanied (see UASC procedure) or separated from their parent or legal/customary caregiver. Adult Social Care are likely to be approached by adults who are destitute.

These people may be:

- a. People with refugee status from another European Economic Area (EEA) country other than the UK or are dependents of people in the UK who have refugee status from a EEA country other than the UK;
- b. People who are citizens of an EEA country other than the UK or are the dependents of people who are citizens of an EEA country other than the UK;
- c. Failed asylum seekers who have exhausted their appeal rights and who have failed to co-operate with removal directions;
- d. Persons who are unlawfully present in the UK who are not asylum-seekers, for example, people who have overstayed their leave to remain, people who have been trafficked into the country, people who entered the country illegally;
- e. People who have been granted limited leave to remain on the condition that they have no recourse to public funds, for example, people who are spouses/unmarried partners of persons with British citizenship or indefinite leave to remain, or people who have successfully applied to the Home Office under the Zambrano rule (see page 9 for definition);
- f. People who have been granted discretionary leave to remain, for example, 'separated' children or young people from non-suspensive appeal countries whom the Home Office does not grant either refugee status or humanitarian protection, and are given 30 months' leave to remain or until they turn 17.5 years old, whichever is shorter;
- g. People on student visas who are unable to work and have no recourse to public funds.

(This list is by no means exhaustive and provides examples of the categories of people who may present to as destitute and have no recourse to public funds).

1.3 What are 'public funds'?

Section 115 Immigration and Asylum Act 1999 excludes "a person subject to immigration control" from being entitled to receive the following welfare benefits:

Attendance allowance	Discretionary welfare payment made by a local authority
Carer's allowance	Domestic rate relief (Northern Ireland)
Child benefit	Housing benefit
Child tax credit	Income-based jobseeker's allowance
Council tax benefit	Income-related employment & support allowance
Council tax reduction	
Disability living allowance	

Income support	State pension credit
Personal independence payment	Universal credit
Severe disablement allowance	Working tax credit
Social fund payment	

Section 117 Immigration and Asylum Act 1999 excludes “a person subject to immigration control” from being entitled to access an allocation of local authority housing and local authority homelessness assistance.

Nationals of a country with a reciprocal arrangement with the UK may be able to claim certain benefits that are public funds under section 115 Immigration Asylum Act 1999 despite having the NRPF condition.

The following services are not classed as public funds under section 115 Immigration Asylum Act 1999, and therefore adults subject to immigration control may be able to access the following, if they satisfy any relevant eligibility criteria (for which immigration status may be relevant):

Social services care and support

NHS treatment

Student grants and loans

Legal aid

Certain work-related benefits including:

Contribution based Jobseeker’s Allowance

Incapacity Benefit

Retirement pension

Widow’s benefit

Bereavement benefit,

Maternity allowance, Guardian’s allowance, Statutory maternity pay

Migrants, who are lawfully present in the UK and have the NRPF condition attached to their immigration permission, should not be discriminated against by way of withholding social services support just because they have NRPF. If the care and support applied for is subject to a means test, then this needs to be applied as it would be to any other person who is accessing care and support.

1.4 Additional considerations for Children and Families with NRPF

Local authorities apply statutory duties and powers in relation to safeguarding the welfare of children in households where the parents have no recourse to public funds (NRPF) and require accommodation and/or financial assistance.

Such assistance can only be provided to families under section 17 of the Children Act (CA) 1989, where there is a child in need and the local authority determines that it must use its power to provide accommodation and/or financial support.

When assessing the needs of a child, practitioners must refer to and follow the Department for Education's statutory guidance, [Working Together To Safeguard Children, 2015](#).

This practice guidance addresses the additional considerations that need to be made when determining whether assistance under section 17 can be provided to a NRPF family, as the parent's immigration status will affect what support options may be available:

- Parents with NRPF cannot access welfare benefits, homelessness assistance, social housing and, in some cases, employment.
- Exclusions to section 17 support apply to some parents, which mean that the local authority may only provide accommodation and financial support to such families when this is necessary to prevent a breach of the family's human rights or European Treaty rights, usually when there is a legal or practical reason why the family cannot return to the parent's country of origin.

Assistance provided by local authorities under section 17 has been recognised by the government and courts as being essential safety net support to protect the most vulnerable people from destitution. It is therefore necessary for thorough assessments to be undertaken so that support is provided to eligible families under section 17, and that proactive steps are taken to resolve supported cases.

No Recourse to Public Funds (NRPF) applies to a person who is subject to immigration control in the UK and has no entitlement to welfare benefits or public housing. These restrictions are set out in Section 115 Immigration and Asylum Act 1999 (IAA).

There are two types of individual with NRPF. Those who have NRPF as a condition of entry or stay in the UK – who can work or who has come to

study etc; or those with NRPF who are unlawfully present in the UK e.g. refused asylum seekers, visa overstayers etc who cannot work legally.

Groups of people who have NRPF include:

- **Refused asylum seeker**
Someone whose asylum claim and appeal to the First Tier Tribunal Immigration and Asylum Chamber has been refused and has become All-Appeal Rights Exhausted (ARE)
- **Visa overstayer**
An overstayer is a person who was allowed into the UK for a limited period but who has remained longer than the time allowed without permission from the Home Office or under the immigration rules.
- **Some EEA nationals**
- **Zambrano carers**
Zambrano carers are most commonly third country nationals (nationals of non-EEA countries) who are caring for children who are UK Nationals. Zambrano carers are not subject to immigration control. They do not require leave to enter or remain in the UK. If they have a formal application to the Home Office, they will usually have a letter recognising this and that they have a right to work. For more information see Public Law Project – Social Services Support for Destitute Migrant Families.
- **Spousal migrants who may be victims of domestic violence**
(Individuals who are here on spousal visa will have NRPF condition attached for this visa.)

All local authorities in the UK have a duty to advise people who have NRPF on their personal circumstances, whilst Councils can provide care services including accommodation and financial support if the eligibility criteria are met.

PART A – CHILDREN & YOUNG PEOPLE

Assessing and supporting children, young people & families who have NRPF should be assessed and supported in accordance with the latest version of the following:

<http://guidance.nrpfnetwork.org.uk/reader/practice-guidance-families/>

in addition to this localised procedure.

2.0 REFERRAL/ACCESS TO SUPPORT

Where children, young people and families feel they need or require support they can self-refer to our Multi Agency Safeguarding Hub (MASH).

Professionals can also refer in via the Multi Agency Referral Form to this route.

Services provided will be dependent on an assessment and any needs identified. Once a referral has been accepted a Social Worker Unit Manager within the MASH will need to consider if there is evidence to suggest that the child is in need or in need of protection under the Children Act (CA) 1989.

If an adult has care and support needs in their own right then Adult Services within the MASH should review the referral and an assessment should be undertaken for them in their own right.

Support will be provided at either an Early Help or Social Care level based on the relevant assessment.

Where the referral meets an Early Intervention threshold the following will apply:

- An Early Help Assessment will be undertaken

Where the Early Help Assessment highlights that a family potentially has NRPF and it is felt the child of the family is in need and those needs cannot be supported under an Early Help Assessment, the case will be referred to Children's Social Care. This decision will be made by the Locality Social Work Unit Manager and Partnership Manager.

Where the Early Help Assessment concludes that the family can be managed without the need to refer to Social Care, support for the family can be provided via the Family Support Budget.

Where the referral meets a Social Care threshold the following will apply:

- A Social Work Assessment will be undertaken.

The Social Work Assessment should establish the following; is the child in need and what support networks are available as an alternative to s17 CA. The Social Worker must establish whether the family's needs can be met by any other means, whether that is access to public funds, for European Economic Area (EEA) national families granted asylum by another EEA state, support under the Children Act (CA) 1989 to such families can only

be provided if it is assessed, and so a Human Rights Assessment must be completed.

Where the Social Work Assessment highlights the family has NRPF the following fundamental steps will be undertaken in assessing whether Wolverhampton has a duty to support a family:

1. Conduct an eligibility test;
2. Carry out an assessment(s) of need, and
3. Undertake a Human Rights Assessment

Depending on the outcome of the initial Social Work Assessment we may decide to provide accommodation/support the family whilst the full assessment is being undertaken. This decision will be made by the Social Work Unit Manager as a temporary decision pending the outcome of the full Social Work assessment.

Some cases may identify NRPF later on in the assessment process e.g. where referrals have come in for other reasons e.g. domestic violence. Regardless of how the Local Authority is informed of a potential NRPF the family will be assessed in the same way as indicated above.

Families with NRPF presenting as destitute will commonly seek provision of accommodation costs and subsistence under s17 of the Children Act (CA) 1989.

Where required the assessment should include the Human Rights and Eligibility Assessment to ensure they influence the overall outcome.

2.1 ELIGIBILITY TEST

In order to be eligible for support it is necessary for the family to establish:

1. That their need arose in Wolverhampton (Territorial Responsibility) *(please note that if a child is in need and in our area there is a requirement to conduct an assessment of their needs. We can't assume that a family previously living in another Authority with NRPF but perhaps having some alternative means of support but never having been assessed by that Authority for NRPF grounds should be sent back for assessment)*. See appendix C for Local Connection.
2. That they are destitute;
3. The parents and child's nationality;
4. Their immigration status;

5. If they are asylum seekers eligible for section 95 support under the Immigration and Asylum Act 1999 (we should identify this via Migrant Help) This must be done in tandem with Social Work Assessment, and;
6. If the family is excluded from support by Schedule 3 of the National Immigration and Asylum Act 2002.

Point 5 means that any family with an existing asylum seeking claim must be supported by the Home Office under Section 95 Immigration and Asylum Act 1999 and Wolverhampton cannot provide support to the family under s17 of the Children Act (CA) 1989, as the s95 assistance takes precedence over s17.

For accessing support under s95 of the Immigration and Asylum Act 1999 you should contact the Home Office on: Tel: 0808 800603 (Mon-Fri 8.30am -7pm; Multiple languages available)

Note: if a family with children have failed in their asylum claim then s17 Children Act (CA) 1989 support and subsistence may be given as set out below under the Assessment of Need section.

In establishing the immigration status of the family to determine whether the restrictions to providing s17 CA support applies, check with the UK Border Agency (Home Office), below or for a same day checking service, please contact:

Local Partnerships (West Midlands)
Interventions & Sanctions Directorate, Immigration Enforcement
Mobile number: 07500 579 242

For non-emergency and subsequent checks use the official gateway to obtain an immigration status check by email to:

EvidenceandEnquiry@homeoffice.gsi.gov.uk

Ensure all emails include the applicant's full name, date of birth, nationality and address. Also include the applicant's passport number, biometric residence permit number, alias and/or address in their Country of origin. If a reference number is provided on documentation this must also be provided.

See guidance Appendix B on eligibility.

Once Eligibility is satisfied complete a Human Rights Assessment as part of the Social Work Assessment process.

Because of the 'no recourse' status of the parents, the allocated social worker will also have to check the following:

- Key documents
- Local Connection

These are all outlined in Appendix C.

2.2 COMPLETION OF THE ASSESSMENT

If the family appears to be destitute, the local authority does in certain circumstances as described above, have the power to provide temporary accommodation and financial support pending completion of the Social Work Assessment and/or the human rights assessment. Any decision to provide urgent temporary accommodation or financial subsistence pending assessment must be agreed at the Resource Panel or Head of Service in an emergency.

Social workers must write to the applicant informing them that accommodation/subsistence is being provided on a temporary basis only, and on a without prejudice basis, pending completion of assessments. The letter should also state that this support is subject to review and may be withdrawn at any time. Any accommodation provided should be sufficient to ensure the child/children's safety.

The amount of any financial support will be determined on a case by case basis dependent on the presenting financial circumstances of each family.

Where the family are not entitled to support and have friends or family willing to support them, they should be advised, accordingly, to seek their support. At the point that it is established that accommodation is required for the family, the Local Authority's Housing Department will be contacted by the Social Worker to see if they can assist and/or advise in relation to suitable temporary accommodation

When the assessment is completed, the social worker should discuss the outcome of the assessment with their line manager. The potential outcomes could be:

- To accept the family's application for support or agree to continue support pending a decision from the Home Office in relation to their immigration status;
- To reject the family's application for support or terminate any existing support;
- To request further evidence before making a decision.

2.3 HUMAN RIGHTS ASSESSMENT

The Human Rights Assessment from the outset needs to consider whether there are any legal or practical obstacles to the family returning to their Country of origin.

Case Law has cited that if there are no legal or practical obstacles to return to the Country of origin, the denial of support by the Local Authority does not constitute a breach of human rights, although Article 3, 8 and 6 of the Human Rights Act will need to be considered:

- Article 3 *“No one shall be subjected to torture or inhumane or degrading treatment or punishment”*

If it has not already been done, an application should be made by the family to the Home Office under Article 3, to change their status to Asylum Seekers. They will then be entitled to support by the Home Office. Legal advice should be sought at this time by the Social Worker.

- Article 8: *‘Everyone has a right to respect for his private and family life, his home and his correspondence’*

Article 8 applications to the Court for leave to remain in the UK as the carer/parent of a British child may also be explored in some cases by individuals, again they need to obtain independent legal advice on this. Similarly the child in some cases may be eligible to apply for British Citizenship. Where domestic violence is evident legal advice must be sought.

- Article 6: *“Right to a fair and public hearing”*

Children/parents involved in Care Proceedings will likely remain in the UK until the conclusion of those proceedings.

The Human Rights Assessment provides an opportunity to explore all of the options of a family or an individual excluded from Children’s services support.

A Human Rights Assessment must ask all the relevant questions where, a family excluded by Schedule 3 National Immigration and Asylum Act 2002, is requesting s17 CA support. These are:

- i. Has the family/individual failed to comply with removal directions
- ii. Whether there would be any Article 3, 8 or 6 HRA breaches of Community Treaty Rights if the family were to return to the parents’ country of origin.

A conclusion must be reached as to whether the child would cease to be a child in need on return to the parent’s country of origin. The assessment must also balance the views expressed by the parent and the information that is known to the Local Authority about the parent’s Country of origin.

This information can be obtained from a number of sources, including the Home Office country of origin information reports.

The Human Rights Assessment must conclude with the options Wolverhampton will offer the family in order to prevent a breach of human rights/community treaty rights.

- A. Provide temporary s17 1CA support in the UK and advise the family to seek independent legal advice from an Immigration Solicitor (which is not funded by the Local Authority); or
- B. Offer assistance to the family in returning to their Country of origin. Where the parent and child have different nationalities, and the factors which need to be taken into consideration if the child has lived all their life in the UK and perhaps are covered under the Zambrano rule or possible British Citizen route.

For more information on the Human Rights Assessment see NRPF network Practice Guidance for Local Authorities (England). Appendix A outlines the template for an Assessment within Wolverhampton.

Legal assistance should be sought when considering to return a family home or before any final decision is made. Supporting a family to return home or to make use of the Home Office returns programme may be an option for some cases.

The Refugee and Migrant Centre is piloting a service for families with no recourse to public funds. The aim of the service is to support these families to obtain an immigration decision in a timely manner and through doing this identify any efficiencies which may be implemented within the processes involved. The pilot service will run until December 2017 and will provide information that will be used to determine what support should be provided in the future.

A Child in Need Plan will follow if services are being provided and a Child in Need Review must be conducted every 3 months (or earlier should it become clear that the family's immigration status has changed), to ensure there is continued eligibility to resources.

While resident, and whether receiving public funds or not, a reassessment must be carried out at least annually. Any changes in the circumstances of the individual must be notified to the allocated Social Worker.

3.0 DOMESTIC VIOLENCE AND ACCESS TO PUBLIC FUNDS

If the family is fleeing domestic violence and the incident occurred before their leave to remain has expired there is an exemption allowing recourse to public funds, providing the following criteria are met:

- the person entered the UK or was given leave to remain in the UK as a spouse, civil partner, unmarried or same sex partner of a British Citizen or someone such as an EEA national being present and settled in the UK; and
- their relationship has broken down due to domestic violence; and
- they do not have the means to access accommodation or to support themselves and need financial help; and
- they are going to make a claim to stay permanently in the UK under the Domestic Violence Immigration Rule (Settlement DV)

If all four criteria apply, an application should be made by the family to the UK Border Agency for a change in status. Individuals needs to be supported by a suitably qualified immigration adviser. Should the UKBA consider that the person is in a position to apply for assistance, they will be given 3 months limited leave to remain which will also allow access to women's refuges and to apply for benefits. A form, entitled Protecting Victims of Domestic Violence (DDV) is available for this application at:

www.ukba.homeoffice.gov.uk and it can be returned to the UKBA via email to Domestic.Violence@homeoffice.gsi.gov.uk

For more information on the domestic violence concession from the NRPF network:-

<http://www.nrpfnetwork.org.uk/guidance/Documents/DDV%20Concession%20Factsheet.pdf>

<https://www.gov.uk/government/publications/application-for-benefits-for-visa-holder-domestic-violence>

The parent should be assisted to make this application if one has not been made.

Where an individual is subject to domestic violence a safer lives risk assessment must be completed. In accordance with the domestic violence pathway a referral, where appropriate, should also be made to MARAC.

An application to remain permanently in the UK also needs to be made during this period via this link, whether or not financial support is required.

4.0 FINANCIAL SUPPORT

See appendix D.

5.0 SEEKING LEGAL ADVICE

It is advisable that the social worker seeks legal advice at the earliest opportunity to ensure action is in line with legal requirements.

In the event that the parents seek to challenge any decision made by the Local Authority, the Legal Department must be put on notice without delay and the Head of Service notified.

Where correspondence has been received from the parent's representative or a legal representative indicating the parent's intention to pursue Judicial Review against the Local Authority, the Legal Department must be notified immediately and copies of any documentation received forwarded to them by way of e-mail for consideration. The Head of Service must be included in this e-mail.

We must ensure that individuals approaching us have legal representation working to resolve their immigration case/status if they have a case.

6.0 WHERE THE PARENT HAS CARE NEEDS THAT REQUIRE AN ASSESSMENT

Where the parent has care needs that require an assessment, a referral will be made to Adult Services and the Children's allocated Social Worker will liaise with the worker undertaking the assessment to ensure a coordinated response.

7.0 DECISION MAKING

It is the responsibility of the Social Work Unit Manager to authorise the Human Rights Assessment and have oversight of the assessment process.

8.0 PROCESS FOR PROVIDING ACCOMMODATION TO NRPF FAMILIES

8.1 Accommodation Provision during the Assessment period

If the family (with child(ren) under the of 18 years) have no immediate accommodation or are at risk of impending homelessness, it may be necessary to arrange for short term emergency bed and breakfast provision. This must be a last resort and brokered through the [rent with confidence scheme](#). Therefore, the Social Worker must seek

authorisation from the Social Work Unit Manager and ensure that the assessment is completed speedily, and that the tenure of emergency accommodation is brief.

8.2 Process to follow where accommodation is to be provided

1. Assessment and Plan to outline accommodation needs and timescale/review. This must be agreed by the Social Work Unit Manager.
2. Accommodation request to be made with the Homeless Strategy & External Relationships Manager clearly outlining the requirements and proposed timescale the accommodation is required for.
3. Accommodation search and liaison to commence.
4. Where external resources are required the Social Worker/Unit Manager will seek authorisation from the Homeless Strategy & External Relationships Manager for the property proposed. Once written authorisation from the Homeless Strategy & External Relationships Manager has been gained, the Social Worker/Unit Manager or administration officer must attach the email authorisation to the requisition, including pricing quote from the provider, before final approval from Procurement.

8.3 Process to be followed where financial support is required

1. Assessment to clearly outline financial support that is required. Where support is higher than the rate of income support the following approval should take place:
2. Assessment to be reviewed and additional funding agreed by Resource Panel (follow Resource Panel process). Where this is required in an emergency a HoS can approve this.

All cases where ongoing financial support and accommodation is provided will be reviewed as a minimum on a 3-month basis via Resource Panel.

9.0 TERMINATING SUPPORT

1. The decision to terminate support for an ongoing case should be made by the Social Work Unit Manager with Senior Social Work Manager's agreement. This needs to be informed by an up-to-date assessment.
2. The social worker will need to inform the parents if their support is to be terminated. This should be done in an interview, with the use of interpreter if necessary.

3. The social worker should arrange for a letter to be sent to the individuals concerned setting out reasons for termination of support giving reasonable notice from when support will terminate. A 28 day notice period will be given from when support will terminate and to advise them to seek legal advice if they disagree with the decision.

If support is refused from the outset it should be in writing setting out the reasons why they are not eligible.

10.0 NRPF FAMILIES FROM OTHER LOCAL AUTHORITIES

On occasion other Local Authorities place NRPF families outside of their own authority due to the accessibility of housing stock; but when families move into Wolverhampton, the placing authority has no duty to inform anyone.

There is no statutory obligation for Other Local Authorities to advise Wolverhampton of children placed in the area but there are occasions when children do come to the attention of Children's services as the placing authority may contact, advising of the need for Early Help support or access to parenting support groups. When the Multi- Agency Safeguarding Hub (MASH) is made aware of a child living in a NRPF household the worker receiving the information should, at a minimum:

- Contact the placing local authority and determine the name and contact details of the allocated social worker.
- Confirm details of household members
- Confirm the date of the family's arrival in the City
- Confirm the school/s attended
- Confirm the date of arrival in the City
- Confirm legal status and their stage in the immigration process
- Confirm if there is a CIN plan in place.
- Request a copy of any assessments relating to the child/ren
- Provide the placing authority of details of the Refuge and Migrant Centre should the family require specialist immigration support
- Contact the school and share details of the child's status and the name of the allocated social worker within the placing authority
- Record the information on Care first as information only.

Where support is being provided by Early Intervention, the information obtained from the placing authority must be added to the Early Intervention record.

Part B – Adult Social Care

11.0 ASSESSING AND SUPPORTING ADULTS WHO HAVE NRPF

11.1 Checking Immigration Status

It is necessary to check the nationality and immigration status of adults requesting assistance in order to be able to apply the correct considerations and assessments. In particular, it must be established whether a person is excluded from support or assistance due to Schedule 3 of the Nationality Immigration and Asylum Act 2002, and whether they have any claims pending with the Home Office.

In all cases, the adult must be asked to provide evidence of their nationality and, if relevant, evidence of their immigration status in the UK.

For EEA nationals evidence of nationality could be in the form of a passport or national identity card.

For nationals from outside of the EEA, local authorities will need to request evidence of their immigration status in the UK. The main groups of non-EEA migrants are:

- asylum seekers with pending asylum claims,
- migrants with leave to enter or remain for a limited period,
- migrants with indefinite leave to enter or remain (also referred to as settlement),
- non-EEA family members of EEA nationals,
- migrants with no immigration permission, for example, illegal entrants, overstayers and refused asylum seekers who have exhausted all appeal rights.

A statutory body can obtain immigration status checks from the Home Office on a case by case basis, by contacting the Home Office's Intervention and Sanctions Directorate (ISD) by email: EvidenceandEnquiry@homeoffice.gsi.gov.uk and completing a form stating why the information is required.

11.2 Immigration and Asylum Act 2002: exclusions from support

The primary reason for checking nationality and immigration status is because local authorities are required to establish whether an adult falls into one of the classes of person ineligible for support and assistance under Part 1 of the Care Act 2014.

This provision is set out under Schedule 3 of the Nationality Immigration Asylum Act 2002, which states that the five classes of person ineligible for support are:

- 1) Persons granted refugee status by another EEA State and their dependants
- 2) EEA nationals and their dependants (but not UK nationals or children)
- 3) Failed asylum seekers who fail to comply with removal directions, and their dependents;
- 4) Persons unlawfully present in the UK. This includes:
 - people who have overstayed their visas,
 - illegal entrants,
 - refused asylum seekers who made their application for asylum in-country i.e. at the Home Office, usually Croydon, rather than at the port of entry (at an airport, seaport or train-port when they first arrive in the UK before passing through immigration control).
- 5) Failed asylum seekers with dependent children who have been certified by the Secretary of State as having failed to take steps to leave the UK voluntarily

Where an adult with NRPF is caught by the restrictions to support, paragraph 3, Schedule 3 Nationality Immigration Asylum Act 2002 requires the local authority to provide care and support if this is necessary for the purpose of avoiding a breach of the adult's human rights, and, in the case of EEA nationals and their family members, if it is necessary to prevent a breach of the adult's rights under the European Community Treaties.

In practice this means that local authorities must undertake a human rights assessment to consider whether, or to what extent, the circumstances are such that the bar on providing support or assistance under Part 1 of the Care Act 2014 should be lifted in order to avoid a breach of human rights or Community treaty rights. This will involve consideration as to whether the adult is freely able to return to their country of origin without there being any breach of their human rights.

Local authorities may undertake needs assessments for adults requiring care and support (under section 9 of the Care Act 2014) and carers (under section 10) and meet urgent needs for care and support whilst undertaking the relevant assessments. In addition, there is no prohibition on a local authority undertaking its general duties with regards to providing information and advice (section 4) or prevention (section 2). It is now clear that there is no prohibition on local authorities undertaking a needs assessment before or alongside a human rights assessment for an adult and/or their carer who falls under one of the excluded categories.

Refusing to provide accommodation to an adult, when this is needed to prevent homelessness whilst the relevant assessments are being undertaken, will result in the adult being forced into destitution and the local authority would be responsible for breaching Article 3 ECHR.

Note: Schedule 3 paragraph 14 Nationality Immigration Asylum Act requires a local authority to inform the Home Office of:

- any person they suspect or know to be unlawfully present in the UK, and
- a refused asylum seeker who has not complied with removal directions.

This duty should be explained to adults upon presentation to the local authority.

11.3 Exception for persons subject to immigration control: needs arising from destitution alone

Section 21 of the Care Act 2014 sets out an exception for persons subject to immigration control:

(1) A local authority may not meet the needs for care and support of an adult to whom section 115 of the Immigration and Asylum Act 1999 (“the 1999 Act”) (exclusion from benefits) applies and whose needs for care and support have arisen solely—

(a) because the adult is destitute, or

(b) because of the physical effects, or anticipated physical effects, of being destitute.

The exclusion only applies to migrants affected by section 115 of the Immigration and Asylum Act 1999 and does not therefore apply to EEA nationals and their family members. However, for needs to be eligible, they must “arise from or are related to a physical or mental impairment or illness” therefore, unless the illness is not directly attributable to destitution, it will also apply to EEA nationals.

11.4 Human Rights Assessment

Schedule 3 Nationality Immigration Asylum Act 2002 prevents local authorities from providing support or assistance under Part 1 of the Care Act 2014 to certain migrants. However, paragraph 3 of Schedule 3 Nationality Immigration Asylum Act 2002 allows a local authority to provide care and support under Part 1 of the Care Act if such support:

“..is necessary for the purpose of avoiding a breach of a person’s Convention rights or Community Treaty rights”.

The Court of Appeal, in the case of *Kimani v LB Lambeth* (2003), found that (at paragraph 49):

“A State owes no duty under the Convention to provide support to foreign nationals who are permitted to enter their territory but who are in a position freely to return home.”

In such cases, local authorities can consider providing the adult with assistance to return to their country of origin.

The local authority must therefore undertake a human rights assessment to establish whether, or to what extent, the circumstances are such that the bar on providing support or assistance under Part 1 of the Care Act 2014 should be lifted in order to avoid a breach of human rights or Community treaty rights. This will involve consideration as to whether the adult is freely able to return to their country of origin without there being any breach of their human rights.

The human rights assessment may be undertaken in conjunction with or after the needs assessment has been concluded.

The human rights assessment must determine:

- Whether the adult can freely return to their country of origin.
- Whether return to country of origin would cause a breach of the adult’s human rights under the European Convention on Human Rights (ECHR).
- Whether return to country of origin would cause a breach of the adult’s rights under European Community treaties (applicable to EEA nationals and family members of EEA nationals).

All these considerations must be drawn together in order to form a clear conclusion and document the decision-making process. A Human Rights Assessment form template is available at:

[L:\AdultsAndComm\Information\No Recourse to Public Funds\Key Documents - Adults \(see Appendix A\)](L:\AdultsAndComm\Information\No Recourse to Public Funds\Key Documents - Adults (see Appendix A))

11.5 Determining whether return to country of origin would cause a breach of human rights

The relevant articles of the European Convention on Human Rights (ECHR), which have been incorporated into the Human Rights Act 1998 and need to be considered are likely to be:

- Article 3 (prohibition on torture or inhuman or degrading treatment or punishment)
- Article 8 (right of respect for private and family life)
- Article 6 (right to a fair trial), where the person is involved in court proceedings in the UK

If it is found that the provision of support or assistance under Part 1 of the Care Act is **needed to prevent an unlawful breach of an adult's human rights**, or is required to be provided due to the adult's inability to travel or there are other practical obstacles to their return then assistance must be provided if the eligibility criteria is satisfied.

If it is found that support or assistance under Part 1 of the Care Act is **not needed to prevent an unlawful breach of human rights**, the local authority can attempt to resolve the case by either offering to fund tickets to the adult's country of origin, referring the person to Choices, which operates the Home Office's voluntary return programmes (**Home Office funded Assisted Voluntary Return (AVR)**) or making other appropriate referrals. There may sometimes be a need for short term provision of support or assistance to allow such arrangements to be made.

If it is a viable option for the person to return to their country of origin, but they refuse to do so, any hardship or degradation suffered will be a result of their decision to stay in the country and not as a result of any breach of human rights by the local authority, as determined in *R Kimani v Lambeth 2003* and *AW v Croydon LBC; A, D and Y v Hackney LBC and another (2006)*.

11.6 Domestic Violence Destitution Concession

If an adult has been in the UK with limited leave to remain as the spouse, civil partner, unmarried or same-sex partner of a settled person (i.e. a British Citizen or migrant with indefinite leave to remain), and their relationship breaks down due to domestic violence, there is a provision that allows them to apply for indefinite leave to remain (ILR) under the domestic violence immigration rule. Limited leave as a spouse has the condition of no recourse to public funds, so a migrant who intends to make an application for ILR can initially apply to the Home Office for a three month period of leave to remain that confers recourse to public funds, known as the Domestic Violence Destitution Concession.

The notification/application form and guidance is available at:
<L:\AdultsAndComm\Information\No Recourse to Public Funds\Key Documents - Adults>

11.7 Refusing or withdrawing support

There are two circumstances in which care and support under the Care Act could be refused to adults with NRPf:

- when a human rights assessment concludes that the provision of support or assistance under Part 1 of the Care Act 2014 is not necessary to prevent a breach of human rights or European

Community Treaty rights for those who are subject to the exclusions under Schedule 3 Nationality Immigration and Asylum Act 2002, (see section **2.3 Schedule 3 Nationality, Immigration and Asylum Act 2002: exclusions from support**), or

- when the adult does not have eligible needs and the local authority has decided not to use its power to meet non-eligible needs.

The Care Act requires all assessment decisions to be recorded in writing and the outcome clearly communicated to the adult, so it may be necessary to use an interpreter.

The same applies to when support will be refused or withdrawn following a human rights assessment. The assessment outcome should clearly state why the adult is not eligible, or no longer eligible for support. Any adverse findings must be put to the adult so that they may have a chance to respond. Any new information provided by the adult after the decision, or any alternative explanations must be considered by the local authority.

If adult has been receiving support and this is to be withdrawn, reasonable notice must be given to allow the adult to make alternative arrangements. What constitutes reasonable notice will depend on the adult's circumstances. Usually 21 days would constitute reasonable notice.

12.0 ACCESS TO SUPPORT FOR PRESENTING ADULTS WITH NRPF PROCEDURE

12.1 Homeless Adult – Destitute with NRPF

Role of the Experienced Social Worker

- To meet with the person to establish the details including previous address; immigration status; whether they have access to support
- To seek authorisation from Head of Community Financial Support Helen Winfield (01902) 553353 or in the absence of this person, the Principle Financial Assessments Officer for emergency funding for accommodation and subsistence monies (via a pre-paid card), if required.
- To inform the MASH if suspected domestic violence
- If an individual who has been subjected to domestic violence has entered the UK under a spousal visa, complete a DDV Concession application to the Home Office for temporary Leave with access to Public Funds
- Provide the person with the accommodation details (and pre-paid card where appropriate) and inform them, of the next steps

Role of the Service Information Officer

- To source vacancy from approved accommodation list ensuring nightly charge does not exceed £50.

Role of the locality team

- Office Manager to book interpreter where required
- SW to contact Head of Community Financial Support or in the absence of this person, the Principle Financial Assessments Officer next working day to establish whether a Human Rights Assessment (HRA) is required. Usually a HRA will not be required in DDV cases and where a person is seeking to return to their country of origin when they are fit to travel.
- Commence HR assessment plus CCA if required
- The cost of the accommodation and subsistence is met from the Destitute Plus budget. A Service Agreement needs to be loaded by the Personalised Support Team for accommodation. Where CareFirst payment is not acceptable to the provider (but only as a last resort) a P-Card payment should be made through the Financial Assessments Team or the locality team. In the case of locality team P-card payments, details of the transaction should be provided by email to Head of Community Financial Support (Helen Winfield) so that a transfer of budget can be completed.

13.0 DECISION MAKING

It is the responsibility of the Head of Service – Community Financial Support to authorise the Human Rights Assessment and make the decision about whether Adult Social Care will support/continue to support the individual. They will also have oversight of the assessment process.

14.0 FINANCIAL SUPPORT

Financial support/subsistence provided to adults will be in line with the guidance in Appendix D.

Human Rights Assessment Form

Name:	
DOB:	
Country of Origin:	
Date of Assessment:	
Date copy given to Customer:	

Introduction

This form is designed for use in relation to requests for assessment or resources from service users subject to immigration control who have no recourse to public funds under [s.115](#) Immigration and Asylum Act 1999 and who fall within the restricted categories in [Schedule 3](#) of the Nationality, Immigration and Asylum Act 2002..

Specifically, it has regard to the following Articles of the [European Convention on Human Rights](#):

- Article 3, prohibition of torture or inhuman or degrading treatment or punishment; and
- Article 8, right to respect for private and family life.

Article 3 is an absolute right. There are 5 components to Article 3: inhuman treatment, degrading treatment; inhuman punishment, degrading punishment; torture. There are two key issues in relation to Article 3: (i) whether the facts of a service user's claim fit into one of the 5 components of article 3 and (ii) the need to show a minimum level of severity for Article 3 to be engaged.

Article 8 grants a right to respect for private and family life, home and correspondence. The right to respect for private life can include medical issues.

Article 8 is a qualified right. Public authorities are prohibited from interfering with the Article 8 right except where the grounds for interference are in accordance with law, they pursue a legitimate aim and they are necessary and proportionate. The following are legitimate aims: the interests of national security, public safety or the economic well-being of the country, the prevention of disorder or crime, the protection of health or morals, or the protection of the rights and freedoms of others.

This form is designed to supplement, not replace, national or local authority needs assessment formats. Where appropriate, the most recent statutory assessment should be appended to this ECHR assessment.

Section 1: Key Information

Family Composition: *Include date of birth, other names and aliases under which individuals are known*

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Confirmation of Identity: *Is there a certificate, nationality document etc?*

--

Background / Chronology: *Provide give a brief history of background and any social service support. In completing this section the following questions should be used as a checklist:*

- 1. How long has the family/each applicant been in the country?*
- 2. What is their immigration or asylum status, what is the date of any decision or appeal and what applications remain outstanding?*
- 3. What are the medical, educational, social or other needs of each family member (include details of the GP and any person or organisation consulted or being consulted)?*
- 4. What is the financial situation? What accommodation is available? What previous accommodation has the applicant/family had? How was that lost?*
- 5. How has the applicant/family supported itself until now?*
- 6. Are there any other people or organisations who have provided or could provide any support?*
- 7. Is there any reason why the family cannot return to their country of origin (please set out in full)?*
- 8. What other family or relatives do the family have in this country? What contact does the family have with them?*
- 9. What difficulties, whether in terms of employment, schooling, medical provision or otherwise, would be caused were the family to return home?*
- 10. Is there any other factor or factors which ought to be borne in mind?*

--

Name of Service User	Signature	Date

Section 2: Immigration Status

2a. EU Nationals¹: Complete this section for individual EU nationals who have applied for financial or social work support from the Council. For other people subject to immigration control with no recourse to public funds, including failed asylum seekers, complete section 2b.

Purpose of Assessment: *Please record and explain to the individual/family the purpose of this assessment.*

¹ Austria; Belgium; Bulgaria; Croatia; Cyprus; the Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Ireland; Italy; Latvia; Lithuania; Luxembourg; Malta; the Netherlands; Portugal; Romania; Slovakia; Slovenia; Spain; Sweden; UK.
[A2 Nationals:](#) Bulgaria and Romania.

Assessment of current situation: *Is the individual/family destitute? Have they any other available means of support? Are children attending school?*

Name of Service User	Signature	Date

Assessment of ability to work: *Is the individual or anyone in the household able to work? Are there health needs that affect the service user's ability to work? Please record/obtain relevant medical proof where appropriate.*

--

Other Means of Support: *Does the individual think that they might be able to become self-supporting in the near future? Are they having support from friends, family, religious communities, charities etc? If yes, obtain details.*

--

Travel needs: *Establish whether or not it is possible for client to return home to their country of origin. Have they the means (finance, passport, travel documents)? If not, what help would the family need?*

--

EU Convention rights: *Is the client working or have they been working recently and a) are now seeking work or b) are temporarily unable to work due to illness? Is the client self-employed? Is the client studying?*

--

Name of Service User	Signature	Date

2b Failed Asylum Seekers/Overstayers: Complete this section for failed asylum seekers who have been issued with removal directions or who did not claim asylum at port of entry (e.g. at an airport), and other people subject to immigration control who have no recourse to public funds.

Purpose of Assessment: *Please record and explain to the individual/family the purpose of this assessment.*

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Assessment of current situation: *Does the family originate from a “Safe State” as defined by the Home Office?² Is the individual/family destitute? Has the family any other available means of support? Are children attending school?*

--

Assessment of Health Needs: *If the individual or anyone in the household was legally able to work, could they do so? Please record/obtain relevant medical proof where appropriate.*

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² Albania; Bolivia; Bosnia Herzegovina; Brazil; Ecuador; India; Jamaica; Kosovo; Macedonia; Mauritius; Moldova; Mongolia; Montenegro; Peru; Serbia; South Africa; South Korea Ukraine; Ghana (men only); Gambia (men only); Kenya (men only); Liberia (men only); Malawi (men only); Mali (men only); Nigeria (men only); Sierra Leone (men only).

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Other Means of Support: *Does the individual think that they might be able to become self -supporting in the near future? Are they having support from friends, family, religious communities, charities etc? If yes obtain details.*

--

Travel needs: *Establish whether or not it is possible for client to return home to their country of origin. Have they the means (finance, passport, travel documents)? If not, what help would the family need?*

--

--

Name of Service User	Signature	Date

Section 3: Assessment and Recommendations

Human Rights: Consider whether there would be a breach of Article 3 or Article 8:

Article 3: if support were refused or withdrawn would the individual/family be subject to treatment amounting to torture or to inhuman or degrading treatment or punishment.

Article 8: If the family or individual returned to county of origin, would the right to respect for private and family life be compromised?

In the case of failed asylum seekers, should individual/ family be applying for support under section 4 of the Immigration and Asylum Act 1999 or do they have other means of support?

In the case of clients from the EU, would returning to their country of origin interfere with their exercise of EU Convention rights?

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Recommendation: *Assessing officer should make recommendation as to the future of this case based on their assessment. Is there any other support to be considered? Provide a reasoned conclusion.*

--

Confirmation of recommendation/decision:
Team manager should make a decision as to why this person should/should not receive continued support.

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Name of Service User	Signature	Date
Name of Assessment Officer	Signature	Date
Name of Manager	Signature	Date

ELIGIBILITY GUIDANCE

Eligibility is due to a child being in need and in our area. Please note some families due to their immigration status may not immediately have proof of address, utility bills etc.

- Do the family have a link with another local authority currently providing them with assistance? If so the family should be referred to them. Can the family provide evidence of living in Wolverhampton? Possible evidence includes; a child in a Wolverhampton school; or their address on utility bills.
- Do the family have income or savings? Ask to be shown bank statements for the last 6 months and discuss how they have financially supported themselves to date. Could others provide the family with help? Ask about their family, friends and acquaintances. Do the family have any items of value they could sell? Can the family be supported from other organisations? This must be underpinned by the Assessment undertaken and the needs identified.

Key Documents

1. The person seeking a service must have sufficient identification although this may not be possible if, for example, the person is fleeing domestic abuse. In such cases evidence should be established at a later date via the assistance of a solicitor or the police.
2. If they do not bring the necessary documentation on first presentation, the assessment can still go ahead but the duty/social worker must inform them that any decisions regarding provision of support can only be made when they have provided the appropriate documents, and they should have wherever possible all the required documents before another interview is arranged.
3. If an interpreter is required, arrangements should be made with the interpreter to inform the person concerned of the documentation required.
4. Those seeking a service should be asked to verify their identity and immigration status with the production of the below forms of identification.
 - Passports and birth certificates for all members of the family;
 - If available, travel documents e.g. return air tickets
 - Home Office Papers (Application Registration Card (ARC), application letters or refusal letters) and solicitors' letters and;
 - If available, bank account statements (from the last 3 months).
5. All identification documents supplied must be original documents, which should be photo-copied and scanned onto CareFirst.
6. If the applicant or any dependents have health needs, they must provide any documented evidence of ill health or disability for any member of the family, e.g. OT reports and mental health/psychiatric reports.

Local Connection

1. It is important to establish where the person has a local connection as it may be another local authority which has responsibility for this person/family. Therefore, it would be expected that the primary care giver would be able to provide details of their previous accommodation, along with the length of tenure and evidence of personal possessions within the area. Links to relatives and family should also be established, in addition to proof that the care giver and child(ren) are registered with a local General Practitioner, Dentist, and attend a local school.
2. Local connection criteria need not always apply, for example, if the person is at risk of violence if they return to the local authority where they have a

local connection, or when the child(ren) are subject to a Child Protection Plan.

3. It should be stressed that social workers will follow up on the contact details given by those seeking a service to make enquiries to verify the local connection
4. If it is established that the person has a local connection with another local authority, social workers should formally refer the person/family to the relevant local authority.

Key points to note

Weekly rates	
Single Adult	£37.75 (where accommodation with breakfast is included for a single adult the rate will be £22.00)
Lone Parent	£37.75
Couple	£37.75 (per adult)
Per child	£37.75
Nursing money	£5.00 (child under 1 year/ expectant mothers) £3.00 (child 1-3)
Maternity Grant	£150 (first child) £100 (each subsequent child)
Winter clothing allowance	One off payment equivalent to one week's subsistence

¹ These are the standard rates which may be altered up or down based on your individual circumstances and based on the individual assessed needs of children.

How and why have we set these rates?

The City of Wolverhampton Council provides weekly subsistence payments to individuals and families who have no recourse to public funds and are eligible for social services support.

In setting its rates, the City of Wolverhampton Council has adhered to a number of principles:

- We have regard to Section 95 asylum support rates and levels of income support to help the Council to decide what is an appropriate and fair level of support for families and individuals
- In order to ensure the policy is fair, the Council provides higher standard levels of payment for single adults and parents with one child than is provided under Section 95
- Guidance on standard rates allows the Council to ensure that its rates are fair for all and to allow caseworkers to efficiently manage their caseload and the resources of the Council – however all rates can be varied at the discretion of the relevant manager on a case by case basis on the request of the customer or via social worker assessment
- All cases supported under Section 17 Children (CA) Act (1989) are assessed to ensure that the individual needs of the child are met and that the Council is upholding its duty to safeguard and promote the welfare of children.

What should this money be used for?

This money is meant to cover essential living needs for yourself and for the assessed individual needs of children. It is provided to people who the City of Wolverhampton Council has assessed as being destitute. You should not save the money, or transfer it to other people. You should not set up direct debits or contracts (e.g. for a mobile phone) from this money.

If you receive any additional income you must inform your caseworker of your change of circumstances. Failure to do this could result in a breach of the terms and conditions of your service and could lead to your service being withdrawn.

Variations to basic rates

The basic subsistence rates set out in this guidance can be reviewed on a case by case basis at the discretion of the relevant manager, when requested by the customer at a meeting with their caseworker. Some variations to the guidance are outlined below:

- If you or your dependents have significant additional needs
- Where a child has been assessed by a social worker to have additional individual needs necessary to promote their welfare and wellbeing
- Subsistence payments may be lower than the amount above if you are in residential accommodation which provides for the majority of essential living needs
- Subsistence payments will be lower if you are in receipt of any other income – for example if in receipt of Child Benefit or Child Tax Credit or Personal Independence Payment, this will be deducted from the subsistence payments.
- If care needs are being met through an alternative method in accordance with the Care Act 2014

If there is any change in circumstances the subsistence payment will be recalculated and updated.

How are customers paid?

Customers will receive a pre-paid card which can be used like a bank card to pay by card anywhere that accepts cards or to withdraw cash at a cash machine. Your case worker will provide information on how to use the card when it is issued.

Utilities

Usually all bills are included in the accommodation provided. Your caseworker will tell you if this is not the case. If they are not included, you should bring all bills into the caseworker and the relevant manager will pay the bill, up to the capped rates below. You will need to pay any remaining balance above the capped rates and the Council will not cover any arrears due to non-payment.

Utility	Capped Weekly Rate
Water	£10.60
Gas	£13.40
Electricity	£10.30

Where the family are not entitled to support and have friends or family willing to support them, they should be advised, accordingly, to seek their support. At the point that it is established that accommodation is required for the family, the Local Authority's Housing Department will be contacted by the Social Worker to see if they can assist and/or advise in relation to suitable temporary accommodation.

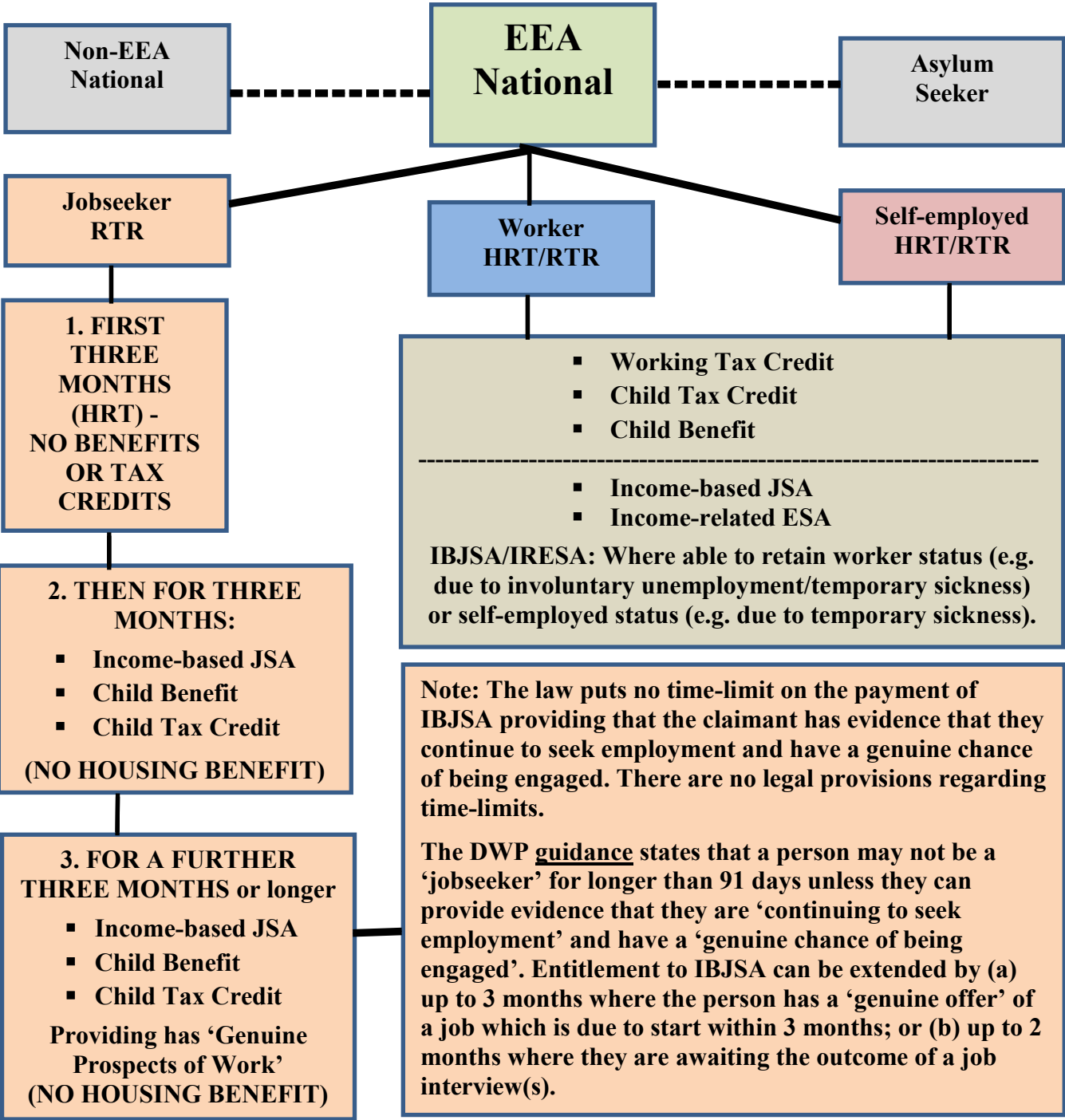
Where the family is not eligible for support and wishes to return to their Country of origin; or where they are unlawfully present, the allocated Social Worker should refer them to the Refugee and Migrant Centre (RMC).

The Home Office now manage all returns including voluntary departure from the UK. See <https://www.gov.uk/return-home-voluntarily/who-can-get-help>

Cases where the Home Office grant leave to remain in the UK with NRPF as a condition - Individuals Solicitor/Immigration adviser should take this up.

Key Benefits for EEA Nationals Flowchart

A Guide to Key Benefits for EEA Nationals
Key: RTR = Right to reside; HRT = Habitual residence test



The above information is meant to provide a guide to the benefits and tax credits rights of EEA nationals. It should not be treated as an authoritative statement of the law. The details may be subject to change by new regulation and/or case law. Welfare Rights Service City of Wolverhampton Council

Section 4 and Section 95 Asylum Support

What type of support is provided under Section 4?

Section 4 support is a basic package of support which includes accommodation and £35.39 per person which is provided through a payment card. These are called Azure Cards. These payment cards can be used to purchase food, clothes and toiletries from most of the major supermarkets plus some other retailers. No cash is provided to those in receipt of Section 4 support.

What type of support is provided under Section 95?

The **amount** of financial **support** that is paid under **section 95** Immigration and **Asylum** Act 1999 is a flat **rate** of £36.95 per person will be paid for each member of a family group.

Children & Young People

Section 17 Funding to support Children, Young People & Families

Policy & Procedure

Purpose:

The purpose of this policy is to outline how and under what circumstances we will utilise the Section 17 budget to support children, young people & families in the City.

For families with No Recourse to Public Funds (NRPF) see NRPF Policy.

Approved by – Children & Young People Management Team (24.11.16)

Published – December 2016

Review Date – December 2018

REVIEW LOG			
Date	Version	Comments	Approved by
Nov 2016	1.0	New Policy Produced.	Children & Young People Management Team (24.11.16)
<p>This system of recording review dates is designed to ensure staff at all times use the correct version of the up to date Policy. This system is used on all Wolverhampton City Council – Children, Young People and Families Policies and Procedures.</p>			

CONSULTATION
<p>The following people have been consulted on this policy:</p> <ul style="list-style-type: none"> - Business Manager- CIN/CP & LAC - Business Manager – MASH - Head of Service – CIN/CP - Audit Services - Children & Young People Management Team

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1.0 **STATUTORY FRAMEWORK**

'It shall be the general duty of every local authority, including The City of Wolverhampton Council:

- a. To safeguard and promote the welfare of children within their area who are in need; and
- b. So far as is consistent with that duty, to promote the upbringing of such children by their families.

By providing a range and level of services appropriate to those children's needs."

Section 17 (3) The service provided by an authority in the exercise of function 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 safeguard or promoting the child's welfare.

Section 17(6) The services provided by a local authority in the exercise of functions conferred on them by this section may include giving assistance in kind or, in exceptional circumstances, in cash (max £200)

Section 17(8) Before giving any assistance or imposing any conditions, a local authority shall have regard to the means of the child concerned and of each of his parents.

Section 17(9) No person shall be liable to make any repayment of assistance or of its value at any time when he is in receipt of income support or family credit under the Social Security Act 1986.

Section 17(10) For the purposes of this part of the Act, 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, without the provision for him of such services; or
- c. He is disabled.

and 'family', in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living.

Section 17(11) For the purposes of this part, a child is disabled if he is blind, deaf, or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed; and in this part;

'Development' means physical, intellectual, emotional, social or behavioural development, and 'health' means physical or mental health.

2.0 WHAT IS SECTION 17 FUNDING?

The Child Protection and Child In Need Service is not intended to provide income support, but in exceptional cases, where assessed as being 'In Need' and financial assistance is identified to enable to birth parents or carers to support their children we will consider providing financial assistance.

Payments should be considered under Section 17 of Children Act 1989 broadly according to the following categories:

1. Planned payments made in order to carry through a Child in Need/Child Protection Plan;
2. Payments for accommodation and subsistence for an unaccompanied minor over 16 (see Unaccompanied Asylum Seeking Children Policy)
3. Accommodation or subsistence for families without access to public funds (see No Recourse to Public Funds Policy)

3.0 IN WHAT CASES SHOULD WE PROVIDE SECTION 17 FUNDING?

For Section 17(6) assistance to be appropriate a child must be assessed as 'in need'.

Levels of Need

The City Council and partner agencies provide a range of services for children and their families from Universal Services available to all, through to targeted services for those requiring extra support, and specialist and rehabilitative services where crisis or urgent intervention is required.

Section 17 (6) is not a form of income support and therefore should usually be used on a 'one off' basis, though there will be some exceptions to this.

Where financial support is required on a more on-going basis e.g. rent for accommodation this must be underpinned by the Child In Need/Child Protection Plan and be approved by the Resource Panel (see Resource Panel Policy & Procedure).

3.1 WHAT NEEDS TO BE CONSIDERED PRIOR TO PROVIDING SECTION 17 FUNDING

Assistance from other agencies

Before assistance is offered under Section 17 (6) consideration must always be given to the possibility of obtaining assistance - or part assistance – from other agencies such as the Department of Works and Pensions or charitable agencies. Social Work Unit Managers must ensure all avenues have been explored prior to authorising any payments. See appendix A for more information. Where a one of payment of more than £200 is required this must be authorised via the Resource Panel.

Grants from charities may only be spent for the purposes specified in the initial request. The social worker is required to verify that the money has been spent in the way originally specified, any remaining balance may be spent on other kinds of assistance to the same

family only with written agreement from the charity concerned: otherwise, the balance must be repaid immediately it is known that it will not be needed.

Loan or Grant

Section 17 (7) says assistance may be unconditional or subject to conditions as to the repayment of the assistance or its value (in whole or part) – e.g. it can be a grant or a loan.

No person shall be liable to make any repayment of assistance provided through Section 17 (6) if that person is in receipt of income support or family credit (Section 17 (9)). Thus any payments or assistance to people in this position will constitute a grant, although it would be appropriate to reclaim equipment when it is no longer needed.

For people not in receipt of income support or family credit, Section 17 (6) assistance should normally be given in the form of a loan unless there are exceptional circumstances making this inappropriate. When assistance is given on a loan basis, this should be made clear to the recipient and steps taken to see that the money is repaid or equipment returned when no longer needed. Written agreement must be obtained and witnessed.

Ongoing Payments

All regular weekly payments must be authorised via the Resource Panel (see Resource Panel Policy). The Panel will ensure that a review period is agreed and identified at the outset. Many circumstances will have a natural review period e.g. processing of benefits claim expected to take 4 weeks. The maximum time for which payments can be made without being reviewed is 3 months. However in most circumstances it should be less.

4.0 HOW DO WE PROVIDE FUNDING – KEY PRINCIPLES

4.1 Assessment

Payments under Section 17 need to be made on the basis of an Assessment no matter how brief and must state clearly the need that is to be met and how the payment will meet that need. This must then be evidenced on appendix B and presented to a Social Work Unit Manager to authorise or the Resource Panel where payments are over £200 or on-going.

It is not possible to specify every situation in which the use of Section 17 (6) money might be appropriate. It must be remembered that Section 17 (6) is a limited budget and with the exceptions listed at the beginning is intended for emergency or serious situations in which there are no alternative or more appropriate sources of help.

There may be situations not mentioned where exceptional circumstances prevail and assistance is given. These guidelines are not aimed at preventing us assisting where appropriate but at ensuring that a similar standard is applied across the City.

See table (Appendix A) on the types of situations where Section 17 might be appropriate and the avenues that should be exhausted prior to funding being requested.

4.2 Approval

All one of payments can be agreed by a Social Work Unit Manager unless they are one off payments over £200 and on-going payments lasting longer than a month must be agreed by the Resource Panel (see Resource Panel Policy & Procedure). Emergency decisions can be made outside of Panel by a Head of Service but must then retrospectively go to the next Resource Panel.

4.3 Making a request

A social worker must complete an application form (appendix B) providing details of the user, reason for the financial assistance, avenues exhausted and amount required and the Plan this is evidenced in.

If the amount is within the permitted approval level the Social Work Unit Manager can authorise payment. If not the request should be forwarded to the next Resource Panel. If the request is urgent then a Head of Service can approve this however, it should retrospectively go to the Resource Panel.

The Social Work Unit Manager will consider the following:

- Is the payment legal and within the guidelines
- Which payment method is the safest/appropriate (cash/cheque/voucher etc)
- Is it the most economical option
- Is the Sc17 budget the correct one to use?
- Role of Authorising Officer (Social Work Unit Manager)
- To agree that the assistance is valid and is correct approach for meeting the service users needs and to confirm that there is money

SECTION 17 FUNDING –WHAT CAN WE USE IT FOR?

CATEGORY	OPTIONS TO BE EXHAUSTED PRIOR TO USING SECTION 17	HOW SHOULD IT BE PROVIDED?	MAXIMUM AMOUNT/TIME SCALE	AUTHORISATION
Clothing & Laundry	<p>Provision of appropriate clothing for children (including coat/jacket, shoes/boots, seasonal)</p> <p>Use of Clothing Banks, Charity Shops, school clothing via school lost property etc.</p> <p>Laundry can include clothing, bedding and towels. Purchase of a washing machine/payment of Laundrette bills, provision of washing powder etc.</p>	<p>Vouchers, P Card loaded to restrict spend in appropriate shops; SW takes family shopping with cash.</p> <p>Payment direct to shop, loaded P Card</p>	<p>Clothing = One off payment £100 6 monthly</p> <p>One off payment for equipment £200 max.</p> <p>Laundry bills in an emergency – one off payment £20</p>	SWUM
Utilities	<p>Payment of gas/electric. SW to contact the Benefits Office to determine date when next benefit payment is due.</p>	<p>Tokens/Load on electricity or gas card/SW pays by cash</p>	<p>Max amount £20 per week in total – no more than 2 weeks at a time whilst awaiting benefits payment.</p>	SWUM

Travel/Visits/ Contact	<ul style="list-style-type: none"> - Volunteer Drivers – contact Lisa Sidaway at LAC (Beldray) – tele. ext. 6951 <p>Bus fares</p> <ul style="list-style-type: none"> - taxi fares only in exceptional circumstances where public transport is not appropriate (i.e.; moving belongings into new accommodation)– otherwise use other travel options <p>Coach fare</p> <p>Rail fare</p> <p style="text-align: center;">Wolverhampton Community Transport</p>	<p>Via Lisa Sidaway</p> <p>Scratch card for day use/purchase of travel card by SW/SWUA via cash/P Card. Coach ticket via P Card Rail ticket via P Card</p>	<p>Payment via Cost Centre Code to allow Lisa Sidaway to recover any charges</p> <p>Cheapest option available</p> <p>Each case to be considered independently – could be daily/weekly/fort nightly/monthly – use discretion dependant on the circumstances.</p>	SWUM
Passports	<p>Is it needed?</p> <p>Consideration needs to be given to the individual circumstances</p>	<p>SW/SWUA purchase using P Card at Post Office</p>	<p>One-off payment limited to the cost of the Passport</p>	SWUM
Postage	<p>Consideration needs to be given to the individual circumstances</p>	<p>SW/SWUA to provide</p>	<p>One-off payment.</p>	SWUM

	<p><u>Single Accommodation Model (2) Draft (2).pdf</u></p> <p>If families have been housed by another Authority in the Wolverhampton area, consideration should be given to a joint visit by Housing Environmental Health Officers and SW's to ensure accommodation is fit for purpose. If concerns are raised, contact Anthony Walker – Homeless Strategy and External Relationships Manager (tele. ext. 1631)</p>	guidance		Services
Photographs	For Passport photos – dependant on individual circumstances – production of photos required to progress Passport Application	Cash – receipt required	£5 per person One-off payment	SWUM
NRPF	<p>As detailed in NRPF Policy</p> <p>No recourse to Public Funds is defined as:</p> <ul style="list-style-type: none"> • A person who is subject to immigration control • Has no entitlement to welfare benefits, public housing or Home Office asylum support <p>Most often does not have the right to work*</p> <p>*people granted leave as spouses or civic partners are permitted to take up work</p>	see policy	see policy	see policy

Legal Costs	<p>I.e.; SGO/ Child Arrangements Order/ Parental Responsibility Order/DNA Testing/Age Assessments</p> <p>Legal Advice or representation. Court Issue Fees</p> <p>Negotiate via Legal Services - Always contact Ian Twinberrow for advice and guidance – tele. ext. 1491</p>	Invoice/cash direct to the Service via Ian Twinberrow	Contact Ian Twinberrow for advice, guidance and costs	SWUM/if over £500 Resource Panel approval required
In lieu of Benefits	<p>Depending on the reason for not receiving benefit due:</p> <ul style="list-style-type: none"> • Short-term Benefit Advance from DWP; or • Hardship Payment from DWP; or • Benefit Dispute action <p>SW to contact the Benefit Office to ascertain the situation before agreeing to any financial help</p>	See individual items in table	See individual items in table	See individual items in table
Birth Certificates	<p>Consideration needs to be given to the individual circumstances</p>	SW to order and pay for at Registrar’s Office in Wolverhampton. Other applications will depend on	Cost of provision of Birth certificate – can vary	SWUM

		<p>individual circumstances.</p> <p>If SWUA required to progress then this should be at a predetermined time and day.</p>		
Cash Support	<p>Credit Union Crisis Loan Only in exceptional circumstances as agreed with the Senior Social Work Manager</p> <p>Most instances will be covered by the other entries in this Table.</p>	cash	Max. £50 one off payment.	SSWM
Childcare	<p>Early Help 0-5 years provide a service to determine childcare availability within Wolverhampton.</p> <p>Terrific for Two's</p> <p>Nursery Education Funding – for 3 year olds</p> <p>SW to contact Children's Centres to determine if they can provide emergency respite childcare</p>	<p>Contact setting</p> <p>Contact setting</p> <p>Contact local Children's' Centre</p>	<p>Free – any top up fees paid direct to Provider</p> <p>Free/current charges</p>	SW/SWUM

	<p>HomeStart (possible provision of childcare prior to crisis point) – link below home-start.org.uk</p> <p>Holiday Clubs/ Breakfast Clubs/ After School Provision/local child minder – contact Early Help 0-5</p> <p>Use of family and friends</p>	<p>Contact HomeStart – see link</p> <p>Contact Setting</p> <p>Discuss with parent</p>	<p>Current charges will apply – payment direct to Provider</p> <p>No charge</p>	
Medical Fees	<p>Consideration needs to be given to the individual circumstances</p>	<p>Payment direct to Doctor via P card or Invoice</p>	<p>varies</p>	<p>SWUM – if over £500 refer to Resources Panel</p>
Household Repairs	<p>Credit Union Welfare Assistance or Crisis Loan</p> <p>Contact Citizens Advice to determine if support is available through any Home Improvement Grants</p> <p>National Phone Service 0344 411 1444</p> <p>Boilers, loft insulation and cavity Wall –</p>	<p>Payments via Invoice or P Card to Contractor etc.</p>	<p>Varies – costs could be covered by the landlord/Housing Association etc.</p>	<p>SWUM – if over £500 refer to Resources Panel</p>

	<p>contact energy provider</p> <p>Contact the Landlord/Housing Association/ Wolverhampton Homes</p> <p>Does the property/landlord have insurance to cover this eventuality</p>			
Household Goods/Furniture	<p>Credit Union Welfare Assistance Loan</p> <p>Charity Shops/Second-hand Shops</p> <p>Wolverhampton Community Transport – see link below</p> <p><u>Community Transport Furniture</u></p>	<p>SW to take family shopping and pay via cash/P Card/ Invoice.</p> <p>?by invoice via Agresso or P Card</p>	<p>One-off payment max. £1000</p>	<p>SWUM – if over £500 refer to Resources Panel</p>

PLEASE NOTE:

All payments need to be supported by a receipt – in the case of any petty cash requested by SW’s then the SW should ensure that an appropriate receipt is provided to the Unit Administrator within 2 days, together with the return of any unspent amount £.

If cash is given direct to the Client then the SW should ensure that the client signs for any monies received and that the client provides a receipt.

REQUEST FOR SECTION 17 PAYMENT(S)

Child/Young Person's Details:

Name:

PNumber:

Social Worker making the request:

Reason the financial assistance is required:

How much is required:

What method will the payment be made in:

Please detail any other options explored:

What is the financial assistance for:

AUTHORISATION

<p>One off Payments under £200</p> <p>Authorisation by Social Work Unit Manager</p> <p>Name:</p> <p>Signature:</p> <p>Date:</p>	<p>One off Payments over £200 or Payments On-going for longer than one month</p> <p>Authorisation by Resource Panel</p> <p>Date agreed:</p> <p>Signature of Chair of Panel:</p>
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	Review Date:
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