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# **Overview and Scrutiny**

## **No Recourse to Public Funds Review**

### **Public Accounts Select Committee**

February 2015

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#### **Membership of the Public Accounts Select Committee in 2014/15:**

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# Contents

<b>Chair's introduction</b>	<b>2</b>
<b>1. Executive summary</b>	<b>4</b>
<b>2. Recommendations</b>	<b>5</b>
<b>3. Purpose and structure of review</b>	<b>6</b>
<b>4. Legislative background</b>	<b>7</b>
<b>5. Drivers of demand for NRPF</b>	<b>8</b>
<b>6. The extent of the NRPF problem</b>	<b>11</b>
<b>7. How Lewisham has addressed the issue</b>	<b>14</b>
<b>8. Future pressures</b>	<b>19</b>
<b>9. Monitoring and ongoing scrutiny</b>	<b>21</b>

## Chair's Introduction

A report that finds that local authority budgets are under unique strain might, at first glance, appear humdrum or unremarkable. However, this review into the costs borne by Lewisham Council for supporting people with No Recourse to Public Funds (NRPF) is as startling as it is widely unreported.



No Recourse to Public Funds refers to people from abroad who are subject to immigration controls and, as a result of this, have no entitlement to welfare benefits, public housing or financial support from the Home Office. It applies, amongst others, to care leavers and those with caring responsibilities for children. In Lewisham, most (66%) are visa overstayers although the picture may be different in other boroughs. What is the same wherever you look is that the cost of supporting such cases is very high indeed.

Until very recently those costs were not only high but also growing at an alarming rate. In 2008 the cost of NRPF was £242,000. By 2012 the costs had almost increased tenfold to £2,244,000 and by the following year had increased again to £5,368,000. Changes to the law (the Zambrano case) played an important role in these eye-watering increases, but it we do not flinch from accepting some blame for Lewisham Council itself. The principal culprit, however, must be the Home Office. Their continued bungling and backlogs leave families in limbo at a great emotional cost to them and leave council taxpayers with an extraordinary burden for years on end. The conclusions of this committee were clear; that Home Office incompetence directly contributes to council overspends. As a result we recommend that the Mayor makes an urgent request of the Home Secretary to explain why local authorities should shoulder the cost for cases lost in the Home Office's backlog.

We are fortunate in Lewisham to have an excellent team of officers who have piloted a new approach to managing demand and costs pressures. This includes increasing capacity in fraud prevention, specialist legal expertise and housing procurement. It also, of course, means establishing eligibility for NRPF in a robust and fair way. Without the intervention of this successful pilot we found that costs of NRPF may have increased to as much as £15,719,000 by 2018. We support the robust front-door approach that has been taken by the NRPF pilot project and recommend that the pilot approach is mainstreamed and made a permanent approach. We understand that other local authorities may wish to follow Lewisham's approach and support the prospect of pursuing a shared service around NRPF in as wide an area in London as possible in order to better deal with the problem.

Finally, while we recommend that that any area of spending that doubles in the space of one financial year be subject to immediate referral to Mayor & Cabinet. In 2012 spending on people with NRPF stood at £2.2m 2012 and by 2013 had more

than doubled to £5.3m. For similar cases in the future there must be a greater sense of urgency as well as more democratic control and oversight.

We hope this report will not only aid the Mayor & Cabinet in their approach to NRPF, but will also assist neighbouring authorities in a similar predicament. In addition, we hope it will go some way to informing the public as to the vast sums councils are forced to spend to cover up Home Office chaos. It cannot be right that the never-ending saga of Home Office disarray drags local councils down with it and if I were permitted to make one personal recommendation it would be that the Home Secretary make an urgent statement as to her plans for remedying this latest costly failure.

Councillor Jamie Milne  
Chair of the Public Accounts Select Committee

## Executive summary

Local authorities across the country are experiencing ongoing and increasing demand for support from people who have no recourse to public funds (NRPF). The problem is particularly acute in London and is an issue of significant concern to Lewisham Council. Supporting people with NRPF is expensive and the Public Accounts Select Committee was therefore keen to review the proactive work being undertaken by a new pilot team to drive down costs. In particular, it wanted to ensure that the new systems being put in place were both robust and fair.

NRPF is a concern because:

- Providing support is expensive
- The numbers being supported have increased sharply in recent years
- There is no statutory policy guidance covering how councils should respond to people with NRPF
- Council staff do not generally have the necessary expertise to deal with NRPF cases effectively
- The law governing this area of work is complex and interpretation of the law regularly changes as a result of developments in case law
- Legal challenges of council decisions made in relation to people with NRPF, if successful, can be costly
- The support put in place for people with NRPF is often long-term in nature, due to the length of time it takes the Home Office to resolve cases.

It was clear to Members of the Committee that a strong strategic response to the issue was required and that the NRPF pilot had demonstrated that a clear, consistent and firm approach could bring down the costs of dealing with NRPF clients considerably and in a way which was both equitable and unlikely to result in successful legal challenge.

It is for this reason that the Committee is recommending mainstreaming the pilot and making sure that high cost and long-term 'legacy' cases in particular, are thoroughly reviewed with a view to bringing down costs and, where appropriate, withdrawing support. In addition, the possibility of developing a shared service with other London local authorities should be explored to reduce management and administrative costs and combine and strengthen expertise.

The role of central government in this issue is critical. Home Office policy is a key driver of costs and backlogs in cases add considerably to the Council's expenditure. Lewisham must strive to exert more pressure on central Government; demand action in respect of Home Office delays; and lobby for funding to match the costs being borne by local authorities.

## Recommendations

The Committee recommends:

- Exerting pressure on central government around NRPF in order to highlight the considerable additional pressure that local authority finances have been put under. To lobby for funding to match the costs passed to local authorities and to pursue the possibility of legal action in cases where Home Office mismanagement leave local authorities with longstanding and costly unresolved cases.
- That the Mayor makes an urgent request of the Home Secretary to explain why Local Authorities should shoulder the cost for cases lost in the Home Office's backlog.
- Supporting the robust front-door approach that has been taken by the NRPF pilot project and recommending that the pilot approach is mainstreamed and made a permanent approach.
- Building on the good work of the pilot by investigating current high-cost NRPF cases and endeavouring to bring the cost of cases down as far as practicable.
- Placing existing cases under irregular, unannounced rolling review to identify if claimants still meet criteria for support.
- Taking action to drive down the housing costs associated with those with NRPF through further improved procurement of private sector housing and seeking more sustainable long term housing solutions for those with NRPF by exploring all available housing options.
- Actively pursuing a shared service around NRPF in as wide an area in London as possible in order to better deal with the problem of NRPF.
- Immediate referral to Mayor & Cabinet at the turn of a new financial year in all cases where an area of spending doubles in the space of one financial year. In 2012 spending on people with NRPF stood at £2.2m 2012 and by 2013 had more than doubled to £5.3m. For similar cases in the future there must be a greater sense of urgency as well as more democratic control and oversight.

## Purpose and structure of review

1. At its meeting on 9 July 2014 the Committee decided, as part of its work programme, to carry out an in-depth review into the increasing number of cases of people with no recourse to public funds (NRPF) and their impact on Lewisham Council as both a financial and a service pressure for the organisation.
2. At its 22 September 2014 meeting, the Committee received and agreed a scoping paper that set out the background and key lines of enquiry for the review. The Committee agreed that, given the complexity of NRPF, the Committee should first establish:
  - The national and local context surrounding NRPF
  - Who presents as NRPF in Lewisham and the types of support provided to them
  - The extent of the problem in Lewisham and how Lewisham compares to other local authorities
  - The interventions that have been taken in Lewisham to address the increase in NRPF and effectively manage the number of NRPF cases that Lewisham supports
  - The future NRPF pressures expected for Lewisham (such as changes to the eligibility of EEA nationals) and the potential financial impact of these pressures.
3. Once this information had been provided, the Committee would then consider the following further key lines of enquiry:
  - How effective have the interventions taken to address the growth of NRPF cases been?
  - How will the expenditure on NRPF be managed within the current and future financial pressures for Lewisham Council?
  - What are the impacts of the interventions taken on those presenting as NRPF in the borough and what impacts will further interventions have?
  - What work is Lewisham doing with the groups and agencies that support people who have NRPF and signpost them to the Council?
  - What is Lewisham doing to address projected future NRPF pressures, such as changes to the eligibility of EEA nationals, the Immigration Act and the Care Act?
4. The Committee carried out its first evidence-taking session on 5 November 2014, where members received a report from officers providing information on the background to NRPF, including the national and local context around the rise of NRPF, details about who was presenting as NRPF in Lewisham, comparator information with other local authorities on the levels of NRPF in Lewisham and interventions being taken to address the issue of NRPF within Lewisham. The Committee also heard evidence at this meeting from Barry Quirk (Chief Executive), Kevin Sheehan, (Executive Director for Customer

Services), Ian Smith (Director of Children's Social Care), Justine Roberts (Change & Innovation & Manager) and Shirley Spong (NRPF Manager).

5. The Committee carried out its second evidence-taking session on 10 December 2014, where members heard from external witnesses, including Henry St Clair Miller from NRPF Network and Jon Rowney from London Councils.
6. The Committee concluded its review on 5 February 2015, where it agreed the recommendations and final report for submission to Mayor & Cabinet.

### Legislative background

7. No Recourse to Public Funds (NRPF) refers to people from abroad who are subject to immigration controls and, as a result of this, have no entitlement to welfare benefits, public housing or financial support from the Home Office. It applies, amongst others, to care leavers and those with caring responsibilities for children. Such migrants have usually entered the UK through the labour migration, family or asylum routes.<sup>1</sup> 'Irregular migrants' who have exhausted their lawful stay also have NRPF while EEA nationals who do not meet their conditions of stay may not be able to access public funds. However, individuals with NRPF, whilst not eligible for public funds, might still be eligible for local authority assistance under:
  - **Section 17 of Children Act 1989** – This puts a duty on all local authorities to safeguard the welfare of children in their area and to promote their upbringing by their families. To support this local authorities may provide assistance in kind, accommodation or cash.
  - **Section 21 of the National Assistance Act 1948** – this confers a duty on local authorities to support, with accommodation and subsistence, people who are ill, disabled or an expectant or nursing mother. In the case of people with NRPF, this applies only if their need does not arise because of destitution alone.
8. Assistance under these acts is not defined as 'a public fund', hence why individuals with NRPF are not excluded from these provisions. Local authorities have a duty to provide assistance to individuals under these acts if the following criteria are met:
  - The individual can prove they are the territorial responsibility of the council to which they are applying for assistance.
    - In the case of families, this means that the need which gave rise to the presentation to the local authority occurred within that same local authority (i.e. they became homeless there).
  - They are genuinely destitute with no other means of support available to them.

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<sup>1</sup> Background paper - Local government welfare responses to migrant families who have 'no recourse to public funds' Centre on Migration, Policy and Society (COMPAS), University of Oxford [https://www.compas.ox.ac.uk/fileadmin/files/Publications/Research\\_projects/Welfare/No\\_Recourse\\_to\\_Public\\_Funds\\_Summary\\_Paper.pdf](https://www.compas.ox.ac.uk/fileadmin/files/Publications/Research_projects/Welfare/No_Recourse_to_Public_Funds_Summary_Paper.pdf)



- The threshold for destitution is high and is defined as not having the means to provide for accommodation or essential living needs.
  - They are not excluded from support by schedule 3 of the nationality Schedule 3 of the Nationality Immigration and Asylum Act 2002.
    - This includes people with refugee status from abroad, a person who has nationality of another EEA state (unless to exclude them would breach their treaty rights), a failed asylum seeker, a person unlawfully present in the UK (if an individual does not have legal status in the UK but is in the process of seeking to regularise their stay, they are not excluded from support). However, authorities can still be compelled to provide services to individuals excluded by virtue of their immigration status where that refusal would be a breach of their human rights.
  - (In the case of single adults) They meet the Local Authority's care thresholds for support and can show their need did not arise out of destitution alone.
9. For those who meet these criteria, following the completion of the relevant social care assessment, individuals may be provided with accommodation, subsistence and other services assessed as required to meet their needs. Local authorities receive no financial support from central government for this group of service users.

### **Drivers of demand for NRPF**

10. A number of national factors have contributed to rising demand for services around people with NRPF. Whilst some of these are local factors and unique to Lewisham and neighbouring boroughs, the majority are national or international issues relating to government policy and EU case law. The increase in NRPF is the result of a lot of things all coming together at the same time: the economic downturn, private sector rent increases, changing case law and local conditions in SE London.

### Immigration policy and resourcing

11. It is fair to say that, until fairly recently, much of the debate around immigration has been focussed on asylum. This has meant that managed immigration has not really been actively managed, controlled or looked at. Most people presenting to local authorities as a NRPF case first entered the Country in a managed way, but the main focus of immigration resourcing, scrutiny and enforcement has been on asylum and not on the primary route of entry for NRPF cases.
12. In addition, whilst there used to be specialist teams dealing with asylum cases in many other local authorities, including Lewisham, many of these were disbanded when the National Asylum Seeker Service was established in 2000 and picked up the cases being dealt with by local councils. This meant that much of the specialist immigration knowledge in local authorities, which did include knowledge of NRPF cases, was lost.

13. In 2012 there were a couple of changes to immigration policy had a specific impact on NRPF cases. Firstly the charges for someone coming to the UK as a child or spouse were increased, which closed down an affordable route into the country for many people. This increased the number of people who then entered the UK as a visitor and then never left. Secondly, the 7 year old child concession was reinstated, which meant that if someone had been in the country with a child for 7 years it was against the child's rights to remove them if they had not had contact with their home country.
14. It is accepted that there is a significant backlog of cases on immigration applications and appeals; and this has significantly reduced the speed of decision making. This is related in part to the number of appeal stages built into the immigration process. The majority of NRPF cases are supported by local authorities pending the outcome of immigration decisions made by the Home Office. The cost for local authorities of providing support is related to the length of time it takes for the Home Office to resolve the immigration status of individuals and families, as they remain reliant on local authority support during the immigration application process.
15. The UK does not carry out 'amnesties' for large numbers of people who have been in the UK for a long time. Because of this, many people have been in the country for a long time without having a firm decision or action taken over their status. The Home Office is currently pursuing a policy approach of creating a harsher environment for those in the country illegally, such as restricting access to driving licenses and bank accounts. The aim is that this harsh environment will force people to leave the country as their lives will not be sustainable. From a Home Office perspective this will reduce the need for costly deportations and discourage future migrants.<sup>2</sup>
16. The Committee noted that the officers and witnesses contributing to the review's evidence sessions were in agreement that, over the years, the Home Office had not coherently stuck to policy, which had exacerbated matters.

### Recent legal changes

17. Immigration case law surrounding NRPF has developed in the last few years, with a number of key cases that have had a major impact. The Zambrano ruling means that non EEA nationals who are the primary carer of a dependent British child have a right to reside and work if the British child would be otherwise forced to leave, but not to claim benefits. The Clue vs Birmingham case changed case law so that individuals only had to be intending to make an application to the Home Office, rather than having an application registered. In addition, assessment of human rights claims used to have to be submitted and reviewed in one go, however it can now be assessed separately, criteria by criteria, which delays the legal process and introduces more stages.

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<sup>2</sup> Immigration Bill Factsheet  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/249251/Overview\\_Immigration\\_Bill\\_Factsheet.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249251/Overview_Immigration_Bill_Factsheet.pdf)

18. There is now more limited access to legal aid for immigration appeal work. Legal Aid changes that came into effect in April 2013 mean that some types of case are no longer eligible for public funds, including divorce, child contact, welfare benefits, employment, clinical negligence, and housing law except in very limited circumstances. The changes also reduced the amount of money available for solicitors carrying out Legal Aid work. However, judicial review continues to attract funding, which has meant that the number of judicial reviews being launched has increased as lawyers can generate income challenging decisions. There has been an increase in the use of this mechanism to challenge local authority decisions on whether to support an individual with NRPF under the Children Act or National Assistance Act. The Committee heard that solicitors sometimes gave false hope to families about their ability to access local authority funds which meant that the families were potentially missing out on better and more practical advice.

### Economic downturn and welfare reform

19. The economic downturn has had an impact on the numbers of people presenting as NRPF. Economic pressures have meant that some of the support networks people were using have fallen away. Many NRPF families that Lewisham is now supporting claim that they had been earning living from jobs in the informal economy but that there had been less of this type of work available since the downturn. Additionally, individuals have presented on the basis that the British citizen who had been supporting them no longer had the financial means of doing so. A factor in this is rising private sector rents as the people supporting the person with NRPF could no longer afford to pay their share of the rent.
20. Changes to the welfare system have increased the pressure on many families. Individuals who might have previously been supported by friends or family in spare rooms no longer have this option available due to the changes introduced under the 'bedroom tax'. The abolition of Council Tax benefit and the launch of the Council Tax Reduction Scheme could also have introduced further financial pressures on families on low incomes<sup>3</sup>. Policy changes affecting EEA nationals' access to JSA and Housing Benefit are also starting to give rise to increasing numbers seeking support.

### Local factors

21. In addition to national factors, there are some local factors that have contributed to the high numbers of NRPF cases in Lewisham and South East London. One is that Croydon has a hub for face to face contact for immigration applications made to the Home Office, which means that those seeking NRPF support may be in the area. Lewisham's demography is also a factor, with large numbers of Jamaican and Nigerian families who are statistically more likely to present as NRPF. The previous lack of robust systems for checking NRPF

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<sup>3</sup> As part of its wide-ranging changes to the welfare state the Government abolished Council Tax Benefit (CTB) and asked Councils to develop new local Council Tax Reduction Schemes (CTRS) to replace it. However, the Government only provided funding for this scheme at 90% of the expenditure needed to provide CTB so it has been difficult for local authorities to support families at the same level.

eligibility in social care assessment could also have promoted the reputation of Lewisham as a 'soft touch'.

## **The extent of the NRPF problem**

### The national and London-wide situation

22. The NRPF network estimates that there are approximately 1,587 households with NRPF receiving local authority support at an annual cost of £25.5m. They also suggest that 75% of this cost is borne by London councils. However, this is based on evidence from only 23 local authorities nationally and it is not easy to compare spend and caseloads on NRPF across London boroughs. This is because there is no comprehensive reporting on this type of expenditure and most local authorities do not have systems which enable them to robustly record the immigration status of those they are supporting.
23. Over the last six months, Lewisham council has worked closely with colleagues with responsibility for NRPF services in neighbouring boroughs to understand the demand pressures felt by other boroughs and the processes being used to manage these. The intelligence gathered suggests that the NRPF network figure significantly under-estimates the scale of this pressure. Across Lewisham, Lambeth, Southwark, Greenwich and Croydon alone, data suggests that the number of cases being supported is in excess of 1,000 and that costs per case are in line with Lewisham's unit cost of £22k rather than the £16k suggested by the NRPF network report.
24. Furthermore, many of the local authorities Lewisham have spoken to have only just begun to examine this cost pressure in any level of detail and as such, it is likely that once thorough investigation and more accurate recording systems are put in place, reported numbers will rise further. Lewisham is ahead of the curve in this regard, with only a few other authorities having taken action to address NRPF. Wandsworth put a team in place early to deal with NRPF, while Southwark is working to procure properties outside London to address the rising costs. The NRPF Network informed the Committee that it thought that understanding of NRPF had increased recently, partly because of tightened budgets which had emphasised the critical nature of the issue and brought it to the fore. However, local authorities do not always have the staffing resource to support data collection around NRPF, while others, such as Birmingham, have reviewed NRPF but are not involved in the NRPF Network. However, it is clear that different local authorities have different issues in regard to NRPF, for some the main source might be EEA migrants, rather than visa overstayers which are more typical in London.
25. In terms of managing demand, engagement with other London boroughs has identified that the issues experienced by Lewisham in terms of establishing effective assessment and case management for these groups are similar. Issues reported include:
  - Capacity, skills and knowledge gaps amongst social work services to robustly assess eligibility against immigration, destitution and territory criteria.

- Ad-hoc evidence that fraud levels might be high but that robust assessment practices are not well enough established to prove this.
  - IT systems for recording information that do not enable comprehensive recording of immigration status and spend.
  - Difficulties procuring appropriate and affordable properties.
26. In response to these issues, councils have been pursuing a number of strategies including:
- Employing specialist workers located within social care departments.
  - Appointing fraud officers to work directly with social workers.
  - Appointing project leads to conduct more systematic reviews of issues and solutions.
  - Setting up specialist teams (for example Wandsworth have an ineligible cases team dealing with NRPF alongside other ineligible cases resulting from negative housing decisions).
  - Procuring properties outside of London.

### The role of central government

27. As noted in the 'drivers of demand' section of this report, because the Home Office can take a long time to assess cases, people are staying illegally in the UK for a longer period of time upping the chances of them requiring access to NRPF support. The majority of NRPF cases are supported by local authorities pending the outcome of immigration decisions made by the Home Office. Local authorities can become tied to long periods of support if decisions on applications for Leave to Remain (LTR) are not decided expediently or removal processes are delayed.
28. At the evidence sessions, officers highlighted that NRPF is an example of Central Government working in silos. The Home Office has only recently started working with the Department for Communities and Local Government on this issue.
29. Representatives from the NRPF Network and London Councils highlighted that debating funding with the Home Office has proved difficult. At the start of 2014 the DCLG and Home Office took part in a round table discussion on NRPF, which included service and finance pressures as well as caseload and demand, including the need to secure additional funding for local authorities. The DCLG and Home Office challenged back on the costs, highlighting the need to reduce costs and processes. London Councils is looking at how local authorities and the Home Office can work together, including clarifying roles and responsibilities and looking at best practice for service delivery.
30. The DCLG and Home Office have also challenged the evidence base, but the NRPF Network aims to provide a solid evidence base via the NRPF Connect database. This should enable better negotiation with the Home Office on NRPF and also help hold them to account on their performance. The Committee heard that the NRPF Network was getting to a critical mass where it was gathering a lot of information and evidence. 35 local authorities will be involved by the end of the 2014/15, including major authorities outside London such as Manchester.

31. Ultimately the aim of the Network's work is for there to be a recognition from central government that their approach to immigration policy and legislation has contributed to the growth of NRPf claimants presenting to local authorities and for funding to be provided to address this unfunded cost shunt. If it is possible to regularise the stay of people quickly, then they will be entitled to benefits, and costs can be pushed back to the DWP.
32. The Committee also heard that MPs sometimes became involved in NRPf cases without being fully aware of the situation and context surrounding NRPf. Officers in Lewisham have arranged meetings with MP caseworkers to raise awareness and increase their knowledge.

### The situation in Lewisham

33. The Public Accounts Select Committee first became aware of the issue of NRPf in June 2013, when it was brought to the Committee's attention as part the Committee's budget monitoring responsibilities. The Committee discussed the issue, as part of the regular Revenue and Capital Budget Monitoring reports that it receives, on a number of occasions. The Financial Outturn Report 2013/14, reviewed by the Committee in July 2014, highlighted that NRPf clients had created a cost pressure of £4.6m for the year. This was based on the data available within the social care system and relied on the accurate classification as people as NRPf.
34. After this, further analysis was conducted to cleanse the data held in social care systems. As a result of this exercise it was possible to identify further individuals being supported who in fact have NRPf. This, combined with a sharp increase in demand for services in 2013 and 2014, significantly impacted on projected spend in this area. The cost pressure to the local authority at June 2014 stood at £6.2m and the total number of cases being supported was 278.
35. The number of people with NRPf presenting to the local authority seeking support has risen dramatically in the last few years with a particularly sharp increase in 2013 prior to the review of service arrangements:

Date	Number of cases accepted*	Annual cost of new case acceptances	Cumulative number of cases	Cumulative annual cost of cases
Pre 2008	7	£ 154,000	7	£ 154,000
2008	4	£ 88,000	11	£ 242,000
2009	11	£ 242,000	22	£ 484,000
2010	9	£ 198,000	31	£ 682,000
2011	15	£ 330,000	46	£ 1,012,000
2012	56	£ 1,232,000	102	£ 2,244,000
2013	142	£ 3,124,000	244	£ 5,368,000
2014**	34	£ 748,000	<b>278</b>	<b>£ 6,116,000</b>

\*All cases listed were still open at transfer to the pilot team in June 2014

\*\*This only includes cases accepted between January 2014 and June 2014 prior to the NRPf pilot start

36. At its peak in January to March 2013, the Council was accepting approximately 17 cases per month with the average number of acceptances between January 2013 and June 2014 at 9.7 cases per month.
37. If cases had continued to be accepted at this rate (and based on evidence on the infrequency of case closures), spend on this client group could have reached £15.7m by the end of the 2017/8 financial year.

	<b>Projected number of clients</b>	<b>Projected annual cost</b>
By April 2015	365	£ 8,036,600
By April 2016	482	£ 10,597,400
By April 2017	598	£ 13,158,200
By April 2018	715	£ 15,719,000

38. Most NRPf cases were being picked up within social care, which is not best equipped to deal with it. There are a number of reasons for this, including that assessment by social workers prioritises safeguarding (especially after the increase in Child Protection cases in 2012/13) and not NRPf eligibility criteria. NRPf involves complex immigration law, which is not part of social work role and can make the decision making process difficult. Anecdotal evidence suggests that a number of NRPf claims are dubious or fraudulent.
39. Almost all of Lewisham's current NRPf caseload are families where a woman is the primary applicant. The average age of applicants is 36 and the average number of children per family is 2. The majority of NRPf individuals currently being supported by the local authority are Nigerian (43%) or Jamaican (39%). The remaining 18% of cases have nationalities from 24 countries across the world. The majority (66%) of those currently being supported are classified as visa overstayers, with a further 19% having being granted limited leave to remain. The remainder include illegal entrants, failed asylum seekers on reporting restrictions and those whose status is yet to be determined. Many have been in the UK for a number of years and some have been in the UK for so long that they are not clear on their own status and what they are entitled to. Many will also have children who have one British parent. The demographic profile and immigration status of applicants in Lewisham is similar to neighbouring boroughs.

## **How Lewisham has addressed the issue**

### Assessing the NRPf problem

40. In January 2014, a review of the NRPf assessment and case management process in Lewisham to determine how well the authority was balancing its policy, legislative and financial duties, concluded. The review sought to identify issues and define alternative approaches which could be used to address these to ensure a robust and fair assessment and case management approach was in place.
41. The review made a number of recommendations for improvements to processes and operational structures. The recommendations included:

- Establishing a dedicated NRPF team with responsibility for assessing eligibility for services for all new applications for support.
  - More active engagement with the Home Office to manage cases and seek faster resolution to immigration applications.
  - Greater integration with our fraud service for the investigation of the circumstances of new and existing cases.
  - Establishing dedicated legal capacity for responding to the increasing number of threats of judicial review.
  - Making better use of the specialist housing procurement expertise already established in the council to ensure that when support is provided it is in a manner which is cost effective for the local authority.
42. In June 2014, funding of £350k was agreed for a six month pilot to test the impact of these recommendations on managing demand and cost pressure. The funding was used to:
- Employ a dedicated team of 5 caseworkers and a manager to be responsible for all new assessment and case management.
  - Second a Home Office worker to be embedded within the pilot team to conduct live status checks and ensure prompt liaison on specific cases.
  - Back fill a post within our legal services department to ensure that specialist expertise could be made available to the new pilot team.
  - Fund a fraud prevention officer to work specifically on dealing with investigations arising from the activity of the pilot team.
  - Establish capacity in our housing procurement team to manage the sourcing of emergency and ongoing accommodation for this client group.
43. Alongside the new organisational capacity, the new team was supported by a number of technical and process changes for assessment process including:
- Developing a scripted assessment process that uses anti-fraud techniques including credit checking, accessing council and Home Office information.
  - The use of credit checking facilities to check the financial histories of applicants.
  - A range of new processes for assessment including the use of signed declarations, waivers and more intensive checking of circumstances using data available on applicants from other council systems and Home Office records.
44. New processes were established for ongoing case management including the identification of cases for which there are grounds to ask the Home Office to grant access to public funds and a process for providing transitional support for those whose application is successful. Shared processes were established with the Home Office for dealing with cases where there is no application and the person is therefore excluded from all support, including our own.
45. The focus of the pilot team has been on eligibility for NRPF, with robust and fair processes developed to establish eligibility. Social care need is then assessed outside the pilot team once eligibility has been determined. There has been



dedicated legal support on hand for the pilot team and there has been close working with housing as well as the officer seconded from the Home Office. Officers at the evidence sessions stressed that it had been important to develop a consistent, fair and defensible process for assessing NRPF cases. The organisation can then be confident that decisions have been correctly made and can be stuck by. This is important as support for NRPF can extend over a number of years, so it is vital to get the eligibility process right. In addition there has been an unprecedented degree of challenge to the process. People have re-presented numerous times and other public services such as health have sometimes re-introduced people. The voluntary sector has steered people towards the local authority, while law centres and private practice lawyers have also done so. Despite this, since the start of the pilot project no challenge has been successful, which shows that the eligibility criteria used is correct and evidence based.

### Results of the pilot approach

46. Since the start of the pilot in June 2014, there has been an average of 8 new cases presenting to the local authority for assistance each week (32 per month). In the first 4 ½ months, the pilot saw 145 new cases seeking support. Of these:
- 127 (88%) were refused support at the initial triage assessment on the grounds that they did not meet all of the three eligibility criteria.
  - A further 18 cases (12%) were temporarily supported whilst a more thorough investigation of their circumstances was conducted.
  - 6 cases resulted in support being offered on an ongoing basis. This represents 4% of the total number presenting and is the equivalent of 1.3 acceptances per month.
47. The savings associated with this approach were quantified by comparing the pilot case acceptance rate of 1.3 cases per month against the acceptance rate prior to the pilot of 9.7. Based on an average spend of £22,000 per case, spend commitments relating to new cases have reduced from c. £215,000 to c. £30,000 per month. This is a monthly saving to the authority of c. £185,000 and an annual saving of c. £2.2m.
48. The table below demonstrates what this might mean in terms of committed spend over the next three years:

	pre-pilot process		pilot process	
	annual cost of new cases	cumulative cost of new cases	annual cost of new cases	cumulative cost of new cases
<b>Year1</b>	£ 2,560,800	£ 2,560,800	£ 343,200	£ 343,200
<b>Year 2</b>	£ 2,560,800	£ 5,121,600	£ 343,200	£ 686,400
<b>Year 3</b>	£ 2,560,800	£ <b>7,682,400</b>	£ 343,200	£ <b>1,029,600</b>

49. Those that are not accepted are signposted toward relevant places where they can access help and support.
50. As noted at paragraph 34, a significant amount of work on the part of both social care services and the new pilot team was spent on the case transfer in terms of confirming the number of cases being supported and cleansing the data held on each of these cases in order to ensure that they can be appropriately reassessed for ongoing eligibility. As a result of this analysis, the pilot has identified that the number of NRPF cases was actually much higher than had originally been predicted. At the time of concluding the report in January 2014, the caseload was estimated at 178. The total number of cases, following data cleansing, transferred to the new pilot team by the end of October was 278.
51. There are some cases which are currently being supported, for which it is possible to withdraw support. 27 cases being supported by Lewisham have been granted code 1a status by the Home Office meaning that they can be transitioned away from local authority support to mainstream benefits. 32 cases being supported do not now have a valid application with the Home Office and therefore the local authority must seek to terminate its arrangements for support unless human rights grounds prevent this. Lewisham has been engaging directly with the Home Office family removals team to agree an approach for dealing with these cases.
52. If the local authority can effectively terminate support on these cases and transition either to mainstream benefits or to the control of the Home Office, the full year savings are as follows:

	<b>Number of cases</b>	<b>Saving</b>
<b>Code 1a</b>	27	£ 594,000
<b>No valid application</b>	32	£ 704,000
	<b>Total</b>	<b>£ 1,298,000</b>

53. Given the complexities with terminating support, it is likely to be February/ March that savings can be delivered meaning a full year impact will not be felt until the financial year 2015/16.
54. Additionally, Lewisham has conducted 71 reassessments of existing NRPF cases which have been transferred to the pilot team, resulting in a decision to terminate support on 24 cases (approx. 33%). The decision to terminate support on these cases is either because: other sources of income have been identified, the client has been granted recourse to public funds or because their immigration status has been resolved. The full year financial impact for closing these cases is expected to be around £500k. Therefore, the overall estimate is

that the NRPF pilot will result in a plateau of spend for 2014/15, with significant budget reductions starting to be evident from 2015/16 onwards.

55. Following its second evidence session, the Committee was informed that the pilot had been extended for a further six months until June 2015.

#### Lessons learnt from the pilot

56. Lewisham identified the problem of NRPF early on, compared to other local authorities and has worked to fix the 'leaky roof' of increased NRPF cases. Lewisham has improved a lot in regard to NRPF, with neighbouring authorities such as Lambeth and Greenwich only just starting to realise the extent of the problem. A full evaluation of the impact of the NRPF pilot will be compiled in Spring 2014 but some lessons have already been learnt from the pilot.
57. Splitting eligibility assessment and need assessment has been effective as the difficulty balancing both elements of assessment tended to make need outweigh eligibility. This goes some way to explaining the higher number of acceptances prior to the start of the pilot. In addition, conducting robust assessments relies on the collection and collation of a range of complex information and requires skill and expert immigration knowledge which is not necessarily amongst the knowledge base of those carrying out social work assessment. Using a small team for the pilot has been very effective. Previously there were a wide number of people all dealing with applicants, which meant applicants could reapply and be fairly confident they wouldn't see the same person. This is not the case now and the team regularly shares information on those presenting as NRPF.
58. Housing is the main driver for individuals seeking support, with many applicants presenting originally to the Housing Options Centre before being signposted to the NRPF team. Given their immigration status, applicants will not be entitled to access social housing and accommodation must be procured in the private rented sector. Lack of availability of affordable private sector options locally has meant that searches now have to be undertaken of a wider geographical area (including outside London) to ensure that the housing procured continues to be viable for the family beyond local authority support timeframes. The NRPF team have been working more closely with the housing procurement team which has reduced the cost of accommodation through better procurement.
59. The process for putting in place a robust front-door, whilst not easy, has been more straightforward than the process for terminating cases that have already been supported for a number of years. Particularly for cases which have been granted access to benefits, getting in place arrangements for a smooth transition to benefits, including finding suitable accommodation has proved challenging. This is particularly important because, unless suitable alternatives can be put in place, the service risks bouncing individuals from social services support to housing support which merely moves the pressure around the council rather than addressing the root cause. This highlights that the key to management of NRPF is early identification, thorough assessment and then active management of cases. Situations can change and eligibility is a part of

this. Resources can be expended on people that meet the eligibility criteria, but subsequently the changing situation can mean they do not meet the criteria.

## **Future pressures**

60. Throughout the review, the Committee sought to identify future pressures that could impact on NRPF and therefore have a significant impact on Lewisham's financial situation. Some future pressures have already been identified in the report, but this section brings them together.

## Central Government

61. The key role of central government in the issue of NRPF has been identified throughout this report. Changes to policy from central government could have a significant impact on NRPF, with changes to benefits for EEA nationals as well as EU case law potentially increasing numbers.
62. It is likely that demand due to NRPF will increase further as a result of welfare reforms affecting EEA nationals and the Immigration Act. On 1<sup>st</sup> April 2014, the Department for Work and Pensions (DWP) brought in a number of changes affecting the extent to which EEA nationals were able to access benefits in the UK. The key changes introduced were:
- No entitlement to income-based JSA for those in the UK for less than three months.
  - No income-based JSA for EEA migrants after three months (previously six months) unless the DWP assesses that they have a 'genuine prospect of work'.
  - No entitlement to Housing Benefit for EEA jobseekers. DWP figures suggest that London has approximately 177,000 of the 397,000 non-UK national benefit claimants (45% of the total).<sup>4</sup>
63. If the proportion of EEA nationals is the same as non-UK nationals as a whole, then the financial burden for the 32 London local authorities would be between £101m and £169m per annum. This is equivalent to between £3.2m and £5.3m per local authority per annum. It should be noted that it is likely that costs would be at the upper end of the range because of higher accommodation costs in London.
64. The forthcoming Immigration Act, which promotes the 'hostile environment' to immigration mentioned elsewhere in the report, will introduce a number of measures including tightening access to bank accounts, driving licenses and private rented sector accommodation for people who are here illegally. This is likely to increase the number of cases being identified and subsequently presenting to Lewisham Council, although the numbers are unknown. However, the Immigration Act will reduce the number of appeal stages in the current

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<sup>4</sup> DWP Quarterly Statistical Summary – August 2014  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/344650/stats-summary-aug14.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/344650/stats-summary-aug14.pdf)

immigration decision making process from 17 to 4 which should help speed up case-resolution.

65. The Care Act 2014 will reform the provision of care and support to adults, consolidating current legislation and implementing new duties on local authorities. Some changes will come into effect in April 2015 and the rest will be implemented in April 2016. Section 8(1) Care Act 2014 sets out how needs may be met, which includes the provision of “accommodation in a care home or in premises of some other type”. The draft regulations set out a three-stage eligibility test to determine whether a local authority will have a duty to meet a person’s needs. Concerns have been raised by the NRPF Network<sup>5</sup> that the Care Act and draft eligibility regulations do not appear to consider the needs of those people who have no access to mainstream benefits and housing. They highlight that it is unclear whether it will still be the responsibility of the local authority to provide accommodation to asylum seekers and refused asylum seekers who have care needs, who would otherwise be accommodated by the Home Office.

#### Housing costs

66. If greater numbers of migrants with NRPF are able to access accommodation from the local authority, then this would be very costly to local authorities when NRPF service provision is not funded by central government. Housing is by far the biggest subsidy that the local authority has to pay out, bigger than other costs such as subsistence and support. Housing costs within Lewisham, as elsewhere in London, are high and therefore the cost to the local authority is high. In addition, high cost accommodation in London may be unsustainable for the family receiving assistance as it may be unaffordable for them under housing benefit, should their stay be regularised. Increased sustainability in the housing provided is needed and this means accommodation that is not necessarily in London due to the high costs.

#### Dealing with existing caseloads

67. The key to the long term control of NRPF expenditure is to have processes in place for bringing claims to an end, even though there is a certain amount of reliance on the Home Office for this. Due to the large number of cases that Lewisham is already supporting, these need to be dealt with effectively in order to ease the financial pressure and to accommodate future eligible NRPF claimants. Officers at the evidence sessions highlighted that now that the pilot is in place and a robust entrance has been established, there will be a renewed emphasis on dealing with the case review process to seek to reduce existing caseloads by dealing with cases who are no longer eligible for our support. There will also be further focus on seeking to move those who we are likely to be supporting longer term to more affordable accommodation which is

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<sup>5</sup> NRPF Network – response to Department of Health consultation on the Care Act 2014  
<http://www.nrpfnetwork.org.uk/Documents/Care%20Act%20Consultation%20response%20August%202014.pdf>

sustainable in the longer term if families are granted leave to remain and access to benefits.

### Shared delivery

68. There is significant overlap between Lewisham and its neighbouring boroughs in terms of the issues experienced and number of cases being supported. Lewisham, Greenwich, Lambeth and Southwark councils have all been working closely together over the past few months to share approaches and possible solutions. There is an appetite across these other boroughs to implement an approach similar to the Lewisham pilot and to explore opportunities for delivering this service jointly. In particular, this would help to reduce the number of re-presentations between local authorities and improve the richness of data held on individuals presenting, meaning that trends and patterns at a regional level can be more easily identified.
69. The council recently submitted a bid to the DCLG for funding as part of its counter fraud initiative to develop a shared process and system across 5 boroughs (ourselves, Lambeth, Southwark, Greenwich and Bromley) to create a more integrated approach for dealing with NRPF cases. Discussions have been based on developing a model similar to that adopted in Lewisham. The application has been successful and officers are hopeful that they will be able to use this as the basis to explore whether a shared service model could be effective for this type of service.

### **Monitoring and on-going scrutiny**

70. In order to monitor the implementation of the review recommendations, if accepted by the Mayor, the Committee would like a progress update in six months' time.