



Policy briefing

Vital solutions to ending migrant homelessness





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Homelessness amongst migrants

Homelessness has a devastating impact on people and communities. For individuals, homelessness damages physical and mental health, causes and exacerbates trauma, and pushes people into vulnerable and exploitative situations, further away from opportunities to build healthy, fulfilled lives. Not only does homelessness stop people from reaching their potential, but it also prevents them from integrating and fully participating in their communities and wider society.

Whilst homelessness affects households across the country, non-UK nationals are more vulnerable to homelessness than people with UK citizenship, and those with restricted or No Recourse to Public Funds (NRPF)¹ and/or unsettled immigration status even more so.

Migrants are impacted by the same socioeconomic conditions that drive homelessness across the population as a whole. This includes low-wage labour, the lack of affordable housing, personal needs including mental health challenges, the need for treatment for substance misuse and trauma; and the challenge of navigating multiple, complex, systems across housing, welfare, health, and social care.

However, for many migrants, these challenges are compounded by conditions created by the immigration system. People with restricted or No Recourse to Public Funds (NRPF) face unique challenges and barriers that trap them in destitution,² and which make it almost impossible to move on from homelessness and rough sleeping.ⁱ This can include being locked out of the vital support services that exist to help people move on from homelessness, and denied assistance with other issues they may face, due to restrictions imposed on them because of their immigration status.

Whilst immigration policies have long been a cause of homelessness and destitution, changes to the immigration and asylum system enacted through the Illegal Migration Act 2023 could drive an increase in the number of people seeking asylum at risk of homelessness and destitution, if it is not immediately repealed.ⁱⁱ As well as restricting the routes to asylum and settlement for many recently arrived migrants in the UK, leaving them in a “permanent limbo”,ⁱⁱⁱ which will drive further disengagement from support networks.

No one should become, or remain, homeless because of their immigration status. Preventing homelessness must be a considered part of the immigration system, alongside greater collaboration with housing, welfare, and voluntary and statutory services, and improved recourse to justice through our legal systems. Through this we

¹ See Appendix 1: 'A note on entitlements, powers and 'public funds' for more detail.

² We refer to the Joseph Rowntree Foundation definition of destitution, as defined in the 'Destitution in the UK 2023' report

can deliver the changes needed to ensure that the immigration system no longer drives homelessness, and instead contributes to a shared goal of preventing and ending homelessness for all.

These changes include:

- 1. Recognising and addressing the impact that restrictions on public funds have on homelessness.**
- 2. Stopping the flow of homelessness from the asylum system.**
- 3. Expanding access to quality free immigration and welfare advice.**
- 4. Taking a cross-departmental approach to tackling all forms of rough sleeping and homelessness.**
- 5. Repealing the Illegal Migration Act 2023 at the earliest possible opportunity**

Understanding the scale of the challenge

Understanding the size of the overall homeless population can be challenging due to the many forms of homelessness. Likewise, accurately estimating how many migrants are currently experiencing rough sleeping and homelessness is extremely difficult.

Homelessness data is fragmented, with different statistics showing only part of the story. Typically, this data fails to capture those who are experiencing more hidden forms of homelessness, which is particularly prevalent amongst migrant communities.^{iv}

Statutory homelessness data by design does not capture people with NRPF who are not entitled to local authority housing support. Meanwhile, estimates of the number of migrants with NRPF supported elsewhere by local authorities or health and social care trusts in the UK are likely to be underestimates, and do not capture those who are facing destitution but not accessing this limited support.^v

Furthermore, broader estimates of the number of migrants experiencing destitution have been unable to identify how many within that population are also experiencing homelessness.^{vi} Whilst attempts have been made to calculate the number of people experiencing homelessness from different migrant cohorts, a holistic snapshot of the whole population does not currently exist.^{vii}

Improving homelessness and rough sleeping data collection is central to ensuring we have a true understanding of the level of need for each cohort. The Housing, Communities and Local Government Committee has emphasised the importance of

understanding the scale of migrant homelessness, as well as the urgent need for Government to begin to collect reliable data on the number of people with no recourse to public funds.^{viii}

Despite this lack of consistent data, all available indicators suggest homelessness amongst migrants with immigration restrictions is rising.

National estimates of destitution in the UK show that migrants are disproportionately affected by destitution and are 35% more likely to be at risk than the wider population. In 2022, there were an estimated 488,600 destitute migrant households in the UK containing 1,318,000 people, including 355,900 children. This was a 95% increase since 2019, the largest increase seen across all destitute populations in the country.^{ix}

Overseas nationals with different immigration status have been disproportionately represented in rough sleeping figures for several years, with EU nationals particularly prominent, but recent trends indicate a continued increase. The 2023 national rough sleeping count found that 27% of people found sleeping rough on a single night in autumn were non-British citizens, an 11% increase in share, and the highest proportion since records began in 2017 (the peak of rough sleeping in England). In particular, over the last year, we have seen an 88% increase in non-EU, non-UK nationals on the streets, and a 14% increase in EU nationals.^x

Meanwhile, research commissioned by the Centre for Homelessness Impact shows a troubling link between the UK's asylum system and the growing levels of homelessness amongst newly recognised refugees.^{xi} This finding is supported by statutory homelessness data, which shows an 126% increase between 2018-19 and 2022-23 in those who have been granted refugee status owed a statutory homelessness duty.^{xii}

Tackling homelessness amongst migrants is a moral imperative: we should not be designing a system that traps people in destitution and pushes them into the trauma and hardship of homelessness and rough sleeping. The growing number of people experiencing homelessness while in the immigration system is also putting increasing pressure on already strained statutory and voluntary services. This will only worsen if the Government proceeds with policies such as those introduced by the Illegal Migration Act 2023, that will leave an increased number of people seeking asylum at risk of destitution and homelessness.

The Government must commit to ensuring that the immigration and asylum systems are not drivers of homelessness, otherwise we will fail to address the needs of some of the most marginalised and disadvantaged people in our society, whilst also neglecting to address the pressure that sustained homelessness places on other public services.

‘Destitution by design’: how immigration policy drives homelessness

Currently, a network of immigration and asylum policies and practices create a system that drives people into homelessness by limiting their access to vital support, including housing, or by placing them in situations of housing precarity. This in turn creates barriers to accessing the necessary immigration advice needed to move forward, whilst complex and confusing processes leave people falling between systems and services, exposed to the administrative barriers, stigma, indignity and volatility of living within the immigration system.

The Hostile Environment

Primarily implemented through the Immigration Acts of 2014 and 2016, the term ‘Hostile Environment’ is used to encapsulate a broad network of Acts, rules, and regulations across a range of sectors and policy areas, characterised as making life more difficult for migrants with restricted eligibility to public funds.^{xiii} Attributed with introducing a ‘sprawling web of immigration controls...embedded at the heart of the UK’s public services and communities’,^{xiv} the hostile environment, both deliberately and inadvertently, has produced various barriers preventing migrants from accessing vital services, including housing and homelessness support. This in turn has driven a lack of trust in authorities and fear of negative repercussions in terms of immigration enforcement, which are well-documented barriers to migrants - even those without any immigration-based restrictions – accessing the support they need.^{xv}

Policies introduced as part of the hostile environment have placed increased responsibility on private corporations, public servants, and regular citizens, to assist the Home Office in enforcing immigration-related restrictions.

A potent example of this is the ‘Right to Rent’ policy, introduced in the Immigration Act 2014, which requires landlords to carry out checks to verify the immigration status of prospective tenants. While intended only to prevent migrants without regular status from privately renting, the Joint Council for the Welfare of Immigrants (JCWI) showed that 42% of landlords surveyed were ‘less likely to rent to people who do not have a British passport’ for fear of facing criminal charges.^{xvi}

More broadly, the hostile environment has contributed to migrants experiencing gatekeeping, administrative barriers, racism, stigma and misunderstandings when attempting to access support they are entitled to.^{xvii xviii}

Restrictive asylum and immigration reforms

Previously, Government introduced sweeping reforms to the asylum and immigration system - primarily through the Illegal Migration Act 2023, but also the Nationality and Borders Act 2022, that put large numbers of recently arrived people seeking asylum at increased risk of destitution and homelessness.

The Illegal Migration Act 2023 bans anyone who arrived 'irregularly' in the UK since March 7 2023, from ever being granted any form of immigration leave. If fully enacted, the vast majority of people who have arrived in the UK in search of refugee protection since July 20 2023 will also have any potential asylum claim automatically declared 'inadmissible' (meaning it will not be processed in the UK, irrespective of the strength of their claim) and will be liable to detention and removal from the UK. Additionally, in May 2024, the Government expanded the list of people who could be considered for detention to include those whose asylum claims had been refused, withdrawn, or treated as withdrawn, with no ongoing claims or appeals.

The Refugee Council estimates that by the end of 2024, 93,931 people will have had their asylum claim declared inadmissible.^{xix} This could leave people in a state of permanent limbo, with no recourse to public funds, reliant on limited and potentially difficult to access asylum support from the Home Office, and unable to ever settle their status in the UK.

There are concerns that closing available routes to settlement for those seeking to claim asylum, combined with the threat of detention, will result in people disengaging from the system, likely losing the little Home Office support they are entitled to, or refraining from accessing available support services over fears of immigration enforcement. Instead, people will be forced to rely more heavily on informal support networks, as well as face an increased risk of exploitation and abuse.

Accessing support

"NRPF not only causes homelessness, but it also stops people accessing the support they need to escape it." - Geo, Nico, Kas, J.A., Luna, Sarah (NACCOM Community Researchers)

Restricted access to homelessness support and benefits

Without a statutory safety net, and with the greater likelihood of facing discrimination and other structural barriers, migrants with restricted eligibility to public funds are particularly vulnerable to homelessness and destitution.^{xx}

Once migrants with **restricted eligibility to public funds** become homeless, the accommodation support options available to them can be extremely limited.

Homelessness accommodation services often have limited beds available for those excluded from accessing mainstream benefits, and recent pressures on the

sector, including decommissioning of services, the impact of inflation on services, and a long-term trend for fewer bedspaces in the sector, mean that the demand for beds is growing.^{xxi}

Likewise, the limited support provided to destitute migrant families and adults with care needs is inadequate to meet the needs of the increasing numbers of migrants facing destitution and homelessness.^{xxii}

Subsequently, those experiencing homelessness with no access to the mainstream safety net are fighting for already limited resources in an increasingly squeezed market. This means there is also an over-reliance on short-term emergency accommodation, including winter night shelters, and support provided by the voluntary sector. Whilst this provides vital and at times life-saving accommodation to people sleeping on the streets, without integrated support, **the options needed to help end people's homelessness for good are extremely limited.**

Some migrants with restricted eligibility may also face unique barriers when attempting to access benefits - such as non means-tested benefits - that are not classed as 'public funds.' This group is more likely to be without identification documents, and are frequently uncertain of their own immigration status, rights and entitlements.^{xxiii,xxiv} In particular, the lack of understanding of entitlements for different groups among Jobcentre Plus staff has led to **people being excluded in error** from the benefits system.^{xxv} Without an offer of financial support, people may be **driven into exploitative working and living situations** to make ends meet.

Restricted access to immigration advice

The **immigration system is complex, expensive, and difficult to navigate** for anyone without specialist legal support. For people without stable accommodation who are also struggling to meet their basic needs due to destitution and homelessness, it can be impossible. Changes introduced in the Legal Aid, Sentencing and Punishment of Offenders Act (2012) compounds this further by significantly reducing the types of immigration case that are eligible for legal aid, meaning that **legal aid is no longer available for most immigration status issues, restricting access to justice for those experiencing homelessness** needing to resolve their immigration status. Even for matters currently within scope, two thirds of the population do not have access to an immigration and asylum legal aid provider. As such, there is an urgent need for wider reform to build a safety net of quality advice that reaches the most vulnerable.^{xxvi}

In addition to legal aid, **the availability of Office of the Immigration Services Commissioner (OISC)-regulated advice is an essential part of the homelessness**

system, which enables people to move forward constructively, whilst mitigating decisions that may have lasting negative consequences. Often, unlocking move-on options by resolving a person's status, or supporting them to make the difficult decision to leave the UK voluntarily, depends on access to good quality, independent immigration advice. Homelessness services also frequently rely on immigration advisors to determine whether an individual has eligibility restrictions or the potential to change them.^{xxvii}

The value of professional immigration advice is materially visible in the results of applications for the lifting of NRPF conditions, which unlocks access to benefits and saves councils money. Research found that 90% of people surveyed who attempted to have their NRPF status changed unassisted were unsuccessful. Of these, 95% were subsequently successful upon receiving professional support.^{xxviii}

Unfortunately, **access to advice is extremely limited and capacity falls far short of need** in England. Research estimates the total capacity for casework in London at no more than 4,000-4,500 pieces per year, compared with demand in the hundreds of thousands.^{xxix} It highlights the particular need for longer-term casework capacity, rather than one-off advice sessions frequently available on a drop-in basis.

The asylum system

Those seeking asylum often have to wait a long time for a decision on their claim. During this time, they are prevented from working and are only entitled to extremely limited levels of financial support. If they satisfy a Home Office destitution test, they are provided with asylum accommodation, of varying quality. **People accommodated through the asylum system are known to be at particularly high risk of homelessness once a decision on their claim is made.**

This is true for both those who receive a positive or negative decision, who face multiple challenges, including; **the pace at which they are evicted** from their accommodation once they are notified of the outcome of their claim; **the lack of co-ordination and integration between asylum accommodation services and housing** and wider support services; the **lack of clear and accessible information** given to people in the asylum system, and subsequent difficulty understanding how to navigate a new and complicated homelessness system; the lack of priority need for housing and homelessness support;³ and **difficulties accessing Universal Credit** within a short period of time.^{xxx} Faced with these multiple barriers, **many people find they have nowhere to go when they are served with notices to vacate their asylum accommodation.**

3 A person has priority need if they are deemed by a local authority to be more vulnerable than an 'ordinary person' if they become homeless. Where a person has priority need, they must be provided with emergency housing.

Those granted refugee status whether or not they are found in priority need for housing and homelessness support face the same barriers as everyone else experiencing homelessness, in that lack of social housing supply far outweighs demand and pressure on support services outweighs capacity.^{xxxii} This means that many people **risk being trapped in costly, unsuitable temporary accommodation** for potentially years, whilst others may find themselves trapped on the streets, in hostels or supported accommodation, all unable to start their lives in the UK.

Meanwhile, those with failed or withdrawn claims face an elevated risk of homelessness due to their restricted eligibility to public funds.^{xxxii} On top of all the systemic and structural barriers that migrants face, this group, more than any other, is **more vulnerable to the changing political environment**, not least the introduction of the Illegal Migration Act 2023.

Legislative changes, policy changes, and practice changes can all lead to an increase in homelessness and destitution, making it harder for providers to support them.

How changes to Home Office policy and practice drive homelessness

Driven by the Government's aim to clear the legacy backlog of asylum cases by the end of 2023, an increase in Home Office decision-making on asylum cases since Autumn 2023 has resulted in large numbers of people exiting asylum accommodation at pace – and, in many cases, directly into homelessness and rough sleeping.

This situation was exacerbated by a change in the procedure for ending asylum support, starting in August 2023, which resulted in many people being given less than 28 days, and as little as seven days in many cases, to make move-on arrangements after being told to leave their asylum accommodation.

At the time, both voluntary services and local authorities expressed serious concern about the lack of prior consultation to this change in process and the speed of decision-making, services' ability to meet the increased demand created by those leaving the asylum system, and how this might contribute to increased homelessness and rough sleeping.

The result was a surge in newly recognised refugees being made homeless, and ending up on the streets or in unsuitable, costly temporary accommodation. The number of households owed statutory homelessness support after leaving Home Office accommodation in England increased by 458% between Q2 and Q4 of 2023.^{xxxiii}

This period also saw a dramatic increase in the number of people leaving the asylum system following an unsuccessful asylum claim or after having their asylum claims withdrawn; groups who are already excluded from mainstream housing and homelessness support and are reliant on specialist services in the voluntary sector to prevent and resolve their homelessness.

Data shows that there was a shocking 966% increase in people rough sleeping who had left asylum support between May 2023 and December 2023. This had an enormous impact on both homelessness and migrant services who have been desperately trying to provide vital support amongst a growing scarcity of resource, and with limited options at their disposal.

This situation is a clear example of how already marginalised migrant populations are made more vulnerable to homelessness and destitution because of the changing political context. It also highlights the enormous impact this has on other public services and the voluntary and community sector partners that support them. Without working in a more collaborative and cross-departmental way Home Office actions risk continuing to undermine wider Government efforts to prevent and end homelessness.

¹ DLUHC (2023) *Ending Rough Sleeping Data Framework, December 2023*

Home Office and the homelessness sector

Lack of trust in authorities **and fear of negative repercussions** in terms of immigration enforcement - even for those without a specific reason to fear them - are a well-documented **barrier for migrant with irregular immigration status accessing the support they need.**^{xxxiv,xxxv} These concerns are in part **driven by wider 'hostile environment' policies** that, through gatekeeping and surveillance across banking, private renting, and NHS secondary care, make life more difficult for migrants with irregular immigration status.

The homelessness sector has learned crucial lessons about the importance of building and sustaining trust with migrants seeking support. In 2017, Home Office guidance designated rough sleeping as an abuse of EU free movement rights. The High Court ruled the designation unlawful later that year, but not before some EU nationals had been detained and deported. At the time, outreach services worked with immigration enforcement officials and shared service data to identify individuals.^{xxxvi} The impacts of this collaboration led to a breakdown in trust between important homelessness support services and the people who rely on these services to meet their basic needs, pushing people experiencing homelessness further away from

engagement. This clearly signals the dangers of mixing support-led homelessness objectives with those of immigration control.

Other Home Office initiatives have attempted to bring enforcement into homelessness settings in a way that risks the perceived integrity of services and muddles client support objectives. These include the introduction of embedded Home Office staff in local authority assessments and the recent rough sleeping Immigration Rules, which call for local authority referrals of non-engaging migrants with immigration eligibility restrictions under certain circumstances.^{xxxvii,xxxviii} The lack of uptake, and controversies surrounding the Rough Sleeping Support Service (RSSS), also highlighted the uneasy and uncertain relationship between the sector and the Home Office.^{xxxix, xl}

But we know that improved relationships are possible. The Home Office engagement with both the migrant and homelessness sectors to redesign the RSSS, to ensure that it was built on trust, and respected the boundaries of local authority and voluntary sector providers, has led to the development of the Homelessness Escalation Service (HES). HES has proved to be a positive step forward in finding better and more efficient ways for homelessness support providers to work with the Home Office. It has also been a crucial way of advancing the immigration cases of clients at risk of or experiencing homelessness as quickly as possible and protecting their interests. We must build from the learning here to develop better collaborative working practices that preserve trust and integrity and ensure that people within the immigration system are better able to access the support they are entitled to, in order to prevent and end their homelessness.

Building an inclusive system to end homelessness for all

Ending rough sleeping and homelessness demands a cross-departmental, co-ordinated response at both a national and local level. This is particularly true for those impacted by the immigration system where current immigration policy not only drives people into homelessness but also prevents people from accessing the support they need, and limits services from providing the help they can deliver.

We know that it does not have to be this way. We have seen the success that collaborative working as reflected in the Everyone In scheme during the COVID-19 pandemic can have. During this period, everyone, regardless of immigration status, was able to access support and accommodation. This provision was especially important for people with restricted eligibility, who faced some of the worst consequences of the pandemic.^{xli,xliii}

Homelessness organisations and local authorities welcomed being able to support people, in many cases, for the first time.^{xliii,xliiv} They were able to ensure people were given information about their status and the progress of their asylum claim, along with their rights, responsibilities and options, in an appropriate format, at key points of their immigration journey. Whether coming from long-term rough sleeping or newly homeless, many people were empowered to move on independently with access to support, immigration advice and a safe place to stay. Research from King's College London with people in London hotels found that despite individuals' low expectations, they had been able to stabilise drug and alcohol problems and take stock of their lives while in accommodation.^{xliv}

By finally bringing people under the umbrella of mainstream provision, albeit for an uncertain and variable period, local authorities learned about previously 'hidden' individuals and connected them with support options. There were positive reports of success with helping many EU nationals to enter into employment, repatriate or move on via applications to the EU Settlement Scheme (EUSS).^{xlvi} Many local areas have continued to embed lessons learned from the pandemic into their ongoing practices and work to try and improve the support they can provide.^{xlvii}

For many local authorities and other agencies, these efforts continue to be hampered by changing immigration legislation and Home Office directives – decision making that is directly leading to increases – rather than decreases – in homelessness. Our collective experience shows that there are choices and approaches that would prevent and end homelessness for many migrants with restricted, irregular or undetermined immigration status. Unlocking accommodation solutions is clearly crucial to this, but so too is exploring where we can build measures to prevent people experiencing homelessness within the asylum and immigration system, and increasing access to immigration advice to ensure that people are benefiting from the entitlements they are owed.

Recommendations

Ensure that changes to the immigration and asylum system do not actively contribute to an increase in migrant homelessness by:

- allowing those who have arrived since the introduction of the Illegal Migration Act 2023 to enter the asylum system and have their claims processed accordingly;
- repealing the Illegal Migration Act 2023.

Recognise and address the impact that restrictions on public funds have on homelessness:

- reviewing and monitoring all immigration-based restrictions on public funds to mitigate their role in driving homelessness;
- clarifying the legal powers and expectations on local authorities to accommodate and support migrants with restricted eligibility to public funds;
- ensuring sufficient funding from central Government to allow local authorities to ensure a minimum level of suitable accommodation provision, regardless of immigration status.

Stop the flow of homelessness from the asylum system by:

- allowing 56 days following an asylum decision before the cessation of asylum support, in line with the Homelessness Reduction Act 2017 (HRA);
- extending the HRA Duty to Refer to the Home Office;
- working with local authorities, migrant sector and homelessness sector providers to develop a co-ordinated and integrated move-on process that looks to prevent homelessness wherever possible;
- granting people seeking asylum the right to work after six months.

Expand access to quality legal advice through improving access to free immigration and welfare benefits advice by:

- funding and promoting the expansion of embedded advice provision in homelessness and homelessness prevention settings;
- restoring legal aid for early legal advice to pre-Legal Aid, Sentencing and Punishment of Offenders Act 2012 levels for immigration, welfare benefits and housing law;
- committing to wider reform of the legal aid system, to end the existence of immigration and asylum legal aid deserts and ensure advice is available to anyone who needs it.

Develop a cross-departmental approach to tackling rough sleeping and homelessness by:

- Government creating a cross-Governmental strategy to tackling homelessness, led by a homelessness task force directed by the Cabinet Office, with representatives from the Home Office, Ministry of Housing, Communities and Local Government, Ministry of Justice, Department for Education, Department for Work and Pensions, Department of Health and Social Care, and Ministry of Defence;
- requiring the Home Office to be a key and accountable part of the cross-Governmental strategy and task force.

Appendix one: A note on entitlements, powers, and public funds

A note on entitlements, powers and 'public funds'

Not all migrants are excluded from 'public funds', or excluded in the same way, and assumptions made by frontline services can often wrongfully prevent people from accessing the support they are entitled to. For example, those with entitlement to public funds include: people with EUSS settled status, refugee status and indefinite leave to remain, as well as those with discretionary leave to remain granted to an Unaccompanied Asylum Seeking Child, recognised survivors of modern slavery, or under the destitution domestic violence concession. Different rules also apply to EU nationals who arrived following the closure of the EUSS, and those with a pending EUSS application or with pre-settled status, who may be able to access benefits.^{xlviii}

It is also important to note the fluidity of many of these categories; they frequently change and can be difficult to discern, even for the individuals they affect.

What is NRPF?

People have 'no recourse to public funds' (NRPF) if they are 'subject to immigration control', i.e. they have irregular status (don't have leave to remain but need it) or they have leave to remain with an NRPF condition attached.^{xlix} They are excluded from access to public funds such as homelessness assistance, social housing and some benefits, including:

- Universal Credit;
- Housing Benefit;
- Income-based jobseekers' allowance.^{li}

However, they may still be able to access, among other things:

- Jobseeker's Allowance;
- Employment and Support Allowance;
- Housing provided by a housing association;
- NHS services (though primary care is universal, some restrictions apply to secondary care);^{lii}
- Education.

What does this mean for local authority homelessness support?

There is a clear legal duty for local authorities to support people, regardless of their immigration status, under some conditions. In others, there are limited powers that a local authority can use to accommodate and support people.

People with the NRPF condition can still receive accommodation and financial support from a local authority when duties are engaged under the Children Act 1989 (Section 17 applies if

children are facing destitution) or the Care Act 2014 (for adults with care needs to prevent a breach of their human rights).^{liii}

For single adults who are otherwise ineligible, the *Ncube v Brighton and Hove City Council* ruling found that local councils have legal powers to provide accommodation during a public health emergency. The High Court ruled that councils could use powers under section 138 of the Local Government Act 1972 (which creates a power to take action to avert, alleviate, or eradicate the effects of an emergency or disaster) and Section 2B of the NHS Act 2006 (which gives councils a power to provide assistance and services to improve the health of their population) to find accommodation for people otherwise ineligible.^{liv}

Others have noted that section 18 of the Care Act 2014, section 6 of the Human Rights Act 1998 and section 1 of the Localism Act 2011 offer possible legal bases for the provision of local authority support to otherwise-ineligible single adults during a public health emergency.^{lv}

The consistent Government position has been that local authorities can use their general powers of competence under the Localism Act 2011, as they do via the Severe Weather Emergency Protocol (SWEP) to accommodate people regardless of eligibility for a limited period of time.^{lvi}

Key categories of people facing immigration-based restrictions

Migrants who have a NRPf condition attached. Most migrants who have been in the UK for less than five years will have NRPf conditions on their visas. This group includes people working, studying, or joining family in the UK with a wide variety of circumstances. Individuals in this group who are facing destitution can apply to have the NRPf condition lifted.

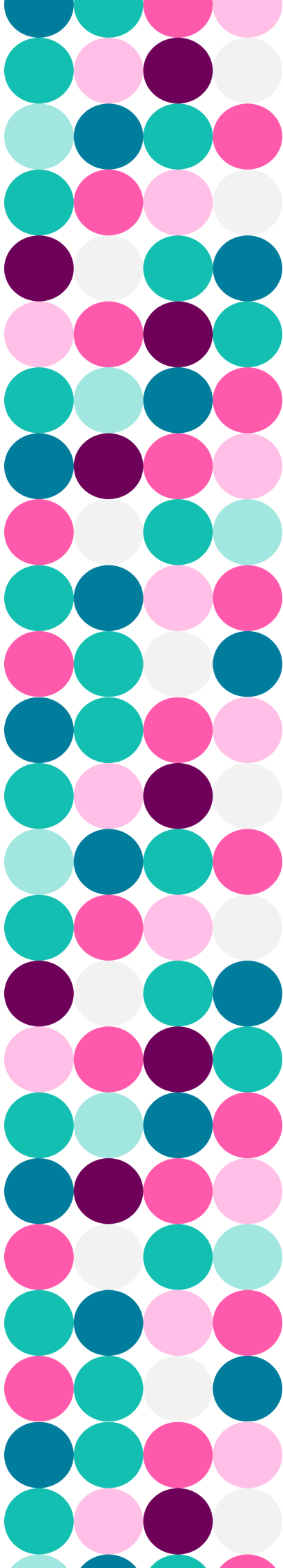
People without current regularised status, often because of prohibitive application fees, barriers to accessing advice, and the complexity of the immigration system. This group could include people whose visas have expired, people who have entered the UK outside of regular routes, those who have had their asylum claims refused, and those born to parents without residency rights. The terms 'irregular', 'undocumented' or 'illegal' migrants are sometimes used to describe this group. It is likely that we will see increasing numbers falling into this category, given the end of the Brexit transition period and plans set out in the Government's New Plan for Immigration, as well as the implementation of the Illegal Migration Act 2023.

EEA nationals with pre-settled status (PSS) and their families, if they do not meet certain conditions. People with pre-settled status must meet eligibility criteria to qualify for homelessness assistance or Universal Credit. Frequently, eligibility depends on the person's employment status, though that is not the only qualifying criteria.^{lvii}

People outstanding applications for leave. People who are waiting for Home Office decision on their visa applications. This does not apply to people with pending applications to the EUSS, who the Government has confirmed will have their entitlements protected until a decision is made.^{lviii}

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- ⁱ Boobis, S., Jacob, R., and Sanders, B. (2019). *A Home For All: Understanding Migrant Homelessness in Great Britain*. London: Crisis.
- ⁱⁱ NACCOM and Praxis. (2023). *Impact of the Illegal Migration Bill on Homelessness and Destitution*.
- ⁱⁱⁱ Refugee Council. (2024). *Cost, chaos and human misery – the impact of the Illegal Migration Act 2023 and the Rwanda Plan*.
- ^{iv} Boobis, S., Jacob, R., and Sanders, B. (2019). *A Home For All: Understanding Migrant Homelessness in Great Britain*.
- ^v Leon, L. and Broadhead, J. (2024). *Understanding Migrant Destitution in the UK Research Findings*. The Centre on Migration, Policy and Society, University of Oxford.
- ^{vi} Crisis. (2021). *Home for All: Why are EU citizens more likely to experience homelessness?*. London: Crisis.
- ^{vii} RAMP. (2021). *Assessing the support given to people with No Recourse to Public Funds through the “Everyone In” initiative*.
- ^{viii} HCLG Committee. (2021). *Protecting the homeless and the private rented sector: MHCLG’s response to Covid-19 Sixth Report of Session 2019–21*. London: House of Commons.
- ^{ix} Fitzpatrick et al. (2023). *Destitution in the UK 2023*. York: Joseph Roundtree Foundation.
- ^x Ministry of Housing, Communities and Local Government. (2024). *Rough sleeping snapshot in England: autumn 2023*.
- ^{xi} Brown, Philip et al. (2024). *Homelessness, refugees and resettlement*. Centre for Homelessness Impact.
- ^{xii} Ministry of Housing, Communities and Local Government. (2023). *Statutory homelessness in England: financial year 2022-23*.
- ^{xiii} Piemontese, S. and Sigona, N. (2024). *The legal and policy infrastructure of irregularity: United Kingdom*.
- ^{xiv} Liberty (Ed.). (2019). *A Guide to the Hostile Environment. The border controls dividing our communities – and how we can bring them down*.
- ^{xv} JCWI. (2021). *The hostile environment explained*. London: JCWI.
- ^{xvi} Patel, C. and Peel, C. (2017). *The impact of the Right to Rent checks on migrants and ethnic minorities in England*. JCWI.
- ^{xvii} JCWI. (2015). *House of Commons Third Reading Briefing Immigration Bill 2015*.
- ^{xviii} Homeless Link and NACCOM. (2022). *Unlocking the door: A roadmap for supporting non-UK nationals experiencing homelessness in England*.
- ^{xix} Refugee Council. (2024). *Cost, chaos and human misery – the impact of the Illegal Migration Act 2023 and the Rwanda Plan*.
- ^{xx} Boobis, S., Jacob, R., and Sanders, B. (2019). *A Home For All: Understanding Migrant Homelessness in Great Britain*.
- ^{xxi} Homeless Link. (2023). *2022 Annual Review of Support for Single Homeless People in England*. London: Homeless Link.
- ^{xxii} Leon, L. and Broadhead, J. (2024). *Understanding Migrant Destitution in the UK Research Findings*.
- ^{xxiii} Stewart, S., and Sanders, C. (2022). Cultivated Invisibility and Migrants’ Experiences of Homelessness During the COVID-19 Pandemic. *The Sociological Review*.
- ^{xxiv} Boobis, S., Jacob, R., and Sanders, B. (2019). *A Home For All: Understanding Migrant Homelessness in Great Britain*. London: Crisis.
- ^{xxv} Boobis, S., Jacob, R., and Sanders, B. (2019). *A Home For All: Understanding Migrant Homelessness in Great Britain*.
- ^{xxvi} Wilding, Jo. (2023). *A menu of civil legal aid policy options for a new government and a timeline for implementation*. London: Justice Together.
- ^{xxvii} Whitehead, C., Rotolo, M. (2021). *Support for homeless non-UK nationals with no access to public funds during COVID-19 – A Rapid Evidence Review*. London School of Economics.
- ^{xxviii} Woolley, A. 2019. *Access Denied: The cost of the ‘no recourse to public funds policy*. London: The Immigration Law Practitioners’ Association (ILPA).
- ^{xxix} Wilding, J., Mguni, M. and Van Isacker, T. (2021). *A Huge Gulf: Demand and Supply for Immigration Legal Advice in London*.
- ^{xxx} NACCOM. (2019) *Mind The Gap: One Year On*.
- ^{xxxi} Homeless Link Research Team. (2023). *Support for single homeless people in England Support for single homeless people in England Annual Review 2022 Contents*.
- ^{xxxii} NACCOM. (2023). *Refused? Experiences following a negative asylum decision*
- ^{xxxiii} Ministry of Housing, Communities and Local Government
- ^{xxxiv} JCWI. (2021). *The hostile environment explained*. London: JCWI.
- ^{xxxv} Stewart, S., and Sanders, C. (2022). Cultivated Invisibility and Migrants’ Experiences of Homelessness During the COVID-19 Pandemic. *The Sociological Review*.
- ^{xxxvi} St Mungo’s. (2019). *A review into St Mungo’s approach to working with Home Office enforcement teams 2010 to December 2017*. London: St Mungo’s.
- ^{xxxvii} Homeless Link. 2021. *Rough Sleeping Immigration Rules: risks and mitigations for local homelessness systems*. London: Homeless Link.
- ^{xxxviii} GLA. (2021). *New Immigration Rules on Rough Sleeping: GLA’s Position and CHAIN*. London: GLA.
- ^{xxxix} Public Interest Law Centre. (2019). *Briefing on Rough Sleeping Support Service – Sept 2019*. London: PILC.
- ^{xl} Liberty. (2019). *Liberty and Rights Groups Urge Councils Not to Report Homeless People to Immigration Enforcement*. London: Liberty.

-
- ^{xli} Citizens Advice. (2020). *No Recourse to Public Funds: data and developments*. London: Citizen's Advice.
- ^{xlii} Gardner, Z. (2021). *Migrants with No Recourse to Public Funds' Experiences During the COVID-19 Pandemic*. JCWI.
- ^{xliii} Stewart, S., and Sanders, C. (2022). Cultivated Invisibility and Migrants' Experiences of Homelessness During the COVID-19 Pandemic. *The Sociological Review*.
- ^{xliiv} Grassian T & Boobis S. (2021). *Working together: the homelessness sector's path beyond COVID*. London: Homeless Link; Trent Grassian and Sophie Boobis. 2021. *Homelessness Provision for the Future: Best practice from the homelessness sector during the COVID-19 pandemic*. Homeless Link.
- ^{xliv} Neale, J et al. 2020. *Experiences of Being Housed in a London Hotel as Part of the 'Everyone In' Initiative. Part 1: Life in the Hotel*. London: King's College London.
- ^{xlvi} Grassian, T. & Boobis S. 2021. *Working together: the homelessness sector's path beyond COVID*. London: Homeless Link.
- ^{xlvii} Grassian, T. and Sophie Boobis. 2021. *Homelessness Provision for the Future: Best practice from the homelessness sector during the COVID-19 pandemic*. Homeless Link.
- ^{xlviii} The 3 Million. (2021). *Settled vs Pre-Settled Status*.
- ^{xlix} Turn2us. (2021). *Nationals of non-European Economic Area (EEA) countries - What is a Person Subject to Immigration Control?* London: Turn2us.
- ^l Section 115 of the Immigration and Asylum Act 1999.
- ^{li} NRPF Network. (n.d.). *Benefits that are public funds*. London: Islington Council.
- ^{lii} Doctors of the World UK. (2018). *Healthcare entitlement and charging in England – updated 2018*. London: DOTW UK.
- ^{liii} NRPF Network. (2021). *Guidance for councils*. London: Islington Council.
- ^{liiv} Shelter. (2020). *High Court rules councils can lawfully accommodate street homeless people with 'No Recourse to Public Funds' – will the government now provide proper guidance?* London: Shelter.
- ^{liv} Dickson, E., Jolly, A, Morgan, B, Qureshi, F, Sojka, B & Stamp, D. (2020). *Local Authority Responses to people with NRPF during the pandemic*. ICRD, University of Wolverhampton.
- ^{lvi} HCLG Committee. (2021). *Protecting the homeless and the private rented sector: MHCLG's response to Covid-19 Sixth Report of Session 2019–21*. London: House of Commons.
- ^{lvii} Shelter. (2021). *People with EU pre-settled status eligibility for homeless assistance*. London: Shelter.
- ^{lviii} Home Office. (2021). *Temporary protection for more applicants to the Settlement Scheme*. London: Home Office.



About Homeless Link

Homeless Link is the national membership charity for frontline homelessness services. We work to improve services through research, guidance and learning, and campaign for policy change that will ensure everyone has a place to call home and the support they need to keep it.

About NACCOM

The No Accommodation Network (NACCOM) is a UK-wide network of 140+ frontline organisations and charities that work together to end homelessness and destitution amongst people seeking asylum, refugees and other migrants going through the UK asylum and immigration system.

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