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This bulletin provides information about new regulations and entitlements for carers of British children with NRPF; summarises new case law affecting refused asylum seeker families; provides a link to the NRPF Network's response to the UKBA's Family Migration Consultation; links to a new consultation on the British Bill of Rights; provides an update on NRPF Connect, the new Scotland NRPF Network and upcoming training and regional NRPF Network meeting dates.

Zambrano Ruling – UKBA Guidance for Carers of British Children

Following the judgement in the case of *Zambrano* in the European Court of Justice in 2011, the UKBA will be amending the Immigration (European Economic Area) Regulations 2006 before the end of 2011 to issue documentation to carers of British children, giving them the right to live in the UK. The judgement creates a right to reside and work for the sole carer of a dependent British citizen when that carer has no other right of residence in the UK and removing the carer from the UK would mean the British citizen would have to leave the European Union. Until the regulations are changed, carers in this position are advised to apply to the UKBA using an EEA2 application and provide evidence of:

- the British Citizenship of the child;

- the relationship between the applicant and the British citizen; and
- the dependency between the applicant and the British citizen.

Further details of what evidence will be accepted by the UKBA have not been provided, however evidence of the relationship and the dependency between the applicant and the British citizen can include a letter from social services departments. It is understood that further guidance is forthcoming.

Applicants will be issued with a certificate of application and this will grant them a right to work and access public funds. If an applicant faces difficulties accessing public funds, they should seek independent legal advice. The AIRE Centre are able to

advise in these situations; for contact details please see: www.airecentre.org

Once changes to the Immigration (European Economic Area) Regulations 2006 are made, the application will be given full consideration by the UKBA and documentation will be issued under the

regulations to those who meet the final agreed policy. To read the UKBA's initial statement on these changes, please see: <http://tinyurl.com/6d7x993>

For further information regarding how a child can be registered as a British citizen, please see: <http://tinyurl.com/6xozmkl>

R (VC and others) v Newcastle City Council [2011] EWHC 2673

This High Court case concerns competing powers to provide accommodation and subsistence to refused asylum seeker families under Section 17 Children Act 1989 (CA) and Section 4 Immigration and Asylum Act 1999 (IAA).

The claimant in this case was a refused asylum seeker (K; during the hearing it was discovered that VC had submitted a fresh claim which made her eligible for Section 95 IAA and therefore outside of the scope of the considerations of this case). K was not eligible for Section 95 IAA support because her children were born after the all appeal rights-exhausted date of her asylum application. Newcastle City Council supported K under Section 17 CA as the children were destitute and therefore 'in need'. However, the council sought to withdraw Section 17 CA support because Section 4 IAA support was potentially available to K and her children. This case was similar to many cases supported by Newcastle City Council and other local authorities across the UK. The decision to withdraw support under Section 17 CA on the basis of the presumed entitlement to Section 4 IAA support was challenged by the claimant's solicitors.

The judgment determines that powers under Section 4 IAA are residual where a child of a refused asylum seeker is found to be a 'child in need' in a Children Act

assessment. In other words, the availability of Section 4 IAA support cannot be taken into account in a Children Act assessment *unless* the UKBA is providing Section 4 IAA support or has stated its intent to provide section 4 IAA support to a refused asylum seeker family and it is shown that Section 4 IAA support will adequately meet the child's assessed needs.

Where a family is eligible for Section 95 IAA support, unlike Section 4 IAA support, there is a prohibition on local authorities providing financial support to such families under Section 17 CA (by Section 122 IAA). This will be relevant for example when a fresh claim submitted by a family is accepted by the UKBA, who were formerly not eligible for Section 95 IAA support. In such situations a referral to the UKBA for accommodation and subsistence support can be lawfully made, via the one-stop services. Contact details for your nearest service can be found at: <http://tinyurl.com/6aao7d9>.

Where a parent is a refused asylum seeker with unlawful immigration status or a visa overstayer that parent will be excluded from Section 17 CA support by Schedule 3 Nationality, Immigration and Asylum Act 2002. In these circumstances both a Children Act and a Human Rights Assessment will be required.

Further guidance on how this case impacts on the assessment process for families with NRPF and the implications for local authorities will be included in our

forthcoming updated Children and Families with NRPF guidance.

The full transcript of the judgment is available on Lexis Library.

UKBA Family Migration Consultation

This UKBA consultation focused on family migration to the UK. The UKBA stated that the proposals put forward in the consultation intend to prevent and tackle abuse of the immigration system, promote integration and reduce burdens on the tax payer.

Some of the proposals in this consultation are concerning for local authority social services departments supporting individuals and families with no recourse to public funds (NRPF). Indeed, it is felt that contrary to the proposals' aims, there will be a shift in the way family migration is a burden on the taxpayer by increasing costs to local government.

An increase in the probationary period for migrants before being able to apply for settlement may save money in some areas, but costs may increase in other areas. Social services departments have statutory duties to house individuals with NRPF who have a need for 'care and attention' and for families with NRPF that are destitute. Increasing the time migrants have 'no recourse' will increase costs to social services departments for supporting them. Increasing the probationary period is also concerning in cases of domestic violence, which could effectively 'trap' women in abusive situations for longer.

The NRPF Network response highlights that more information and further

consultation is required on proposals that local authorities provide checks on Indefinite Leave to Remain (ILR) applications and that social services departments in England are asked to assess the capacity of someone with a learning difficulty, or someone from another particularly vulnerable group, to marriage.

The NRPF Network has broad concerns that the proposals focus on restricting family migration rather than addressing the management of family migration in the UK. Our experience is that families who are unlawfully present in the UK are rarely removed or return voluntarily. Those awaiting decisions on immigration claims often do so for years, and proposals to restrict legal aid for immigration cases and high fees for applications restrict the ability to validate Article 8 ECHR rights to remain in the UK through the immigration process. This focus is missing from the current debate on family migration; we feel it would be beneficial to consider the resources that are aimed towards those already in the UK in order to deliver better migration, which is fair to applicants, local communities and the taxpayer.

To view the NRPF Network's full response, see: <http://tinyurl.com/645kjqv>

A link to the UKBA's consultation can be found here: <http://tinyurl.com/69mvao3>

British Bill of Rights Consultation

The Government has set up an independent Commission on a Bill of Rights to investigate the creation of a British Bill of Rights to incorporate the European Convention of Human Rights into UK law. For further information on the Commission, see:

<http://tinyurl.com/658wefv>

The NRPF Network intends to submit a response to this consultation, giving an

outline of how the Bill may impact on local authority support to people with No Recourse to Public Funds where duties under the European Convention of Human Rights are concerned. We would be interested to hear your views on this consultation, please send any comments or feedback to

jonathan.price@islington.gov.uk by 8th November.

NRPF Connect - Update

NRPF Connect is a database that will be used by local authorities to record NRPF cases supported under social services legislation and to share information with the UKBA in order to resolve these cases expediently. The project's pilot phase is nearing completion and complex issues relating to data sharing, security and case working practice have been addressed by a steering group of local authority and UKBA leads from across the UK. With the full funding for the development of the database now available, the project is reaching its conclusion.

The contract for system development has been awarded to MAG:NET Solutions. MAG:NET Solutions have extensive experience of developing web-based databases across the secure GCSX network, for example to support Housing Benefit claims. The company also specialises in delivering 'easy to use' and

cost effective technical solutions to help facilitate partnership work between local and central government.

Local authorities and corresponding Local Immigration Teams (LITs) are being consulted in order to finalise the system specifications and development of the database will begin in November 2011. From now until the new system is first introduced in February 2012 regular updates will be included in this Bulletin. As of the 1st April 2012 the database will be rolled-out nationally and all local authorities and LITs will have access to the database and a secure way of communicating with the UKBA about supported cases.

For more information about the NRPF Connect project, please contact Henry St Clair Miller on:

henry.miller@islington.gov.uk

NEW! Scotland NRPF Network

Following an inception event in Edinburgh in August 2011, COSLA (The Convention of Scottish Local Authorities) and the NRPF Network have established an NRPF Network in Scotland. The Scotland NRPF Network will meet quarterly in Edinburgh

and at present is open to representatives of local authorities only.

For more information, please contact Mhoraig Green at the COSLA Strategic Migration Partnership:
mhoraig@cosla.gov.uk

Upcoming NRPF and Human Rights Assessment Training Dates

The NRPF Network will be providing further 'open-access' NRPF Training courses for local authority representatives and the voluntary sector in London and Manchester in November/December 2011.

Dates

Manchester – General NRPF and Human Rights Assessments

Tuesday 15th November 2011 (10am – 4.30pm) **FULLY BOOKED**

London – NRPF and Human Rights Assessment (Children & Family Focus)

Monday 21st November 2011 (10am – 4.30pm)

London – NRPF and Human Rights Assessment (Adult NRPF Focus)

Monday 28th November 2011 (10am – 4.30pm)

London – Voluntary Sector Training

Friday 2nd December 2011 (1.30pm – 5pm)

To book a place, please complete a booking form which can be downloaded on the following webpage:

<http://tinyurl.com/38wluz3>

For more information about the training, please contact samantha.gill@islington.gov.uk or phone 0207 527 7107.

NRPF and Human Rights Assessment Training Programme – Local Authorities

The training is designed for local authority social workers with responsibility for NRPF cases. The training covers the assessment process in detail for adults and children & families with NRPF, including a detailed consideration of how to use case law in the assessment process.

Learning objectives

- To identify who is eligible and who is not eligible for support under social services legislation.
- To be able to use legislation and case law to help resolve complex cases.
- To apply good practice in assessing and supporting individuals and families.
- To be aware of the resources that are available in order to stay up-to-date with policy and legal developments.

Course content

This course covers key issues, legislation and assessments, for adults, children and families, and in regards to human rights obligations. The programme is organised as follows:

- No recourse to public funds - introduction and overview
- Key legislation

- Assessing eligibility for support
- General considerations in assessments of need - adults, children and families, human rights
- Community care and community mental health assessments
- Child in need and human rights assessments
- Good practice in assessing and supporting people with NRPF

- National NRPF Network and the policy context of NRPF
- Case studies

We also provide this training on a commission-basis. For more information on the NRPF Training for local authorities and the voluntary sector, please see:

<http://tinyurl.com/37mu8fu>

Regional NRPF Network Meeting Dates

East Midlands Regional NRPF Network meeting

Date and location TBC. For more details, please contact

sarah.short@emcouncils.gov.uk

East of England Regional NRPF Network meeting

Wednesday 26th October 2011 (1 – 2.30pm), EELGA Offices, Flempton House.

For more details, please contact

pamusa@menter.org.uk

London Regional NRPF Network meeting

Tuesday 13th December 2011 (2 – 4pm)

For more details, please contact

simon.wadsworth@croydon.gov.uk

North East Regional NRPF Network meeting

Thursday 24th November 2011 (2 – 4pm)

Anderson House, Market Street [East]

Newcastle upon Tyne NE1 6XA

For more details, please contact

nadeem.ahmad@newcastle.gov.uk

North West Regional NRPF Network meeting

Date and location TBC. For more details, please contact:

colin.parker@manchester.gov.uk

Scotland NRPF Network meeting

Date and location TBC. For more details,

please contact mhoraig@cosla.gov.uk

South East Regional NRPF Network meeting

Date and location TBC. For more details, please contact

roy.millard@secouncils.gov.uk

South West Regional NRPF Network meeting

Date and location TBC. For more details, please contact

Donald.Wallace@swcouncils.gov.uk

Wales NRPF Network meeting

Date and location TBC. For more information, please contact

selina.moyo@wsmp.org.uk

Yorkshire & Humberside Regional NRPF Network meeting

Date and location TBC. For more information please contact Dave Brown,

David.2.Brown@migrationyorkshire.org.uk

For more details on the regional networks, including who can take part, see:

<http://tinyurl.com/3575qxt>

The NRPF Network is committed to supporting and working with local authorities, the voluntary sector and central government. The Network has over 2,300 members and our website attracts over 1000 web hits per month. The NRPF Network is part-funded by the UK Border Agency (UKBA).

For further information or to unsubscribe, please contact: nrpf@islington.gov.uk or tel 020 7527 7121

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