

## EQUALITY ANALYSIS ASSESSMENT (EAA)

<b>Name of Proposal</b>	▪ Extension of the No Recourse to Public Funds (NRPF) pilot
<b>Lead Officer</b>	▪ Shirley Spong, NRPF Service Manager
<b>Start Date Of EAA</b>	▪ January 2014
<b>End Date Of EAA</b>	▪ April 2015

### Step 1: Background to the EAA

#### Public Sector Equality Duty

This Equality Analysis Assessment (EAA) has been undertaken in line with the equality duties specified in section 149 of the Single Equality Act 2010. The Equality Duty requires local authorities to have **due regard** to the need to:

- 1 **eliminate unlawful discrimination**, harassment, victimisation and any conduct prohibited by the Act
- 2 **advance equality of opportunity** between people who share a protected characteristic and people who do not share it and
- 3 **foster good relations** between people who share a protected characteristic and people who do not share it

#### What is NRPF & what are the council's duties?

- NRPF applies to a person who is subject to immigration control in the UK and has no entitlement to specified welfare benefits or public housing. Most people seeking to enter the UK will be required to show that they are able to maintain and accommodate themselves or be supported by friends or family (sponsors) without claiming public funds. It includes people coming to study or entering the UK as visitors and applies to those who fail to leave when their permission to be in the UK expires (overstayers) as well as those who have entered the UK illegally. It does not apply to people who have made a claim for asylum or those seeking to stay in the UK on the grounds of humanitarian protection. These restrictions are set out in Section 115 Immigration and Asylum Act 1999.
- Most social security benefits are classed as 'public funds', including:
  - Means tested benefits such as Income Support, Universal Credit, income-based Jobseekers Allowance, income-related Employment Support Allowance, Housing Benefit and assistance with Council Tax
  - Benefits paid in respect of children such as Child Benefit and Benefits paid to those with a long term illness or disability such as Disability Living Allowance, Attendance Allowance and Personal Independence Payment
- A small number of NRPF applicants who have been granted the right to work may become entitled to contributory benefits if they have been employed and paid national insurance contributions for a sufficient period of time.
- Most public services are not classed as public funds including assistance from the emergency services and support provided under social services legislation. Separate legislation seeks to exclude people from social service support by restricting entitlement on the grounds of their immigration status from specific provisions.

- Therefore local authorities must consider whether the **adults** within the family presenting are excluded from support under Schedule 3 Section 54 of the Nationality, Immigration and Asylum Act 2002. The categories of people excluded from support are:
  - A person granted refugee status by another EEA state and any dependents
  - An EEA national and any dependents
  - A refused asylum seeker who has failed to comply with removal directions
  - 'Failed' asylum seekers with a dependent child (or children) certified by the Secretary of State as having failed to take reasonable steps to leave the UK
  - A person unlawfully present in the UK
  
- Although adults in the groups above are excluded from support (including support provided under the Children Act), this restriction does not apply to children and the local authority must also consider whether the refusal to provide support would result in a breach of the family's Human Rights or in the case of EEA nationals would breach their Treaty Rights.
  
- Families with NRPF can therefore present to local authorities seeking support under Children Act 1989. Section 17 of the Act sets out a general duty of local authorities to 'safeguard and promote the welfare of children within their area who are in need'. Under the Act, a child in need is defined as a child who is unlikely to achieve or maintain a satisfactory level of health or development, or their health and development will be significantly impaired, without the provision of services; or a child who is disabled. The local authority has a duty to assess families presenting as in need and have the power to provide services to those children and families which 'may include providing accommodation and giving assistance in kind or in cash'.

#### Review of NRPF services

In Autumn 2013, officers began a review of how the council was responding to its duties under the Children Act in terms of assessing and providing services to families with NRPF. The review identified a number of issues with the council's operating model which meant that the needs of families were not being properly assessed and provided for. A summary of the findings of the review is below:

- Demand had risen rapidly over the last five years with the number of cases being supported rising from 31 cases in 2010 to 244 by 2013. The cost to the council associated with this support during this period grew from c. £700k to over £5m. Our support costs were not in line with other local authorities. Research conducted by the NRPF Network in 2011<sup>1</sup> suggests that Lewisham's spend on this group at the time was amongst the top third of 51 authorities surveyed. In 2013 Lewisham was supporting 244 families whilst our neighbouring borough Southwark was only supporting 131 cases.
  
- Lewisham did not have a specialist team responsible for dealing with NRPF cases. The function was spread across children's social workers who dealt with NRPF assessments alongside their safeguarding and child protection work. This model was also not in line with other boroughs with 24 of the 51 authorities surveyed by Islington Council having set up specialist NRPF teams.
  
- Assessment practices were not evidentially led. Time constraints and a lack of training on the complex rules surrounding immigration and entitlements for this group meant that very little investigation was actually being conducted into whether there was evidence to

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<sup>1</sup> NRPF Network (2011) 'Social Services Support to People with No Recourse to Public Funds: A National Picture'

support claims for services. As a consequence the council was not robust enough in its assessment of a family's history, resources, parenting capacity and whether in fact the applicant destitute and homeless. Although detailed data on case acceptances was not collected at the time, service managers reported that at least 50% of cases were accepted for support following presentation to the local authority. The NRPF Network's report also identified significant variations in the number of cases accepted for support following assessment, ranging from as high as 90% to as low as 0%. The report identified 'the discrepancy in acceptance rates between local authorities is too significant to be explained by trends in client referrals alone, and serves to highlight the inconsistency of practice between local authorities'.

- Although the local authority duty towards children and families with NRPF is derived from the Children Act 1989, over 95% of the families presenting to the local authority had no needs, other than those relating to finance or housing which would otherwise have triggered social care involvement. Housing, and particularly the affordability of housing in London, was identified as the key driver for presentation to the local authority.
- Resource constraints in the service meant that once a case had been accepted for support, there was very little further involvement with the family to either review ongoing eligibility or to support the family to regularise their position and access mainstream benefits or employment support. This meant that very few cases stopped receiving support each year. The NRPF network's research showed that this was not in line with other councils who reported that 62% of cases were transitioned away from local authority support within 2 years.
- Our property procurement and payment processes were administratively burdensome and locating these functions within social care was not enabling the authority to make use of the skills held elsewhere in the organisation which would improve value for money for cases we were supporting.

#### NRPF pilot & equality objectives

Following this review, the council started a pilot in June 2014 to set up a new team to put additional capacity into conducting assessments and managing cases. The broad objective of the pilot was to develop clear, evidence based eligibility assessments for NRPF applicants and to achieve the following outcomes:

- NRPF applicants to receive a fair and consistent assessment process
- Applicants who satisfy the destitution assessment receive services provided within a clear legislative framework
- People with NRPF who approach Lewisham are dealt with promptly and transparently to avoid delay in delivery of support to those in genuine need
- Lewisham officers benefit from working within a clear framework
- Lewisham council resources are applied fairly, appropriately and within legally defined parameters

This pilot will formally close at the end of May 2015 and the Mayor is being asked to take a decision as to whether the pilot should be mainstreamed, extended or stopped.

## Approach to the Equalities Analysis Assessment

As this change relates to service structures and procedures, this EAA has been conducted to consider the equalities implications arising from the review of NRPF, the pilot and the various options being presented to the Mayor on the future of this service.

Lewisham's arrangements for managing NRPF before the pilot was in place were complex and spread across multiple children's social care teams. The consequence of this operating model was that the quality and accuracy of information held on cases was variable and required a significant amount of officer time, sometimes involving direct contact to some of the 286 clients, to assure the authority that the data collected was robust enough to complete a comprehensive EAA.

This EAA has therefore been conducted in stages:

- The first stage between January 2014 and May 2014 involved gathering research and national evidence on NRPF families and conducting questionnaire exercises with known clients, their advocates and solicitors all of whom are primary stakeholders.
- The second stage of the EAA conducted between June 2014 and April 2015 has involved the detailed cleansing and analysis of 286 existing NRPF cases as well as more effective collection of reliable equalities information on new cases presenting to the local authority of which there have been 277 to date. Voluntary sector agencies were invited to an open forum held on the 24 July 2014 where the revised process for people seeking assistance from the local authority who were subject to NRPF (including the triage approach to assessment) was explained.

The findings of the first stage and second stages of evidence gathering have been analysed here together to provide a comprehensive overview of the equalities implications of our review and pilot.

## **Step 2: Summary of the changes to the service**

Prior to the implementation of the pilot in June 2014, all NRPF cases were assessed in the first instance by the Referral & Assessment team in children's social care. Cases were spread amongst social workers who were responsible for conducting destitution assessments, children in need assessments and human rights assessments for all families presenting. The absence of specialist NRPF knowledge and the investigation of eligibility led to an *ad hoc* approach that lacked consistency and was time consuming to conclude. Arrangements had been developed in a piecemeal way that led to a wide range and variance in the support offered to people. In some instances there was a lack of control measures in place to manage the costs of support arrangements and as a result, there was little sense of a fair or consistent service being offered.

The review and pilot changed the operating model above by:

- Formalising the process and evidence requirements for conducting initial stages of the assessment around establishing:
  - o Which is the appropriate authority to undertake the full assessment. This includes establishing information such as where the family lives now and has lived previously, where the children attend school and which GP the family are registered with.
  - o Whether exclusions apply in line with Sch 3 of the Immigration and Asylum Act 1999
  - o Whether the family is destitute
  - o Immediate safeguarding concerns

- Setting up a new specialist team to deal with the assessments outlined above which increased the capacity of the council to conduct more detailed investigations into the circumstances of families presenting seeking support.
- Putting in place a casework function to enable more ongoing management of cases and to seek to resolve immigration matters more quickly.

What is critical in terms of the changes made to the service is to note that **the council has not made a change to policy in terms of who is eligible to receive services**. The Children Act 1989 and the Immigration and Asylum Act 1999 set out in law who is eligible for services. It is the local authority's duty to comply with this law. What is at the local authority discretion is how to organise resource and local assessment processes to meet its legal requirements.

The pilot and proposed models for the ongoing operation of services for NRPF families therefore only deal with our processes and structures to establish whether a family is owed a duty. They do not change eligibility criteria.

### **Step 3: National and local data and research on people with NRPF**

#### National level research on NRPF

As part of the review of NRPF conducted between October 2013 and January 2014, two key reports were used to provide information on families with NRPF in terms of their numbers and characteristics. A summary of the information relevant to this EAA derived from these reports is below:

- Migrants Rights Network (2009) 'Irregular Migrants: the urgent need for a new approach'
  - Because there is no current system to comprehensively measure the number of people leaving the UK (only those entering), there is no way of measuring with certainty the number of people with NRPF in the UK. However, a study by the London School of Economics (LSE) gave a central estimate that in 2007 there were 725,000 irregular migrants and children of migrants in the UK. The LSE estimates that two-thirds of irregular migrants live in London. Reports estimate that two-thirds of the total number of irregular migrants are refused asylum seekers and at least 50,000 are individuals who have overstayed their visa.<sup>2</sup>
- NRPF Network (2011) 'Social Services Support to People with No Recourse to Public Funds: A National Picture'
  - There is no single approach for capturing accurate data on NRPF cases being supported by local authorities. However, based on evidence from 51 authorities across the UK there were approximately 6,500 people with NRPF being supported by local authorities in the financial year 2009/10 at a cost of £46.5m. However, as there has been a rapid increase in the number of NRPF applicants seeking support from local authorities since 2010, this figure is likely to have increased significantly.
  - The cases typically being referred to the local authority were most frequently visa overstayers, victims of domestic violence and failed asylum seekers.

Given the complexities involved in even determining how irregular migrants there are in the UK, there is no national level data on the equalities implications of NRPF.

#### Local authority data on NRPF applicants

<sup>2</sup> Migrants Rights Network (2009) 'Irregular Migrants: the urgent need for a new approach'

Over the last year, the council have begun to collect more comprehensive data on families presenting to the local authority for support and have undertaken a detailed analysis of the cases already receiving support. A breakdown of the information on existing cases being supported by the council is provided below:

- Almost all of our current NRPF caseload is 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 (although 25% have three children or more and this is much higher than the national average of 14% of households in the UK)<sup>3</sup> Applications for support are most common from single parents. This pattern remains similar for new cases presenting to the local authority.
- 47% of the cases being supported by the local authority prior to the pilot were applicants of Nigerian nationality, 37% were Jamaican, 7% were Ghanaian and the remaining 9% were from 24 other countries around the world. The pattern for new presentations to the local authority over the last year is broadly similar with 50% of new applications from those of Nigerian nationality and 29% of new applications from those with Jamaican nationality.
- Data available on the national NRPF Connect database shows broadly similar trends. The most frequently occurring nationalities are Nigerian (36%) Jamaican (18%) and Ghanaian (10%). The remaining 36% of cases are from 91 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.
- Over the last year the council has been approached by 277 new NRPF cases which were previously unknown to the authority. Most had been in the country for a significant period of time before presenting to us.

### **Comparison of the profile of NRPF applicants against the borough as a whole**

Reliable data is not available on the numbers of people subject to NRPF restrictions living or approaching authorities for support across London. This would be the relevant 'pool' of people against which Lewisham's rates of presentation and acceptance should be measured. However having a diverse Black & Minority Ethnic population, it is possible that informal networks and reputational issues mean that NRPF applicants may disproportionately seek support from Lewisham. In this context, relevant data from the 2011 census shows that:

- While children and young people (0-19 years) make up 25% of the population, older residents (over 65) make up just 9.4% – at 34 years, the average age of our population in Lewisham is young compared to other London boroughs.
- According to published statistics, the population of males and females in Lewisham is nearly identical (133,300 women to 133,200 men)
- Across England as a whole just 7.2 per cent of all households are lone parent families. In London the figure is 9.7 per cent and for Inner London it is 11.6 per cent. In Lewisham, 17.8 per cent of all households are lone parent families - by far the highest rate in London<sup>14</sup>. At a national level, women account for 92% of lone parent families.
- Lewisham is the 15th most ethnically diverse local authority in England, with over 40% of residents from a black and minority ethnic (BME) background. The largest BME groups are Black African (11%) and Black Caribbean (13%). However, 74% of Lewisham's school population are from black and minority ethnic (BME) communities, illustrating the significantly changing profile of the borough.
- A third of Lewisham residents were born outside the UK whilst 24.7% were born in countries outside the extended EU (16% of Lewisham residents not born in the UK have been here for less than 10 years). Nearly one in ten households does not contain a resident who has

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<sup>3</sup> Office National Statistics 2012

#### Step 4: Engagement informing proposals

##### Engagement with existing families with NRPF being supported by the council

Before the start of the pilot, we sent 200 questionnaires to NRPF families who were currently being supported by the council. The purpose of the engagement was to give them an overview of the planned assessment processes and seek their feedback on these. We received completed questionnaires from 39 families. A detailed outline of responses is below:

- Do you agree that making a claim for support would be made easier and quicker if people were told from the beginning what information they would need to provide? 39 people said yes
- Do you agree that having a specialist team will make it easier to know who to contact when you need to? 38 people (97%) said yes, 1 person (3%) said no and explained: "I think this will waste money because people can search online if they want someone to contact."
- Do you agree that it is important that Lewisham assesses everyone's case using the same policy and applying it to everyone equally? 34 people (87%) said yes and 5 people (13%) said no. Those who said no gave reasons including: 'Everyone case is not the same', 'Some people might not be in the same situation as others and might need more help'
- Do you agree that checks should be made on where people live? 34 (87%) people said yes, (10%) people said no and 1 person did not answer. Those who said no gave reasons including: 'Because you didn't live in that place shouldn't matter.', "People should claim from anywhere to make things easier.", "Supposed of domestic violence and have to move from borough.", "I'm using myself as e.g. fled? From Hackney because of domestic violence."
- We will usually check what you say with the Home Office at the start of the application process before completing our assessments. Do you agree that this will help us to assess everyone's case fairly? 38 (97%) people said yes 1 did not answer
- There is often delay when we need to contact the Home Office to check a person's immigration status and whether they have made an appeal and on what grounds. Lewisham would like to make this process quicker and simpler by sending information requests to a person's solicitor or advisor (where they have one). Would you, if asked agree to this? 39 people said yes
- Would having a named case-worker help you? 36 (92%) people said yes, 2 (5%) people said no 1 person did not answer
- What kind of help would you like from your case worker? 24 people said help to access training, 16 people said help to liaise with the Home Office and 14 said help to find work.
- We will review your case regularly. How often do you think it is reasonable to review support? 14 (36%) people said every 4 months, 19 (49%) people said every 6 months, 6 (15%) people said some other time – of these 6 people: 2 said monthly; 1 said they are not sure; another said every 3 months; 1 said once a year; and the sixth person did not specify.

### Equalities analysis of respondents

38 people completed this form however not all the questions were answered:

**Gender:** 35 (92%) female, 2 (8%) male

**Disability:** 35 (92%) people said they did not have a disability, 2 (5%) people said they did, 1 (3%) person did not answer

**Ethnicity – 33** (87%) people said Black and minority ethnic background, 1 (3%) person said white other, 2 (5%) people preferred not to say, 2 people did not answer

**Age:** 37 (97%) described themselves as aged 18-65, 1 (3%) person preferred not to say

**Sexual orientation:** 26 (68%) people described themselves as straight/heterosexual, 4 (11%) preferred not to say, 8 (21%) people did not answer

**Religion/ Belief:** 33 (87 people said yes they did have a religion or belief, 1 person would prefer not to say, the rest did not answer

**Pregnancy /Maternity:** 1 person said yes they were pregnant or on maternity leave, 34 said no they were not, the rest did not answer

### Engagement with solicitors

Additionally, an online questionnaire was sent via email on 27<sup>th</sup> February 2014 to 21 solicitors and representatives who were identified by children's social care as having regular contact with them in relation to NRPF cases. The questionnaire covered each area of the planned assessment process outlined earlier in this EAA, the development of a specialist team and the casework function. We received 2 responses. As the submissions were anonymous we cannot confirm which organisations responded. However, a summary of the responses is below:

- One response agreed with the development of a specialist team. The second response stated that 'This is badly worded and unclear. Is this a single point of contact for Lewisham officers, if they need assistance from colleagues with expertise, or a single point of contact for members of the public. The former is a good idea, the later not'
- On the question of what checks the council should undertake, one response agreed with the checks which should be undertaken and gave no further information, the second stated 'The law is clear. Lewisham should comply with it. One would expect them to do all these checks as a matter of course anyway. Lewisham need to confirm that they will never let a dispute with another borough get in the way of providing urgent support to somebody in need. The dispute with the other borough can be resolved later'
- Respondents were asked 'What one thing would you suggest to ensure that resources are applied fairly and appropriately?' We received one response to this as follows: 'The obvious solution is to encourage the UKBA to make decisions in a more timely manner. Lewisham should be doing this. Previously there was legal aid available for these cases, and immigration solicitors could threaten the Home Office with judicial review if they delayed for too long in making decisions. There is no legal aid anymore, so individuals cannot threaten the home office in this way. The increased costs that Lewisham faces are thus a product of UKBA inefficiency, and legal aid cuts.'

### Summary of findings from the engagement

A specialist team

- Overall, there was support for setting up an integrated team if it was comprised of specialists with expertise on NRPF



### Formalising the assessment process

- Existing families with NRPF being supported agreed that standardising the assessment process and making it clear what information needed to be provided was a good idea. However, some respondents specifically stated that needs would vary. Respondents also agreed with the approaches to verifying the circumstances of families presenting.
- The one detailed response we received from solicitors said that the approach we adopted must comply with the law and that checks to establish this should be part of the process

### Casework function

- Existing families with NRPF being supported agreed that cases should be reviewed, that having a named caseworker would be helpful and that they would value support around training, employment and Home Office liaison.

## Step 5: Impact Assessment

For the purposes of conducting this impact assessment, we have examined the equalities impact of the assessment and case-management functions separately. This is because the impact of each function on the protected characteristics is different.

Protected Characteristic	Impact	Comments
<b>Age</b>	Negative for assessment/ positive for case-management	<p><u>Assessment</u></p> <ul style="list-style-type: none"> <li>○ Although being a child <i>per se</i> is not a protected characteristic under the public sector equality duty, we have nevertheless carefully considered the impact of this review on children, as they may be viewed as a sub-group of 'age'. The procedures maintain protection for children who are in a family unit which is destitute and/or have other needs falling within the ambit of section 17 of the Children Act 1989. This means that any child dependant of an adult applicant who is unable to meet their essential living needs, or who has no or inadequate accommodation and lacks the means to acquire more appropriate accommodation will qualify. The purpose of the pilot has been to ensure that appropriate investigation is undertaken into the parent's ability to meet children's needs.</li> <li>○ As a result of the assessment process, more families with children are refused as not meeting the eligibility requirements.</li> </ul> <p><u>Case management</u></p> <ul style="list-style-type: none"> <li>○ As a result of the more intensive case management process the council has put in place and closer partnership working with the Home Office, 94 families to date have been given access to benefits who may not otherwise have been issued this code change. This has a positive impact on ensuring that children within families are able to access benefits in the UK on an equal grounding with their peers.</li> <li>○ We have put in place more intensive case-</li> </ul>

		management approaches for resettlement meaning that families now have dedicated support to make alternative housing arrangements which are within the financial means of the parents. This involves support for relocation to new schools and services for the children in the family.
<b>Disability</b>	Neutral for assessment/ neutral for case-management	<u>Assessment and case management</u> <ul style="list-style-type: none"> <li>There is no evidence to suggest that levels of disability amongst NRPf families is higher than the general population. Where there is a disability, every case is different and income may be affected differently depending on personal circumstances and the exact nature of the disability. The eligibility assessment is designed to allow a case-by-case consideration on the basis of the information and evidence provided by that applicant and that established by the caseworker as part of the assessment process. Adults whose needs arise other than by destitution are referred to adult social care for assessment under Part 1 of the Care Act 2014, while disabled children undergo a full Child in Need assessment and this may include referral to additional specialist services such as those for children with complex needs. There is therefore no particular equalities implication arising from the approach for people with disabilities and it should be noted that the disability element of the assessment process has not changed. Additionally, children and families with disabilities retain their caseworker and social worker to support disability related issues where the local authority accepts a duty to the family.</li> </ul>
<b>Gender Reassignment</b>	Neutral for assessment/ neutral for case-management	<u>Assessment and case management</u> <ul style="list-style-type: none"> <li>There is no evidence to suggest that there are higher numbers of people who have undergone gender reassignment amongst NRPf families than the general population. There are therefore no particular equalities implication arising from the approach for this group for either assessment or case management.</li> </ul>
<b>Pregnancy &amp; Maternity</b>	Neutral for assessment/ neutral for case-management	<u>Assessment and case management</u> <ul style="list-style-type: none"> <li>Although there are higher numbers of women than men approaching the council for support, whether the mother is pregnant and any implications this may have for health, ability to work or provide for herself &amp; her family is considered as part of the assessment process. The way in which pregnancy impacts assessment processes and support levels has not changed and therefore the specific impact on pregnancy and maternity is neutral. There is no impact on how the council manages cases on an ongoing basis for pregnant women.</li> </ul>
<b>Ethnicity</b>	Negative for assessment/	<u>Assessment</u>

		<p>Positive for case management</p>	<ul style="list-style-type: none"> <li>○ By its very nature the NRPF restriction applies to people from abroad who are likely to be from ethnic minority backgrounds. Specifically in Lewisham, it is likely that Black African and Black Caribbean families from Jamaica and Nigeria will be more affected. However establishing exclusions is a necessary part of the local authority process to comply with our legal duties.</li> <li>○ While it is true that the numbers of people who will receive support from the local authority has reduced, it is the council's position that the approach it has adopted is necessary to ensure that the authority complies with its duties outlined in Schedule 3 Section 54 of the Nationality, Immigration and Asylum Act 2002. Previous approaches which were not consistently and evidentially assessing immigration status and destitution meant that the authority was not fully compliant with its duties.</li> <li>○ In 10% of cases we have refused assistance because the applicant had no active application or appeal with the Home Office. Applicants are advised on their possible options (including making a claim for asylum if, based on their circumstances it is appropriate to do so). However, some applicants may have exhausted available avenues to remain in the UK and they are referred to the voluntary return programme (Choices) run by Refugee Action, who are experienced at dealing with children and families in these circumstances.</li> <li>○ In 41% of the cases we did not support the reason for this relates to the family being not destitute, claiming fraudulently or not cooperating with the destitution assessment. In these circumstances the authority has no reason to believe the family cannot support themselves.</li> <li>○ Although not subject to NRPF restrictions Lewisham has, as a result of changes to the right to reside tests for benefits affecting EU nationals, also seen a significant increase in applications from EU citizens no longer entitled to Housing Benefit or Jobseekers allowance. These restrictions have a similar economic impact on applicants as those subject to NRPF. 10% of all new cases refused came from European applicants predominantly from the Netherlands, Poland, Spain and Portugal. Most were refused on the grounds that they were not exercising Treaty rights and a refusal would not constitute a breach of any Treaty rights.</li> </ul> <p><u>Case management</u></p> <ul style="list-style-type: none"> <li>○ As a result of the more intensive case management process the council has put in place and closer partnership working with the Home Office, 94 families to date have been given access to benefits who may not otherwise have been issued this code change. This has a positive impact on ensuring that fewer families are subject to the NRPF restriction.</li> <li>○ We have put in place more intensive case-management approaches for resettlement meaning</li> </ul>
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			<p>that families now have dedicated support to make alternative housing arrangements which are within the financial means of the parents. This involves support for relocation to new schools and services for the children in the family.</p> <ul style="list-style-type: none"> <li>○ We have put in place closer relationships with our own employment support provision to enable adults within families with NRPf to access employment support and advice from their caseworker which would not usually be available.</li> </ul>
		<p><b>Gender</b></p> <p>Negative for assessment/ Positive for case management</p>	<p><u>Assessment</u></p> <ul style="list-style-type: none"> <li>○ The majority of NRPf applicants are women. Women are more likely to form single parent households of which there are a higher proportion in Lewisham than the rest of the UK. There is very little publicly available data on the gender of people with NRPf according to Home Office, 68% of applicants seeking family visas are women.<sup>4</sup></li> <li>○ Although figures are not available, given that women make up a larger proportion of people entering the UK on visitor or family visas, it is likely that women make up a significant proportion of the population who overstay their visa.</li> <li>○ Women are also therefore more likely to be reliant on partners or family networks for their right to remain in the UK. Women are more likely to present to the authority when these relationships break down as a result of domestic violence, although the current rate of presentation (which in some weeks has been as high as nine out of every ten women who apply) far exceeds the expected rates cited by Women's Aid and Southall Black Sisters, that equates to one in four.<sup>5</sup> The new assessment process enables these presenting needs to be more thoroughly and appropriately addressed.</li> <li>○ As a consequence, more women with children are both supported by the authority on the grounds of destitution and are refused as not meeting the eligibility requirements.</li> </ul> <p><u>Case management</u></p> <ul style="list-style-type: none"> <li>○ As a result of the more intensive case management process the council has put in place and closer partnership working with the Home Office, 94 families to date have been given access to benefits who may not otherwise have been issued this code change. This has a positive impact on ensuring that fewer families are subject to the NRPf restriction.</li> <li>○ We have put in place more intensive case-management approaches for resettlement meaning that families now have dedicated support to make alternative housing arrangements which are within the financial means of the parents. This involves</li> </ul>

<sup>4</sup> Home Office Policy Equality Statement 'Family Migration'

<sup>5</sup> Council of Europe 2002, ONS ' Focus on Violent Crime & Sexual Offences 2012

		<p>support for relocation to new schools and services for the children in the family.</p> <ul style="list-style-type: none"> <li>○ We have put in place closer relationships with our own employment support provision to enable adults within families with NRPF to access employment support and advice from their caseworker which would not usually be available.</li> </ul>
<b>Sexual Orientation</b>	Neutral for assessment/ neutral for case-management	<p><u>Assessment and case management</u></p> <ul style="list-style-type: none"> <li>○ There is no evidence to suggest that sexual orientation has any impact on NRPF presentations. There are therefore no particular equalities implication arising from the approach for this group for either assessment or case management.</li> </ul>
<b>Religion Or Belief</b>	Neutral for assessment/ neutral for case-management	<p><u>Assessment and case management</u></p> <ul style="list-style-type: none"> <li>○ We do not have any information to suggest that certain religions are more or less likely to be affected by this review. Existing processes consider the individual circumstances of each applicant, regardless of their religion or beliefs or lack of beliefs. Any representations made by the applicant in relation to religion of belief in terms of their eligibility for services would be considered as part of the assessment process (particularly in relation to completion of Human Rights Assessments) and would also be considered in terms of appropriate support packages for the families to whom we owe a duty.</li> </ul>

#### Minimising Negative Impact and Improving Positive Impact

In line with all local authorities, Lewisham is responsible for implementing the legal provisions as they apply to people with no recourse to public funds. Prior to the pilot no real consideration was given to the limit of the authority's powers in relation to adult applicants caught by schedule 3 of the Nationality, Immigration & Asylum Act 2002 who were freely able to return to their country of origin nor were any detailed enquiries made as to whether the parent with care had the capacity to respond to the needs of their children. This has led to the mistaken belief that matters such as immigration status of the parent and their financial circumstances were not relevant matters to be considered (even in cases where the primary need is destitution). It is not the case that the lack of a particular resource will always render a child a 'child in need', as considerable case law has established. It is relevant to conduct these enquiries and where there are no safeguarding risks sufficient to trigger support (for example where it cannot be shown that the health or development is likely to be significantly impaired without the provision of services) it is matters relating to destitution that will be key. It is relevant whether the applicant either has the means themselves or can be supported by family, friends or other agencies.

The scope of the pilot does not extend to those fleeing persecution and seeking to remain in the UK through the asylum procedures nor does it include unaccompanied minors.

The revised procedures have included the following positive developments:

- Eligible applicants are moved from temporary accommodation into 'more settled' accommodation within much shorter timescales than previously
- Active management of cases allows for the swift resolution of immigration applications and appeals. Lewisham has developed a resettlement process that has seen 94 applicants become eligible for transition from local authority support to mainstream employment, benefit entitlement and private sector housing

## Step six: Decision/Result

Having analysed the data, feedback and research on NRPF and reviewed the impacts outlined above, our decision is that the approach that the council has adopted complies with our Public Sector Equalities Duties. The details of why this decision has been reached are outlined below. A number of more specific actions to ensure that the council continues to meet these duties have been identified and are outlined in the Equalities Action Plan as follows:

### Complying with our duty to **eliminate unlawful discrimination**, harassment, victimisation and any conduct prohibited by the Act

In line with all local authorities, Lewisham is responsible for implementing the legal provisions as they apply to people with NRPF. The NRPF review and subsequent pilot have been designed to ensure that the local authority can satisfy itself that it is appropriately complying with these duties by ensuring that assessment processes are suitably evidence led, consistent and transparent. This means that some families who may have received services under previous arrangements may no longer be accepted for support. However, the position of the authority is that these individuals are not entitled to receive this support.

Whilst the impact assessment above recognises that there may be a negative impact of the approach on ethnic minorities and women, this is caused by two factors which are outside the local authority's control:

- That the nature of a service for NRPF families means that applications for support come, in the main, from ethnic minority women.
- That Schedule 3 Section 54 of the Nationality, Immigration and Asylum Act 2002 excludes some ethnic minority women from support.

### **advance equality of opportunity** between people who share a protected characteristic and people who do not share it

Whilst the assessment criteria the authority is required to use are set out in law, the approach the council chooses to adopt in terms of supporting families who are eligible and owed a support duty is within our control. In this regard, we have invested additional resource in ensuring that families' cases are actively managed to seek to regularise their stay, access mainstream services and benefits more swiftly. The positive impact of these actions has been outlined above: 94 families have had their NRPF restriction lifted (nearly a third of our caseload), families are receiving more holistic support on finding affordable accommodation, getting benefits in payment and seeking work than they otherwise would have done.

### **foster good relations** between people who share a protected characteristic and people who do not share it

Critically, when the review was first undertaken the council identified that the approaches we were taken to assessment and case management were fragmented and inconsistent. This meant the experiences of people with NRPF and between NRPF families and non-NRPF families who are not subject to this restriction were not comparable. Families with NRPF who presented to the council as homeless were receiving less evidentially led and detailed assessments than is generally the case for homeless families in the borough.

Our ambition, as stated earlier in this EAA, has not only been to ensure that individual cases are assessed fairly but that the whole system is designed in a way which is fair and transparent and that families with NRPF receive assessments which are more in line with non-NRPF families seeking similar services from the council. The new approach better achieves these objectives whilst also ensuring that the council is compliant with its legal responsibilities. In this regard, the

standardisation of the process fosters good relations by ensuring this group is not subject to less evidentially led assessment processes than other families seeking assistance from the council.

**Step 7: Equality Analysis Action Plan**

See Appendix page 16.

**Step 8: Sign Off**

As part of the report process for Mayor & Cabinet, this EAA will be reviewed and signed-off by a representative from the Corporate Equalities Board (CEB), the relevant Heads of Service within the directorate and the Executive Director for Children and Young People.

### Equalities Analysis Action Plan

Issue	Actions To Be Taken	Lead Officer	Timescale For Implementation	Timescale For Completion
Historic issues with data on NRPF families, particularly in relation to equalities.	<ul style="list-style-type: none"> <li>▪ Ensure that more robust data on applicants (particularly in terms of gender, age and ethnicity and nationality) are routinely collected for new and existing NRPF cases receiving local authority support.</li> </ul>	Shirley Spong	To commence May 2015 (subject to Mayor and Cabinet decision)	Ongoing
Early stage of operation of new model and constantly evolving legal environment means service needs to be reviewed frequently to ensure compliance with the PSED.	<ul style="list-style-type: none"> <li>▪ A further review after 1 year to be conducted on the general and equalities impact of the council's approach to NRPF with particular regard to ongoing compliance with the PSED.</li> </ul>	Justine Roberts	May 2016	By May 2016
Inconsistencies between local authorities dealing with NRPF applications.	<ul style="list-style-type: none"> <li>▪ Share Lewisham's approach to NRPF and learning from this widely with other authorities. Seek to build consistency of approach through our joint work in the South London region to ensure that families receive a more transparent and fair service in a wider geographical area.</li> </ul>	Justine Roberts	January 2014	January 2016



<p>Inconsistent approach to dealing with homeless NRPF families and other homeless families.</p>	<ul style="list-style-type: none"> <li>▪ Continue to raise the profile nationally of the local authority duties for assessment and support for families with NRPF who present as homeless and how this differs from families with recourse to public funds who present as homeless under the Housing Act 1996 and Homelessness Act 2002.</li> <li>▪ Ensure that families with NRPF are assessed in line with our duties under the Children Act 1989 and in a way which is more consistent with other homeless families.</li> </ul>	<p>Shirley Spong</p>	<p>To commence May 2015 (subject to Mayor and Cabinet decision)</p>	<p>Ongoing</p>
<p>The need to actively support families to resettle and conclude their immigration applications more swiftly.</p>	<ul style="list-style-type: none"> <li>▪ To continue to work with the Home Office to secure the services of a dedicated decision maker at the Home Office for Lewisham cases to ensure that applications are resolved as quickly as possible.</li> <li>▪ Continue to identify local authority provided support (such as employment services) which NRPF families might not be eligible for at a national level but which might support them to build their own capacity to financially support their families..</li> </ul>	<p>Justine Roberts</p>	<p>To commence May 2015 (subject to Mayor and Cabinet decision)</p>	<p>Ongoing</p>
<p>The need to examine specific issues disproportionately affecting black &amp; minority ethnic women</p>	<ul style="list-style-type: none"> <li>▪ Undertake a targeted piece of work in relation to domestic violence in partnership with key partners and with other boroughs</li> </ul>	<p>Shirley Spong</p>	<p>To commence May 2015 (subject to Mayor and Cabinet decision)</p>	<p>September 2015</p>