1. The No Recourse to Public Funds (NRPF) Network, hosted by Islington Council, is a network of local authorities and other organisations focusing on the statutory safeguarding response to destitute migrant families, care leavers and adults with care needs, who, due to their immigration status, cannot access mainstream benefits or statutory housing services. Local authorities are required to provide essential financial and housing support to the most vulnerable individuals and families due to safeguarding duties set out in the Children Act 1989, the Care Act 2014 and equivalent legislation in the devolved administrations.

2. This submission responds to questions 9, 10 and 11:

9. Why do so many communities and groups feel “left behind”? Are there any specific factors which act as barriers to active citizenship faced by different communities or groups - white, BME, young, old, rural, urban? How might these barriers be overcome?

10. How do you see the relationship between citizenship and civic engagement on the one hand and social cohesion and integration on the other?

11. Are there particular barriers faced by newcomers to Britain? Could the naturalisation process, including the citizenship test, be improved and if so, how?

3. This response seeks to demonstrate that some aspects of UK immigration policy are not conducive to encouraging a meaningful sense of belonging or active citizenship, which in turn affects a person’s ability to integrate. Such policies affect not only people who have naturalised as British but also those who have acquired British citizenship through birth and are dependent on a parent who is not British.

4. Key points:

- British children in families where the parent has no recourse to public funds (NRPF) may be economically disadvantaged and feel ‘left behind’ due to the impact on the family of being excluded from benefits and other publically funded services, e.g. free school meals. Such families may become dependent on housing and financial assistance provided by social services.

- Prosperous and safe communities cannot be achieved if a significant proportion of residents are forced to rely on ‘safety-net’ services provided by communities, charities and social services at considerable expense to the taxpayer. Instead, economic self-sufficiency amongst citizens can be promoted by the state through the provision of benefits and child care in order to enable and sustain employment.

- People on lengthy immigration pathways to citizenship, namely the 10-year settlement route, will face barriers to integration throughout this period which may impact on the extent of their civic engagement and integration once they obtain citizenship.

- Citizenship fees prohibit children in low-income families from asserting their entitlement to British citizenship and give rise to costs for local authorities where these fees are funded for children in the care of social services.
5. Recommendations:

- The government should treat people who are on immigration settlement routes, and their dependants, as future citizens, and prioritise economic resilience over immigration sanctions in order to support a path to civic engagement based on fair access to services.

- The government should actively encourage people with an entitlement to British citizenship to apply for this by providing accessible information and promoting this within statutory services, the voluntary sector and communities.

- Any person with an entitlement to British citizenship should not be prevented from obtaining this due to prohibitive fees:
  - Fees should be significantly reduced and/or subject to a fee waiver for people on a low income.
  - Looked after children in the care of local authorities should be exempt from paying a fee to register as a British citizen.

A. Disadvantages faced by British citizen children who are dependent on a parent who has no recourse to public funds (NRPF)

6. British citizen children, who are dependent on a parent who is a non-EEA national and has no recourse to public funds (NRPF), do not have the same entitlements as their British peers, and are at risk of experiencing poverty due to their parent’s immigration status. The NRPF condition excludes the parent from claiming many welfare benefits, homelessness assistance and an allocation of social housing through the council register.

7. This situation may arise in single parent families, where the parent has a right to live in the UK that has been acquired due to being the carer of a British child. The child may have acquired their citizenship at birth through the other parent being British or settled, or may have registered as British by entitlement, for example, following their birth and 10 years’ residence in the UK. The parent may have obtained leave to remain under the Immigration Rules, or have acquired a right to reside under European law:

(i) Leave to remain with NRPF granted under the Immigration Rules

- The parent must make an application to the Home Office for a fee of £1493 (including the Immigration Health Charge) unless they are eligible for a fee waiver.
- The parent will have 30 months limited leave to remain and be on a 10-year route to settlement, so will need to reapply for leave to remain every 2.5 years.
- The parent will have the NRPF condition, excluding them from welfare benefits and social housing, unless they have demonstrated to the Home Office that they are destitute, in which case recourse to public funds may be granted.
- Between 2013 and 2015, over 50,000 individuals with dependents were given leave to remain in the UK along with a 'no recourse to public funds' condition.¹

Derivative right to reside under European Union (EU) law as the primary carer of a British citizen (Zambrano carer)

- Right to reside and work in the UK acquired by a non-EEA national parent when a British child would be deprived of their EU citizenship rights should they be forced to leave the EU if the parent is not permitted to stay and work in the UK.
- The parent is not required to document this right but will need to do so in order to evidence their right to work and lawful presence in the UK.
- In November 2012, the benefit and housing regulations were amended to exclude Zambrano carers from accessing income-based benefits and social housing. These restrictions were upheld as lawful by the Court of Appeal on the basis that ‘safety net’ support could be provided to the most vulnerable by local authorities under section 17 of the Children Act 1989.²
- Zambrano carers cannot acquire a permanent right of residence under EU law and will need to apply for leave to remain under the Immigration Rules, as described at (i), in order to embark on a route to settlement.

8. Parents with either type of immigration status will be excluded from most income-based welfare benefits, including those provided to sustain low-paid employment, and will be reliant on the insecure private rented sector for housing. The parent’s immigration status will also impact on whether the British child will be able to access some other publically funded services, as highlighted below.

<table>
<thead>
<tr>
<th>Public funds for immigration purposes</th>
<th>Parent is Zambrano carer</th>
<th>Parent has leave to remain with NRPF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child benefit</td>
<td>No</td>
<td>Yes (due to an exception)</td>
</tr>
<tr>
<td>Child tax credit</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other publically funded services (not classed as ‘public funds’ for immigration purposes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Free school meals (where these are not universally provided)³</td>
</tr>
<tr>
<td>Government funded childcare for 2 year olds ³</td>
</tr>
<tr>
<td>Government funded childcare for 3 &amp; 4 year olds (15 hours)</td>
</tr>
<tr>
<td>Government funded childcare for 3 &amp; 4 year olds (30 hours where parents are working)³</td>
</tr>
<tr>
<td>Government funded childcare (new tax-free) ⁴</td>
</tr>
</tbody>
</table>


³ The only instances where these may be provided to a British child in an NRPF family are when the child: has a current statement of Special Educational Needs or an Education, Health and Care plan; is entitled to Disability Living Allowance or was formerly looked after by a local authority and their main carer has an adoption, special guardianship or child arrangement order.

⁴ The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016 & The Childcare Payments (Eligibility) Regulations 2015 do not specifically exclude non-EEA nationals with a right to reside in the UK derived from EU law from accessing these services.
9. As a consequence of the resulting financial hardship often experienced by these families, who struggle to earn sufficient income from employment alone to cover their housing, living and childcare costs, social services often have to step in and provide support under section 17 of the Children Act 1989, in order to safeguard the welfare of a child in need. The responsibility of providing this parallel welfare system is summarised by the Judge in a judicial review case that examined the lawfulness of a local authority’s child in need assessment where the parent had leave to remain with NRPF: ‘the local authority is empowered to rescue a child in need from destitution where no other state provision is available.’

10. The NRPF Network’s data shows that in December 2016, 23% of children in NRPF families supported by 39 local authorities under section 17 were British Citizens.

11. However, safety net support provided by local authorities will generally not be on a par with that which a family of equivalent size would receive were they claiming welfare benefits. Families will be provided with financial support at a level determined by the local authority to meet a child’s assessed needs, so will vary between families and authorities. Often Home Office asylum support payments are used as a base rate - £36.95 per person/week - but the amount paid may be lower or higher than this depending on the local authority’s practice and needs of a particular family.

12. With regards to housing, the courts have been clear that the local authority must be satisfied that accommodation provided under section 17 of the Children Act meets the child’s needs. The accommodation used by local authorities to house NRPF families may include B&Bs and out of area placements.

13. The average time period NRPF households are supported by social services is 855 days. Usually the only way a family can end their dependence on social services’ support is by the parent applying to the Home Office to change their immigration status so that they obtain recourse to public funds.

14. Immigration policies excluding the main carers of British citizen children from mainstream benefits and social housing does not therefore encourage integration through employment, differentiates children in these families from their British peers and leads to economic disadvantage. It is widely accepted that children from low income families are less likely to do well in school, are more likely to suffer ill-health and face pressures in their lives that can be associated with unemployment and criminality. Therefore, British children in NRPF

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9 AC & SH, R (On the application of) v London Borough of Lambeth Council [2017] EWHC 1796 (Admin), paragraph 42.
6 Data from NRPF Connect database taken on 8 December 2016: 679 out of 2963 children supported under section 17 of the Children Act 1989 or section 22 of the Children (Scotland) Act 1995 were British citizens.
8 Data from NRPF Connect database taken from 45 local authorities on 30 June 2017: average number of days on support for all supported households (2599), including 1853 families. http://www.nrpfnetwork.org.uk/nrpfcertify/Pages/default.aspx
9 The Casey Review: a review into opportunity and integration, 5 December 2016, paragraph 1.9.
families will face challenges integrating fully into society which may affect their ability to actively participate as a citizen by the time they become adults.

15. The fact that a British child’s parent may themselves be on a long pathway to citizenship, and, as a consequence, face barriers to economic self-sufficiency, will also adversely impact on the family’s ability to integrate and affect the ability of communities more widely to prosper - see section B.

B. Immigration pathways to citizenship

16. When considering barriers to active citizenship for future citizens who become British through naturalisation, rather than acquisition through birth, it is necessary to examine their pathway to citizenship, as this will have an impact on their ability to integrate within UK society, overall community cohesion and may also result in an individual feeling ‘left behind’.

17. Under the Immigration Rules, leave to enter or remain may be granted on a route to settlement in the UK, allowing indefinite leave to remain (ILR) to be applied for after a specified period of continuous leave. For example, refugees are on a five-year route, whereas people applying under the family migration rules will be on either a five-year or 10-year route.

18. The 10-year settlement route was introduced in July 2012, when the family migration rules were reformed, and applies to people who are granted leave to remain on the following basis:

- Child who has lived in the UK for seven years
- Parent of a British child or child who has lived in the UK for seven years
- Partner of a British citizen where the Home Office has accepted that to refuse leave would result in a breach of their right to family life (Article 8) – they may or may not have been required to meet the minimum income requirement
- Person granted leave to prevent a breach of their human rights (non-asylum related)
- Private life (long residence) in the UK

19. Adults may only naturalise as British citizens when they have a form of settled status, such as ILR. Being required to apply for limited leave to remain every 2.5 years before ILR can be applied for on completing 10 years, results in people experiencing a long period of instability and creates barriers to their integration into UK society:

- A fee of £1493 (including £500 Immigration Health Charge) must be paid to extend leave to remain every 2.5 years unless a fee waiver applies.
- A small administrative error made when further leave is applied for can result in a person inadvertently becoming an overstayer and immediately losing access to any benefits, the private rented sector and free secondary healthcare.
- If the NRPF condition is imposed following a period where a parent has had recourse to public funds, any benefits will immediately stop, employment may not be sustainable due to prohibitive childcare costs and the family may become reliant on social services’ support – see section A.

- Long-term reliance on insecure and expensive private sector housing.
- Restrictive regulations mean that few people with limited leave will qualify for student finance and home fees if they wish to pursue higher education.

20. Despite the government clearly recognising that such people have a long-term future in the UK, this group will have spent a considerable length of time in the UK facing continual insecurity regarding their immigration status. They are likely to have encountered barriers to work and education, and may have experienced poverty and dependence on social services’ support if they have children - see section A. If people are to naturalise as British having obtained settlement on completion of the 10-year route, then this will be a highly relevant factor in their ability and willingness to participate as active citizens. If it is accepted that people have a long-term future in the UK they must be treated as future citizens and provided with the opportunity to fully participate and integrate into British society.

C. Fees for registration as a British Citizen

21. Children in low-income families who are entitled under the British Nationality Act 1981 to register as British Citizens face barriers doing this due to the mandatory application fee of £973.

22. This fee applies to children who are entitled to register because they were born in the UK and their parent subsequently becomes British or acquires settled status, or because they were born in the UK and have subsequently been resident for 10 years.

23. With no legal aid available for these types of applications, which may be complicated by a child’s unsettled accommodation history if applying under the 10-year rule, legal advice would be an additional cost.

24. Where a local authority is looking after a separated migrant child under section 20 of the Children Act 1989, then it will fall to social services to fund a registration application as in the majority of cases it will be in the child’s best interests to obtain British citizenship. Although there is a fee exemption for immigration applications made by looked after children, there is no equivalent for registration applications.

25. NRPF Network data indicates that a significant number of children in NRPF families, who are receiving social services’ support to safeguard their welfare and prevent destitution, may be eligible to register as British citizens, were it not for the prohibitive cost: out of 2963 children in 1829 family households receiving social services’ support, 572 non-British children were over 10 years’ old and 491 families had at least one non-British child over the age of 10.\(^\text{10}\)

26. Although the data does not confirm whether these children were born in the UK or how long they have lived in the UK prior to receiving social services’ support, it suggests that up to 491 out of 1829 families, 27% of supported households, may have a child who would be eligible to register as a British citizen.

\(^{10}\) Data from NRPF Connect taken on 8 December 2016 from 39 local authorities.
27. Where a child can evidence their British citizenship, this will have consequences for the parent, as they may be able to obtain a right to stay in the UK, and ultimately become British themselves. (See section A). Where there is a delay registering a child as British and resolving the parent’s immigration status, the family will remain dependent on social service’s support, which is not in the best interests of the child, and will impact on the extent to which the child has integrated by the time they are finally able to obtain citizenship, particularly if prior to this they did not have any leave to remain.

8 September 2017