Better Pathways project: Briefing Paper 3

Supporting adults with the NRPF condition who have social care needs

1. Introduction: the Better Pathways briefing series

The Better Pathways four-part briefing paper series responds to current areas of challenge arising for cross-sector frontline practitioners who are supporting individuals and families with the NRPF condition. Each briefing paper collates up-to-date information on legal definitions, policy changes, insights from academic research, shares reflections and good practice from frontline practitioners across the statutory and third sectors, and signposts to useful resources. Each briefing ends with recommendations to develop more supportive pathways to better outcomes for people with NRPF. The briefings can be used as helpful guides for frontline practitioners and as a continuous professional development tool to keep abreast of current NRPF issues from practice and research.

Key points from Briefing Paper 3:

- Adult social care provision in the UK comprises two strands- **long-term** and **short-term care.** It includes **personal care** as well as more **general activities**, that take place across diverse localities, such as the home, community settings, day and residential care homes.
- **The *Care Act 2014* sets out local authorities' responsibilities for providing care, with individual wellbeing** as the underpinning focus**.** A key part of supporting the wellbeing of individuals is **protection from abuse and neglect**, which can take **multiple forms.** The *Care Act 2014* establishes adult safeguarding duties for local authorities.
- Local authorities have a duty to carry out a **needs assessment** of an individual's care needs: a process comprising a **sliding scale of physical and mental wellbeing needs** which is compared to the criteria set out in the Care Act 2014 and whether an individual is unable to do 2 or more of the criteria.
- **Destitution alone does not qualify** as an adult social care need, only if this is accompanied by an additional mental or physical need as set out in the assessment criteria.
- Local authorities have a **duty to carry out a needs assessment for individuals with NRPF** and adult social care needs.
- **When support is requested for individuals with NRPF, social services are required to contact the Home Office** to confirm the individual's immigration status, to establish the available support options, and to check whether there are any immigration-related exclusions under the **Care Act Section 21**. This must be a **fair process**, ensuring that a **person's human rights are not breached** as per **European Convention on Human Rights**.
- If an individual has **NRPF and is homeless and/or has no income available to meet their basic living needs, emergency support may be provided** whilst assessments are being carried out under **section 19(3) of the Care Act 2014.**
- An individual with NRPF who is experiencing domestic violence should be signposted for immigration advice and guided to access support **Migrant Victims of Domestic Abuse Concession (MVDAC) if** needed.

2. Adult social care: definition

Overall, adult social care aims to support the wellbeing of people who are older or who have physical or mental disabilities by helping them to be safe and well and to be able to live independent lives. The scope of activities that come under adult social care are wide ranging. Activities include 'personal care', such as support with washing, dressing, and getting out of bed, as well as more general activities that help people to stay active and community engaged (The King's Fund, 2023). The locations in which social care takes place are also widely varied, taking place inside a person's home ('home care' or 'domiciliary care'), in day centres, in care and nursing homes ('residential care'). Support can also include 'reablement' services that support people to regain independence, as well as the provision of aids and adaptations inside a person's home, and various types of support for family carers. Social care also comes under two strands 'short-term care' and 'long-term care' (ibid).

3. Adult social care: policy context

3.1 Responsibilities of local authorities

The *Care Act 2014* is the most significant piece of legislation concerning the safety and care of adults since the establishment of the welfare state. It sets out the key responsibility for local authorities to promote individual wellbeing, with a move towards putting the individual person at the centre of local authorities' service offer as opposed to a one-size-fits-all approach (Safe Lives, n.d.). The legislation establishes the duties of local authorities in the provision of social care for people in need in their locality and sets out how that should be provided. The Care Quality Commission (CQC) summarises the responsibilities of local authorities under the Care Act. The guidance states that individuals with adult social care needs should:

- 'receive services that prevent their care needs from becoming more serious or delay the impact of their needs.
- can get the information and advice they need to make good decisions about care and support.
- have a range of high quality, appropriate services to choose from.
- have more control over how their care and support is organised' (CQC, 2022).

The Care Act also establishes the obligations of local authorities (as well as some other organisations in the care sector) related to:

- 'safeguarding adults (including by setting up a Safeguarding Adults Board in their area).
- promoting people's wellbeing.
- promoting integration of care and support within health services.
- providing information and advice.
- promoting diversity and quality in provision of services.
- assessing people's needs and deciding how to meet them.
- imposing charges and assessing people's finances.
- planning care and support and reviewing those plans.
- setting personal budgets (the amount the authority will pay towards someone's care).
- making direct payments to people to enable them to buy their own social care services' (ibid).

3.2 Adult safeguarding in the Care Act 2014

Adult safeguarding is clearly defined in the *Care Act 2014.* For example, freedom from abuse and neglect is a key aspect of a person's wellbeing as set out in the *Care Act 2014.* Statutory guidance refers to the varied forms that abuse and neglect can take, caused both deliberately or unintentionally. One such form of abuse is domestic violence, including 'psychological, physical, sexual, financial, emotional abuse and so called 'honour' based violence', for which individuals should be protected (Safe Lives, n.d.).

Local authorities have a duty to set up a Safeguarding Adults Board (SAB), with the involvement of key stakeholders, as part of the process of enquiry into whether an adult is being subject to, or at risk of, being abused or neglected and to decide what action of support needs to be taken. The SAB also have a duty to conduct a Safeguarding Adults Review (SAR) when a person dies or has experienced significant harm due to neglect or abuse if it is deemed that the local authorities and other organisations did not provide adequate support (ibid).

Regarding people experiencing homelessness with multiple needs and facing risks of harm, local authorities now have a wider scope of responsibilities. Kitto (2022) raises some key challenges in this regard, including a lack of financial investment for local authorities to accompany the increased responsibilities meaning that the limited services and stretched budgets of local authorities are unable to meet the increased demands for support. Additionally, Kitto (2022) highlights difficulties in carrying out assessments, even in informal conversational forms, with rough sleepers who live in high risk environments where they are particularly vulnerable to deterioration of health and risk of personal injury and who may not feel comfortable discussing their needs in such environments.

In terms of best practice for social workers supporting people experiencing homelessness, Kitto (2022) suggests a recognition 'that homelessness requires both a personal and multi-agency approach, in order for safeguarding interventions to be effective. This can be difficult to coordinate, especially as most services meeting the needs of homeless individuals may have begun interventions at different times, have different concerns and time pressures, and are not always working in the same legislative context as a social worker based in the local authority.'

4. Adult social care: funding, assessment, and eligibility

4.1 Funding

Some social care support is open to all members of the public, such as advice and information, but publicly funded social care in England is only accessible by those with 'the highest needs and lowest assets' (The King's Fund, 2024). The King's Fund (2024) explains that people with 'assets worth more than £23,250 are normally not eligible (for residential care, this figure includes the value of their property, if they have one)'.

4.2 Eligibility

Eligibility is no longer established through binary criteria and is now assessed on a 'sliding scale' of wellbeing needs (Kitto, 2022).

After a needs assessment is carried out, this is compared to the national criteria set out in the *Care Act 2014.* The eligibility criteria refer to an adult who has care and support needs due to a physical or mental condition and as a result are unable to do two or more of the following:

- 'managing and maintaining nutrition (getting, cooking and eating food and drink)
- maintaining personal hygiene (keeping clean)

- being appropriately clothed
- being able to use your home safely
- maintaining a habitable (clean, safe and tidy) home environment
- developing and maintaining family or other personal relationships (meeting and keeping in touch with people who are important to you)
- accessing and engaging in working, training, education or volunteering (finding, getting and keeping a job or learning new skills)
- transport and recreational facilities or services (getting to places in your local area)
- carrying out any caring responsibility you have for a child, and this has a big impact on your wellbeing (being comfortable, healthy and happy)' (BCP Council, 2024).

Eligibility criteria also refers to carers who have needs resulting from providing necessary care for an adult. This includes carers whose physical or mental health is, or is at risk of, deteriorating and/or they are unable to achieve any of the following:

- 'carrying out any caring responsibilities you have for a child
- providing care to other people that you provide care for
- maintaining a habitable home environment in your own home
- managing and maintaining nutrition (getting, cooking and eating food and drink)
- developing and maintaining family or other personal relationships (meeting and keeping in touch with people who are important to you)
- making use of necessary facilities or services in the local community including recreational facilities or services (getting to the places you need to get to in your local area)
- engaging in recreational activities and his has a big impact on your "wellbeing" (being comfortable, healthy and happy)' (ibid).

4.3 Eligibility for people with NRPF

An adult with NRPF may be provided with support under the *Care Act 2014,* such as accommodation and financial support from social services, if an individual has been assessed by the local authority as requiring specific care needs. However, destitution alone does not count as a care need and therefore would not be covered under the legislation, it is only when accompanied by additional care needs [as set out in the eligibility criteria above] (NRPF Network, 2024). If an adult has an appearance of need, and this is supported by additional evidence from a medical practitioner or other professional organisation regarding an individual's mental or physical illness or impairment which is preventing them from being able to do two or more of the considerations listed above, the local authority has a duty to carry out a needs assessment.

The NRPF Network (2024) also state that: 'if the low threshold to warrant an assessment is triggered and the adult is homeless and/or has no income available to meet their basic living needs, emergency support may be provided whilst assessments are being carried out under section 19(3) of the Care Act 2014.' An additional important consideration in the process of fair assessment for adult social care needs is to ensure that a person who is subject to the NRPF condition's human rights are not being breached, under the European Convention on Human Rights (ECHR), such as a breach of article 3 – 'the right to be protected from inhuman or degrading treatment' (Hull App).

When support needs are requested from/for an adult with NRPF, social services are responsible for obtaining information from the Home Office regarding a person's current immigration status in order to assess the support options available and whether one of the immigration-related exclusions [listed below] apply (NRPF Network, 2024).

4.4 Exemptions from Care Act support

Section 21 of the Care Act outlines an exception in relation to a person who is subject to immigration control. In this case a local authority may not be required to provide support for the care needs of an adult to whom Section 115 of the Immigration and Asylum Act 1999 applies, in combination with their needs for care support arising solely:

- '(a) because the adult is destitute, or
- (b) because of the physical effects, or anticipated physical effects, of being destitute' (Home Office, 2018).

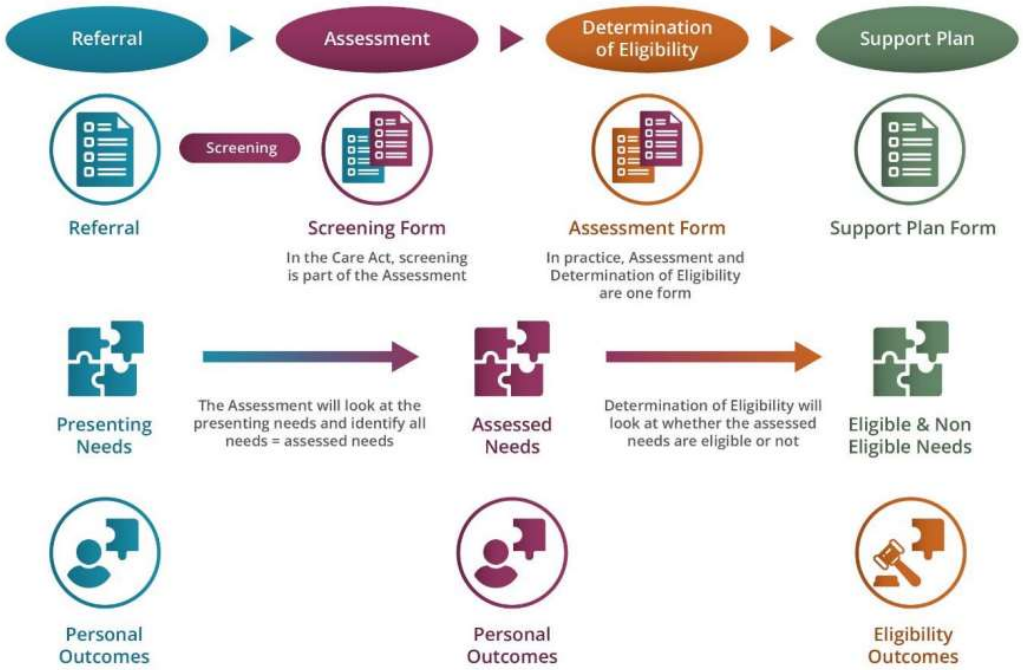
Additionally, the Home Office (2018) sets out further exemptions:

- 'Section 21(5) also excludes migrants subject to immigration control from receiving preventative assistance under section 2(1) of the Care Act when their needs for care and support have arisen, or may in the future arise, solely because they are destitute or due to the physical effects, or anticipated physical effects, of being destitute', stating that in this case the person should apply for asylum support under the Home Office.
- Failed asylum seekers and people who 'remain in the UK unlawfully, except where, after assessment, the local authority decides to provide support to avoid a breach of Human Rights or because of another exception set out in schedule 3.'

4.4 Assessment

It is the responsibility of local authorities to carry out an assessment for people who have specific care needs and to then fund their care if they are assessed as eligible for support, with most care provision now coming under private for-profit companies offering residential care and independent sector home care (The King's Fund, 2024).

The chart below shows the route through assessment and determination of eligibility under the Care Act 2014 (Social Care Institute for Excellence, 2024).



5. Challenges raised from frontline practice and research: NRPF combined with social care needs

5.1 Challenges raised by NRPF lived experience group: accessing support for domestic violence

"I left my husband because of domestic abuse and because I did research myself I found out about the DVC concession but the way I understood it, because I didn't have anyone advising me, was I couldn't get it unless I was working….and I was working but I was on a 10-hour minimum wage contract so I think if I'd got a DVC concession I would have got help from the council but I didn't know that was an option, I didn't have any information. I put all of the evidence together myself and the application myself and then I went to the refugee centre in Walsall and they supported me with it.

I also went to the Freedom Programme in Birmingham, the one near Kings Norton, and they were really helpful in terms of getting emotional support and I attended a few groups regularly with them and it was with other women who'd gone through domestic abuse as well and they had lots of good advice, and there was a junior solicitor who'd come in once a month and we could get advice from her as well, they'd give us bus tickets.

For me there was a lot of trial and error and trying to do research and going and asking people...the fact that English is my first language made it a lot easier, but it still wasn't easy so I don't know what I would have done if I didn't speak English, it was hard enough as it was. And I think it's down to the local authority to put the message out there regarding signage in different places where people go, such as supermarkets, bus stations, ads on tv or radio.

I think the police need better training too as when I reported coercive control to the police in Birmingham, they didn't seem to understand what it was and told me they only deal with reports of physical abuse where someone's life is in danger. Then they gave me a ride home. Then in a later abusive relationship, when I called the Birmingham police because my partner was denying me access to gas, water, and electricity in the middle of winter in a home that I owned and paid the bills for, they came and told us both that he had the right to restrict my access to these things. That it was between the two of us and they 'couldn't tell him to turn them back on any more than they could tell me to turn them off.' I was unable to drink water even just to take medication, prepare food, turn on the heat, charge my phone, or even turn on a light in the dark. I got my period that same night and I couldn't even clean myself. Because they took his side, things escalated the next morning and became physical. And I had to flee my own home" (*NRPF lived experience participant, Coventry).*

Issue: lack of signposting / knowledge of support available for people with NRPF who are experiencing domestic violence.

The Migrant Victims of Domestic Abuse Concession (MVDAC), formerly Destitution Domestic Violence Concession (DDVC), enables certain people who have leave to enter or remain under a partner status, and whose relationship has broken down due to domestic abuse, to gain access to public funds such as benefits or local authority housing if they would otherwise be unable to meet their basic living needs (NRPF Network, 2024). The NRPF Network advise that it is essential for anyone in this situation to be signposted to immigration advice: 'to find out what their options are, including whether the MVDAC is the right route for them. Some groups that can apply for the concession will not be eligible to apply for indefinite leave to remain (ILR) on the basis that they are a

victim of domestic abuse' (ibid). Please see resource list at the end of this paper for further information resources.

5.2 Challenges raised by Better Pathways steering group: supporting people to access required statutory care

"I would say for us dealing with adult social care has been a problem. It has been extremely difficult, even when we have someone who is visibly disabled. We have one gentleman who we're still working with who, when we took him on, he was referred to us from an external organisation. This is someone who can't move around on his own, he can't cook or clean for himself, he can't really bathe himself, he's blind, his kidneys are failing. He has to have dialysis regularly and yet we have had to fight to try and get care for him. It took a lot of time and a lot of rejections. It took one of our immigration advisors to go through the legal requirements and to go through the NHS policies and essentially teach them [statutory organisations] what this person was entitled to. We did eventually get him into a facility, but we have been working with him now for a year and he is still waiting to receive all the necessary care that he needs" (Coventry RMC practitioner).

Issue: lack of understanding regarding statutory responsibilities for providing care

Literature from research has highlighted some challenges in knowledge and confidence for health and social care professionals that effects the effectiveness of their work with people who are subject to immigration control (Hines & Leishman, 2023). Using an anonymous, online national survey to explore social work practitioners' knowledge and confidence of the entitlements of adults with NRPF to adult social care services, Hines and Leishman found that the factors that had a significant relationship with confidence included seniority level, years of experience, and number of adults with NRPF they had worked with. Findings suggested that overall, the 113 respondents did have adequate knowledge of Care Act assessments. However, 'confidence was low and knowledge was poor around the entitlements of asylum seekers specifically, access to advocacy and use of human rights assessments' (2023: 40).

Hines and Leishman make some recommendations to respond to challenges raised in their study, including the prioritising of training on NRPF entitlements by social work employers 'focusing on the areas of poor knowledge found in this study' (2023: 40). Such a recommendation for enhanced training is supported by Kitto (2022) who raises issues around social workers new 'legal literacies' since the establishment of the Care Act, where they now have 'new legal responsibilities for adults who might be both vulnerable and extremely varied in both safeguarding and social care needs and entitlements', whilst also having 'to familiarise themselves with a large and complicated piece of legislation'. Kitto (2022) raises challenges in accessing training specifically in relation to the adult safeguarding part of the Care Act: viewing expertise in this legislation and its interface with other legislation as relatively limited.

Additionally, literature highlights the necessity for further research regarding adults with NRPF in order to better understand their experiences of accessing adult social care (Hines & Leishman, 2023): a gap which the Better Pathways project hopes to partly respond to through this briefing paper and the Charter for Best Practice which will be produced from the project.

5.3 Challenges raised by Better Pathways steering group: responsibilities for care crossing local authority borders

In the following anonymous case study from Brushstrokes charity in Sandwell, responsibility for care would come under the Children's Trust as it concerns a parent and children:

> *'Mrs H., mum of two (2 and 5 yrs old), Moroccan citizen was a victim of domestic violence. On 13 of September 2022, she decided to leave her abusive partner. She was not feeling safe, did not bring many belongings with her apart from the pushchair, baby food and few nappies. She has contacted Birmingham and Solihull Woman's Aid- they helped her to find a safe place and due to safeguarding issues, they've made a MARF referral to Birmingham Children's Trust. This is where complication started. Mrs H. lived in Birmingham area since she moved to the UK 5 years ago, but after leaving her husband she has been accommodated in hotel based in Sandwell. Both Local Authorities started to pass the case and refuse responsibility to put section 17 support in place. For the next two months, while I was working with the client, none of the LA carried Early Help assessments, the mum did not receive any financial support from any Local Authority under section 17.*
>
> *Mrs Hind has come to our charity on 22/09/2022 seeking help with Immigration and Welfare Advice. We helped her to submit a new application to the Home Office (she holds PSS and was eligible then for ILR), new Universal Credit claim and new Child Benefit application. She was receiving food parcels from us and has been supported by our resources team with clothes and toys for her children. However, her housing situation was uncertain, children were not going to school or nursery, and she did not have any income (UC was supposed to be paid be paid in the beginning of November). She found herself completely destitute, she was struggling to access essential resources (nappies, baby milk, bus ticket, food, toiletries) and mental health support. After taking a big decision and fled DV she could have relied only on local charities' support due to Birmingham and Sandwell dispute' (Brushstrokes charity Sandwell, practitioner)*

Issue: local authority cross-border disputes in responsibilities

In this case study one of the main issues hindering the woman and her children receiving the support to which they are eligible arises from a cross-border dispute between local authorities: an issue which is particularly common and problematic for Brushstrokes charity and its service users due to the charity's location in Sandwell, very close to the Birmingham border.

In situations of border disputes, local authorities should refer to the procedure set out in *The Care and Support (Disputes Between Local Authorities) Regulations 2014*. In this case, Hulse (2020) draws attention to the following key regulations: 'Regulation 2: "The authorities must not allow the existence of the dispute to prevent, delay, interrupt or otherwise adversely affect the meeting of the needs of the adult or carer to whom the dispute relates."

Additionally, if a person's social care needs present as urgent, Section 19 of the Care Act provides local authorities with a power to meet an adult's care and support before a needs assessment or eligibility criteria assessment has been carried out. Importantly, this is also regardless of whether an adult is ordinarily resident in the area. Specifically, paragraph 19.11 states: 'The determination of ordinary residence must not delay the process of meeting needs. In cases where ordinary residence is not certain, the local authority should meet the individual's needs first, and then resolve the question of ordinary residence subsequently. This is particularly the case where there may be a dispute between 2 or more local authorities.' (Hulse, 2020).

6. Sharing good practice

Local authorities recognising the expertise of community organisations / statutory – non-statutory partnership working

Coventry City Council's Rough Sleeping Manager shared what cross-sector collaborative working looks like for supporting people with NRPF and adult social care needs:

> *'When working with people with complex problems and or histories you need to work in partnership; working out who can do what best and co-ordinating this into one shared approach, whilst considering the individual, what we know about their situation and the intel that history gives us about what has happened in the past.*
>
> *We had a Lithuanian gentleman rough sleeping for years and working together with Mental Health services, as well as a local accommodation provider, we were able to respond quickly when the opportunity arose, and he came indoors and has stayed indoors for some considerable time.*
>
> *It involves knowing your service strengths and any unique opportunities you have and matching these with what partners can offer so you maximise the resources at the right time, which means being flexible, doing what it takes and reviewing what you are doing and changing if needed.*
>
> *We had funding for accommodation, a partner who could provide it, and conversations with consultants and other mental health workers to ensure we did the right thing. If we all want the best for someone, have a resource available and get it right together it can make a huge difference to the quality of someone's life.'*

7. Useful resources

7.1 Bite-sized summaries of adult social care

- The following resource from The King's Fund (2017) provides a useful series of bitesize videos to explain adult social care in England and how it works with the NHS and other services:

  https://www.kingsfund.org.uk/insight-and-analysis/videos/bitesized-social-care

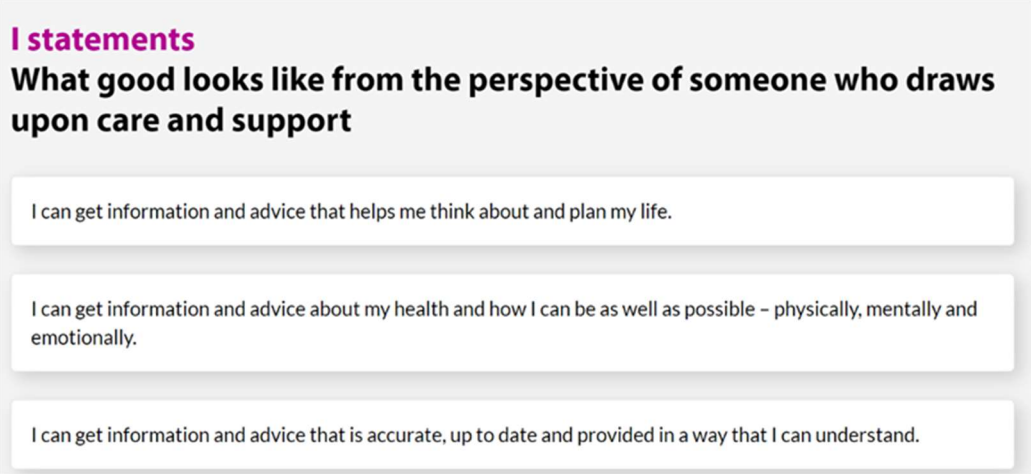
- Additionally, the resource below provided by Leicester Safeguarding Adults Board, includes a 'quick read' and 'audio summary' of the Care Act:

  https://www.llradultsafeguarding.co.uk/quick-read-care-act/

7.2 Developing a positive person-centred approach to adult social care: the 'Making it Real' resource

'Making It Real' is a resource that has been co-produced with people with lived experience of adult social care needs, that aims to make care and support work better for people, and ultimately lead to a better quality of life for people. It is aligned to the Care Act and has been incorporated into the Care Quality Commission's Single Assessment Framework. The resource, which is centred on a series of 'I' and 'We' statements across six themes ('wellbeing and independence', 'information and advice', 'active and supportive communities', 'flexible and integrated care and support', 'when things need to change', and 'workforce'). It can be used in lots of ways by service users, and statutory and non-

statutory organisations. For example, it can support organisations to develop more positive and productive communication and partnerships with service users, can help organisations identify areas for positive person-centred change, and can support organisations to meet their legal duties and contribute to raising standards (Think Local Act Personal, n.d.) A snapshot of the resource from the 'information and advice' theme is below, as well as the link to the full resource.



https://makingitreal.org.uk/explore-making-it-real/

7.3 Guidance on support for people from asylum seeking backgrounds with support needs

More information on guidance for professionals regarding people from asylum-seeking backgrounds with social care needs can be found here:

> *https://assets.publishing.service.gov.uk/media/5b6477dded915d377f49159b/Asylum-Seekers-With-Care-Needs-v2.0ext.pdf*

7.4 Guidance on support for people with NRPF who are experiencing domestic violence

Further information and application forms for the MVDAC are available here: *https://www.gov.uk/government/publications/victims-of-domestic-violence (UK Visas and Immigration, 2013).*

8. Working recommendations

- **Better pathways for people experiencing domestic abuse:** local authorities to signpost to voluntary sector immigration advisors regarding Migrant Victims of Domestic Abuse Concession.
- **Better pathways for people experiencing domestic abuse:** voluntary sector organisations advertise grassroots support in multi-lingual/visual formats in places such as hotels, schools, GPs.
- **Better pathways for people with multiple needs:** develop more open communication channels between local authority departments – Councils to raise awareness of importance of inter-departmental as well as multi-sector partnership working.
- **Better pathways for people living on local authority borders:** need for awareness raising within Councils of procedures/statutory duties set out in The Care and Support (Disputes Between Local Authorities) Regulations 2014, particularly Regulation 2.

9. References

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