



Home Office

## Public Funds

# Migrant access to public funds, including social housing and homelessness assistance, and social care

Version 19.0

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# About this guidance

In common with other comparable countries, the UK has in place a framework of laws, policies and administrative arrangements to ensure that access to work, benefits and services is only permitted for those who are lawfully present in the UK and who have the right to access them.

This guidance:

- is to provide Home Office caseworkers with information on public funds for the purpose of considering the implications of a no recourse to public funds (NRPF) condition and to understand when a breach of that condition may have been made
- sets out the framework to determine what level of access to public benefits a person will be entitled to when considered against their immigration status in the UK
- explains what public funds are for immigration purposes and which department administers them
- explains the legislation which governs social housing and homelessness across the 4 UK nations
- provides links to the relevant immigration legislation in relation to public funds
- outlines the exceptions for when public funds can be claimed and when a person may be in breach of their conditions
- explains benefit entitlements for those with permission under the EU Settlement Scheme, and joining family members
- applies equally to non-European Economic Area (EEA) nationals and EEA nationals who enter the UK under the points-based system.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors, then email the Compliant Environment and Enforcement Unit.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance, then you can email the Guidance Rules and Forms team.

## Publication

Below is information on when this version of the guidance was published:

- version **19.0**
- published for Home Office staff on **05 October 2023**

## Changes from the last version of this guidance

The changes made in this document from the previous version includes:

- a quick reference table to identify whether an individual's immigration status has an NRPF condition attached
- a quick reference table to show which government department is responsible for funding and administering individual benefits
- definitions of entitlement and discretionary payments that can be made by a local authority
- removal of the historical details of EEA nationals' access to benefits prior to EU Exit and the end of the transition and grace period
- updated Maintenance Undertaking guidance
- a section on change of condition applications

### Related content

[Contents](#)

# References within this guidance

## No recourse to public funds (NRPF)

A condition attached to most temporary migrants' permission to enter or stay in the UK for the purpose of restricting access to a range of benefits which are listed as public funds for immigration purposes. Those who are unlawfully present in the UK also have no recourse to public funds.

## Permission to enter the UK

Permission to enter the UK is also known as leave to enter. A 'no recourse to public funds' (NRPF) condition can be applied to a person's permission to enter the UK.

## Permission to stay in the UK

Permission to stay in the UK is also known as leave to remain. A 'no recourse to public funds' condition can be applied to a person's permission to stay in the UK.

## Habitually resident

To be considered habitually resident in the UK for public funds purposes, a person must have taken up residence in the UK, with the intention of settling here, and have lived here for an appreciable period of time. The period is not fixed and depends on the facts of the case. A person who enters the UK does not normally become habitually resident on arrival, even if it is their intention to settle here. However, there are circumstances where those returning to the UK may be able to resume a previous habitual residency without the requirement to serve an appreciable period. This would be established on an individual basis and depend upon the facts of each case.

The habitual residence test has 2 elements: a legal right to reside test and an objective assessment of factual evidence of habitual residence. Those eligible to claim certain public funds are required to have established habitual residence in the UK and be exercising a right to reside in the UK.

Depending on the assistance being sought, a person may have to show that they are habitually resident in a local authority area, country, or the Common Travel Area (CTA) which comprises the UK, the Channel Islands, the Isle of Man and Ireland.

## Ordinarily resident

To be considered ordinarily resident a person must be lawfully and normally resident apart from temporary or occasional absences. This means that the person must have chosen to live and settle in the UK for the time being. A person who enters the UK can be ordinarily resident on arrival. For more information about assessing the rules determining ordinary residence for immigration purposes see: Nationality Policy: assessing ordinary residence.

## EEA citizens

In this guidance the term European Economic Area (EEA) citizen is taken to refer collectively to European Union (EU) citizens, citizens of Iceland, Liechtenstein and Norway (EEA EFTA states) and Switzerland.

EU citizens are citizens of the following member states:

- Austria; Belgium; Bulgaria; Croatia; Republic of Cyprus; Czech Republic, Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Ireland; Italy; Latvia, Lithuania; Luxembourg; Malta; Netherlands; Poland; Portugal; Romania; Slovakia; Slovenia; Spain; Sweden

Irish citizens:

Please note that since free movement has ended in the UK, Irish citizens continue to have a special status in the UK which does not depend on their status as an EU citizen. Irish citizens therefore do not require permission to enter or live in the UK except in very limited circumstances, regardless of when they arrived. Under the CTA arrangements between the UK and Ireland there are also bilateral agreements in place which confirm an Irish citizen's ability to access certain benefits and services in the UK.

Swiss citizens:

Switzerland is part of the EU single market and Swiss citizens have the same rights to live and work in the UK as EEA citizens.

## Citizens' Rights Agreements

The Citizens' Rights Agreements referred to in this guidance refer to the agreements which protect the rights of EEA citizens and their family members living in the UK by the end of the transition period at 11pm GMT on 31 December 2020 and of family members (who may be EEA or non-EEA citizens) who are eligible to join an EEA citizen who was resident by the end of the transition period.

These are the:

- [UK EU Withdrawal Agreement](#)
- [UK-EEA EFTA Separation Agreement](#)
- [UK-Switzerland Citizens' Rights Agreement](#)

These agreements are given effect in domestic law by the [European Union \(Withdrawal Agreement\) Act 2020](#).

## EU Settlement Scheme

Residence rights protected by the Citizens' Rights Agreements are implemented via the EU Settlement Scheme (EUSS), the requirements for which are set out in [Appendix EU](#) to the Immigration Rules. The EUSS also provides for certain groups of people who are not protected by the Citizens' Rights Agreements but whose residence in the UK was affected by the UK's withdrawal from the EU and to whom the UK Government decided to extend access to the scheme.

The EUSS enables EEA citizens resident in the UK by the end of the transition period at 11pm GMT on 31 December 2020, and their eligible family members, to obtain an immigration status in the UK.

### Pre-settled status

Pre-settled status is limited permission to enter or stay in the UK. It is granted to applicants who meet the EUSS requirements and generally have continuous UK residence of less than 5 years.

### Settled status

Settled status is indefinite permission to stay in the UK. It is granted to applicants who meet the EUSS requirements and usually have lived in the UK for a continuous 5-year period (known as 'continuous residence').

### Right to reside

Under EU free movement law, EU citizens' right to move and reside in another member state were set out in the Free Movement Directive (2004/38/EC). For the first three months, no conditions were attached to their right to reside in a host state. Thereafter an EU citizen generally had the right to reside if they were a 'qualified person', that is to say, they were a job seeker, a worker, a self-employed person, self-sufficient or a student. They continued to have the right to reside for as long as they remained a qualified person.

### Transition period

The transition period (also referred to as the Implementation Period) was the time between the UK's exit from the EU at 11pm GMT on 31 January 2020 and 11pm on 31 December 2020. During this period the majority of EU law, including free movement law, continued to apply to the UK.

### EEA Regulations

The Immigration (European Economic Area) Regulations 2016 (EEA Regulations) implemented EU free movement law in the UK. The rights of EU citizens and their family members to move and reside within the territory of the member states were set out in the Free Movement Directive (2004/EC/38) and agreements to extend similar rights to the EEA EFTA states and Switzerland. Free movement law ceased



to apply in the UK when the Immigration (European Economic Area) Regulations 2016 were revoked, subject to the modification and saving of specific provisions. These include the modification and saving of relevant provisions in connection with access to benefits and services. See for example, Regulation 83 and schedule 4 paragraph 4 of [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(legislation.gov.uk\)](#).

#### **Related content**

[Contents](#)

# Immigration status and access to public funds

The expectation of the UK Government is that in general migrants coming to the UK should be able to maintain and accommodate themselves without recourse to public funds.

Indefinite permission to stay is the point at which most migrants become eligible to access public funds. Those seeking to establish their life in the UK are generally expected to maintain and support themselves and their families without posing a burden on the UK's welfare system.

Some people including refugees, protected persons and those granted discretionary permission may be able to access public funds, if eligible, in the same way as British citizens and other permanent residents.

Most migrants must demonstrate that they can financially support themselves and their dependants when applying for permission to enter or stay in the UK. For this reason, the majority of temporary migrants are granted permission subject to a condition that they cannot access public funds: no recourse to public funds (NRPF). Those here without lawful status are also subject to NRPF. Those with permission to stay granted under a family or private life route, or the Hong Kong British National (Overseas) route can apply to have their NRPF condition lifted by making a 'change of conditions' application. The NRPF condition will be lifted on these routes:

- if they are destitute or at risk of imminent destitution
- there are reasons relating to the welfare of a relevant child which outweigh the considerations for imposing or maintaining the condition (treating the best interests of a relevant child as a primary consideration)
- the applicant is facing exceptional circumstances affecting their income or expenditure

Whilst a person in most circumstances outside of a family life, private life or Hong Kong BN(O) route would not be granted a change of condition, [section 3\(1\)\(c\)\(ii\) of the 1971 Immigration Act](#) provides the Secretary of State power to exercise discretion in considering whether to vary the conditions of **any** leave granted, including the lifting of NRPF from permission granted in all immigration routes.

In considering whether to lift (or not impose) a NRPF condition on someone present in the UK there is a wide discretion which requires all relevant matters to be taken into account. In particular:

- in any application involving a child the best interests of that child must be considered as a primary, although not the only consideration - [Section 55 guidance](#)
- where an applicant, or their dependant children, cannot reasonably be expected to return to their home country NRPF must be lifted if it is established that they are destitute, or at imminent risk of destitution or there are other particularly compelling reasons relating to the welfare of the child or other matters
- where an applicant, or their dependant children, can reasonably be expected to return to their home country the expectation is that they should do so - particularly compelling circumstances will need to be established to require the NRPF condition to be lifted

If the reason the person states they cannot return to their country of nationality amounts to a protection or human rights claim, the claim itself should not be considered. Instead, the individual should be encouraged to make an appropriate application based on their primary reason for wanting to stay in the UK, such as a protection claim or family life application, so their circumstances can be properly considered.

The following table sets out which immigration routes have the NRPF condition applied.

Immigration status	Temporary/permanent status	Max period of leave granted	No recourse to public funds applied	Further information
Student	Temporary	Varies	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Student and Child Student caseworker guidance</li> </ul>
Graduate route	Temporary	2 or 3 years	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Graduate caseworker guidance</li> </ul>
Skilled Worker	Temporary	5 Years	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> </ul>

Immigration status	Temporary/permanent status	Max period of leave granted	No recourse to public funds applied	Further information
				<ul style="list-style-type: none"> <li>• Skilled Worker caseworker guidance</li> </ul>
Health and Care Worker	Temporary	5 Years	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Skilled Worker caseworker guidance</li> </ul>
Overseas Domestic Worker	Temporary	6 Months	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Overseas Domestic Workers, including victims of trafficking caseworker guidance</li> </ul>
Scale-Up Worker	Temporary	2 Years	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Scale-up caseworker guidance</li> </ul>
Temporary Work	Temporary	Varies	Yes	<ul style="list-style-type: none"> <li>• Temporary Worker caseworker guidance</li> </ul>
Youth Mobility Scheme	Temporary	2 years	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Youth Mobility Scheme caseworker guidance</li> </ul>
Senior or Specialist Worker visa (Global Business Mobility)	Temporary	Varied	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Global Business Mobility caseworker guidance</li> </ul>

Immigration status	Temporary/permanent status	Max period of leave granted	No recourse to public funds applied	Further information
Innovator Founder	Temporary	3 Years	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Innovator caseworker guidance</li> </ul>
Start-up	Temporary	2 years	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Start-up caseworker guidance</li> </ul>
Global Talent	Temporary	5 Years	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Global Talent caseworker guidance</li> </ul>
Highly Potential Individual	Temporary	2 Years or 3 Years	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• High Potential Individual caseworker guidance</li> </ul>
Representative of an Overseas Business	Temporary	3 years	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Representatives of Overseas Business caseworker guidance</li> </ul>
Visitor	Temporary	Varied, max 6 months per visit	Yes	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Visit caseworker guidance</li> </ul>
Family route	Temporary	30 Months	Yes (Unless destitute, at imminent risk of destitution, there are reasons relating to the welfare of a relevant	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Family life (as a partner or parent) and exceptional circumstances caseworker guidance</li> </ul>

Immigration status	Temporary/permanent status	Max period of leave granted	No recourse to public funds applied	Further information
			child which outweigh the considerations for imposing or maintaining the condition, or where there are exceptional circumstances affecting income or expenditure.)	<ul style="list-style-type: none"> <li>• Access to public funds within family, private life and Hong Kong BN(O) routes</li> </ul>
Private Life Route	Temporary	30 Months	Yes (Unless destitute, at imminent risk of destitution, there are reasons relating to the welfare of a relevant child which outweigh the considerations for imposing or maintaining the condition, or there are exceptional circumstances affecting income or expenditure.)	<ul style="list-style-type: none"> <li>• Private life caseworker guidance</li> <li>• Access to public funds within family, private life and Hong Kong BN(O) routes</li> </ul>
UK Ancestry Visa	Temporary	5 Years	Yes	<ul style="list-style-type: none"> <li>• UK Ancestry caseworker guidance</li> </ul>
Destitute Domestic Violence Concession	Temporary	3 months (or until a decision on domestic violence	No	<ul style="list-style-type: none"> <li>• Victims of domestic violence caseworker guidance</li> <li>• <a href="#">Apply for destitution</a></li> </ul>

Immigration status	Temporary/permanent status	Max period of leave granted	No recourse to public funds applied	Further information
		indefinite leave to remain is taken)		
Armed Forces (exempt from Immigration Control)	Temporary	Exempt from Immigration Control whilst serving in the armed forces or, in the case of a reservist with HM Forces, during pre deployment training or deployment	No	<ul style="list-style-type: none"> <li>Armed forces: exempt from immigration control caseworker guidance</li> </ul>
Armed Forces (subject to Immigration Control)	Temporary	4 Years or the duration of the training, study or familiarisation (whichever is shorter)	Yes	<ul style="list-style-type: none"> <li>Armed forces: exempt from immigration control caseworker guidance</li> </ul>
Hong Kong British National	Temporary	30 Months or 5 Years	Yes	<ul style="list-style-type: none"> <li><a href="#">overview</a></li> </ul>

Immigration status	Temporary/permanent status	Max period of leave granted	No recourse to public funds applied	Further information
(Overseas) Route				<ul style="list-style-type: none"> <li>British nationals overseas caseworker guidance</li> <li>Access to public funds within family, private life and Hong Kong BN(O) routes</li> </ul>
Ukraine Sponsorship Scheme	Temporary	3 Years	No	<ul style="list-style-type: none"> <li><a href="#">overview</a></li> <li>Ukraine guidance</li> </ul>
Ukraine Family Scheme	Temporary	3 Years	No	<ul style="list-style-type: none"> <li><a href="#">overview</a></li> <li>Ukraine guidance</li> </ul>
Asylum Seeker	Temporary	No leave granted	N/A	<ul style="list-style-type: none"> <li>Asylum support (Asylum instructions)</li> </ul>
Refugee permission to stay	Temporary	5 years	No	<ul style="list-style-type: none"> <li><a href="#">overview</a></li> <li>Refugee and humanitarian protection leave - claims lodged pre 28 June 2022 caseworker guidance</li> </ul>
Humanitarian Protection	Temporary	5 years	No	<ul style="list-style-type: none"> <li>Humanitarian Protection caseworker guidance</li> </ul>
Stateless	Temporary	5 years	No	<ul style="list-style-type: none"> <li>Statelessness caseworker guidance</li> </ul>



Immigration status	Temporary/permanent status	Max period of leave granted	No recourse to public funds applied	Further information
Afghan Relocations and Assistance Policy Scheme (ARAP)	Permanent	Indefinite	No	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• Afghan Relocation and Assistance Policy Scheme caseworker guidance</li> </ul>
Victims of Human Trafficking and Slavery (VTS)	Temporary	30 months (12 months granted at a time)	No	<ul style="list-style-type: none"> <li>• Temporary Permission to Stay for Victims of Human Trafficking and Slavery caseworker guidance</li> </ul>
Indefinite leave to remain	Permanent	Indefinite	No	<ul style="list-style-type: none"> <li>• <a href="#">Guidance: Rights and Status</a></li> </ul>
EU Settlement Scheme family permit	Temporary	6 months	No (Individuals may need to be exercising a qualified right to reside under EU law - for further information see the EEA citizens and access to public funds section of this guidance.)	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• EU Settlement Scheme Family permits caseworker guidance</li> </ul>
EU Settlement Scheme pre settled status	Temporary	5 years	No (Individuals may need to be exercising a qualified right to reside under EU law - for further information see	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• EU Settlement Scheme caseworker guidance</li> </ul>

Immigration status	Temporary/permanent status	Max period of leave granted	No recourse to public funds applied	Further information
			the EEA citizens and access to public funds section of this guidance.)	
EU Settlement Scheme settled status	Permanent	Indefinite	No	<ul style="list-style-type: none"> <li>• <a href="#">overview</a></li> <li>• EU Settlement Scheme caseworker guidance</li> </ul>

#### Related content

[Contents](#)

# What are public funds for immigration purposes?

For immigration purposes, benefits and services classed as public funds are set out in section 115 of the Immigration and Asylum Act 1999 and at paragraph 6 of the Immigration Rules: [Immigration and Asylum Act 1999 \(legislation.gov.uk\)](https://www.gov.uk/guidance/immigration-rules/immigration-rules-introduction#intro6) and <https://www.gov.uk/guidance/immigration-rules/immigration-rules-introduction#intro6>.

There are other benefits which are not classed as a public fund and access to those is not dependent on immigration status. See section '[Benefits and Statutory Payments](#)'.

Other restrictions in respect of access to social housing, homelessness assistance, and social care are set out in sections 117 to 122 of the Immigration and Asylum Act 1999, Schedule 3 of the Nationality, Immigration and Asylum Act 2002 and in legislation relating to the provision of these services.

The following table sets out where each public fund for immigration purposes is listed and the associated department responsible for administering it:

- DWP – Department for Work and Pensions
- HMRC – His Majesty’s Revenue & Customs
- DLUHC – Department for Levelling Up, Housing and Communities
- DfC – Department for Communities

## Benefits open to new claims

Public fund	Listed under s115 of the Immigration and Asylum Act 1999	Listed under Paragraph 6 of the Immigration Rules	Administering Department England	Administering Department Scotland	Administering Department Wales	Administering Department Northern Ireland
Universal Credit	Yes	Yes	DWP	DWP	DWP	DfC (NI)

Public fund	Listed under s115 of the Immigration and Asylum Act 1999	Listed under Paragraph 6 of the Immigration Rules	Administering Department England	Administering Department Scotland	Administering Department Wales	Administering Department Northern Ireland
State Pension Credit	Yes	Yes	DWP	DWP	DWP	DfC (NI)
Personal Independence Payment ( <a href="#">see notes below</a> )	Yes	Yes	DWP	DWP	DWP	DfC (NI)
Attendance Allowance	Yes	Yes	DWP	DWP	DWP	DfC (NI)
Carer's Allowance	Yes	Yes	DWP	DWP	DWP	DfC (NI)
Disability Living Allowance ( <a href="#">see notes below</a> )	Yes	Yes	DWP	Social Security Scotland	DWP	DfC (NI)
Housing Benefit	Yes	Yes	Local Authorities	DWP	DWP	DfC (NI)
Social Fund	Yes	No	DWP	N/A	DWP	DfC (NI)
A Social Fund maternity expenses payment made under section 138(1)(a) of the	Yes (Maternity expenses, funeral expenses, cold weather, winter	Yes	DWP	N/A	DWP	N/A

<b>Public fund</b>	<b>Listed under s115 of the Immigration and Asylum Act 1999</b>	<b>Listed under Paragraph 6 of the Immigration Rules</b>	<b>Administering Department England</b>	<b>Administering Department Scotland</b>	<b>Administering Department Wales</b>	<b>Administering Department Northern Ireland</b>
Social Security Contributions and Benefits Act 1992	fuel, budgeting loan payments, are covered under the term 'Social Fund' in S115 of the Immigration and Asylum Act 1999.)					
A Social Fund funeral expenses payment made under section 138(1)(a) of the Social Security Contributions and Benefits Act 1992	Yes	Yes	DWP	N/A	DWP	N/A
A Social Fund cold weather payment made under section 138(1)(a) of the Social Security Contributions and Benefits Act 1992	Yes	Yes	DWP	N/A	DWP	N/A

<b>Public fund</b>	<b>Listed under s115 of the Immigration and Asylum Act 1999</b>	<b>Listed under Paragraph 6 of the Immigration Rules</b>	<b>Administering Department England</b>	<b>Administering Department Scotland</b>	<b>Administering Department Wales</b>	<b>Administering Department Northern Ireland</b>
A Social Fund winter fuel payment made under section 138(1)(a) of the Social Security Contributions and Benefits Act 1992	Yes	Yes	DWP	N/A	DWP	N/A
A Social Fund budgeting loan payment made under section 138(2) of the Social Security Contributions and Benefits Act 1992	Yes	Yes	DWP	N/A	DWP	N/A
A Social Fund sure start maternity grant payment made under section 134(1)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992	Yes	Yes	N/A	N/A	N/A	DfC (NI)

<b>Public fund</b>	<b>Listed under s115 of the Immigration and Asylum Act 1999</b>	<b>Listed under Paragraph 6 of the Immigration Rules</b>	<b>Administering Department England</b>	<b>Administering Department Scotland</b>	<b>Administering Department Wales</b>	<b>Administering Department Northern Ireland</b>
A Social Fund funeral expenses payment made under section 134(1)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992	Yes	Yes	N/A	N/A	N/A	DfC (NI)
A Social Fund cold weather payment made under section 134(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992	Yes	Yes	N/A	N/A	N/A	DfC (NI)
A Social Fund winter fuel payment made under section 134(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992	Yes	Yes	N/A	N/A	N/A	DfC (NI)

<b>Public fund</b>	<b>Listed under s115 of the Immigration and Asylum Act 1999</b>	<b>Listed under Paragraph 6 of the Immigration Rules</b>	<b>Administering Department England</b>	<b>Administering Department Scotland</b>	<b>Administering Department Wales</b>	<b>Administering Department Northern Ireland</b>
A Social Fund budgeting loan payment made under section 134(1)(b) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992	Yes	Yes	N/A	N/A	N/A	DfC (NI)
Health in Pregnancy Grant	Yes	No	Currently Unavailable	Currently Unavailable	Currently Unavailable	Currently Unavailable

### Benefits closed to new claims

<b>Public Fund</b>	<b>Listed under s115 of the Immigration and Asylum Act 1999</b>	<b>Listed under Paragraph 6 of the Immigration Rules</b>	<b>Administering Department England</b>	<b>Administering Department Scotland</b>	<b>Administering Department Wales</b>	<b>Administering Department Northern Ireland</b>
Severe Disablement Allowance	Yes	Yes	DWP	DWP	DWP	DfC (NI)



<b>Public Fund</b>	<b>Listed under s115 of the Immigration and Asylum Act 1999</b>	<b>Listed under Paragraph 6 of the Immigration Rules</b>	<b>Administering Department England</b>	<b>Administering Department Scotland</b>	<b>Administering Department Wales</b>	<b>Administering Department Northern Ireland</b>
Income related employment and support allowance	Yes	Yes	DWP	DWP	DWP	DfC (NI)
Income Based Job Seekers Allowance	Yes	Yes	DWP	DWP	DWP	DfC (NI)
Income Based Job Seekers Allowance	Yes	Yes	DWP	DWP	DWP	DfC (NI)
Child Tax Credit and Working Tax Credit	No	Yes	HMRC	HMRC	HMRC	HMRC

### Other benefits

<b>Public Fund</b>	<b>Listed under s115 of the Immigration and Asylum Act 1999</b>	<b>Listed under Paragraph 6 of the Immigration Rules</b>	<b>Administering Department England</b>	<b>Administering Department Scotland</b>	<b>Administering Department Wales</b>	<b>Administering Department Northern Ireland</b>
Child Benefit	Yes	Yes	HMRC	HMRC	HMRC	HMRC
Social Housing & Homelessness Assistance	No	Yes	DLUHC	Housing Scotland	Housing Welsh Government	NI Housing Executive

<b>Public Fund</b>	<b>Listed under s115 of the Immigration and Asylum Act 1999</b>	<b>Listed under Paragraph 6 of the Immigration Rules</b>	<b>Administering Department England</b>	<b>Administering Department Scotland</b>	<b>Administering Department Wales</b>	<b>Administering Department Northern Ireland</b>
Council Tax Reduction Schemes	No	Yes	DLUHC	Scottish Government	Welsh Government	NI Housing Executive (Although this is no council tax there is an equivalent Domestic Rate Relief scheme)
A Discretionary Support Payment made in accordance with any regulations made under article 135 of the Welfare Reform (Northern Ireland) Order 2015	No	Yes	N/A	N/A	N/A	DfC (NI)
A Discretionary Payment made by a local authority under section 1 of the Localism Act 2011	No	Yes	Local Authorities	N/A	N/A	N/A

## Social Security Scotland benefits

Public Fund	Listed under s115 of the Immigration and Asylum Act 1999	Listed under Paragraph 6 of the Immigration Rules	Administering Department England	Administering Department Scotland	Administering Department Wales	Administering Department Northern Ireland
Child Disability Payment	No	Yes	N/A	Social Security Scotland	N/A	N/A
Adult Disability Payment	No	Yes	N/A	Social Security Scotland	N/A	N/A
Carer's Allowance Supplement	No	Yes	N/A	Social Security Scotland	N/A	N/A
Scottish Child Payment	No	Yes	N/A	Social Security Scotland	N/A	N/A
Funeral Support Payment	No	Yes	N/A	Social Security Scotland	N/A	N/A
Job Start Payment	No	Yes	N/A	Social Security Scotland	N/A	N/A
Child Winter Heating Assistance	No	Yes	N/A	Social Security Scotland	N/A	N/A
Winter Heating Payment	No	Yes	N/A	Social Security Scotland	N/A	N/A
A Payment made from a Welfare Fund	No	Yes	N/A	Local Authorities	N/A	N/A

Public Fund	Listed under s115 of the Immigration and Asylum Act 1999	Listed under Paragraph 6 of the Immigration Rules	Administering Department England	Administering Department Scotland	Administering Department Wales	Administering Department Northern Ireland
under the Welfare Funds (Scotland) Act 2015						

**Notes:**

There may be some additional benefits and services, which are not included in the list of public funds within the immigration rules, where the relevant administering department may apply eligibility criteria which relates to immigration status and the requirement to have recourse to public funds. People wishing to access these benefits will need to demonstrate that they meet the relevant eligibility criteria, including a residence test if required.

**Personal Independent Payment (PIP)** will eventually be fully replaced in Scotland by Adult Disability Payment administered by Social Security Scotland. Individuals in Scotland could currently be receiving either benefit but not both.

New applications for **Disability Living Allowance** can only be made by under 16 year olds in England and Wales. This has been replaced by PIP for adults under pension age in England and Wales and replaced by Adult Disability Payment for adults under pension age in Scotland. Those over pension age should now apply for Attendance Allowance. Children in Scotland can apply for the Child disability payment, rather than the DWP administered Disability Living Allowance. Adults in Scotland with Disability Living Allowance will eventually transfer to the Scottish replacement Benefit.

Maternity expenses, funeral expenses, cold weather, winter fuel, budgeting loan payments, are covered under the term 'Social Fund' in S115 of the Immigration and Asylum Act 1999.

## Access to social housing and homelessness assistance

Although housing is a devolved matter, the Home Office is responsible for the overall policy relating to those who are subject to immigration control for the purposes of accessing social housing and homelessness assistance.

The Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000 specifies classes of persons subject to immigration control for the purposes of sections 118 and 119 of the Immigration and Asylum Act 1999. The Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order applies only in England, Scotland and Northern Ireland. It does not apply in Wales.

[The Persons subject to Immigration Control \(Housing Authority Accommodation and Homelessness\) Order 2000 \(legislation.gov.uk\)](https://www.legislation.gov.uk);

[Section 118 - Immigration and Asylum Act 1999 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

[Section 119 - Immigration and Asylum Act 1999 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

People who are subject to immigration control are not eligible for local authority (or Northern Ireland Housing Executive) allocated social housing or homelessness assistance until they have obtained indefinite permission to enter or stay, or specified forms of limited permission which are not subject to the NRPF condition. Sections 118 and 119 of the Immigration and Asylum Act 1999, and section 61 of Schedule 2 to the Housing (Wales) Act 2014 apply.

Eligibility for social housing and homelessness assistance is governed in:

**England** by parts 6 and 7 of the Housing Act 1996, The Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006 and Statutory guidance on social housing allocations and homelessness duties for local housing authorities in England.

[Housing Act 1996 \(legislation.gov.uk\) part VI](https://www.legislation.gov.uk)

[Housing Act 1996 \(legislation.gov.uk\) part VII](https://www.legislation.gov.uk)

**Wales** by part 6 of the Housing Act 1996 and Schedule 2 of the Housing (Wales) Act 2014.

[The Allocation of Housing and Homelessness \(Eligibility\) \(Wales\) Regulations 2014 \(legislation.gov.uk\)](#)

Statutory guidance for local housing authorities on the [Allocation of accommodation and homelessness: guidance for local authorities | GOV.WALES](#)

**Scotland & Northern Ireland** by [The Persons subject to Immigration Control \(Housing Authority Accommodation and Homelessness\) Order 2000](#)

**Individuals granted permission to stay in the following categories can access social housing and homelessness assistance, where eligible**

a person granted refugee status: normally granted 5 years' limited leave to remain in the UK;

a person granted exceptional leave to enter or remain in the UK granted outside the provisions of the Immigration Rules; and whose leave to enter and remain is not subject to a condition requiring them to maintain and accommodate themselves, and any person who is dependent on them, without recourse to public funds. Exceptional leave to remain now usually takes the form of 'discretionary leave';

a person with indefinite leave to enter or remain and who is habitually resident in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland (the Common Travel Area). However, a person with indefinite leave to enter or remain which was granted as a result of an undertaking that their sponsor(s) would be responsible for such a person's maintenance and accommodation, will not be eligible for an allocation of accommodation unless:(a) the person has been resident in the Common Travel Area for five years since the date of entry, or the date of sponsorship, whichever is later; or (b) the person's sponsor(s) have died within the first five years. (A person with indefinite leave to enter or remain is regarded as having a settled status);

a person who has humanitarian protection granted under paragraphs 339C – 344C of the Immigration Rules;

a person who has limited leave to enter or remain in the United Kingdom on family or private life grounds under Article 8 of the European Convention on Human Rights, such leave granted under Appendix FM or Appendix PL of the Immigration Rules, and who is not subject to a condition requiring that person to maintain and accommodate themselves, and any person dependent upon them, without recourse to public funds;

**Individuals granted permission to stay in the following categories can access social housing and homelessness assistance, where eligible**

a person who is habitually resident in the Common Travel Area and who has been transferred to the United Kingdom under section 67 of the Immigration Act 2016 and has limited leave to remain under paragraph 352ZH of the Immigration Rules;

a person who is habitually resident in the Common Travel Area and who has Calais leave to remain under paragraph 352J of the Immigration Rules. (Effective from 1 November 2018);

a person who is habitually resident in the Common Travel Area and who has limited leave to remain in the UK as a stateless person under paragraph 405 of the Immigration Rules;

a person who has limited leave to enter and remain in the UK as the family member of a 'relevant person of Northern Ireland' by virtue of Appendix EU of the Immigration Rules(except in Wales);

a person who has limited leave to enter or remain in the United Kingdom under Appendix Hong Kong British Citizen (Overseas) of the Immigration Rules, who is habitually resident in the Common Travel Area, and who is not subject to a condition requiring that person to maintain and accommodate themselves, and any person dependent upon them, without recourse to public funds;

a person who has been granted leave by virtue of the Afghan Relocations and Assistance Policy or the previous scheme for locally-employed staff in Afghanistan; and a person with leave to enter or remain in the United Kingdom who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021 and who is not subject to a condition of no recourse to public funds and has not been given leave to enter or remain as a result of an undertaking that a sponsor would be responsible for the applicant's maintenance and accommodation unless. (a) the person has been resident in the Common Travel Area for five years since the date of entry, or the date of sponsorship, whichever is later; or (b) the person's sponsor(s) have died within the first five years;

a person in the UK who left Ukraine in connection with the Russian invasion on 24 February 2022 and had resided in Ukraine immediately before 1st January 2022, and who has been granted leave in accordance with Immigration Rules made under section 3(2) of the Immigration Act 1971, and who is not subject to a condition requiring that person to maintain and accommodate themselves, and any person dependent upon them, without recourse to public funds;

**Individuals granted permission to stay in the following categories can access social housing and homelessness assistance, where eligible**

a person in the United Kingdom who has limited leave to remain granted in accordance with Appendix Ukraine Scheme of the Immigration Rules pursuant to an application made by that person from within the United Kingdom, and who is not subject to a condition requiring that person to maintain and accommodate themselves, and any person dependent upon them, without recourse to public funds;

a person who has limited leave to remain granted in accordance with Appendix Temporary Permission to Stay for Victims of Human Trafficking or Slavery of the Immigration Rules;

a person who was residing in Sudan before 15 April 2023 and left Sudan in connection with the violence which rapidly escalated on 15 April 2023 in Khartoum and across Sudan; has been granted leave in accordance with the immigration rules; whose leave is not subject to a condition of no recourse to public funds; and whose leave was not given as a result of an undertaking that a sponsor would be responsible for the applicant's maintenance and accommodation unless (a) the person has been resident in the Common Travel Area for five years since the date of entry, or the date of sponsorship, whichever is later; or (b) the person's sponsor(s) have died within the first five years.

This is not an exhaustive list, the full list of classes can be found in [The Persons subject to Immigration Control \(Housing Authority Accommodation and Homelessness\) Order 2000 \(legislation.gov.uk\)](#).

The following categories of people can also access social housing and homelessness assistance:

- those granted settled status under the EUSS
- those with a valid EUSS family permit or who have been granted pre-settled status under the EUSS who can demonstrate they would be exercising a qualifying right to reside if the Immigration (European Economic Area) Regulations 2016 had not been revoked at 23:00 GMT on 31 December 2020 (subject to certain saving and modifying provisions)
- frontier workers who are protected under the Citizens' Rights Agreements
- those with a valid pending in-time or valid late application to the EUSS who can demonstrate they are exercising a qualifying right to reside if the Immigration (European Economic Area) Regulations 2016 had not been revoked at 11pm GMT on 31 December 2020 (subject to certain saving and modifying provisions)



## Joint tenancies

A joint tenancy cannot be granted to two or more people if any of them is subject to immigration control and ineligible for local authority housing. This applies both to local authority housing and to housing which is provided by a housing association as the result of a nomination by a local housing authority. A sole tenancy may be granted to someone who is eligible (for example a British citizen or person settled in the UK) but whose spouse/partner is not eligible. The ineligible spouse or partner is not considered to be accessing public funds because of this.

## Housing provided to public sector workers or paid for by public sector employers

Some public sector workers, such as nurses, teachers and police officers, may be able to receive help to buy or rent a home, or provided with accommodation. These provisions are not classed as public funds.

## Housing associations

Local housing authorities may nominate people for housing association tenancies from their waiting list under Part 6 of the Housing Act 1996 or to discharge a homelessness duty under Part 7 of the Housing Act 1996 (in England, with similar legislation across the UK nations). In such cases, a local housing authority may only nominate those subjects to immigration control who are eligible (see above). Where housing associations let their tenancies directly, the eligibility requirements do not apply.

## Exceptions

The following individuals who are subject to immigration control can be granted a non-secure tenancy, or licence of housing accommodation by a local housing authority:

- those attending a full-time course at a specified education institution, where the institution leases the accommodation for that purpose and it would otherwise be hard to let
- those owed a duty under the Care Act 2014 (England), Social Services and Wellbeing (Wales) Act 2014, Social Work (Scotland) Act 1968 as amended, or Health and Personal Social Services (Northern Ireland) Order 1972 as amended

- a child in need, or their parent, carer or guardian, where a local authority is under a duty to provide support under the Children Act 1989 (England), Social Services and Wellbeing (Wales) Act 2014, Children (Scotland) Act 1995 or the Children (Northern Ireland) Order 1995
- those attending a designated full-time course at an educational establishment where the accommodation is not let as a secure tenancy and would otherwise be hard to let (this also applies to Scotland and Northern Ireland)

The eligibility requirements do not apply to existing council and housing association tenants who transfer to another social housing property.

The provision of social housing or homelessness assistance is administered by

- Local housing authorities
- Northern Ireland Housing Executive

#### **Related content**

[Contents](#)

# Benefits/payments and services not classed as public funds

## Benefits and statutory payments

Section 115 of the Immigration and Asylum Act 1999 and paragraph 6 of the Immigration rules contain lists of benefits and services that are classed as public funds for immigration purposes (see [Public Funds tables](#)). Only the benefits and services contained in these lists are classed as public funds

People with no recourse to public funds (NRPf) who have paid the necessary National Insurance contributions or have relevant periods of employment or self-employment can claim contributory benefits and statutory payments such as new style Jobseekers Allowance, statutory sick pay and state pension.

People wishing to access these services will, however, still need to demonstrate that they meet the relevant eligibility criteria.

Examples of benefits and statutory payments that are not considered to be restricted for immigration purposes are:

- New-Style Jobseeker's Allowance
- Guardian's Allowance (if in receipt of Child Benefit)
- New Style Employment and Support Allowance (ESA)
- Maternity Allowance
- State Pension
- Statutory Sick Pay
- Bereavement Support Payment
- Industrial Injuries Disablement Benefit
- Statutory parental payments (Statutory Maternity Pay, Statutory Paternity Pay, Statutory Adoption Pay, Statutory Shared Parental Pay and Statutory Parental Bereavement Pay)

These benefits and statutory payments are not considered public funds for immigration purposes. This is not an exhaustive list.

## Local authority support

Social care services are not classed as a public fund for immigration purposes and in some circumstances can be accessed by person regardless of their immigration status, including a person who is subject to the 'no recourse to public funds' (NRPf) condition.

Adult Migrants subject to the NRPf condition, or in the UK without lawful immigration status, are barred from accessing social care where the need arises solely from their destitution or because of the physical effects or anticipated physical effects of their

destitution. Section 120 and section 121 of the Immigration and Asylum Act 1999 section 21 of the Care Act 2014 and Section 46 of the Social Services and Well-Being (Wales) Act 2014 apply.

People in the UK with a valid EU Settlement Scheme (EUSS) family permit, settled status or pre-settled status under the EUSS, are able to access these services. In the case of those with a family permit, pre-settled status or a certificate of application, they will need to show they would have had a right to reside under regulation 14 of the Immigration (European Economic Area) Regulations 2016 had they not been revoked at 23:00 GMT on 31 December 2020 (subject to certain saving and modifying provisions)

## Schedule 3 to the Nationality, Immigration and Asylum Act 2002

Schedule 3 to the Nationality, Immigration and Asylum Act 2002 excludes certain categories of persons not from the UK from local authority support (but does not apply to children).

Paragraph 1 of Schedule 3 contains a list of support and assistance to which the Schedule applies and includes:

- section 17, 23C, 23CZB, 23CA, 24A or 24B of the Children Act 1989 (c. 41)
- part 1 of the Care Act 2014
- section 1 of the Localism Act 2011 (a local authority's general power of competence)
- section 188(3) and section 204 of the Housing Act 1996 (interim accommodation pending the outcome of a section 202 review and accommodation pending the outcome of a section 204 county court appeal)

## Exceptions

There are exceptions for which this schedule does not prevent support or assistance to certain categories of person. These are set out in paragraph 2 and 3 of Schedule 3 to Nationality, Immigration and Asylum Act 2002 and include children, British citizens and where it is necessary to avoid a breach of human rights. There are additional exceptions which are not listed in this guidance. See: [Nationality, Immigration and Asylum Act 2002 \(legislation.gov.uk\)](https://www.legislation.gov.uk).

## Localism Act and the general power of competence.

The general power of competence (Section 1, Localism Act 2011) enables local authorities to provide shelter and support to some people who are ineligible for statutory accommodation under the Housing Act 1996 or access to public funds because of their immigration status. This power cannot be used to provide a service equivalent to statutory support through alternative avenues.

In assessing whether a person can be assisted using the general power of competence, the local authority must consider whether a person is prevented from receiving assistance by the provisions in Schedule 3 to the Nationality, Immigration,

and Asylum Act (NIAA) 2002. **Schedule 3 does not prevent the provision of assistance to a child, irrespective of their immigration status.** Other exceptions are set out in paragraphs 2 and 3 of Schedule 3.

There is a distinction between:

1. People with permission to enter or stay in the UK who do not have access to public funds and
2. People with no access to public funds who may not be helped using the General Power of Competence as a result of the restrictions in Schedule 3 NIAA 2002, such as those who are in the UK unlawfully, certain failed asylum seekers and those with refugee status abroad.

For the first group, the local authority has the power to provide shelter, and some support but not to replicate support to which they are barred by statute from providing (e.g. Housing Act 1996 support), and may take decisions according to local circumstances, available resources etc.

For the second group, the ability to provide support is limited to circumstances where it is necessary in order to avoid a breach of their rights under the European Convention on Human Rights (as defined in the Human Rights Act 1998).

**\*It is worth noting that the first group is also protected by the Human Rights Act 1998 in addition to the support a local authority has discretion to provide as set out above**

There are 2 types of payment that a local authority can make:

### **Entitlement payment**

An entitlement payment is one which is administered to a cohort of people who meet pre-determined conditions, without the local authority exercising discretion as to whether they should receive the payment or support, and how much they should receive. Examples would include the recent energy rebate scheme, where households received an automatic payment of £150 if they met the conditions prescribed in the Council Tax Rebate Scheme.

### **Discretionary payment**

A discretionary payment is where a local authority has the scope to determine who to award payments to or where the local authority has the option of opting out of any government schemes, meaning there is no obligation on the local authority to make these payments. However, discretionary payments made under section 1 of the Localism Act 2011 are listed as public funds within paragraph 6 of the Immigration Rules and cannot be given to those who have a NRPF condition. See: [Localism Act 2011 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2011/22/section/1).

## NHS

NHS treatment does not fall within the definition of public funds for immigration purposes. Health is a devolved matter and the UK's 4 nations' health departments have their own rules on access to NHS treatment. People coming to the UK to work, study or join family for more than 6 months or applying for further permission are required to pay the Immigration Health Surcharge (unless covered by one of the exemptions) covering the duration of their permission to enter/stay. Payment of the Immigration Health Surcharge entitles applicants to access healthcare on broadly the same basis as UK nationals. Those who are not required to pay the surcharge or are not covered by an exemption from the surcharge are liable to be charged for some services.

For more information see:

[Overseas NHS visitors: implementing the charging regulations](#)  
[NHS entitlements: migrant health guide - GOV.UK \(www.gov.uk\)](#)

## State funded education

The law requires all children of compulsory school age to have access to education. Because of this, compulsory school age education does not count as a public fund for the purposes of the Immigration Rules.

If a person has been granted permission to study at an independent fee-paying school but studies at a state funded school (maintained or academy school) instead, they will have breached the conditions of their permission to enter/stay in the UK (unless the independent school has become an academy after the student was admitted), and risk having their leave curtailed.

### Related content

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# Determining a possible breach of a ‘No Recourse to Public Funds’ condition?

It may be considered that there has been a breach of a No Recourse to Public Funds (NRPF) condition where a person has been in receipt of a benefit listed as a public fund for immigration purposes. However, there are several situations in which being in receipt of a public fund would not result in a breach of a no recourse to public funds condition. These are listed below.

## UK trade agreements

Following the end of the transition period, EU Association Agreements no longer apply to the UK. Most of these agreements have been replaced by UK trade agreements.

Nationals of states with which the UK has concluded a trade agreement providing for the equal treatment of workers in the field of social security, or for access to family benefits for workers and their families legally resident in the UK, may be able to access certain public funds.

Please note that the EU Association Agreement with Algeria, which has ceased to apply in the UK, has not been replaced by a UK trade agreement. Only nationals of Algeria relying on this agreement who were already in receipt of benefits as of 31 December 2020 may continue to access them after that date.

For more information on UK trade agreements see: [UK trade agreements with non-EU countries](#).

Further information about access to Child Benefit by a person who is subject to immigration control can be found at <https://www.gov.uk/child-benefit-move-to-uk>.

## Related content

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# Exceptions in immigration regulations

## Disability Benefits, Social Fund payments and Health in Pregnancy grant

There are exceptions under [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(legislation.gov.uk\)](#) (Reg 2 and schedule Part II, para 2(b) and 3) which allow persons subject to immigration control access to Attendance Allowance, Severe Disablement Allowance, Carers Allowance, Disability Living Allowance, Personal Independence Payment, Social fund payments and Health in pregnancy grant, these include:

- an exception for a person subject to immigration control given permission to enter or stay remain on the basis of a maintenance undertaking –see section below

## Working Tax Credit and Child Tax Credit

Working Tax Credit (WTC) and Child Tax Credit (CTC) have been replaced by Universal Credit. It is no longer possible for someone to make a new claim for WTC or CTC.

The general rule is that a person subject to immigration control is not entitled to WTC or CTC (Tax Credits (Immigration) Regulations 2003, regulation 3(1)). However, a person falling under one of the prescribed exceptions cannot have their tax credits entitlement terminated solely on the grounds they are subject to immigration control. For more information see: [Tax credits if you leave or move to the UK](#).

## Child Benefit

The general rule is that no person subject to immigration control is entitled to Child Benefit (Section 115 of the Immigration and Asylum Act 1999, sub-sections (1) and (3)). However, a person who falls under one of the following exceptions cannot have their Child Benefit claim disallowed or terminated solely on the grounds they are subject to immigration control.

### Exception 1

A person who has been given permission to enter, or stay in, the UK as an adult dependent relative subject to a maintenance undertaking by another person or persons (pursuant to the Immigration Rules within the meaning of the Immigration Act 1971).

### Exception 2

Citizens of a country with which the UK has concluded a trade agreement providing for the equal treatment of workers in the field of social security, or for access to



family benefits for workers and their families legally resident in the UK. These countries are:

- Albania
- Morocco
- San Marino
- Tunisia
- Turkey

### Exception 3

European Economic Area (EEA) citizens and their family members who are protected by the Citizens' Rights Agreements. This includes (but is not limited to):

- EEA citizens or their family members with settled or pre-settled status or those
- who have made a valid application to the EU Settlement Scheme
- family members of EEA citizens with an EU Settlement Scheme family permit who are in their first three months in the UK

For further guidance see: <https://www.gov.uk/settled-status-eu-citizens-families> and EU Settlement Scheme Guidance.

For further guidance see: [European, EEA and Swiss Nationals.](#)

For further guidance see: [Withdrawal Agreement explainer for part 2: citizens' rights.](#)

### Exception 4

A national of, or a person who has come to live in the UK from, a country with which the UK has a reciprocal social security agreement which covers Child Benefit. Countries that have such an agreement are:

- Barbados; Bosnia and Herzegovina; Canada; the Channel Islands; Israel; Kosovo; Mauritius; Montenegro; New Zealand; North Macedonia; Serbia'

### Exception 5

Persons who were entitled to Child Benefit before October 1996 are not excluded from entitlement to Child Benefit because they are subject to immigration control.

## Maintenance undertakings

A maintenance undertaking is a written agreement given by a sponsor. In accordance with the Immigration Rules, a maintenance undertaking may be imposed when permission is given.

From the 1 June 2023, maintenance undertakings are required under Appendix Adult Dependent Relative. The rules state the sponsor will be responsible for the maintenance, accommodation and care of a person for the period of any permission

granted, or for 5 years from the date the applicant is given indefinite permission to enter or remain. Prior to 1 June, a maintenance undertaking was required under Adult Dependent Relative rules in Appendix FM. Under Appendix FM, the sponsor provided an undertaking to be responsible for the maintenance, accommodation and care of a relative for a period of 5 years from the date of entry to the UK if being granted indefinite permission to enter or remain. It is an offence under the Social Security Administration Act 1992 for a sponsor not to maintain people who they are responsible for who then claim contributory based benefits because of this. These benefits may also be recovered from the sponsor.

The Home Office may take appropriate steps to recover amounts from the sponsor that were provided under section 95 of the Immigration and Asylum Act 1999 (support for asylum seekers) to a person being sponsored.

A person who has been granted permission to enter or remain and whose sponsor has given a maintenance undertaking will not generally be entitled to access certain (Such as income-based jobseeker's allowance, income support, a social fund payment, income-related employment and support allowance, housing benefit, state pension credit and universal credit) income-related public funds until:

- they have been living in the UK for 5 years; or it has been 5 years since the maintenance undertaking was signed, whichever is the later date

or

- if they have been living in the UK for less than 5 years but their sponsor has died

There are certain groups of people who are not excluded from accessing certain disability/carer benefits under section 115 of the 1999 Act (see [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000](#) and [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations \(Northern Ireland\) 2000](#)).

For example, a person who has been given leave to enter and remain in the UK upon a relevant maintenance undertaking with a No Recourse to Public Funds (NRPF) condition may still be able to access DWP benefits such as attendance allowance, severe disablement allowance, carer's allowance, disability living allowance, a social fund payment, a health in pregnancy grant or personal independence payment, subject to eligibility.

## Certificate of Sponsorship

It is important to note that for some sponsored work routes, a sponsor is able to certify, on the worker's 'Certificate of Sponsorship' (CoS), that they will, if necessary, maintain and accommodate the person up to the end of the first month of their employment, to an amount of at least £1,270. This is intended to support the person whilst they establish their self-sufficiency on arrival in the UK. Where the sponsor has done so, the person will meet the financial requirement under the Immigration Rules.

While the sponsor guidance refers to this as being known as ‘certifying maintenance’, this does not constitute a maintenance undertaking as described above and those who have a ‘Certificate of Sponsorship’ where the sponsor has provided this certification do not fall into the category for exception one (Child Benefit) listed above.

More information can be found in the [financial evidence for sponsored or endorsed work routes guidance on gov.uk](#).

### **Related content**

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# European Economic Area (EEA) citizens and access to public funds

## EEA citizens

From 1 January 2021, EEA citizens and their family members wishing to live and work in the UK need to demonstrate their permission to be in the UK. This means they need to have:

- an EU Settlement Scheme (EUSS) family permit
- EUSS (settled or pre-settled) status
- a pending, valid application to the EUSS as evidenced by a certificate of application
- a frontier worker permit
- an immigration status granted in accordance with another part of or outside of the Immigration Rules

There is an exception for Irish citizens, who have rights under the Common Travel Area arrangements.

During the grace period (1 January 2021 – 30 June 2021) EEA and Swiss citizens who had been lawfully residing in the UK by 31 December 2020, and were covered by the Citizens' Rights Agreements did not need to have applied to the EUSS to continue to access benefits, where they met all other eligibility requirements. During this period they could continue to rely directly on the Citizens' Rights Agreements to access benefits in the UK.

DWP and HMRC will disallow any new applications for public funds benefits and services where the claimant does not have the relevant immigration status either granted under the EUSS or other Home Office permission that provides recourse to public funds.

Those who submit a late EUSS application or are challenging a decision on an EUSS application may be able to access benefits and services, if they are eligible, from the point their EUSS application is accepted as valid by the Home Office, as evidenced by a certificate of application.

## Pre-settled status

EEA citizens granted pre-settled status are able to access benefits and services on the same basis as they did before 1 January 2021, for example, they need to demonstrate that they are exercising a qualifying right to reside to access certain benefits.

For EUSS guidance, see EU Settlement Scheme EU, other EEA, Swiss citizens and family members.

For guidance on assessing whether an EEA citizen or a family member of an EEA citizen would have a qualifying right to reside see:

- European Economic Area nationals qualified persons
- Direct FM of EEA nationals
- Extended family members

## **EUSS family permits**

Family members and joining family members who hold an EUSS family permit may be eligible to claim benefits within their first three months of residence in the UK if they satisfy the eligibility criteria.

They will be able to access benefits on the basis of their family permit as long as they meet all relevant eligibility requirements. This would normally mean that the EEA family member they are joining needs to hold status under the EU Settlement Scheme, unless they are a qualifying Irish national or a qualifying EEA/British dual national.

For income related benefits the joining family member will be able to derive a qualifying right to reside from the relevant EEA citizen family member, or other family member that they are joining if that individual holds pre settled status and is exercising a qualifying right to reside as well as meeting all other eligibility requirements.

If a family member remains in the UK until their EUSS family permit expires without making a valid application to the EUSS (such as they remain longer than three months, but still within the validity of their family permit, which expires after six months), they would fall outside the scope of the Citizens' Rights Agreements after three months of their arrival or when their family permit expires if earlier. As such, they would not be eligible for benefits even if they could show they were exercising a qualifying right to reside. They may still be able to apply to the EUSS, and benefit from the protections of the Citizens' Rights Agreements, if they have reasonable grounds for missing the 3 month deadline and their application is accepted.

For further guidance, see EUSS Scheme Family Permits.

## **Settled status**

EEA citizens and family members with settled status under the EUSS are eligible to access benefits on the same basis as any British citizen or settled person.

In addition, following judicial review proceedings brought by the Independent Monitoring Authority, an EEA citizen or family member who has acquired a permanent right to reside under the Citizens' Rights Agreements is also entitled to benefits on the same basis as a British citizen, even if they have not applied for or been granted settled status. Where a person seeks to rely on such status, they will need to evidence that they hold such a right.

## Temporary protection

On 6 August 2021, the government announced temporary protection for applicants to the EUSS, even if their application was submitted after the deadline that applied to them.

Those who submit a late EUSS application may be able to access benefits and services, if they are eligible, from the point their EUSS application is accepted as valid by the Home Office, as evidenced by a certificate of application. To claim certain benefits they will need to demonstrate that they are exercising a qualifying EU law right to reside.

## Other family members with EU rights of residence

Access to benefits and services may differ for family members who have pre-settled status under the EUSS as:

- a 'person with a derivative right to reside'
- a 'person with a Zambrano right to reside'
- a family member of a qualifying British citizen
- a family member of a relevant person of Northern Ireland

A 'person with a derivative right to reside' means a person whose eligibility for the EUSS relates to what are known as 'Chen' cases or 'Ibrahim and Teixeira' cases or their dependants. Such people are protected by the Citizens' Rights Agreements.

A 'person with a Zambrano right to reside' means a person whose eligibility for the EUSS relates to the CJEU decision of Zambrano (a primary carer of a British citizen). A person with pre-settled status on this basis is not entitled to non-contributory benefits. People relying on Zambrano are not protected by the Citizens' Rights Agreements.

The EUSS closed to new applications from Zambrano primary carers on 8 August 2023 but remains open to those with pre-settled status or a pending EUSS application, administrative review or appeal.

Family members of a qualifying British citizen (Surinder Singh cases) are not protected by the Citizens' Rights Agreements. If they have pre-settled status they are able to access benefits and services, provided they meet the eligibility conditions. The EUSS and EUSS family permit closed on 8 August 2023 to new applications from family members of qualifying British citizens. The EUSS remains open to those with pre settled status or a pending EUSS application, administrative review or appeal or those granted an EUSS family permit as a family member of a qualifying British citizen.

Family members of a relevant person of Northern Ireland are not protected by the Citizens' Rights Agreements (unless the person of Northern Ireland is an Irish citizen

and does not hold British citizenship and resided in the UK in accordance with EU law by 11pm GMT on 31 December 2020).

If the family member of a relevant person of Northern Ireland has pre-settled status they are able to access benefits and services, if they are eligible, on the same basis as family members of EEA citizens, where they can demonstrate that they would be exercising a qualifying right to reside under EU law if they were a family member of a qualifying EEA citizen.

## Irish citizens

Under section 3ZA of the Immigration Act 1971 (in force from 23:00 GMT on 31 December 2020), Irish citizens do not require permission to enter or stay in the UK, unless they are subject to a deportation order, exclusion decision or international travel ban.

Irish citizens also do not need to apply for permission to enter or to stay under the EU Settlement Scheme (EUSS), although they may if they wish, nor do they have to apply for a frontier worker permit (again, they may do so if they wish). However, a family member of an Irish citizen may be eligible to apply to the EUSS even if the Irish citizen does not apply. The Irish citizen must still meet the relevant requirements were they to have applied, for the family member's application to be successful.

As Irish citizens are EEA citizens, they are also able to rely on rights under the EU Withdrawal Agreement if they were in the UK by 11pm GMT on 31 December 2020. Although they do not have to hold EUSS status or rely on their Withdrawal Agreement rights to reside in the UK (because they can rely on Common Travel Area arrangements), an Irish citizen may choose to rely on their Withdrawal Agreement rights in order to sponsor the residence of a family member.

The 2019 Irish Social Security Reciprocal Agreement also covers Irish and UK nationals who move between Ireland and the UK and their family members. This agreement extends existing bilateral agreements between Ireland and the UK.

## Frontier Workers

The Citizens' Rights Agreements protect those EEA citizens who were frontier workers in the UK by the end of the transition period at 11pm GMT on 31 December 2020 and who continue to be so. Anyone who meets the requirements of [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020](#) is eligible for a frontier worker permit.

Whilst it is mandatory for non-Irish frontier workers to hold a frontier worker permit to enter the UK for the purpose of work (it has been mandatory to hold a frontier worker permit to enter the UK for the purpose of work since 1 July 2021), they are not required to hold a valid permit in order to access benefits or services in the UK, although having one may make it easier to prove their right to do so.

Frontier workers may be able to access benefits and other services in the UK, provided they meet the eligibility requirements. The department or body providing services will consider each case on its own merits, taking individual circumstances into account in each case.

Family members of frontier workers can access benefits and service in the UK provided they hold a valid EUSS family permit or EUSS status. They must meet the eligibility requirements including providing evidence that they are a family member of a frontier worker.

For guidance, see Frontier worker permit scheme.

## Crown Dependencies

The Crown Dependencies (Jersey, Guernsey and the Isle of Man) operate their own versions of the UK's EU Settlement Scheme (EUSS). Where an individual holds permission under the equivalent scheme of a Crown Dependency, that permission is recognised by the UK and such individuals will have the same access to benefits and services as an individual granted permission under the UK's EUSS rules.

### Related content

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# What does this mean for caseworkers?

Where the Home Office identifies a person who is subject to No Recourse to Public Funds (NRPF) conditions and has accessed public funds or other services to which they are not entitled, checks must be undertaken to establish if the applicant has breached the conditions of their entry or stay.

This would apply when:

- a person already holds permission to enter or stay in the UK
- a person applies for permission to enter or stay in the UK and has received public funds
- a person applies for permission to enter or stay in the UK whose sponsor has received public funds

There are various sources which will confirm whether a person's permission to enter/remain is subject to an NRPF condition:

- biometric residence permit
- passport
- other immigration status document
- Home Office records including Atlas CID or CRS if, no documents are available

Consideration must be given to whether the person may have accessed the public funds or services as a result of any of the exceptions set out in this guidance. Further checks with the paying department or body may be required if any exceptions might apply.

It is not always appropriate to refuse an application for permission to stay on the basis that a person who is subject to an NRPF condition has accessed public funds.

An application for permission to stay should not be refused if:

- an applicant has received public funds as the result of an administrative error
- an exception applies; for example, if there is a trade agreement in place for a specific nationality
- a sponsor needs to claim more public funds to support the applicant, but these are funds to which the sponsor and dependant would be jointly entitled - for example, if the increased funds fall under the tax credits regulations, such as Working or Child Tax Credits, then you must not regard the applicant as having accessed public funds
- it is obvious a person could maintain and accommodate themselves without continuing to claim public funds - for example, they may have enough money available to them from elsewhere: they must stop claiming public funds because they are not legally entitled to them

Consideration must be given to refusing an application for permission to stay if:

- it is clear an applicant could not maintain and accommodate themselves you must consider refusing their application under the rules of the category they are applying under or curtailing their permission
- a sponsor needs to claim more public funds to support the applicant - for example, if the sponsor claims income-based jobseeker's allowance and this would increase if their dependant was granted leave as their spouse - the application must be refused under the relevant paragraph of the category under which permission is being sought with reference to paragraph 6A of the rules
- an applicant has received public funds that have a negative impact on their application, but not declared this on their form (other than where they can access benefits and services because of an exception). In this case the application must be refused under paragraph 322(1A) of the Immigration Rules - this is because they have not declared a material fact when making their application

Many categories in the Immigration Rules require migrants to be able to maintain and accommodate themselves without having recourse to public funds. When assessing an application for permission to stay under one of the routes subject to these rules, you must consider whether an applicant who has previously received funds, either in error or because an exemption applied, could maintain and accommodate themselves if they were to immediately stop claiming those funds. Where an individual has previously received public funds to which they are not entitled as they do not meet any of the exceptions, you must consider the general grounds for refusal.

When considering refusing an application, the general grounds for refusal guidance must be followed and consideration given to any other category refusals, including any human rights issues.

If a person has breached the conditions of their permission, consideration must be given to cancelling their permission under paragraph 322 of the Immigration Rules, with reference to paragraph 322(3).

Further guidance on breaches of immigration can be found at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1020413/Suitability\\_immigration\\_breaches.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1020413/Suitability_immigration_breaches.pdf).

## **Related content**

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# Cross government working with DWP/DfC/HMRC

If you think a person has received public funds incorrectly when making a decision on an application for permission to enter or stay, you must confirm this with the department, body or local authority that administer the fund. Please see Benefits table in section 'What are public funds for immigration purposes' for which funds are administered by which departments.

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