



Home Office

Public Funds

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

Version 18.0

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About this guidance

This guidance tells caseworkers and immigration officers about restrictions on migrant access to public funds since 1 January 2021. This includes social housing, homelessness assistance and other publicly funded support and assistance, as set out in immigration legislation.

EEA citizens

In this guidance the term European Economic Area (EEA) citizen is taken as collectively covering European Union (EU) citizens, citizens of the EEA and citizens of Switzerland.

EU citizens are citizens of the following 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

Please note that since free movement has ended, 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 (although they remain

subject to immigration control). Under the Common Travel Area (CTA) arrangements between the UK and Ireland, there are also a number of bilateral agreements in place which confirm an Irish citizen's ability to access certain benefits and services in the UK.

EEA citizens are citizens from EU member states and the following states:

- Iceland
- Liechtenstein
- Norway.

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

Citizens' Rights Agreements referred to in this guidance covers the collective agreements in place which protect the rights of EEA citizens living in the UK by 31 December 2020 and of non-EEA citizens joining their EEA family members who were living in the UK by 11pm on 31 December 2020.

These are the:

- [Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community \(2019/C 384 I/01\)](#)
- [European Economic Area/European Free Trade Agreement](#)
- [EU/Swiss Free Movement of Persons Agreement](#)

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

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 see: [Nationality policy: assessing ordinary residence](#)

Habitually resident

To be considered habitually resident, a person must have taken up residence in the UK, with the intention of settling here, and have lived here for a period. A person who enters the UK does not become habitually resident on arrival, even if it is their intention to settle here.

In most instances, this will require that the person is lawfully resident in the UK.

Government departments and local authorities conduct residency tests to test ordinarily and habitual residence. The purpose of the habitual residence test is to prevent persons from accessing benefits immediately when entering the UK. Depending upon 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); comprising the UK, the Channel Islands, the Isle of Man or the Republic of Ireland.

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 Access to Work, Benefits and Services Policy team.

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 **18.0**
- published for Home Office staff on **20 August 2021**

Changes from last version of this guidance

Sections referring to EEA citizens (including Irish citizens and persons of Northern Ireland) have been updated to reflect the end of the grace period.

Section added on access to public funds for EEA citizens and their family members post grace period.

The access to social housing and homelessness assistance section has been updated to reflect the changes to Schedule 3 of the of the Nationality, Immigration and Asylum Act 2002.

Related content

[Contents](#)

Related external links

[Benefits and pensions for EEA and Swiss citizens in the UK \(from 2021\)](#)

[EU Settlement Scheme](#)

[Social security arrangements between the UK and the EU from 1 January 2021: staff guide \(Department for Work and Pensions, HM Revenue and Customs and Department of Health and Social Care\)](#)

[Common Travel Area: rights of UK and Irish citizens](#)

Public funds, social housing, homelessness assistance and other publicly funded support and assistance

This section tells you about the ‘no recourse to public funds’ (NRPF) condition that can be applied to a person’s permission to enter (also known as leave to enter) and permission to stay (also known as leave to remain) in the UK. It also:

- details other restrictions on access to publicly funded support and assistance in immigration legislation
- explains the position of:
 - Non-EEA citizens
 - EEA citizens and their families protected by the Citizens’ Rights Agreements and granted permission under the EU Settlement Scheme
 - EEA citizens and their family members protected by the Citizens’ Rights Agreements during the Grace Period (1 January – 30 June 2021)
 - EEA frontier workers (EEA citizens who work in the UK but reside elsewhere) who are protected by the Citizens’ Rights Agreement
 - Irish citizens who have rights under CTA arrangements with Ireland
 - EEA citizens arriving in the UK from 1 January 2021 under the points-based immigration system

The guidance provides general information for Home Office staff. The Home Office does not administer the provision of social security or welfare services. The departments or bodies responsible for the administration of these services will consider each case on its own merits in line with their legislation and rules, including where the provisions within the Citizens’ Rights Agreements are engaged. Under the Citizens’ Rights Agreements, EEA citizens who were lawfully resident, or frontier workers, in the UK by the end of the transition period (which ended on 31 December 2020) have their rights protected. These protections continued after the end of the transition period and for the duration of the grace period (which ended on 30 June 2021).

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Why are there restrictions on migrants accessing benefits and services?

People wishing to come to the UK are expected to be able to maintain and accommodate themselves and their families until they are settled here. This is important in reassuring the public that immigration brings real benefits to the UK and that its finite resources are protected for British citizens and those who have lawfully settled here on a permanent basis.

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The UK's social security and welfare provisions

In common with many nations, the UK's social security and welfare provisions are primarily for those who are lawfully resident and settled in the UK. Temporary migrants and those in the UK without lawful status are generally subject to a no recourse to public funds (NRPF) condition which prevents them from accessing some benefits and services.

Not all temporary migrants are subject to an NRPF condition, including refugees and those granted humanitarian protection.

In order to be eligible to access certain benefits and other support and assistance, non-British citizens will need to be living in the UK (for example having indefinite permission to stay or enter or having a no time limit on their stay) and are not subject to an NRPF condition.

Departments that administer benefits, and Local Authorities, operate residence tests to assess the entitlement of individuals to access certain benefits and services. As part of these tests, most applicants for local authority housing or welfare benefits must demonstrate that they are ordinarily or habitually resident in the UK, even if they have lawful status. This is also true of British citizens.

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What are public funds for immigration purposes?

For immigration purposes, benefits and services classed as public funds are set out in s115 of the Immigration and Asylum Act 1999 and at paragraph 6 of the Immigration Rules.

With a few exceptions, people who require immigration permission (including those who do not have permission) are generally subject to a no recourse to public funds (NRPF) condition attached to their permission to enter or stay. Migrants with NRPF are usually not entitled to access the taxpayer funded benefits and services set out at s115 and rule 6. Those who claim public funds despite being subject to an NRPF condition may be committing an offence in law and can be liable to having their immigration permission curtailed and any further immigration applications refused.

Migrants who have been granted leave without an NRPF condition can access benefits and services, providing they meet the relevant eligibility criteria. Those granted indefinite permission to remain will be entitled to access services and publicly funded benefits on the same basis as a UK national, unless they have been granted leave subject to a maintenance undertaking. People granted permission to enter or stay in the UK on this basis can access these benefits and services after five years of continuous residence or where the sponsor has passed away.

The benefits and services listed in s115 and rule 6, which a person with NRPF cannot access are listed below (which are subject to change). As of December 2020, these are:

- Attendance Allowance
- Carer's Allowance
- Child Benefit
- Child Tax Credit
- Council Tax Benefit
- Council Tax Reduction
 - (sometimes called Council Tax Support) - council tax discounts, however, such as sole occupancy discounts, are not considered public funds for the purposes of the Immigration Rules
- Discretionary Welfare Payment
 - a discretionary support payment made by a local authority under section 1 of the Localism Act 2011, any regulations made under article 135 of the Welfare Reform (Northern Ireland) Order 2015 or from a welfare fund under the Welfare Funds (Scotland) Act 2015
- Disability Living Allowance
- Domestic Rate Relief (Northern Ireland)
- Housing Benefit
- Income-based Employment and Support Allowance
 - not contribution-based employment and support allowance, which may also be known as 'new style' employment and support allowance

- Income-based Jobseeker's Allowance
 - not contribution-based jobseeker's allowance, which may also be known as 'new style' jobseeker's allowance
- Income Support
- Personal Independence Payment
- Severe Disablement Allowance
- Social Fund Payment
 - these are a range of payments generally available only to people already in receipt of other benefits. Some funds are administered by local authorities as local welfare assistance, the Scottish Welfare Fund or the Discretionary Support Scheme in Northern Ireland
- State Pension Credit
- Universal Credit
- Working Tax Credit

Where a person subject to the NRPF condition has accessed any benefits set out in s115 or paragraph 6 of the Immigration Rules, they will normally be refused any further immigration permission unless they are subject to an exception (for more information on exceptions see [exceptions in immigration regulations](#)). They may also be liable to having existing permission curtailed or for prosecution, and the department or body paying benefits should be advised.

The bodies that administer these benefits and services are primarily:

- Department for Work and Pensions (DWP)
- HM Revenue and Customs (HMRC)
- Department for Communities (Northern Ireland)
- Social Security Scotland
- local authorities

Other restrictions in respect of access to social housing, homelessness assistance and social care are set out in s117 to s122 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.

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Are all benefits and services classed as public funds?

Only the benefits and services listed in s115 of the Immigration and Asylum Act 1999 and at paragraph 6 of the Immigration Rules are classed as public funds for immigration purposes. In addition, certain groups of people are not excluded from benefits under s115 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](#)).

People wishing to access these services will, however, still need to demonstrate that they meet the relevant eligibility criteria, including a residence test if required.

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

- Contribution-based Jobseeker's Allowance
- Guardian's Allowance (if in receipt of Child Benefit)
- Incapacity Benefit
- Contribution-based Employment and Support Allowance (ESA)
- Maternity Allowance
- Retirement Pension
- Statutory Maternity Pay
- Statutory Sickness Pay
- Widow's Benefit and Bereavement Benefit

This is not an exhaustive. Any benefit or service not listed in s115 of the Immigration and Asylum Act 1999 and at paragraph 6 of the Immigration Rules is not a public fund for immigration purpose.

Public funds claimed by partners not subject to immigration control

A person subject to immigration control is not considered to be illegally accessing public funds if their partner is entitled to claim them in their own right.

Although a person may be able to access public funds, they cannot rely on such prospective entitlements to assist them to meet the accommodation and maintenance requirements in the Immigration Rules when applying for permission to enter or stay.

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International agreements

The UK has a number of agreements with other nations in respect of social security co-ordination. Where a person is covered by such an agreement, they can access the services and benefits covered by such agreements and will not be considered to have breached the no recourse to public funds conditions.

European Convention on Social and Medical Assistance (ECSMA) or Council of Europe Social Charter (CESC)

Citizens of states that have ratified the ECSMA or CESC can access certain benefits, providing they are lawfully resident in the UK. Accessing these benefits will not constitute a breach of the NRPF condition that may still be applied with their grant of permission. These convention requirements apply only to benefits and not to social housing or homelessness assistance.

The following states have ratified the ECSMA or CESC:

- Austria
- Belgium
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- France
- Finland
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Luxembourg
- North Macedonia
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Slovakia
- Spain
- Sweden
- Turkey

Citizens from these countries who are lawfully resident in the UK can claim:

-
- Housing Benefit
- State Pension Credit
- Council Tax Reduction

UK reciprocal social security agreements

Citizens of the following states may be helped to qualify for certain benefits without breaching the NRPF condition. These agreements do not apply to income-based benefits, social housing or homelessness assistance:

- Barbados
- Bermuda
- Canada
- Ireland
- Israel
- Jamaica
- Mauritius
- New Zealand
- Philippines
- Switzerland
- Turkey
- USA
- the former Yugoslavia (Bosnia-Herzegovina, Croatia, North Macedonia, Montenegro, Serbia, Slovenia)

These agreements generally help a person access contributory benefits that are not considered public funds for immigration purposes. However, a prospective entitlement to such benefits may not be relied on to meet the maintenance and accommodation requirements of the Immigration Rules.

UK – Trade Continuity Agreements

Following EU exit, EU Association Agreements no longer apply to the UK. Most of these agreements have been replaced by a UK Trade and Continuity agreement with a number of non-EU countries.

Nationals of states with which the UK has concluded a Trade and Continuity 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 Trade Continuity agreement. However, nationals of this country 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 if you are subject to immigration control can be found at <https://www.gov.uk/child-benefit-move-to-uk>.

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Exceptions in immigration regulations

Working Tax Credit (WTC) and Child Tax Credit (CTC)

Working Tax Credit (WTC) and Child Tax Credit (CTC) have been replaced by Universal Credit. It is no longer possible to make a new claim for WTC or CTC unless you are a [frontier worker](#)

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 be 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 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 state with which the UK has concluded a Trade and Continuity 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.

Exception 3

EEA citizens and their family members who are protected by the Citizens' Rights Agreements. This includes (but isn't limited to):

- EEA citizens with settled or pre-settled status or those who have made a valid application to the EU Settlement Scheme
- Family members of EEA citizens who hold a valid domestic immigration status.

For further guidance see: [EU Settlement Scheme](#)

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 that has a reciprocal social security agreement with the UK which covers Child Benefit.

Countries that have such an agreement are:

- Barbados
- Canada
- Israel
- Jersey and Guernsey
- Mauritius
- New Zealand
- Bosnia-Herzegovina
- Serbia
- Montenegro
- North Macedonia
- Kosovo
- Switzerland

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. It states they will be responsible for the maintenance and accommodation of a person subject to immigration control while they are in the UK. It is an offence under the Social Security Administration Act 1992 for a sponsor not to maintain people who they are responsible for. If a failure to be maintained by the sponsored person results in a person claiming contributory based benefits, the benefits may 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 and whose sponsor has signed a maintenance undertaking will not be entitled to access public funds until:

- they have been living in the UK for 5 years
- it has been 5 years since the maintenance undertaking was signed, whichever is the later date
- if they have been living in the UK for less than 5 years but their sponsor (or all sponsors if more than one) has died

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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 section 118 and 119 of the Immigration and Asylum Act (IAA) 1999.

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. S118 and s119 of the Immigration and Asylum Act 1999, and s61 and Schedule 2 of the Housing (Wales) Act 2014 apply.

In England, eligibility for social housing and homelessness assistance is governed by parts 6 and 7 of the Housing Act 1996 and the Allocation of Housing and Homelessness (Eligibility)(England) Regulations 2016 as amended (SI 2006/1294).

Since 11pm on 31 December 2020 the following migrants have been eligible to apply for these services:

- those granted settled status under the EU Settlement Scheme
- those granted pre-settled status under the EU Settlement Scheme and can demonstrate they are exercising a qualifying right to reside
- those with EU rights saved under the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 can continue to access these services during the grace period (see right to reside)
- frontier workers who are protected under the agreements

The following people are also now eligible to apply for social housing and homelessness assistance:

- family members of EEA citizens
- late applicants to the EUSS who have reasonable grounds

EEA citizens and their family members who do not meet the eligibility criteria listed above may be eligible for support under wider social welfare legislation following an amendment to the list of ineligible people in Schedule 3 of the Nationality, Immigration and Asylum Act 2002 ('the 2002 Act').

Regulation 13(4) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 made an amendment to Schedule 3 of the 2002 Act to bring the position of EEA citizens into line with non-EEA citizens.

The effect is that since the end of the transition period EEA citizens are no longer ineligible for assistance under the wider social welfare legislation referenced in the 2002 Act, which includes local authorities' General Power of Competence under the Localism Act 2011.

Local authorities may choose to rely on these changes and conclude that they have the scope to provide very limited assistance, shelter and support, to those EEA citizens who are not eligible for homelessness assistance where they consider such support to be necessary. It will be for the relevant local authority to satisfy itself of the lawfulness of any proposed measures and to consider how such measures may be circumscribed by existing legislation noting, for example, the restrictions set out in s.2 of the Localism Act 2011.

EEA citizens who have arrived in the UK under the new points-based immigration system since 1 January 2021 will be treated as any other non-EEA citizen and unable to access benefit and services.

All non-British citizens (excluding Irish citizens) who have arrived in the UK from 1 January 2021, are restricted from accessing income-related benefits, and an allocation of social housing or homelessness assistance (unless they fall within a class or persons prescribed by the regulations below) until they have achieved indefinite permission to stay (this is typically achieved after 5 years' residence in the UK).

For the regulations see:

- [Persons subject to Immigration Control \(Housing Authority / Accommodation and Homelessness\)](#)
- [Allocation of Housing and Homelessness Regulations](#)

Individuals granted permission to stay in the following categories can access social housing and homelessness assistance in England. Housing legislation in Wales also allows for the same categories to have access to social housing or homelessness assistance, where eligible:

- refugee status
- humanitarian protection
- permission as a stateless person under paragraph 405 of the Immigration Rules, subject to the habitual residency test
- indefinite permission to enter or stay, subject to the habitual residency test
- limited permission under paragraphs 276BE, 276DG or Appendix FM of the rules on the basis of their family or private life under Article 8 of the Human Rights Convention and where the permission is not subject to a no recourse to public funds condition
- permission as a relevant Afghan citizen under paragraph 276BA1 of the Immigration Rules (Afghan interpreters), subject to the habitual residency test
- permission under paragraph 352J of the Immigration Rules (Calais permission), subject to the habitual residency test

- permission under paragraph 352ZH of the Immigration Rules and s67 of the Immigration Act 2016 (transferred children who do not qualify for refugee status or humanitarian protection), subject to the habitual residency test
- exceptional permission outside of the Immigration Rules and who are not subject to no recourse to public funds conditions
- limited leave to enter or stay as the family member of a relevant person of Northern Ireland under Appendix EU of the Immigration Rules
- limited leave to enter or remain in the United Kingdom under Appendix Hong Kong British National (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

Joint tenancies

A joint tenancy cannot be granted to 2 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 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 counted as accessing public funds as a result 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 get help to buy or rent a home or provided with accommodation. These provisions are not classed as public funds.

Housing Associations

Local authorities may nominate people to 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 authority may only nominate people subject 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 would otherwise be hard to let

- those owed duties under part 7 of the Housing Act 1996 (This only applies to certain homelessness duties - homelessness legislation)
- 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 authorities
- Northern Ireland Housing Executive

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Access to social care

Migrants subject to NRPF, or here without lawful status in the UK, are also barred from accessing social care, where the need arises solely out of their destitution or threat of destitution. S120 and s121 of the Immigration and Asylum Act 1999, s21 of the Care Act 2014 and s46 of the Social Services and Well-Being (Wales) Act 2014 apply.

People here with settled status under the EU Settlement Scheme and those with pre-settled status with a right to reside are not restricted in accessing these services (see [The UK's departure from the European Union and EEA citizens' \(and their families\) access to public funds](#)).

Exceptions

Local authorities are not prevented from providing support to migrants who are otherwise barred access to assistance, where it is necessary to avoid a breach of human rights or the wellbeing of a child is in question (Schedule 3 of the Nationality, Immigration and Asylum Act 2002).

Similarly, local authorities are not prevented from providing support to migrants who are otherwise barred access to assistance, where they are lawfully resident in the UK and this support does not replicate support barred in other parts of statute (for example see [Section 1, Localism Act 2011](#)).

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National Health Service (NHS) treatment (Health and Social Care in Northern Ireland)

NHS treatment does not fall within the definition of public funds for immigration purposes. Health is a devolved matter and the UK's four nation's health departments have their own rules on access to NHS treatment. People coming to the UK for more than 6 months and who are not settled in the UK are required to pay an Immigration Health Surcharge (unless covered by one of the exemptions). 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](#).

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State-funded education for children

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 public funds 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 schools) instead, they will have breached their conditions of their permission in the UK (unless the independent school has become an academy after the student was admitted), and risk having their leave curtailed.

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The UK's departure from the European Union and EEA Citizens' (and their families) access to public funds

The UK left the EU on 31 January 2020 and entered a transition period during which EU law continued to apply up until 11pm on 31 December 2020. Free movement for EEA citizens in the UK ended at 11pm on 31 December 2020. Since 1 January 2021, newly arriving EEA citizens and non-EEA family members not covered by the Citizens' Rights Agreements have been subject to the same immigration system as non-EEA nationals. They are also subject to the same conditions that restrict access to publicly funded support and assistance.

The Citizens' Rights Agreements considered and agreed at European Council on 17 October 2019 and ratified in UK legislation through the European Union (Withdrawal Agreement) Act 2020 provided protections for EU citizens (and their family members) in respect of access to social security and other support and assistance, where EU citizens have moved between the UK and EU states by the end of the transition period (11pm on 31 December 2020) and where they remain in scope of the agreement.

The UK also reached agreement with the EEA EFTA states and Switzerland (EEA EFTA Separation Agreement and the Swiss Citizens' Rights Agreement) to extend the protections in the Withdrawal Agreement to citizens of these states who moved between the UK and these states by the end of the transition period and had a right to reside.

EEA citizens and their family members who were resident here by 11pm on 31 December 2021 and were covered by the Citizens' Rights Agreement were able to continue to access services on the same basis during the grace period which ended on the 30 June 2021. This grace period allowed access to benefits and services for those EEA citizens and their family members residing here by 11pm 31 December 2020 who had not applied for immigration leave under the EU Settlement Scheme.

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Access to public funds for EEA citizens and their family members during the grace period.

EEA citizens, their family members, and those with derivative rights to reside who were lawfully resident here by 11pm on 31 December 2021 and were covered by the Citizens' Rights Agreement could continue to access benefits and services on the same basis during a grace period which commenced on 1 January 2021 and ended on the 30 June 2021. This grace period allowed access for those EEA citizens and their family members residing here by 11pm on 31 December 2020 who had yet to apply to apply for immigration leave under the EU Settlement Scheme.

During the grace period, EEA citizens and their family members (including family members moving to the UK to join an EEA citizen resident in the UK by 11pm on 31 December 2020 who were eligible to apply to the EU Settlement Scheme) had until 30 June 2021 to apply for leave under the EU Settlement Scheme. Those covered by the Withdrawal Agreements have their rights protected, including access to benefits and services on the same basis as before. However, they needed to provide evidence that they were covered by the Agreements, such as evidence that they were exercising a qualifying EU right to reside immediately before the end of the transition period (11pm on 31 December 2020).

EEA citizens granted settled status under the EU Settlement Scheme were able to access services and benefits providing they meet any specific eligibility criteria in the same way as a UK national.

EEA citizens granted pre-settled status under the EU Settlement Scheme were able to access benefits and services on the same basis as they did prior to 11pm on 31 December 2020, i.e., they needed to be exercising a qualifying right to reside such as having worker or self-employed status.

For guidance on what constitutes a qualified person see: [EEA nationals qualified persons](#). These rights will remain unless a person loses their pre-settled or settled status through absence from the UK or by enforced removal from the UK (such as deportation).

EEA citizens who were lawfully residing in the UK by 11pm on 31 December 2020 could be joined by eligible family members who lived in a different country during the grace period if the relationship existed by 31 December 2020 and still existed when the person joined. Such family members are protected by the Withdrawal Agreement and were able to access benefits provided that the EEA citizen or the family member was exercising a qualifying right to reside at the time of the claim. For further guidance on the EU Settlement Scheme see: [EU Settlement Scheme caseworker guidance](#).

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Access to public funds for EEA citizens and their family members post grace period.

EEA citizens without a form of UK immigration status who missed the 30 June 2021 deadline will be considered to have no lawful basis for staying in the UK. They will need to obtain status under the EU Settlement Scheme or another UK immigration route so that they continue to access benefits and services. In line with the Citizens' Rights Agreements, late applications to the EUSS are accepted where there are reasonable grounds for missing the 30 June 2021 deadline.

Those who submit a late application to the EUSS will also be able to access benefits and services, if they are eligible, from the point their application is validated, and identity has been verified.

DWP and HMRC will disallow any new applications for benefits and services where the applicant does not have the relevant immigration status, or has not applied for permission to stay under the EUSS.

Persons who can show that they have been residing in the UK for more than five years (and who are expected to be granted settled status) are eligible to access benefits (subject to eligibility) on the same basis as any other British citizen. Persons who can show that they have been residing in the UK for less than five years (and who are expected to be granted pre-settled status) are eligible to access benefits (subject to eligibility) providing that they can demonstrate they are exercising a qualifying right to reside, such as having worker or self-employed status. EEA citizens who were lawfully residing in the UK by 11pm on 31 December 2020 can be joined by eligible family members who live in a different country after the end of the grace period if the relationship existed on 31 December 2020 and still exists when the person joins. Such family members are protected by the Withdrawal Agreements and are able to access benefits as soon as they have applied to the EUSS, provided that the EEA citizen or the family member is exercising a qualifying right to reside at the time of the claim and that they make the EUSS application within 3 months of arrival or have a reasonable excuse if they apply later.

Irish citizens

The Common Travel Area (CTA) is an administrative arrangement between the UK, Ireland and the Crown Dependencies (Isle of Man, Guernsey and Jersey) which is implemented in UK domestic law in statute.

It allows British and Irish citizens to travel freely between the UK and Ireland and reside in either jurisdiction. It also facilitates the enjoyment of a number of associated rights and privileges.

Both the UK Government and Irish Government have committed to maintaining the CTA. The CTA is underpinned by deep-rooted, historical ties, and maintaining it has been, and continues to be, a shared objective.

It also pre-dates the UK and Ireland's membership of the EU. It has been agreed with the EU that the UK and Ireland can continue to make arrangements between themselves when it comes to the CTA. Irish citizens in the UK and British citizens in Ireland will continue to have access to their CTA associated rights.

Both Governments confirmed that position on 8 May 2019, when we signed a Common Travel Area Memorandum of Understanding, setting out our commitment to ensuring British and Irish citizens continue to be able to reside, work, study, and access healthcare, social security and public services in each country.

As part of this, under section 3ZA of the Immigration Act 1971 (in force from 11pm on 31 December), 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, although 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 EU Settlement Scheme 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 EU free movement rights if they were in the UK by 11pm on 31 December 2020. Although they do not need these rights to provide them with a right of residence in the UK, an Irish citizen may choose to rely on their EU free movement rights in order to facilitate the residence of a family member. An Irish citizen can, where they meet the criteria of the Immigration (European Economic Area) Regulations 2016, rely on their saved EEA rights to continue to sponsor a family member's residence during the grace period (between 1 January and 30 June 2021).

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.

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People of Northern Ireland and their family members

The family members of the people of Northern Ireland can apply for immigration permission under the EU Settlement Scheme where their person of Northern Ireland family member meets the criteria of the scheme.

Those family members of the people of Northern Ireland who are solely Irish citizens can apply to the EU Settlement Scheme in their own right.

Non-EEA citizen family members can apply to the EU Settlement Scheme as the family member of a person of Northern Ireland where their British, Irish or dual British and Irish family member was resident in the UK by 11pm on 31 December 2020.

A person of Northern Ireland is a person who meets all the following criteria:

- they are a British, Irish or dual British and Irish citizen
- they were born in Northern Ireland
- at the time of their birth, they had at least one parent who held British, Irish or dual citizenship (or was without any restriction on their period of residence)
- they were living in the UK by 11pm on 31 December 2020

Those family members of the people of Northern Ireland granted settled status under the EU Settlement Scheme will be able to access the same support and assistance that UK nationals can access.

Those family members granted pre-settled status will be able to access benefits and services on the same basis as family members of EEA nationals resident by 1 January 2021, if the person of Northern Ireland was undertaking an activity which, if they were an EEA citizen, would have made them a qualified person (for example through work or self-employment),

For further guidance see:

- [Apply to the EU Settlement Scheme \(settled and pre-settled status\) - If you're the family member of an eligible person of Northern Ireland](#)
- [EU Settlement Scheme caseworker guidance](#)

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Frontier workers

EEA citizens who worked in the UK but were resident abroad before 11pm on 31 December 2020 and continue to be after that date have rights under the EU Withdrawal Agreements and may apply for a Frontier Worker Permit certifying these rights.

In order to qualify for a Frontier Worker Permit, the person will have to demonstrate that they are:

- an EEA citizen
- not primarily resident in the UK at the end of the 31 December 2020, and continue to not be so thereafter
- pursuing employment or self-employment in the UK by 31 December 2020 and continue to do so thereafter, or otherwise retain worker or self-employed person status in the UK

Whilst it is mandatory for non-Irish frontier workers to hold a frontier worker permit to enter the UK for the purpose of exercising frontier worker rights since 1 July 2021, they are not be required to hold a valid permit in order to access benefits or services in the UK, although having one may make it 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.

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Individuals with permission granted by a Crown Dependency's EU Settlement Scheme

The Crown Dependencies (Jersey, Guernsey and the Isle of Man) operate their own versions of the UK's EU Settlement Scheme. Where an individual holds permission under the EUSS 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 EU Settlement Scheme.

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Access to public funds for EEA citizens and their family members and non-EEA nationals under the new points-based immigration system

EEA citizens and their family members moving to the UK since 11pm on 31 December under the new points-based immigration system, are no longer able to rely on freedom of movement rights to reside under EU law. They no longer have any rights under the Withdrawal Agreements unless they are protected in another capacity. For example, where they are a family member joining an EEA citizen who was residing in the UK by 31 December 2020.

They therefore, have the same access to benefits and services as non-EEA citizens and are restricted from accessing income-related benefits until they have achieved indefinite permission to stay in the UK (or another form of leave without NRPF conditions), typically after 5 years.

All non-British citizens (excluding Irish citizens) will need to apply for a domestic immigration status from the Home Office which will set out their entitlement to access public funds. They will usually not be able to access non-contributory benefits until they are granted indefinite leave to remain (or another form of leave without NRPF conditions), typically after 5 years, unless exempted under the Eligibility Regulations, for example, by having grant of refugee status.

This means the treatment of EEA and non-EEA citizens are aligned in the new, global points-based immigration system, in terms of access to benefits and services.

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Persons who have accessed public funds or other publicly funded services subject to restrictions in immigration legislation

Where the Home Office identifies a person who is subject to NRPF conditions and has accessed public funds or other services which they are not entitled to, checks must be undertaken to establish if the applicant has breached the conditions of their stay.

For example, a person who:

- already holds permission to enter or stay in the UK or applies for permission to enter or stay in the UK and has received public funds
- 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 Continuity 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

Most 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 leave to remain under one of 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 leave, consideration must be given to curtailing their leave under paragraph 322 of the Immigration Rules, with reference to paragraph 322(3).

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Making checks with other departments and bodies

If you think a person has received public funds you must confirm this with the department, body or local authority that issues the fund. The following lists the department that issues each fund:

Her Majesty's Revenue & Customs (HMRC):

- Child Tax Credit
- Working Tax Credit
- Child Benefit

Department for Work and Pensions (DWP):

- Universal Credit
- Carer's Allowance
- Disability Living Allowance
- Employment and Support Allowance
- Income-based Jobseeker's Allowance
- Income Support
- Personal Independence Payment
- Severe Disablement Allowance
- Social Fund payment
- State pension credit
- Attendance Allowance

Local authorities

- Council Tax Benefit
- Council Tax Reduction
- Housing and homelessness assistance
- Housing Benefit
- discretionary support payment (for example, where a Social Fund payment would previously have been made)
- payments from the Scottish Welfare Fund administered by local authorities in Scotland

In Northern Ireland, contact the Northern Ireland Housing Executive in respect of Housing Benefit or the Communities Department.

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Working with HMRC

HMRC and the Home Office have a memorandum of understanding that allows HMRC to share information with the Home Office for a number of reasons relating to the exercise of functions under the Immigration and Nationality Acts.

These requests are made under Section 40 of the UK Borders Act 2007 (see: [Section 40 of the UK Borders Act 2007](#))

HMRC can confirm if a person has claimed the following benefits:

- Child Benefit
- Child Tax Credit
- Working Tax Credit

This page lists the reasons when you can share information with Her Majesty's Revenue & Customs (HMRC):

- administering immigration control under the Immigration Acts as defined in section 61(2) of the UK Borders Act 2007
- preventing, detecting, investigating or prosecuting offences under the Immigration Acts
- determining whether to impose, or imposing, penalties or charges on carriers under Part II of the Immigration and Asylum Act 1999
- determining whether to impose, or imposing, penalties or charges on employers who employ illegal migrant workers under section 15 Immigration, Asylum and Nationality Act 2006
- providing facilities or for the provision of facilities for accommodation or providing support to families or asylum seekers and their dependants under section 4 and Part 6 of the Immigration and Asylum Act 1999
- determining whether a person applying to be registered or naturalised as a British citizen or British subject is of 'good character' under the British Nationality Act 1981 or the Immigration, Asylum and Nationality Act 2006
- determining whether to deprive a person of their British citizenship under section 40 of the British Nationality Act 1981
- anything else in connection with the exercise of 'immigration and nationality functions' as defined in section 40(4) of the UK Borders Act 2007

All requests for information from HMRC should be made by following the appropriate standard operating instructions for your business unit.

All requests for information should comply with our duties under data protection legislation.

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Working with DWP

This section tells you which public funded benefits are issued by the Department for Work and Pensions (DWP) and how to request information on applicants claiming those funds.

DWP can check

- whether an applicant is in receipt of a particular public fund
- on what basis they are entitled to it
- whether they meet one of the exceptions

for the following public funded benefits:

- Attendance Allowance
- Carer's Allowance
- Disability Living Allowance
- Employment and support allowance
- Income-based Jobseeker's Allowance
- Income Support
- Personal Independence Payment
- Severe disablement allowance
- Social Fund payment
- State pension credit
- Universal Credit

A request to DWP for information must include the full details of the suspected breach. Before they disclose the information, DWP must be satisfied that the HO require the information for one of the following reasons:

- an immigration purpose
- the purpose of prevention or detection of crime or the capture or prosecution of offenders
- failure to provide the information would seriously affect the processing of the application

A person's application for permission to stay may be affected if they claim funds they are not entitled to. This information is very important and must be explained clearly to the DWP.

You must briefly explain how the information you are requesting will assist the Home Office's work and the impact of DWP not providing this information.

It may be possible to obtain the information you need from sources other than the DWP. Consideration must be given as to whether there is a likelihood of obtaining the information from the applicant. If this is not possible then you must explain to DWP why this is the case. A brief sentence should be included to explain how failing to provide the information will affect your enquiries.

Jargon must be avoided. DWP staff may not be aware of the different paragraphs of the Immigration Rules and the different Immigration Acts. Use simple and straightforward language that explains the importance of the information you need.

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Working with local authorities

If you suspect an applicant has claimed one of the benefits listed below, which are issued by a local authority you must contact the relevant local authority for confirmation:

- Council Tax Benefit
- Council Tax Reduction
- Housing Benefit (Northern Ireland Housing Executive)
- Homelessness assistance
- Social housing (either administered by them or administered for them by an independent housing association)

To find the relevant local authority see: [Find your local council.](#)

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Disclosure of information received from other departments or bodies

Before you disclose information in line with the UK Borders Act 2007, you must also consider the Data Protection Act 2018 (DPA). All disclosures to other government departments will, as in all circumstances, need to comply with the DPA.

For more information, see:

- [Data Protection Act 2018](#)
- Data protection and use

Lawful disclosure of information from Her Majesty's Revenue & Customs (HMRC) and the penalties for unlawful disclosure

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