

Freedom of Information request 3160/2014

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Information request

1. Please advise me of the rules which would be relied upon to require a British Citizen whose Right to Reside is recognised but who failed an initial Habitual Residence Test to be then subject to a further HRT three months after the first.
2. Please give me a statistic for the number of cases where British Citizens are subject to two or more Habitual Residence Tests before being approved for receipt of benefits.

DWP response

In regards to Q2 we are unable to provide this information as it is not reported within DWP. We estimate that the cost of complying with this request would exceed the appropriate limit of £600. The appropriate limit has been specified in regulations and for central Government it is set at £600. This represents the estimated cost of one person spending 3.5 working days in determining whether the Department holds the information, and locating, retrieving and extracting the information. Under section 12 of the Freedom of Information Act the Department is not obliged to comply with the other part of your request but in the interest of customer service you may find the following helpful.

In regards to Q1 it has always been the case that people coming to the UK for the first time, or who are returning here after an appreciable absence, must satisfy the Habitual Residence Test to claim for income-related benefits such as income-based Jobseeker's Allowance or Housing Benefit.

The Habitual Residence Test has two elements: a legal right to reside and an objective assessment of factual evidence of habitual residence. A British citizen may have a right of abode in the UK and therefore a legal right to reside. The benefit decision maker will ask the claimant a range of questions about whether they have an attachment to the UK and have an intention to stay, and they may be asked to provide evidence to show this. Each case is treated on its own merits, in the light of the person's individual circumstances.

Additionally, changes were introduced from 1 January this year which mean that a person must have been living in the UK for three months before any

consideration can be given to whether they are habitually resident here or have resumed their previous habitual residence. The three-month requirement applies to all new jobseekers who claim income-based JSA from 1st January. It does not apply to contribution-based JSA or other income-related benefits.

When an individual is disallowed benefit because they do not satisfy the Habitual Residence Test, they can make a fresh claim for benefit at any time as and when they feel that their residence is more established. When a fresh claim is made the claimant will be subject to the test again to determine their residence situation at that point.