Housing Rights

https://www.housingrights.org.uk/professionals/advice-and-information/homelessness-advice-professionals/habitual-residence

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Habitual residence

This information is for professionals working in housing and homelessness in Northern Ireland.

If you are a member of the public looking for help, please visit our housing advice pages.

A person who applies for housing or homelessness assistance must be habitually resident in the common travel area.

Habitual residence test

A person must be habitually resident in the common travel area. The common travel area (CTA) is the UK, Channel Islands, Isle of Man and Republic of Ireland.

A person passes the habitual residence test if they:

- Normally live in the CTA, and
- Have a right to reside in the CTA

A person is exempt from the habitual residence test if they:

- Were deported, expelled or compulsorily removed from another country to the UK[1]
- Left Afghanistan because of the collapse of the Afghan government in 2021[2]
- Were residing in Ukraine before 1 January 2022 and left because of the Russian invasion[3]

Normally resident in CTA

There is no specified length of time that a person needs to live in the UK before they can be considered as habitually resident. It depends on the circumstances of each case.[4]

The Housing Executive will consider:

- Where the person is currently living
- Evidence to show the person intends to settle
- Where the person's family is living
- Links the person has kept to any other jurisdiction

A British or Irish person who returns to the CTA after living abroad will still have to show that they are habitually resident.

Settled purpose for residing in the CTA

A person must be resident in the CTA voluntarily and for a settled purpose. A settled purpose could be for a limited period of time. A person does not need to have an intention to stay indefinitely.

The reasons for the person's presence in the UK can include:

- Education
- Employment
- Family matters
- Health
- A 'love of the place'[5]

A person who intends to reside in the UK for a short period, such as a holiday or to get medical treatment, is unlikely to be habitually resident.

Applying the habitual residence test

The Housing Executive must enquire into habitual residence if the person has arrived in or returned to the UK in the last two years.[6]

The Housing Executive should consider:

- Why the applicant came to the UK
- Whether they are joining friends and family
- Their plans for accommodation and employment
- The length and continuity of residence in the UK and other countries
- The location of their ‘centre of interest’

A person’s ‘centre of interest’ is determined by considering:

- The location of their main home
- Where they have family ties
- Where their financial accounts are registered
- Location of professional memberships

Owning a property abroad does not mean that a person is habitually resident there. The Housing Executive should consider the person’s intentions regarding the property when deciding.[7]

Resuming habitual residence

A person who was habitually resident in the UK and is returning to the UK after living abroad can be immediately habitually resident on return. In some cases, the earlier habitual residence can be linked with the resumed residence.[8]

A person cannot always immediately resume habitual residency, particularly if they were away for a long period of time. The Housing Executive will consider:

- Why the person originally left the UK
- Why they returned
- How long they intended to stay away from the UK
- What links the person kept with the UK while they were away

A person can resume a period of habitual residence when they return to the UK if they were forced into a marriage and detained abroad against their will.

Right to reside test

A person must have a right to reside to be habitually resident.

A person has a right to reside if they:

- Are a British or Irish citizen

- Have indefinite leave to remain or permanent residence
- Have settled or pre-settled status under the EU Settlement Scheme
- Are exempt from immigration control

A person does not have a right to reside if they need a visa or family permit to stay in the UK.

Footnotes

- [1]The Allocation of Housing and Homelessness (Eligibility) Regulations (Northern Ireland) 2006, Regulation 4 (2)(g).
- [2]Social Security (Habitual Residence and Past Presence) (Amendment) Regulations (Northern Ireland) 2021.
- [3]The Allocation of Housing and Homelessness (Eligibility) (England) and Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) Regulations 2022.
- [4]

  Nessa v Chief Adjudication Officer [1999]1 WLR 1937, HL, House of Lords - Nessa v. The Chief Adjudication Officer and Another. Last accessed February 2026.

- [5]Shah, R (on the application of) v Barnet London Borough Council [1982] UKHL 14 (16 December 1982) (bailii.org).
- [6]Northern Ireland Housing Executive, Selection Scheme Guidance Manual, Paragraph 1, appendix 2.7.
- [7] Northern Ireland Housing Executive, Selection Scheme Guidance Manual, Paragraph 20 –21, Appendix 2.7.
- [8]Cruse v. Chittum [1974] 2 All E.R. 940 (QB).