Housing Rights

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Eligibility of other nationalities

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.

Determining if someone is subject to immigration control

A person who is subject to immigration control needs permission to enter the UK. A person is subject to immigration control unless they:

- Are a British or Irish citizen
- Have a right of abode
- Are an EEA national who entered the UK under EU freedom of movement rights before 31 December 2020
- Are the family member of an EEA national who entered the UK under EU freedom of movement rights before 31 December 2020

Right of abode

A person with a right of abode can claim benefits if they are habitually resident. British citizens have a right of abode. Other types of British nationals do not have this right.
Irish citizens have a right of abode in the common travel area.

Some Commonwealth citizens have a right of abode but this depends on when they were born and their family history.

Legislation about eligibility for persons subject to immigration control

The Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000 describes who is subject to immigration control and eligible for assistance.

- Article 5 includes eligibility for offers of housing
- Article 8 includes eligibility for help with homelessness

Persons entitled to housing and help with homelessness

The following categories of persons can receive offers of housing and help with homelessness.

Refugees – Class A

A person who has been granted refugee status in the UK is eligible for offers or housing and homelessness assistance.

They are called Class A in the regulations.

Granted humanitarian protection or discretionary leave – Class B, BA

A person may have this leave if they are a failed asylum seeker but:

- They need international protection (for example, victims of trafficking)
- There are compelling compassionate reasons to grant exceptional leave

They are called Class B and Class BA in the regulations. This includes people who move to the UK under the vulnerable persons relocation scheme.

This leave may be subject to the no recourse to public funds condition. Check the person's immigration documents carefully. Contact a specialist immigration adviser for help.

Indefinite leave to remain – Class C

A person with indefinite leave to remain is eligible help with housing and homelessness if they are habitually resident. They are called Class C in the regulations.

Indefinite leave to remain is open-ended permission to enter the UK. A person can get this leave after completing periods of limited leave. EUSS settled status is a type of indefinite leave to remain.

Person leaving Montserrat – Class D

A person is eligible for an offer of housing and homelessness help if they left Montserrat:

- After 1 November 1995
- As a result of volcanic eruption
- They are called Class D in the regulations.

Family member of relevant person from Northern Ireland – Class FB

A person is eligible if they are not an EEA national but are the family member of a person from Northern Ireland

Limited leave to remain as a stateless person – Class FC

A person is eligible if they've been granted leave to remain under paragraph 405 of the immigration rules.

Restrictions on accessing public funds

A person can have a right to enter or remain in the UK but not have access to public funds. This is usually referred to as having 'no recourse to public funds' and this person is not eligible for benefits.

A person usually has no recourse to public funds if they are:

- An EEA national who entered the UK after 31 December 2020

- In the UK under a work, spousal or student visa
- Seeking asylum
- Undocumented and entered the UK unofficially

The person's visa or travel documents should state if this condition applies. Most people who are granted limited leave to remain cannot access public funds.

Lifting the no recourse to public funds condition

A person can apply to have the 'no recourse to public funds' condition lifted if their leave to remain was granted:

- As a partner or parent on the 10-year settlement route
- Under the private life 10-year settlement route
- Based on another European Convention on Human Rights right

The Home Office can lift this condition if the person:

- Is destitute or at risk of imminent destitution (meaning, they have no accommodation and no means of finding accommodation)
- Does not have sufficient income to meet a child's particular and essential need
- Faces exceptional financial circumstances

Contact the Law Centre NI for advice on lifting this condition.

Entered under sponsorship or maintenance undertaking

A person who entered the UK under a sponsorship or maintenance undertaking is not usually eligible for benefits. They are eligible for assistance if:1

- they've lived in the UK for at least five years, starting with the date of entry or of the undertaking, or
- their sponsor who signed their affidavit of support has died

People arriving from conflict zones

People arriving from Ukraine

A person is exempt from the habitual residence test and is eligible for help with housing and homelessness if they:

- left Ukraine in connection with the Russian invasion on 24 February, and
- were resident in Ukraine immediately before 1 January 2022

People arriving from Palestine, Israel and Lebanon

A person is exempt from the habitual residence test and is eligible for help with housing and homelessness if they:

- were living in Israel, the West Bank, Gaza Strip, East Jerusalem, Golan Heights or Lebanon immediately before 7 October 2023, and
- left any of the above areas on, or after, 7 October 2023[2]

Asylum Seekers – Class Q, R, T

An asylum seeker is only eligible for help with housing and homelessness if they:[3]

- Claimed assistance on their arrival in the UK before 3 April 2000, have remained in the UK, and their asylum claim has not yet been decided or abandoned
- Claimed asylum on or before 4 February 1996 and were entitled to Housing Benefit at that date
- Were in Northern Ireland when the Home Secretary declared their home country was subject to a fundamental change in circumstances, claimed asylum within three months of that declaration, and their claim has not yet been decided or abandoned

Domestic violence concession

A person can get exceptional temporary leave to remain and access to public funds if:

- They were admitted to the UK as the partner of a British citizen, settled UK resident or serving or discharged member of HM Forces (with at least 4 years’ service) and
- Their relationship has broken down due to domestic violence and
- They are destitute

This leave is for three months. During this time the Home Office will consider if they can get indefinite leave to remain.4

Footnotes

- [1]The Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000, Schedule, Part I(2 and 3).
- [2]The Allocation of Housing and Homelessness (Eligibility)(Amendment) (No. 2) Regulations (Northern Ireland) 2023
- [3]The Allocation of Housing and Homelessness (Eligibility) Regulations (Northern Ireland) 2006, 3(2), 4(2).
- [4]Home Office, 2024, 'Migrant Victims of Domestic Abuse Concession (formerly the destitute domestic violence concession (DDVC))' Version 2.0. Available at: https://assets.publishing.service.gov.uk/media/65cb36b273806a000cec772c/MVDAC_ (Accessed 20 February 2024).