

EU Settlement Scheme: An Introduction.

Working with Non-UK Nationals: Alternative Sources of Help.

Objectives

- Brief overview of Brexit and **EU settlement scheme**.
- Overview of **Housing and Financial Help for those with NRPF**: which UK Visa and Immigration (UKVI) and/or social services provisions could help persons from abroad?
What practical solutions may be available and what barriers may be faced?

EU Free movement and Non EEA nationals

- Free movement of EEA nationals will continue until repealed by the UK. Rights remain the same until at least the end of the transition period (31st December 2020).
- **A person who is not a British citizen or an EEA national will only have recourse to public funds if granted a particular form of immigration status (eg, refugee status, indefinite leave to remain).**
- **This will also apply to EEA nationals who arrive after free movement ends (likely to be 1st January 2021)**
- **EEA nationals who arrive before the end of transition are encouraged to apply to the EU settlement scheme to guarantee their rights to stay in the UK.**

EU Settlement Scheme: Basic conditions

- The EU settlement scheme is open to all EEA nationals and their family members as long as they:
 - Arrive in the UK before the end of the transition period
 - Apply and give all required information (eg, proof of ID)
 - Are not refused on suitability grounds (criminal offences, etc)
- Application deadline 6 months after end of transition period: currently 30th June 2021
- **EEA nationals and their family members can be granted either settled or pre-settled status: depending on their current circumstance**
- **Any rights an under free movement rules (until repealed) will co-exist with settled or pre-settled status**

EU Settlement Scheme: Pre-settled status

- **Pre-settled status is granted to applicants who have been in the UK for less than five years and would not, under existing rules, qualify for a permanent right of residence**
- **Pre-settled status is a form of Limited leave to Remain granted for five years. Lost if person leaves UK for two years.**
- **Grants rights to work, use the NHS, travel, enrol in education etc. In terms of work/education, there are no restrictions in Appendix EU**
- **Pre-settled status alone does not confer eligibility for benefits and housing.**
- **However, a person may have pre-settled status and be exercising a right of free movement (until these are withdrawn). Where a person is doing so as, for example a worker, s/he will be eligible.**

EU Settlement Scheme: settled status

- Settled status is granted to EEA nationals who have been in the UK for five years, or (broadly) would be entitled to a permanent right of residence
- Grants rights in regard to being able to work, use the NHS, travel, enrol in education etc.
- Settled status also confers eligibility for housing and benefits as a form of indefinite leave to remain.
- **Status lost if leave UK for five years.**

EU Settlement Scheme

Any questions regarding the EU settlement scheme?

Next we will look at rights for those with no recourse to public funds, primarily non EEA nationals.

NRPF: housing and financial support?

Non EEA nationals, or EEA nationals not exercising certain rights (such as working) may not have recourse to public funds. As a result provisions may require Local Authorities to provide support for:

- Families with children
- Young people formerly looked after by Local Authorities (care leavers)
- Adults requiring care and support

Housing Act 1996 and NRPF

(As amended by the Homelessness Reduction Act 2017)

S.179 HA 1996: duty to provide advice and assistance

- Advice should cover information about:
 - preventing homelessness
 - securing accommodation
 - the rights of persons who are homeless or threatened with homelessness, duties and legislation
 - any help that is available
 - how to access that help

NRPF: Help for families with children

Section 17 Children's Act 1989

- General duty to safeguard and promote the welfare of children in need.
- Power to provide accommodation for families with children.
- Ongoing duty to assess when circumstances change.

Section 11 of the Children Act 2004: LAs must ensure that their functions are discharged in having regard to the need to safeguard and promote the welfare of children

NRPF: Help for children

Section 20 Children's Act 1989

Duty to provide accommodation for a child in need if:

- there being no person who has parental responsibility for them;
- him/ her being lost or having been abandoned; or
- the person who has been caring for him being is prevented (whether or not permanently and for whatever reason) from providing him with suitable accommodation.

Leaving care duties: definitions

- Extra duties imposed on local authorities in preparation for/after children have left the care system. First, note definitions:
 - Eligible child: 16 or 17 year old who has been in care for at least one day on or after 16th birthday and for at least 13 weeks from 14th birthday and is still in care
 - Relevant child: 16 or 17 year old who has been in care for at least one day on or after 16th birthday and for at least 13 weeks from 14th birthday but has left care
 - Former relevant child: person who has been an eligible child or relevant child and is now aged 18 or over. Duties continue to former relevant children until age of 21 (longer if in full time education)

Leaving care duties

- Duties to provide financial support for 'eligible children' and 'relevant children'.
(Those in care, or who have left care but aged 16 or 17 – see previous slide)
- Duty to provide accommodation for homeless 'relevant students' under the age of 24 during vacations.
- Duty to provide a Pathway Plan for all 'eligible children', 'relevant children' and 'former relevant children'
- Duty to assist former relevant children 'to extent welfare education or training requires it.' generally

NRPF and Children Act

- No exclusions on help for children (whether under accommodation s.20 or leaving care duties to eligible children)
- But help to former relevant children and assistance under s.17 may be restricted in respect of:
 - EEA nationals with no right to reside
 - People who are unlawfully present in the UK
 - People with refugee status that has been granted by an EEA country
 - Asylum seekers who fail to cooperate with removal directions

UNLESS refusing help would be a breach of human rights

Exercise Group A: Andrea

Andrea is 16, she is living at home with her mum a Polish national. Andrea and her mum came to England 4 months ago and her mum has not worked. On arrival they had self funded a bed and breakfast but had to leave when they ran out of money. They have been to the council homeless persons unit but were told they were ineligible for help.

Exercise Group B: Chloe

Chloe is a French national . She is 17 years old and came England 3 months ago and has been working in a café.

She was staying with her cousin but following an argument was asked to leave. She lost her job at the café after failing to turn in for a shift

Care Act 2014

- Duties owed to adults who have two or more unmet care needs of type identified in legislation: eg, unable to maintain personal hygiene or maintain a habitable home environment
- This may be due to age, illness, disability, mental disorder, alcohol or drug dependency or any other circumstances
- Act gives examples of what provision can meet needs:
 - Accommodation
 - Care and support at home
 - Counselling or social work
 - Goods and facilities
 - Information, advice and advocacy

Care Act 2014: NRPF

- Restrictions apply in relation to Care Act assistance where an applicant is subject to immigration control on definition in s.115, Immigration and Asylum Act 1999, ie where s/he:
 - Requires leave to enter and remain in the UK but does not have it
 - Has leave to remain in the UK but subject to a 'no recourse' condition
 - Has leave to remain but subject to a maintenance undertaking
- In these cases, applicant's need for help must have arisen not only from destitution: must be a further cause

Groups excluded from social services support

Even tighter restrictions on Care Act assistance apply to:

- EEA nationals with no right to reside
- People who are unlawfully present in the UK
- People with refugee status that has been granted by an EEA country
- Asylum seekers who fail to cooperate with removal directions

However social services should provide support to these people if there may be a breach of Human Rights or EU treaties otherwise

So what next for those excluded from Care Act or Children Act assistance?

Social services should undertake a human rights assessment of whether person or family can freely return to country of origin.

Things that may prevent a free return include:

- A pending human rights application/appeal to the Home Office
- Inability to travel due to illness or medical condition
- Lack of travel or identity documents

Where human rights would be breached by not providing assistance, local authorities have powers to provide it and may be under a duty to do so.

Human Rights Assessment

- Establishes whether the **person is able to return to their country of origin** to avoid remaining destitute and homeless in the UK, therefore **preventing** a breach of Article 3 of the European Convention on Human Rights (ECHR).
- This will involve consideration of whether there **are any legal or practical barriers** in place which may prevent the person from returning to their country of origin.

Asylum seekers & former asylum seekers

- s.95 of the Immigration and Asylum Act 1999
UKVI can provide support in the form of accommodation or financial assistance to those awaiting a decision on their asylum claim.
- s.4 of the Immigration and Asylum Act 1999:
UKVI can provide accommodation and other support to failed asylum seekers

Exercise: Olama

Olama has fled Nigeria due to persecution and is seeking asylum in the UK, having arrived two weeks ago. She was tortured in Nigeria and has PTSD. She had arranged to stay with a friend upon arriving in London, however this arrangement has fallen through as her friend does not have room at her address in order for Olama to stay. Olama is due to give birth in six weeks time. She has made an application to the home office but hasn't yet received a reply. She has contacted UKVI for assistance as an asylum seeker, however they have told Olama to contact social services.

What would you advise Olama in relation to her rights if she were to approach social services?

Care Act: Decisions and changes in eligibility

Decisions must be put in writing where:

- someone is assessed as having no eligible needs under the Care Act 2014, or following a review, no longer has eligible care and support needs,
- the local authority has decided not to use its discretionary powers under section 19(1) CA 2014 or section 1 of the Localism Act [2011](#) to provide housing; or
- is in a group excluded by Schedule 3 of the Nationality, Immigration and Asylum Act [2002](#), (NRPF) and is to be refused support following a human rights assessment that concludes they can return to their country of origin to prevent a breach of human rights.

Ending responsibilities under Care Act –change in circumstances:

- Social services may end powers to assist under Care Act (in the absence of UKVI support) and pass to housing dept. at LA if they have been assisting someone who **is** now eligible under the Housing Act 1996 (for example they have been granted refugee status). This change of responsibility should remain seamless (s23 CA 2014)

UKVI: Decisions or change in eligibility

If leave to remain (e.g refugee status) is granted, change in duty/responsibility

UKVI duties (s.95 IAA1995) may end and client may require Housing Dept at LA to assist them as a refugee.

- Reasonable notice must be given to allow alternative arrangements for accommodation where UKVI is ending support:
 - 21 days notice is required for refused asylum seekers
 - 28 days notice is required for successful claims for refugee status

Overcoming barriers to getting support

Often people from abroad will experience difficulties in accessing help:

- Housing and Social services passing duties to each other
- Not getting social services to accept a duty
- Told to approach a different authority
- Told the authority will not help until I.D is provided

NRPF: Rough sleepers

Unfortunately often non UK nationals and those with NRPF will fall through the safety net. So where else can they turn for help ?

- Street assessment teams
- Day centres
- Soup runs and soup kitchens
- Cold weather provisions

Useful agencies

- NRPF network
- No second night out / street link
- Shelter Helpline – for the public
- NHAS consultancy line for statutory and voluntary agencies
- Childline - 0800 1111
- Coram Child Law Adviceline 08088 020 008
- [Equality Advisory SupportService](#) 0808 800 0082

Thank you

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