

Habitual residence test

This factsheet explains how the council decides if a homeless applicant is 'habitually resident'.

This may affect you if you are a foreign national or a UK citizen coming to the UK after living abroad.



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Note

Information contained in this factsheet is correct at the time of publication. Please check details before use.

What is habitual residence?

Habitual residence is not defined in law, but broadly it is about where you have your settled home in the Common Travel Area, that is the UK, Ireland, the Isle of Man and the Channel Islands.

A tourist will not pass this test because their home is elsewhere.

Exempt from the HRT

You don't have to pass the HRT if you :

- are an EEA national¹ who is working or self-employed in the UK, or their family member
- are an EEA national/family member with a permanent right to live here after retirement, or after becoming permanently unable to work
- are a family member of an EEA worker/self-employed national who has died and you have a permanent right to reside because of this
- have been granted refugee status
- have been granted 'humanitarian protection'
- have been granted 'discretionary leave' or leave to remain on human rights grounds, without a 'no recourse to public funds' condition
- were deported back to the UK.

¹The EEA includes all the countries that are in the EU plus Iceland, Liechtenstein, Norway and Switzerland.

Resuming habitual residence

You can be habitually resident as soon as you arrive in the UK if you were previously habitually resident in the UK and have returned to resettle here. The council may ask why you left and what links you kept with the UK.

Passing the habitual residence test

Unless you are exempt from having to pass the HRT or have resumed previous habitual residence, you must have lived for some time in the UK to pass the test.

Each case depends on the facts, sometimes one month is enough but sometimes a longer period may be required.

The council will look at how long you've been in the UK, what you are doing here, if you have lived here before, and your future plans.

Evidence that you are habitually resident could include:

- enrolling children in school
- having family ties in the UK
- registering with a doctor
- joining local clubs/community centres
- bringing your possessions to the UK
- opening a UK bank account
- working or looking for work.

Going on holiday abroad does not mean you stop being habitually resident. But habitual residence will be lost if you leave the UK intending to settle abroad.

The habitual residence test for claiming some welfare benefits includes a requirement that you must have lived in the UK for at least three months. This is not the test if you apply as homeless. Get advice if you think the council has not taken your individual circumstances into account.

What duty does the council have?

If the council decides you are habitually resident and that you are homeless or likely to be homeless within 56 days, it must assess your housing and support needs and take reasonable steps to help you keep your home, or find somewhere new to live. For information about how the council may help you, see [other factsheets in this series](#).

Challenging a decision

You have the right to ask for a review of a decision by the council that you do not meet the residence conditions. Your request must be made within 21 days of being notified of the council's decision. Get advice quickly if you want to do this.

If your review doesn't succeed, get advice about whether you can appeal to the county court. If you are on a low income you may qualify for [legal aid](#) to help you do this.

Further advice

You can get further advice from england.shelter.org.uk/housing_advice, local Shelter advice service or local Citizens Advice. If you have nowhere to sleep tonight, are at risk of harm or losing your home within the next 2 months, call Shelter Helpline on **0808 800 4444** for advice and information on your options.*

*Calls are free from UK landlines and main mobile networks.