

Benefits and People from Abroad

including the latest rules for 'Settled Status' and 'Pre-settled Status' for EEA nationals (See Section 7)

Fact Sheet 7: For Residents and Advisers

1st June 2019

www.wolverhampton.gov.uk

1. Introduction

This Fact Sheet is designed to provide information on the benefit rights of:

- **EEA nationals** who are living in the UK; and
- **Non-EEA nationals** and **non-British nationals** who are living in the UK; and
- **British nationals** who are coming to live in the UK or who are returning to live in the UK after a period spent living abroad.

Historically this has always been a complex subject matter. However, with Brexit looming and new rules being introduced to accommodate this, things have become even more complicated. The information provided in this Fact Sheet is based upon our understanding of the situation at the present time. However, clearly there are elements of Brexit which are yet to be decided and even that which has been decided, could be subject to change depending on whether the UK exits with a deal or without a deal. Indeed, the UK may not exit at all if there is a second referendum.



Social Security benefits

Where the Fact Sheet refers to 'Social Security benefits' it means the following:

- Universal Credit (UC)
- Pension Credit (PC)
- Housing Benefit (HB)
- Council Tax Support (CTS)
- Child Benefit (CB)
- Personal Independence Payment (PIP)
- Disability Living Allowance (DLA)
- Attendance Allowance (AA)
- Carer's Allowance (CA)

Please see Addendum Note 1: 'Social Security benefits' (page 13) for more information about these benefits. For information relating to other benefits that may be available to people from abroad then please see Section 8 Other Benefits (page 11).

The rules concerning the benefit rights of people from abroad are complex, particularly as things stand for EEA nationals because of Brexit, so please seek further information and advice as may be necessary.

2. The Starting Point - Immigration Status

The starting point is to understand that the gateway to entitlement to 'Social Security benefits' is dependent upon a person's immigration status. Anyone who is not a **British national** or an **EEA national** will be treated as a 'Person Subject to Immigration Control' (PSIC). A PSIC is someone who:

- requires permission to enter or remain in the UK
- has leave to enter and remain in the UK subject to the condition that they do not have 'recourse to public funds' - meaning that they do not claim any 'Social Security benefits'.

A PSIC will not usually have a right to claim 'Social Security benefits'.

Asylum-Seeker: An Asylum-Seeker is a PSIC but who is seeking permission to live in the UK because they face persecution in their home country due to their race, religion, sexuality or political views. If an application for asylum is granted, the person will become a refugee and be granted permission to live in the UK for 5 years. After this period, if they still face persecution then they can apply for permission to stay permanently (Indefinite Leave to Remain) in the UK. An Asylum-Seeker will not normally be entitled to claim 'Social Security benefits', they will receive accommodation and asylum support for basic living expenses from the Home Office.



Refugee: A refugee will normally be a person who was an Asylum-Seeker who has been granted permission to live in the UK. Once a person has been granted refugee status, they will normally cease to be a PSIC.

They will be entitled to claim 'Social Security benefits' providing their permission to remain in the UK is not subject to the condition that they do not claim any 'Social Security benefits'.



Maintenance Undertaking: In some cases, a person will have been granted permission to enter or remain in the UK on grounds that they have a sponsor who has agreed to maintain them - agreed to provide them with accommodation and maintain them. In such circumstances they would not be entitled to claim any 'Social Security benefits' until they have lived in the UK for at least five years or unless the person who agreed to sponsor them has died.

A Right of Abode: A person who is not a **British national** or an **EEA national** who has a '**right of abode**' does not require permission to enter or remain in the UK. A person with a 'right of abode' will be able to apply for 'Social Security benefits'.



Windrush Generation: If a person is a Commonwealth citizen (or a child of a Commonwealth citizen) who settled in the UK before 1.1.1973 (or in some cases before 1.8.1988) then they may have a 'right of abode', a right of indefinite leave or British citizenship and therefore they are able to claim 'Social Security benefits'.

A person may be granted time limited permission to live in the UK on grounds of **humanitarian protection** (5 years) because it is decided that whilst they do not have refugee status, it would not be safe for them to return to home. A person could also be granted **limited leave to remain** (2½ years) because they have some family connection to the UK. Upon application, a person could be granted **indefinite leave to remain** and live in the UK indefinitely. In such a situation the person would be able to apply for 'Social Security benefits' under the rules explained in this Fact Sheet.

An unaccompanied young person (person aged under 17½ years old) who claims asylum may be given limited leave to remain as an **unaccompanied child** if they have no responsible adult/family to look after them. In such cases the local authority has responsibility for them as a child in need under the Children's Act 1989.



A person may apply for **Destitution Domestic Violence (DDV) Concession** leave if their stay in the UK was dependent upon them being a partner of a British citizen or settled person but that relationship has broken down due to domestic violence and they are destitute as a result. The DDV Concession gives the person temporary leave outside of the immigration rules to remain in the UK for three months. During this time an application for indefinite leave may be considered and 'Social Security benefits' may be claimed to enable them to find safe accommodation and support themselves financially. Do seek further information and advice as necessary.

If a person is unsure of their nationality and/or immigration status, it is important that they get specialist advice before seeking to apply for 'Social Security benefits'. It is a criminal offence for an individual or organisation to provide immigration advice or services in the UK unless they are qualified to do so.

3. Who is an EEA National

The **European Union (EU)** consists of the United Kingdom (England, Scotland, Wales and Northern Ireland), Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Portugal, Spain, Sweden. It also comprises:

- **Since 1st May 2004 - A8:** Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia
- **Since 1st January 2007 - A2:** Bulgaria and Romania
- **Since 1st July 2013 - A1:** Croatia

The **European Economic Area (EEA)** includes the above countries plus Norway, Iceland and Liechtenstein.

An **EEA National** is someone who is a national of a country within the European Economic Area. Therefore, British nationals are also EEA nationals, at least until any Brexit. A British national is someone who has British nationality and includes a 'British citizen'. A British citizen is someone who is born in the UK (or a qualified overseas Territory) to a parent who is a British citizen.

The European Union grants a right to EEA nationals to enjoy freedom to travel, live and work within any of the countries which are part of the EEA. However, these rights are not absolute. EEA nationals have the right to reside in another EEA country for three months but beyond that, a person must have an established 'right to reside' in order to remain.

Do not assume that just because a person originates from a non-EEA country that they are not an **EEA national**. A person may have been born outside of the EEA but perhaps moved to an EEA country and obtained EEA nationality.

A 'right to reside' in the UK can be achieved in a number of different ways. See **5. The Habitual Residence Test** and **6. EEA Nationals - Right to Reside** for more information.

4. The Residence Conditions...

Even if a person's immigration status allows them to apply for 'Social Security benefits', they must still meet the residence conditions to qualify. There are different residence conditions depending on the 'Social Security benefit' involved.

A person must be **physically present** in the UK when making a claim for a 'Social Security benefit'. They must also:

- for **UC / PC / HB / CTS / DLA / PIP / AA / CA**, have **habitual residence** - they must be resident here with a settled intention to live here for the time being and have lived here for an appreciable period of time or they must be exempt from this condition
- for **UC / PC / HB / CTS**, have a **right to reside** - a 'right to reside' here or they must be exempt from the 'right to reside' condition
- for **Child Benefit**, be **ordinarily resident** (i.e. they are living here for a settled purpose for the time being) and have a **right to reside** here - they must have set up home here with a settled intention to live here for at least the time being and have a right to reside here or be exempt from the right to reside condition.

In the case of **Child Benefit**, in addition to being present, ordinarily resident and needing to have a 'right to reside', the claimant must have been living in the UK for at least three months.

However, the three-month rule does not apply in all cases. For example, it does not apply where the person claiming may be considered to be a 'worker' or a 'self-employed person' or the partner/family member of a person who is a 'worker' or 'self-employed person'.

In the case of **DLA / PIP / AA / CA**, the claimant must have been living in the UK for 104 weeks out of the previous 156 weeks. The period is shorter where the claim is for DLA involving a disabled young child. Do seek further information and advice. Also, if someone is terminally ill or they have been granted leave to remain in the UK as a refugee or on grounds of humanitarian protection then they will be exempt from this test.

See **5. The Habitual Residence Test** and **6. EEA Nationals - Right to Reside** for more information on the Habitual Residence Test and Right to Reside provisions.



Although the starting point for claiming 'Social Security benefits' is that a person must be present, it is possible for a person to continue to be treated as present in Great Britain during a temporary period of absence abroad. For example, when a person goes abroad on holiday or to visit relatives. Also, in the case of the DLA care component, PIP daily living component and Attendance Allowance, it is possible for these to continue to be paid if the person moves to another EEA country. Do seek further information and advice as necessary.

5. The Habitual Residence Test...

The 'Habitual Residence Test' (HRT) was first introduced in 1st August 1994. The test applies to EEA nationals. It can also apply to British nationals who return to the UK from a spell living abroad. It was introduced as a response to concerns surrounding 'benefit tourism' and to safeguard the benefits system from abuse by those without any real connection to the UK.



A person will satisfy the Habitual Residence Test if they have habitual residence (i.e. they have lived here for an 'appreciable period of time' and they have a 'settled intention' to live in the UK and make it their home at least for the time being.

A temporary absence from the UK (e.g. going on holiday abroad) should not mean that the person ceases to be habitually resident.

Factors which may be taken into account in determining 'habitual residence' include:

- the person's length / continuity of residence
- the person's future intentions
- the person's reasons for coming to the UK
- where the person's 'centre of interest' lies.

People who have previously been 'habitually resident' in the UK and who return to resume their 'habitual residence' may be automatically treated as 'habitually resident' upon their return.

Any decision on 'habitual residence' must be based upon the circumstances at the time when the decision is made. However, circumstances are subject to change and just because a person may not be considered as 'habitually resident' at one time, does not mean that this will be the case at a different point in time. Therefore, repeat claims may be necessary.

People Exempt from the HRT:

For the purposes of Universal Credit, Housing Benefit and Council Tax Support a person may be exempt from the Habitual Residence Test if they are:

- an EEA national who is a 'worker' (in 'genuine and effective work') including an EEA national who has retained this status
- an EEA national who is 'self-employed person' (in 'genuine and effective work') including an EEA national who has retained this status
- a 'family member' of an EEA national who is a worker or a self-employed person
- an EEA national with a right of permanent residence or a family member of an EEA national with a right of permanent residence.

A person may be exempt from the Habitual Residence Test for the purposes of Universal Credit, Housing Benefit and Council Tax Support if they have been granted refugee status or they have been granted discretionary leave to remain in the UK or leave to remain in the UK on grounds of humanitarian protection.





6. EEA Nationals - Right to Reside...

An EEA national will be considered to be a **worker** in 'genuine and effective work' if the work they undertake is at the direction of another person and provides a service in return for remuneration and it is considered to be 'genuine and effective work' rather than 'marginal and ancillary'.

The DWP will accept that a person's work is 'genuine and effective work' if they have been earning on average £166.00 per week over a three-month period.

An EEA national will be considered to be a **self-employed person** in 'genuine and effective work' if the work they undertake is not under the direction of another person but still provides a service in return for remuneration and is considered to be 'genuine and effective work' rather than 'marginal and ancillary'.

An EEA national who is a 'worker' or a 'self-employed person' may, for example, retain their worker / self-employed status if they became temporarily unable to work due to ill-health (or the physical constraints of pregnancy or child birth) or, in the case of a worker, they have been made unemployed and are looking for work.



Brexit: Please see 7. BREXIT: Settled Status and Pre-Settled Status... for more information on the benefit rights of EEA nationals.

Whilst the '**habitual residence test**' was first introduced in **1st August 1994** the '**right to reside**' test has been a more recent requirement. It was introduced from **1st May 2004** to limit entitlement to 'Social Security benefits' to certain groups of EEA nationals as more countries (i.e. the Czech Republic, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia) became part of the EEA.



Entitlement to Universal Credit, Pension Credit, Housing Benefit, Council Tax Support and Child Benefit is dependent upon the claimant having a 'right to reside' in the UK. In order to have a 'right to reside' in the UK the claimant must be:

- a British national; or
- Republic of Ireland national; or
- an EEA national who has a 'right to reside' under specific provisions under EEA law.

Under EEA law an EEA national may have the right to reside in the UK (and any another EEA country) in a number of situations. However, the only ones that give a person a 'right to reside' for 'Social Security benefit' purposes are those where the person is considered to be:

- a 'worker' - they undertake work at the direction of another person in return for remuneration and that work may be considered to be 'genuine and effective work' rather than 'marginal and ancillary'; or

- a 'self-employed person' - they undertake work that is not under the direction of another person in return for remuneration and that work may be considered to be 'genuine and effective work' rather than 'marginal and ancillary'.

A 'worker' may retain worker status should they stop working in certain situations e.g. through temporary illness or unemployment. In the latter case they must be looking for work.

See 5. The Habitual Residence Test for more information on who may count as a 'worker' or a 'self-employed person'.



Under EEA law an EEA national may also have a general right to reside in the UK:

- for three months, or
- as a jobseeker, providing they are looking for work and have a 'genuine chance of being engaged'.

However, neither of the above types of 'right to reside' provision qualify for 'Social Security benefit' purposes.



In addition, under EEA law an EEA national has a general 'right to reside' in the UK as:

- a 'student' provided they have sufficient resources to support themselves financially during the period of their studies; or

- a self-sufficient person - meaning that they have sufficient resources not to become an unreasonable burden upon the benefit system and they have comprehensive sickness insurance.

However, given the 'sufficient resources' condition, it is difficult to see how a person could seek to apply for 'Social Security benefits' without it impacting on their 'right to reside' status as they would no longer be 'self-sufficient'.



Acquiring a Permanent Right to Reside: An EEA national may acquire a 'permanent right to reside' if they have resided legally (e.g. as a worker, self-employed person or self-sufficient person) in the UK for a continuous period of five years or longer, excluding temporary periods of absence.

An EEA national may also acquire a permanent 'right to reside' if they have resided legally (e.g. as a worker, self-employed person or self-sufficient person) in the UK for a continuous period of less than five years (excluding temporary periods of absence) in some situations. These include where the EEA national was:

- a worker or self-employed person and has reached 'state pension age' or taken early retirement providing they worked in the UK for at least 12 months and resided in the UK continuously for more than three years before stopping work/self-employment; or
- a worker or self-employed person and stopped working in the UK due to permanent incapacity, providing they had lived in the UK for at least two years; or

- a worker or self-employed person and stopped working in the UK due to permanent incapacity caused by an accident at work or by reason of contracting an occupational disease.

Once a person has acquired a 'permanent right to reside' they will satisfy the 'right to reside' test for 'Social Security benefit' purposes.

A person may lose their 'permanent right to reside' altogether if they have been or become absent from the UK for two consecutive years or longer.



Family Member: If a person (irrespective of whether they are an EEA national themselves) cannot establish a 'right to reside' in their own right, they may be able to establish a 'right to reside' as a family member of an EEA national that has a 'right to reside'.

A 'family member' includes:

- a spouse
- a civil partner
- a child aged under 21
- a child aged 21 or over where the EEA national is providing them with 'material support' relating to the person's basic necessities of life
- a grandchild/great-grandchild (if aged 21 or over then only where the EEA national is providing them with 'material support' relating to the person's basic necessities of life)

- a parent, grandparent or great-grandparent where the EEA national is providing them with 'material support' relating to the person's basic necessities of life.

A 'family member' may also include an 'extended family member' such as a partner (i.e. not a spouse or a civil partner) with whom the EEA national has had a 'durable relationship'. It may also extend to other relatives who are dependants or relatives who require help with their personal care on serious health grounds. To count as an 'extended family member', the person must be recognised as such by the Home Office and have been issued with the relevant documentation.



A 'family member' of an EEA national who has acquired a 'permanent right to reside' will themselves acquire a 'permanent right to reside' after being a 'family member' of that person for at least five years.

Derived Right to Reside: Under EEA law a person may also have a 'derived right to reside' in the UK if, for example, they:

- **Teixeira / Ibrahim Carer:** are the primary carer of a child in education and that child would be unable to continue his/her education in the UK if they were to leave the UK
- **Zambrano Carer:** are the primary carer of a British citizen (child or adult) living in the UK who would be unable to continue living in the UK should they have to leave the UK.

Whilst a 'derived right' enables a person to reside in the UK, under EEA law it does not count as a qualifying residency towards obtaining a 'permanent right to reside'.

Further, having a 'right to reside' as a 'Zambrano carer' is not in itself sufficient to enable the person to apply for Universal Credit, Pension Credit, Housing Benefit, Council Tax Support and/or Child Benefit.

A person who has been granted the right to enter or remain in the UK on grounds of being a refugee, humanitarian protection, limited leave to remain, indefinite leave to remain or Destitution Domestic Violence Concession will be treated as though they have a 'right to reside' in the UK for 'Social Security benefits' purposes. However, be mindful that those who have been granted entry into the UK / given permission to remain in the UK under a sponsorship arrangement will not normally be allowed to apply for benefit under the terms of their sponsorship arrangement.

7. BREXIT: Settled Status and Pre-Settled Status...

Whilst the UK remains a member of the EEA, the benefit rights of EEA nationals (and their family members) will be determined by both UK law and EEA law.



However, under current arrangements, the UK is set to leave the EEA on 31st October 2019 with a transitional period between 31st October and 31st December 2020.

In expectation that the UK would leave the EEA **with a deal**, the UK introduced the EU Settlement Scheme. Under this scheme, EEA nationals (and their family members) living in the UK may apply for:

- **SETTLED STATUS** (*indefinite leave to remain*) if they have lived in the UK for 5 years or more; providing them with a permanent right to reside which allows them to continue to live and work in the UK indefinitely; or
- **PRE-SETTLED STATUS** (*limited leave to remain*) if they have lived in the UK for less than five years; providing them with the right to reside (live and work) in the UK for up to five years.

The expectation was that anyone with 'pre-settled status' would need to apply for 'settled status' before 5 years of residency in order to obtain 'settled status', affording them indefinite leave to remain in the UK.

What was not known at the time was whether both 'settled status' and 'pre-settled status' gave people the necessary 'right to reside' needed for 'Social Security benefit' purposes.

New Benefit Rules...

New rules have now been introduced with effect from **7th May 2019** which make clear that it is only with 'settled status' that a person is able to claim 'Social Security benefits' not 'pre-settled status'.

The new rules mean that although those who have obtained either 'settled status' or 'pre-settled' status both have a 'right to reside', only those who have 'settled status' or a 'right to reside' on specific grounds (e.g. as a 'worker' or 'self-employed person') will be able to apply for 'Social Security benefits'.

The new rules make it clear that *Zambrano* carers without 'settled status' are also not entitled to 'Social Security benefits' whilst those with 'settled status' will be eligible to apply.



To qualify for 'settled status' it is sufficient for the EEA national to simply have been living in the UK for 5 years. This is in contrast to qualifying for a 'permanent right to reside' where an EEA national can only qualify once they have 'resided legally' in the UK and have a 'qualifying right to reside' (e.g. as a worker, self-employed person or self-sufficient person), not a 'derived right' to reside.

What is not known is whether, moving forward, the only 'right to reside' that will enable EEA nationals to apply for 'Social Security benefits' will be a 'settled status' right to reside. If the UK leaves the European Union with a deal, then it could be that others without a 'settled status' (e.g. 'workers' and 'self-employed persons') will be afforded the right to claim 'Social Security benefits'. Whereas, if we leave with no deal, then the position may be that only a 'settled status' will count. This is because the UK would no longer be tied to European Union law and the Freedom of Movement for Workers within the EEA.

The link below gives more information about 'settled status' and 'pre-settled status' and the deadlines for applications.

<https://www.gov.uk/settled-status-eu-citizens-families/what-settled-and-presettled-status-means>



The new 'settled status' and 'pre-settled status' rules, which serve to prevent those with 'pre-settled status' from qualifying for 'Social Security benefits' are:

- The Social Security (Income-related Benefits) (Updating Amendment) (EU Exit) Regulations 2019 affecting Universal Credit, Pension Credit, Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance, Income Support and Housing Benefit (Statutory Instrument 2019 No. 872)
- The Child Benefit and Child Tax Credit (Amendment) (EU Exit) Regulations 2019 affecting Child Benefit and Child Tax Credit (Statutory Instrument 2019 No. 867).



The Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) (EU Exit) Regulations 2019 (Statutory Instrument 2019 No. 861) also serve to disqualify those with 'pre-settled status' from being eligible to housing and homeless services.



Unlawful Rule Change: There is an argument that not giving access to ‘Social Security benefits’ to EEA nationals with ‘pre-settled status’ is unlawful because it treats them less favourably than British nationals and less favourably than other groups who have been granted limited leave to remain (e.g. those granted refugee status): Article 18 of the Treaty on the Functioning of the European Union and European Union Equal treatment provisions, and contrary to the European Communities Act 1972. Therefore, an EEA national whose only ‘right to reside’ is on the basis of having ‘pre-settled status’ could seek to make a claim for a ‘Social Security benefit’ and, providing they can meet all the other qualifying conditions for that benefit, seek to challenge any refusal through the courts.

8. Other Benefits

In addition to the ‘Social Security benefits’ that are covered in this Fact Sheet, EEA nationals and other nationals may have entitlement to the following benefits:

- **New Style Jobseeker’s Allowance:** A contributory benefit for those who are unemployed and looking for work.
- **New Style Employment and Support Allowance:** A contributory benefit for those who may be considered to be too sick to work.

Note: For both New Style JSA and New Style ESA the claimant must have worked in the UK at some point and paid National Insurance contributions.

- **Statutory Sick Pay:** This is a benefit paid by a person’s employer when they become too sick to work. To qualify the claimant must be employed and earning £118.00 per week (2019/2020 figure) or more.



- **Industrial Injuries Disablement Benefit:** This is a DWP benefit paid to those who, whilst working in the UK (unless an airman or woman or working on board a ship), sustain injury through an accident at work or by way of contracting an occupational disease in the course of their work. It is not available to self-employed people.
- **Statutory Maternity Pay:** This is a benefit paid by employers to women who are in the latter stages of their pregnancy/have recently given birth. To qualify the woman must have worked for a relevant period and had average earnings of £118.00 per week (2019/2010 figure) or more. It may be paid for a total of 39 weeks starting from the 11th week before the baby is due.
- **Maternity Allowance:** This is a DWP benefit paid to women who work/have recently worked (not self-employed) and earned more than £30.00 per week (2019/2020 figure) who are not entitled to Statutory Maternity Pay. It may be paid for a total of 39 weeks starting from the 11th week before the baby is due.
- **Bereavement Benefits:** These are DWP benefits that provide for people whose spouse or civil partner has died and the claimant is under State Pension Age. To qualify the partner that has died must have paid sufficient National Insurance contributions or have died as a result of an industrial injury or disease.
- **State Pension:** This is a DWP benefit that may be paid to those who have reached State Pension Age, having worked and paid National Insurance contributions in the UK. The amount paid depends upon the level of NI contributions paid.

Entitlement to the above benefits is not subject to any 'Habitual Residence Test' or 'Right to Reside' test. However, in most cases the person must be present / living in the UK to claim. Industrial Injuries Disablement Benefit and State Pension can also continue to be paid if a person is living abroad.

Universal Credit and Legacy Benefits:

Note that Universal Credit has now replaced the so called 'legacy benefits' - Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance, Income Support, Child Tax Credit, Working Tax Credit and Housing Benefit for lots of people living in Wolverhampton. These benefits are no longer available to new claimants, other than Housing Benefit which is available to people who have reached the Qualifying Age for Pension Credit and people who live in 'specified accommodation'. The intention is that by 2023 people getting 'legacy benefits' will have been moved to Universal Credit.

Do seek further information and advice as necessary.

9. Non-EEA Nationals - Right to Benefit (PSIC)

Most non-British / non-EEA nationals coming to the UK will have time limited leave to remain (e.g. whilst on holiday, during a period of employment or study) and their stay will, in consequence, be subject to the condition that whilst here they shall have 'no recourse to public funds' (NRPF).

This means that they have no right to apply for 'Social Security benefits' (see page 1) or Child Tax Credit, Working Tax Credit, Income Support, Income-related ESA or Income-related JSA which, in any case, have all been replaced for anyone living in Wolverhampton by Universal Credit should they be seeking to make a claim at this time.

The **exceptions** to this rule include:

1. a PSIC who has been granted permission to stay in the UK indefinitely (known as 'indefinite leave to remain') where their permission to remain is not conditional on the fact that they should have 'no recourse to public funds'.
2. a PSIC who has been given permission to stay (known as 'leave to remain') in the UK on the basis that someone will maintain and accommodate them (known as a 'maintenance undertaking'):
 - may still nonetheless claim Attendance Allowance, Personal Independence Payment, Disability Living Allowance, Child Benefit and Carers Allowance subject to the normal qualifying rules
 - would be able to claim 'Social Security benefits' if the person who agreed to maintain and accommodate them dies
 - would be able to claim 'Social Security benefits' when they have been resident in the UK for at least 5 years.

Public Funds: Do not include New Style JSA, New Style ESA and State Pension, Maternity Allowance, Industrial Injuries Benefit, Statutory Sick Pay, Statutory Maternity Pay, Statutory Paternity Pay and Statutory Adoption Pay.

Note: The person must be entitled to work and have worked in the UK and in the case of any State Pension, New Style JSA and New Style ESA, paid sufficient NI contributions to qualify.



Addendum:

Note 1: Social Security benefits

The 'Social Security benefits' covered in this Fact Sheet are as follows:

- **Universal Credit:** Which can provide financial support to people of working age with the costs of day-to-day living including rent payments
- **Pension Credit:** Which can provide financial support to people who have attained the Qualifying Age for Pension Credit with the cost of day-to-day living
- **Housing Benefit:** Which can provide financial assistance to those who have reached the Qualifying Age for Pension Credit with their rent payments
- **Council Tax Support:** Which can provide financial assistance with council tax payments
- **Child Benefit:** Which provides financial support to families
- **Personal Independence Payment (PIP):** A benefit for people aged 16 or over but under State Pension Age who, by reason of a physical or mental condition, need help with their daily living and/or mobility
- **Disability Living Allowance (DLA):** A benefit for disabled children aged under 16 who need help with their personal care and/or mobility
- **Attendance Allowance (AA):** A benefit for people who have attained State Pension Age who, by reason of a disability, need help with their personal care
- **Carer's Allowance:** A benefit available to those who look after someone who gets DLA (middle or higher rate care component), PIP (daily living component) or Attendance Allowance.

Note 2: Legacy Benefits: Universal Credit has replaced Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance, Income Support, Child Tax Credit, Working Tax Credit and

Housing Benefit for people living in Wolverhampton. These benefits are no longer available to new claimants, other than Housing Benefit which is available to people who have reached the Qualifying Age for Pension Credit and people who live in 'specified accommodation'.

Note 3: Specified Accommodation: If someone is getting Universal Credit but living in 'specified accommodation' then they will not get help with their rent through Universal Credit. However, they may claim Housing Benefit instead. An example of 'specified accommodation' is accommodation provided by a charity or housing association in which care, support or supervision are provided, or temporary accommodation designed to provide for the needs of homeless people or those affected by domestic violence.

Note 4: NHS Benefits: In addition to weekly benefits, a person may have entitlement to full or partial help towards the cost of sight tests, glasses, dental treatment and prescriptions.

The following link gives for more information:

<https://www.nhs.uk/using-the-nhs/help-with-health-costs/>



Asylum-Seekers, refugees and some other migrant groups are exempt from NHS charges and, therefore, will be able to access free NHS benefits.

10. Fact Sheets and Information Guides

The City of Wolverhampton Council's Welfare Rights Service produces the following Benefits Fact Sheets and Benefits Information Guides on benefits and welfare reform.

Benefits Fact Sheets:

1. Benefits and Work
2. Benefits and Young People
3. Benefits and Older People
4. Benefits for those who are Unable to Work due to Ill-health or Disability
5. Benefits for those Affected by Cancer
6. Benefits and Carers
7. Benefits and People from Abroad
8. The Bedroom Tax
9. The Benefit Cap
10. Local Welfare Assistance
11. Private Tenants and Universal Credit
12. Volunteering and Benefits

Benefits Information Guides:

1. Universal Credit
2. Universal Credit - Claims and Payments
3. Universal Credit - The Claimant Commitment
4. Universal Credit - Sanctions and Hardship Payments
5. Universal Credit and Vulnerable People - Claims and Payments
6. Universal Credit - Unable to Work due to Ill-health or Disability
7. Personal Independence Payment
8. Personal Independence Payment - Toolkit
9. Employment and Support Allowance
10. The Work Capability Assessment - Toolkit
11. Form Filling - PIP2 and ESA50/UC50

12. DWP Social Fund
13. Disputes and Appeals
14. Going to Appeal: First-tier Tribunals

Copies of our Benefits Fact Sheets and Benefits Information Guides may be obtained by visiting our pages on the City of Wolverhampton Council website at:

[Benefits and Welfare Reform Information](#)

Benefits Bulletin:

Please also watch out for our Benefits Bulletins which provide news on the latest developments surrounding benefits and welfare reform. These are also available on the website.

 Telephone: (01902) 555351

 Email: WRS@wolverhampton.gov.uk

The Welfare Rights Service does not give immigration advice. Please seek advice as necessary from a qualified provider such as the Refugee and Migrant Centre 1st Floor, Roma Parva, 9 Waterloo Road, Wolverhampton WV1 4NB.

Note: The details provided in this and our other Fact Sheets and Information Guides are meant to provide an overview on important and topical issues relating to 'Social Security benefits' and welfare reform. The details should not be treated as an authoritative statement of the law. The details may be subject to change by new regulation and/or case law. Do seek further information and advice as necessary.

Welfare Rights Service
Specialist Support Team
City of Wolverhampton Council