

This factsheet is intended to assist non-lawyers to understand the rights and restrictions relating to asylum seekers and refugees.

Recent developments in asylum and immigration law and policy mean that asylum seekers, refugees and migrants face increasing restrictions in many areas of their life in the UK, which can impact on their ability to access, for example, accommodation, education and healthcare. It is important to be aware of the restrictions and rights relevant to asylum seekers and refugees to assist people navigating the immigration system in the UK to access their rights and to support the challenging of restrictions when appropriate.

## Accommodation:

### Rights -

Refugees and those with Humanitarian Protection are entitled to claim housing benefit, to apply for accommodation from the local council or a housing association and to help if they are homeless. You can apply for private rented accommodation and should be offered a tenancy on the same terms as any other applicant.

Asylum seekers can apply to the Home Office for asylum support if they have no money or nowhere to live. Asylum seekers are offered basic housing on a no-choice basis anywhere in the UK (usually outside London) and money to pay for food. If you have somewhere to stay you can still ask for money for food. If you have been refused asylum but cannot travel home immediately and are destitute, you can apply for support and accommodation. Support for refused asylum seekers is paid via a cashless payment card and accommodation is also on a no-choice basis (usually outside London).

### Restrictions -

There are now 'right to rent' checks in England and Wales. This means any landlord will need to see documents proving your status, and, if you have limited leave, the landlord will need to see your renewed documents when renewing the tenancy.

Asylum seekers are not entitled to claim housing benefit, to apply to the local council for accommodation or help if they are homeless. You can apply direct to a housing association or for private rented accommodation, but in England and Wales, where there are immigration checks, you will not have the 'right to rent' and landlords cannot accept you as a tenant unless you obtain permission from the Home Office. You can however stay with friends or family.

It is a criminal offence to rent property to anyone not permitted to rent and landlords have new powers to evict people who do not have the right to rent.

## Support and benefits:

### Rights –

Refugees and those with Humanitarian Protection are entitled to receive benefits in the same way as British nationals.

Asylum seekers who would otherwise be destitute are entitled to asylum support and accommodation from asylum support (NASS) - accommodation will usually be outside of London.

### Restrictions -

There is no entitlement to benefits whilst seeking asylum or if given leave to remain with a No Recourse to Public Funds restriction

(Note: an application can be made for the restriction to be lifted where it can be shown that you are destitute / there are particular compelling reasons relating to the welfare of a child / exceptional circumstances causing the Home Office to exercise their discretion).

## Work:

### Rights -

Refugees and those with Humanitarian Protection are entitled to work.

Asylum seekers are not allowed to work unless they have been given permission to work. An asylum seeker can ask for permission to work when they have been waiting for a decision on their initial claim for 12 months or more. If permission to work is given, it will only permit work in a short supply job.

### Restrictions -

It is a criminal offence to work if you know or have reason to believe you are not permitted to work because of your immigration status - you are not permitted to work if you do not have leave (permission) to enter or remain in the UK or your leave has a condition (restriction) on it stating that you cannot work.

It is an offence to employ someone unable to work due to their immigration status and employers have to check that people have the right to work.

## Studying:

### Rights -

In most cases, children are entitled to attend state schools in the UK, including all children of families seeking asylum / refugee families.

Practically, it can be difficult for children to enter education, particularly if housed in initial accommodation and assistance should be sought in these circumstances.

### Restrictions -

Further education and fees - asylum seekers and those with Discretionary Leave to Remain will be liable to pay Overseas Fees and will not be eligible for loans or grants.

Refugees, people with Humanitarian Protection and people with Indefinite Leave to Remain who have been resident in the UK for 3 years or more will be eligible for Home Fees and to apply for loans and grants.

## Healthcare:

### **Rights -**

GP practices are not required to request any proof of identity or of immigration status from patients wishing to register - a practice cannot refuse a patient because they do not have identification or proof of address.

Where a person has difficulty in registering for National Health Services with a primary medical services contractor, they can contact:

- their local NHS England area team directly; or
- the local Patient Advice and Liaison Services.

GP and nurse consultations in primary care and treatment provided by a GP are free of charge to all.

Refugees, asylum seekers and those receiving asylum support (NASS) or, in some cases, Social Services support are exempt from all charges.

### **Restrictions -**

Urgent care will be provided at Accident and Emergency free of charge regardless of immigration status BUT the person will be subsequently charged for the care if they are not entitled to free care. It is important to note this may impact applications for further leave NOT based on asylum.

Those seeking leave to enter / remain in the UK are required to pay a health sur charge with the application unless it is based on asylum.

## General restrictions:

### **Bank accounts -**

People are not permitted to open a current bank account if they live in the UK, they need leave (permission) to enter or remain and do not have such leave to enter or remain. Banks are required to undertake checks and prevent people opening a current bank account if they are disqualified from doing so.

The provisions mean that asylum seekers cannot open a current bank account – they may be able to open other types of account, such as savings accounts, as these measures do not extend to them.

The Immigration Act 2016 now requires banks to undertake immigration checks of their existing customers against a Home Office database and notify the Home Office if a customer does not have the correct legal status. After the bank notifies the Home Office that a person may be disqualified from holding a bank account as a result of their immigration status, the Home Office may apply to the High Court for an order to freeze the bank account. It is more likely, however, that the Home Office will instead simply notify the bank that it is under a duty to close the account. The bank will then take steps to close the customer's account.

### **Driving –**

A person who needs leave to enter or remain in the UK and does not have it may not hold a driving licence – the DVLA can revoke a driving licence where a person no longer has leave to enter or remain.

The Immigration Act 2016 introduces powers to allow police and immigration officers to stop and search people if they have reason to believe they have a driving licence and do not have leave to enter or remain in the UK.

**Not yet in force:** The 2016 Act creates a criminal offence of driving in the UK for a person who knows or has reason to believe they do not have leave to enter or remain in the UK. The vehicle used to commit the offence may be retained by the police or immigration service until a decision is made to charge the person and whilst criminal proceedings are ongoing.

### **Marriage / civil partnerships**

The Immigration Act 2016 introduces obligation for the Registrar to inform the Home Office of proposed marriage / civil partnership if it involves non-EEA national without permanent status in the UK or a fiance / proposed civil partner visa.

