



**Migrant
Champions
Network**

GUIDE TO THE UK IMMIGRATION SYSTEM

People come to the UK – and stay here – for many different reasons: to work or study, for love, or because they aren't safe in their home country. How that works in practice can be complicated.

This guide explains how the UK's immigration system works, and lays out some of the realities for people who have moved here to make it their home.

GLOSSARY

Indefinite Leave to Remain (ILR) – the immigration status people usually get once they have lived in the UK for either 5 or 10 years with a visa. This is a visa that is valid indefinitely (although people with ILR can lose it if they are outside the UK for 2 years continuously). Once you have had ILR for a year, you can apply for British citizenship. People with ILR can access benefits.

No Recourse to Public Funds (NRPF) – this is a restriction placed on most migrants in the UK. People with NRPF are not allowed to access benefits. It also means that it is more difficult to access other forms of support, for example government help with bills.

Section 17 – Section 17 refers to Section 17 of the Children Act 1989. It places a general duty on local authorities to promote and safeguard the welfare of children in need. It is the legislation according to which families with children can be provided with financial and other support, even if they have NRPF.

ASYLUM

The asylum system is an international system for ensuring that people who need to leave their country of origin for their safety can start new lives elsewhere.

72% of refugees globally live in countries neighbouring the ones they have fled – very few come to the UK and claim asylum. People who came to the UK for protection currently make up around 5% of the UK's foreign-born population, and about 0.6% of the UK's population overall.

People who need to leave their home for their safety are forced to take dangerous journeys because there is no such thing as a travel document for asylum-seekers.

They aren't allowed to take a plane without a visa for the country they are travelling to, and in most cases they can't get a visa because the Home Office makes it very difficult for people from the countries that people often flee. As a result, people fleeing their home most often have to take dangerous journeys to find safety.

Asylum-seekers do not have to claim asylum in the first country they reach. Many people travel to the UK to claim asylum because they have family ties here, or speak the language because of the UK's colonial legacy in so many countries across the world.

APPLICATION PROCESS

When somebody asks for protection in the UK, they have to submit a claim for asylum with the Home Office. Once they do this, they have a short interview, called a screening interview, with the Home Office.

This is a short interview to establish the basic details of the case – applicants are not allowed to have a lawyer with them at this interview.

Some people are put into immigration detention straight after they claim asylum. Once detained, there is a duty solicitor scheme which means that first time asylum applicants should be able to get free legal advice. However, there is extremely high demand in detention centres, and it is much more difficult to collect the relevant documents to use as evidence.

Those who are not detained are given something called an ARC card, which proves they have claimed asylum. This can be used, for example, to show doctors that they have claimed asylum and are eligible for free treatment.

ASYLUM SUPPORT

People seeking asylum can apply for financial support, housing support or both – this is called the National Asylum Support Scheme (NASS). In terms of financial support, asylum-seekers can get £40.85 per week, loaded onto a card (called an ASPEN card) which can be used to take out cash.

This is to pay for food, transport, toiletries, clothing, phone credit to keep in touch with people and all other necessities. This is paid to people who are housed in long-term asylum housing.

People in this position can apply for discretionary extra payments, for example if their child's school is far away from their accommodation, or their child has care needs.

People staying in hotels which provide full board, who are provided with food and toiletries, are treated differently, and receive £8.24 per week.

In terms of housing support, asylum-seekers are accommodated in asylum accommodation. This used to be called NASS accommodation. They can be sent anywhere in the UK to be housed while they wait for a decision on their asylum claim.

WAITING TIMES

Whether detained or not, people seeking asylum have to wait once they have had their short interview for a second interview – this is more in-depth, and is called a substantive interview. There are long delays, and people sometimes have to wait for up to two years to get a date for their substantive interview.

Once they have had their substantive interview, people seeking asylum then wait months, and sometimes years, for a decision on their claim. In 2020, adults waited an average of 440 days to hear back about their asylum claim, while unaccompanied asylum-seeking children waited on average 550 days.

LEGAL ADVICE

People seeking asylum are eligible for free legal advice – under Legal Aid – to support them with their claim. It can be very difficult to find a lawyer, however, because legal aid rates are so low that it is not feasible for most law firms to provide this advice for free.

Getting good quality legal advice is extremely important for people seeking asylum, as it is a complex process. There are Law Centres across the UK, which can provide free legal advice to people seeking asylum.

If you are advising somebody who is seeking asylum, be sure to check with them whether they have a legal advisor, and make sure they know that they could be entitled to free legal advice.

ASYLUM-SEEKERS AND THE RIGHT TO WORK

While they are waiting for a decision, asylum-seekers are not usually allowed to work. However, those who have waited 12 months or more to hear back about their asylum claim can apply for permission to work.

If granted, they are only allowed to do one of the jobs on an official list of roles drawn up by the Home Office, called the Shortage Occupation List.

This list was expanded in 2022 to include roles like nursing, nursing assistant and carers. People seeking asylum are allowed to work while their claim is being considered, without applying for permission.

RIGHTS ONCE GRANTED

In 2022, 77% of asylum claims were successful at the first stage, meaning that the person was recognised as a refugee and granted status. Of those who were refused and went on to appeal, over half (52%) were successful and were also recognised as refugees and granted status.

Some people are not eligible for asylum, because the Home Office does not judge that they have a specific reason to fear for their safety based on their individual characteristics, but who still need safety and protection in the UK. These people can be granted something called humanitarian protection.

As of 28 June 2022, people granted asylum or humanitarian protection are split into two groups. This is under the Nationality and Borders Act 2022.

People assigned to **Group 1** – people who came to the UK straight from the place they fled, without passing through any other country – are granted a 5-year visa, with the right to work and to apply for their immediate family members (e.g., spouse and children) to join them.

They have the right to work and to claim benefits. Once 5 years have passed, they can apply for ILR.

Group 2 refugees are those who have passed through another country on the way to the UK. For example, this would include people who travelled across land and had to cross the Channel in a boat or lorry in order to reach the UK.

People who travelled in this way – which will be the majority of people who claim asylum in the UK, as it is so difficult for people to travel by plane in order to seek asylum – have far fewer rights, even once their asylum claim is accepted and they are proven to be refugees.

They get a 2.5-year visa, and can only apply for ILR after 10 years (after they have had 4 visas lasting 2.5 years each). They are granted the right to work and can access benefits, but are only allowed to be joined by immediate family if they can prove there are 'insurmountable obstacles' meaning they cannot have a family life if they are not granted family reunion.

People who claimed asylum before 28 June 2022 should be granted a 5-year visa and full family reunion rights, even if they travelled through another country before claiming asylum.

When asylum-seekers have their claims accepted and are granted refugee status (whether they are classified as Group 1 or 2 refugees), they have 28 days before they are evicted from asylum accommodation. This is known as the move-on period, and poses huge problems for newly-recognised refugees.

There is a 35-day wait to get Universal Credit, so there is a significant period of time during which people who have just been granted status have no access to accommodation and have not started receiving benefits. Many people also face administrative hurdles, for example with setting up bank accounts.



RESETTLEMENT

As well as the asylum system, the UK also has a number of resettlement schemes. Under these schemes, people are chosen to be resettled directly to the UK, rather than having to travel here in order to lodge an asylum claim and wait for a decision.

There are a number of different resettlement schemes, including the UK Resettlement Scheme and the Community Sponsorship Scheme. In addition, there are other routes, such as:

- the Afghan Citizens Resettlement Scheme – for Afghan citizens who are at risk
- the Afghan Relocations and Assistance Policy (for Afghans who were previously employed or contracted by the UK Government or armed forces in Afghanistan)
- Family Reunion – for close family members of a person granted refugee status in the UK

The numbers of people resettled through these schemes are relatively small. In the year ending June 2022, 243 people were resettled through the Community Sponsorship Scheme. The UK Resettlement Scheme opened in July 2019, and resettled just under 1,700 people in its first three years.

People who are resettled to the UK are granted Indefinite Leave to Remain (ILR) on arrival. This means that they have the right to work, access healthcare and claim whichever benefits are relevant to their situation.

Local authorities are tasked with organising accommodation, casework and orientation support including English language support. A caseworker funded by central government, but procured by the local authority, helps resettled individuals to navigate support services, to access health services and so on.

Accommodation for those resettled through a Community Sponsorship Scheme is administered by the sponsoring group for the first 24 months. The sponsoring group is also responsible for providing casework support to resettled individuals.

FAMILY MIGRATION

Many people move to the UK to be with a loved one or family member. This is the family migration system. People can move here to join a partner or spouse who is a British citizen, or who has Indefinite Leave to Remain.

People can also come to or remain in the UK because of other family members here. For example, if somebody is the sole carer of a child who is British, or who has lived in the UK for 7 years or more, they can apply for a visa. This visa will last for 2.5 years. People who have this visa will have to wait 10 years before they can apply for ILR.

People who want to come to the UK to live with a partner have to pay **over £3000** to apply for a visa (£1538 in application fees, plus £1560 for access to health care and other costs associated with the application).

To apply, they have to show that their partner earns above £18,600 a year – this is called the Minimum Income Requirement. If their partner does not earn enough, they are usually not allowed to come to the UK, unless they can show that they will have third party support to meet the financial shortfall and that there are exceptional circumstances in their case.

People applying for this visa also have to pass an English language test and sometimes get a TB test (based on where they are coming from).

Some people who come to the UK to join family are put on what is called the 5-year route. This means that after 5 years of living in the UK with a visa – so 2 visas of 2.5 years each – they can apply for Indefinite Leave to Remain (ILR).

Many others are on what is called the 10-year route. This means they have to wait 10 years – and apply for 4 2.5-year visas – before they can apply for ILR. As at January 2023, the total cost of obtaining ILR on the 10-year route is at least £12,937 per person, plus any potential money spent on lawyers to help them navigate the system.

WORK VISAS

Many migrants are in the UK to work. There are lots of different types of work visa, for different types of workers and with different requirements.

There is no general work visa – some of the different types of visa include: skilled worker visa; seasonal worker; health and care worker visa; graduate visa; global talent visa. Since free movement with the EU came to an end, all non-British nationals (apart from Irish nationals) need a visa in order to have the right to work.

People on work visas in the UK have No Recourse to Public Funds. Many work visas are short-term – for example, under the seasonal worker scheme, people can come to the UK to work in the horticulture sector for up to 6 months, and must then leave the UK.

Other types of visas last longer – the Skilled Worker visa can last up to 5 years, after which you can apply for ILR. People on this visa can change jobs while they are here, but have to apply again, and pay up to £1423 in application fees. This is the case even if they change to a new role with the same employer.

The Health and Care Workers visa is similar to the Skilled Worker visa in that people with it can work in the UK for up to 5 years, and can apply for ILR after 5 years. Medical professionals, care workers and healthcare assistants can be eligible for this visa, as long as they have a job offer from an employer approved by the Home Office.

Many work visas allow people to bring family members with them. Again, people on work visas have No Recourse to Public Funds so cannot usually access any benefits or related support.

UNDOCUMENTED PEOPLE

People who are in the UK without a visa (sometimes called being without status) are also called undocumented. People become undocumented for many reasons – for example, if they cannot afford to pay the application fees when they come to reapply, or if they make a mistake on a complex application form.

Once someone loses status, they lose access to key rights and essential services. People who cannot prove their immigration status cannot rent a home, because landlords have to check the immigration status of potential tenants, and would be liable to up to five years' imprisonment if they rent a property to someone without status.

Likewise, employers have to check the immigration status of potential employees, and could be sent to prison for up to 5 years if they employ somebody without the right to work.

This means that people without status are either unable to work, or have to work for exploitative employers who are happy to break the law in order to employ workers who cannot complain about abuses at work, or being paid less than minimum wage.

People without status also often feel unable to seek medical treatment from the NHS, as they face being charged 150% of the cost of their treatment. The NHS also used to share information about patients who could not prove their status with the Home Office, so people could face being detained and removed from the UK after seeking medical treatment. Although this data-sharing has mainly stopped, fear of accessing medical treatment remains high within many undocumented communities.

Restrictions on the lives of people who cannot prove their immigration status extend into many areas of everyday life. They are unable to open a bank account or to drive.

They also face barriers when seeking support from police if they have been the victim of a crime. Police routinely share information about victims of crimes – including domestic abuse and child sexual exploitation – with the Home Office if the person is suspected of not having valid immigration status.

Many undocumented people have lived in the UK for many years or even decades. At present, one of the only ways for undocumented people to get a visa is to prove that they have been in the UK for 20 years.

If they get this visa, they are placed on the 10-year route, meaning they have to wait 10 years – and pay for 4 2.5-year visas – until they can apply for ILR.

NO RECOURSE TO PUBLIC FUNDS

As above, most migrants in the UK have No Recourse to Public Funds. This causes huge hardship, including to children growing up in migrant families. From October 2022, children whose parents have NRPF can access free school meals if they need to. However, they still face hardship and poverty as a result of their parents' immigration status.

People who are in the UK because of their family and private life (for example, to live with a partner) can apply to have the status lifted, and be able to access benefits.

This is called a change of circumstances application, and will only be granted if they can prove they are destitute or at risk of destitution. However, people on work visas, or those who are undocumented, cannot apply to have access to benefits.

Section 17 support is not a public fund. This means that people who have NRPF – either because of the type of visa they are on, or because they are undocumented – can access Section 17 support.

Local authorities often support families who have NRPF, but some local authorities share information about people applying for Section 17 support with the Home Office. This means that migrant families are less likely to seek support, meaning that already vulnerable children are placed at greater risk, and their families are less able to meet their basic needs.

RIGHT TO WORK

As above, people on lots of different types of visas have the right to work in the UK. Everyone in the UK must prove their right to work before they are allowed to be employed – this is either by showing a valid British passport, or proving that they have a visa that gives them the right to work.

Many people have difficulty proving their right to work, and face discrimination from employers unwilling to risk fines or even potential imprisonment if they employ somebody who does not have the right to work.

The situation is especially difficult for people who are waiting for their visa to be renewed. Many migrants have to reapply to renew their visa once their first visa ends after 2.5 years.

Currently, people are waiting up to a year to hear back from the Home Office – during this time, they still have the right to work, but because their visa has technically expired, they are unable to prove it.

This causes huge problems, with people suspended from work without pay or even having their employment terminated because employers are wary about employing someone who can't prove their right to work in the normal way.

Most people who face being suspended or fired will have no recourse to public funds, so will be left without any access to support.

If you would like further information about any of the above, you can contact the **Migrant Champions Network**. We will be able to signpost you to further support, and may be able to speak to a legal advisor.

You can also find detailed information about the immigration and asylum system, including ways for undocumented people to get status, in the **Right to Remain toolkit**.

