



ROUTES TO STATUS FOR UNDOCUMENTED PEOPLE

Many thousands of people live in the UK without valid immigration status. This is often called being undocumented. People become undocumented for many different reasons - for example, because they cannot afford the application fee to renew their visa, or because of a small mistake on a complicated application form. This document lays out some of the ways that people who are undocumented can get back into status, and enjoy more rights.

It's important not to give immigration advice if you are not a qualified advisor - however, you can help explain the system that exists and let people know if there is a way they may be able to apply. You can then signpost them for more legal advice if they need it.

WHERE TO SIGNPOST PEOPLE FOR ADVICE

The Law Centres Network - find your local centre [here](#)

[The Joint Council for the Welfare of Immigrants](#)

[Praxis](#)

ROUTES FOR PEOPLE WHO HAVE LIVED IN THE UK A LONG TIME

- Adults who have been in the UK for more than 20 years can apply for something called 'limited leave to remain'.
- Adults who have been in the UK for less than 20 years can apply for status if they can prove that they would face 'very significant obstacles' if returned to their country of birth.

People who cannot afford the application fee can apply for something called a 'fee waiver.' This is where applicants prove to the Home Office that they cannot afford the fee.

If their application is successful, they will get a visa for **2.5 years**. On this visa, they will have the right to work, but will not automatically be allowed to claim benefits (this is called having 'No Recourse to Public Funds').

However, they can state their personal circumstances when they apply (for example, if they are a single parent), and may be granted access to benefits with their visa.

After 2.5 years, they will have to apply for another visa. They can apply for permanent status ('Indefinite Leave to Remain') after 10 years, so after 4 visas of 2.5 years each. If they are an adult who has already mostly had status for 10 years, but has had short periods without status for 'good reasons' or due to 'exceptional circumstances', they may still be able to apply for indefinite leave to remain

ROUTES FOR YOUNG PEOPLE

- People who are **under 18 and have lived in the UK for 7 years** can apply for status. They will have to prove that it would be 'unreasonable' to expect them to leave the UK. Under this route, they can apply for Indefinite Leave to Remain straight away
- People who were **born in the UK, are under 18 and cannot apply for indefinite status** (for instance because they have not lived in the UK for 7 years yet) can still apply for permission to stay. They must have a parent whose visa is based on their private life, or who is applying for a visa on their private life. They can also apply if they have a parent who has indefinite leave to remain or citizenship, but had a visa as a parent when they were born. Their other parent will also need to have status unless they are a British citizen.

- People who are older than 18 but younger than 25 can apply for status if they can prove that they have lived in the UK for **more than half of their life**

People who cannot afford the application fee can apply for a 'fee waiver.'

If their application is successful, they will usually get a visa for 2.5 years. However, they can **apply to get a visa for 5 years instead.**

On this visa, they will have the right to work, but will not be allowed to claim benefits (this is called having 'No Recourse to Public Funds'). However, they can state their personal circumstances when they apply (for example, if they are a single parent), and may be granted access to benefits with their visa.

After 5 years, they can apply for Indefinite Leave to Remain.

ROUTES FOR PEOPLE WHO HAVE A PARTNER IN THE UK

People who have been living for **2 years** with a partner who is a British citizen, a refugee, an EU national with Settled Status or who has Indefinite Leave to Remain can apply for status.

They will have to show strong evidence about why the relationship **could not continue** outside the UK.

If they cannot afford the application fee, they can apply for a 'fee waiver.'

If their application is successful, they will get a visa for **2.5 years**. On this visa, they will have the right to work, but will not be allowed to claim benefits (this is called having 'No Recourse to Public Funds').

After 2.5 years, they will have to apply for another visa. They can apply for permanent status ('Indefinite Leave to Remain') after **10 years**, so after 4 visas of 2.5 years each.

Domestic abuse

If someone had a visa because they were the partner of a British citizen, a refugee, an EU national with Settled Status or a person with Indefinite Leave to Remain, but the **relationship broke down** because of domestic abuse, they can apply for status.

They can first apply for something called the '**Destitution Domestic Violence Concession**'. If successful, they can claim benefits and will have leave to remain while they submit an application under something called the 'Domestic Violence Rule'.

They must make sure they apply for leave as a survivor of domestic abuse within **3 months** of getting access to benefits under the Destitution Domestic Violence Concession. This is to make sure that they continue to have access to benefits and status until the Home Office has made a decision on their claim.

Under the 'Domestic Violence Rule', they can apply for Indefinite Leave to Remain. This only applies to people who have been on a **spouse or partner visa** and not those on other types of visas.

To apply, they will need to include any proof they have of the fact that their relationship has broken down permanently because of domestic violence. This includes physical violence, emotional, psychological or financial abuse, as well as controlling, coercive or threatening behaviour by their former partner.

There is an application fee for this, but they do not have to pay if they can prove that they cannot afford it.

People can apply even if their previous leave expired a long time ago, and they are undocumented when they apply, as long as their previous leave was as a partner.

If their application is accepted, they will get Indefinite Leave to Remain. This means having the right to work and claim benefits. People with Indefinite Leave to Remain can apply for British citizenship after 1 year.

If their partner passes away

If someone had a visa as the partner of a British citizen, an EU national with Settled Status or someone with Indefinite Leave to Remain, and their partner sadly passes away, they can apply for status. This is called a Bereaved Partner Visa. People can apply even if their previous leave **expired a long time ago**, and they are undocumented when they apply.

If they get a visa, they will have Indefinite Leave to Remain. This means that they have the right to work, and can claim benefits.

ROUTES FOR PEOPLE WHO HAVE A CHILD IN THE UK

- Someone who is the only carer of a child who is British can apply for status. They can also apply for status if their child is not British but has lived in the UK for 7 years or more, or is an EU national with pre-settled status, and it would be unreasonable to make them leave the UK
- If they are the parent of a child who is British, and are separated from the child's other parent, they can also apply for status. They can apply if their child is British, or they are not British but have lived here for 7 years or more, and it would be unreasonable to make them leave the UK. They will have to show the Home Office that their relationship with the child is 'genuine and subsisting.'

People who cannot afford the application fee can apply for something called a 'fee waiver.' This is where applicants prove to the Home Office that they cannot afford the fee.

If their application is successful, they will get a visa for **2.5 years**. On this visa, they will have the right to work, but will not automatically be allowed to claim benefits (this is called having 'No Recourse to Public Funds'). However, they can state their personal circumstances when they apply (for example, if they are a single parent), and may be granted access to benefits with their visa.

After 2.5 years, they will have to apply for another visa. They can apply for permanent status ('Indefinite Leave to Remain') after 10 years, so after 4 visas of 2.5 years each. If they are an adult who has already mostly had status for 10 years, but has had short periods without status for 'good reasons' or due to 'exceptional circumstances', they may still be able to apply for indefinite leave to remain

PROTECTION

People who cannot return to the country they were born in because they fear what would happen to them if they returned can apply for **asylum**. They will have to show that their fear of returning to their home country is based on their race, religion, nationality, political opinion or because they are a member of a particular social group.

They will also have to show that they **cannot get protection** from the authorities in their country of birth, and that there is nowhere in their country of birth that they could move to in order to find safety.

People who cannot return to their home country but not because they fear personal persecution can still apply for status. This is called **humanitarian protection**.

A person can apply for humanitarian protection if they cannot return to the country they were born in because that country is at war or there is serious violence there. They can also apply if they fear they would face the death penalty in their country of birth, or fear they would be killed there.

When applying for humanitarian protection, they will also have to show that they cannot get protection from the authorities in their country of birth, and that there is nowhere in their country of birth that they could move to in order to find safety.

People who are making a claim for asylum or humanitarian protection can get free legal advice. This is called Legal Aid. They can access Legal Aid no matter what country they are from. Legal Aid is not a public fund, so people can access it even if they have No Recourse to Public Funds.

People who are granted asylum or humanitarian protection get a visa for 5 years if they applied before 28 June 2022, or travelled straight to the UK from the country where they were at risk. With this visa, they have the right to work and can claim benefits.

People who applied after 28 June 2022 and travelled through another country to reach the UK will be granted a visa for 2.5 years if their claim is accepted.

TRAFFICKING / MODERN SLAVERY

People who are victims of human trafficking and modern slavery could apply for what is called “discretionary leave to remain” on that basis. They will be accepted if an independent part of the Home Office, called the **National Referral Mechanism**, accepts that this has happened to you.

Local authorities are designated **first responders**, which means they are able to refer someone to the National Referral Mechanism if they suspect they have been a victim of trafficking or modern slavery.

Human trafficking is broken down into three main components:

- **Action:** Someone was moved by another person from one place to another.
- **Means:** The person used or threatened to use force or coerced the individual.
- **For the purpose of exploitation:** The person did this because they wanted to harm the victim by forcing them to work, making them commit crimes, making them work in the sex industry etc. It is not the action that matters, only that the person intended to do one of these things to the person.

The Home Office accepts that children can be trafficked even if they were not coerced. This is because a child cannot consent to what has happened to them.

If the National Referral Mechanism accept that someone is a victim of trafficking / modern slavery, they can apply for a discretionary visa for three reasons:

- They need a visa because of their **current circumstances**: This could be because they need to complete medical treatment that is not available in your country of birth.
- They need a visa because they are trying to get **compensation** against the person or people who harmed them.
- They need a visa because they are **helping the police** with their investigations against the people who harmed them

People who get discretionary leave to remain can generally stay for a **minimum of 12 months** and a **maximum of 30 months**. Before their visa ends, they can apply again if the reasons why they were given the visa continue. They would then need to complete an online form and pay a fee.

People who have been a victim of human trafficking and modern slavery which started in the country where they were born could also apply for asylum. This is because they may fear the people who originally trafficked them, or fear being trafficked again.

FURTHER RESOURCES

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**.

