

# Gerry Hickey

A guide to Asylum and Immigration in the UK -  
Understanding entitlements



**maternity action**

challenging inequality: promoting wellbeing



# Ways people enter or remain in the UK

The UK has both an asylum system and an immigration system. It also has resettlement programmes

## **Asylum**

This refers to the process of claiming asylum either at the port of entry (airport, sea port) or in country at a designated Home Office site

# Ways people enter or remain in the UK

## **Asylum continued:**

People may claim asylum on arrival, shortly afterwards or when they have been in the country for some time.

Whilst a person's claim for asylum is being considered by the Home Office or, if refused, by the Immigration and Asylum tribunal, they are known as asylum seekers

<https://righttoremain.org.uk/toolkit>

# Illegal Migration Act 2023

This Act radically changes the asylum system in the UK  
Only some parts of the Act are in force ( Nov 23)

The Act makes it almost impossible for a person, who has arrived 'irregularly' after July 2023, to make a claim for asylum in the UK.

This includes those who arrive on small boats, back of lorries or other forms of transport.

# Illegal Migration Act 2023 cont.

All those arriving 'irregularly' will never have their claims for asylum considered. The Act places a duty on the Home Secretary to remove people to their home country or a safe third country . At present the only 'safe' third country the UK Gov has a deal with is Rwanda (currently the subject of a legal challenge)

In future, the only way a person can be given asylum in the UK will be through resettlement schemes

No details of how these schemes will operate, and how many will be allowed to come to the UK, are currently available

More information about the Act [here](#) and [here](#)

The Act likely be subject numerous legal challenges over the next few years

# Ways in which people enter or remain in the UK

## Immigration system

People can apply for various visas to enter the UK from abroad. This includes students, workers, partners or spouses, dependents of partner and spouses and visitors. These are time limited visas and normally come with conditions attached

People who are in the UK, and who may have entered the UK on another type of visa, can also apply for leave to remain on family and private life grounds under immigration rules

<https://righttoremain.org.uk/toolkit> (see heading Immigration)

# Ways in which people enter or remain in the UK

## Resttlement Programmes

The UK has had various resettlement programmes since 2004: Some of these have ceased such as the Syrian Programme

## Current Programme/ Visa Schemes

- Ukraine: Family and Hosting schemes. Right to live, work, and claim benefits in the UK <https://advice-ukraine.co.uk/>
- Hong Kong National British Overseas: This group are given 30 month visas and have a right to live and work in the UK. <https://www.gov.uk/guidance/hong-kong-uk-welcome-programme-guidance-for-local-authorities> No Recourse Public Funds restriction apply to this group( See later)
- Afghans: Two schemes operating. Right to live, work and claim benefits in the UK. <https://www.gov.uk/guidance/afghan-citizens-resettlement-scheme> and <https://www.gov.uk/government/publications/afghan-relocations-and-assistance-policy/afghan-relocations-and-assistance-policy-information-and-guidance>

# Resettlement schemes

- Generic resettlement scheme facilitated by UNHCR. Those resettled have a right to live work and claim benefits in the UK

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1011824/Resettlement\\_Policy\\_Guidance\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1011824/Resettlement_Policy_Guidance_2021.pdf)

Nationals from countries in the UK's resettlement schemes may be here on other types of visa (student, worker) or may be in the asylum system ( e.g. Afghans)



# Biometric Residence Permit (BRPs)

## Visa etc

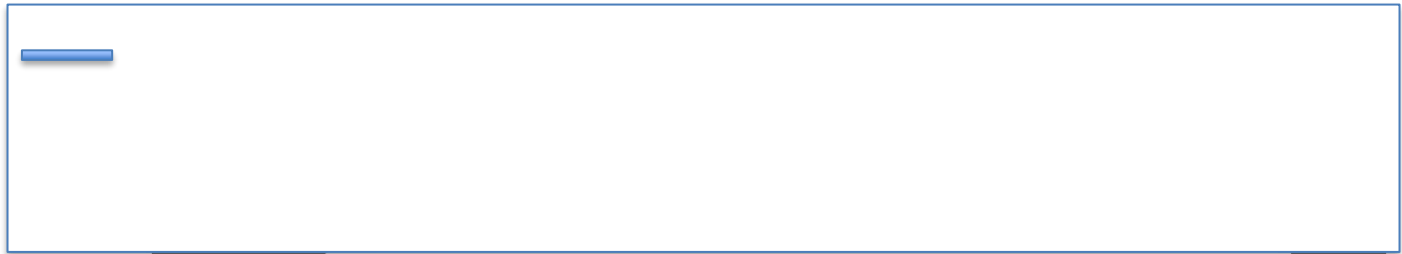
Anyone entering or applying for leave in the UK for over 6 months will be issued with a BRP if their application is successful.

Those applying from abroad will be issued with a temporary visa (vignette) for 30 days and collect their BRP after the arrive

# Biometric Residence Permit



# Types of Residence Permits



# Biometric Residence Permits Settlement



# ARC CARD: Asylum Claimed (Application registration card)



# Rights and Entitlements

A person's rights and entitlements to housing, support, benefits and **secondary** healthcare, will depend on the type of leave a person has been given

There are also people in the UK who have no form of leave either because the visa has run out or they are in the process of applying for leave to remain

We refer to this group as undocumented migrants

# ***‘No recourse to public funds’(NRPF)***

## **Various groups of migrants will have NRPF**

- Not an immigration status but an exclusion or condition affecting various groups of migrants

Those on visas, some migrants with forms of limited leave, undocumented migrants...

‘No public funds’ often written on Bio Metric Residence Permits(BRPs) – issued to those granted leave over 6 months





# What are public Funds

- Most mainstream benefits such
- income-based jobseeker's allowance
- income support
- child tax credit
- universal credit
- working tax credit
- a social fund payment
- child benefit
- housing benefit
- council tax benefit
- council tax reduction....
- Social housing from the council and homelessness assistance

Full list available here:

<https://www.gov.uk/government/publications/public-funds--2/public-funds>

# Public Funds cont.

Public funds **does not include** contribution based benefits (including Statutory Maternity pay, Maternity Allowance)

Education or the NHS are also not public funds but some groups of migrants *may be chargeable for some secondary NHS care, including maternity care.*

# Home Office Support Asylum seekers

Asylum seekers Section (cash and housing)

Until asylum claim fully refused

Dependents supported

£47.39 per family member -ends 21 days negative  
asylum decision (or 28 days positive decision, goes  
up marginally in April 2022)

<https://maternityaction.org.uk/advice/asylum-seekers-financial-support-and-housing/>

# Home Office Support Refused Asylum Seekers

- Section 4 support (store card and housing)
- Can be used in shops with debit and credit card machines
- Limited to some groups of refused asylum seekers who meet a narrow criteria
- Need to demonstrate barrier to return (fresh claim, taking steps to return, **late stages of pregnancy\***)
- Dependents supported
- £47.39per family member

[Refused asylum seekers – financial support and housing - Maternity Action](#)

# Extra payments whilst pregnant or new mother for those receiving Home Office support

## Extra support during pregnancy

£3.00 extra during pregnancy

£300 Maternity Grant for Asylum Seekers  
£250 Refused Asylum Seekers

Extra payment for children under 16yrs

Refused Asylum Seekers not provided in cash but added to store card (ASPEN)

[http://www.asaproject.org/uploads/Factsheet\\_9\\_Extra\\_payments\\_s4\\_and\\_s95.pdf](http://www.asaproject.org/uploads/Factsheet_9_Extra_payments_s4_and_s95.pdf)

# ASPEN cards asylum seekers, refused asylum seekers



# National Referral Mechanism

## Victims of trafficking/modern slavery

The National Referral Mechanism is a framework for identifying and referring potential victims of trafficking, modern slavery which provides support, including housing and financial support, whilst their case is being considered.

<https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales>

# Mainstream Benefits and Housing

Most of those coming into the UK on resettlement programmes, and those who are awarded Refugee Leave following an successful asylum claim, will be entitled to claim mainstream benefits and local authority housing and will have access to public service such as secondary healthcare. They will normally not have to meet 'residency tests' to qualify.



# Undocumented Migrants

- This includes those who overstayed visas
- Those who are awaiting a decision from the Home Office on their application for immigration leave
- Those who have reached the end of the asylum process

Fees for making immigration applications are very high and individuals also need to pay the Immigration Health surcharge. Fees can run to several thousand pounds for a family

# Undocumented Migrants cont

Those who are undocumented are not entitled to any formal forms of support except in very limited circumstances. Many of this group will be living on the margins of society and at serious risk of being exploited.

Undocumented families with children- Support of last resort Section 17 of the Children's Act

Project 17 specialises in this area and provides great factsheets and advice in this area [www.project17.org.uk](http://www.project17.org.uk)

# Healthcare

**Primary healthcare** is available to all groups of migrants regardless of their status. Everyone is also entitled to register with a GP

HC2 certs are not a public fund so those with low, or no income, can apply for these certs which help towards the cost of prescriptions, glasses, dentist

<https://maternityaction.org.uk/advice/no-recourse-to-public-funds-free-prescriptions-and-other-nhs-healthcare-services-for-pregnant-women/>

<https://maternityaction.org.uk/advice/how-to-register-with-a-gp-in-england>

# Healthcare cont.

Charging for secondary healthcare for 'overseas visitors' in England has been in place since 1989

Charging regs introduced in 2015 ( amended in 2017, 2021,) require the NHS to identify who is chargeable for secondary healthcare and to seek payment

Maternity care is chargeable to those not **exempt** but must never be withheld for want of payment

# Healthcare cont.

Main groups of migrants chargeable for secondary healthcare are visa over stayers, visitors, and people who have reached the end of the asylum process and who are not in receipt of Home Office support

The charging regs are complicated and poorly understood which leads to incorrect charging, including for maternity care

Maternity Action has the UK's only dedicated advice service for women who have been charged for their maternity care

<https://maternityaction.org.uk/maternity-care-access-advice-service/>

# Pregnant Women and Maternity Exemption Certificate

All pregnant women regardless of their immigration status will qualify for free prescriptions and dental care throughout their pregnancy and for 12 months after giving birth.

They can also apply for a HC2 certificate under the low income scheme or if on benefits.

**Note:** Having a Maternity Exemption Cert does not mean woman will not be charged or her NHS maternity care if she falls within one of the chargeable groups.

# Migrant Women's Rights Service

Gerry Hickey, Senior Project Officer

- Second Tier Advice line: Mon 2-4pm and Thursday- 2-4pm Tel: 0207 2516189
- Email: advice Migrant Women Rights Service
- [migrantwomensrights@maternityaction.org.uk](mailto:migrantwomensrights@maternityaction.org.uk)

## Maternity Care Access Advice Service

<https://www.maternityaction.org.uk/advice-2/maternity-care-access-advice-service/>

## Maternity Action Information Sheets

<https://www.maternityaction.org.uk/advice-2/mums-dads-scenarios/3-women-from-abroad/>