

Financial support

Entitlement to social security depends on an individual's entitlement to public funds. It is important to note that 'public funds' are clearly defined and include an exhaustive list of benefits. The full details can be found here https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772305/Public_funds_v14.0ext.pdf

Public funds are not all funds distributed by a public authority, e.g. support from local authorities' social work services does not qualify as a public fund.

People seeking asylum

Navigating the asylum support system can be complex, and regulations change regularly.

We advise that organisations supporting people who are still seeking asylum seek specialist advice from one of the organisations listed at the end of this factsheet to ensure that they provide correct and up-to-date advice on people's eligibility for Home Office support.

Asylum seekers and their dependants¹ do not have recourse to public funds.

Once someone registers an asylum claim and until they are appeal rights exhausted, they can access support (accommodation and financial support) from the Home Office. This is commonly known as Section 98 and Section 95 support.²

The eligibility criteria are to:

- Have an ongoing asylum claim; AND
- be destitute or expected to become destitute within 14 days.

The weekly allowance is loaded onto a debit card (ASPEN card) each week. The card allows asylum seekers to get cash from a cash machine. Current support rates can be found on the GOV. UK website.³

Expectant mothers and parents with new babies can apply for additional financial support from the Home Office and will need to provide a MATB1 ('Maternity') certificate to do this.

Asylum seekers living in Home Office accommodation are not liable for council tax or utilities bills.

People refused asylum

Families whose asylum claims are refused, will remain eligible for asylum support until their youngest child reaches the age of 18.

1. Broadly, dependants are taken to mean people who are already registered as dependants on a person's asylum claim; and/or spouses, partners and children aged under 18. For full guidance see Home Office asylum support regulations.

2. This asylum support was introduced by the Immigration and Asylum Act 1999

3. www.gov.uk/asylum-support

Single people, or couples without dependent children, will have their asylum support stopped 21 days after their appeal rights are fully refused.

Some people in this situation may be eligible for a limited form of cashless support known as Section 4 support. To qualify for Section 4 support, refused asylum-seekers must be destitute and meet a narrow set of criteria:

- To be taking all reasonable steps to leave the UK or facilitate their departure;
- To be unable to leave the UK due to a physical impediment to travel or for some other medical reason;
- That in the opinion of the Secretary of State there is no viable route of return to their country of origin;
- To be granted permission to proceed with an application for judicial review of the decision on their asylum claim; OR
- That the provision of support is necessary to avoid breaching their human rights.

Weekly allowances are paid on a pre-paid Visa card (ASPEN card) but unlike Section 95 support, Section 4 recipients cannot withdraw money using ATM machines.

This is a complex area of work and specialist advice should be sought from the organisations listed at the end of this factsheet.

When asylum seekers are not entitled to Home Office support but have significant community care needs, they can receive support from their local authority under Section 12 or 13a of the Social Work (Scotland) Act 1968.

When asylum seeking families are not entitled to Home Office support, they can receive support from their local authority under Section 22 of the Children Act (Scotland) 1995.

National Guidance is now available to support local authorities to support people with No Recourse to Public Funds. See section on additional support for references.

Unaccompanied Asylum Seeking Children are the responsibility of local authority Social Work Services under Sections 29 and 30 of the Children (Scotland) Act 1995.

Refugees

People granted refugee status or Humanitarian Protection do have recourse to public funds. Some people granted Discretionary Leave to Remain may not have access to public funds. If so, this can be reviewed by the Home Office if requested.

Refugees can start applying for benefits from the day they are granted status and should do so before their asylum support stops,⁴ as the level of benefit paid to asylum seekers by the Home Office is lower than that of mainstream benefits.

Asylum support will end 28 days after the date of the decision to grant status. This is called 'the move-on period'.

Refugees who arrive through resettlement can apply as soon as they arrive in the UK.

Refugees have the same access as other UK residents to mainstream benefits and public funds, provided by DWP, HMRC, Local Authorities and including the Scottish Welfare Fund.

It is worth highlighting the two following benefits which have eligibility rules specifically for refugees and people who have been granted Humanitarian Protection:

- **Personal Independent Payment (PIP)**
People who are granted Refugee Status and Humanitarian Protection are exempted from the Past Presence test.⁵
- **Integration loan**
In addition to mainstream benefits, refugees can apply for Integration Loans available from the Home Office to support with integration costs. These are interest free but have to be paid back. They are only available to people granted refugee or humanitarian protection status and dependants over 18 years old. More information on eligibility and how to apply is available here

www.gov.uk/refugee-integration-loan

Only one loan is permitted for each individual or couple (where they have made a joint application).

4. As per the Government guidance for new refugees www.gov.uk/government/publications/refugees-guidance-about-benefits-and-pensions/help-available-from-the-department-for-work-and-pensions-for-people-who-have-been-granted-leave-to-remain-in-the-uk#what-to-do-now-you-have-been-granted-status
5. To meet the past presence test was deemed discriminatory contrary to the UK's obligations under the Refugee Qualification Directive (2004/83/EC) and Article 14 of the European Convention on Human Rights – www.cpag.org.uk/content/dla-refugee-children and <https://www.gov.uk/pip/eligibility>

Habitual Residence Test

Refugees need to take the first part of the Habitual Residence Test,⁶ i.e. DWP checks that they have the appropriate right to reside. The second part about the amount of time spent in the UK before claiming benefits does not apply to refugees.

National Insurance Numbers

Refugees should be issued with a National Insurance Number (NINo). It is now added on the back of refugees' Biometric Resident Permit.

Not having a NINo is not a barrier to starting a benefit claim to the DWP, HMRC or Scottish Welfare Fund grants.⁷

Pathways when access to benefits is delayed/denied

In any cases where benefit claims are blocked due to the lack of a NINo or perceived failure of the Habitual Residency Test criteria, the decision should be challenged via DWP escalation routes, which are provided to advice agencies such as Scottish Refugee Council and Citizen's Advice Bureaux.

Crisis Grants, available through the Scottish Welfare Fund, can be applied for when refugees are destitute due to waiting for new benefits after their asylum support has stopped.

Additional Support

■ Asylum

Asylum Support Appeal Project (ASAP)

ASAP offers legal representation and advice to asylum seekers and refused asylum seekers appealing against Home Office decisions to refuse or withdraw their housing, financial subsistence, or both. ASAP also offers training and second tier advice to practitioners supporting asylum seekers.

www.asaproject.org/

Scottish Refugee Council

Scottish Refugee Council's Services and Helpline can be contacted for advice – more information is available here

www.scottishrefugeecouncil.org.uk/what_we_do/refugee_services

British Red Cross

British Red Cross offices offer services to asylum seekers and refugees

www.redcross.org.uk/get-help/get-help-as-a-refugee##

No Recourse to Public Funds – NRPF

Migrants' Rights and Entitlements to Local Authority Services and Support, National Guidance, February 2019

This guidance sets out the current legal framework and good practice to assist local authorities in meeting their statutory duties and delivering an effective social work response when working with people who have no recourse to public funds (NRPF).

www.migrationscotland.org.uk/migrants-rights-entitlements/introduction/1-1-how-use-guidance

Migrant Help

Migrant Help is a charity contracted by the Home office to provide advice and information to all asylum seekers in the UK. They run an asylum helpline that is free.

Free asylum helpline: 0808 8000 630

6. www.gov.uk/government/publications/refugees-guidance-about-benefits-and-pensions/help-available-from-the-department-for-work-and-pensions-for-people-who-have-been-granted-leave-to-remain-in-the-uk#eligibility-and-habitual-residence-test

7. *Scottish Welfare Fund Guidance* June 2018 – www.gov.scot/publications/scottish-welfare-fund-statutory-guidance-9781788519687/pages/8/

■ Refugees

Child Poverty Action Group Scotland (CPAG)

CPAG Scotland works to improve life for low-income families in Scotland through campaigning and lobbying, and to ensure families get the correct information through welfare rights work, training, information and an advice line for advisers.

CPAG has a range of publication on Migrants and Refugees' entitlement to welfare benefits, including:

www.shop.cpag.org.uk/benefits-for-migrants-handbook-10th-edition

CPAG also offers a dedicated advice line for frontline advisors and support staff in Scotland

www.cpag.org.uk/content/advice-line-frontline-advisers-and-support-staff-scotland

www.cpag.org.uk/scotland

Citizens Advice Scotland and Citizens Advice Bureaux

Citizens Advice Scotland compiles helpful resources including on housing rights

www.citizensadvice.org.uk/scotland/housing/

For individual advice, Citizens Advice Scotland offers advice on the phone, via live chat or face-to-face in a Citizens Advice Bureau

www.citizensadvice.org.uk/scotland/about-us/get-advice-s/

Scottish Refugee Council

Scottish Refugee Council's Services and Helpline can be contacted for advice – more information is available here

www.scottishrefugeecouncil.org.uk/what_we_do/refugee_services

■ Reunited families

British Red Cross

British Red Cross offices offer services to asylum seekers and refugees

www.redcross.org.uk/get-help/get-help-as-a-refugee##