



Migrants and housing

Introduction to Migration

Guidance booklet #7



Migration Yorkshire
supporting local migration services



Integration up North
Training and Development in the North of England



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Who is this guidance for?

Migrants and housing is part of the *Introduction to Migration* series from the Integration up North project. The series provides a basic guide to migration for people working in public sector organisations: local authorities (including health services), police, fire and rescue services, probation services, Jobcentre Plus, Trades Unions and others. It should also be useful for those working in the voluntary and community sector.

The guidance aims to improve the knowledge and understanding of migration among service providers, so that they can shape their service to support the integration of new arrivals to the benefit of both the newly-arrived migrants and the wider local community. Throughout the guidance there are examples from practice across the northern region, and experiences of new arrivals in these areas. While the focus is migration to the north of England, it should be useable in other areas.

This is intended to be an easy-to-use reference document. It does not provide legal advice or a detailed guide to immigration law and policy. In such a fast-changing context, information can quickly become out of date. All information should be checked with an expert or the Home Office if in doubt. We have highlighted other sources of information and guidance where it exists, for further reading and future reference.

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The *Introduction to Migration* series was edited by Pip Tyler, with most Integration up North (IUN) case studies written by Nahida Khan. The project and guidance documents would not have been possible without contributions and advice from our migrant volunteers, migration champions in our partner organisations, and our training delegates who commented on the materials.

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Introduction: *why Migrants and housing?*

This *Introduction to Migration* booklet provides guidance on migrants and housing, focusing particularly on the responsibilities of statutory bodies: local authorities, health and police services. Housing has become a hot topic when discussing migration, and the Government has promised to bring forward new measures or legislation in this area. This booklet covers the law as at May 2015. The guidance:

- gives a brief introduction to the facts on migrants and housing
- explains the equalities duties of all public authorities that are relevant to housing
- covers the private rented sector, since most newer migrants live in this sector outlining the relevant law and the common issues presented by this type of housing
- explains which migrants are eligible for housing association or registered provider accommodation, for housing allocation and for local authority homelessness services, and explores some common problems with this
- introduces other statutory housing resources provided by social services for vulnerable adults and children in certain very limited circumstances and the accommodation provided by the Home Office for asylum seekers.

However, this introductory guide is not intended to be used to assess housing and homelessness applications. This guidance also does not cover home ownership generally as by the time migrants come to buy a home, they tend to have similar needs to non-migrants.

Data on migrants and housing

Key message 1: New migrants tend to rent privately but over time they tend to use housing like anyone else.

What sort of housing do migrants in the UK use? It depends, of course, how you define 'migrant' although the available data often is based on those not born in the UK¹ (see *Why does migration matter?*² for a discussion of migrant terms).

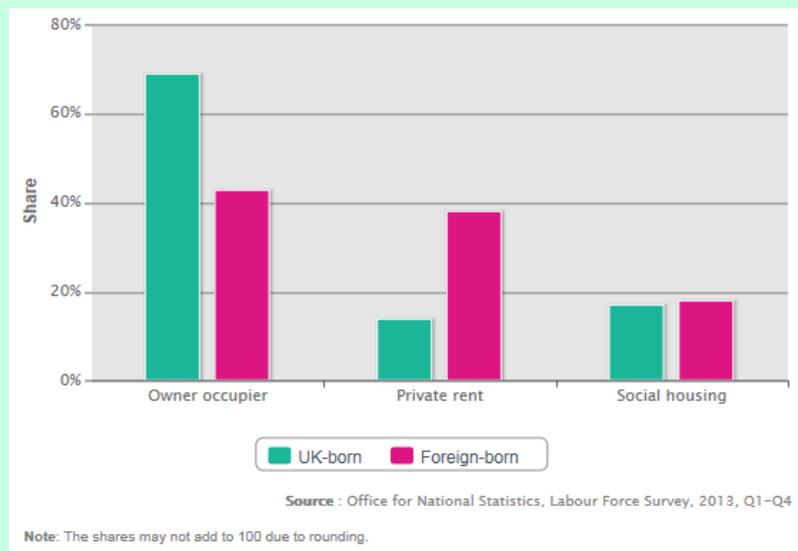
A useful briefing by the Migration Observatory (*right*) explains most of the evidence. *Figure 1* from this briefing compares the types of tenure of people born in the UK and those born abroad.



¹ Of course, many UK citizens are born abroad because their British parents were living abroad when they were born or because they arrived in the UK as migrants and subsequently became British citizens, so by no means all of those described as 'foreign born' would usually be understood to be migrants.

² Integration up North (2015) *Why does migration matter?* Introduction to Migration series, Guidance booklet #1. www.migrationyorkshire.org.uk/introductiontomigration-iun

Figure i: Accommodation of UK-born and foreign-born individuals



Data comes from the 2011 Labour Force survey, but note this tends to exclude those who have arrived very recently or who are living in temporary accommodation like hostels.

Source: Migration Observatory (2014)³

These figures tell us:

- Most (69%) UK-born people are home owners, but fewer than half of non-UK born people are home owners (43%)
- Nearly three times as many migrants (38%) are in the private rented sector compared to the British born (14%)
- The same level of UK nationals and migrants are in social housing (at 17 - 8%).

Migrants who are renting privately tend to be new arrivals:

- People who have arrived in the last five years are much more likely than other migrants to be renting privately (80% of new arrivals rent compared with the overall 38% of the whole migrant group)
- Once migrants have been in the UK for more than 20 years, there is very little difference between them and other people in terms of housing use.

Key message 2: Migrants do not have preferential access to social housing. Migrants living in social housing are in proportion to their presence in the population.

While British and foreign born people have similar levels of renting social housing overall, many may have been renting for years. What about *new* lettings of social housing? The Department for Communities and Local Government records (known as CORE) show:

³ Migration Observatory (2014) *Migrants and Housing in the UK: Experiences and Impacts*. Migration Observatory briefing, 2 October 2014 www.migrationobservatory.ox.ac.uk/briefings/migrants-and-housing-uk-experiences-and-impacts. All data in this section comes from this briefing. *Figure i* is reproduced from p3.

- 5% of new lettings to existing tenants (transfers) are to foreign citizens (2.2% were to EU citizens)
- 9% of new lettings (new tenancies) were to foreign citizens (just over half of these to EU citizens)

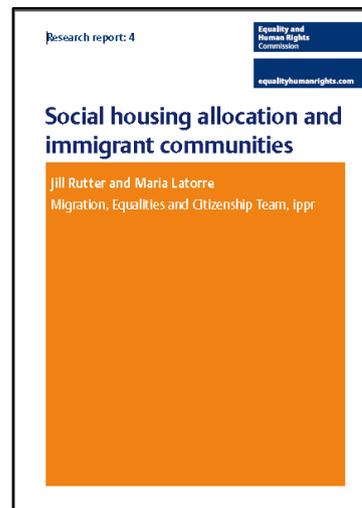
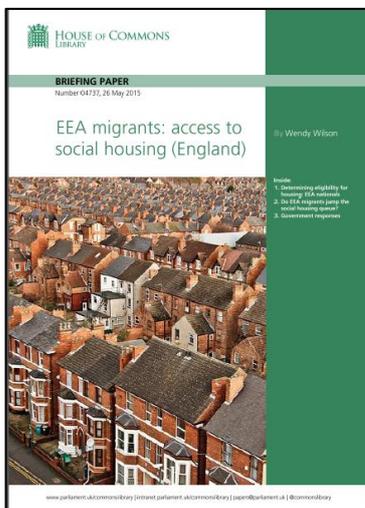
Another source (English Housing Survey) found that less than 10% of social housing households had a non-UK/Irish head of household (the 'reference person' with the highest income).

Given that 9.1% of the population of the UK were non-UK citizens at the last census, lettings of social housing to migrants seem to be a fair reflection of their proportion in the population.

Other sources confirm that migrants do not receive preferential access to social housing:

A Parliamentary briefing on social housing access⁴ (*below*) gives an overview of the law on the rights of EU migrants to access social housing, followed by an examination of whether EU migrants are able to 'jump the queue' – it provides a range of research evidence refuting this myth.

The Equality and Human Rights Commission⁵ (*below*) found no evidence that social housing allocation favours migrants, and in fact allocation policies may unintentionally, discriminate against ethnic minority communities. It discusses why these perceptions persist, and suggests that public concern on this question is rooted in the fact that social housing supply does not meet demand.



⁴ W Wilson (2015) *EEA migrants: access to social housing (England)*. House of Commons Library Briefing Paper Number 04737, 26 May 2015 www.parliament.uk/briefing-papers/SN04737/eu-migrants-entitlement-to-housing-assistance-england

⁵ J Rutter and M Latorre (2009) *Social housing allocation and immigrant communities*. Equality and Human Rights Commission Research Report 4. www.equalityhumanrights.com/sites/default/files/documents/4_social_housing_allocation_and_immigrant_communities.pdf

Influences on migrant housing patterns

Key message 3: Migrant housing choices are determined by factors including planned length of stay, money, access to information and immigration status (which may determine eligibility for social housing and benefits).

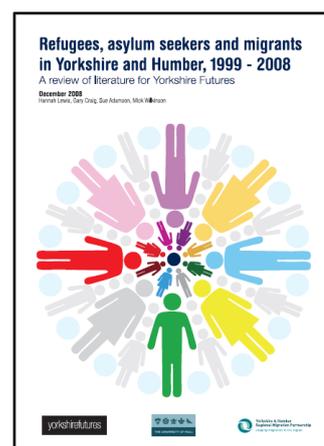
In some ways, migrants are like any other people looking for housing: they have to take many of the same factors into account. For example, everyone has to find housing that is within their budget. Migrant choices will be influenced in additional ways:

- Those coming for limited stays (students, some workers) need housing that is available immediately for a specific period
- Those coming to join family members usually find that their housing choices have been made for them by those already here
- New arrivals may know less about what is available; they may rely on community or employers for information and advice, and this may also limit their options.
- Migrants also have to take their immigration status into account as this may limit further their options. It may restrict access to social housing and also the benefits that others use to subsidise high private sector rents.

Research conducted in Sheffield⁶ (*right*) looked at the housing pathways of new migrants to the area, focusing on people from Liberia, Pakistan, Poland and Somalia who had arrived within the previous five years. It concluded that ‘the arrival experiences of new immigrants were largely determined by their immigration status, associated legal rights and related opportunities.’

The research also found that ‘new immigrants had arrived in the UK with little understanding of the subtleties of the housing system and were still getting to grips with issues such as how to access different tenures. They were also rarely skilled players of the welfare system.’ This has implications for ensuring migrant access to housing services.

A good synthesis of local migration research undertaken in Yorkshire and Humber (*right*) gives more detail specifically about social and private sector housing in this region up to 2008.⁷ This is complimented by the Migration Yorkshire online research database which also summarises local research studies.⁸



⁶ D Robinson et al (2007) *The housing pathways of new immigrants*. Joseph Rowntree Foundation: York www.jrf.org.uk/publications/housing-pathways-new-immigrants

⁷ H Lewis et al (2008) *Refugees, asylum seekers and migrants in Yorkshire and Humber, 1999-2008*. Yorkshire Futures pp.60-62 www.migrationyorkshire.org.uk/publications

⁸ *Migration Research Database, Yorkshire and Humber* www.migrationyorkshire.org.uk/researchdatabase

How equality duties relate to housing services

Key message 4: Migrants are protected by the Equality Act from discrimination against them on grounds of nationality or ethnicity. Discrimination may occur if they are subjected to inappropriate immigration status tests. Public authorities have additional duties to ensure all communities have equal access to relevant services.

Migrants, like anyone else, are protected by the Equality Act 2010.⁹ Race is a ‘protected characteristic’ under the Act, and race includes colour, nationality and ethnic or national origins. So direct or indirect discrimination against migrants on grounds of their nationality (e.g. as Indian or Spanish) or ethnicity (e.g. as Roma or Sikh) is illegal.

Key message 5: All housing providers, including private landlords and housing associations, are subject to the Equality Act. They must not discriminate against applicants and service users, including migrants; this includes the indirect discrimination involved in applying immigration status tests. Where the law requires an immigration status check to be made, it can be, but care must be taken not to discriminate in doing so.

Because immigration status generally depends on nationality, refusing to provide a service (including housing) to someone because of their immigration status is likely to be direct and illegal race discrimination. Carrying out immigration checks that are not required by law is likely to be indirect, but equally illegal, race discrimination because it disadvantages certain national groups. This applies to all services including private landlords or housing associations making their own allocations.

Exceptions are made where national legislation explicitly excludes certain people on the basis of their immigration status. This is the case for allocations of social housing and for homelessness services provided by local authorities. It will become relevant to private sector landlords in relation to undocumented migrants as the Immigration Act 2014 is rolled out.

All public authorities (including local councils, police and health services and any other bodies carrying out work on contract from them) are also subject to the public sector equality duty found in the Equality Act, as highlighted in *Figure ii*. They must also tackle prejudice and promote understanding in order to promote good relations.

Under these duties for example, local authorities may provide advice in relevant languages or make arrangements to ensure that new communities are aware of their services. They have a duty to consider what they should do to ensure that migrants have equal access to all relevant services.

⁹ Equality Act 2010 www.legislation.gov.uk/ukpga/2010/15/contents

Figure ii: Extracts from the Public Sector Equality Duty

'A public authority must, in the exercise of its functions, have due regard to the need to -
(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.' c.15 Part 11, Ch1 Section 149(1)

....

'due regard, in particular, to the need to
(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.' c.15 Part 11, Ch1 Section 149(3)

Source: Equality Act (2010)¹⁰

Accessible housing services

A guide from the Chartered Institute of Housing aimed at local housing authorities and social landlords includes examples and contact details of good practice across all housing fields. An extract shown in *Figure iii* explains why housing providers need to engage with migrants and migration.

Figure iii: Why housing providers need to engage with migrants and migration

'Although most recent migrants live in private rented accommodation, strategic housing staff, social landlords and tenants need to get involved in local responses because:

- migration is now a fundamental influence on housing
- most housing organisations already have links with new migrants – as employees, as tenants, and as people requiring advice and assistance (including homeless individuals and families) who may be future tenants
- most landlords manage mixed-tenure accommodation in mixed-tenure neighbourhoods, so need to take account of private as well as social lettings
- social landlords have wider roles in neighbourhoods; migration is often a key local issue and their on-the-ground presence and community links mean they are well placed to lead.'

Source: CIH (2012)¹¹ p10

¹⁰ Equality Act 2010 www.legislation.gov.uk/ukpga/2010/15/contents c.15 Part 11, Ch1 Section 149(5)

¹¹ Chartered Institute of Housing (CIH) (2012) *Housing and migration: A UK guide to issues and solutions* www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/housingandMigration2012.pdf

Migrants report a range of housing issues, including agencies charging for finding accommodation, illegally high rents, overcrowded and substandard housing, and various problems with 'tied accommodation' where their employer also provides accommodation.¹² There are additional difficulties faced by certain migrant groups. For example, LGBT asylum seekers have been reported to abscond from Home Office accommodation due to homophobia, ultimately leading to greater vulnerability.¹³

Migrants may face many barriers to using local authority advice, information and support on housing services; some are explained in *Figure v* overleaf, adapted from the *Migration Housing Toolkit*.¹⁴

One example of how a local authority can develop work to tackle barriers and ensure that migrants get equal access to services was developed in East Sussex: *Figure iv* outlines the aims of their online *Toolkit* and accompanying *Good Practice Guide* on working with migrants in the private rented sector.

Figure iv: East Sussex Toolkit and Good Practice Guide

'The main aim of the guide is to develop and embed best practice in relation to working with migrant communities in East Sussex.

More specifically the guide aims to:

- provide East Sussex Local Authorities with information about migrants in their area that they can use to improve service delivery and planning in the private rented housing sector work
- help develop partnership working with other agencies working with migrants in the area
- improve the ability of local authorities to tackle unsafe and overcrowded private rented accommodation in their area occupied by migrant workers
- ensure that migrants have access to relevant local authority services to put them on an equal footing with other customers
- allow migrants to become effective users of local authority services for private rented tenants in the East Sussex area.'

Source: Lukes (2011)¹⁵ p1

¹² Building and Social Housing Foundation (2008) *Home from Home: Addressing the issues of migrant workers' housing*. www.bshf.org/published-information/publication.cfm?thePubID=2EED9E14-15C5-F4C0-998CFEFC3D54FF93

¹³ Metropolitan Support Trust (2009) *Over Not Out: The housing and homelessness issues specific to lesbian, gay, bisexual and transgender asylum seekers*. www.metropolitan.org.uk/images/Over-Not-Out.pdf

¹⁴ S Lukes (2011) *Migrant Housing Toolkit*

www.hastings.gov.uk/housing_tax_benefits/housing_options/migrant_housing_toolkit/

¹⁵ S Lukes (2011) *Good Practice Guide: Working with migrants in the private rented sector for housing service providers in East Sussex*. East Sussex Strategic Partnership.

www.hastings.gov.uk/housing_tax_benefits/housing_options/migrant_housing_toolkit/good_practice_guide/

Figure v: Factors affecting migrant access to advice, information and support on housing

Access to housing and benefits	Some migrants cannot claim benefits or apply for social housing or housing benefit because their immigration status does not allow it. This includes migrants from the newest EU countries with restrictions on access to benefits and housing in the first year of working in the UK (only currently applies to Croatian nationals).
Cost of housing	Many migrants send money home and so face exceptional financial pressures. They may need cheap housing or be unable to find a deposit. New migrants often start renting the least desirable homes in disadvantaged areas or where demand is low. In some areas there is in effect a 'migrant housing market' offering cheaper, easy access housing that may be of poorer quality or overcrowded.
Changing circumstances	As they settle in the UK, migrants may want to move on and find better quality, more permanent accommodation. This may include access to low cost home ownership as well as applying to go on council allocations schemes.
Language and knowledge	Some new migrants may struggle to communicate in English. Most migrants will not know about UK laws on overcrowding, disrepair or harassment.
Work / housing links	Some migrants are brought to work in the UK by agencies or employers and may not know what rights they have. Sometimes the employer or agency also provides their accommodation or has links with the landlord ('tied accommodation'). This puts migrants at risk from exploitative or unscrupulous landlords and employers, since losing their job or finding another job impacts on their accommodation.
Agency work	Migrants are often recruited by agencies who offer them short term work, moving them around the country at short notice. Agencies in certain employment sectors (agriculture, shellfish, forestry, food and drink processing and packaging and horticulture) are regulated by the Gangmasters Licensing Authority but a lot of agency work is outside this protection, and some agencies operate outside the law. Transience makes finding out about rights and options difficult.
Fear	Migrants may fail to comply with the law (knowingly, under pressure from employers or agencies, or accidentally), become 'undocumented', liable for deportation and afraid of contact with anyone they see as representing 'the authorities'. Fear may be reinforced by their experiences in the home country.
Misinformation	Migrants may rely on people who have an interest in keeping them uninformed (e.g. exploitative employers, violent spouses) or on people who simply do not know. They may fear approaching 'the authorities' for information and support because they have been told that it will result in eviction or even deportation.
Discrimination	Migrants may be subject to discrimination in many areas of their lives, including racial harassment and attacks. This erodes trust in strangers and limits options.

Migrants and private rented housing

Key message 6: Migrants are more likely to be in the private rented sector but some may be more vulnerable to exploitation there. Migrants have the same rights as other tenants but may need specific approaches to enable them to enforce them.

Migrants are more likely to be in private rented accommodation than non-migrants, as shown in the previous section. They have the same rights and protection from discrimination as other tenants,¹⁶ and should be able to access the same services such as environmental health for disrepair or help against illegal eviction or harassment.

However, the difficulties that migrants will face in rented accommodation are exacerbated by further challenges in their everyday lives. Bisharah's story in *Figure vi* gives an example of this.

Figure vi: Migrant experiences in the private rented sector - Bisharah's story

Bisharah lives in West Yorkshire, having left Morocco in 2008 to join her husband here in the UK. As a couple they found it easy to find rented accommodation but were concerned that it was expensive and of poor quality. Financially they struggled, having to give a deposit of one month rent plus a month in advance and then continue to pay their rent, because Bisharah's husband was a student who worked part time, and she could not find suitable employment.

However, it was the quality of the accommodation that was most worrying particularly when they became parents. Damp in the bedrooms exacerbated the baby's existing health conditions of asthma and eczema, which was confirmed by their GP.

The family situation then changed. Bisharah is now a single parent and works part time on the minimum wage and is unable to work full time as she has to take care of her baby. She has decided to submit a new application for social housing based on her change in circumstances. Meanwhile she does not feel safe in her current home due to threats made by her husband and the continuing health issues for her baby.

'I wish I had got a council house sooner as financially it would have been better and my daughter's health would not have been affected and I would not be feeling as stressed. Her asthma and eczema are bad and she is on medication, I can't move to another private rented house as it is too expensive and there is nothing that is suitable that I can find.'

- Bisharah

Source: Integration up North (IUN) volunteer project

¹⁶ Outlined at: *Migrant Tenancy Rights* in the *Migrant Housing Toolkit* referenced previously, and in 'Obtaining a rented home from a private landlord' on the *Housing Rights Information* site www.housing-rights.info/renting-from-a-private-landlord.php

There are some resources to help equip local authorities to deal better with their migrant private tenant customers:

The private sector *Good Practice Guide*¹⁷ (right) covers:

- Collecting and exchanging information
- Identifying and working with key partners
- Outreach work into communities
- Making the first contact count
- Making enforcement more migrant friendly
- Dealing with criminal activity
- Getting landlords on board
- Planning for the future.

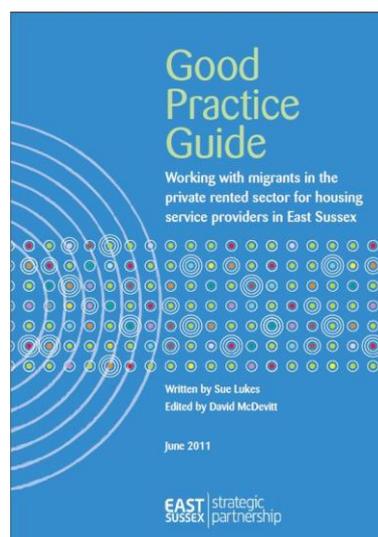
The associated *Toolkit*¹⁸ covers:

- Glossary of terms used
- Who are the migrants?
- What are the specific problems migrants face?
- Council services for private tenants
- Language, communication and interpreting services
- Migrant housing entitlement
- Migrant tenancy rights.

*'What you can do if you work with private rented housing'*¹⁹ (from 'Housing and Migration', right) includes several good practice examples from the north including an additional HMO licensing scheme in Goole, a private landlord register in Doncaster, and temporary housing project in Sheffield.

UK Migrants and the Private Rented Sector summarises what is known about migrants in the private rented sector.²⁰ It discusses why migrants live in this sector, consequences for them and their neighbourhoods, the pressures on the sector, policy changes. It explores a range of practical solutions that involve the role of local schemes, advice services, environmental health officers, and social landlords.

*'Obtaining a rented home from a private landlord'*²¹ and *'Advising migrants about the private rented sector'*²² are new sections of the Housing Rights Information website on migrants and private renting, aimed at migrants and advisers respectively. These include a plain English guide for migrants on renting from a private landlord and one on the law in private rented housing for advisers.



¹⁷ S Lukes (2011) *Good Practice Guide: as per earlier reference*

¹⁸ S Lukes (2011) *Migrant Housing Toolkit as per earlier reference*

¹⁹ *'What you can do if you work with private rented housing'* Ch.10 pp.42-45 in CIH (2012) *Housing and migration: A UK guide to issues and solutions*

www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/housingandMigration2012.pdf

²⁰ J Perry (2012) *UK Migrants and the Private Rented Sector*. Joseph Rowntree Foundation: York

www.jrf.org.uk/publications/uk-migrants-private-rented-sector

²¹ *Obtaining a rented home from a private landlord* www.housing-rights.info/renting-from-a-private-landlord.php

²² *Advising migrants about the private rented sector* www.housing-rights.info/private-rented-sector-advising-migrants.php

There is also government guidance for local authorities on dealing with rogue landlords.²³

New legislation on landlord checks

The Immigration Act 2014²⁴ includes housing proposals that require UK landlords to check the immigration status of all prospective tenants. On 1 December 2014 a pilot of these started in five West Midlands local authority areas. It will be evaluated in 2015 and the measures may then be rolled out across the UK.

Private landlords will have to make 'simple' checks on the immigration status of applicants; penalties will apply. Landlords here include households taking in lodgers or sub-tenants into their own home. Some types of housing are exempt including council allocations, some charitable hostels and some specific types of student accommodation.

Critics point to the potential implementation problems (such as landlords having to deal with a large number of potential identity documents) as well as doubting whether they will achieve their aims. Unintended consequences could mean that rather than affecting the behaviour of unscrupulous landlords, landlord checks could make the most vulnerable more at risk of exploitation. Some landlords may ultimately stop letting to foreign nationals – and consequently increasing the demand for social housing. The Impact Assessment for the Bill itself warns that landlords and others will face additional costs.

²³ CLG (2015) *Improving the Private Rented Sector and Tackling Bad Practice: A Guide for Local Authorities*
www.gov.uk/government/publications/improving-the-private-rented-sector-and-tackling-bad-practice-a-guide-for-local-authorities

²⁴ *Immigration Act 2014* www.legislation.gov.uk/ukpga/2014/22/contents/enacted

Migrants and social housing

Local housing authorities run:

- **Advice services** - for anyone in housing need or threatened with homelessness.
- **Homelessness services** - for eligible households who have nowhere else to live
- **Allocations systems** - for people in housing need who want to get local authority social housing.

This section outlines each of these three systems, as well as defining a range of relevant terms that relate to legal eligibility for these services. More on all these is available at the Chartered Institute of Housing (CIH) and Housing Rights websites (already cited in footnotes here) which are updated regularly.

Advice and information services

Key message 7: All migrants can get housing advice and information from the local authority.

Councils must ensure that advice services are available free of charge to anyone in the local authority district, even people who are not eligible for local authority housing or homelessness services. The Equality Duty means councils must ensure that migrants, like anyone else, know about these services and have effective access to them, which may include translating publicity, working in partnership with voluntary, community, migrant and faith organisations to improve access, or employing staff with relevant languages.

Research into migrant homelessness among EU nationals in London²⁵ found different groups needing different types of intervention: those relatively new to the streets with few support needs, and others with more serious support needs. The former group may simply need good advice and support to get accommodation and work, while the latter may need more specialist support from homelessness agencies.

Key message 8: Like anyone else, migrants must pass an assessment for homelessness and housing services, and they can only access social housing via the 'allocations' system. Many migrants have difficulty fulfilling the criteria in relation to eligibility and proving a local connection.

Homelessness services and assessment

By law each housing authority (council) has to run a homelessness service, which offers advice to people threatened with homelessness, tries to prevent homelessness, and provides or arranges emergency housing (for people who are eligible, 'in priority need' and have nowhere to live). This is temporary and for most people the council then has to ensure that some longer term accommodation is provided, often by a private landlord.

²⁵ L Briheim-Crookall (2006) *A8 nationals in London homelessness services*. Homeless link http://homeless.org.uk/sites/default/files/2006_A8_research%20_full_report.pdf

Once any homeless person has applied to the local authority for help, the council must assess the person. Assessment covers whether the applicant:

- **Is eligible to apply?** Migrants are particularly affected by eligibility criteria. This is explained in more detail in the later section ‘Eligibility for local authority housing allocations and homelessness services’ on pp.21-22.
- **Is homeless?** Not having available accommodation anywhere in the world that it is reasonable for the applicant and her household to continue to occupy together.
- **Is in ‘priority need’?** The applicant or someone in their household is a pregnant woman; vulnerable because of age, illness or other special reason; or a child.
- **Is not intentionally homeless?** The applicant did or failed to do something and so lost her accommodation.
- **Has a ‘local connection’?** New arrivals are particularly affected by this. This is explained in the later section ‘Local connection for homelessness and housing services’ on p25.

Depending on the outcome of this assessment, the local authority has different responsibilities as outlined in *Figure vii*. This guidance does not cover the detail of homelessness law, which is complex and evolving.

Figure vii: Local authority responsibilities to applicants for homelessness services

Scenario	Eligible, homeless and priority need?	Not intentionally homeless?	Has a local connection?	Local authority responsibility
1	✓	✓	✓	Temporary housing, put on allocations system with extra priority, and secure long-term housing
2	✗	-	-	No duty apart from offering advice and information
3	?	-	-	Temporary housing, investigate / assess
4	✓	✗	-	Temporary housing in order to find their own housing
5	✓	✓	✗	Refer to relevant local authority

Many migrants may have difficulty fulfilling the criteria to be ‘eligible’ (particularly if they are from outside the EU, or if they are newly-arrived EU migrants) or to prove a ‘local connection’ (if they are new arrivals).

Allocations systems for social housing

Allocation is the process through which the council decides who will get the housing they control (council or housing association-owned). Allocation is a two stage process where a person wanting permanent social housing may:

1. Go on to a waiting list or housing register, and then
2. Be offered a tenancy by the council or a nomination to a housing association.

Eligibility is tested at both stages, so someone who was eligible when he or she went on to the waiting list may no longer be eligible by the time a tenancy becomes available.

Legislation sets out who can be placed on allocation schemes or waiting lists. The applicant must be eligible for both stages, but there are exceptions (e.g. the client is an existing social housing tenant, succeeding the previous tenant who died or who assigned the tenancy to them, tenancy transferred by a court, or if the local authority has demolished the home). These exceptions are subject to change.

If demand exceeds social housing supply - i.e. there is a waiting list - local authorities must prioritise. They must give priority to those living in poor conditions, people in social or medical need and those who are homeless.

Councils have different ways of allocating property. A choice-based lettings system is common: applicants are given points for their level of need, any available properties from the council and housing associations in the area are advertised, and applicants can bid for them: the property is allocated to the bidder with the most points. Some operate a different system where the applicant with most points is offered the first property to become available, but if the applicant refuses it they may lose their place on the list.

Migrants may need these systems explained more carefully than usual. *Figure viii* highlights some of the difficulties new arrivals face in understanding these systems, and the support they may need to use them correctly.

Figure viii: Navigating allocations processes - Bisharah and Sarah's stories

The following two stories give real-life examples of migrant experiences of seeking social housing. Bishara misunderstood the allocations system so lost her priority place on the housing waiting list, while Sarah had even less understanding but with support she was able to secure suitable social housing.

Source: Integration up North (IUN) volunteer project

Bisharah's story

Bisharah is from Morocco and is a single parent in West Yorkshire, with indefinite leave to remain. She realised she was entitled to social housing but did not fully understand the process of applying for a property. She was familiar with the bidding system and knew how search for properties, but had two particular difficulties.

Firstly, being relatively new to the area she was unaware of the different areas in the city and the different types of housing available. Secondly, she did not realise that once you have bid for a particular property and are successful in securing it, you must take it.

Bisharah was successful in bidding for a flat and went to the office to collect the keys. She wanted to have a look around the area and the flat before she decided to accept it, unaware that she was now deemed to be the tenant. After looking around the property and area, she decided she did not want take the offer of the flat. She felt the area was not safe, many properties were disused and boarded up, and there were not many minority ethnic communities in the area so she feared feeling isolated and insecure. She also could not find any grocery shops that catered for her halal diet or sold familiar Moroccan food, and would have to travel long distances for shopping.

Bisharah was surprised to learn that she will now be moved lower down the priority scale as she has rejected an offer of suitable housing.

Sarah's story

Sarah was unaware of any services she could access or rights that she had in the UK. She had had very little exposure to the outside world because when she came from outside the EU to another part of West Yorkshire join her husband in 2008, she was not permitted to leave her martial home unless supervised by a member of her husbands' family. She did not attend English classes nor was allowed to have friends outside of the immediate family network.

Sarah suffered domestic violence. She was eventually supported with her six year old son through a women's refuge, where they stayed for around a year. With help from staff at the refuge, she was able to secure a council owned property for rent. They helped with the initial application and gave her advice and guidance on how to bid for a suitable property. She has been allocated a two bed property. She is very pleased with the location, condition and size of the property.

Sarah feels that without the help from Sahara refuge she would have had to either continue staying in the refuge or would have had to go for private rented accommodation which she could not afford.

Key terms

Key message 9: It is important to understand key terms since housing law is complicated in this area.

There is a lot of terminology in this area. Five key terms are outlined in *Figure ix*: 'Subject to immigration control', 'Recourse to public funds', 'Limited leave', 'Right to reside' and 'Habitual residence'.

Figure ix: Key terms in housing allocations and homelessness services

Subject to immigration control	A person is 'subject to immigration control' if they need permission to enter or remain in the UK. This generally applies to non-EU nationals plus any EU nationals who do not have the 'right to reside'. This will include people in the UK temporarily and people who have been settled here for decades but have not become British citizens. UK citizens and EU nationals with the 'right to reside' are not subject to immigration control.
Recourse to public funds	People subject to immigration control may be given temporary leave to enter the UK only on condition that they can accommodate and support themselves (and any dependent family members) 'without recourse to public funds'. The term 'public funds' is defined in the Immigration Rules and includes getting accommodation via local authority housing allocation and homelessness services (as well as specified benefits – see <i>Migrant rights and entitlements</i> ²⁶).
Limited leave	Most new migrants subject to immigration control get 'limited leave' to enter or remain in the UK. This is temporary, time-limited permission to stay in the UK (see <i>Understanding immigration status</i> ²⁷). Sometimes this leave includes a condition about 'no recourse to public funds'. If they later successfully apply for 'indefinite leave to remain' the recourse to public funds conditions are lifted.
Right to reside	<p>Rights to reside under European rules include citizens of European Economic Area (EEA) countries who are in the UK either:</p> <ul style="list-style-type: none"> • As a worker or lost their job in the UK through no fault of their own • As a self-employed person • As a student • As a self-sufficient person • As a workseeker (allowed to work and signing on to prove it) • As a person who is in the first three months of their stay in the UK. <p>There are special rules for workers from EU 'accession states' for up to seven years after their country joined the EU. This only applies currently to Croatia. So not all EU citizens have the right to reside.²⁸ In most cases, people who have had a European right to reside for five years then get the permanent right to reside. Non-Europeans (or third country nationals) may have a right to reside as the family member of one of the above, as the child of a worker or self-employed person, or as the sole carer of a British citizen child or vulnerable adult. People with the 'right to reside' may still be refused benefits and housing.</p>
Habitual residence	This is a test that is applied to most applicants for benefits, housing allocations and homelessness. It is a test of whether the applicant has made a home here. To be habitually resident a person (migrant or otherwise) must: <ul style="list-style-type: none"> • be present here • intend to live here as their home, and • have been here for an 'appreciable time' (there is no definition of what an appreciable time is and it could be as little as a few weeks).

²⁶ Integration up North (2015) *Migrant rights and entitlements*. Introduction to Migration series, Guidance booklet #4. www.migrationyorkshire.org.uk/introductiontomigration-iun

²⁷ Integration up North (2015) *Understanding immigration status*. Introduction to Migration series, Guidance booklet #3. www.migrationyorkshire.org.uk/introductiontomigration-iun

²⁸ There are often legal changes to this. Definitions of who is a worker, and who keeps their rights after losing their job are particularly problematic. You can find information about the current state of play at www.housing-rights.info

Eligibility for local authority housing allocations and homelessness services

Key message 10: The rules on eligibility to apply for housing and homelessness services are different for people ‘subject to immigration control’ and those not subject to immigration control.

This section explains how eligibility depends on immigration status.

Third country nationals

Key message 11: People ‘subject to immigration control’ are generally ineligible for housing and homelessness services (unless they have refugee status, discretionary leave, indefinite leave to remain or humanitarian protection).

For people subject to immigration control, only those who are in an ‘eligible class’ can get an allocation or be offered accommodation as a homeless person. The eligible classes are based on immigration status as listed in *Figure x*.

Figure x: Eligible classes for people subject to immigration control applying for homeless and housing services

Eligible class / immigration status²⁹	Additional information or conditions to be eligible
A: Refugee status	Includes family members. Refugees do not have to pass the Habitual Residence Test.
B: Discretionary leave	A type of ‘exceptional leave’ given outside the usual Immigration Rules, and includes people who fall under the Domestic Violence policy. To fall into Class B, documentation must not restrict access to public funds. Do not have to pass the Habitual Residence Test.
C: Indefinite Leave to Remain	No time limit or conditions are specified on the visa. They must have no conditions (except those upon their sponsor). ILR is lost if an individual leaves the UK for more than 2 years or if they have a prison sentence for 12+months.
D: Humanitarian Protection	Their documentation must not restrict access to public funds. Do not have to pass the Habitual Residence Test.

All other types of immigration status are not eligible to apply for housing or homelessness services: this will include most people with limited leave to remain, such as students, workers and spouses from outside the EU, as well as asylum seekers (who should be accommodated by the Home Office if they are destitute). There are various exceptions to these general rules, and it is a contested area.

²⁹ The various types of documentation that indicate immigration status are described on the Housing Rights website.

Key message 12: People not subject to immigration control are usually able to apply for housing and homelessness services (with three main exceptions) but usually have to pass the Habitual Residence Test (with some exceptions particularly for workers and their families).

People not subject to immigration control (i.e. UK citizens and anyone covered by an EU right to reside) generally are eligible to apply for housing and homelessness services.

Exceptions to this rule (i.e. UK citizens and those with an EU right to reside who are *not* eligible to apply for housing and homelessness services) include three groups:

- Those in their initial three months in the UK
- Workseekers (can claim IBJSA benefit once they are habitually resident)
- Sole carers of a UK citizen child or vulnerable adult.

Generally, anyone not subject to immigration control (i.e. UK citizens and anyone covered by an EU right to reside) must pass the Habitual Residence Test for housing and homelessness services.

Exceptions to this rule (i.e. people who do not have to pass the HRT) include:

- Europeans who are workers (or covered by the rules on workers because they have lost their job) and the self employed
- Accession state workers
- Family members of the above
- EEA nationals who acquired permanent right to reside through work or self-employment and their family members
- People who have been expelled, removed or deported by law to the UK from another country (e.g. UK citizens who have committed an offence or infringed immigration rules abroad).

This is a complex area and may require specialist advice, although there is a lot of detail about habitual residence on the Housing Rights website.

In summary: to get social housing a migrant must pass an assessment for homelessness and housing services proving they are: eligible, homeless, in priority need, not intentionally homeless and have a local connection. Migrants may struggle to prove eligibility particularly if they are from outside the EU, or if they are new arrivals without local links.

Five common problems with eligibility, homelessness services and allocations

The preceding explanations are of course general and subject to change and challenge. Local authorities may have difficulties in undertaking their assessments or determining eligibility. Five common difficulties in conducting assessments are outlined in this section:

- a. Documentary proof
- b. Households with different eligibility (or ‘mixed families’)
- c. Determining homelessness of migrants with homes in their country of origin
- d. Establishing local connection
- e. Additional residence tests as part of local allocations procedures.

a. Documentary proof

Key message 13: Local authorities must take care that they apply the same standards of documentary proof to migrants as they do to other applicants.

There is no law in relation to the types of proof required for housing or homelessness applications.

- People subject to immigration control are likely to have documentation although, like anyone else, the circumstances in which they become homeless (e.g. a fire, domestic violence, or discharge from hospital) may mean they do not. Local authorities must take care that they apply the same standards of proof to migrants as they do to other applicants in these circumstances and ensure that if, for example, they offer temporary accommodation because they have ‘reason to believe’ they may be eligible, they both allow sufficient time to the applicant to get the necessary proofs of identity and eligibility and also offer the appropriate help, which may include advocacy and casework.
- For migrants not subject to immigration control the issue of proof is more complex, because the right to reside is determined by facts and not paperwork. Staff assessing eligibility should find out about work, previous work, time in the UK, family relationships, education of children etc.

More information about documentary proof is available on the adviser pages of the Housing Rights website.³⁰

b. Households with different eligibility – ‘mixed families’

For an application to go on the housing waiting list or allocations system, all that is needed is one eligible applicant. The rest of a household can be included in the application as long as the local authority believe that is reasonable (it is, for example, reasonable to expect a household that have lived together for some time or a newly married couple to be housed

³⁰ Documents to support housing and benefits application www.housing-rights.info/supporting-documents.php

together, but it may not be reasonable to include family members who have arrived recently, do not have long term plans to stay and have no care needs).

The application should take into account the needs of all those involved, whether eligible or not, in deciding what priority the application should have and what sort of accommodation they may apply for.

Homeless applications are more complicated than the previously explained eligibility rules:

- For applicants subject to immigration control, the applicant must be eligible but so must at least one of the people on whom the applicant depends to be classed as 'in priority need' or 'homeless'. *Figure xi* gives an example.

Figure xi: An example of a homeless application by a 'mixed family' subject to immigration control

A Pakistani citizen applies as homeless and is eligible (Class C) since he has indefinite leave to remain (ILR). He lives with his pregnant wife, who has arrived as a family member a year ago and has limited leave to remain (not in any of Classes A-D) so she is not eligible. Although eligible to apply, he will not get accommodation as a homeless person because he is not also 'in priority need'.

Once the baby is born the situation changes. The baby will be British (because it is born in the UK to a parent with ILR), eligible and in priority need as a child. Now the applicant would be assessed as in priority need, and therefore should be provided with temporary housing, put on the allocations system with extra priority, and secured long-term accommodation.

- For applicants not subject to immigration control the applicant must be eligible, but if she depends on another, ineligible (also known as 'restricted') person to be 'in priority need' or 'homeless' then the household will be offered temporary accommodation. However, they get no extra priority on the housing waiting list or allocations system and can also be made a single offer of private rented accommodation to end the council's duties towards them. *Figure xii* gives an example.

Figure xii: An example of a homeless application by a 'mixed family' not subject to immigration control

A British citizen applies as homeless. He lives with his pregnant wife, who arrived as a family member a year ago and has limited leave to remain (so she is not eligible as she is not in any of Classes A-D: this is called a 'restricted' person). He will get temporary accommodation as a homeless person but will not get extra priority on the allocations system (as other homeless *families* do) and can be made a single offer of suitable private rented accommodation to end the council's duty to him.

Once the baby is born the situation changes. The baby will be British (because it is born in the UK to a British parent) and eligible and in priority need as a child, and so is not a 'restricted' person. Now the applicant should have extra priority on the allocations system and have long-term accommodation secured for him (although this may also be private rented accommodation). He may also have additional options depending on the local council's policies on offers it makes to homeless families.

c. *Homelessness of migrants with homes in their country of origin*

An applicant for homelessness services must be homeless, with: 'no accommodation available for his occupation, in the United Kingdom or elsewhere'.³¹

If a migrant has a home elsewhere in the world which it is reasonable for her to continue to occupy, then she is not homeless. However, it may not be 'reasonable' in a number of contexts. For example:

- It is clearly not reasonable to expect refugees, people with humanitarian protection or those given leave for human rights reasons, to return home
- If the person has a home in another country, but cannot afford to live there because she has no work or prospects and no access to other income, then it might be considered as unreasonable to continue to occupy that home abroad.

d. *Local connection for homelessness and housing services*

If an applicant has met all the other criteria for homeless and housing services the council looks at whether she has a 'local connection' with the area.³² Local connection is created by:

- Residence (6 months out of the last 12 or 3 years out of the last 5) (service in armed forces, time in prison or other institution does not count)
- Employment (any work counts)
- Family (a close family member has lived in the area for at least 5 years)
- Special circumstances as defined by the local authority
- Occupation of accommodation provided by the Home Office to asylum seekers under 'Section 95' of the 1999 Immigration and Asylum Act (but not 'Section 98', 'Section 4' or 'subsistence-only' Section 95 support – see *Other Housing Options* section *Asylum Support* on p30 to explain these terms).

If the council decides the applicant has a local connection, they must accept the duty to provide long term housing. If the applicant has no local connection with the area, the council can investigate to find if she has a connection with another area or areas:

- If there is a connection with one other local authority area, the council can refer the applicant there for further temporary and long term housing
- If there is a connection with more than one area, the applicant's wishes must be taken into account in making the referral (so no type of local connection is more important than any other)
- If there is no local connection with any area, the council must accept the duty to provide long term housing.

³¹ *Housing Act 1996*, Part VII *Homelessness* s175(1) www.legislation.gov.uk/ukpga/1996/52/contents

³² The law on this is at s199 *Housing Act 1996* and in the local authority agreements on local connections.

Figure xiii gives an example of how local connection was determined for a migrant with a complicated accommodation history.

Figure xiii: An example of local connection for a former asylum seeker

Salma arrived in the UK in 2012 and applied for asylum on entry. She has lived in the UK in five different places:

- She was sent to initial accommodation in Bolton for a week.
- She then found a cousin who offered her a room in Manchester so went to stay with her, claiming subsistence-only Section 95 support.
- When the cousin moved to another city after 5 months, Salma's asylum application was not resolved. She had to ask for Home Office accommodation again and was sent to Bradford for Section 95 dispersed accommodation. She stayed in that accommodation for only two weeks as it was in a bad state of repair.
- Salma was moved to Leeds where she had a room in a hostel for a week, but was then told her asylum claim had been finally rejected and she could no longer be accommodated. By then she was 8 months pregnant. She got legal advice and was told to explain why she could not travel now and also present fresh evidence and reopen her claim, which she had to do in Liverpool.
- She was provided with accommodation in Liverpool under Section 4, for two months in a hostel.

Finally, her asylum claim was accepted and she was given refugee status. So now Salma is applying as homeless in Manchester, as the area she knows best.

Where is Salma's local connection?

Manchester looked at her housing history and decided that she has no local connection with them (because she did not live there long enough - only 5 months). Her connection is with Leeds where although she had accommodation for only a week, it was the last place in which she had Section 95 accommodation.

e. *Residence tests for allocations*

Key message 14: Local authorities can include additional residence tests as part of their allocations procedures, but these tests must apply equally and fairly to all applicants and councils should consider the equalities implications before introducing them.

Residence tests are separate from, and in addition to, the rules on eligibility for allocations. They are nothing to do with the Habitual Residence Test (which is part of the eligibility testing) or with the 'local connection' test for homelessness applications.

Local authorities can include residence tests as part of their allocations procedures, and were encouraged to do so by guidance issued after the Localism Act 2011 came into force.

Statutory guidance issued in 2013³³ encourages housing authorities to use Localism Act provisions to include a residency requirement to restrict allocations of social housing to people with a local connection of at least 2 years, although there is no statutory requirement to do this. In April 2014 regulations³⁴ were introduced to remove such residency requirements for people who need to move to an area to take up an offer of work, because they already have a job there or because being unable to move there would cause hardship. These regulations, like the schemes they amend, apply equally to migrants as applicants. Guidance on them is available.³⁵

³³ DCLG (2013) *Providing social housing for local people* www.gov.uk/government/publications/allocation-of-accommodation-guidance-for-local-housing-authorities-in-england – supplements 2012 guidance *Allocation of accommodation: guidance for local housing authorities in England* (46 pages)

³⁴ Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015 (SI 2015/967)

³⁵ DCLG (2015) *Right to Move: Statutory guidance on social housing allocations for local housing authorities in England* www.gov.uk/government/uploads/system/uploads/attachment_data/file/418437/Right_to_move_-_statutory_guidance.pdf

Housing Associations

Key message 15: Where a housing association has chosen not to hand over all its vacancies to the local authority, and keeps the power to decide who will get vacant properties, it cannot refuse new tenants purely on the basis of their immigration status or lack of it.

Housing associations (also known as registered providers) are independent bodies that provide low-cost social housing. They are regulated by the Homes and Communities Agency (HCA) which requires them to cooperate with local housing authorities in meeting local housing need. Many associations do this by agreeing that the local authority can fill all, or a percentage of their new vacancies through a 'nominations agreement'. Most operate a joint waiting list with local authorities as well.

Unlike local authorities, housing associations are not required to let only to 'eligible' new tenants: they are free to set their own policies as to whose needs they prioritise. The HCA standards only require that:

*'Registered providers shall develop and deliver allocations processes in a way which supports their effective use by the full range of actual and potential tenants, including those with support needs, those who do not speak English as a first language and others who have difficulties with written English.'*³⁶

Applying an immigration status test that is not required by law amounts to direct or indirect racial discrimination, which is illegal. Housing associations are also not entitled to refuse local authority nominations on the basis of immigration status (for example, if an applicant has limited leave to remain).

If a migrant has applied to a housing association directly or been nominated by a council and refused on the basis of immigration status, they can challenge this (the Government Equalities Office produces a helpful leaflet on how to do this³⁷ and can then take procedures in the county court if the matter is not resolved.

Note that associations are entitled to ask applicants for housing about their sources of income to ensure that new tenants can pay rent, and if they do not have enough to pay their rent, whether they are entitled to housing benefit or have some other way of paying. Some low-cost home ownership schemes run by housing associations but funded by government through the HCA have specific requirements as to the residence status of applicants.

³⁶ Homes and Communities Agency (April 2012) *Tenancy Standard* para 2.1.4 p2

www.gov.uk/government/uploads/system/uploads/attachment_data/file/419209/Tenancy_Standard_2015.pdf

³⁷ Government Equalities Office (2014) *Asking and responding to questions of discrimination in the provision of goods and services and public functions* www.gov.uk/government/publications/asking-and-responding-to-questions-of-discrimination-in-the-provision-of-goods-and-services-and-public-functions

Other options for migrants in housing need

Key message 16: Migrants who are in housing need or homeless and who are not eligible for local authority housing services may be able to get accommodation elsewhere, but these are difficult options.

Migrants who are in housing need or homeless and who are not eligible for local authority housing services may be able to get accommodation elsewhere, but these are difficult options. This section outlines some of the limited options that can be explored for migrants in particular circumstances:

- Households with children or vulnerable adults may be able to apply for social services help
- People applying for asylum should get accommodation from the Home Office
- Migrants may be able to access services for rough sleepers or charity provision for destitute migrants.

Social services

Social services have responsibilities that may include providing accommodation for:

- Households with children
- Young people leaving care until they are 21 (or 25 in some circumstances)
- Adults who are vulnerable (due to age, disability, long term illness, aftercare needs)
- People sectioned under the Mental Health Act who need accommodation for rehabilitation when their section ends.

In deciding whether and how to support people, social services staff consider:

- Other options for support (eligibility for benefits and housing, asylum support or family or community)
- Relevant legislation: the Children Act, the Care Act 2014 provisions for vulnerable adults or the leaving care provisions
- Legal exclusions from social services accommodation and support based on immigration status (generally people who have no leave to remain in the UK and some refused asylum seekers) that allow social services to refuse accommodation and support
- Despite relevant exclusions, whether a breach of human rights would occur without accommodation and support, in which case it should be offered
- Special regulations for EEA nationals with children means social services can return destitute European citizens with children if they have no right to reside in the UK
- If a family is awaiting deportation or removal, social services must support until the removal happens or can offer the family the fare home
- The local authority's resources may enable a decision to fund travel home rather than support in the UK. However, it is not appropriate to consider resources where an application to stay on human rights grounds has been made to the Home Office.

The law on social care for migrants is complex and evolving. Two resources are very useful in this area. Firstly, the No Recourse to Public Funds Network offers guidance³⁸ and support to local authorities dealing with destitute migrants and runs local networks. Secondly, the Housing Rights advice website has a section on people needing social care³⁹ and another on advising destitute migrants.⁴⁰

Asylum support

When an asylum application has been made and received by the Home Office, an asylum seeker may apply for accommodation if they are destitute and homeless. There are three types of formal asylum support provided, each described by the section of the Immigration Act that established the support system:

Section 98 support is provided initially in reception centres or 'initial accommodation'. It is used to assess the need for further support. Initial accommodation is currently located in Liverpool for the North West region, and in Wakefield for the North East Yorkshire and Humber region.

Section 95 support is the main form of support provided. Individuals are 'dispersed' to available accommodation in specified areas run by private contractors and receive a weekly cash allowance. Those who want to stay with friends or family already living in the UK only receive the cash allowance. S95 support ends when they get a final decision on their asylum application, except for refused families who continue to be supported until they leave the UK or their youngest child turns 18.

Section 4 support is provided to those who have been finally refused asylum and meet certain criteria but the Home Office accepts cannot immediately return to their home country. They have to live in specified accommodation, and receive a payment card to buy essentials.

If an asylum application is successful, the person will be given refugee status, humanitarian protection or discretionary leave, which then makes them eligible for mainstream benefits and housing. You can find more information about the asylum support system on the government website.⁴¹

Some asylum seekers find themselves destitute and homeless for a variety of reasons: they may be waiting for a decision on their support application, they may have been refused asylum and do not meet the criteria for Section 4 support, or they may have left their asylum accommodation for fear of being returned to their country of origin. Some asylum seekers have particular housing needs, such as LGBT asylum seekers who may feel unable to find support among their families and their own ethnic networks.⁴²

³⁸ No Recourse to Public Funds (NRPF) Network, *Practice Guidance* www.nrpfnetwork.org.uk/guidance/Pages/default.aspx

³⁹ Housing Rights Information, *People with social care needs* www.housing-rights.info/02_11_People_social_care.php

⁴⁰ Housing Rights Information, *Advising people who are destitute* www.housing-rights.info/advising-people-who-are-destitute.php

⁴¹ *Asylum Support* www.gov.uk/asylum-support

⁴² A Stuart (2012) *Over Not Out: Refreshed 2012*. Metropolitan Migration Foundation. www.metropolitan.org.uk/over-not-out-research-report-on-lgbti/

The third sector provides much of the support for destitute, homeless asylum seekers, such as the Asylum Support Appeals Project,⁴³ a national charity working on this issue. A number of local charities aim to provide support to this specific group in the main 'dispersal' cities, including Manchester, Sheffield, Leeds, and Hull.⁴⁴

Rough sleeping and destitution

Some migrants are particularly vulnerable to rough sleeping because they have no recourse to public funds and so the usual safety nets of hostels etc are not available to them. Various organisations provide information and support across different migrant groups. Of course charities have limited resources, often rely on volunteers and may close unexpectedly; some of the larger organisations can signpost to charities currently operating in local areas:

- **NACCOM** (The No Accommodation Network)⁴⁵ has a list and map of all local projects in the network with links to their websites. Several projects offer accommodation in different parts of Yorkshire and the Humber and in the North West.
- **Homeless Link**⁴⁶ represents and supports organisations working with the homeless across England, and has comprehensive resources on its website (covering access to hostels, health services, causes of homelessness, the issues involved in working with rough sleeping migrants, reconnection etc).
- **The No Recourse to Public Funds Network**⁴⁷ covers mainly local authorities' roles as social services authorities.
- **The Chartered Institute of Housing** website⁴⁸ has sections on destitute migrants: one for migrants themselves and one for those advising them.

⁴³ Asylum Support Appeals Project www.asaproject.org

⁴⁴ For example, Assist (Sheffield) www.assistsheffield.org.uk; Pafras (Leeds) www.pafras.org.uk/services/drop-in/; Destitution Concern Bradford www.destitutionconcernbradford.org/; Open Doors Hull <http://opendoors-hull.org.uk/>; Boaz Trust (Manchester) <http://boaztrust.org.uk/>; ASHA (Manchester) <http://ashamanchester.wordpress.com/>; Asylum Link (Liverpool) www.asylumlink.org.uk

⁴⁵ NACCOM <http://nacom.org.uk>

⁴⁶ Homeless Link <http://homeless.org.uk/migrants>

⁴⁷ No Recourse to Public Funds Network www.nrfnetwork.org.uk

⁴⁸ The Chartered Institute of Housing www.housing-rights.info/people-who-are-destitute.php and www.housing-rights.info/advising-people-who-are-destitute.php



Migrants and housing

Summary of key messages

1. New migrants tend to rent privately but over time they tend to use housing like anyone else.
2. Migrants do not have preferential access to social housing. Migrants living in social housing are in proportion to their presence in the population.
3. Migrant housing choices are determined by factors including planned length of stay, money, access to information and immigration status (which may determine eligibility for social housing and benefits).
4. Migrants are protected by the Equality Act from discrimination against them on grounds of nationality or ethnicity. Discrimination may occur if they are subjected to inappropriate immigration status tests. Public authorities have additional duties to ensure all communities have equal access to relevant services.
5. All housing providers, including private landlords and housing associations, are subject to the Equality Act. They must not discriminate against applicants and service users, including migrants; this includes the indirect discrimination involved in applying immigration status tests. Where the law requires an immigration status check to be made, it can be, but care must be taken not to discriminate in doing so.
6. Migrants are more likely to be in the private rented sector but some may be more vulnerable to exploitation there. Migrants have the same rights as other tenants but may need specific approaches to enable them to enforce them.
7. All migrants can get housing advice and information from the local authority.
8. Like anyone else, migrants must pass an assessment for homelessness and housing services, and they can only access social housing via the 'allocations' system. Many migrants have difficulty fulfilling the criteria in relation to eligibility and proving a local connection.
9. It is important to understand key terms since housing law is complicated in this area.
10. The rules on eligibility to apply for housing and homelessness services are different for people 'subject to immigration control' and those not subject to immigration control.
11. People 'subject to immigration control' are generally ineligible for housing and homelessness services (unless they have refugee status, discretionary leave, indefinite leave to remain or humanitarian protection).
12. People not subject to immigration control are usually able to apply for housing and homelessness services (with three main exceptions) but usually have to pass the Habitual Residence Test (with some exceptions particularly for workers and their families).
13. Local authorities must take care that they apply the same standards of documentary proof to migrants as they do to other applicants.
14. Local authorities can include additional residence tests as part of their allocations procedures, but these tests must apply equally and fairly to all applicants and councils should consider the equalities implications before introducing them.
15. Where a housing association has chosen not to hand over all its vacancies to the local authority, and keeps the power to decide who will get vacant properties, it cannot refuse new tenants purely on the basis of their immigration status or lack of it.
16. Migrants who are in housing need or homeless and who are not eligible for local authority housing services may be able to get accommodation elsewhere, but these are difficult options.