



KNOW YOUR RIGHTS

A Guide for Migrants

Glossary

Leave to remain: technical term for someone granted permission to stay in the United Kingdom by the Home Office

Leave to enter: technical term for someone granted entry to the United Kingdom by the Home Office.

Undocumented: general term to describe a situation where someone does not have leave to remain or leave to enter the United Kingdom.



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Against Borders for Children, Doctors of the World UK, Liberty, Migrants' Rights Network (MRN), North East London Migrant Action (NELMA), Project 17

With thanks to:

Emma Gardiner, Jean Demars, Joint Council for the Welfare of Immigrants (JCWI), StopWatch



Introduction

We have written this guide for all migrants living in the UK, including those without documents and those trying to regularise their immigration status, including asylum seekers. This guide is to help you understand your rights in a situation where immigration rules are changing regularly. It is also useful for anyone who cannot prove they are British or have Indefinite Leave to Remain, for example if you don't have a passport or immigration documents. Other migrants, including those from the European Union, refugees and those with Limited Leave to Remain will also find it useful.



In recent years, the government has been making it harder for all migrants to live their lives without the fear of immigration checks and the threat of deportation or removal from the country. The government hopes that this will force many to leave the UK. They also want to discourage other people from coming into the country.



What is the government doing?

- » It is trying to stop undocumented migrants from doing the everyday things they need to live a normal life; working, having a bank account, driving a car, renting a house

- » It is also asking some migrants to pay in advance for medical treatment, except for emergencies (see detailed section on Health)
- » It asks doctors, nurses, banks, landlords, employers to check people's documents
- » The Home Office sometimes gets information from other government departments to trace undocumented migrants.



Who produced the guide and why?

All of the organisations mentioned on the front page have come together to write this guide because we exist to defend and promote the rights of all migrants.

We hope that it will help you to understand how the law affects you and what you can do.

For each section, we explain:

- » What your rights are
- » What is new in the law
- » How the changes may affect you
- » What you can do if you face challenges
- » Where you can go for support and advice.



1. Banking



What is new?

Banks and building societies are no longer allowed to open accounts for people who do not have *leave to enter** or *leave to remain** in the UK.

If a bank or building society refuses to let you open a bank account, they should tell you why.

Since 30 October 2017, banks and building societies have had to do immigration checks on all customers every 3 months. If they discover that you might be in the UK without permission they must tell the Home Office.

If this happens, the Home Office might:

- » Ask a court to freeze your account, which means that you will not be able to use your account for a period of time
- » Make the bank close your account.





Are there any exceptions for opening new bank accounts?

If the Home Office decides that there is a good reason why you are unable to leave the UK, what they call a 'legitimate barrier' to leaving the UK, you may be allowed to open a bank account despite not having leave to remain or leave to enter.

The Home Office has not defined what a 'legitimate barrier' is. You should get legal advice before contacting the Home Office.



What can I do if a bank makes a mistake?

If you believe you are lawfully present in the UK or there is another reason why you should be allowed to hold a bank account, you should make a complaint directly to the Home Office. You should get legal advice before doing this.



If your bank freezes your account you have a right to appeal, but you should seek legal advice before doing this.



What should a bank do if they make a mistake?

If you have evidence that you should be allowed an account and a bank is refusing to open an account for you, they should contact the Home Office. Evidence could be your passport, Biometric Residence Permit, or another document showing you have the right to remain in the UK. If the bank refuses to contact the Home Office even after you show them one of these documents, you should seek legal advice before contacting the Home Office yourself.

If your bank is closing your account and you provide evidence to show your account should not be closed, you can ask your bank to contact the Home Office about your account.



Migrants' Rights Network

020 8123 6021

Monday to Friday 9.30am to 5.30pm

email: info@migrantsrights.org.uk

2. Driving



What is new?

Since 2014, the Driving and Vehicle Licence Agency (DVLA) is not allowed to give you a driving licence if you are not 'lawfully resident' in the UK. This applies to all people who do not have *leave to remain** or *leave to enter**.

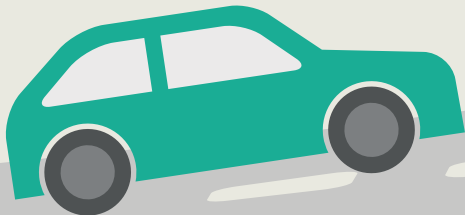
The DVLA can revoke (cancel) your driving licence if they think you are not in the UK with permission.

The DVLA does not have to let you know if they cancel your licence. This means you may not find out you are driving illegally until you are stopped by the police.



What powers do the police have?

The police already have powers to stop drivers for any reason. This means that they have the right to stop you even if they do not think you have done something wrong.



If you are stopped by the police when driving, they can demand to see the following documents:

- » Driving licence
- » Insurance certificate
- » MOT certificate.

If you do not have these documents with you, you have to take them to a police station within 7 days. If you do not take them to a police station within 7 days then you are breaking the law and you could be taken to court.

Police officers can also demand that you take a breath test to see if you have been drinking alcohol. If you refuse to take a breath test you are breaking the law and you could be taken to court.

If a police officer thinks that you do not have insurance they sometimes take your car away until you can prove that you have insurance.



What should I say if I'm stopped?

You do not have to answer police officers' questions about your immigration status.

If they ask for them, you must tell the police your name, address, and date of birth. You must also tell them the name and address of the owner of the vehicle. If you refuse to answer those questions then you are probably breaking the law and you could be taken to court.

If a police officer thinks that you have committed a more serious offence, they might decide to arrest you. If that is the case, the police make the following statement: “You do not have to say anything, but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.” They will then usually take you to a police station. At the police station you have the right to ask to see a solicitor for free, or talk to one on the phone. Always ask for a solicitor: do not be put off seeing a solicitor by the police. Never talk to the police unless your solicitor advises you to.

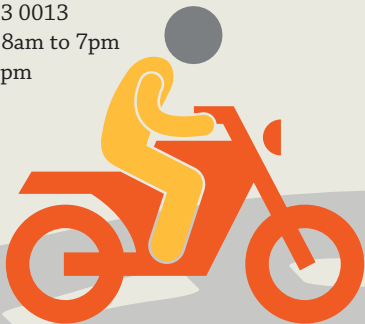


Can I check if my licence has been revoked?

View or share your driving licence information:

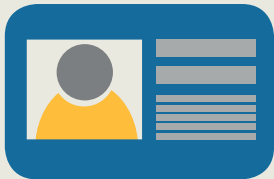
www.gov.uk/view-driving-licence

By phone: 0300 083 0013
Monday to Friday, 8am to 7pm
Saturday, 8am to 2pm





Can I appeal against a decision to revoke my driving licence?



You can appeal to a Magistrates' Court against the cancellation of your licence.

You are not allowed to argue that you should have been granted leave to enter or remain at the time.

You are not allowed to argue that you have been granted leave to enter or remain since.



Liberty

0845 123 2307 / 020 3145 0461

Monday–Thursday: 6:30pm–8:30pm

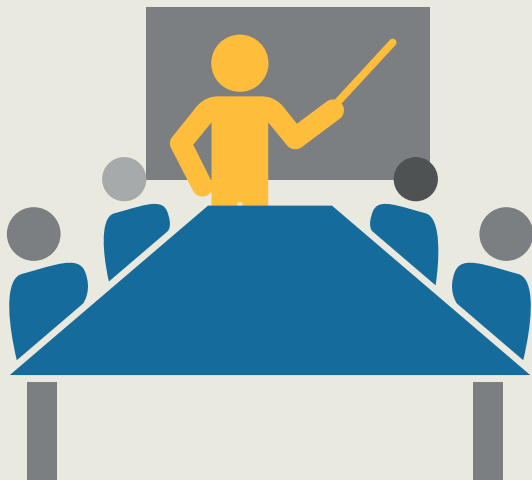
Wednesday: 12:30pm–2:30pm

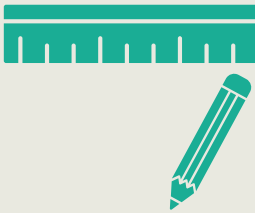
3. Education



What is new?

As part of the School Census, schools are now required by the Department for Education to collect the nationality and country of birth of children aged 5 – 19. For now, this information is not shared with the Home Office and it does not enter the National Pupil Database. This is where all the information about your child's education is kept.





Providing the nationality or country of birth of your children to the school is optional. You have the right to say no. If you have already submitted it, you can ask to have it deleted.

Other personal information collected through the school census (home address for example) is stored in the National Pupil Database. This information can be shared with the Home Office if they try to trace you.



Why is this a problem?

Every month, the Home Office requests information collected through the school census to start re-investigating families who may be in the UK without *leave to remain**. The Home Office may ask the Department for Education to check the database for the addresses of specifically named people.

Some schools have been asking to see children's passports. This is against government guidance. Other schools have only asked for the nationality and country of birth of non-white children. This is discriminatory and therefore illegal.



What are my rights and my children's rights?

Parents are obliged to fill in the census form. This means you have to provide a home address to the school.

You have the right to refuse giving the nationality or country of birth of your children, and to withdraw data that has already been submitted.

Neither you nor your child should be asked for your children's passport or identity documents.

Schools should not ask children directly for their nationality or country of birth. They should ask parents instead.

Schools must tell parents about their right to refuse to give or withdraw their children's nationality data. They must also tell parents who their children's data might be shared with.



Against Borders for Children (Schools ABC)
www.schoolsabc.net

Liberty

0845 123 2307 / 020 3145 0461

Monday/Thursday: 6:30pm–8:30pm

Wednesday: 12:30pm–2:30pm



4. Employment

It is illegal to employ someone who does not have permission to work in the UK. It is also illegal to work if you do not have permission to do so. Employers have to check their employees' documents.



What is new?

Immigration officers are allowed to enter Licensed Premises without a warrant or written authorisation to check if people working there have the right to work.

Licensed premises are:

- » Places selling alcohol, for example pubs, bars, clubs, restaurants and off-licenses
- » Places selling late night refreshment. This means hot food or hot drinks between 11pm and 5am, even if it is not consumed on the premises.
Examples: cafes, restaurants, takeaways
- » Places providing entertainment, including: theatres, cinemas, indoor sporting event, boxing, concert venues, clubs
- » Social, sporting or political clubs.

The penalties for both employees and employers who break the law have recently been increased.



What checks do I need to carry out before employing someone?

There are three steps you will need to follow to check if someone has the right to work:

1. Ask them for their identification documents (e.g. passport).
2. Check the documents are valid in their presence.
3. Make copies of the documents and store them securely. You should also record the date the checks were made and the name of the person who made the check.

The law says that employers must do and record these checks. But you do not have to co-operate with immigration officials beyond this.





What should I do if Immigration Enforcement visits my business?

Immigration Enforcement can only enter your business if they have written authorisation:

- » A warrant with the name of the person they are looking for
- » A letter from a Home Office Assistant Director, which must show the name of the person they are looking for.



In many cases, Immigration Enforcement make people sign a consent form, which means they rely on your voluntary agreement to enter the business and investigate. You are under no obligation to sign it and you can politely ask them to leave your business (if they have already entered). If this happens, you can expect them to return with a written authorisation within a few days or weeks.

You are not obliged to let them in your business if they do not have written authorisation.



What if I am caught employing someone who does not have permission to work?

You can be fined up to £20,000 per undocumented worker, or face a prison sentence of up to 5 years or both. Nobody has yet been sent to prison for employing someone without permission to work. Immigration officials also have new powers to take away property or earnings or close down businesses.

If you are given a penalty, you should seek legal advice immediately from a solicitor. Even if you are caught employing someone illegally, there are ways to appeal or to reduce the fine.



What if I am caught working illegally?

People without the right to work could have their earnings or properties taken away by the government. In some cases, there is also a risk of being detained and/or deported.



Anti-Raids Network

<http://antiraid.net/immigration-checks-know-your-rights>

(available in different languages)

Migrants Rights' Network

020 8123 6021

Monday to Friday 9.30am–5.30pm

email: info@migrantsrights.org.uk

Bail for Immigration Detainees

020 3745 5226

(If you have been detained and need support)

5. Health

Everyone has the right to register with a GP and receive free 'primary care' regardless of immigration status. Primary care also includes dentists, pharmacies and optometrists (where you can get your eyesight tested).

You may need to fill in a HC1 form to get free dental care, free prescription and free eye test. If you need help with this, contact Doctors of the World (details below).

The following services should always be free:

- » Treatment given in Accident and Emergency
- » Diagnosis and treatment of specific infectious diseases and sexually transmitted infections (e.g. Tuberculosis, HIV)
- » Family planning (contraception and advice, but not termination of pregnancy)
- » Services provided as part of the NHS 111 telephone advice line
- » Health visitors and school nurses.



Refugees and asylum seekers are entitled to free hospital care, but refused asylum seekers and undocumented migrants may be charged.



You should not be charged for healthcare regardless of immigration status if you are:

- » A victim of trafficking or modern slavery
- » In need of treatment for conditions caused by torture, female genital mutilation, domestic violence, or sexual violence
- » A refused asylum seeker receiving asylum support
- » Supported by a local authority under the Care Act 2014
- » In immigration detention
- » A child under the care of a local authority
- » Receiving treatment under the Mental Health Act.



What is new?

There are different changes you need to know about accessing health services. We have divided them into three sections.

1. Hospital and Community Health Services

- » Undocumented migrants might be charged for hospital or community health services (see exceptions above). This is also true for people on short-term visas and refused asylum seekers
- » Since 23rd October 2017, the government wants to charge people in advance for healthcare, forcing hospitals and community health services to check

every patient's documents, including passports and proof of address. Non-urgent care will be refused if a patient cannot pay

- » If you are pregnant, you will not have to pay in advance but you will still receive a bill. This applies to all antenatal, birth and post-natal care. If a doctor thinks you need urgent or immediate treatment, you will not have to pay in advance, but will be billed for it later. If you need urgent treatment that will lead to significant pain/disability or your condition will substantially worsen, you should receive treatment. In other cases, urgent treatment may be delayed, and therefore not provided.

2. Health Surcharge for Immigration Applications

- » People from outside the European Union who apply to enter or remain in the UK have to pay a 'health surcharge' as part of their application. The surcharge is £150 per year for students and £200 per year for all other visa and immigration applications at the moment, but the costs will be doubled by the government soon.

Dependents, like children, will usually have to pay the same amount. For example, one adult with two children making an application to remain in the UK have to pay £600 per year at the moment, and in future this will double to £1200



- » *You may not have to pay if you can show that you are destitute.* If you are homeless or you do not have enough money to buy food, you are considered destitute.

3. Information Sharing between Home Office and the National Health Service (NHS)

The NHS is sharing some patient information with the Home Office:

- » If you have a hospital bill of more than £500 that has been unpaid for two months or more, the NHS can tell the Home Office
- » If the Home Office is trying to find out where you are, they can also ask the NHS for your address.



What can I do if I am worried about information-sharing?

If you are worried about the NHS sharing your address with the Home Office, you can ask to register with your GP using a ‘care of’ address.

This could be a friend’s address, a day centre, or a support group where you can receive your post. If you do not have an alternative address, you can ask to be registered as ‘no fixed address’. GP practices are allowed to do this, though they might not be used to it.





What should I do if I get a bill I can't pay?

It is very important not to ignore hospital bills. You should contact the hospital even if you cannot pay. The hospital should be able to offer you a repayment plan – just ask them. If they don't want to, you should contact your local debt advice service (e.g. Citizen's Advice) who should be able to help. You may be able to repay the bills a little bit each month.

Your application for leave to remain or enter can be refused if you are in debt to the NHS.



If you need to fill in an HC1 form (for free prescription, dental care and eye tests), if a GP practice refuses to register you without address, if you are worried about a hospital bill or debt, if a hospital is refusing to treat you without payment, contact Doctors of the World for help and advice.

Doctors of the World

Clinic advice line: 020 7515 7534

Monday to Friday 10am–12 midday.

Maternity Action

Advice line: 0808 800 0041 (Freephone)

Thursdays 10am–12 midday only



6. Housing



What is new?

These rules only apply in England for now, not in Scotland, Northern Ireland or Wales.

The Home Office has made it illegal for landlords to rent to someone who does not have *leave to remain** or *leave to enter**. All landlords and estate agents must check the immigration status of their tenants to make sure it is legal to rent to them.

If a landlord or agent doesn't do the checks and rents a property to an adult who does not have the right to rent, they could be fined up to £3,000 per adult or sentenced to up to 5 years in prison.

Landlords also have new powers to evict tenants if a property is occupied by one or more adult(s) who are disqualified from renting because of their immigration status. If no tenant has the right to rent, landlords do not require a Court Order, only a letter giving 28 days'



notice to leave. If only some of the tenants do not have the right to rent, landlords will need a Court order to evict.



Do I have the right to rent?

You are *not allowed to rent* if:

- » you do not have permission to enter or live in the UK
- » you are an asylum seeker who has not yet received a decision on your case

You have a *time-limited right to rent* if you have permission to work or stay in the UK for a limited period of time. This means your landlord or estate agent will need to check your documents at the beginning of your tenancy AND:

- » After 12 months or after your period of leave expires, whichever is longer.

You have an *unlimited right to rent* if you:

- » Are a British citizen
- » Are a European Economic Area (EEA) or Swiss citizen
- » Have a permanent right to live in the UK, e.g. you have Indefinite Leave to Remain (ILR) in the UK.





What if the Home Office has my documents?

If the Home Office has your documents, landlords can use the Home Office's Online Checking Tool:

<https://eforms.homeoffice.gov.uk/outreach/lcs-application.ofml>.



Are there any exceptions to the rules?

If you do not have a right to rent but feel there are reasons why an exception should be made in your case, you can request the right to rent from the Home Office. This might apply if you are unable to leave the country safely.



JCWI

www.jcwi.org.uk/policy/reports/jcwi-right-rent-guides-tenants-advisors

Free and confidential legal advice for undocumented migrants, phone JCWI's helpline on 020 7553 7470 between 10am and 1pm on Mondays, Tuesdays and Thursdays.

7. Social Services



What is new?

Some changes were made to the law in 2016 but the Home Office has not explained how these changes would work and when they will happen. For now, this means nothing has changed in practice.

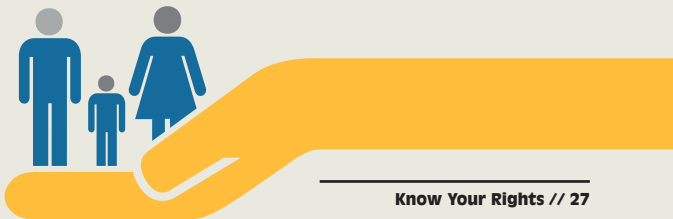
One exception, especially in London, is that many local authorities now have Immigration Officers working in their offices. They may ask you to meet with them if you ask the local authority for support. If you refused to meet with the local authority Immigration Enforcement Officer, this may be used against your application.

Below we explain how the rules work at the moment.



What is 'No Recourse to Public Funds' (NRPF)?

'No Recourse to Public Funds' (NRPF) is a legal restriction. It stops some people from claiming welfare benefits and accessing help for housing.



The restriction applies to people from outside the European Economic Area (EEA) who:

- » Need leave to remain in the UK, but do not have it
This includes people who are undocumented or have overstayed their visas
- » Have leave to remain, but have NRPF stamped on their Biometric Residence Permit
- » Have leave to remain on a maintenance undertaking, which means that when you applied, someone agreed to pay for your expenses and accommodation. They are called a sponsor
- » Are waiting for the outcome of an appeal.



When is help available for families with no recourse to public funds?

The law says that local councils must protect the welfare of ‘children in need’ in their area. Your child will almost certainly be ‘in need’ if:

- » Your family is homeless; or
- » Your family does not have enough money to meet basic needs (for example, food and clothing).

Your local council may have a duty to provide your family with accommodation and/or financial support.



Local authorities cannot advise your family to return to your country of origin if there is a legal or practical barrier to your return (e.g. your family is waiting for the Home Office to make a decision on an application for leave to remain).

You should seek legal advice and help before making an application if you can.



When is help available for individuals with no recourse to public funds?

If you are homeless and destitute and:

- » you are disabled, elderly or suffering from long term serious illness, or
- » you need 'care and attention' for some other reason

you may be able to get limited help with housing and financial support from your local council.

The law on this is complex and you should seek legal advice and help before making an application if you can.



Housing Rights

www.housing-rights.info

Project 17

www.project17.org.uk/resources/guide-to-accessing-support

Tel: 07963 509044

8. Detention and deportation of European homeless people



What is new?

The Home Office's policy of detaining and removing EEA nationals who sleep rough was judged unlawful by the High Court in December 2017. This means that the Home Office is not allowed to deport EEA nationals just because they are homeless.



What does this mean?

If you have been detained for rough sleeping, you should be immediately released.

If you have been served a notice for removal, this should be cancelled immediately.

The Home Office should have cancelled any reporting requirements that they had placed on you.





NELMA has produced a detailed factsheet on rough sleeper removals which includes details on who to contact if you need support in any of the areas mentioned above. You can find the factsheet here: <https://nelmacampaigns.files.wordpress.com/2018/01/rough-sleeper-removals-factsheet-eng.pdf>

NELMA has also set up a legal clinic and advice line for rough sleepers affected by the policy. Please call 07459 642152 or 07773 957286 or email: nelondonmigrantaction@gmail.com

For information on appealing a removal decision or what to do if your documents have been taken by the Home Office: <https://nelmacampaigns.wordpress.com/eea-removals>



if you have any questions or queries about this guide, please contact MRN:

+44 (0)20 8123 6021 / 020 7424 7386 / 07534 488696

info@migrantsrights.org.uk