



Welfare benefit entitlements for EEA nationals

An overview for homelessness services

Let's end homelessness together

Homeless Link, Minories House, 2-5 Minories, London EC3N 1BJ | 020 7840 4430

www.homeless.org.uk | Twitter: @Homelesslink | Facebook: www.facebook.com/homelesslink

© Homeless Link 2017. All rights reserved. Homeless Link is a charity no. 1089173 and a company no. 04313826.

Welfare benefit entitlements for EEA nationals

An overview for homelessness services

Contents

Introduction	2
Overview of benefits for EEA nationals	3
Means-tested benefits	4
The habitual residence test (HRT) for means-tested benefits	7
Right to reside	9
Examples of EEA nationals entitled to means-tested benefits	16
Disability and Carer's Benefits	20
Child Benefit and Tax Credits	22
Further information sources	24

Produced by

The Innovation and Good Practice Team

With thanks to

MHCLG, Rebecca Walker and CSTM

Published

March 2018

Introduction

This guidance aims to help agencies to make informed decisions about their approach to supporting European Economic Area (EEA) nationals who may be entitled to claim social security benefits in the UK. It provides an overview of entitlements to the main social security benefits focusing on the rules that can cause particular difficulties for EEA nationals.

European Economic Area (EEA) nationals

When the phrase 'EEA national' is used in this document it refers to a national of:

Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Republic of Ireland, Romania, Slovenia, Slovak Republic, Spain, Sweden and Switzerland.

The EEA includes all the countries of the European Union plus Iceland, Liechtenstein, and Norway. A separate agreement with Switzerland means that Swiss nationals generally have the same rights as EEA nationals. However British citizens are generally excluded from the rules that are specific to EEA nationals. Therefore the term 'EEA national' when used in this document does *not* refer to British citizens.

In certain circumstances it can also be necessary to know if an EEA national is one of the nationalities that has been subject to additional restrictions. The relevant countries are:

- Croatia
- A2 (Accession 2) - Romania and Bulgaria.
- A8 (Accession 8) - Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovenia and Slovak Republic.

The restrictions are outlined on p15 and a warning is placed in the text where these restrictions could be relevant.

Note: The rights of some EEA nationals, including to reside in the UK, be joined by family members and to claim benefits, are expected to change when the UK formally leaves the European Union. However at the time of writing the details of these changes are not known. It may be that future rights could be affected by the residence rights that an EEA national currently has. EEA nationals should seek specialist immigration advice if concerned about their, or their family members, future rights in the UK.

Non-EEA nationals

This guidance provides an overview of the benefit rules affecting EEA nationals. If someone is a national of a non-EEA country additional restrictions can apply depending on the person's immigration status. These rules are complex and the person should be referred for specialist benefits advice. If a non-EEA national is a family member of an EEA national in certain situations they can derive rights from that EEA national depending on their relationship and what the circumstances of the EEA national. Again these rules are complex and the family should be referred for specialist benefits advice.

This document does not provide detailed benefits or legal advice and should not be used as such. It is intended to provide an overview of the main benefit rules affecting EEA nationals. For assistance in making a claim, or challenging a decision, or if the situation is complicated, you should refer the EEA national to an independent advice centre that provides free advice on benefits (see information on referrals on p24).

This guidance was last updated in March 2018. Please check government and Homeless Link websites for the latest updates: www.gov.uk and www.homeless.org.uk.

Overview of benefits for EEA nationals

The main rules that specifically affect EEA nationals are the residence and presence conditions. These requirements vary between the different benefits.

The requirements that generally cause the greatest barriers for EEA nations are:

- the requirement to have a right to reside – which applies to means-tested benefits (as part a broader requirement to satisfy the ‘habitual residence test’) and also applies to child benefit and child tax credits; and
- the requirement to have been living in Great Britain for 2 out of the past 3 years – which applies to disability and carer’s benefits

It is helpful to approach benefits advice in terms of groups of benefits. The information that follows is therefore broken down into:

- Means-tested benefits
- Disability and carer’s benefits
- Tax credits and child benefit

For each of these groups of benefits this document gives an overview of who can claim each benefit and then focuses on the residence and presence rules that most affect EEA nationals.

However this document does not cover all the conditions of entitlement for each benefit. An EEA national may satisfy the residence and presence rules, but not be entitled to benefit because they do not satisfy another condition of entitlement. For further sources of information about benefits see p24.

Contributory benefits and employment related benefits

EEA nationals may also be entitled to other benefits that are not covered in this document as they do not contain rules that present particular barriers to EEA nationals. However if an EEA national has worked in the UK always consider if they may be entitled to any of the following benefits. Note none of these benefits require the claimant to satisfy any residence conditions.

Contributory benefits

These require the EEA national to have paid sufficient national insurance contributions in the past. In some circumstances contributions paid in the UK can be added to contributions paid in other EEA countries in order to satisfy the requirements of the UK benefit. If a claimant claims Jobseeker’s Allowance or Employment and Support Allowance the DWP will, if they are entitled, award the contributory type of these benefits before checking entitlement to the means-tested type of these benefits.

Other employment related benefits

If an EEA national is an employee they may be entitled to statutory benefits such as statutory sick pay or statutory maternity pay.

If a woman is not entitled to statutory maternity pay, but has been employed or self-employed for 26 weeks out of the 66 weeks immediately before she gives birth, or is expected to give birth, she may be entitled to maternity allowance.

If an EEA national has an injury at work they should be referred for specialist benefits advice to check if they are entitled to industrial injuries benefits.

If benefit has been refused

If an EEA national is refused a benefit they can challenge that decision within 1 month of the date on the letter notifying them of that decision. This challenge is generally referred to as a 'mandatory reconsideration'. Challenging decisions about benefit entitlement, and in particular about whether the residence and presence rules have been satisfied, can be complex and the EEA national should get help from an advice centre.

However they should ensure they submit their written request that the decision be looked at again within the 1 month deadline. If they need to wait for an appointment with an advice centre, or it will take time to gather relevant evidence to support their case, they should *not* delay their request. Instead they should submit their written request and note within the letter that they will be sending further evidence in support of their request as soon as they are able.

If the EEA national is already outside that 1 month limit they should be referred for immediate specialist advice as they may be able to submit a late challenge in certain circumstances.

If the challenge is refused they can appeal to an independent appeal tribunal, again within one month of the date on the letter notifying them of the decision refusing to change the earlier decision.

Means-tested Benefits

Summary of means-tested benefits

The following benefits are means-tested benefits:

- Universal Credit
- Income-based Jobseekers Allowance (JSA)
- Income-related Employment and Support Allowance (ESA)
- Income support
- Pension credit
- Housing Benefit

Each of these benefits can be affected by claimants', and their partner's, income and capital. None of these benefits require the claimant to have ever paid national insurance contributions.

Universal Credit

Universal Credit is being introduced throughout the UK on a regional basis. The government's intention is that Universal Credit will have been introduced for all new claimants by December 2018. It replaces the following benefits (sometimes referred to as 'legacy benefits'):

- Income-based Jobseekers Allowance (JSA)
- Income-related employment and support allowance (ESA)
- Income support
- Housing benefit
- Child tax credit
- Working tax credit

Homeless Link

If the person lives in an area where Universal Credit has been introduced it is generally no longer possible to make a new claim for any of the benefits that Universal Credit replaces.¹

WARNING: If an EEA national is already receiving one of these benefits and it is not certain they will be entitled to Universal Credit they should get specialist benefits advice *before* making a claim for Universal Credit as making a claim for UC, even when there is no entitlement to UC, can terminate an award of one of the other benefits in certain circumstances.

Universal Credit is a means-tested benefit for claimants who are in or out of work. It is paid at a higher rate for a couple if both partners satisfy the conditions of entitlement. It can include amounts for a child or children that normally live with the claimant. It can be paid to top up other benefits such as contributory benefits or disability benefits or to top up wages or other income. The claimant or, in a couple, at least one partner, must be below the age of entitlement to Pension Credit (see below).

Universal Credit can include a housing element to help with rent or service charges. The housing element can be restricted and does not necessarily cover the full amount of rent or service charge.

Note that an exception applies if the Universal Credit claimant lives in 'supported accommodation' or, from 11.4.18, 'temporary accommodation'. In these cases the claimant is excluded from UC housing costs, but can instead claim Housing Benefit whilst also claiming the other elements of Universal Credit.

If the claimant is entitled to UC including a housing element for rent, or in addition to Housing Benefit under the rules immediately above, they may be able to apply to the local authority for a discretionary housing payment to help meet their rent liability.

UC is administered and paid by the DWP.

Income-based Jobseeker's Allowance (JSA)

Income-based JSA is a means-tested benefit for claimants who are looking for work. It can be paid at a higher rate for a couple. It is not payable if the claimant works 16 hours or more or their partner works 25 hours or more. It does not include amounts for children. It can be paid to top up contribution-based JSA, or other benefits or other income.

Income-based JSA is administered and paid by the DWP.

Income-related employment and support allowance (ESA)

Income-related ESA is a means-tested benefit for claimants who have 'limited capability for work' (i.e. they are unable to work because of illness or disability) and who are not entitled to statutory sick pay. It can be paid at a higher rate for a couple. It is not payable if the claimant works (unless it is work that is specifically allowed under the rules). It is not payable if the claimant's partner works 25 hours or more. It does not include amounts for children. It can be paid to top up contributory ESA, or other benefits or other income.

Income-related ESA is administered and paid by the DWP.

¹ One exception (until 31 January 2019) is: if the claimant already has 3 or more children they cannot claim Universal Credit for the first time (or if it is more than 6 months after the end of a previous UC award, or more than 1 month after they stopped claiming as a couple because they are now single). Instead they can claim the legacy benefits that UC replaces. Note a claimant already on UC who has a 3rd or subsequent child remains on UC, but their UC only includes child elements for two children, unless an exception applies (the exemptions are similar to those that apply for child tax credit – see p21). A separate exception means that certain claimants can claim Housing Benefit as well as Universal Credit – this is covered in the main text on the next page.

Homeless Link

Income Support

Income Support is a means-tested benefit for claimants who are not required to look for work including lone parents responsible for a child under 5, pregnant women during the period from 11 weeks before their due date to 15 weeks after, and carers who care for a disabled person entitled to a qualifying level of disability benefit. It can be paid at a higher rate for a couple. It is not payable if the claimant works 16 hours or more or their partner works 25 hours or more. It does not include amounts for children. It can be paid to top up other benefits or other income.

Income support is administered and paid by the DWP.

Pension Credit

Pension Credit is a means-tested benefit for people who have reached the state pension age for women.² It is payable to people in or out of work. It can be paid at a higher rate for a couple.

Pension Credit is administered and paid by the Pension Service, which is part of the DWP.

Housing Benefit

Housing Benefit is a means-tested benefit for people who need help to pay their rent. It is payable to people in or out of work. It can be paid at a higher rate for a couple. It can include amounts for a child or children that normally live with the claimant. The amount of Housing Benefit can be restricted and does not necessarily cover the full amount of rent.

If the claimant is entitled to Housing Benefit they may be able to apply to the local authority for a discretionary housing payment to help meet their rent liability.

Housing Benefit is administered and paid by local authorities, although it is a national scheme subject to national rules.

Summary of residence tests for means-tested benefits

To be entitled to each of the means-tested benefits (listed above) the claimant (or for Universal Credit, both claimants) must be either be in a group exempt from the habitual residence test or satisfy it.

In order to satisfy the habitual residence test the claimant must satisfy the right to reside requirement which is *part of* the habitual residence test. The right to reside requirement can be complex for EEA nationals to satisfy and so is the focus of this guidance. However it is important to understand that for means-tested benefits the requirement to have a right to reside is *part of* the whole habitual residence test. For this reason the habitual residence test and right to reside requirement are separated into separate sections below.

² This qualifying age is steadily increasing and depends on date of birth. This can be checked at: www.gov.uk/state-pension-age

The habitual residence test (HRT) for means-tested benefits

Who the habitual residence test applies to

To be entitled to a means-tested benefit the claimant must be either be in a group exempt from the habitual residence test or satisfy it.

The habitual residence test always applies to the claimant. This means that for Universal Credit, since both partners in a couple need to make a joint claim, it applies to both claimants. If one partner fails the habitual residence test the other partner claims Universal Credit as a single person and is paid as a single person but the other partner's income and capital affect the claim.

For income-based JSA couples without children generally have to claim as a 'joint claim couple'. However if only one partner satisfies the habitual residence test they are still paid as a couple. For couples claiming income-based JSA who do not have to claim as a 'joint claim couple' then only one partner makes the claim on behalf of the couple and only the claimant has to satisfy the habitual residence test.

For all the other means-tested benefits only one member of a couple makes the claim and the habitual residence test only applies to them. Therefore if the partner who does not make the claim would not satisfy or be exempt from the habitual residence test it does not affect the claim and they are still paid as a couple.

Any children included in the claim for Universal Credit or Housing Benefit do not have to satisfy the habitual residence test.

Who is exempt from the habitual residence test

Always start by checking if the EEA national is exempt from the habitual residence test. To be exempt from the habitual residence test for means-tested benefits, the claimant must come into one of a list of exempt groups.

The exempt groups most relevant to EEA nationals are:

- an EEA national with '*worker status*' or '*self-employed status*' – including if they have '*retained*' either status (see p12-13); *or*
- a family member (i.e. spouse, civil partner or (grand)child (who is either under 21 or a dependant)) or dependant (grand)parent) of someone in the group above; *or*
- have a '*permanent right to reside acquired in less than five years*' (see p14); *or*
- (Housing Benefit only) are receiving income-related ESA, income support or pension credit

If the EEA national is in one of these exempt groups they do not need to separately satisfy the different part of the habitual residence test – see example 1 on p16.

The benefit authorities often fail to check if a claimant is exempt from the habitual residence test so if relevant it should be highlighted to the decision maker.

Who satisfies the habitual residence test

To satisfy the habitual residence test for means-tested benefits, the claimant must satisfy both (or for income-based JSA, all three) parts of the test. They must:

- have a right to reside in the common travel area;
- be 'habitually resident in fact' in the common travel area; *and*
- (for income-based JSA only) have been living in the common travel area for the past three months.

Homeless Link

The 'Common Travel Area' is the UK, Ireland, Channel Isles and the Isle of Man

When applying the habitual residence test, in practice the decision maker first considers whether the claimant has a right to reside (which is covered on p9). However the claimant also has to show they are habitually resident in fact and, if they are claiming income-based JSA, that they have been living in the common travel area for the past 3 months.

Being 'habitually resident in fact'

Unless a claimant is exempt from the whole of the habitual residence test then, in addition to showing they have a right to reside they also need to show that they are 'habitually resident in fact.' There is no fixed period in which someone becomes 'habitually resident' as it depends on all the person's circumstances. However it is necessary for the claimant to show:

- a '*settled intention*' to live in the Common Travel Area for the time being;
- actual residence in most cases for an '*appreciable period*'.

The claimant must provide evidence of their *settled intention* to live here for the time being. This can include details of all the connections the claimant has with the Common Travel Area, and the ending of connections elsewhere. For example ending a tenancy in another country, transferring bank accounts, bringing possessions, bringing or joining family members, arranging school places for children, embarking on a course of study, arranging accommodation and/or work here, registering with a GP etc

There is no fixed period of time that amounts to an '*appreciable period*' of time as it depends on all the person's circumstances. The stronger the evidence of a settled intention the shorter the period of residence needs to be to count as appreciable. If the person is returning from living abroad, and had previously been habitually resident here, they can pick up their former habitual residence more quickly than if they had never been here before. Depending on all the circumstances they could become habitually residence after weeks, days or even on their first day of residence.

Income-based JSA only: living in the common travel area for the past 3 months

If a claimant is exempt from the whole of the habitual residence test then they do *not* need to show they have been living in the common travel area for the past 3 months (see example 3 on p18). If the claimant is not exempt from the habitual residence test then to be entitled to income-based JSA, in addition to having a right to reside and showing they are 'habitually resident in fact', they also have to show they have been living in the common travel area for the past 3 months. The phrase 'living in' does *not* mean 'present' so the claimant could have been 'living in', for example, London for the whole of the past 3 months even though for part of that time they were temporarily absent because they were on holiday in Italy for 3 weeks.

Note: this requirement to have been living in the common travel area for the past 3 months does *not* apply to Universal Credit or any of the other means tested benefits except income-based JSA.

Right to reside

The right to reside requirement

The right to reside requirement is a necessary part of the habitual residence test for each of the means-tested benefits. The right to reside requirement also applies to the claimant for child benefit and child tax credit.

Any of the residence rights discussed in this section will satisfy the right to reside requirement for all the means-tested benefit *except* if the claimant's only right to reside is as a jobseeker as this only satisfies the requirement for income-based JSA. Each of the other means-tested benefits specifically requires a right to reside *other than* as a jobseeker.

Any of the residence rights discussed in this section will satisfy the right to reside requirement for child benefit and child tax credit (including if the claimant's only right to reside is as a jobseeker).

Overview of who has a right to reside

British citizens and Irish citizens have a right to reside in the Common Travel Area. Therefore British and Irish citizens who claim means-tested benefits always satisfy this part of the habitual residence test, but still have to satisfy the other part: the requirement to be 'habitually resident in fact' and, for income-based JSA only, the requirement to have been living in the Common Travel Area for the past 3 months.

Note although EEA nationals do not need **immigration leave** to enter or remain in the UK occasionally the circumstances of an EEA national mean they have been eligible for, and have been granted, immigration leave. For example an EEA national who has been accepted as having been trafficked to the UK may have been granted a time limited period of discretionary leave. If an EEA national has any kind of immigration leave they will have a right to reside for the duration of that leave (and if they have discretionary leave they will be exempt from the habitual residence test). However note if that leave has been granted subject to a 'no recourse to public funds condition' that condition will exclude them from the main welfare benefits and they should obtain specialist immigration advice before making any benefit claims.

Whether or not an **EEA national** has a right to reside that will entitle them to benefit can depend on what they are doing in the UK, what their family members are doing in the UK and if they are caring for someone who they can derive a right to reside from. Note an EEA national may have more than one right to reside or they may not have any.

This document covers the main residence rights of EEA nationals. If none of the residence rights below appear to apply to an EEA national they should be referred to an advice centre to explore whether other more complicated arguments may apply.

Note: the phrases 'right to reside', 'right of residence' and 'residence right' all have the same meaning in this document.

Steps to checking if an EEA national has a right to reside

1. Does the EEA national have a right to reside in the UK based on their own circumstances:
 - jobseeker (see below);
 - worker (see p12), including if they have retained this status (see p13);
 - self-employed person (see p12), including if they have retained this status (see p13);
 - self-sufficient person or student (see p13);

Homeless Link

- permanent right of residence - normally after 5 years of living with any of the residence rights except a derivative right to reside, but in limited circumstances in less than 5 years (see p15)
2. Does the EEA national have a right to reside in the UK based on being a 'family member' of an EEA national who has a right to reside under Step 1 (see p14)
 3. Does the EEA national have a right to reside in the UK based on being the primary carer of a worker's child in education (a 'derivative right to reside') (see p15)

Main groups of EEA nationals who have a right to reside

Right to reside as a jobseeker

If the EEA national is in the UK looking for work and can provide evidence they are looking for work and have a genuine chance of being engaged they will have a right to reside as a jobseeker.

However the only means-tested benefit this residence right will entitle them to is income-based JSA. If the EEA national only has a right to reside as a jobseeker this will NOT entitle them to Housing Benefit, or Universal Credit or income-related ESA or income support or pension credit. Therefore always check if they have one or more OTHER residence rights.

If the EEA national is a jobseeker and wants to claim income-based JSA remember they will still need to show they have been living in the common travel area for the 3 months before their date of claim (see p9) and that they are 'habitually resident in fact' (see p9).

After 3 months with a right to reside as a jobseeker the benefit authorities will apply the '*Genuine Prospects of Work*' test, which means that the EEA national has to provide 'compelling' evidence that they are seeking work and have a genuine chance of being engaged. Note this test does not apply until after 6 months if the EEA national has previously been a worker and is retaining worker status on the basis of being involuntarily unemployed and registered as a jobseeker, and does not apply *at all* if the EEA national has any other alternative right to reside – so always check for an alternative right to reside e.g. as the family member of a worker.

Note: if the EEA national is a Croatian, A8 or A2 national check the warning on p16 for additional restrictions that can affect who has or had a right to reside as a jobseeker.

Right to reside as a worker

To have a right to reside as a worker the EEA national must be employed under the direction of another person, in the UK, providing services they are paid for, which involve activities that are '*genuine and effective*' (see below).

Right to reside as a self-employed person

To have a right to reside as a self-employed person the EEA national must be established in the UK in order to pursue self-employed activity which is '*genuine and effective*' (see below).

'Genuine and effective' activities

For work to give the person worker or self-employed status, it must entail activities that are 'genuine and effective' as opposed to activities that are on such a small scale as to be 'marginal and ancillary'. Factors that are particularly significant include:

- the duration of the work;
- the number of hours worked each week;
- the regularity of the work; and
- the level of earnings.

There is no fixed amount of any of these factors that is conclusive, and all the circumstances of the employment or self-employment must be taken into account.

Note: depending on all their circumstances, an EEA national can be a **worker** if they:

- Need to claim benefits to top up their wages
- Work part time (there is no minimum number of hours)
- Are not currently working but are still under a contract of employment (e.g. while on sick-leave or maternity leave, whether or not that leave is paid)
- Are on a 'zero-hours contract' (it is the hours they actually work that are relevant – see example 1 on p17)
- Work 'cash in hand' (providing they can still provide evidence of their work – which could include for example bank statements showing wages being paid into their account each Friday)

Note: depending on all their circumstances, an EEA national can be a **self-employed person** if they:

- Need to claim benefits to top up their earnings
- Work part time (there is no minimum number of hours)
- Have not registered as self-employed with HMRC (this is not a requirement, but it is always helpful evidence to show registration if possible)
- Are in a down-turn, with few customers or earnings, but can show they are still maintaining the business and taking steps to get more work.

Retaining worker or self-employed status

If the EEA national has ceased to be a worker or a self-employed person they may be able to **retain worker status or self-employed status** if since then one or more of the following have applied:

- they are temporarily unable to work due to an illness or accident. 'Temporary' means not permanent – there is no time limit to how long this can be. It is the inability to work that must be temporary, even if their health condition is permanent. It is *not* necessary to claim any benefit (such as ESA) in connection with the health condition in order to retain status on this basis, although such a claim could provide evidence of the inability to work due to the illness or accident. For an illustration of these points see example 2 on p18;
- they are involuntarily unemployed and registered as a jobseeker with Jobcentre Plus. If they were employed less than one year, they only retain worker status for six months. If they were employed more than one year, they retain worker status for as long as they remain in the labour market (but after six months the DWP will apply the '*genuine prospects of work test*' - see below);
- she stopped being a worker (or stopped looking for work while retaining worker status as in the bullet above) due to her late pregnancy or childbirth. 'Late pregnancy' generally means in the 11 weeks before the due date. Worker status can be retained on this basis for up to 52 weeks. For an illustration of this way of retaining worker status see example 1 on p17. (Whether a woman can retain self-

Homeless Link

employed status on this basis is currently before the Upper Tribunal – however if the woman intends to resume her self-employment at the end of her maternity period she can continue to *be* self-employed, and so not need to *retain* this status); or

- they are in vocational training (connected to their former work, if they are voluntarily unemployed)

Note: If the EEA national is not working but still under a contract of employment (e.g. they are on sick leave), whether or not they are paid, they are still a worker, so do not need to *retain* that status.

‘Genuine prospects of work test’

After three months with a right to reside as a jobseeker, or six months of retaining **worker** status while involuntarily unemployed and registered as a jobseeker, the benefit authorities can ask the claimant to provide ‘compelling’ evidence that they are seeking employment and have a genuine chance of being engaged. This is known as the ‘*genuine prospects of work test*’. It does not apply *at all* if the EEA national has any other alternative right to reside – so always check for an alternative right to reside e.g. as the family member of a worker.

Note: if the EEA national is a Croatian, A8 or A2 national check the warning on p15 for additional restrictions that can affect who has or had a right to reside as a worker or with retained worker status.

Right to reside as a self-sufficient person including student

An EEA national can have a right of residence as a **self-sufficient person** if they, and any family members whose right to reside depends on being their family member, have:

- sufficient resources not to become an unreasonable burden on the social assistance system of the UK during their period of residence; *and*
- comprehensive sickness insurance cover.

EEA nationals who are enrolled as a student in a government-accredited college who meet the requirements above can have a right to reside as a **self-sufficient student**.

Note: Self-sufficiency can be a complex area and if the EEA national has no other residence rights they should get specialist advice before making a benefit claim on this basis.

Right to reside as a family member

A person in the UK can have a right to reside if they are a ‘family member’ (see definition below) of an EEA national who has one of the following rights to reside in the UK:

- a worker (including if they have retained this status – see p11)
- a self-employed person (including if they have retained this status – see p11-12)
- a self-sufficient person or self-sufficient student (see above)
- a jobseeker (see p10) Note – this right to reside will not entitle the family member to any means-tested benefits apart from income-based JSA; or
- a permanent right to reside (see p9-10)

The person will be a ‘family member’ of the EEA national with one of the rights above if the person is the EEA national’s:

- spouse or civil partner; or
- (grand)child (or the (grand)child of the EEA national’s spouse/civil partner) and are *either* aged under 21 or their dependant; or
- dependent (grand)parent.

Homeless Link

To be ‘**dependent**’ on the EEA national the person must receive material support for the necessities of life from them.

Note:

- Children under 21, spouses and civil partners do *not* need to show they are dependent.
- It is not necessary to live with the family member to have a right to reside as their family member. For example a woman who is separated (but not divorced) from her husband is still his family member and so if he remains in the UK as an EEA worker she would continue to have a right to reside as the family member of a worker. See also example 3 on p18.

Other relations and partners can be treated as the family member of an EEA national *if* they hold a valid residence document from the home office. For this to apply the person must be the EEA national’s ‘**extended family member**’, which means their:

- partner (not married or in a civil partnership) in a durable relationship; or
- relative who needs their personal care on serious health grounds, or
- relative who continues to be dependent on them, or a member of their household, *and* were dependent or a member of their household in the country they previously lived in.

If the person is a **family member of a British citizen**, this will not generally give them a right to reside except in limited circumstances if the British citizen previously lived with a right to reside (e.g. as a worker) in *another* EEA country and the person lived there with them as their family member before they both moved to the UK.

In limited circumstances, someone can retain their right to reside as a family member if the EEA national dies, leaves the UK or the marriage or civil partnership to them is ended with divorce or dissolution.

Note: if the EEA national whose residence rights the person is relying on is a Croatian, A8 or A2 national check the warning on p15 for additional restrictions that can affect who has or had a right to reside as a jobseeker, a worker or with retained worker status.

Right to reside as the primary carer of a worker’s child in education

If the person is the primary carer of a child who is in school (from reception class to age 18) and one of the child’s parent’s has been an EEA worker in the UK at any time while the child was also in the UK, the primary carer has a right to reside. This type of right to reside is sometimes called a ‘derivative right to reside’. Note that periods with this type of right to reside do not count towards the 5 year period required to acquire a permanent right to reside (see below).

Permanent right to reside

An EEA national can acquire a ‘permanent right to reside’ after five continuous years of residing in the UK with any of the residence rights above *except* a derivative right to reside (see immediately above).

Note:

- The EEA national could have had the same right to reside for the whole of the 5 year period or the period could be made up of a combination of different residence rights.
- The 5 year period can have been at any time (it does not have to be the last 5 years), but see next point.
- Periods with a right to reside as a jobseeker only count towards the 5 year period if they are since 30.4.06.

Homeless Link

In limited circumstances it is possible to acquire a **'permanent right to reside'** in less than five years. For example if an EEA national had worker or self-employed status and:

- it ended due to permanent incapacity and either they had resided in the UK continuously for two years or the incapacity was due to an accident at work or an occupational disease that entitles them to a benefit such as industrial injuries benefit; or
- they retired after working in the UK for at least the last year and having resided in the UK continuously for three years

Once an EEA national has acquired a right of permanent residence they will lose it if they are out of the UK for a continuous period of 2 years or more.

Note:

- If the EEA national (or their family member whose rights they are relying on) is a Croatian, A8 or A2 national check the warning on p15 for additional restrictions that can affect who has or had a right to reside as jobseeker or a worker or with retained worker status.
- See example 4 on p19.

Warning: Croatian/A2/A8 nationals

Nationals of these countries have been subject to additional restrictions on employment and residence rights for a time limited period after the country joined the EU.

The relevant countries and periods of restrictions are:

- **Croatia** joined the EU on 1 July 2013. Restrictions are currently in force until 30 June 2018, but could be extended.
- The **A2 states** are: Bulgaria and Romania. These states joined the EU on 1 January 2007. Restrictions applied until 31 December 2013.
- The **A8 states** are: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. These states joined the EU on 1 May 2004. Restrictions applied until 30 April 2009. However the DWP are seeking to appeal this end date to the Supreme Court arguing that the restrictions continued until 30 April 2011.

The restrictions

If an EEA national (or their family member whose rights they are relying on) is a Croatian, A2 or A8 national, and their current residence rights rely on periods when restrictions applied (e.g. in order to have a permanent right to reside) it will be necessary to consider whether the following restrictions affect them.

Croatian nationals – During the period of restrictions, most Croatian nationals to be legally employed in the UK must obtain and work in accordance with, an 'accession worker authorisation document' (this employment is sometimes referred to as 'authorised work'). While subject to restrictions, a Croatian national had the following restrictions on their residence rights:

- no right to reside as a jobseeker;
- is only defined as a 'worker' (see p10) if their work is authorised; and
- cannot retain their 'worker' status in the ways listed on p11.

A2 nationals during the period of restrictions, were subject to similar restrictions on employment and residence rights as Croatians.

Homeless Link

A8 nationals during the period of restrictions, were subject to similar restrictions on residence rights as Croatians and were required to work for an ‘authorised employer’ (this included employment either during the first month or registered under the Worker’s Registration Scheme, for which they would have been issued with a registration certificate for that employer).

Note:

- Limited categories of Croatian/A2/A8 nationals were exempt from these restrictions including those who had completed a year of authorised work (or for A8 nationals: a year of work for an ‘authorised employer’).
- Residence rights of Croatian/A2/A8 *other than* the 3 noted above are/were the same as for other EEA nationals – for example there are/were no additional restrictions on who can or could have a right to reside as a self-employed person.
- If an A8 national has lost their Workers Registration Scheme certificate(s), or an A2 or Croatian national has lost their worker authorisation registration certificate, they may be able to obtain a copy by submitting a Subject Access Request (SAR) under the Data Protection Act to UK Visas and Immigration:
www.gov.uk/government/publications/requests-for-personal-data-uk-visas-and-immigration
- See example 4 on p19.

Examples of EEA nationals entitled to means-tested benefits

EXAMPLE 1 – EEA national who acquires worker status, and then retains worker status due firstly to involuntary unemployment and then due to late pregnancy

Sara is a Spanish national. She came to Britain 7 months ago and immediately began working for food processing factory on a 'zero hours' contract. Her hours varied but she worked every week, at least 10 hours and often as much as 35 hours. Her weekly hours and pay is shown on her payslips. This work gave Sara enough to live on as she was staying rent free with a friend. After 5 months the company reorganised and wrote to Sara telling her they had no further work for her. Sara immediately claimed income-based JSA while she looked for another job. Sara's friend has now asked her to leave as Sara is 8 months pregnant. Sara no longer feels she can look for work as she is exhausted.

You can advise Sara as a result of her 5 months regular work she had worker status. She then retained this worker status for the last 2 months as she was involuntarily unemployed and registered as a jobseeker. She now changes the basis on which she retains her worker status as she has stopped looking for work due to the physical constraints of her late pregnancy. She will be able to retain her worker status on this basis for up to 52 weeks.

Sara will need to provide evidence to the benefit authorities that:

- She is an EEA national
- She was employed doing genuine and effective work in the UK for 5 months – her weekly payslips
- She then retained her worker status as she was involuntarily unemployed and registered as a jobseeker – the letter from the company telling Sara they had no further work for her and evidence of her JSA claim
- She is 8 months pregnant – a copy of her MATB1 form confirming her due date

Sara's retained worker status means:

- If she lives in a Universal Credit Full Service area she can stop claiming income-based JSA and claim Universal Credit, including a housing costs element when she rents accommodation (or if she is placed in 'supported' or 'temporary accommodation', housing benefit – see p.6)
- If she does not live in a Universal Credit Full Service area she can stop claiming income-based JSA and claim income support (as she is expecting a baby within 11 weeks) and when she rents accommodation she can be entitled to housing benefit.

When Sara's child is born:

- If she lives in a Universal Credit Full Service area she can get an allowance for her child within her Universal Credit, and she can also claim child benefit.
- If she does not live in a Universal Credit Full Service area she can continue to claim income support as a lone parent and housing benefit and also claim child benefit and child tax credit.

Note:

- Sara can only retain her worker status on this basis for 52 weeks from the date she stopped being registered as a jobseeker. After that she will need to either meet the conditions for retaining her worker status on a different basis or have different right to reside.
- Having retained worker status means Sara is exempt from the habitual residence test. However since she has lived here for 7 months including working here for 5 months she should be accepted as being 'habitually resident in fact' in any case.

EXAMPLE 2 – EEA national who retains self-employed status on basis of being temporarily unable to work due to illness

Alex is a Romanian national who came to the UK 2 years ago and established himself as a self-employed painter and decorator and was earning enough to pay national insurance. Alex has suffered with mental health problems since he was a teenager and 8 months ago he became unwell and was admitted to psychiatric hospital for a few weeks. When he came out he moved in with his partner who was working full time and supported Alex as he was still unwell. Since Alex's partner was working full time Alex was not entitled to claim income-related ESA. Last month Alex and his partner separated and Alex became homeless. He has been sleeping on friend's sofas when he can but that has not always been possible. Alex has documents confirming his hospital admission. He also has a letter from his GP which confirms that Alex has been unwell for the last 8 months, but that he has been improving and that based on Alex's medical history the GP anticipates that he will be able to work again in the near future.

You can advise Alex that as a result of his genuine and effective self-employment he had a right to reside as a self-employed person. Since he stopped this work 8 months ago he has retained his self-employed status on the basis that he is temporarily unable to work due to his illness. He can continue to retain this self-employed status while he continues to be temporarily unable to work due to his illness.

Alex will need to provide evidence to the benefit authorities that:

- He is an EEA national
- He was doing genuine and effective self-employed activity in the UK (for example his accounts, his bank statements, his national insurance contribution records); and
- He has been temporarily unable to work due to illness since he stopped his self-employed work.

Alex's retained self-employed status means:

- If he lives in a Universal Credit Full Service area he can claim Universal Credit on the basis he is currently too ill to work, including a housing costs element when he rents accommodation (or if he is placed in temporary accommodation, housing benefit – see p6)
- If he does not live in a Universal Credit Full Service area he can claim income-related ESA and when he rents accommodation he can claim housing benefit.

Note:

- If it is suggested that Alex's *health condition* is permanent this does not prevent him from retaining his self-employed status since it is his *inability to work* which must be temporary and Alex has evidence he is only temporarily unable to work.
- Although as a Romanian national, Alex is an A2 national the restrictions that applied to A2 nationals (see p14) are not relevant to him for two reasons. Firstly he only came to the UK after the restrictions on Romanian nationals had ended (on 31.12.13). Secondly the restrictions did not apply to self-employment, nor to retaining the status of a self-employed person.
- Alex's retained self-employed status means he is exempt from the habitual residence test. However since he has lived here for 2 years he should be accepted as being 'habitually resident in fact' in any case.
- It is unlikely that Alex would be entitled to personal independence payment (PIP) unless he is expected to meet one or more of the disability conditions for at least a further 9 months. However if that did apply then he may be entitled since he satisfies the residence and presence requirements as he is present in Britain, and has been present in Britain for 2 out of the past 3 years and is habitually resident in the common travel area.

EXAMPLE 3 – family member of an EEA worker

Kostas is an 18 year old Greek national he arrived in Britain 2 weeks ago looking for work and had hoped to move in with his father, Stelios (also a Greek national) who has been working full time in London for 3 years. However after 1 week Stelios told Kostas he had to leave as there was no space and he could not afford to keep him. Kostas has slept rough for the last week before seeking your advice.

You can advise Kostas that he has a right to reside as the family member of an EEA worker. Kostas does not need to be dependent on his father because he is under 21.

Kostas will need to provide evidence to the benefit authorities that:

- Stelios is his father
- Stelios is a Greek national
- Stelios is a worker

Kostas tells you that will be ok as he has talked to his father on the phone and his father is willing to help him but accommodate him nor support him financially. Kostas confirms that his father has his birth certificate which names Stelios as his father, Stelios has his Greek passport and keeps all his bank statements that show his wages going in each month.

As the family member of an EEA worker Kostas is exempt from the habitual residence test for all means-tested benefits. This means:

- If he lives in a Universal Credit Full Service area he can be entitled to Universal Credit, including a housing costs element when he rents accommodation (or if he is placed in temporary accommodation, housing benefit – see p.6).
- If he does not live in a Universal Credit Full Service area he can be entitled to income-based JSA and when he rents accommodation he can be entitled to housing benefit.

Note Kostas is entitled to these benefits even though he has only been in Britain 2 weeks because he is exempt from the habitual residence test so he does not need to show that he is 'habitually resident in fact' in the common travel area and he does not need to show he has been living in the common travel area for the past 3 months to get income-based JSA.

EXAMPLE 4 – Permanent residence relying on work done during A2 restrictions

Violeta is a Bulgarian national who came to the UK in June 2011 to work as a specialist nurse in accordance with her worker authorisation registration certificate. She worked full time in that job until November 2012 when she left to work full time in the local shop. (She did not, and was not required to, get authorisation for this second job because although the restrictions for A2 nationals were still in force, those restrictions had ceased to apply to Violeta because she had already completed a 12 month period working in accordance with her worker authorisation certificate). Violeta ceased working in the shop in July 2016 because she began caring full time for her father who came to live with her in the UK as he was very ill. Violeta's father died in early 2018 and she returned to Bulgaria for the funeral and remained there for 2 months. On her return Violeta discovered she had been burgled and all her belongings had been stolen. The stress of this sequence of events resulted in a sudden deterioration of Violeta's mental health and her doctor provided her with a medical certificate confirming she is too sick to work and advised her to claim benefits.

You can advise Violeta that as a result of having worker status for 5 years she has a permanent right to reside.³

Violeta will need to provide evidence to the benefit authorities that:

- She is a Bulgarian national
- She was employed doing 'genuine and effective' work for 5 years.
- She was working in accordance with a worker authorisation certificate. This is because Violeta is an A2 national and part of the 5 years' work was during the period when restrictions applied to Bulgarians so for that period of work to give her 'worker' status it must have been done in accordance with a worker authorisation certificate.
- She has not lost her permanent residence as she has not been out of the UK for 2 years or more since acquiring permanent residence (for example bank statements showing spending in the UK)

As all Violeta's documents were stolen she will need to obtain evidence of her 5 years residing in the UK with worker status. For example she can:

- Contact the 2 employers to confirm the dates of her employment and, to show that the work was 'genuine and effective', also confirm her hours and/or her pay.
- Obtain copies of relevant bank statements if her wages were paid into her account
- Submit a Subject Access Request (SAR) under the Data Protection Act to HMRC for a copy of her income tax and national insurance records for the relevant years as evidence of her 'genuine and effective' employment – see:
www.gov.uk/guidance/hmrc-subject-access-request
- Submit a Subject Access Request (SAR) under the Data Protection Act to UK Visas and Immigration for a copy of her worker authorisation registration certificate - see:
www.gov.uk/government/publications/requests-for-personal-data-uk-visas-and-immigration

Violeta's permanent right to reside in the UK means:

- She is not exempt from the habitual residence test, however she satisfies the test as she remained habitually resident in the UK while she was in Bulgaria for a 2 month visit and she has a right to reside.
- If she lives in a Universal Credit Full Service area she can claim Universal Credit on the basis she is currently too ill to work.
- If she does not live in a Universal Credit Full Service area she can claim income-related ESA and housing benefit.

³ Note: Violeta did not retain her worker status when she stopped work to care for her father as that is not a basis on which worker status is retained, but by then she had a permanent right to reside due to having worker status in the UK for 5 years.

Disability and carer's benefits

Summary of disability and carer's benefits

Overview

These benefits are not means-tested benefit and not based on national insurance contributions. Each benefit is just paid to and for the claimant.

They are administered and paid by the DWP.

The **disability benefits** can be paid in addition to other benefits, are disregarded as income for means-tested benefits and tax credits, and can result in entitlement to premiums or additional elements in means-tested benefits and tax credits. The claimant can qualify for a disability benefit whether they are in or out of work.

Disability living allowance (DLA)

DLA is a benefit for people with disabilities who need help getting around and/or with supervision or attention needs. The claimant must be under 16 to make a new claim. DLA has a care component (payable at 3 rates) and a mobility component (payable at 2 rates). One claim is made for DLA and the claimant can qualify for one or both of the components.

Personal Independence Payment (PIP)

PIP is a benefit for adults with disabilities who have difficulty with getting around and/or with daily living activities. PIP has a daily living component (payable at 2 rates) and a mobility component (payable at 2 rates). One claim is made for PIP and the claimant can qualify for one or both of the components. Unless terminally ill the claimant needs to have satisfied a disability condition for the past 3 months and be expected to satisfy it for a further 9 months.

Attendance Allowance (AA)

AA is a benefit for people with disabilities who have attention or supervision needs and who are pension age (currently 65 but slowly increasing) or over when they claim. Unless terminally ill the claimant needs to have satisfied a disability condition for the past 6 months.

Carer's allowance

Carer's allowance is paid to people who care for someone who is severely disabled and receiving a specified disability benefit - typically: attendance allowance (AA), the highest or middle rate of disability living allowance (DLA) care component or either rate of the daily living component of personal independence payment (PIP). Carer's allowance can be paid in addition to some other benefits but not all. Carer's allowance counts as income for means-tested benefits and tax credits, but can result in entitlement to premiums (but see warning below). The claimant can qualify for carer's allowance whether they are in or out of work, but cannot earn more than an earnings limit (£120pw in 2018-19).

Warning: an award of carer's allowance will mean the disabled person is not entitled to the severe disability premium (or additional amount for PC) in legacy means-tested benefits - which is a greater amount.

Residence and presence tests for disability and carer's benefits

To be entitled the claimant must:

- be present in Great Britain
- be habitually resident in the Common Travel Area⁴; and
- have been present in Great Britain for at least 104 weeks in the last 156 weeks (sometimes called 'the past presence test')

The requirement that the claimant be **habitually resident** means they must be 'habitually resident in fact' as explained on p8. There is no other part to this habitual residence requirement – i.e. the claimant does *not* need a right to reside. Note also that the groups that are exempt from the habitual residence test for means-tested benefits are *not* exempt from this requirement to be habitually resident. The only people who are exempt from this requirement to be habitually resident for the disability and carer's benefits are serving members of HM Forces and their family members.

Exceptions to the past presence test that are most relevant to EEA nationals

- If the DLA care component is claimed for a baby under six months old, there is a shorter 13-week past presence test. If covered by this, it continues to apply until the child's first birthday. If the child becomes entitled to DLA at between six months and 36 months, the past presence test is 26 weeks in the last 156 weeks.
- The past presence test does not apply For AA, DLA and PIP if the claimant is terminally ill.
- The past presence test does not apply to AA, CA, DLA and PIP if the claimant:
 - is habitually resident in Great Britain; *and*
 - is covered by the co-ordination rules (for example if the EEA national had previously worked in another EEA country before moving to the UK); *and*
 - can demonstrate 'a genuine and sufficient link to the UK'

'A *genuine and sufficient link*' is not defined. Relevant factors include if the claimant has worked in the UK, or spent a significant part of their life in the UK, or is receiving a UK contributory benefit, or is dependent on a family member (all family members can be relevant here) who has worked in the UK and/or receives a UK contributory benefit.

⁴ The 'Common Travel Area' is the UK, Ireland, Channel Isles and the Isle of Man

Tax credits and child benefit

Summary of Tax credits

Child tax credit (CTC) is paid to a single claimant, or couple making a joint claim, responsible for (normally lives with and has main responsibility for) at least 1 child and whose income is low enough. CTC does not require the claimant(s) to have paid national insurance contributions. CTC is paid whether or not the claimant(s) are working. CTC can be paid in addition to some benefits.

Child tax credit is subject to the '2 child-limit' which means that generally a claimant cannot receive a child element for more than 2 children who are born after 6.4.17 unless they are covered by an exception.⁵

Working tax credit (WTC) is paid to a single claimant, or a couple making a joint claim, who is in 'full-time work' (see below) and whose income is low enough. WTC does not require the claimant(s) to have paid national insurance contributions. WTC can be paid in addition to some benefits.

A claimant counts as being in full-time work if they:

- work at least 30 hours a week and are 25 or over;
- work at least 16 hours a week and:
 - qualify for a disabled worker element; or
 - are 60 or over; or
 - are a single claimant and are responsible for at least one child; or
- are a member of a couple, and either or both are responsible for at least one child (and certain circumstances apply) the couple's combined hours of work are at least 24 hours a week, and one does at least 16 hours a week. If only one works, that person must work at least 24 hours a week.

CTC and WTC are administered and paid by HM Revenue and Customs (HMRC).

Residence and presence tests for tax credits

To be entitled to tax credits the claimant (or both claimants if a couple) must

- be ordinarily resident in the UK; *and*
- (CTC only) have a right to reside in the UK; *and*
- (CTC only) have been living in the UK for the past 3 months (or be in one of the exempt groups - see below).

Note: all the residence rights mentioned in this document will satisfy the right to reside requirement for child tax credit – including if the EEA national's only right to reside is as a jobseeker.

⁵ In brief the exceptions are: multiple births (if claimant already has 2 children all new children are ignored except 1), adoption (unless direct from abroad), if the child's parent is under 16 (or 16-19 in education or training) and the claimant is responsible for them, if the child is being cared for because they cannot live with their parent who is the claimant's friend or family member, or the new child is likely to have been conceived as a result of rape or in a coercive or controlling relationship and the claimant is not now living with the perpetrator.

Homeless Link

Exemptions from the need to have been living in the UK for the past 3 months for child tax credit. The exempt groups most relevant to EEA nationals are:

- an EEA national with 'worker status' or 'self-employed status' - including if they have '*retained*' either status (see p11-12)
- are a family member of an EEA worker or self-employed person (see p13)
- someone returning to the UK after an absence of less than 52 weeks, and before departing the UK they were ordinarily resident for three months

These exempt groups are the same for child benefit.

Summary of child benefit

Child benefit is payable if the claimant is responsible for a child (this means living with the child or regularly contributing to the cost of the child an amount at least equivalent to the child benefit amount). It is not means-tested and not based on national insurance contributions benefits. It can be paid whether the claimant is in or out of work.

Child benefit is administered and paid by HM Revenue and Customs (HMRC).

Residence and presence tests for child benefit

To be entitled to child benefit the claimant and the child must be present in Great Britain (limited exceptions can allow claims to be made for children living in other EEA states).

The claimant must also:

- be ordinarily resident in the UK;
- have a right to reside in the UK; and
- have been living in the UK for the past 3 months (or be in one of the exempt groups - see below).

Note: all the residence rights mentioned in this document will satisfy the right to reside requirement for child benefit – including if the EEA national's only right to reside is as a jobseeker.

Exemptions from the need to have been living in the UK for the past 3 months for child benefit. The exempt groups most relevant to EEA nationals are:

- an EEA national with 'worker status' or 'self-employed status' - including if they have '*retained*' either status (see p11-12)
- are a family member of an EEA worker or self-employed person
- someone returning to the UK after an absence of less than 52 weeks, and before departing the UK they were ordinarily resident for three months

These exempt groups are the same for child tax credit.

Further information sources

As noted above, this document focuses on the rules that most affect EEA nationals. It does not cover all the conditions of entitlement for each benefit and does not cover all benefits that could be available. If you need further information or to challenge a refusal of benefit the following sources may be helpful.

Information

There are several publications that do cover all the entitlement conditions for each benefit – in particular:

- The *Welfare Benefits and Tax Credits Handbook* (published by Child Poverty Action Group) – provides comprehensive information on the conditions of all social security benefits.
- The *Disability Rights Handbook* (published by Disability Rights UK) also covers the benefits rules with an emphasis on benefits for people with disabilities and their carers.

For details of the specific rules affecting EEA nationals who have come to the UK see:

- The *Benefits for Migrants Handbook* (published by Child Poverty Action Group) – this includes detailed information on the benefit rules affecting EEA as well as non-EEA nationals.
- *Right to Reside Flowchart A2* poster this flowchart takes you through the possible residence rights a claimant may have. It accompanies, and cross references to information in, the *Benefits for Migrants Handbook*.

For on-line information about benefits see:

www.citizensadvice.org.uk/benefits/ and www.gov.uk/browse/benefits

Referrals

If the benefit entitlements of an EEA national are complex, or their right to reside is not clear, or they wish to challenge a refusal of benefit you should refer them for independent advice.

Details of local agencies can be found at:

www.citizensadvice.org.uk (for local citizens advice in England and Wales)

www.cas.org.uk (for local citizens advice in Scotland).

www.lawcentres.org.uk (for local law centres)

There may also be other independent advice centres or local authority welfare rights services.

Advice for advisers

If you provide advice and need help you may be able to access help from organisations that provide advice to advisers (sometimes called 'second-tier advice'). These include:

Child Poverty Action Group:

Provide advice to advisers on all social security benefits

10am to 12pm and from 2pm to 4pm (Monday to Friday) on 020 7812 5231 for advisers in England and Wales

10am to 4pm (Monday to Thursday) and from 10am to 12pm (Friday) on 0141 552 0552 for advisers in Scotland.

The Aire Centre:

Provides advice to advisers on EU law including on an EEA national's right to reside necessary for certain benefits or housing or homelessness assistance.

Monday's, Wednesday's, and Friday's between 10:30am and 6pm on 020 7831 4276. They do not generally give advice immediately over the telephone, but take down the request and respond within two to four weeks (or more quickly if necessary).