

Habitual residence test

This factsheet explains how the council decides if a homeless applicant is 'habitually resident'.

This may affect you if you have come to the UK from abroad.

Some people, including British citizens, who are coming to the UK after living abroad, must pass the 'habitual residence test' to meet the residence conditions for homeless applicants.

What is habitual residence?

Habitual residence is not defined in law, but broadly it is about where you have your settled home. A tourist will not pass the test because their home is elsewhere.

Automatically habitually resident

You and your close family automatically pass the habitual residence test if you:

- are an EEA national¹ who is working or self-employed in the UK.
- are an EEA national with a permanent right to live here after retirement, or after becoming permanently unable to work, or because of the death of a family member
- have been granted refugee status
- have been granted 'humanitarian protection'
- have been granted 'discretionary leave' or leave to remain on human rights grounds, without a 'no recourse to public funds' condition
- were deported back to the UK.

¹The EEA includes all the countries that are in the EU plus Iceland, Liechtenstein, Norway and Switzerland.

Resuming habitual residence

You can be habitually resident as soon as you arrive in the UK if you were previously habitually resident in the UK and have returned to resettle here. The council may ask why you left, and what links you kept with the UK.

Passing the habitual residence test

All references to living in the UK in this factsheet include time living in the countries that make up the 'Common Travel Area'. The Common Travel Area is made up of the UK, Ireland, the Isle of Man and the Channel Islands.

Unless you are automatically habitually resident or have resumed habitual residence you must have lived for some time in the UK to pass the test. This is usually between one and three months.

The council will look at how long you've been in the UK, what you are doing here, if you have lived here before, and your future plans.

Evidence that you are habitually resident could include:

- enrolling children in school
- having family ties in the UK
- registering with a doctor
- joining local clubs
- bringing your possessions to the UK
- opening a UK bank account
- looking for work.

Going on holiday abroad does not mean you stop being habitually resident. But habitual residence will be lost if you leave the UK intending to settle abroad.

The habitual residence test for claiming some welfare benefits includes a requirement that you must have lived in the UK for at least three months. This is not the test if you apply as homeless. Get advice if you think the council has applied the 'wrong' test.

What duty does the council have?

If the council decides you are habitually resident and that you are homeless or likely to be homeless within 56 days, it must assess your housing and support needs. See [other factsheets](#) in this series for more information about how the council may help you.

Challenging a decision

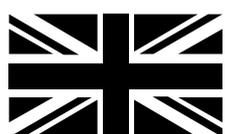
You have the right to ask for a review of a decision by the council that you do not meet the residence conditions. Your request must be made within 21 days of being notified of the council's decision. Get advice quickly if you want to do this.

If your review doesn't succeed, get advice about whether you can appeal to court. If you are on a low income you may qualify for [legal aid](#) to help you do this.

Further advice

You can get further advice from Shelter's free* housing advice helpline (0808 800 4444), a local Shelter advice service or local Citizens Advice office, or by visiting england.shelter.org.uk/housing_advice

*Calls are free from UK landlines and main mobile networks.



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