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Your quarterly newsletter from the housing rights website

July 2019

The [housing rights website](#) gets over 10,000 visits every month. This newsletter, from the Chartered Institute of Housing and BME National, keeps you up-to-date with developments around the housing rights of people with different kinds of immigration status. Please feel free to share it with anyone interested.

The website is currently being refreshed so we hope you will find that it's completely up to date and brings you accurate guidance in a readable form.

Remember, for the latest on Brexit and housing rights, go to the [Brexit page](#) of the website. And go to the [What's New page](#) for other news. If you have any comments on the changes to the site, or there is anything we have missed, do contact us (policyandpractice@cih.org).

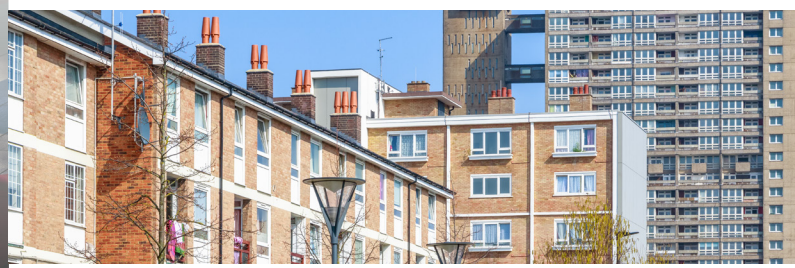
Housing rights for EU nationals - regulations change

After new English regulations took effect on 7 May, new regulations for Wales are being brought in on 19 July. If you are an EU citizen with pre-settled status (or someone advising them) these regulations may reduce your rights. So, if you plan to apply for social housing or for homelessness help in Wales but haven't yet done so (or you act for someone in this position), aim to apply before 19 July. See the housing rights pages on [The law on housing eligibility](#) for the new English and Welsh rules. Look at the page on [housing benefit regulations](#) for links to pdfs with the new rules for England, Wales and Scotland.

Court ruling: London council housing allocations policy is 'discriminatory'

Inside Housing [reports](#) on an appeal court ruling in which Hillingdon's policy of requiring people to live in the borough continuously for at least ten years before qualifying for the housing register indirectly discriminates against Irish travellers and non-UK nationals. The case was brought by Kurdish refugee Yilmaz Gullu, whose case was initially dismissed before he was given leave to appeal. Hillingdon Council said: 'We accept the Court of Appeal's ruling and will now be taking steps to review our social housing allocation policy in accordance with the judgement. We will not be pursuing an appeal in this matter.'

The case is important as many councils, including several London boroughs used new powers introduced in 2012 to impose residency requirements on people on their housing registers. By imposing tighter rules, Hillingdon cut its waiting list from almost 10,000 households in 2012 to fewer than 4,000 two years later. Overall, London waiting lists fell from 380,000 in 2012 to 256,000 in 2014 because of such changes, even though real housing demand was rising quickly at the time.





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MPs demand a better 'backstop' for EU citizens after Brexit

Free Movement [reports](#) that the government is being urged to guarantee the rights of EU citizens living in the UK through legislation to back up the flawed EU Settlement Scheme. In a [report published on 30 May](#), the Home Affairs committee says that before Brexit 'lessons must be learned to avoid similar consequences befalling EU citizens to those that affected the Windrush citizens'.

The MPs took issue with the fundamental premise that European residents [only get legal status post-Brexit if they apply for it](#). Those who don't, eventually become undocumented migrants. The option of a compromise process—whereby a declaratory system confirming citizens' rights in statute is combined with the requirement on citizens to apply to the scheme to obtain proof of those rights—remains open to the government. Protecting EU citizens' rights in primary legislation would also give reassurance and increase confidence in the government's approach, as it is more difficult to change it.

Free Movement says that this might even be called 'a backstop'.

The committee also recommends the Home Office to make its helpline free, to clarify how and when [hostile environment](#) measures will be applied to EU citizens and to train caseworkers in how to support vulnerable applicants.

By the end of May, about 750,000 Europeans had applied through the Settlement Scheme, which means that about 2.6 million still need to do so.

Further calls for an end to 'right to rent' checks

After the High Court's damning criticism of the right to rent scheme (reported in the April newsletter), there have been renewed calls for it to be scrapped. Conor Kavanagh from the Immigration Advice Service said the government must [stop confusing landlords with border police](#), especially with the uncertainties surrounding European nationals living in the UK who are already facing discrimination by landlords worried about being penalised for not checking their right to rent.

And a coalition of landlords, the Joint Council for the Welfare of Immigrants and the body representing 'the 3million' EU residents in the UK have called on the next Conservative Party leader [to scrap the policy](#), after the High Court ruling said that it causes discrimination.

Hostile environment under focus again

When Sajid Javid realised that the Home Office had failed to heed warnings that might have avoided the Windrush scandal (including those made on the housing rights website), he promised to review the 'hostile environment' that brought it about, including the right to rent.

A leaked draft of the [official review](#) of the events that led to the scandal, being overseen independently by Wendy Williams, is [reported](#) to include strong criticism of government policy. It argues that the hostile environment '...failed to adequately mitigate equalities issues including the potential for discrimination, particularly in housing'. CIH [submitted evidence](#) to the review last year, making just this point.

But in the meantime, almost every week there are new reminders of how devastating the effects of the hostile environment can be on people's lives. Here are more examples.

Hardship for people with 'limited leave'

One came from the Unity Project, whose report, [Access Denied](#) shows the impact of NRPF (no recourse to public funds) on women, disabled people, older people and those pregnant or looking after young children. It reveals the extreme difficulty that people with limited leave have in making enough money





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in low-paid work to sustain their families, and how relaxing the NRPF rules could drastically reduce the hardship they suffer.

Vulnerable people facing 'extortionate' fees to apply for immigration status

Another came in reports from The Independent on the [huge costs](#) faced by those applying for leave to remain in the UK when their applications should be straightforward. Politicians are [backing demands](#) for an urgent review into the Home Office partnership with French firm Sopra Steria, following warnings that legal migrants risk being 'thrown into the hostile environment' because they can't get free appointments to resolve their cases. The housing rights website has warnings about problems with Sopra Steria on its [What's new](#) page and they were included in the April newsletter.



Legal aid cuts prevent discrimination from being challenged

Yet another part of the hostile environment is poor access to legal aid. The Guardian [reports](#) that the cuts mean that people who suffer discrimination, for example in applying for accommodation, find extreme difficulty in challenging it because of their inability to pursue court cases. The housing rights website has [guidance on challenging discrimination](#) but warns that cases are difficult to pursue: this is now confirmed by the Equality and Human Rights Commission itself.

Arhag again wins diversity award

Arhag is one of the main sponsors of the housing rights website, so we are particularly pleased that it has again won a 24housing diversity award. Its chief executive, Cedric Boston, writes:

We have been on a journey for the last three years, which within a few months will be reaching a new landmark when we complete our move to a new purpose built hub of services to migrants and refugees in the capital.

So, we take this award for Leading BME Organisation gratefully and see it as a mark that Arhag's decisive move to broaden services is heading the right way.

But it is also just the beginning of what we want to achieve as we prepare to establish our fixed 'hub' of services later this year. The final touches are being made to our new HQ which will be host not only to Arhag - which owns nearly 1,000 homes across London - but also, to five other organisations we now work with, providing a range of services to refugees and migrants both in the capital and nationally.

This award very much reflects the success of our collaboration with our partners which has already enabled us to win £1m in extra funding for our work from the Department for Digital, Culture, Media and Sport's Tampon Tax Fund.

Asylum accommodation and asylum decisions

In December, the Commons Home Affairs Select Committee published its [report](#) on the new asylum accommodation contracts, drawing attention to local authorities' deepened mistrust of the arrangements. The Home Office has now [replied](#), promising 'further steps to enhance its engagement with local authorities'. It says that the new contracts make it a requirement for accommodation providers to 'develop close working relationships with local authorities, including consultation on procurement, sharing data to assist with local authority obligations and complying with relevant licensing requirements'. The new contracts start in September.

Meanwhile, under the current contract in Glasgow (which it will lose in September), SERCO is again evicting asylum seekers who - according to local



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agency [Positive Action in Housing](#) – have valid claims in process and should be accommodated. It cites the example of an Eritrean woman who has had two contradictory letters from SERCO. One letter said that her asylum claim has been approved, whilst the other indicated that it had been rejected. This only gave her a few days' notice to leave, when in fact her claim is still being assessed.

Who should be responsible for housing asylum seekers in cities like Glasgow and how they should plan for the new contracts are questions examined in an article by [Commonspace](#).

And also from Scotland, the Destitute Asylum Seeker Service (DASS) Partnership, co-ordinated by the Refugee Survival Trust, Scottish Refugee Council, and others have published a report [From Pillar to Post](#), looking at destitution among those refused asylum north of the border.

2. Make information about national and local domestic abuse support services available on your website and in other appropriate places so that they are easily accessible for residents and staff
3. Put in place a HR policy, or amend an existing policy, to support members of staff who may be experiencing domestic abuse
4. Appoint a champion at a senior level in your organisation to own the activity you are doing to support people experiencing domestic abuse.
5. So far 347 housing providers have signed up for the pledge, covering a significant proportion of the social housing stock in the UK.

Domestic abuse can affect anyone, it is predominantly a crime perpetrated by men against women; those affected are therefore mainly women and children. In their consultation on accommodation-based services for victims of domestic abuse, the government highlights that some migrant women and children are at greater risk of exploitation by their male partners. This is because they may be financially dependent on their abuser as result of their immigration status or a language barrier (for example). Or even that they (mistakenly) believe they aren't entitled because: the rules are complex, they have received misleading advice about their rights, or as result of a poor or adverse decision by the authorities. And we know that adverse decisions can be driven by attitudes about who is and who isn't deserving of support, a fact that means that migrant women face a double disadvantage.

CIH's 'Make a Stand' campaign and migrants

The CIH's Yorick Irving-Clarke writes about its campaign to improve services for domestic violence victims:

An estimated 1.9m adults experienced domestic abuse in the year ending March 2017 and some 6-7% of children live with a person who has experienced abuse. To strengthen the role that housing providers play in preventing abuse, the Make a Stand pledge was introduced as part of former CIH president, Alison Inman's, campaign for Women's Aid and has been continued by current president Jim Strang.

The pledge consists of four commitments that housing providers must make to support victims of domestic abuse:

1. Put in place and embed a policy to support residents who are affected by domestic abuse



Knowing how to work with victims of domestic abuse in migrant communities (as well as long-established ones) is therefore crucial. The government has put in place the 'Destitution Domestic Violence Concession' (DDVC) which allows victims of abuse to escape their abuser and apply for public funds. CIH is pleased to see



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that as part of its [current consultation](#), government is taking the abuse of migrants seriously and making links between this, wider violence against women and girls (VAWG) and modern slavery. We will be responding to the consultation and publishing our full response in August.

In the meantime, readers can find out more about [Make a Stand](#) and find more on helping migrant victims of domestic abuse on the housing website pages for [England and Wales](#) and [Scotland](#).

Housing problems faced by EU nationals with 'Settled Status'

Karan Singh, volunteer immigration advisor with Praxis Community Projects, describes a troubling case:

Praxis Community Projects is a charitable organisation that provides practical, legal and emotional support for migrants in crisis or at risk, ensuring that their essential human needs are met and that they are able to overcome the barriers they face.

We have seen a number of clients who have been granted Settled Status (indefinite leave to remain) under the new EU Settlement Scheme and are being declined access to public funds through the DWP, as well as housing services by local authorities.

Recently, we assisted a vulnerable EEA national who was granted Settled Status to approach the housing options team of his local authority. He presented with mental health issues, a learning disability and addiction to alcohol. He was accepted as being in priority need and was housed temporarily under the provisions of the Homelessness Reduction Act 2017.

The DWP approved universal credit payments, as well as housing benefit for the temporary accommodation. After a month, the client was told that he was not eligible for assistance under the Housing Act 1996 due to not having permanent residence under the EEA regulations and not having exercised treaty rights as a worker, jobseeker, self-sufficient person, etc. The client was served a notice to quit from his temporary accommodation and was contacted by the local authority's housing officer numerous times by phone telling him that he needed to leave within a few days as he was not deemed eligible for assistance.

After obtaining further legal advice from solicitors, the CIH and other housing specialists, we wrote to the local authority clarifying the legislative provisions and why our client was eligible, but they still refused to withdraw their decision. They explained that they were told by the MHCLG that clients with Settled Status were not eligible for housing assistance or benefits. This was despite our client already receiving benefits.

The local authority has now agreed to house our client indefinitely after we sent them a pre-action letter with





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a view to judicial review proceedings of their unlawful decision. They are still however refusing to accept that the client is eligible for housing assistance and said that they are making their own enquiries to resolve the matter.

Praxis Community Projects are concerned that we are likely to see an increase in vulnerable EEA national clients in the same situation who are unaware of their rights and are unable to enforce these.

Sue Lukes, author of much of the guidance on the housing rights website, comments that the council clearly stated that they believed the client was subject to immigration control (because he had no right to reside) but he has an immigration status (which is what Settled Status is) that made him eligible. People with EU Settled Status are in eligible class (C) of the regulations for housing purposes. The advice from MHCLG is only advice, not the law. We understand that in any case MHCLG have responded to concerns that their advice is ambiguous and have clarified it. But we expect many more similar problems as we deal with the changes Brexit may bring.

Other news

Refugees forced to seek help from homelessness agencies

One in four of those seeking shelter at key homeless agencies in Manchester, London and Leicester are refugees, reports [The Independent](#). A year ago NACCOM (the 'no accommodation' network) looked at the numbers of refugees using homelessness services in the three cities and what brought them to need help. Their follow-up report, [Mind the Gap](#), finds a direct link between the Home Office policy of giving newly recognised refugees only 28 days to vacate asylum accommodation (the so-called 'move-on' period) and the high prevalence of homelessness among refugees in the UK.

It calls on the Home Office to extend the 28-day period so that it aligns with the 56-day period under which people threatened with homelessness can get help under England's new Homelessness Reduction Act.

Focus on the housing conditions of Roma people

A [comprehensive report](#) from the House of Commons Women & Equalities Select Committee looks at government policy towards Gypsy, Roma and Traveller communities. On housing, it specifically draws attention to the exploitation faced by many Roma people in the private rented sector. One of its recommendations is that 'all local authorities that have Roma populations should consider the use of selective licensing to prevent exploitation in the private rented sector.' The [Roma Support Group](#) welcomed the report, although said that it awaits confirmation of the benefits of licensing schemes (and similar schemes in Scotland) for Roma households.

Helping homeless people register with a GP

People who are homeless can face difficulties when registering with a GP – such as being asked for proof of address and ID. Healthy London Partnership has worked with Pathway to create a [training package](#) for GP receptionists and practice managers to improve access to health for homeless people.





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Was the Worker Registration Scheme legal?

When eight new countries joined the EU in 2004 the UK decided not to prevent employed workers from being able to work here but at the last minute obliged them to enter a 'Worker Registration Scheme'. This was initially imposed for a period of five years and then in 2009 it was extended for a further two years. The housing rights website had separate pages on the scheme and how it affected rights to housing and benefits.

The Supreme Court has now found that the scheme was too onerous, and therefore its extension was illegal. Although the scheme has now ended, this might mean that those who registered after 2009 can reclaim their fees, and those who were denied rights because they failed to comply with the scheme could now challenge those decisions. [Free Movement](#) has more guidance.

What is the difference between refugee status and humanitarian protection?

Finally, if you struggle to understand the differences between the various forms of protection that might be offered to a successful asylum seeker, the Free Movement website has [an article](#) which describes them for the non-legal reader.



Contributors

The newsletter is edited by John Perry from CIH. This issue was put together with help from Sue Lukes (consultant and main website contributor) and CIH's Sam Lister, as well as those named in the text.

**Do you have any
comments on this
newsletter?**

Send them to policyandpractice@cih.org

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