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Your quarterly newsletter from the housing rights website

October 2019

The [housing rights website](#) gets 10,000 visits every month. This newsletter, from the Chartered Institute of Housing and BMENational, 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.

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).

BMENational, the collective of over 60 BME housing associations in England that jointly publishes the website, is launching its manifesto on 17 October – more details will follow in our next quarterly newsletter.

The website is feeling fresher!

Most of the pages on the [housing rights website](#) have now been updated, edited to make them clearer or have new information where there are new developments affecting rights to housing and to benefits. Please take a look!

Among the new additions to the site is guidance for benefit applicants on how they can [appeal against housing benefit and universal credit decisions](#).

EU Settlement Scheme – many applicants aren't getting settled status

Some 1.5 million existing EU residents have now been granted settled or pre-settled status under the EU Settlement Scheme, the Home Office has announced. Barbara Drozdowicz of the East European Resource Centre said, "we are delighted that the EU Settlement Scheme has reached this important landmark".

But the bad news is that the Settlement Scheme is failing an increasing number of those who apply to it. Oxford University's [Migration Observatory](#) estimated that around 69 per cent of EU citizens in the UK have been living here for over five years. Hence, they should be eligible for the more secure settled status.





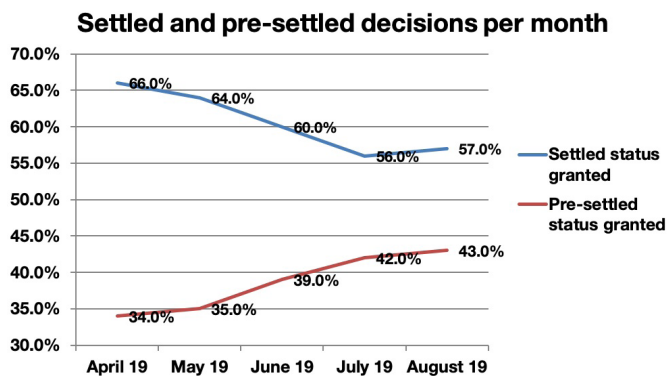
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[The Free Movement blog](#) points out that the ratio of settled to pre-settled grants is at the worrying level of 57 per cent settled to 43 per cent pre-settled (see chart).



Source: Free Movement blog

One explanation for the growth in pre-settled grants is that it results from the Home Office asking for more information. When the application software searches national insurance records, if less than five years are found the applicant is asked if they want to accept pre-settled status or submit more evidence. Some of those entitled to full settled status may be selecting the wrong option.

Free Movement concludes that '...this scheme is heading straight for another Windrush scandal. Only this time it won't involve citizens who had legal status yet struggled to prove it; it will be about EU citizens who may have lived in the UK for decades, but may soon find themselves without legal status.'

Evidence that another 'Windrush' might be in the offing came from press reports about high-profile refusals of settled status. [The i](#) reported on a Polish chef who has lived in Britain for 15 years, while [the Mirror](#) covered French baker Richard Bertinet who has lived in Britain for more than 30 years.

The Free Movement blog and others have called for a different EU Settlement Scheme, possibly one based on [a declaratory principle](#), which would mean all EU citizens already here would automatically be granted the right to stay in the UK, only having to register if they need to prove it. This would avoid problems that are already occurring, such as [a surge in EU nationals being refused universal credit](#). It would also solve most of the problems likely to be experienced by people entitled to settled status who, for various reasons, fail to apply for it.

Information on the EU Settlement Scheme

The AIRE centre has produced a series of [information leaflets](#) on the Settlement Scheme, including what happens in the event of no deal. They are currently translated into Slovak, French and Portuguese but more language versions will be added over the next few weeks.

Also, look out for training sessions on the Settlement Scheme in different parts of the country, for community-based advisers, either on the [AIRE centre website](#) or by contacting Matthew Evans (mevans@airecentre.org).

The Roma Support Group offers help to Roma people who want to obtain settled or pre-settled status. Book an appointment with them on 07440 743866 or 07459 319706, Monday to Friday, 11am until 5pm.





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What if there's no deal? - arrangements for EU citizens moving to the UK after Brexit

Having earlier announced that free movement of EU citizens would end immediately, Home Secretary Priti Patel has now clarified that [temporary arrangements will stay in place](#) if Brexit takes place on 31 October, with or without a deal. New entrants from the EU can apply for a new temporary immigration status called European Temporary Leave to Remain, or 'Euro TLR'. This will last for three years.

There will still be no changes to the right to rent for EU, EEA and Swiss citizens and their family members living in the UK, even if the UK leaves the EU without a deal, until 31 December 2020. Updated in September, [the government website](#) confirms that existing arrangements stay in place for the next 14 months and that European citizens in these groups can continue to prove their right to rent, simply using their passport or an identity card from their home country. Of course, in practice, many landlords are likely to be unaware of this announcement and may start refusing accommodation to EU nationals.

The government also reassured existing European residents that they will still be able to use the NHS after a no-deal Brexit (whether or not they have settled status by then). A Department of Health spokesperson told

[the Mail](#) that "we can completely reassure EU citizens currently living in the UK before or on 31 October that they will still be able to access free healthcare on the NHS after we leave the EU on 31 October, whatever the circumstances. How they prove their eligibility for NHS treatment will not change, regardless of whether they have applied to the EU Settlement Scheme."

More generally, however, for benefits and for housing allocations it is unclear how a newly arrived EU national will be distinguished from someone who was here before Brexit but hasn't yet applied to the EU Settlement Scheme. There have been no changes on how entitlement to benefits will be evidenced, and the government is saying entitlement will be proven in the same way as before. However, will this work? Clearly there are risks in claiming benefits for EU nationals who enter the UK after Brexit: even if the DWP are not doing checks presently it may later turn out that such people were not eligible.

The Public Law Project has produced a detailed briefing on [EU Citizen's rights in the event of a no-deal Brexit](#). The paper draws on still-evolving primary legislation, statutory instruments and government policy documents. It advises on immigration, settled status and access to NHS and education.

And for a summary of what happens immediately after Brexit day, whenever that turns out to be, Free Movement has a [useful summary](#) of changes affecting EU citizens, asylum seekers and immigration case law.



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More on EU nationals

- The Home Office has updated its EU settled status guidance relating to [Zambrano, Chen, Ibrahim and Teixeira cases](#) (relating to family members of a qualifying British citizen and derivative rights to reside).
- Lack of government funding to help children in care apply for EU settled status could leave many undocumented and without access to state care, warns [The Independent](#). Analysis from the Migration Observatory suggests that there were 700,000 EU children under 18 in the UK in 2018, meaning hundreds of thousands of children may still need to apply for settled status or British

Citizenship. More information and a guidance leaflet can be found on the [PRCBC website](#) (Project for the Registration of Children as British citizens.) The NRPF Network also has [an article](#) about the issues.

- The Guardian reports that EU nationals feel [safer in Scotland than in England](#).
- A University of Southampton report on [The impact of Brexit on EU nationals' vulnerability - the case of Polish nationals](#) investigates the vulnerability of EU nationals as a consequence of the referendum campaign and vote, focusing on the Polish community in Southampton. It concludes that many Poles feel collectively prejudiced and judged, as a result of Brexit.

Rough sleepers and Home Office enforcement action

Recent allegations of Home Office enforcement action among rough sleepers has prompted [a blog](#) on the gov.uk website, which aims to reassure readers. It says that the Rough Sleeping Support Service (RSSS) 'was not designed to undertake enforcement action but it may be considered on a case-by-case basis.'

The Home Office's new RSSS policy has parallels with their previous EU rough sleeping policy. It focuses on those whose appeal rights are exhausted or who have leave to remain but no recourse to public funds. The Home Office's stated aim is to prevent homelessness, on the basis that a person's immigration status is often the underlying cause. The Home Office asks that local authorities and charities report people sleeping rough to a special team who can try to solve their immigration matters. There are concerns about this because the person is not offered independent legal advice. Also, it is important that the referring agency obtains proper informed consent from the client. It should be noted that the RSSS team sits within immigration enforcement.

Support for asylum seekers - new developments

- The Home Office has developed [a guidance pack](#) for people living in **dispersed accommodation**. This guide has information about the housing and services people can expect to receive, who provides the services, what is expected from people in accommodation and where to report problems. The advice may be timely, as the Guardian in August had [a horrendous report](#) about asylum seekers living in crammed and cockroach-infested rooms in Southall, west London.
- The Home Office has updated its [asylum policy guidance](#) used to make decisions on **asylum support applications**.
- Refugee charities have welcomed new Home Office [guidance](#) for caseworkers on handling allegations of **domestic abuse** by asylum seekers. The Refugee Council was [delighted](#) with the new guidance.
- The BBC reported that [hundreds of children have waited years](#) for their asylum claim to be decided by the Home Office - a number that has tripled since 2014. In response, Coram Children's Legal Centre has been highlighting their [fact sheets](#) on how children's asylum claims are processed in the UK and how you can support children going through this process, as well as a video on how young people can manage Home Office delays.





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Local authority support for people with no recourse to public funds

The NRPF network have recently published their [annual report](#) on local authority support for people with no recourse to public funds. It provides information about households that have requested social services' support, and shows that:

- 59 local authorities supported 2,658 households at an annual cost of £47.5 million
- Local authorities saw a fall of 10 per cent in their costs over the year, due to fewer households receiving support
- Requests for support increased by 17 per cent compared to 2017-18
- The Home Office responded to 14,603 requests for immigration status information

- 80 per cent of households exited the service due to a grant of leave to remain with recourse, enabling them to access mainstream benefits, resulting in a cost to local authorities of £62,000
- Households were provided with support for an average of 820 days
- The number of households supported for 1,000 days or longer fell by 20 per cent across the year but makes up 22 per cent of the overall caseload.

Advisers helping people with 'no recourse' might be interested in the training courses offered on NRPF by Project 17. There are upcoming courses in November and December. Courses are held in London but [Project 17](#) also offers in-house training.

Need to know more about 'no recourse'? The Free Movement blog has a recent [article](#) on it.



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Monmouthshire Housing Association support EU and other foreign national tenants to claim universal credit

Clayton Charles and Claire Osman, housing managers at MHA, write about their recent experiences supporting claims for universal credit in South Wales.

Universal credit (UC) went live in Monmouthshire in June 2018. We are a small housing association with 3,700 properties, in which 459 tenants currently claim UC. MHA frontline staff are dealing with increasing numbers of complex welfare benefit cases, connected to the immigration status and nationality of tenants. Who knew that we'd be regularly googling immigration law and calling in favours from CIH colleagues who are experts in establishing derived rights of residence for benefit claims as a result of UC roll-out?

To date we've had six tenants requiring substantial case work. As a social housing provider we knew that we needed to stand up for tenants' rights and invest the necessary time and support to get the right outcomes for them. Here are two case studies which highlight the issues faced and the learning we have made.

Case Study 1: Mrs G, a Philippine tenant with husband and two children, the tenancy in the husband's name

Mrs G moved to the UK in 2008 when she married her British husband, in 2018 the marriage broke down due to domestic abuse where Mr G had a court order preventing him from returning to the property.

Mrs G made a claim for UC which was refused, and also her child tax credits were stopped, as she was informed she was ineligible to claim. We had numerous conversations with DWP who often seemed unsure of the complex rules themselves. Mrs G was now living in an MHA home which she could not afford and was ineligible for assistance through the council. On top of these challenges there was also a language barrier.

We made the decision to support our tenant and provided hardship assistance in the form of supermarket vouchers and help towards utility bills, as they were practically destitute. We agreed to suspend action against the rent debt whilst their immigration status was being unpicked. We worked in collaboration with colleagues both at CIH and in the third sector to provide the right advice and support.

A successful application was made to the Home Office for three months leave, in order to claim benefits and apply for indefinite leave to remain and settled status. We eventually had confirmation that indefinite leave was granted. The ex-partner gave notice on the tenancy and a new tenancy was set up in Mrs G's name and UC successfully applied for.

In this case staff often felt as confused as Mrs G; navigating their way across unfamiliar processes and legislation, and we couldn't have supported Mrs G on our own; the area was a 'minefield' where incorrect advice or actions could have significantly impacted on both Mrs G and MHA. Work was intensive and the process was stressful for the tenant. But staff were determined to support Mrs G and fight for her right to an MHA home for herself and her children.



Claire Osman and Clayton Charles of MHA



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Case Study 2: Mrs A, a single Italian with two children and a new tenancy

Mrs A had been a UK resident for more than 20 years and took a new tenancy with MHA. She made a UC claim while signing for the property but this was later declined due to immigration status. Mrs A's only income was child benefit and disability living allowance.

Mrs A made a Mandatory Reconsideration which was also refused, so MHA supported her to take this to appeal. Throughout the process we received incorrect information from DWP, which we challenged on the basis that Mrs A was 1) self-employed at the time, 2) a carer for her son (age five) who is an Italian national attending a UK school and in receipt of higher rate DLA, and 3) has worked for five years or has been actively seeking work whilst pregnant.

MHA went through Mrs A's timeline in the UK looking at residency, worker status and national insurance contributions, whilst taking advice from CIH. We supported her from our hardship fund for gas, electricity and food as well as providing food bank vouchers. We secured discretionary housing payment to alleviate the rent and agreed to suspend action until the situation was resolved. We also supported her to gain proof of residency through council tax liability, which would help when applying for settled status.

The outcome was that settled status was granted and a successful UC application was made, back-dated to cover the six months without payment. The rent account is now cleared and Mrs A is able to enjoy her new home.

This case was a learning curve for MHA. We did not anticipate the difficulties before the tenancy was signed, which has instigated a review of our processes. We now thoroughly investigate entitlement to benefit before a tenancy is let.

In response to the cases that we've had, we have been lucky with the networks that we've built and on each occasion have been able to support our tenants in remaining in their homes and accessing benefits, which was their right but this did not happen without a fight. Under legacy benefits these cases did not receive the scrutiny that DWP/UC now demands. Had we not stepped up, sticking to our MHA values and a strong belief in social justice, these cases may well have resulted in eviction.

Subsequently we have contacted all our EU national tenants and residents in MHA homes to advise them to apply for settled status. We have also had in-house specialist training for all frontline housing staff, covering the basics of immigration status and UC.

If you haven't already, we would encourage a proactive approach by making tenants aware of the right to gain settled status but also look to support and upskill staff in being able to support your tenants at a vulnerable time.

We feel this needs a whole sector approach and would urge the relevant bodies to have this issue high on their agenda, and keep supporting housing professionals to fight their tenant's corner against the twin juggernaut of immigration regulations and universal credit rules.





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Wales: a nation of sanctuary

Tamsin Stirling introduces the Welsh Government Nation of Sanctuary Plan and what it might mean for housing organisations.

Following a 2018 consultation, in January of this year the Welsh Government published [Nation of Sanctuary - Refugee and Asylum Seeker Plan](#). In her ministerial foreword, Jane Hutt notes:

'Refugees and asylum seekers often arrive in Wales following traumatic experiences in their countries of origin and on their journeys to the UK. We want to ensure that these individuals are supported to rebuild their lives and make a full contribution to Welsh society.'

The minister outlines the different roles played by the UK and Welsh Governments:

'The UK Government is responsible for asylum policy... Therefore, many of the challenges faced by these communities cannot be fully resolved without policy changes by the UK Government... The proposed actions in this plan cannot contravene UK Government legislative rules relating to refugees and asylum seekers. However, it focuses on proposals within the devolved areas which the Welsh Government can influence.'

Housing is one of these devolved areas and the plan sets out actions which focus on this:

- Ensure refugees are supported to transition from asylum accommodation to sustainable accommodation. Welsh Government commitments include:
 - › working with the four asylum dispersal areas (Cardiff, Swansea, Newport and Wrexham) to ensure their homelessness prevention strategies take account of the vulnerability of new refugees to homelessness
 - › exploring opportunities to reduce refugee homelessness by working with housing associations, local authorities, credit unions and others to identify clearer pathways into accommodation during the 'move-on' period
 - › ensuring Rent Smart Wales' landlord training includes an explanation of the right to rent checks that might apply in future in Wales and how to easily check the status of refugees to prevent discrimination
 - › working with local authorities and others to ensure the Housing Support Grant supports those refugees who are eligible to maintain their accommodation.



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- Promote good quality asylum accommodation provided by the UK Government
- Support asylum seeker tenants to advocate for improvements to their accommodation.

The plan also seeks to mitigate destitution and identifies ways to map the availability of support for destitute refugees and asylum seekers and implement options to improve support. Asylum seekers who are destitute have no recourse to public funds (NRPF), but an allocation of a housing association property is only considered a public fund if it has been obtained via a council's waiting list/register.

To start putting the accommodation aspects of the plan into action, two projects have been commissioned to look at different aspects of providing safe, secure homes for people seeking sanctuary in Wales. Tai Pawb is exploring the feasibility of establishing temporary accommodation and support specifically for refugees in Wales during the move-on period, based on models already established in England. The second project, undertaken by Heather Petch and Tamsin Stirling, is looking at accommodation options for asylum seekers whose claims have been refused. These include community hosting and shared houses either for refused asylum seekers or for a mix of refugees and refused asylum seekers. The report from the Tai Pawb project has been [published](#) while the report from the refused asylum seekers project will be published in the coming months and will include practical recommendations. These are likely to involve housing organisations working in different ways and potentially with new partners.

We all know that the supply of affordable, secure housing options is exceeded by demand across Wales. Added to this, there can sometimes be concerns about community cohesion when providing housing for newcomers to Wales. However, the Nation of Sanctuary Plan makes clear the Welsh Government ambition for us to be as welcoming as possible to those who seek sanctuary and this includes providing good homes.

Rossella Pagliuchi-Lor, UN High Commission for Refugees representative to the UK, says that 'To ensure that it can be realised, Wales' ambition to become a Nation of Sanctuary deserves the active support of all: local authorities, civil society, citizens, businesses and the UK Government.'



Other news

Refugees fleeing Syria to the UK - 'We're not trouble'

The BBC recently [reported](#) on the positive experiences of Syrians resettled in the UK. The East of England LGA felt the report implied that their region had not contributed as much as others, and they [point out](#) that 865 refugees have found a new home in the region. Progress is being made despite many councils in the region having little experience of working with refugees.

Controlling Migration Fund - latest allocations

In July, the government announced [£100 million of new allocations](#) across England, under this fund.

Migrants Mental Capacity Advocacy (MMCA) Project

Migrants Organise has a very small, strategic project looking into the issue of mental capacity in the immigration system, both for litigation and pre-litigation cases. It is open for referral of a limited number of cases, via Brian Dikoff (brian@migrantsorganise.org). As a first step, contact Brian to have a quick discussion about the case. Very rarely will they be able to assist on an urgent basis but they can offer second-tier advice on mental capacity issues and the immigration system.



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Support for homelessness-affected children and young people

Coram Voice provides advocacy to children and young people to help them make the most of the support available from children's services. Alongside regular advocacy services and the national advocacy helpline, Coram run a specialist outreach project for children and young people affected by homelessness in London to support them to access the resources to which they are entitled. Often when a child or young person is unable to remain at home it can be hard to speak with children's services and they work to help young people's voices be heard at the heart of the decision making processes. Services are always free for young people. Professionals and young people can make a referral through the helpline service, 0808 800 5792. For more information contact Mark McDonald, Outreach Advocate (Mark.McDonald@coramvoice.org.uk).

New 'welcome guide' for refugees

The Home Office has published [a welcome guide for new refugees](#), adapted from the one provided to those arriving through the Vulnerable Persons Resettlement Scheme. It contains useful information about how to contact services that can help refugees once they have been granted refugee or humanitarian protection status, as well as wider information about life in the UK. The guide is available in 11 different languages.

Character tests for citizen applications by children

Following recent Supreme Court decisions that good character tests for citizenship by children (and certain others) are incompatible with the Human Rights Act – these have now been abolished by a [new statutory instrument](#) (order in council) from 25 July.

Changes to the EEA regulations definition of a European family member

These are improvements and extend the definition; [the regulations](#) took effect from 15 August 2019.

'Windrush' cases from non-Caribbean countries

JCWI is challenging the Home Secretary to include people from non-Caribbean countries who entered the UK before 1973 as part of her historic review of 'Windrush' cases. Please advise chai.patel@jcw.org.uk if you know of such people who were in the UK before 1973 and have faced problems proving their immigration status, with 'right to rent,' etc.

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 Clayton Charles and Claire Osman from Monmouthshire HA and Tamsin Stirling, a consultant based in Wales.

Do you have any comments on this newsletter?

Send them to policyandpractice@cih.org

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