Refugees: Maternity rights and benefits

Immigration status

A refugee is a person whose asylum claim has been successful. They may be granted refugee status with or without indefinite leave to remain, humanitarian protection or discretionary leave. Exceptional leave to remain is no longer granted. Refugees are entitled to remain in the UK and claim benefits under the normal rules, regardless of the type of leave granted. Those granted refugee status and humanitarian protection since 30th August 2005 are granted limited leave to remain for five years and must apply for indefinite leave to remain at the end of their leave. Discretionary leave is likely to be granted for a shorter period. Applications made before 30th August 2005 and ‘legacy cases’ now being dealt with by UK Visas and Immigration may be granted indefinite leave to remain.

From 29 February 2012, all applicants applying to stay in the UK for more than 6 months must obtain a biometric residence permit from UK Visas and Immigration. Applications can be made through some Post Offices.

Family members who were in the UK and named as dependents in the claim for asylum should be granted leave in line with the refugee’s leave and have the same rights to remain in the UK and claim benefits as the refugee. The refugee’s spouse, long-term partner and children under 18 can apply for entry to the UK under family reunion provisions. Family members admitted under these provisions have the same rights as the refugee. Other family members may also be eligible to apply for entry to the UK.

Employment rights

Refugees have the right to work in the UK from the date they were recorded as a refugee by the Secretary of State. They also have the same maternity-related employment rights as other UK residents.

Pregnant employees have the right to paid time off for antenatal care, protection from health and safety risks and the right not to be treated unfairly because of pregnancy or childbirth. Employees have the right to 52 weeks maternity leave from day one of their employment.

Statutory Maternity Pay (SMP) is paid by the employer for 39 weeks to women who meet the qualifying conditions.

Maternity Allowance (MA) is paid by the Job Centre Plus to women who do not qualify for SMP.

Casual or agency workers have the right to health and safety protection and the right not to be treated unfairly because of pregnancy or childbirth. They will also have the right to SMP or MA if they meet the qualifying conditions.

Fathers or partners (including same sex couples) who work are entitled to two weeks’ paternity leave and may qualify for two weeks’ Statutory Paternity Pay (SPP) or income support. Some of the mother’s maternity leave and pay may be transferred to the father or partner if s/he wishes to take additional paternity leave.

Shared Parental Leave couples who qualify for maternity leave and SMP and paternity leave and SPP will also qualify for shared parental leave and Statutory Shared Parental Pay. Shared parental leave and pay can be taken by either partner if the mother returns to work early or reduces her maternity leave or pay. It must be taken within the first year of birth. It allows one or both parents to take leave more flexibly. For more information see the Maternity Action information sheet Shared Parental Leave and Pay.

Benefits and tax credits

Refugees are entitled to claim benefits from the date they were recorded as a refugee by the Secretary of State. They do not have to satisfy the habitual residence or right to reside tests.
Integration loans are available from the Home Office to any person who has been granted refugee status or humanitarian protection after 11th June 2007, including their dependants. The decision to award an integration loan is made by the Home Office and it will be paid by the Department for Work and Pensions along with any other benefits. The loans are interest free and are designed to provide support in finding housing, work, buying household items, training or buying equipment for work. See www.gov.uk/refugee-integration-loan.

Asylum seekers who are granted refugee status, humanitarian protection or discretionary leave have 28 days to move from asylum support to mainstream benefits and 28 days to leave Home Office accommodation. Families with dependent children can remain in Home Office accommodation until suitable housing is found.

The Sure Start Maternity Grant (SSMG) is a one off payment of £500 to buy things for your first baby or first multiple birth. It MUST be claimed from the 29th week of pregnancy or within 3 months after the birth. The SSMG is only available for the first child or first multiple birth. It can be claimed by a pregnant woman or her partner providing they are getting a qualifying benefit such as income support, income-based jobseekers allowance or child tax credit of at least the family element. It can also be claimed by a family member if they are receiving a qualifying benefit in respect of the mother, for example, if the mother is under 16, or under 19 and in education.

Child Benefit can be claimed by a refugee who is responsible for a child, regardless of whether the child lives with them. The child must be living in the UK and have the right to reside here. Families with one or more people earning over £50,000 are subject to a child benefit higher earner.

If you have been granted refugee leave you can claim Child Benefit and have it backdated to the date of your asylum claim if you claim within three months of being granted refugee leave. The amount of Child Benefit is not reduced by any asylum support you received.

Child Tax Credit (CTC) can be claimed by refugees with children regardless of whether or not they are working. Couples must claim CTC together.

If you have been granted refugee leave you can claim CTC and have it backdated to the date of your asylum claim if you claim within one month of being granted refugee leave. However, the amount of CTC is reduced by any asylum support you received for essential living needs.

Housing Benefit and help with council tax costs (HB) can be claimed by refugees (and other people) on a low income, regardless of whether or not they are working, who need help paying rent and/or council tax. Help with council tax is delivered through local schemes so conditions vary – see your local authority/council’s website for more information.

Local Welfare Assistance Scheme
Local authorities have been given funding to provide assistance to people in an emergency or to meet the costs of resettlement if you move to a new property. Each authority is responsible for setting up their own scheme to deliver this support so to find out about the help available in each area, please contact your local authority/council or visit http://www.cpag.org.uk/lwas

Income Support is paid to refugees (and other individuals) on a low income who are not in full-time work. It may be claimed by single parents, a parent or partner on unpaid parental or paternity leave and a woman who is incapable of work because of pregnancy from the 29th week of pregnancy until 15 weeks after the birth.

Jobseekers Allowance (JSA) is paid to refugees (and other people) who are unemployed or employed for less than 16 hours a week and looking for full-time work. Contribution-based JSA is paid to those who have paid sufficient National Insurance (NI) contributions. Income-based JSA is means-tested.

Income support, JSA, Housing Benefit and Tax Credits will gradually be replaced with Universal Credit. Universal Credit is being phased in for new applicants. Universal Credit can be claimed at the single person rate if one of a couple is not subject to immigration control and has the right to reside (see below).

How to obtain an NI number

In order to work and claim most benefits, a person must provide an NI number for themselves and anyone else they are claiming for, apart from a child.

An application for an NI number can be made by phone 0345 600 0643. A person can be interviewed by Jobcentre Plus to establish whether an NI number can be issued. Documentary evidence of identity such as a passport, identity card, birth/marriage certificate or other Home Office documents will be required. It could also include a letter from a solicitor, doctor or advice worker, or a statement from someone who knows the applicant. If an NI number is refused or benefit is refused because one of a couple does not have an NI number, they should seek legal advice.

Healthcare

Refugees are exempt from NHS charges, including hospital care. They are entitled to maternity care free of charge.

A woman who received NHS maternity care before an application for asylum, temporary protection or humanitarian protection was granted must be treated as if she was exempt from charges at the time of the treatment and must not be charged. If she paid for NHS services she is entitled to be refunded by the NHS body.

Refugees are entitled to apply for registration with a GP and attend GP
appointments free of charge. GPs have the discretion whether or not to register patients, so long as they do not discriminate against anyone. GPs may only refuse registration if the local Health commissioner has agreed that they can close their lists to new patients or you live outside the GP’s catchment area or for other reasonable grounds. GPs have a duty to provide free of charge treatment which they consider to be immediately necessary or an emergency, regardless of whether that person is an overseas visitor or registered with that practice.

NHS England has produced guidance for registering with a GP practice. A GP practice is entitled to ask you to prove that you live within their practice area but there are no regulations that say you must provide proof of identity, address or residence in order to be registered with a GP and you must not have registration or appointments refused because you are unable to provide these documents.


For more information on NHS charges and exemptions, see the Maternity Action information sheet: Entitlement to free NHS maternity care for women from abroad.

Family members who are not refugees

In many cases, a refugee’s family members will have the same rights to claim benefits as the refugee. However, where a family member is considered to be a ‘person subject to immigration control’, they are not entitled to Income Support, JSA, HB, CTB, Child Benefit or social fund payments, subject to exceptions – see the information sheet for UK Citizens and permanent residents. A ‘person subject to immigration control’ is a person who is not an EEA national and who requires leave to enter or remain, or has leave to enter or remain with a public funds restriction or is subject to a formal undertaking or is appealing an immigration decision.

Where one of a couple is a refugee (who is not regarded as a person subject to immigration control), the refugee can claim Income Support and JSA for themselves, Child Benefit (regardless of the child’s immigration status) and tax credits. JSA can be claimed jointly by a couple. If one of the couple is subject to immigration control a claim can still be made but will be paid at the single rate, not the couple rate.

CTC can be claimed by families with children regardless of whether or not they are working. The claimant must be present and ordinarily resident and have a right to reside here. Where one of a couple is entitled to claim CTC, the claim is made as a couple and treated as if the couple are not subject to immigration control. The claimant can also claim for any children, regardless of their immigration status.

Public funds

In some circumstances, claiming benefits considered to be ‘public funds’ may jeopardise the family member’s right to remain in the country. Benefits considered to be public funds include, amongst others, Child Benefit, CTC, Working Tax Credit, CTB, HB, Income Support, Income-based JSA, Universal Credit and Social Fund payments including the Sure Start Maternity Grant and Local welfare assistance schemes.

For the full list see https://www.gov.uk/government/publications/public-funds-2/public-funds

Statutory Maternity Pay, Maternity Allowance and NHS healthcare are not counted as public funds.

Useful contacts

Maternity Action
www.maternityaction.org.uk

Migrant Women’s Rights Service: Second tier advice on financial support and housing options for migrant women and access to NHS maternity care. – 020 7251 6189 Monday and Thursday 2-4pm. Email enquiries: migrantwomensrights@maternityaction.org.uk

This is a second tier advice service for midwives and advisers only. We are unable to take calls from individual women.

Maternity Care Access Advice Service: for advice on NHS charges and access to NHS maternity care – 0808 800 0041. Thursday 10 – 12 midday. Email enquiries: maternitycareaccess@maternityaction.org.uk

Maternity Rights Advice Line: for advice on maternity benefits and rights at work – 0808 802 0029. Weds. 10 – 2pm, Thurs 3 – 7pm, Friday 10 – 2pm.

ACAS
For advice on employment rights or for Early Conciliation if you are thinking of making a tribunal claim
www.acas.org.uk
Helpline: 0300 123 11 00 (offers telephone interpreting service)

Child Poverty Action Group
www.cpsg.org.uk
Advice on benefits and tax credits. For advisors only - 020 7812 5231, Mon.- Fri 10 – 12 and 2-4pm

Citizen’s Advice Bureau
For information about your rights and to find details of local advice bureau
www.citizensadvice.org.uk
Factsheets available in English, Welsh, Bengali, Gujarati, Punjabi, Urdu and Chinese

The CAB is currently developing a national advice phone service. If you live or work in Wales call 0844 77 20 20. For England, call 0844 111 444 or check your local bureau’s contact details as it is not available in all areas yet.

Civil Legal Advice
If you are eligible for legal aid you can get free legal advice on 0345 345 4 345 (offers translation service). To check your eligibility see www.gov.uk/civil-legal-advice
To search for specialist legal advisers or solicitors in your area see find-legal-advice.justice.gov.uk

Equalities and Human Rights Commission (EHRC)
For information and advice about discrimination law
www.equalityhumanrights.com

Freedom from Torture
Care and treatment for victims of torture
London Centre Tel: 020 7697 7777
West Midlands Centre Tel: 0121 314 6825
North East Centre Tel: 0191 261 5825
North West Centre Tel: 0161 236 5744
Scottish Centre Tel: 0141 420 3161

GOV.UK
The government’s online information service
www.gov.uk

Home Office
www.gov.uk/visas-immigration
UK Visas and Immigration contact centre - 0300 123 2241

Jobcentre Plus claim line
To make telephone claims for benefits or request claim packs
0800 055 6688

Insolvency Service
What you can claim when your employer goes out of business: www.gov.uk/your-rights-if-your-employer-is-insolvent/claiming-money-owed-to-you
Companies House 0303 1234 500
Redundancy payments enquiry line 0330 331 0020
Payments of SMP/SAP/SPP/ShPP or Statutory Sick Pay 03000 560 630

HMRC Tax Credit Helpline: 0845 300 3900
HM Revenue & Customs

For queries about Statutory Maternity Pay, Statutory Adoption Pay and Statutory Paternity Pay:
Employee’s helpline 0300 200 3500
Employer’s helpline 0300 200 3200
For detailed guidance for employers on SMP, SAP, SPP and Statutory Sick Pay see www.gov.uk/government/collections/statutory-pay

Migrant Help
Charlton House, Dour Street, Dover, Kent, CT16 1AT
Advice and assistance for migrants Email: mhl@migranthelpline.org
Helpline: 01304 203977
www.migranthelpline.org

Project London
www.doctorsoftheworld.org.uk/projectlondon
Free and confidential help to access healthcare – 020 7515 7534 10 – 12 Mon – Fri.
Monday/Wednesday/Friday 1.00–5.00pm
Refugee Council
www.refugeecouncil.org.uk
Information and assistance for refugees and asylum seekers.
Head Office - 020 7346 6700
Advice Line - 020 7346 1134
Children’s Office – for children under 18 – 020 7346 1134

Rights of Women
www.rightsofwomen.org.uk
Free legal advice on sexual violence, immigration and asylum issues.
Helpline 0207490 7689.

Statutory Payments Dispute Team
Claims for Statutory Maternity, Paternity and Adoption Pay when employer is insolvent or refuses to pay.
Room BP 3202, Benton Park View, Longbenton, Newcastle upon Tyne, NE98 1YS.
03000 560 630

Working Families
Information on rights at work and benefits
www.workingfamilies.org.uk
Helpline 0300 012 0312

This information sheet was produced in April 2017. It is important to get up-to-date advice.

More Maternity Action information sheets
Maternity rights and benefits
EU, EEA and Swiss nationals (including A8 and A2) – maternity rights and benefits
No recourse to public funds – maternity rights and benefits
Undocumented migrants – maternity rights and benefits
Indefinite leave to remain, right of abode and UK citizenship – maternity rights and benefits
Victims of trafficking or modern slavery – maternity rights and benefits
Asylum seekers – maternity rights and benefits
Refugees – maternity rights and benefits
Refused asylum seekers – maternity rights and benefits

Financial support and housing
Asylum seekers – financial support and housing
Refused asylum seekers – financial support and housing
No recourse to public funds – financial support and housing

Charging for NHS maternity care
NHS care for women from abroad (England)
NHS care for women from abroad (Scotland, Wales and Northern Ireland)
Asylum-seekers and Article 3 claimants – entitlement to NHS maternity care
Refused asylum-seekers and Article 3 claimants – entitlement to NHS maternity care
Refugees, Humanitarian Protection, Article 3 or temporary protection – entitlement to NHS maternity care
Victims of trafficking or modern slavery – entitlement to NHS maternity care
EEA and Swiss Citizens and their family members – entitlement to NHS maternity care
Non-EEA national family members of EEA and Swiss citizens – entitlement to NHS maternity care
No recourse to public funds or limited leave - entitlement to NHS maternity care
Undocumented migrants - entitlement to NHS maternity care
Indefinite leave to remain, right of abode and UK citizens - entitlement to NHS maternity care
Information-sharing between the Home Office and the NHS
Dealing with debts owed to the NHS for maternity care

Polish language guides to maternity and parental rights
Ciaza i uprawnienia macierzynskie dla pracownic z Polski
Pregnancy and maternity rights at work for Polish workers (in English)

Karmienie piersia w miejscach publicznych
Breastfeeding in public places (in English)

Uprawnienia w pracy dla ojców i partnerów polskich pracowników
Rights at work for Polish fathers and partners' (in English)

Spanish language guides to maternity rights and benefits
Derechos por embarazo y maternidad de las mujeres trabajadoras de habla hispana
Pregnancy and maternity rights for Spanish speaking workers' (in English)

Información para mujeres de habla hispana sobre ayudas económicas para progenitores y bebés
Money for parents and babies for Spanish speakers (in English)

Portuguese language guides to maternity rights and benefits
Gravidez e direitos de maternidade para trabalhadoras que falam português
Pregnancy and maternity rights for Portuguese speaking workers’ (in English)
Auxílio financeiro para pais e bebés que falam português
Money for parents and babies for Portuguese speakers (in English)

Available at www.maternityaction.org.uk