



The  
Children's  
Society

# Your Rights and Entitlements

**A guide to social services assistance  
for destitute migrant families**



**This guide is for families who have no immigration status in the U.K. or who have no recourse to public funds. If you are homeless or facing homelessness or don't have enough money to support your family the questions and answers below can help you understand the support that may be available to you and your family from social services. However, the information is for guidance only and should not be used instead of legal advice.**

## **What support can social services offer to families in need?**

Social services can offer accommodation and money under Section 17 of the **Children Act 1989**, and can give both to some families. They could also give other support such as costs for transport. The decision about what support they may offer, if any, is based on an assessment of need, often referred to as a Child in Need Assessment. If you have nowhere to live or no money you should tell the social worker this immediately.

If you need legal advice you can search for a solicitor on [find-legal-advice.justice.gov.uk](https://www.find-legal-advice.justice.gov.uk) or contact your local community law centre.

## **I have 'no recourse to public funds' – can I get support from social services?**

Yes. Support from social services is not a public fund. Public funds that you are not allowed to get include income-based Jobseeker's Allowance, Income Support, Child Tax Credit, Working Tax Credit, Housing and Council Tax Benefit, Council Housing, and Homelessness Assistance from the council's housing department.

Having no recourse to public funds shouldn't stop you getting support from social services for your family, but there may be other reasons they cannot help.

# I have 'limited leave to remain' but with no recourse to public funds – can I also get support from social services?

Yes. Under Section 17 of the **Children Act 1989**, social services can offer both accommodation and money to any child in their area who may be in need. Even if you are working you may still find it difficult to meet your child's needs because you can't get benefits or social housing. If this is the case you can ask social services to do a child in need assessment.

Sometimes it is possible for the Home Office to remove the 'no recourse to public funds' on your leave to remain. You should get legal advice about this.

# When can social services refuse support to my family?

There are four types of people who might have difficulty getting support from social services because of Schedule 3 of the **Nationality, Immigration and Asylum Act 2002**.

## These are:

- people with refugee status granted by a non-UK EEA country and any dependents
- non-UK EEA nationals and any dependents
- failed asylum seekers who have failed to comply with removal directions or take reasonable steps to leave the UK voluntarily
- people unlawfully present in the UK (including those whose visa has expired and refused asylum seekers who did not claim asylum at a port of entry).

If you are one of the above, social services will have to do something called a Human Rights Assessment before they refuse support. They cannot refuse support if they find legal barriers to you returning or it is against your human rights. For example, having a current immigration application is a legal barrier. If there is a practical reason why you cannot return, such as not having a travel document, then social services may still have to support you but only until the issue is resolved and you can return.

If you do not have an application with the Home Office seek immigration advice immediately to see if you can submit one. If you don't agree with the outcome of the Human Rights Assessment you may also be able to challenge their decision with the help of a solicitor.



## How do I get support from social services?

You need to go to the social services office in the area you live and ask them to do a child in need assessment. If they say no, get legal advice. If they agree, guidance says they can take 45 working days to finish the assessment. If you need support immediately, you can ask social services to give it to you while they carry out the assessment.

## What happens during a child in need assessment?

During the child in need assessment the social worker:

- will ask questions about your family to see if your child is in need
- may ask about your immigration history, your housing and your income
- may do a home visit to where you are living
- may speak to other professionals, for example, your child's school.

If you are not sure why a social worker is asking a question, you can ask them why they need to know the information. You do not have to tell them things if you are uncomfortable answering a question, however, this might mean that they are not able to get all the information they need, or they may not believe you which may affect your support. It is therefore important to be open and honest and provide all the information you can.

Many social services departments now carry out fraud checks to find out about your full financial history so it is important to tell them about all accounts, credits cards, loans or sources of support.

## Social services said they can only help my children and not me. Will they take my children away?

Social services have a duty under Section 17 of the **Children Act 1989** to promote the upbringing of children within their family. This means they are not allowed to take away your children without a court order, and only if there will be 'significant harm' to the child if the child isn't removed – such as physical, emotional, or sexual abuse, or neglect.

If social services think that your child might be at risk of significant harm, they must first make child protection enquiries under Section 47 of the **Children Act 1989**.

Social services don't have the power to take your children away just because you are from abroad or because you have no recourse to public funds.

If you are unable to look after your children you can voluntarily agree for your children to be taken into care under Section 20 of the **Children Act 1989**, but if a social worker suggests this you do not have to agree.

## Will they deport me?

Social services can't remove you from the UK. The only people who are legally able to remove or deport people are the Home Office. However, you should be aware that social services will contact the Home Office to find out about your immigration situation.

If you don't have a current application with the Home Office, social services may offer you a ticket home. They must carry out a Human Rights Assessment first to make sure returning you home would not breach your human rights. You should seek legal advice as soon as possible.

If you fear returning home because you might be persecuted, you may be able to apply for asylum. Again, you need to seek immigration advice.

## I will be homeless tomorrow, but social services say the assessment is not finished so they can't find us accommodation. Is this right?

Social services can support homeless families while they complete an assessment. If you and your children are about to become homeless, and have nowhere else to go, and no other means of support you can ask social services to house you while they complete the assessment. If you are in this situation, you should tell the social worker that you and your children are about to become homeless immediately and you need accommodation.

## What accommodation will social services offer?

Social services may place you in temporary bed and breakfast accommodation, or shared accommodation with other families. This may not be in your local area.

The accommodation must be suitable for you and your child's needs. If you think the accommodation doesn't meet your child's needs you may be able to ask for new accommodation. You may be able to get help from a solicitor if you are unhappy but it can be difficult to get accommodation changed.

## How much money will social services give me?

There is no fixed amount of money social services have to give families under Section 17 of the **Children Act 1989**. The amount must be based on you and your child's needs. If you think the money you get from social services is too low, tell your social worker why. If you are still unhappy, you may be able to get legal advice.

## I was supported by social services, but now they have told me that the support will be stopped. Why is that?

If you are supported by social services they need to do a review before stopping support and you can ask for a copy of this. Support should not be stopped without a reason or if it leaves your child still in need. If this happens you should get legal advice.

## I don't think I was treated fairly – what can I do?

You can complain to social services. If you are not happy with their response you can ask the complaint to be taken to an independent review panel. If you are still not happy you can make a complaint to the Local Government Ombudsman who will investigate your complaint.

You can also get legal advice from a solicitor, who can tell you if a decision was lawful. If the solicitor thinks the decision was not lawful then they may be able to represent you under legal aid to challenge social services. This is a process called judicial review where a judge will decide if social services have acted unlawfully.

# Glossary

## Destitute

A person is destitute if:

- they and their children do not have suitable housing or any way of getting it or
- they and their family have suitable housing, but cannot pay for basic living needs such as food and clothing.

## Social Services

Social Services employ social workers who are responsible for safeguarding the welfare of children in their area. They will usually be called Children's Services, or Children's and Family Services. Some social services departments may have a specific team dealing with families with no recourse to public funds.

## Judicial Review

A legal process where a judge reviews whether a decision made by a public body (such as a Local Authority) is lawful.



**The Children's Society is a national charity that runs crucial local services, helping children and young people when they are at their most vulnerable, and have nowhere left to turn.**

**We also campaign for changes to laws affecting children and young people, to stop the mistakes of the past being repeated in the future.**

**Our supporters around the country fund our services and join our campaigns to show children and young people they are on their side.**

**Find out more at [childrenssociety.org.uk](http://childrenssociety.org.uk)**

This leaflet was written by the Family Voice project, The Children's Society in London. The information given was correct as of December 2015 and maybe subject to change.

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