

# 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 (HRT) in order to be eligible for help from the council when they are homeless.

If you are a British or Irish citizen who has been living in Ireland, the Isle of Man or the Channel Islands (the ‘common travel area’), this does not count as ‘living abroad’.

All references to residence in the UK in this factsheet include time living in the countries that make up the ‘common travel area’.

## What is habitual residence?

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

## Automatically habitually resident

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

- are an EEA national<sup>1</sup> who is working or is self-employed in the UK. Croatian workers may need worker authorisation
- are an EEA national with a permanent right to live here after retirement, or after becoming permanently unable to work, or after five years’ ‘lawful’ residence in the UK
- have been granted refugee status, indefinite leave to remain, ‘humanitarian protection’, ‘discretionary leave’ or the ‘destitution domestic violence concession’, with no restriction on your access to public funds
- were deported back to the UK.

## Automatically not eligible for help

Some people living in the UK can’t be eligible for help from the council’s housing department in any situation. This applies, for example, if you are:

- an EEA national looking for work, who hasn’t worked in the UK before
- a person subject to immigration control whose right to remain in the UK is to care for their child who is a British citizen
- a person subject to immigration control whose condition of entry to the UK is that you have no recourse to public funds.

If you are disabled or ill you might qualify for help from social services. Get advice.

## Passing the test

To be habitually resident you must live in the UK and have lived here for some time. 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
- bringing your possessions to the UK
- opening a UK bank account
- joining local clubs.

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.

## Resuming habitual residence

If you used to be habitually resident in the UK, you can sometimes pass the HRT immediately if you can show that you have returned to settle here. The council may ask why you left, and what links you kept with the UK. (The HRT for some welfare benefits includes a requirement that you have lived in the UK for at least three months. Get advice if you think the council is applying the ‘wrong’ test to your homeless application).

## Negative decisions

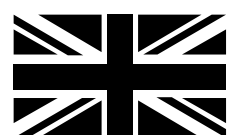
You have the right to ask for a review if the council decides you are not habitually resident. Your request must be made within 21 days of being notified of the decision.

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

## 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 [shelter.org.uk/advice](http://shelter.org.uk/advice) or [adviceguide.org.uk](http://adviceguide.org.uk)

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



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**Note**  
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