

## Assisting EEA nationals: entitlements and support options Guidance for local authorities in Scotland

May 2022

### Introduction

The residence rights and immigration requirements for European Economic Area (EEA) nationals and their family members have significantly changed following the UK's departure from the European Union (EU) and the end of free movement in the UK.

The Independent Monitoring Authority for the Citizens' Rights Agreement (IMA) has emphasised that local authorities will play a key role in upholding the rights of EEA nationals that are set out in the Withdrawal Agreement and agreements with EFTA states. On 30 June 2021, [the IMA reminded public bodies](#) 'of the need for care in considering the status of citizens who have applied to the EUSS but have not yet received the results of their application', and on 27 August [warned that](#) 'better understanding of the rights of late applicants to the EU Settlement Scheme (EUSS) is required to avoid potential hardship for individuals'.

This factsheet provides information to help local authorities in Scotland understand how the immigration status of an EEA national will affect their entitlements and to establish what support options may need to be considered by the local authority when a person is destitute or at risk of homelessness.

Local authorities may experience increasing pressures on services and budgets when accommodation and financial support needs to be provided to EEA nationals who are unable to qualify for benefits. Local authorities are encouraged to discuss any challenges they are experiencing with COSLA so that these can be raised with the Scottish and Westminster governments. Local Authority officers can also join COSLA's No Recourse to Public Funds Scotland Network, which is a forum for sharing information and good practice. Contact [cristina@cosla.gov.uk](mailto:cristina@cosla.gov.uk).

This guidance has been produced by the NRPF Network for COSLA. It was funded by the Scottish Government and contributes to work under the [Ending Destitution Together](#) Strategy.

### 1. Immigration status

Following the end of European free movement in the UK, EEA nationals and their family members are now subject to the same immigration laws and entry requirements as non-EEA nationals. However, the residence rights and entitlements of EEA nationals and their family members who were living in the UK before the end of the transition period are protected by

the Withdrawal Agreement and have been conferred on individuals through the EU Settlement Scheme (EUSS). It is therefore necessary to establish a person's immigration status in order to determine their entitlement to benefits, employment, and other services.

## **EEA nationals**

The term 'EEA national' when used in this factsheet refers to citizens of:

- A European Union country: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden.
- Other EEA member states: Iceland, Lichtenstein, and Norway.
- Switzerland

## **What type of immigration status could an EEA national have?**

People with EU Settlement Scheme (EUSS) rights:

- Settled status (indefinite leave to remain)
- Pre-settled status (five years' leave to remain)
- EUSS family permit (six months' leave to enter)
- Pending EUSS application made before the deadline of 30 June 2021
- Pending late EUSS application made after the deadline
- Unlawfully present - resident prior to 31 December 2020 or a joining family member who can make a late application to the EUSS

Other groups:

- Leave to enter granted on/after 1 January 2021 as a visitor, worker, or student etc.
- Unlawfully present - overstayed a grant of leave to enter or remain
- Unlawfully present - unsuccessful application to the EUSS with no further right to appeal

## **EU Settlement Scheme (EUSS)**

The EUSS remains open for late applications, applications to 'upgrade' pre-settled status to settled status, and for applications from certain family members who are joining a person in the UK with settled or pre-settled status.

### **Late applications**

The Home Office will accept a late application if a person can show that they have reasonable grounds for failing to meet the deadline. Examples of 'reasonable grounds' are given in the [Home Office caseworker guidance](#). It appears that late applications are likely to be accepted from children, people who lack mental capacity, people who are homeless, and adults with care and support needs.

Article 18 of [the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#) ('the Withdrawal Agreement') allows for a person to make a late application and confirms

that the citizens' rights set out in the Agreement will apply whilst the application is pending. This means that a person who makes a late application to the EUSS will need to be treated as if they made an 'in-time' application. Failure to do so could result in the person's rights under the Withdrawal Agreement being breached.

On 6 August 2021, the UK Government [confirmed](#) that people making late applications are protected by the Withdrawal Agreement and will have their rights and entitlements to services protected. These protections have been implemented through policy guidance. For example, Home Office [guidance for employers](#) states that a person can rely on their Certificate of Application whilst their EUSS application is pending to evidence their right to work. The Scottish Government has advised COSLA that this is the approach we are working towards in Scotland as well.

### **Evidence of immigration status**

An EEA national with EUSS leave or a visa issued on another basis will be issued with digital status only. This can be accessed on gov.uk using the ['view and prove' system](#). The Home Office has published [information about using the system and when a digital status holder will need to update their personal details](#).

Non-EEA nationals with EUSS leave will have a Biometric Residence Permit. A person with an old EEA residence card can continue to use this until the card expires, so may not have documentary evidence of their pre-settled or settled status. Going forwards, the Home Office will be replacing physical status documents with digital status.

A person with a pending EUSS application will be issued with a Certificate of Application either on paper or as a digital status that can be accessed through the 'view and prove' system.

When a person is encountered without any documentation or digital status, it will be necessary to identify whether they are entitled to make a late application to the EUSS (i.e. they were living in the UK prior to 31 December 2020 or are joining family), or whether they may be in the UK with visitor leave.

### **Leave to enter as a visitor (six months)**

EEA nationals who are not entitled to apply to the EUSS are required to obtain leave to enter or remain under the Immigration Rules. EEA nationals who have not obtained a visa prior to arriving in the UK in order to enter for a specific purpose (such as to work or study) will have standard visitor leave. They will not be provided with evidence of their entry if they pass through an e-gate or are verbally admitted by a border officer. They will be expected to comply with the [standard visitor conditions](#) and to leave the UK before their leave expires. A person would need to refer to evidence of their travel and entry date to establish when they are expected to leave the UK as they will not be provided with this when they enter.

If a person with visitor leave is intending to remain in the UK beyond six months, they will need to seek legal advice as soon as possible to find out what their immigration options are, as these will usually be limited.

Joining family members who have entered the UK with visitor leave will be able to apply to the EUSS in-country.

## Joining family members

Certain family members of an EEA national with settled status or pre-settled status are entitled to apply to the EUSS, instead of obtaining leave to enter under the family migration rules. This only applies to close family members, where the relationship existed on 31 December 2020 and continues to exist, and future children. Close family members are limited to:

- Spouses, civil and unmarried partners
- Dependent children and grandchildren
- Dependent parents and grandparents (dependency needs to be proven)

For more information, see the Home Office [guidance for family members](#).

Non-EEA national family members can obtain a [EUSS family permit](#) in order to enter the UK for this purpose. They must apply to the EUSS within three months of arrival, although if they miss their deadline, they may be able to make a late application if they can demonstrate that they have a reasonable excuse for not applying in time.

## 2. Entitlement to benefits and homelessness assistance

This section summarises how the Department for Work and Pensions (DWP) and local authority homelessness services will determine whether an EEA national qualifies for benefits and homelessness assistance.

An EEA national who is in need of financial assistance and/or is at risk of homelessness should always be advised to make a claim for benefits and/or homelessness assistance, as applicable, so that the DWP and local authority homelessness service can investigate the person's eligibility, which may involve meeting a right to reside test. As benefit and homelessness eligibility rules can be complex, a person may wish to access specialist advice for assistance with making a claim. If their claim is refused, they would need to be signposted to a legal adviser if they have not already sought advice.

### Right to reside

As European free movement no longer applies in the UK, a person's immigration status no longer depends on whether they have a right to reside. However, the right to reside continues to be relevant in some cases when determining eligibility for means-tested benefits and homelessness assistance.

When a person is required to be exercising a right to reside, this will be considered in line with the Immigration (European Economic Area) Regulations 2016, as they were in force on 31 December 2020, subject to any amendments. For example, an EEA national will have a right to reside if they are a jobseeker, worker, self-employed person, student, or family member of such a person. A person will also be exercising a right to reside under the Regulations if they have a derivative right to reside, such as a Zambrano carer (primary carer of a British citizen).

A person with pre-settled status or a pending EUSS application cannot solely rely on their immigration status to qualify for means-tested benefits or homelessness assistance, and must also satisfy a right to reside test.

For the purpose of claiming benefits, they will need to show that they are exercising a 'qualifying right to reside', rather than any type of right to reside. A person will have a qualifying right to reside if they can show that they:

- Are working or have retained their worker status, such as during a pregnancy - a worker will need to show that they meet the DWP's minimum earnings threshold for at least three months (the level at which National Insurance contributions start to be paid), or that their work is 'genuine and effective'
- Are self-employed or have retained their self-employed status
- Have a permanent right to reside
- Are the family member of an EEA national who is exercising a qualifying right to reside
- Are a family member who has retained right to reside, which may be possible following a divorce or the death of their EEA family member
- The primary carer of a child, who is in education and whose parent is an EEA national who has worked in the UK

### **Means-tested benefits**

This section summarises how eligibility is determined for means-tested benefits, such as Universal Credit, Housing Benefit, Income-related Employment and Support Allowance, and Pension Credit.

Settled status:

- A person with settled status has indefinite leave to remain and will be entitled to all benefits, subject to meeting any qualifying requirements.

Pre-settled status:

- A person with pre-settled status will be eligible if they are exercising a qualifying right to reside at the time of their benefit application.
- A person will not qualify for benefits if their only right to reside is as the primary carer of a British child (Zambrano carer) or a jobseeker (unless they are claiming Child Benefit), or if they have no right to reside.
- [In a guidance note for advisers and benefit claimants](#), the Child Poverty Action Group suggest that in certain circumstances, there may be other legal arguments that a person who does not have a qualifying right to reside can make, although advice from a welfare rights specialist would be required to find out if these may apply.

Pending EUSS application made before 30 June 2021:

- A person will need to show that they:
  - Have made an 'in-time' application,
  - Were exercising a right to reside (any type) on 31 December 2020, and

- Are exercising a qualifying right to reside at the time of their benefit application.

Pending late EUSS application:

- [DWP guidance](#) states that a person with a pending late application will need to be treated in the same way as a person who has made an 'in-time' application.
- A person will need to show that they:
  - Have made a late application (by showing their Certificate of Application),
  - Were exercising a right to reside (any type) on 31 December 2020, and
  - Are exercising a qualifying right to reside at the time of their benefit application.

Leave to enter as a visitor, student or worker:

- A person with leave to enter to visit, study or work in the UK will be subject to the 'no recourse to public funds' (NRPF) condition. They will be subject to immigration control (section 115 Immigration and Asylum Act 1999) and excluded from claiming [any benefits classed as public funds](#).

Unlawfully present:

- A person who is unlawfully present will be 'subject to immigration control' (section 115 Immigration and Asylum Act 1999) and excluded from claiming any benefits classed as public funds.

## Other benefits

Different eligibility rules apply for disability benefits, including Personal Independence Payment, Disability Living Allowance, Attendance Allowance, Carer's Allowance, and the Scottish social security system benefits that will be replacing these, such as the Adult Disability Payment and Carer's Allowance Supplement.

A person who is ineligible for means-tested benefits may still be able to claim these benefits if they are lawfully present. Therefore, a person with pre-settled status may be able to claim one of these benefits but not Universal Credit.

However, such benefits are not intended to cover housing and/or basic living costs, so a person may be at risk of destitution and homelessness if they are relying on one of these benefits as their only source of income.

## Homelessness assistance

This section summarises how eligibility is determined for homelessness assistance. (Part II Housing (Scotland) Act 1987)

The [Code of Guidance on Homelessness](#) is still to be updated to include information about changes to eligibility for EEA nationals and their family members. The information in this section reflects the protections that apply to people with EUSS leave or pending applications, as set out in the Withdrawal Agreement.

Local authorities are required to accept a homelessness application and make temporary accommodation available where they believe a person may be homeless. Although a person's eligibility may be clear in some cases, where there is any doubt as to whether they may be eligible, the local authority should accept a homelessness application, provide accommodation, and then make enquiries. For example, this could apply when an EEA national needs to meet a right to reside test, which requires investigation before a decision can be reached. (Sections 28 & 29)

Local authorities should issue a decision on eligibility, including reasons for their decision where they find someone to be ineligible. No EEA national should be turned away from homeless services without a written decision. They must be provided with a right to review if a homeless application has not been taken and temporary accommodation has not been provided.

Decisions made by the DWP with regards to whether an EEA national meets a right to reside test should not be relied upon by homelessness services, as the eligibility criteria for benefits and homelessness assistance are different.

Settled status:

- A person will be eligible if they are habitually resident in the UK, Republic of Ireland, Channel Islands, or Isle of Man.

(Class C of the Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) [Order 2000](#), Reg. 3(c))

Pre-settled status:

- A person will be eligible if they are exercising a right to reside (any type) at the time of making their homeless application, as they will not be 'subject to immigration control'.
- A person who has no right to reside at the time of making their homeless application will be ineligible.

Pending EUSS application made before 30 June 2021:

- A person will need to show that they:
  - Have made an 'in-time' application,
  - Were exercising a right to reside (any type) on 31 December 2020, and
  - Are exercising a right to reside (any type) at the time of making their homeless application.

(The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) [Regulations 2020](#), Regs. 4 & 12(1)(g))

Pending late EUSS application:

- The Withdrawal Agreement requires a person who is making a late application to be treated in the same way as a person who made an 'in-time' application.
- A person will need to show that they:
  - Have made an EUSS application,



- Were exercising a right to reside (any type) on 31 December 2020, and
- Are exercising a right to reside (any type) at the time of making their homeless application.

Leave to enter as a visitor, student or worker:

- A person with leave to enter to visit, study or work in the UK will be subject to the 'no recourse to public funds' (NRPF) condition. They will be subject to immigration control (section 115 Immigration and Asylum Act 1999) and will be excluded from assistance under Parts I and II of the Housing (Scotland) Act 1987.

Unlawfully present:

- A person who is unlawfully present will be 'subject to immigration control' (section 115 Immigration and Asylum Act 1999) and excluded from assistance under Parts I and II of the Housing (Scotland) Act 1987.

### Further information

The following organisations provide more information about the eligibility rules for specific benefits and/or homelessness assistance:

- [Child Poverty Action Group in Scotland](#)
- [Citizens Advice](#)
- [Shelter Scotland](#)
- [Housing Rights Information](#)

## 3. Entitlement to other services

The rules relating to a person's entitlement to other public services are set out in the [COSLA Rights and Entitlements Guidance](#). Additional eligibility information relating to EEA nationals and their family members for some commonly accessed services is set out in this section.

### Early education and childcare

Early education and childcare is funded by the Scottish Government for the following children:

- All 3 and 4-year-olds (1,140 hours – 30 hours per week)
- 2-year-olds who are 'looked after' by the local council or where the parent is receiving certain benefits. These criteria are broadly in line with the eligibility requirements for free school meals.

Local authorities also have discretion to provide access to funded early learning and childcare to any other child, as they see fit.

For more information, see [section 4.4 of the COSLA Rights and Entitlements Guidance](#).

### School enrolment

All children, regardless of their immigration status, can receive state school education whilst they are of compulsory school age.



However, a child with one of the following types of leave to enter or remain will be subject to a condition that they do not undertake study at a state-funded school:

- [Standard visitor leave](#) (with some limited exceptions, as outlined in [Home Office caseworker guidance](#))
- [A child student visa](#) - formerly Tier 4 (Child) student visa
- [A short-term study visa](#)

### **Free school meals**

Any child can receive free school meals that are universally provided (currently school years P1- P5), regardless of their or their parent's immigration status.

For children in other school years, they will only qualify for free school meals if their parents are in receipt of a qualifying benefit. However, local authorities have the discretion to provide free school meals to children who are not eligible under the regular qualifying criteria, where their families are experiencing financial hardship. For more information, see [section 4.7 of the COSLA Rights and Entitlements Guidance](#).

### **NHS treatment**

Many NHS services are provided free of charge to people in Scotland, regardless of their nationality or immigration status, but some people may be required to pay for most treatment that is provided in a hospital, or by staff working under the direction of a hospital.

The following people will not be required to pay for chargeable treatment:

- A person with settled or pre-settled status
- A person with a pending EU Settlement Scheme application
- A person with visitor leave (six months or less) who has a valid EHIC card issued in their home country
- A person with leave to enter or remain who paid the Immigration Health Charge (IHC) when they made their visa application, or is exempt from the IHC

The following people will be required to pay for chargeable treatment:

- A person with visitor leave (six months or less) who does not have a valid EHIC card, although they may be able to reclaim costs if they have a S1 form.
- A person without valid immigration permission (where other exemptions are not met).

For more information about the types of hospital treatment that are chargeable and who may need to pay for treatment, see [section 4.10 of the COSLA Rights and Entitlements Guidance](#).

## **4. Support for EEA nationals who are ineligible for benefits**

### **Groups at risk of destitution**

Due to significant gaps in benefit and housing entitlement, EEA nationals and their family members are likely to be at risk of destitution and homelessness if one of the following applies to them:

- They have pre-settled status but are unable to work due to a disability, health issue, or caring responsibilities.
- They have a pending EUSS application and cannot evidence that they had a right to reside on 31 December 2020.
- They are unlawfully present and are entitled to apply to the EUSS but have not submitted an application.
- They have leave to enter that is subject to the NRPF condition and are no longer able to support themselves.
- They are unlawfully present having overstayed their leave to enter/remain.

### **Social services' support**

When a person is destitute or at risk of homelessness, and is ineligible for benefits and/or homelessness assistance, the local authority may have a duty to provide accommodation and financial support.

Social services can provide accommodation and financial support when the following duties are engaged:

- Section 22 Children (Scotland) Act 1995 – families with a child under 18
- Section 12 Social Work (Scotland) Act 1968 – adults with care needs
- Sections 29 and 30 Children (Scotland) Act 1995 – aftercare for a former looked after child (age 18-25)

In some cases, a human rights assessment will be required to determine whether social services' support can be provided.

### **Section 22 Children (Scotland) Act 1995**

- A child will be in need if their care-giver cannot provide the child with suitable accommodation or care, such as when the family are destitute or at risk of homelessness because the care-giver has no access to benefits or other resources to cover their housing and living costs.
- Eligibility for support will be determined through a GIRFEC assessment.

### **Section 12 & 13A Social Work (Scotland) Act 1968**

- Under section 12, a local authority can provide services, including accommodation, to a person who is in need of community care services. A person will be in need if they:
  - Suffer from an illness or mental disorder or are substantially handicapped by deformity or disability
  - Are in need of care and attention arising out of infirmity, youth or age
  - Are in need of care and attention arising out of drug and alcohol dependence, release from prison or other form of detention
- Under section 13A, a local authority will have a duty to provide residential accommodation to a person in need due to infirmity, age, illness, mental disorder, dependency on drugs or alcohol, or being substantially handicapped by any deformity/disability

- A local authority is not required to meet needs that arise solely due to the adult's situation of destitution when the adult has leave to remain that is subject to the NRPF condition or is unlawfully present in the UK.
- Eligibility for support will be determined through a community care assessment.

For more information about this legislation, and other duties and powers to provide accommodation and financial support to people who are unable to access benefits, see [chapters 5-10 of the COSLA Rights and Entitlements Guidance](#).

### **Human rights assessments**

A local authority may withhold or withdraw support to a person or family that qualifies for support when the person is 'in breach of immigration laws' and can return to their country of origin to avoid a human rights breach that may arise due to their destitution in the UK. (Schedule 3 of the Nationality, Immigration and Asylum Act 2002)

When a person or family qualifies for support under sections 22, 29 or 30 of the Children (Scotland) Act 1995 or section 12 or 13A Social Work (Scotland) Act 1968, social services will need to carry out a human rights assessment to determine whether there are any legal or practical barriers preventing the person from returning to their country of origin. When there are no barriers preventing return, the local authority may refuse or withdraw support on the basis that destitution can be avoided by return to country of origin.

When an EEA national is lawfully present, a human rights assessment is not required and eligibility for social service's support will depend on the outcome of the community care or GIRFEC assessment only. An EEA national will be lawfully present (or need to be treated as lawfully present) when they have one of the following types of immigration status:

- Settled status (indefinite leave to remain)
- Pre-settled status (five years' limited leave to remain)
- Pending EU Settlement Scheme application (made 'in-time' or late)
- EU Settlement Scheme family permit
- Leave to enter/remain as a visitor, student, worker, or granted under another category of the Immigration Rules

A human rights assessment will only be required when an EEA national is without leave to remain in the UK. However, where a person is identified as being entitled to apply to the EU Settlement Scheme, a human rights assessment should not be progressed whilst the person seeks legal advice about making a EUSS application. Therefore, in practice, a local authority will only be able to undertake a human rights assessment when a person becomes an overstayer following the expiry of their leave to enter or remain, or when a person's EUSS application has been refused and they have no further right to appeal this decision.

For more information about human rights assessments and a template to help undertake an assessment, see [the NRPF Network's guidance for councils](#).

### **Other local authority support**

COSLA Leaders agreed in July 2021 an ongoing approach to supporting destitute people with no recourse to public funds and EEA nationals with during the pandemic recovery. It

was agreed that this should include taking steps to prevent homelessness and rough sleeping and to support people to comply with public health measures.

Adults who do not qualify for accommodation from social services will have limited support options. Local authorities will need to consider whether any discretionary powers may apply that enable accommodation to be provided. COSLA has produced a Covid-19 Recovery Framework and Supplementary Guidance, which provides information that will help local authorities to determine support that can be put in place for people in these circumstances.

This can be found at [www.migrationscotland.org.uk](http://www.migrationscotland.org.uk) or by contacting [cristina@cosla.gov.uk](mailto:cristina@cosla.gov.uk)

### **Voluntary and Community Sector support**

Third sector partners may be prepared to work with local authorities to provide or manage temporary accommodation for people with no recourse to public funds.

Local authorities may want to consider working with the third sector to develop local or regional plans for accommodating people. Local authorities will need to ensure that support has first been provided to establish people's eligibility to local authority support.

Fair Way Scotland is a partnership of charities working with academics, legal agencies and funders in order to develop a human rights based approach to ending destitution and to practically assist the delivery of the [Ending Destitution Together](#) and [Ending Homelessness Together](#) strategies. They are seeking to provide accommodation and holistic services across Scotland and are aiming to increase their capacity to collaborate with Local Authorities during 2022. For more information, see the [Fair Way Scotland delivery plan](#).

Local authorities can contact Maggie Brunjes for information about the partnership and opportunities in their local area: [mbrunjes@homelessnetwork.scot](mailto:mbrunjes@homelessnetwork.scot)

Local authorities should also keep [cristina@cosla.gov.uk](mailto:cristina@cosla.gov.uk) informed of any developing partnerships with Fair Way or the wider third sector.

### **Access to immigration advice**

Whilst local authorities will be required to work with individuals and families to establish their immigration status, it is important to note that immigration advice should only be provided by an OISC registered immigration adviser or a member of the appropriate regulatory bodies for solicitors and advocates.

The following organisations may be able to provide free advice about the EU Settlement Scheme:

- International Organisation for Migration (IOM) – IOM OISC-certified caseworkers are based in COSLA and are working alongside the COSLA Migration, Population and Diversity (MPD) Team. The caseworkers provide one-to-one immigration advice and support to vulnerable individuals who have been referred by local authority officers. Local authority staff can contact IOM for information or to refer cases: [immigrationadvice@iom.int](mailto:immigrationadvice@iom.int)
- [EU Citizens' Support Service](#) (telephone advice provided by Citizens Advice Scotland)

- [Settled telephone advice line](#) (available in different European languages)
- [Citizens Rights Project](#)

A person can find a local immigration advisor or solicitor through the following websites:

- [Office of the Immigration Services Commissioner](#)
- [Scottish Legal Aid Board](#)
- [Law Society of Scotland](#)

## Return to country of origin

The Home Office may be able to assist an EEA national to [return to their country of origin](#) if they wish to return voluntarily and are without lawful status in the UK or intend to withdraw a pending EU Settlement Scheme application.

When a person expresses a wish to return to their country of origin, they should be provided with the opportunity to seek legal advice about how this will impact on their future residence rights and whether they will be affected by a re-entry ban.

### Case example

An EEA national arrived in Scotland in June 2020 with her daughter, who is now two years' old. The mother was granted pre-settled status in January 2022. Her claim for Universal Credit (UC) has been refused on the basis that she is not exercising a qualifying right to reside. Her prospects of employment are low: she is caring for a young child, has no UK-based work or study experience, speaks limited English, and does not have close family in Scotland. She won't qualify for settled status until June 2025.

The local authority is providing the family with accommodation and financial support under section 22 Children (Scotland) Act. The family could require this support on a long-term support basis as the mother may not qualify for benefits until she obtains settled status.

The social worker takes the following steps in order to help the mother to be in a position where she may be able to work and, therefore, access benefits sooner:

- Signposts the mother to a benefits adviser to check that the UC refusal is correct
- Liaises with the local authority's early learning team to request that childcare is funded on a discretionary basis
- Signposts the mother to local employment support services and to local ESOL course providers so she is aware of what options might be available to her

The local authority agrees to fund a childcare place (15 hours/week), enabling the mother to undertake ESOL and some other skills courses, in order to improve her prospects of employment.

Should she gain employment, the social worker may need to assist the mother to collate three months' worth of pay slips to help evidence to the DWP that she is exercising a right to reside as a worker.

## 5. Summary table: establishing eligibility for benefits, homelessness assistance and social services' support

<b>Immigration status of EEA national or family member</b>	<b>Means-tested benefits</b>	<b>Homelessness assistance</b>	<b>Social services' support (accommodation &amp; financial support)</b>	<b>Human rights assessment needed when qualifies for social services' support?</b>
<b>Settled status</b>	Eligible	Eligible (Class C)	Family - GIRFEC assessment  Adult - community care assessment	No
<b>Pre-settled status</b>	Eligible if exercising a qualifying right to reside.	Eligible if exercising a right to reside (any type)	Family - GIRFEC assessment  Adult - community care assessment	No
<b>Pending EU Settlement Scheme application made before 30 June 2021</b>	Eligible if can show they have all of the following:  - a pending EUSS application made 'in-time'  - a right to reside (any type) on 31 December 2020  - a qualifying right to reside when the benefit claim is made	Eligible if can show they have all of the following:  - a pending EUSS application made 'in-time'  - a right to reside (any type) on 31 December 2020  - a right to reside (any type) when the application is made	Family - GIRFEC assessment  Adult - community care assessment	No
<b>Pending EU Settlement Scheme application</b>	Eligible if can show they have	Eligible if can show they have	Family - GIRFEC assessment	No

<b>made after 30 June 2021</b>	all of the following:  - a pending EUSS application  - a right to reside (any type) on 31 December 2020  - a qualifying right to reside when the benefit claim is made	all of the following:  - a pending EUSS application  - a right to reside (any type) on 31 December 2020  - a right to reside (any type) when the application is made	Adult - community care assessment	
<b>Unlawfully present - entitled to apply to the EU Settlement Scheme</b>	Ineligible	Ineligible	Family - GIRFEC assessment  Adult - community care assessment	No
<b>Valid leave to enter granted on/ after 1 January 2021 as a visitor, student or worker</b>	Ineligible when leave is subject to the 'No Recourse to Public Funds' (NRPF) condition	Ineligible when leave is subject to the NRPF condition	Family - GIRFEC assessment  Adult - community care assessment	No
<b>Unlawfully present - overstayer</b>	Ineligible	Ineligible	Family - GIRFEC assessment  Adult - community care assessment	Yes