



FACT SHEET 6

SERVICE USERS WITH NO RECOURSE TO PUBLIC FUNDS

This Fact Sheet is number 6 of 6, all of which link to and provide background information for the guidance on producing a protocol for the Admission and Discharge of People from Hospital.¹ The other Fact Sheets in the series are:

- Fact Sheet 1 Web based resources on homeless services or developing a hospital intranet
- Fact Sheet 2 The Housing Act and examples of letters to local authorities for medically vulnerable patients
- Fact Sheet 3 Housing Status
- Fact Sheet 4 Developing integrated care pathways for homeless people
- Fact Sheet 5 Developing accommodation pathways for homeless mental health inpatients.

ELIGIBILITY FOR SERVICES AND IMMIGRATION STATUS

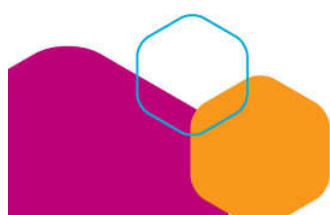
There are complex rules about eligibility for various services in relation to immigration status that cover asylum seekers, 'over-stayers', failed asylum seekers and clients who are classified as having 'no recourse to public funds', and interventions must be based on individual circumstances.

Any services provided under Section 117 of the Mental Health Act (the aftercare services for people who have been detained under a treatment section of the Mental Health Act 1983) are not subject to any eligibility tests. People who have been so detained should be assisted with accommodation and support by the local social services department.

DESTITUTE ASYLUM SEEKERS

Destitute asylum seekers (who are homeless with no money) with an outstanding application to remain in the UK can apply to the UK Border Agency for support (e.g. accommodation, food, clothing and toiletries). The UK Border Agency will assess circumstances, needs and what services and support are available to the asylum applicant. If a client meets the requirements to receive support, they will be given accommodation and subsistence.

¹ <http://www.communities.gov.uk/publications/housing/hospitaladmission>



If accommodation is provided, clients *will not* be able to choose where they live. They will be sent to wherever accommodation (not local authority secure housing) is available within the UK (dispersal in accordance with expert clinical advice from the treating clinician and/or the medical advisor).

However, a destitute asylum seeker “in need of care and attention” can also apply to a local authority social services department for accommodation and support under community care provisions (Section 21 of the National Assistance Act 1948: local authorities are under a duty to make arrangements to provide accommodation for persons ordinarily resident in their area who need to be ‘looked after’ or who are in urgent need of care and attention). Care and attention is defined as needing to be looked after, i.e. that the client requires someone to do something for him, such as household tasks or personal care. For clients who need this type of assistance as well as accommodation, an application to social services is probably the better option, as it is the route to specialist accommodation with care and takes the client’s wishes as to location into account.

FAILED ASYLUM SEEKERS

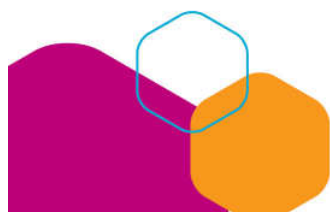
Failed asylum seekers may be able to receive short-term support while they are waiting to return to their country of origin (Section 4, ‘hard case’, support under the terms of section 4 of the National Immigration and Asylum Act 1999) or if they are seeking to reopen their asylum case or are unable to travel for medical reasons. It is advisable for the inpatient client to take specialist advice from a solicitor who is experienced in immigration law and the Human Rights Act 1998 and the European Convention on Human Rights (ECHR).

Failed asylum seekers who have a need for “care and attention” can also be supported under community care arrangements as above, but may need to show that a failure to provide the accommodation and support would be a breach of their human rights: again, specialist legal advice should be sought.

A2/A8 SERVICE USERS

The rules around eligibility for accommodation, benefits and services for clients from Bulgaria/Romania (A2) and the nationals of the eight countries that joined the EU in May 2004 (A8) are complicated. While citizens of these countries are European nationals with the same rights (e.g. to eligibility for services when self employed) as others in most respects, the rules that allow them to be employed in the UK are complex, although once they have started work under these rules they usually have the same rights as other European nationals. However there is a big issue with lack of awareness of the requirement to register their employment with the [Workers Registration Scheme](#) and that obtaining a National Insurance Number does not mean they are automatically registered. People who end up homeless often think that they have been working legally and only find out that this has not been the case when they have applied for JSA when their employment has been terminated. Often this has been when they have been employed for two or three years.

A8 and A2 nationals should have access to the NHS, as there are reciprocal arrangements between the health services of all European countries as a condition of EU membership.



Access to social care, however, is restricted, and A8 and A2 nationals are specifically excluded from the 1948 National Assistance Act, under which social services have a duty to provide support to destitute adults if they are in need of “looking after”. However, where A8 and A2 nationals are in a condition where their human rights may be breached, social services can carry out an assessment under the Human Rights Act, and provide interim support to avoid a breach. This support is unlikely to be indefinite, and is likely to include an offer of tickets home/ supported reconnection as a means of resolving the situation, unless to do so would in itself be a breach of human rights.

NO RECOURSE TO PUBLIC FUNDS NETWORK

The No Recourse to Public Funds Network (NRPF) is run on behalf of local authorities in England and Wales by London Borough of Islington. They provide advice and guidance to social services departments on assessing and meeting the needs of people with NRPF, including A8 and A2 nationals.

The rules covering A8 nationals and the Workers Registration Scheme (WRS) will lapse on May 1st 2011, when they will be covered by the same rules as other European nationals. However individuals will still need to have been residing in the country and working legally, (i.e. registered under WRS), studying or self employed for an uninterrupted period of twelve months) to be entitled to JSA or assistance with accommodation. There is misunderstanding about this among CEE nationals who may believe that they will be able to claim benefit from May 2011.

Front line staff are advised to seek expert advice on individual cases and circumstances (see references).

Generally, applicants who are covered by the rules on work and self employment, which usually also cover them for periods where they are “temporarily” unable to work due to illness or injury, are eligible for benefits and housing services. “Temporarily” can be a period of years if the client is likely to be able to work following treatment. Rules on this, however, are complex and often form the basis of legal challenges, so expert advice should be sought.

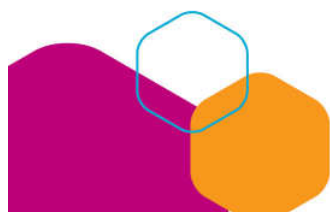
Resources:

Advice on Individual Rights in Europe - www.airecentre.org

Housing Rights information for people recently arrived in England www.housing-rights.info

Advice for people from A2/A8 countries - www.cih.org/policy/openingdoors/module3.pdf

Praxis produce a complete manual for non-lawyers advising undocumented migrants
http://www.praxis.org.uk/index.php?page=5_29



Guidance for organisations working with homeless Central and Eastern

<http://www.homeless.org.uk/cee-guidance>

Routes Home is a website which is intended as a practical guide for outreach staff and other professionals involved in reconnecting Central and Eastern European (CEE) nationals who are rough sleeping back to their home country. It aims to increase options for reconnections and to support staff to make appropriate referrals to services in the UK and CEE countries. <http://www.thamesreach.org.uk/what-we-do/routes-home/about-routes-home/>

The London Reconnections Team is funded by the CLG to work with vulnerable rough sleepers from A10 countries in London boroughs. They offer supported re-connection back to their country of origin, either linking back to families or support services in their own country. Referrals are accepted from all organisations or self-referrals. Referral forms can be found at www.londonreconnect.org.uk

Homelessness Code of Guidance (Annexes 11 -13) provides guidance to local housing authorities on eligibility for homelessness assistance under Part 7 of the Housing Act 1996. www.communities.gov.uk/publications/housing/homelessnesscode

NRPF network www.islington.gov.uk/nrpfnetwork or contact at nrpf@islington.gov.uk

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The five other related fact sheets can be found on the Homeless Link website:

<http://www.homeless.org.uk/hospitals>

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