

Working & Volunteering

This fact sheet provides information on working, volunteering and NI numbers for migrant and refugee young people in the UK.

Who has the right to work?

The right to work is normally linked to an individual's immigration status. Checking that someone has a right to work is important, especially as illegally working in the UK is now a criminal offence.

Those with the right to work in the UK include individuals with the following types of status:

- British citizens
- Refugee status
- Humanitarian Protection
- Indefinite leave to remain
- Limited leave to remain
- Discretionary leave
- UASC leave
- Section 67 leave
- Calais leave

Those with specific visas, such as work visas or student visas, may have some restrictions on the type and amount of work they can do. These restrictions will usually be printed on a person's biometric residence permit (BRP) or in-passport visa sticker.

What about EU nationals?

EU nationals, family members and those with EU rights continue to have the right to work in the UK.

Although we have left the EU, the right to work will continue until the end of the transition period – 31st December 2020. After this, a new immigration regime will start for EU nationals. Those granted **settled status or pre-settled status** under the EU Settlement Scheme will have the right to work.

What about those with no leave to remain?

Those with no leave to remain, including people who are appeal rights exhausted and overstayers do not have the right to work. Anyone who works while not having the right or permission to do so is committing an immigration offence: namely that they have failed to follow a condition or restriction of their leave.

Under the Immigration Act 2016, 'illegal working' is now also a criminal offence for the individual – this came into force on 12th July 2016. The criminal offence of 'illegal working' gives the Home Office [the ability to seize wages](#) as the proceeds of crime.

Can asylum seekers work?

Asylum seekers do not have permission to work in the UK, but if someone seeking asylum has been waiting for an initial decision on their claim for longer than 12 months then they can [apply for permission to work](#). A [Supreme Court judgment](#) in 2010 found that the concession can also apply to individuals who have submitted a fresh claim for asylum.

The [following examples](#) are given where permission to work may be refused:

- the asylum claim/further submissions has **not** been outstanding for 12 months
- the delay is entirely the result of the individual's actions or inaction
- the delay is partly due to the individual's actions or inaction and it is not appropriate to exercise discretion
- there is evidence of criminality
- further submissions are not protection based (such as asylum) and are instead based on medical grounds or family grounds where a valid charged application should have been made

Children and young people often have to wait more than a year for a decision. However, even where an applicant is granted permission to work, asylum seekers' employment options are restricted to the jobs identified on the UK's official [shortage occupation list](#).

Most of the occupations on the list require qualifications and high salary rates. It is therefore unlikely that many young people will be able to work even if they are given permission to work.

How do you show you are eligible to work?

All children and young people granted a form of status should be provided with a 'Biometric

Residence Permit' (BRP), which will show what status they have.

Please note that most of those granted status under the EU Settlement Scheme will **not** receive a BRP, they will instead have a form of digital status.

A letter from the Home Office granting status could also be used to demonstrate eligibility to work if the BRP has been lost and a replacement is being sought, although the [Home Office states](#) that this does not constitute proof of status.

As part of the process of applying for further leave to remain, the applicant must submit their original status document. This means they will not be immediately able to show their right to work to a current or future employer, and proving their eligibility to work can often be problematic.

If a solicitor or immigration adviser has assisted the young person to make a further leave to remain application or an application to vary their leave, the young person can request that they provide a headed letter confirming that an in-time, valid application has been made and this could be used as further evidence of eligibility to work. Additional evidence could take the form of a certified copy of the BRP (a copy of the BRP signed, usually by the solicitor or immigration adviser, to say it is a true copy).

If a person needs to explain that they have a continuing right to work but is not able to get one of the alternate forms of proof above (or if this proof is not accepted), they may find our [template letter](#) for explaining section 3C leave helpful.

If an employer is looking to recruit an individual who has made an application for further leave to remain, they can contact the [employer checking service](#) (ECS) to confirm their continuing entitlement to work.

The ECS will clarify that the employee or potential employee has the right to work at the point of recruitment and that this entitlement can continue until a conclusive decision has been made. The Home Office will send the employer a 'positive verification notice' to confirm that the applicant has the right to work. The employer must keep this document. Depending on the type of leave or when the leave expires, [further checks will normally be required](#).

However, sometimes delays in applying for further leave to remain and being registered on the Home Office's database do occur. Practice shows that employers have been misinformed or have received the wrong information about a person's right to work. If the Home Office cannot confirm that a young person has made an application for further leave, evidence from a legal representative may need to be sought.

What about volunteering?

The Home Office guidance on volunteering states that [volunteers are those who give their time for free to charitable or public sector organisations without any contractual obligation or entitlement](#). There is further general information on the [gov.uk website](#) and the [NCVO website](#).

Asylum seekers and individuals who are appeal rights exhausted, or have no valid leave, are allowed to volunteer without obtaining permission

to work. They cannot [work](#) without permission (as noted above). The volunteering must not interfere with asylum interviews or reporting events.

The unpaid work must therefore be carried out 'on behalf of a charity, voluntary organisation or body that raises funds for either'.

The [Home Office guidance](#) notes that:

- there should be no payment, other than reasonable travel and meals expenditure actually incurred (not an allowance for a set amount);
- there should be no contractual obligations/benefits on the volunteer;
- the volunteer is helping a registered voluntary or charitable organisation (or organisation that raises funds for either);
- the volunteering is for a public sector organisation; and
- the volunteering is not a substitute for employment (i.e. fulfilling a role that a salaried worker would normally fulfil).

The Home Office also states that rewards, such as money or benefits in kind should not be provided (see above regarding travel/meal expenses).

If you work for an organisation and are unsure as to whether the role is voluntary or as a worker/employee, you should obtain independent legal advice.

What about work experience and training?

Refugees, those with humanitarian protection and young people with limited leave to remain/pre-settled status or indefinite leave to remain/settled status are entitled to apply for vocational training because they have the right to work in the UK.

Unaccompanied asylum seeking children and children dependent on their parents are entitled to secondary education and [this includes](#) taking part in work experience placements or training as part of their education.

Asylum seekers and those whose asylum claims have been refused, unless they have permission to work, are restricted to vocational training that does not involve employment. It cannot be work-based, where the training is part of a job. Any work placement that is part of a college course must be unpaid.

Do I need a National Insurance Number?

Every person over the age of 16 who wishes to work or claim benefits, and has the immigration status that allows them to do so, must obtain a National Insurance number (NINO). This includes separated or unaccompanied young people who have been granted refugee status, humanitarian protection, limited leave, discretionary leave, UASC leave or indefinite leave to remain. In addition, asylum seekers who receive permission to work because they have been waiting for an initial decision on their asylum claim for over 12 months will need to be issued with a NINO.

When a child seeks asylum in the UK, the Home Office will normally fill out an application for a NINO at the substantive interview if the child is 16 or over. This is submitted in the event of a child being granted a form of status that confers a right to work.

For looked after children, whether seeking asylum or not, an [application for a NINO](#) can be made through their social worker on their behalf.

This fact sheet should not be used to give legal advice and is for information and guidance only. For advice on individual cases, assistance should be sought from an independent regulated legal adviser.

For further assistance contact our advice line by emailing mcpadvice@coramclc.org.uk.