



Welfare Benefits in the UK

The welfare system in the UK is complicated and there are a wide range of benefits.

Which benefits you can claim and how much you will get depends on your circumstances. Payments are usually low, last for a limited period, and you have to meet various conditions not only to start claiming, but to keep on getting the money. You have to claim different benefits separately.

If you are an EU national, you will typically need to have worked for 3 months in the UK to be entitled to most benefits.

You can use one of these calculators to get an estimate of what benefits you could get:

- www.entitledto.co.uk/benefits-calculator/startcalc.aspx
- <http://benefits-calculator.turn2us.org.uk/AboutYou>

You should **seek expert advice** before claiming. Your local **Law Centre** or **Citizens Advice Bureau** are good places to seek help (see **Useful contacts**)

Benefit fraud (deliberately or dishonestly claiming more than you're entitled to) is an imprisonable offence in the UK.

Who can apply for benefits?

European Union (EU) citizens should be able to access UK benefits in the same way as British citizens. However, some UK laws prevent EU nationals from claiming some benefits or have additional requirements placed on them.

If you are an EU national, you will typically need to have **worked for 3 months** in the UK to be entitled to most benefits.

European Economic Area (EEA) nationals can access most benefits but they first have to pass what is known as the **Habitual Residence Test**.

The Habitual Residence Test

European Economic Area (EEA) nationals have to meet the conditions of the Habitual Residence Test to claim most means-tested benefits.

There are two parts to the test:

- you have to have the **right to reside** and
- you have to be **habitually resident in fact**.



The Department for Work and Pensions (DWP) will check if you have the **right to reside** first and then see if you are **habitually resident in fact**.

If you meet the conditions of the test you can apply for benefits but you have to be able to show that you are eligible for the benefit you are claiming.

Right to reside

First 3 months

If you are an EEA national, you have a **right to reside in the UK for 3 months** but you won't be able to claim these benefits:

Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Pension Credit, Housing Benefit, Council Tax Reduction, Child Benefit, Child Tax Credit and Universal Credit.

If you have a right to reside as a worker or family member, you should be able to claim **Child Benefit** and **Child Tax Credit** during these initial 3 months.

After 3 months

Most people who come to the UK have permission to enter the country and spend time here. This is called **lawful presence**. However if you want to claim benefits, you must also have a **right to reside**.

You can **extend your right to reside beyond 3 months** if you are a '**qualified person**'. This gives you the right to apply for benefits.

The list of people who are **qualified** is long and each category has detailed rules for who is eligible. This is a summary of these rules:

1. A worker

To have **worker status** you must be able to show you are undertaking '**genuine and effective**' work in the UK.

One of the best ways to do this is showing that for the last 3 months you have been earning £156 a week or more (the **Minimum Earnings Threshold** in 2016).

If you temporarily stop working, you can still be considered to have **retained** your status as a worker if you are temporarily unable to work as the result of an illness, maternity or lost your job for reasons which are not your fault.

Advice: Provide as much evidence of this as possible at the start of the process.

2. Self-employed

You should be able to show evidence that you are self-employed such as a copy of business accounts or an accountant's letter.

If you temporarily stop working, you can only **retain** your self-employed status if you stop working due to illness or accident, or maternity.

Advice: You should register as self-employed with HM Revenue & Customs (HMRC) and keep details of the work you do.



3. A self-sufficient student

You must be able to show that you have enough money not to need to claim benefits. You will also need comprehensive sickness insurance and to be enrolled at a recognised educational institution.

Check for registered learning providers here: <https://www.ukrlp.co.uk/>

Even if you can support yourself you may still be able to claim benefits for a short period of time, for example, if your funds stop unexpectedly.

4. A self-sufficient person

You must show you have enough resources not to claim income-related benefits **and** have comprehensive sickness insurance cover. There is no fixed amount that is regarded as sufficient resources.

If you claim a right to reside as a self-sufficient person, it is difficult to then claim benefits (because you are no longer self-sufficient if you need benefits). But, you may be able to claim some means-tested benefits for a short period of time, for example, if your funds stop unexpectedly.

5. A jobseeker (looking for a job)

You must show that you are seeking work and stand a genuine chance of finding it.

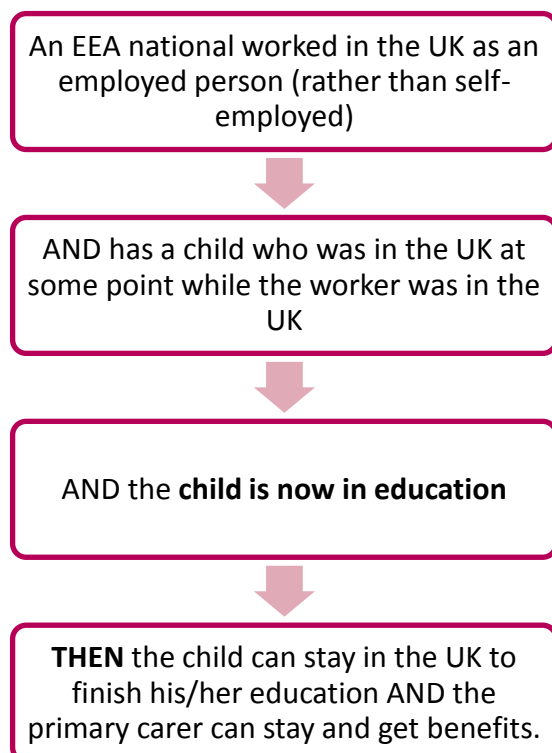
You should be able to provide evidence of job interviews, qualifications and registration with Jobcentre Plus or recruitment agencies. You will be expected to start work within 3 months.

6. A family member of a person in one of these groups

This could be **direct** or **extended** family members, for example, spouse, children or dependent parents.

7. A primary carer (looking after someone) under certain conditions

Some people have a right to reside based on someone else's right to reside not as a family member but as a primary carer of that person. This is known as a "Derivative right to reside".



Periods of right to reside whereby the right to reside is 'derivative' do not count towards the period of residence required to get permanent residency.

8. A permanent resident

After you have lived in the UK for 5 years as a **qualified person** (see above) you will have **permanent residency**.

You can have **more than one Right to Reside at a time**. For example, you may also be the family member of someone with a permanent right of residence and qualify that way as well.

Habitual residence in fact

This is a very complicated area of law and you should **seek advice**.

It is important to show that you have a legal right to be in the UK (the **right to reside**) and that you intend to settle here (but not necessarily permanently).

You will have to provide evidence that you have been resident in the UK for an **appreciable period of time**. This can be registering your child in school, getting a tenancy, opening a bank account in the UK, joining some clubs or societies or registering with a GP or dentist.

About UK benefits

This is general information about the benefits EU nationals are most likely to encounter. You should **always seek advice** about your entitlement from an independent agency when claiming and especially if you are thinking of switching benefits.

Benefit	For?	Who may be eligible?	Means tested?
Child Benefit	people who have a child	Habitual residents	✗
Child Tax Credit	people who have a child	Habitual residents	✗
Council Tax Reduction	people who need help to pay Council Tax	Habitual residents	✓
Employment and Support Allowance	people who can't work because of illness or disability	Habitual residents	partly
Housing Benefit	people who need help to pay rent	Habitual residents	✓
Income Support	people on low incomes	Habitual residents	✓
Jobseeker's Allowance	people who are unemployed and looking for work	Habitual residents	partly
Maternity Allowance	people who are pregnant or just had a baby	All	✗
Pension	people who have worked in the UK long enough and reached pension age	All	✗
Pension Credit	people who have worked in the UK long enough and reached pension age	Habitual residents	✓
Personal Independence Payment	people with long-term ill-health or a disability	Habitual residents	✗



Statutory Maternity Pay	people who are pregnant or just had a baby	All	✘
Statutory Sick Pay	people who are not working because of sickness	All	✘
Universal Credit	people claiming several benefits		
Working Tax Credits	People in work on low incomes	Habitual residents	✓

Means-tested benefits are benefits where your income and capital (savings, investments, property etc.) affect your eligibility. Sometimes these benefits are referred to as **income-based benefits**.

Some benefits are guaranteed by the state and are not affected by the Habitual Residence Test or the Right to Reside Test. They have their own eligibility criteria and you may not need to send many papers for them.



A summary of UK benefits...

Child Benefit and Child Tax Credit

Child Benefit

Child Benefit is a mainly tax-free benefit paid to most people with children under 16 (or under 20 if the child stays in approved education).

You do not need to have paid any National Insurance contributions (a form of income tax that goes towards social security benefits) to get Child Benefit and you can get it regardless of your income. You can get £20.70 a week (**in 2016**) for the oldest child, and £13.70 for each additional children.

If you have an income above a certain level, you may have to pay extra tax because you are getting Child Benefit.

Child Tax Credit

You can get **Child Tax Credit** if your income is low enough and you are responsible for at least one child. You will get money from Child Tax Credit for each child. You do not need to have a **very** low income to get some help from Child Tax Credit, so many people with children can get some assistance.

Making a Claim

To claim Child Benefit and Child Tax Credit, jobseekers who move to the UK need to have lived here for 3 months.

People who have jobseeker status but no other right to reside can only claim Child Benefit and Child Tax Credit for 6 months unless they can provide **compelling evidence** that they will get work.

To claim, go on the www.gov.uk website to download the relevant forms, complete online, or call the relevant offices.

Council Tax Reduction (CTR)

Council Tax Reduction is help towards paying your council tax.

Everyone pays Council Tax to their local councils based on the value of the home they own or rent. The rules about who is eligible are similar to the rules for Housing Benefit even though they are entirely separate schemes.

In England and Wales your local council can set its own CTR scheme rules. However, councils are not allowed to make any rules that exclude you from CTR based on your immigration status or nationality – such as a local residency qualification. Any local rules that do this are unlawful and can be challenged in the courts.

To find out which your local council is (you need to apply for CTR through your local council):

● <https://www.gov.uk/apply-council-tax-reduction>



Employment and Support Allowance (ESA)

Employment and Support Allowance is a benefit for people who are unable to work due to illness or disability.

To claim Employment and Support Allowance, you must pass the Habitual Residence Test (see above).

There are two types of ESA:

Contribution-based Employment and Support Allowance

You can get this if you've paid enough National Insurance contributions (a form of income tax that goes towards social security benefits).

Income-related Employment and Support Allowance

You can get this if you have no income or a low income. You don't have to have paid National Insurance contributions.

While you are being fully assessed you will get up to £73.10 per week (in 2016).

You will then be placed in one of two groups:

- in the **work-related activity group** you'll have regular interviews with an adviser and get up to £102.15 a week.
- in the **support group**, you won't have interviews and you will get up to £109.30 a week

To claim: ● <https://www.gov.uk/employment-support-allowance/how-to-claim>.

Housing benefit (HB)

Housing Benefit is money to help you pay the rent if you are on a low income.

To claim Housing Benefit, you must pass the Habitual Residence Test (see above).

It can be paid if your income is made up of benefits or a combination of benefits and earnings. The amount depends on where you live, and on the type of your accommodation. It will never be more than the actual rent you're paying and usually will not be enough to cover it if it is a private tenancy. Many landlords won't take tenants on benefits.

You claim housing benefit from your **local council**. If you think their decision is wrong then you can appeal – but you must normally do this within one month of being notified of the decision.

Not having a home whilst looking for a job can be very difficult. A solution might be to find a small job (e.g. part-time) and claim in-work HB, but you may have to show that you have been earning £156 a week or more (the **Minimum Earnings Threshold** in 2016).

There are various factors which increase or reduce the amount of HB you are entitled to. You can calculate what benefits you are entitled to here: ● <http://www.entitledto.co.uk/>

You can find out how much you could get in housing benefit by calculating the Local Housing Allowance rate for your household here: ● <https://lha-direct.voa.gov.uk/bedroomcalculator.aspx>



Income Support (IS)

Income Support helps people who do not have enough money to live on. It is only available for certain groups of people who do not get Jobseeker's Allowance or Employment and Support Allowance and are not in full-time employment. The actual amount you get depends on your circumstances and is similar to the amount of income-based JSA.

To claim Income Support, you must be habitually resident in the UK and have the right to reside here. Usually, EU nationals cannot claim Income Support until they have a permanent right of residence.

To qualify you must:

- be on a low income and not entitled to JSA or ESA
- work less than 16 hours a week
- be pregnant, or a carer, or a lone parent with a child under 5 years old or, in some cases, unable to work because you're sick or disabled.

If you have the right to reside on the grounds of being a jobseeker, you are unlikely to be able to claim Income Support.

For more details and how to apply: <https://www.gov.uk/income-support/overview>

Jobseeker's Allowance (JSA)

Jobseeker's Allowance is a payment you can get whilst you are looking for a job.

To claim Job Seeker's Allowance, you must pass the Habitual Residence Test (see above).

There are two types of JSA:

Contribution-based Jobseeker's Allowance

You can get this if you are unemployed and have paid enough tax in the UK (around 2 years of employment on over £155 per week pay).

Income-based Jobseeker's Allowance

You can get this if you are unemployed and not entitled to contribution-based JSA, **or** if you have been claiming contribution-based JSA and that has ended.

To prove you are looking for a job, you have to **register as a jobseeker at Jobcentre Plus**.

You will usually get (**in 2016**) £57.90 a week if you're 24 or younger, £73.10 if you're over 24 or a single parent over 18, or £114.85 if you're a couple. You will have to continuously supply a lot of proof that you are looking for work and it might be very difficult for you to claim it for more than a few months.

You can claim JSA online:

- <https://www.dwpe-services.direct.gov.uk/portal/page/portal/jsoal/lp>

Interpreting services for JSA have now stopped and new claimants are expected to have reasonable skill in the English language. Their level of English will be tested, and a poor command of English will mean refusal to pay JSA until claimants improve their English.



JSA time limitations

- If you're an EEA national who has come to the UK as a jobseeker, you can't claim income-based jobseeker's allowance during your first **three months** in the country.
- After that you can claim for a total of **91 days** (which can be split across several periods of job-seeking).
- After this 91 days you will need to provide **compelling evidence** that you have a genuine chance of finding work. This could be a job offer or evidence that your employability has changed significantly since signing on, e.g. through re-training or moving to an area with more job opportunities.

You can also transfer unemployment benefits from your home country if you register with the UK's national employment services within 7 days of arriving. You should register at your nearest Jobcentre Plus office and submit the U2 form you received from your home country:

• <https://www.gov.uk/browse/working/finding-job>

Placing restrictions on the type of work you'll accept

Disability-related restrictions

You can agree with Jobcentre Plus that you won't be available for work, as long as the restrictions (e.g. pay, hours, travel time, type of work) are reasonable **given your physical or mental condition**.

If you refuse a job offer where the hours of work or other conditions of the job are beyond your agreed restrictions, you won't generally have your benefit payments stopped or reduced (this is called **sanctions**).

Non disability-related restrictions

Provided you can show you have **reasonable prospects of securing employment**, you can restrict:

- the nature of the employment (e.g. due to sincerely held religious or conscientious objections)
- the terms and conditions of employment
- the rate of pay – but only for the first 6 months of your claim (after 6 months you can't insist on a rate of pay higher than the national minimum wage) **and**
- the areas you will work in – generally, you are expected to be prepared to travel for up to 1½ hours both to and from work using public transport.

Advice: It is important to think carefully before you put restrictions on your availability. If you can't show you have reasonable employment prospects due to ill health or disability, your benefit could be stopped.

Maternity Allowance (MA)

You can claim Maternity Allowance if you can't get Statutory Maternity Pay. You can do that as soon as you've been pregnant for 26 weeks. Payments can start 11 weeks before your baby is due.

Payment can take place for 39 weeks or 14 weeks, depending on how much tax you have paid, your employment status, and other circumstances.

Contact your local Jobcentre Plus to check your eligibility and to claim.



Pension Credit (PC)

Pension Credit is extra money for pensioners to bring your weekly income up to a minimum amount.

To be eligible for Pension Credit, you will need to prove you have the right to reside and that you are habitually resident in the UK

It is made up of two parts - **Guarantee Credit** and **Savings Credit**.

Guarantee Credit

Guarantee Credit tops up your weekly income if it's below £151.20 (**in 2016**) for single people or £230.85 for couples.

Savings Credit

Savings Credit is an extra payment for people who saved some money towards their retirement, e.g. a pension.

You may not be eligible for savings credit if you reach State Pension age on or after 6 April 2016.

Personal Independence Payment (PIP)

Personal Independence Payment helps with some of the extra costs caused by long-term ill-health or a disability if you're aged 16 to 64.

You could get between £21.80 and £139.75 a week (**in 2016**). The rate depends on how your condition affects you, not the condition itself. You'll need an assessment to work out the level of help you require with daily living and mobility. Your rate will be regularly reassessed to make sure you're getting the right support.

You can get PIP whether you're in work or not.

To claim: <https://www.gov.uk/pip/how-to-claim>

State Pension (SP)

The full State Pension is £155.65 per week if you reach State Pension age on or after 6 April 2016.

You'll usually need 10 qualifying years to get any State Pension. The amount you get will depend on your National Insurance record.

Statutory Maternity Pay (SMP)

Statutory Maternity Pay is a payment you may get when you take time off to have a baby.

To qualify for Statutory Maternity Pay you must:

- earn on average at least £112 a week
- give notice to your employer at least 28 days before you want to stop work to have a baby
- give proof you're pregnant
- have worked for your employer continuously for at least 26 weeks up to the 15th week before your child is due.



This benefit is paid for up to 39 weeks.

Use the maternity pay calculator to work out how much you could get:

● <https://www.gov.uk/pay-leave-for-parents>

If you disagree about the amount or your employer can't pay (e.g. because they're insolvent), call HM Revenue and Customs (HMRC) employees' enquiry line: ☐ 0300 200 3519 (Textphone)

☐ 0300 200 3500

Statutory Sick Pay (SSP)

Statutory Sick Pay is money paid to you by your employer if you are sick and unable to work.

You can get £88.45 per week (in 2016). It's paid by your employer for up to 28 weeks.

To qualify for Statutory Sick Pay you must:

- be classed as an employee and have done some work for your employer
- have been ill for at least 4 days in a row (including non-working days)
- earn at least £112 (before tax) per week
- tell your employer you're sick before their deadline - or within 7 days if they don't have one.

You can't get less than the statutory amount. You can get more if your company has a sick pay scheme - check your employment contract.

Agency workers are entitled to Statutory Sick Pay.

To claim Statutory Sick Pay, tell your employer in writing (if they request it).

You only need a **doctor's fit note** (or sick note) if you're off sick for more than 7 days.

Universal Credit (UC)

Universal Credit is a single monthly payment for people in or out of work.

UC is currently being introduced in certain areas of the UK. It will eventually replace a number of benefits and combine them all into one claim.

Depending on where you live and your personal circumstances, you might have to claim UC instead of benefits such as income-based Jobseeker's Allowance, Income Support, income related Employment and Support Allowance, Housing Benefit, Child Tax Credit and Working Tax Credit.

To see if you live in a UC area, call your nearest Jobcentre:

● <http://los.direct.gov.uk/default.aspx?type=1&lang=en&AspxAutoDetectCookieSupport=1>.

Working Tax Credits

Working Tax Credits is a benefit paid alongside Child Tax Credit or on its own for those who are in low income work.

You can check the amount of tax credit you could get using this calculator:

● <https://www.gov.uk/tax-credits-calculator>



Dealing with benefits problems

Sanctions

In certain circumstances you may be penalised by having your benefit payments stopped or reduced for a period of time. This is known as a **sanction**. If this happens to you, you should seek urgent advice.

How to avoid sanctions (for Jobseekers)

When you claim Jobseeker's Allowance, **Jobcentre Plus** will assign you a Personal Adviser and ask you to sign a jobseeker's agreement to look for work.

- Be as confident as you can be when negotiating your jobseeker's agreement – take a friend or relative for support if possible.
- Make sure that your agreement is realistic and takes into account any health conditions or disabilities.
- Make an official complaint if your Adviser won't reach an agreement with you.
- Make sure the Personal Adviser knows about any health conditions or disabilities. Give full details in writing.
- Don't be late for appointments.
- Always ask for everything in writing. If something is agreed over the telephone, write or email confirming it. Keep every bit of paper, text and email you receive - you might need them as evidence. Record every telephone call if you can.
- If you think Jobcentre Plus are asking you to do something unreasonable, make a complaint immediately. Don't let staff discourage you from complaining.
- If you think you have been unfairly threatened with a sanction, or actually sanctioned, immediately complain in writing to your MP's office.
- If you are unfairly sanctioned, appeal against the decision. There is a very high success rate for appeals.
- Personal Advisers will never ask if you had a good reason for breaking your agreement so always tell them in writing.
- Good reason for breaking your agreement include: a medical appointment; caring responsibilities; transport problems; unreasonably high travelling or childcare costs.
- Due to the Right to Reside test, you may not qualify for Employment and Support Allowance. So always seek advice before ending your JSA claim or switching to ESA.

How to take action against the Department for Work and Pensions

If you can't keep to your jobseeker's agreement because of sickness or disability and Jobcentre Plus refuse to make a reasonable adjustment, get advice about suing immediately.

Don't delay. There is still Legal Aid (help to meet the costs of legal advice) available for discrimination cases.

Examples of discrimination could include:



- being forced to travel long distances by public transport when you have a mental health condition that makes this distressing for you
- being forced to attend appointments in the late afternoon even though you suffer from severe fatigue
- being expected to discuss your health condition in an open-plan office.

Use the Civil Legal Advice gateway to find out if you are eligible for Legal Aid and to get help with bringing a claim:

England: <https://checklegalaid.service.gov.uk/>

Scotland: <http://www.slab.org.uk/public/civil/calculator/index.html>

Appealing a decision about your benefits

- If your benefit claim has been refused or you think you should be getting more money, you can challenge the decision made by the Department for Work and Pensions or HM Revenue & Customs. You should seek expert advice if you need to appeal. You need to appeal against a DWP decision within 1 month. The DWP will consider the appeal and, if they agree with you, revise the decision.
- If you are unhappy with the new decision by the DWP, you can **appeal**.
- Appeals are sent to the independent **First Tier Tribunal**.
- The tribunal will ask the DWP to respond to your appeal within 28 days. They will send you a copy of their response.
- You will be given 14 days' notice of the time and place of the appeal. You can attend the hearing (and it's best if you do).
- Once the tribunal is satisfied that everyone has had the chance to put their case, they will ask you to leave the room while they make a decision.
- You will get a decision on the day of the hearing or soon after. A copy of the decision will be sent to the DWP so they can put the tribunal decision into effect and pay you any benefit owed.
- If the appeal is unsuccessful, you can ask for a more detailed explanation. You have one month from the date of the tribunal decision to do this.
- If you disagree with the appeal decision, you may be able to make another appeal to an **Upper Tribunal**. You can only do this if the tribunal has made an **error of law**. You should get specialist advice if it gets to this stage.

The dispute process for Housing Benefit and Council Tax Reduction is different.

Documents to bring to an adviser

If you need to see a professional adviser about your benefits, you may want to bring the following documents:

- all letters from government departments, such as the Department for Work and Pensions, Jobcentre Plus, Pension Service, or the local authority
- decision letters that you are not happy with or wish to challenge - this is essential
- your national insurance number



- proof of your income - wage slips, benefit letters, tax credits
- bank statement - latest copy
- details of any savings
- tenancy agreement or mortgage details.

Reporting changes in circumstances

If you get benefits and think that the information about your circumstances (such as starting to live with someone or getting a pay rise) may be out of date, **let your local benefits office know as soon as possible**. Failing to report a change in your circumstances can result in you being overpaid and in some circumstances committing benefit fraud, which is a criminal offence.

Claiming benefits abroad

You may be able to claim some benefits if you travel or move from the UK to another EEA country, or if you're already living abroad. What you're entitled to depends on where you're going and how long for.

Tell your local Jobcentre Plus or the office that pays your benefit if you're going abroad. If it's a temporary move, tell them when you're coming back. It is advisable to seek independent advice before making any plans and informing Jobcentre Plus, the Department for Work and Pensions or HM Revenue & Customs.

'No Recourse to Public Funds' restriction

Some people may be given leave to enter the UK for a limited time but on the condition that they have 'no recourse to public funds'. They won't be able to access most services and support from the UK government (like benefits).

This restriction is usually placed on the visas and permits of non-EEA/EU nationals. Sometimes a spouse or family member of an EU national may have this restriction.

You should seek immigration advice on how to remove this restriction, if possible, and apply for an EEA Family Permit.

If you become homeless and have no recourse to public funds then your local authority might decide that the only support necessary to avoid a breach of human rights is help for you or your family to return to the country of origin.

Useful contacts

Law Centres

Law Centres give legal advice to people who cannot afford a lawyer. You can find one in your area here:

- <http://www.lawcentres.org.uk/i-am-looking-for-advice>

Citizens Advice Bureau

- **England:** ☐ 03444 111 444: • www.citizensadvice.org.uk/index/getadvice.htm



- **Scotland:** ☐ 0808 800 9060: ● <http://www.cas.org.uk/>

Freedom of Information Requests

The Freedom of Information Act gives you the right to ask any public sector organisation for all the recorded information they have on any subject.

Anyone can make a request for information – there are no restrictions on your age, nationality or where you live.

- **England:** ☐ 020 7035 4745: ● (email) foirequests@homeoffice.gsi.gov.uk
- **Scotland:** ☐ 0300 244 4000: ● (email) ceu@gov.scot

The guide is not intended to be a complete and authoritative statement of the law. Legal advice should be sought to confirm the application of the contents to any specific situation.

Challenging a benefit decision can be complicated and you may need more detailed advice or representation from a local service.

This material has been produced with the financial support of the Rights, Equality and Citizenship (REC) Programme of the European Union. The contents of this publication are the sole responsibility of Law Centres Network and can in no way be taken to reflect the views of the European Commission.

