Migrant access to social security: Policies and practice in the United Kingdom

National Contribution from the United Kingdom

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Disclaimer: The following responses have been provided primarily for the purpose of completing a Synthesis Report for the above-titled European Migration Network (EMN) Focused Study. The contributing EMN National Contact Points have provided information that is, to the best of their knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of an EMN National Contact Point’s Member State.
## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summary</td>
<td>3</td>
</tr>
<tr>
<td>1. Introduction: Objectives, methodology and definitions</td>
<td>6</td>
</tr>
<tr>
<td>2. Overview of the national social security system and how it applies to migrants from third countries</td>
<td>9</td>
</tr>
<tr>
<td>3. National rules on access to social security by Third Country Nationals</td>
<td>27</td>
</tr>
<tr>
<td>4. Administrative practices affecting third country nationals’ access to social security</td>
<td>34</td>
</tr>
<tr>
<td>5. External dimension of social security</td>
<td>38</td>
</tr>
<tr>
<td>6. Case studies</td>
<td>41</td>
</tr>
<tr>
<td>7. Statistics on social security payments related to migration</td>
<td>43</td>
</tr>
<tr>
<td>8. Key findings</td>
<td>55</td>
</tr>
<tr>
<td>Annex(es)</td>
<td>57</td>
</tr>
<tr>
<td>References</td>
<td>61</td>
</tr>
</tbody>
</table>
This study aims to map the policies and administrative practices that shape third country nationals’ (TCNs’) access to social security, including healthcare. It includes long-term TCN residents and those holding time limited visas including workers, the self-employed, unemployed and family members. It does not focus on visitors, students or asylum seekers and refugees. The study outlines the formal UK rules that shape entitlement to social security and healthcare for TCNs and examines how these entitlements compare with those for UK nationals. It also describes the administrative practices around how the formal rules are applied and reviews the reciprocal agreements that exist between the UK and third countries on entitlement to social security and healthcare.

The UK social security system

The UK social security system is the responsibility of a number of different government departments. The Department for Work and Pensions (DWP) is responsible for insurance based and means tested cash benefits for unemployment, sickness and invalidity, and old age, as well as for most cash social assistance benefits. Family benefits and means tested in-work benefits are the responsibility of Her Majesty’s Revenue and Customs (HMRC). The Department for Communities and Local Government is responsible for social housing and housing assistance. The Department of Health is responsible for health and social care support, and the Department for Education also has some responsibilities for funding for the social care needs of children.

Migrants’ access to social security

Contributory benefits are those that people gain entitlement to by paying national insurance (NI) contributions. These benefits include sickness, unemployment, invalidity, death, maternity and retirement benefits. There are no migrant-specific conditions for accessing contributory benefits. Anyone who has met the employment criteria and built up the necessary contributions can claim these benefits. The amount of contributions required varies by benefit but individuals need to have been earning above the lower earnings limit (LEL) so that NI contributions have been paid.

Non-contributory benefits are state-funded benefits that do not require NI contributions. These benefits include income-based invalidity and unemployment benefit, long-term care benefits and family benefits. All non-European Economic Area (EEA) nationals who have indefinite leave to remain (i.e. are permanently settled) in the UK are able to access these benefits, as are refugees and people given humanitarian protection. Generally, anyone who is under immigration control cannot claim public funds; this includes most non-contributory benefits, with a number of exceptions where an individual may be able to claim certain sickness and invalidity benefits, for example, if they were disabled. In some circumstances a
non-EEA national may be given time limited leave to remain with access to public funds, which would allow them to access non-contributory benefits.

Migrants must fulfil certain conditions to be able to claim non-contributory benefits.

- To access most family benefits they must be ordinarily resident in the UK. This means that their residence in the UK is voluntary and is for settled purposes as part of the regular order of their life for the time being.
- To be able to claim certain means tested disability benefits a non-EEA national must be present in the UK for two out of the last three years and demonstrate that they are factually habitually resident; an EEA national must demonstrate a genuine and sufficient link with the UK.
- To be able to claim most other means tested benefits the Habitual Residence Test must be satisfied, to demonstrate that the individual has a legal right of residence and is factually habitually resident in the UK. Non-EEA migrants who demonstrate that they have an immigration status that allows access to public funds, including refugees and those granted humanitarian protection, will satisfy the Habitual Residence Test.

There have been recent changes to non-contributory benefits in the UK. One single benefit called Universal Credit is currently being implemented. This is for working age people with no or insufficient income. It will eventually replace income related benefits, which include income support, income-based Jobseekers Allowance, Employment and Support Allowance and Housing Benefit, as well as tax credits. It is gradually being introduced across the UK and is planned to be fully implemented by 2017.

Migrant’s access to healthcare

The Immigration Act (2014) received royal assent on the 14th of May this year and has introduced changes to migrant’s access to healthcare. Prior to the Act all migrants could access the National Health Service (NHS) provided they were ‘ordinary residents’ which meant they were living lawfully and were settled within the UK for the time being. Regulations also permitted other migrants, such as workers to access the NHS without charge. However the changes set out in the Immigration Act will mean that only migrants who have indefinite leave to remain and those granted refugee status or humanitarian protection in the UK have free access. Most temporary non-EEA migrants who are coming to the UK for more than six months will need to pay a health surcharge. The Act, which is in the process of being implemented, brings the rules regulating migrant access to the NHS into line with wider government policy on migrants’ access to benefits and social housing.

Reciprocal agreements that affect social security and healthcare

The UK has reciprocal agreements regarding benefits and healthcare with a number of countries outside the EEA. Each reciprocal agreement is different in terms of who is covered and which benefits are included.
Economic activity of migrants in the UK

The Annual Population Survey (2012) was used to explore economic activity by nationality in the UK. Overall, the data show that EU nationals are more likely to be employed and less likely to be unemployed and economically inactive than UK nationals. Non-EU nationals were less likely to be employed and more likely to be unemployed and economically inactive than UK nationals, however this varied by nationality. Nationals from Australia, the Philippines and South Africa have high levels of employment and low levels of economic inactivity. Nationals from the Middle East and Asia have lower levels of employment and higher levels of economic inactivity. However, this is partly due to cultural reasons as women from these nationalities are less likely to work than men.

Recent research from the DWP has indicated that non-UK migrants are less likely to be claiming benefits than UK nationals, six months after registering for a national insurance number (NINo). Of the non-UK nationals claiming benefits Asian and Middle Eastern nationalities form the largest proportion of claimants, while those who are from Australasia and Oceania are the least likely to claim. However, these data were based on nationalities at the time of registering for a NINo and not based on current nationality. This means that it is likely that the number of migrants was overestimated as many may have subsequently become British citizens. Migrants from Africa and Asia are more likely than migrants from Australia and the USA to settle in the UK. Therefore, the figures on uptake of benefits for these groups are likely to be overestimations.
1. Introduction: Objectives, methodology and definitions

1.1 Study objectives

The overall objective of the study is to map the policies and administrative practices that shape third country nationals’ (TCNs’) access to social security, including healthcare. By investigating the policies and administrative practices that shape migrant access to social security and healthcare, this study represents a necessary first step towards understanding how social security, including healthcare policies work for third country workers and their families, within a managed migration system. EU and Member State policymakers may use the resulting ‘snap-shot’ of access across the EU to find more effective ways of meeting the basic needs of migrant workers while ensuring that immigrants do not become a burden for a Member State.

The study includes long-term TCN residents and TCNs holding time bound visas including workers, the self-employed, the unemployed and family members. However, the study does not focus on students or asylum seekers and refugees. The social security and healthcare entitlements enjoyed by tourists and other types of visitors are also outside the scope of the study.

The specific aims of the study are to:

- outline the formal UK rules that shape entitlements to social security and healthcare for TCNs in the UK;
- examine how these entitlements compare with the entitlements of nationals of the Member State (in this case the UK) in which the TCNs reside;¹
- investigate the administrative practices that determine how the formal rules on eligibility for TCNs are applied in concrete cases, especially when implementing the ‘Habitual Residence Test’ and other eligibility rules that contain a discretionary element;
- identify the circulars, guidelines and other forms of support (for example, training) provided to government officials involved in processing social security and healthcare claims in order to ensure that the discretionary criteria (for example, in relation to the ‘Habitual Residence Test’) are implemented consistently in individual cases within a Member State;
- review the reciprocal agreements that exist between the UK and third countries that affect the entitlement to social security and healthcare of certain groups of immigrants.

¹ The comparison does not extend to ‘mobile’ EU nationals, i.e. EU citizens who move to and reside in a second EU Member State, whose entitlements are governed by the EU’s social security coordination rules.
1.2 Definitions

The terms used in the study specifications are defined as follows.

**Deciding officer** is the government official in charge of scrutinising and adjudicating benefit claims.

**Discretionary conditions** in this study refers to eligibility rules for particular social security benefits that cannot be easily defined. Eligibility rules that have a discretionary element require the deciding officer (see above) in charge of scrutinizing individual applications to make a judgement – usually by means of an interview – about whether the applicant has met the conditions, taking into account the applicant’s particular circumstances. An example of a discretionary condition is the ‘Habitual Residence Test’ (see below).

**Employed persons** are persons aged 16 and over who during the reference week performed work, even for just 1 hour a week, for pay, profit or family gain, or, who were not at work but had a job or business from which they were temporarily absent because of, for example, illness, holidays, industrial dispute or education and training. (Source: Eurostat, 2013)

**Family member** generally means a person married to a migrant, or having a relationship legally recognised as equivalent to marriage, as well as their dependent children and other dependants who are recognised as members of the family by applicable legislation. (Source: EMN, 2013b)

**Habitual Residence Test**, in the context of social security claims, implies a close association between an individual applicant and the country from which a social security payment is claimed. The criteria for ‘habitual residence’ is deliberately not defined in EU or national regulations, as it is understood that the precise definition should depend on each individual claimant’s particular circumstances. However, the European Court of Justice has developed case law that should be taken into account by deciding officers (see above) when applying a Habitual Residence Test.

**Healthcare** refers to medical care provided in the framework of social protection to maintain, restore or improve the health of the people protected. (Source: ESSPROS Manual, 2008 Edition, Eurostat)

**Inactive persons** are those who are not in the labour force so are neither classified as employed nor unemployed. This category therefore does not include jobseekers. (Source: Eurostat, 2013)

**Indefinite leave to remain** refers to individuals who have been granted permission to stay permanently in the UK

**Self-employed persons** are persons who are the sole or joint owner of an unincorporated enterprise (one that has not been incorporated, i.e. formed into a legal corporation) in which they work, unless they are also in paid employment that is their main activity (in which case they are considered to be employees). Self-employed people also include unpaid family workers; outworkers (who work outside the usual workplace, such as at home); and workers engaged in production done entirely for their own final use or own capital formation, either individually or collectively. (Source: Eurostat, 2013)

**Third country national (TCN)** refers to any person who is not a citizen of the EU within the
meaning of Article 20(1) of the Treaty on the Functioning of the European Union, and who is not a person enjoying the EU right to freedom of movement as defined in Article 2(5) of the Schengen Borders Code. (Source: EMN, 2013b)

Unemployed persons are persons aged between 15 and 74 (in ES, IT, SE [1995–2000], UK, IS and NO: 16–74), who were without work during the reference week, but were currently available for work, or who were either actively seeking work in the past four weeks or who had already found a job to start within the next three months. (Source: Eurostat, 2013)

1.3 Methodology

This study was compiled and written by staff in the European Migration Network (EMN) UK National Contact Point (NCP) based in the UK.

The study was primarily based on desk research, including analysis of secondary sources. Key sources of information for this report include the public websites of the Department for Work and Pensions (DWP), the Department of Health (DH) and Her Majesty’s Revenue and Customs (HMRC). The EU’s Mutual Information System on Social Protection (MISSOC) website was also a key source, including its social security guides. Wider literature from key academic sources and stakeholders were used where relevant.

Where quantitative evidence was needed the Annual Population Survey has been used. This is a large-scale nationally representative survey.
2. Overview of the national social security system and how it applies to migrants from third countries

2.1. Overview of social security benefits and programmes and their financing mechanisms

This section describes the type of social security benefits available in the UK. This information is taken from the EU’s Mutual Information System on Social Protection (MISSOC) 2012 report on social security rights in the UK. In addition, policy and colleagues from across the Department for Work and Pensions (DWP), the Department of Health (DH), and Her Majesty’s Revenue and Customs (HMRC) provided information and clarification on policies and procedures.

The UK social security schemes include the following.

- **Contributory benefits**, which are benefits that people earn entitlement to by paying national insurance (NI) contributions. These benefits include:
  - invalidity;
  - unemployment;
  - death of a partner; and
  - retirement benefits.

To claim contributory benefits a minimum amount of NI contributions must be paid. Contributions built up in other EU Member States and in Iceland, Liechtenstein, Norway or Switzerland may be taken into account to satisfy these conditions.

- **Non-contributory benefits** are state-financed benefits that do not require NI contributions. These include:
  - means tested benefits such as income-based Jobseekers Allowance, income-based Employment and Support Allowance (an invalidity benefit) and Pension Credit (a supplementary old age benefit for those whose State Pension is insufficient);
  - other non-contributory benefits that are not means tested but provide for sickness and disability risks such as Disability Living Allowance/Personal Independence Payment, Carer’s Allowance, Attendance Allowance;
  - family benefits such as Child Benefit and Child Tax Credit, which provide cash benefits for people bringing up children;
  - social assistance benefits, such as Housing Benefit and Income Support, that are not listed under Regulation EC 883/2004.

- **Other statutory payments** that are made by employers to employees for sickness or when a child is born or placed for adoption.

- **The National Health Service (NHS)**, which provides medical, dental and optical treatment to people who live in Great Britain and Northern Ireland. Entitlement to
medical treatment including dental and optical treatment does not depend upon NI contributions.

Social security benefits in the UK

Contributory sickness and invalidity cash benefits

Statutory Sick Pay (SSP) is a contributory benefit. Employees may be able to get SSP from their employer if they have done some work under a contract of employment, and:

- have been sick for at least four days in a row (including weekends and bank holidays and days that they do not normally work); and
- have average weekly earnings of at least equal to the lower earnings limit (LEL), which is £5,668 per year for 2013/14.

Employers are liable to pay SSP for a maximum of 28 weeks in a period of incapacity and it is paid at a standard rate of £86.70 per week. If an individual is still sick after the end of this period, or if they do not have an entitlement to SSP, they may be entitled to claim Employment and Support Allowance.

Employment and Support Allowance (ESA). There are two kinds of ESA:

- contribution-based ESAs; and
- income-related ESA (a non-contributory benefit).

To be entitled to contribution-based ESAs individuals must have a limited capacity to work and will need to meet certain NI contribution conditions. If they are not entitled to claim contribution-based ESA they may have an entitlement to claim income-related ESA.

To determine whether they have a limited capacity to work, a doctor or healthcare professional will carry out a functional capability assessment called the work capability assessment. This is used to determine whether the individual continues to be entitled to claim ESA. The assessment process is generally expected to be complete around 13 weeks after the start of the claim. For those who meet the work capability assessment threshold and continue to be entitled to ESA, the assessment determines whether they are required to undertake mandatory work-related activity or not. A weekly basic rate of up to £71.70 a week is payable until the assessment process is complete. If the person remains entitled to ESA a single person in the work-related activity group receives up to £100.15 a week while a single person in the support group receives up to £106.50 a week.

Maternity and paternity benefits

Statutory Maternity Pay (SMP) is a contributory benefit paid by employers. Most pregnant working women are eligible to receive SMP from their employer. It is payable for 39 weeks starting at the earliest 11 weeks before the expected week of confinement. The latest that SMP can start is the day after the birth of the baby. To qualify individuals must have worked for the same employer continuously for 26 weeks up to the 15th week before the expected week of confinement. To claim SMP, weekly earnings must be at least equal to the LEL for NI. The amount of SMP individuals receive depends on their earnings. For the first 6 weeks individuals get 90 per cent of their earnings with no upper limit. The remaining 33 weeks are paid at the standard rate of £136.78 a week or 90 per cent of their earnings if this is less.
Statutory Adoption Pay (SAP) is a contributory benefit paid by employers. Individuals can claim SAP if they have been working with the same employer for more than 26 weeks. Only one parent can take statutory adoption leave. Leave can start for UK adoptions up to 14 days before the date of placement (the date the child starts living with the adopting parent[s]). For overseas adoptions it can start when the child arrives in the UK or within 28 days of this date. The weekly amount of SAP is £136.78 or 90 per cent of average weekly earnings before tax (whichever is lower). SAP is payable for 39 weeks.

Maternity Allowance (MA) is a contributory benefit. Only individuals who cannot get SMP and have been employed or self-employed can claim MA. To qualify individuals need to have been employed for 26 weeks out of the 66-week test period. The 26 weeks do not need to be consecutive. The test period for the 66 weeks is the period up to and including the week before the week the baby is due. MA is contributory and individuals must have earned at least £30 a week for at least 13 weeks over the test period. MA is paid for a maximum of 39 weeks. The amount of MA received depends on average weekly earnings. Individuals get either the standard rate, £136.78, or 90 per cent of average weekly earnings if this is less.

Ordinary Statutory Paternity Pay (OSPP) is a contributory benefit paid by employers. An employee whose partner is expecting a baby may be able to receive OSPP so that they can take two weeks leave after the baby is born. They must have worked for the same employer for 26 weeks by the end of the 15th week before the week the baby is expected, and remain with the employer until the baby is born. They must have earned on average the LEL for the payment of NI contributions in an 8-week period ending the 15th week before the baby is due. Individuals can choose whether to receive OSPP for one week at a time or two consecutive weeks, and can take the leave from when the baby is born to up to eight weeks after. Individuals get either the standard rate, £136.78, or 90 per cent of average weekly earnings if this is less.

Old age benefits

The basic State Pension is a government administered pension. It is a contributory benefit based on the number of qualifying years gained through NI contributions paid or credited throughout the applicant’s working life. State retirement pension can be claimed once an individual reaches state pension age. For men born before 6 December 1953 the current state pension age is 65. For women born after 5 April 1950 but before 6 December 1953 state pension age is between 60 and 65. Between December 2018 and October 2020, state pension age for men and women will then gradually increase to age 66.

Men and women reaching state pension age on or after 6 April 2010 need 30 qualifying years for a full basic State Pension. A qualifying year is a tax year where a person has sufficient income to pay NI contributions or is treated as having paid or being credited with NI contributions. The full basic State Pension is £110.15 a week (in 2013/14). From 2016 the Government plans to have introduced the new single tier State Pension, based on 35 qualifying years, with a minimum qualifying period of 10 years.

Pension Credit is a non-contributory benefit for those whose State Pension is insufficient. It tops up weekly income to a guaranteed minimum level. Pension Credit ensures that no one who has reached the qualifying age has to live on a weekly income of less than £145.40 for a single person or £222.05 for a couple. The Pension Credit qualifying age will be 66 by 2020.
A person may still get Pension Credit if they:

- have not paid NI contributions;
- have some savings or a small pension;
- live with their grown-up family;
- own their own home.

Survivors’ benefits

Death benefits are available to men and women whose spouse or same sex registered civil partner died on or after 5th December 2005.

*Bereavement Allowance* is a contributory benefit paid to men and women who are aged at least 45 but are under State Pension age. Individuals are entitled to a Bereavement Allowance if their deceased husband, wife or civil partner had paid enough NI contributions. If they died as a result of an industrial accident or an industrial disease, it does not matter whether they had paid enough NI contributions or not. Bereavement Allowance is paid for a maximum of 52 weeks and is granted at the full rate to widowed people aged over 55. It is paid at a rate of £108.30 a week. Between ages 45 and 54 a proportion of the full rate is paid, ranging from £32.49 a week for someone who is 45 to £100.72 a week for someone who is 54.

*Widowed Parent’s Allowance (WPA)* is a contributory benefit and is a regular weekly payment for men and women who are widowed when they are below the state pension age and who have a qualifying child, generally a child for whom there is a Child Benefit entitlement. Individuals are entitled to a WPA if their deceased husband, wife or civil partner had paid enough NI contributions. If they died as a result of an industrial accident or an industrial disease, it does not matter whether they had paid enough NI contributions or not. Women who are pregnant by their late husbands also qualify. The rule applies to a woman whose late partner was a registered civil partner. It is not paid beyond state pension age. The standard rate is paid at £108.30 a week.

Benefits in respect of accidents at work and occupational diseases

*Industrial Injuries Disablement Benefit (IIDB)* is a non-contributory benefit. IIDB is payable if individuals become ill or disabled as a result of an accident at work or if they contract a prescribed occupational disease. This benefit is not payable to self-employed people. Benefit for an accident at work can be claimed if a worker was employed when the accident happened and the event occurred in Great Britain. Benefits for occupational disease can be claimed if a worker was employed in a job that caused the disease. Disablement benefit is payable if the individual is still disabled 15 weeks after the date of the accident or the onset of the disease. The benefit is payable in addition to any sickness or invalidity benefit. Circumstances including age and the severity of the disability will affect the level of benefit received, which ranges from £32.32 a week for a 20 per cent disablement to £161.60 a week for 100 per cent disablement.

Family benefits

*Child Benefit* is a non-contributory cash benefit for people responsible for children aged under 16 or up to 20 if the child is in full-time education or approved training (but not on a degree or advanced course). There are two different amounts with the higher amount for the eldest (or only) child, at £20.30 a week, and £13.40 a week for other children.
Child Tax Credit is an income-related non-contributory payment to support families with children. It can be claimed by families with one or more child(ren) aged under 16 or up to 20 if they are in full-time education or approved training (but not on an advanced course) and usually live with the family. The amount of Child Tax Credit depends on circumstances and income.

Working Tax Credit is a payment to top up the earnings of working people on low incomes including those who do not have children. The amount is dependent on circumstances and income. There are extra amounts for working households in which someone has a disability.

Contributory unemployment benefit

Jobseekers Allowance (JSA); there are two kinds of JSA, contribution-based JSA and income-related JSA. To claim contribution-based JSA individuals need to have paid enough Class 1 NI contributions in the last two years (see Annex 1 for details of types of NI contributions). Only NI contributions paid by employees can qualify for these benefits. Self-employed people make Class 2 and Class 4 NI contributions, which do not allow a claim to contribution-based JSA, but they may be entitled to claim income-based JSA (see Annex 1). Claimants must be capable of working and available for work.

To receive benefits individuals have to demonstrate that they are actively seeking work and attend regular reviews to ensure that they are meeting their job seeking agreements. The benefit is paid for up to 182 days to individuals who are unemployed, capable of and available for work and actively seeking work. The weekly amount is £56.80 for 16- to 24-year-olds and £71.70 for those aged over 25.

Non-contributory benefits

Income-based Jobseekers Allowance (JSA) is a non-contributory means tested benefit for individuals whose income and capital fall below a level specified by legislation. To be entitled to JSA, individuals are required to be actively seeking work and attend regular reviews to ensure that they are meeting their job seeking agreements. It is paid at the same rate as contributory JSA.

Income-related Employment and Support Allowance (ESA) is a non-contributory means tested benefit. It provides a minimum level of assistance to people who have an illness or disability that affects their capability for work and whose income and capital fall below a certain level specified by legislation. Rates for income-based ESA are the same as the contributory ESA.

Income Support is a non-contributory means tested benefit that provides a minimum level of assistance to some individuals who fall into prescribed categories and are aged between 16 and the age at which they may be entitled to State Pension Credit. Individuals are not entitled to Income Support if they are entitled to JSA or have a partner who receives:

- income-based JSA;
- Pension Credit;
- contributory ESA; or
- income-related ESA.

Income support is £71.70 a week for a single applicant.
Disability Living Allowance (DLA) is a non-contributory benefit and can be paid whether the individual is in or out of work and in addition to other benefits. Individuals may be entitled to DLA if they have a need for care and help with mobility that result from a functional disability recognised under the entitlement conditions. DLA is being phased out in the UK and replaced with Personal Independence Payment.

Attendance Allowance is a non-contributory benefit for individuals aged 65 and over who need help with personal care because of physical or mental disability.

Carer’s Allowance is a benefit that can be claimed by an individual who is not gainfully employed and earning over £100 a week, and who is caring at least 35 hours a week for a person who is severely disabled and is receiving:

- Attendance Allowance; or
- the highest rate or middle rate of the DLA care component; or
- constant Attendance Allowance at specified levels; or
- the daily living component of the Personal Independence Payment of the Armed Forces Independence Payment.

The healthcare system in the UK

General practitioners (GPs) are self-employed and have contracts to provide services for the NHS.

Migrants who have indefinite leave to remain in the UK can claim free NHS care. Recent changes which mean most temporary non-EEA migrants who are in the UK for more than six months will need to pay a surcharge to access the NHS are currently in the process of being implemented (see section 2.3). Previously any migrant who was ‘ordinarily resident’ had access to free healthcare (see section 3.1). Individuals from different European Economic Area (EEA) countries or Switzerland can access clinically necessary treatment for free while temporarily in the UK but need to carry a European Health Insurance Card (EHIC).

Patients in England pay some charges towards the cost of prescribed medicines and dental services. Currently the prescription charge for medicines in England is £7.85 per item. Some people, including children, pregnant women and women who have had a baby in the last 12 months, adults aged over 60, and people on income-based social security benefits, do not have to pay some or all of these charges.

Long-term care

Long-term care is provided through a social care system (benefits in kind) and non-contributory benefits for people who have certain physical, cognitive or age-related conditions and who require help with their personal care or daily living activities. The support is financed by the State. Competence for social care is devolved to Scotland, Wales and Northern Ireland.

How the social security system applies to migrants from third countries

Anyone who has built up the necessary NI contributions can claim contributory benefits. Individuals with indefinite leave to remain, (which means that they have leave without any
time restriction) and access to public funds have an entitlement to claim benefits. Third country nationals (TCNs) who are subject to immigration control\(^2\) will generally have leave to remain with no recourse to public funds (i.e. cannot access public funds).

Public funds include:

- Attendance Allowance;
- Carer’s Allowance;
- Child Benefit;
- Child Tax Credit;
- DLA;
- Housing Benefit;
- income-related ESA;
- income-related JSA;
- Income Support;
- Personal Independence Payment;
- State Pension Credit;
- Working Tax Credit (Fitzpatrick et al., 2011).

There are very specific exceptions to the rule that TCNs who have no recourse to public funds cannot access benefits. Sponsored migrants subject to a maintenance undertaking have no recourse to public funds for five years, which means that they cannot claim income-related benefits. However, they may still have an entitlement to claim specific non-contributory disability related benefits – Attendance Allowance, DLA/Personal Independence Payment or Carer’s Allowance.

**Migrants granted time limited leave to remain with access to public funds**

Most forms of time limited leave to remain are granted with no recourse to public funds but there are exceptions to this rule. Those who have been granted refugee status or humanitarian protection will be granted limited leave to remain with access to public funds, as will some other TCNs, for example, those who are given leave to remain exceptionally outside the Immigration Rules, and those who may be granted leave to remain exceptionally under Appendix FM of the Immigration Rules.

**Other exceptions**

**Exceptions due to family members**

There are exceptions when a TCN has a derived EEA right to reside from a family member, usually a child in general education (Ibrahim and Teixeira right to reside).

- For couples claiming Child Tax Credit and Working Tax Credit if only one member of a couple is subject to immigration control, then for tax credits purposes, neither are treated as being subject to immigration control (Home Office, 2013a).

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\(^2\) People subject to immigration control need permission to enter or remain in the UK but do not yet have it. For example, people who have applied for a visa, have permission to enter or remain in the UK only if they do not claim benefits or use other public funds, or people who were given permission to enter or remain in the UK within the last five years on the grounds that another person had signed a maintenance undertaking agreeing to support them.
Exceptions due to agreements between countries

There are also exceptions for people of certain nationalities because of agreements between the UK and their country of origin. Table 1 below outlines these exceptions by country and benefit type (ibid).

Table 1 Exceptions for allowing access to certain public funds, by nationality

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<th>Country</th>
<th>AA</th>
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<tr>
<td>Canada</td>
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<td>Israel</td>
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<tr>
<td>FYR-Macedonia</td>
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<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Mauritius</td>
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<tr>
<td>New Zealand</td>
<td>✓</td>
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</tr>
</tbody>
</table>

Notes:
AA – Attendance Allowance  
CA – Carer’s Allowance  
CB – Child Benefit  
CTC – Child Tax Credit  
DLA – Disability Living Allowance  
IRJSA – Income-related Jobseekers Allowance  
IRESA – Income-related Employment and Support Allowance  
PIP – Personal Independence Payment  
WTC – Working Tax Credit  
FYR – Former Yugoslav Republic

Exceptions due to maintenance undertakings

People given leave to enter or remain as a result of a maintenance undertaking have access to some public funds. A maintenance undertaking is a written agreement given by a sponsor. It states that they will be responsible for the maintenance and accommodation of a person subject to immigration control while they are in the UK. Generally such undertakings are only requested for elderly relatives, children aged 16 to 18, or other relatives of people with settled status who are themselves seeking indefinite leave to remain. It is an offence under the Social Security Administration Act 1992 for a sponsor not to maintain people who they are responsible for, who then claim contributory-based benefits because of this. These benefits may also be recovered from the sponsor (Home Office, 2013a).
A person who has been granted leave to remain and whose sponsor has signed a maintenance undertaking can claim the following benefits:

- Attendance Allowance;
- Carer’s Allowance;
- Child Benefit;
- DLA/Personal Independence Payment.

They have full access to public funds:

- once they have been resident in the UK for five years; or
- if it has been five years since the maintenance undertaking was signed, whichever is the later date; or
- if they have been resident for less than five years but their sponsor has died.

The additional benefits they can then claim include Child Tax Credit, Working Tax Credit, Income Support and income-based ESA and JSA (*ibid*).

**Support for destitute migrants with no access to public funds**

Local authorities in the UK have a statutory duty to provide support to individuals who are destitute with children or in need of care and attention. This support includes advice on their personal circumstances and assistance in helping them in finding a solution to their destitution. In some circumstances, councils can provide care services including accommodation and financial support if the eligibility criteria are met (see Annex 2 for eligibility criteria).

### 2.1.1 Please provide a narrative overview of the social security system in your Member State including a description of the institutional framework, key institutions involved, their main responsibilities and how they are coordinated.

The DWP is responsible for delivering:

- unemployment benefits;
- invalidity benefits;
- old age pensions;
- benefits in respect of accidents at work and occupational diseases;
- survivors benefits;
- social assistance benefits for those with limited resources.

HMRC is responsible for family benefits, which include:

- Child Benefit;
- Child Tax Credit; and
- Working Tax Credit.

The Department for Communities and Local Government is responsible for:

- social housing; and
• housing assistance.

The DH is responsible for:

• health; and
• social care support.

The Department for Education also has some responsibilities for funding for social care needs of children.

Employers are responsible for paying:

• Statutory Sick Pay;
• Statutory Maternity Pay;
• Statutory Paternity Pay; and
• Adoption Pay.

**Financing the social security system**

The social security system is financed from NI contributions paid by employers and employees and general tax revenue. For different types of NI contributions see Annex 1.

For an overview of the social security system please see question 2.1.

(Table 2.1 – see next page.)
Table 2.1. Overview of the national social security system as it applies to third country nationals (benefits and programmes available, financing mechanisms and accessibility).

<table>
<thead>
<tr>
<th>‘Branch’ of social security</th>
<th>Benefits and programmes included in each branch (rows to be added if required)</th>
<th>Financing mechanisms (contributory/non-contributory/mixed)</th>
<th>Accessibility by third country nationals (please list the categories of third country nationals that are eligible, where possible making use of the categories specified above)</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Healthcare</td>
<td>Primary and secondary healthcare</td>
<td>Mixed</td>
<td>Yes. Non-EEA nationals who have indefinite leave to remain and those granted humanitarian protection or refugee status can access free healthcare.</td>
</tr>
</tbody>
</table>

However most temporary non-EEA nationals who will be in the UK for more than 6 months will need to pay a surcharge. This is a recent change which is set out in the Immigration Act which received royal assent on the 14th of May 2014. The changes are in the process of being implemented (see question 2.3).

Prior to the Immigration Act primary care\(^3\) was free to everyone secondary care was free to i) ‘ordinary residents’ of the UK\(^4\) (lawful, properly settled residents – permanent residence not necessary) or exempt from charges through regulations so included:

a) temporary residents/migrants,
b) workers
c) the self-employed,
d) job-seekers, and
e) family members

and ii) several groups of non-ordinary resident exempt from charge (e.g. refugees, asylum seekers).

Some secondary care services are also free to all, for example, treatment inside Accident and Emergency Departments, treatment for infectious diseases.

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\(^3\) Primary healthcare includes care in the community such as visiting the general practitioner. Secondary healthcare refers to care once a patient has been referred or admitted into hospital.

\(^4\) Although similar, different rules on free access to NHS services are applied in the devolved administrations (Scotland, Wales and Northern Ireland)
### II. Sickness and invalidity cash benefits

<table>
<thead>
<tr>
<th>Benefit</th>
<th>Type</th>
<th>Access Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Statutory Sick Pay:</strong></td>
<td><em>Contributory</em></td>
<td>Employers are liable to pay SSP for a maximum of 28 weeks in a period of incapacity to work. After this individuals who are still sick can claim contributory Employment and Support Allowance.</td>
</tr>
<tr>
<td><strong>Contributory Employment and Support Allowance</strong></td>
<td><em>Contributory</em></td>
<td>Yes – payment is based on NI contributions so is accessible to anyone who has made sufficient NI contributions.</td>
</tr>
<tr>
<td><strong>Income-based Employment and Support Allowance</strong></td>
<td><em>Non-contributory</em></td>
<td>Yes – non-EEA nationals with leave to remain with access to public funds (irrespective of length of leave to enter/remain) (see question 2.1). Nationals with indefinite leave to remain can claim. Non-EEA nationals cannot claim if leave to enter/remain gives no access to public funds.</td>
</tr>
<tr>
<td><strong>Disability Living Allowance/Personal Independence Payment</strong></td>
<td><em>Non-contributory</em></td>
<td>Yes – non-EEA nationals with leave to remain with access to public funds (irrespective of length of leave to enter/remain) (see question 2.1). Nationals with indefinite leave to remain can claim. Non-EEA nationals cannot claim if leave to enter/remain gives no access to public funds. However, there are exemptions, for example, non-EEA nationals get leave to remain under the sponsorship route with a maintenance undertaking and no access to public funds – they have an entitlement to claim DLA, Carer’s Allowance and Attendance Allowance. DLA/PIP can be claimed whether the individual is in or out of work.</td>
</tr>
<tr>
<td><strong>Attendance Allowance</strong></td>
<td><em>Non-contributory</em></td>
<td>Yes – non-EEA nationals with leave to remain with access to public funds (irrespective of length of leave to enter/remain) (see question 2.1). Nationals with indefinite leave to remain can claim. Non-EEA nationals cannot claim if leave to enter/remain gives no access to public funds. However, there are exemptions, for example, non-EEA nationals get leave to remain under the sponsorship route with a maintenance undertaking and no access to public funds – they have an entitlement to claim DLA, Carer’s Allowance and Attendance Allowance. DLA/PIP can be claimed whether the individual is in or out of work.</td>
</tr>
</tbody>
</table>
funds (irrespective of length of leave to enter/remain) (see question 2.1). Nationals with indefinite leave to remain can claim.

Non-EEA nationals cannot claim if leave to enter/remain gives no access to public funds. However, there are exemptions, for example non-EEA nationals who get leave to remain under the sponsorship route with a maintenance undertaking and no access to public funds have an entitlement to claim DLA, Carer’s Allowance and Attendance Allowance.

<table>
<thead>
<tr>
<th>Benefit</th>
<th>Classification</th>
<th>Eligibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carer’s Allowance</td>
<td>Non-contributory</td>
<td>Yes – non-EEA nationals with leave to remain with access to public funds (irrespective of length of leave to enter/remain) (see question 2.1). Nationals with indefinite leave to remain can claim. Non-EEA nationals cannot claim if leave to enter/remain gives no access to public funds. However, there are exemptions, for example, non-EEA nationals who get leave under the sponsorship route under a maintenance undertaking with no access to public funds have an entitlement to claim DLA, Carer’s Allowance and Attendance Allowance.</td>
</tr>
<tr>
<td>Statutory Maternity Pay</td>
<td>Contributory</td>
<td>Yes – Statutory Maternity Pay is for all mothers who have met the employment and contributions criteria.</td>
</tr>
<tr>
<td>Statutory Adoption Pay</td>
<td>Contributory</td>
<td>Yes – Statutory Adoption Pay is for all adopting parents who have met the employment and contributions criteria.</td>
</tr>
<tr>
<td>Maternity Allowance</td>
<td>Contributory</td>
<td>Yes – payment is based on NI contributions so is accessible to anyone who has met the contribution conditions.</td>
</tr>
<tr>
<td>Statutory Paternity Pay</td>
<td>Contributory</td>
<td>Yes – Statutory Paternity Pay is for all who have met the employment and NI contributions criteria.</td>
</tr>
<tr>
<td>V. Old age pensions and benefits</td>
<td>State Pension scheme</td>
<td>Contributory</td>
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<tr>
<td>----------------------------------</td>
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<tr>
<td>VI. Survivors’ benefits</td>
<td>Bereavement Allowance</td>
<td>Contributory</td>
</tr>
<tr>
<td></td>
<td>Widowed Parent's Allowance</td>
<td>Contributory</td>
</tr>
<tr>
<td>VII. Benefits in respect of accidents at work and occupational diseases</td>
<td>Disablement Benefit</td>
<td>Non-contributory</td>
</tr>
<tr>
<td></td>
<td>Child Benefit</td>
<td>Non-contributory</td>
</tr>
<tr>
<td>VIII. Family benefits</td>
<td>Child Tax Credit income-related payment</td>
<td>Non-contributory</td>
</tr>
<tr>
<td></td>
<td>Working Tax Credit</td>
<td>Non-contributory</td>
</tr>
<tr>
<td>IX. Unemployment benefits</td>
<td></td>
<td><strong>Contribution-based</strong></td>
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<tr>
<td>---------------------------</td>
<td>------------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td><strong>Contributory Jobseekers Allowance</strong></td>
<td></td>
<td>Yes – payment is based on NI contributions so is accessible to anyone who has met NI contributions criteria. Contributions that count towards JSA are Class one NI contributions paid by employees. Therefore self-employed people cannot claim; they may, however, be entitled to claim income-based JSA (see below). This is the case for nationals and migrants.</td>
</tr>
<tr>
<td><strong>Income-based Jobseekers Allowance</strong></td>
<td></td>
<td>Yes – non-EEA nationals with leave to remain with access to public funds (irrespective of length of leave to enter/remain) see question 2.1. Nationals with indefinite leave to remain can claim. Non-EEA nationals cannot claim if leave to enter/remain gives no access to public funds.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>X. Guaranteed minimum resources</th>
<th></th>
<th><strong>Non-contributory</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Income support</strong></td>
<td></td>
<td>Yes – non-EEA nationals with leave to remain with access to public funds (irrespective of length of leave to enter/remain) see question 2.1. Nationals with indefinite leave to remain can claim. Non-EEA nationals cannot claim if leave to enter/remain gives no access to public funds.</td>
</tr>
</tbody>
</table>

2.1.2. Please list any additional social security benefits that are not included in the MISSOC national guide, specifying their financing mechanism and whether they are accessible by third country nationals

Guardian’s Allowance is for individuals bringing up someone else’s child if the child’s parents have died. One of the parents must have been born in the UK (or was living in the UK since the age of 16 for at least 52 weeks in any 2-year period). It is non-contributory and is accessible to people who are present, ordinarily resident, have a right to reside and are not subject to immigration control, and qualify for Child Benefit for the child. If there is one surviving parent Guardian’s Allowance may still be claimed under certain conditions.
2.2. Has a link or nexus between policies in relation to social security and to immigration been established by policymakers in your (Member) State? (For example, is migrant access to social security linked explicitly to your (Member) State’s integration policy? Is migrant access to social security linked explicitly to your (Member) State’s policy to attract high-skilled migrants, etc?)

Yes/No

Yes.

If yes, please explain what kind of nexus exists.

There is a link between social security policy and immigration policy as generally non-EEA migrants who are subject to immigration control can not claim non-contributory benefits.

2.3. Are there recent/planned changes to the eligibility rules for any of the social security benefits and programmes listed in the second column of the table above that may have an effect on access by third country nationals?

Yes/No

If yes, please identify the changes that are planned and the main drivers of these changes, for example, are they the result of:

- EU legislation (for example, transposition of the Single Permit Directive)
- Public perception of high dependence on social security among migrant groups
- Public perception of misuse of social security by migrant groups (welfare tourism)
- Evidence of poverty among migrant groups caused by reduced access to social security
- Legal challenges to the eligibility rules on grounds of equality/new case law
- Other (please specify)

Please support your answers to question 2.3 with reference to statistics, research or any other sources of information (for example, media debates, case law, policy documents, practitioners’ views).

Yes.

Changes to the NHS

Following a major review of the current rules and procedures for charging visitors and migrants for NHS healthcare, the Department of Health and the Home Office launched

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5 See section 2.1 for more detail.
coordinated consultations on a range of proposals to make a new, fairer and simple charging system.

The resulting Immigration Act which received royal assent on the 14th of May contains the following:

- A person subject to immigration control who applies for limited entry clearance or limited leave to remain in the UK for more than six months will be required to pay a health surcharge as a precondition of entry. The surcharge will be paid at the same time as the fee for an entry clearance application or a fee for a leave to remain application. It will be refunded only where an application for leave to enter or remain is refused. The surcharge amount will be set out in secondary legislation.
- Those who have paid the surcharge will be able to access free NHS care to the same extent as a permanent resident, without additional charge. There may be some exceptions for particularly expensive discretionary treatments.
- Non-EEA nationals with permanent residence (those who have indefinite leave to enter or remain) will continue to be eligible for the same free NHS care as a resident British citizen if they continue to be properly settled in the UK.

A number of immigration categories will be exempt from the surcharge; these include asylum seekers, refugees, individuals seeking humanitarian protection, victims of trafficking, children in local authority care, Tier 2 Inter-Company Transfer (ICT) applicants, and family members of EEA nationals exercising treaty rights in the UK. There may also be exemptions if these are required under specific terms of a reciprocal healthcare agreement with another country. Exemptions from the surcharge will be subject to Parliamentary scrutiny of secondary legislation.

Changes to the social security system

The introduction of Universal Credit

Universal Credit is a new anti-poverty benefit that puts in place a simple, single monthly payment for people of working age who have no or insufficient income. It is paid to households on a monthly basis. Universal Credit will replace benefits for people who are out of work and tax credits for people in work. It will replace:

- Housing Benefit;
- Income Support;
- Jobseekers Allowance (JSA);
- Employment and Support Allowance (ESA);
- Child Tax Credit and Working Tax Credit.

Contribution-based JSA and contribution-based ESA will continue to exist. Universal Credit was introduced in April 2013 in pathfinder areas and will be gradually rolled out to the rest of the UK.

Other changes

Closing a loophole that allows those with no entitlement to work in the UK to claim contributory benefits the Welfare Reform Act 2012 introduced the requirement that
someone who makes a claim to contributory benefits must be entitled to work in the UK at the point of claim/in the qualifying week. The Government will commence these powers when Universal Credit is fully implemented and new claims to income-based JSA and income-related ESA have been abolished.

As from 1 January 2014 all migrants (including British citizens returning from living and working abroad) claiming income-based JSA must demonstrate that they have been living in the UK or the Common Travel Area for the last three months. However, there are certain claimants who do not have to satisfy this requirement. These are:

- claimants who are an EEA worker, retained worker or their family member, an EEA self-employed national, retained EEA self-employed national or their family member, or an EEA national who has acquired a permanent right of residence (by virtue of Article 17 of Directive 2004/38);
- a Croatian national who is an authorised worker in authorised employment;
- a person who has been given refugee status;
- a person granted leave to remain outside the rules where that leave is:
  - discretionary leave to enter or remain, or
  - as a result of the destitution domestic violence concession, or
  - as a result of the displaced persons provisions;
- a person who has been granted humanitarian protection;
- a person who is not subject to immigration control and has been returned to the UK following their deportation, expulsion or other legal removal from a country other than the UK.
3. National rules on access to social security by Third Country Nationals

This section looks at the conditions that apply in the case of third country nationals (TCNs) in order to qualify for benefits that fall under the following branches of social security:6

- I. healthcare;
- II. sickness cash benefits;
- III. maternity and paternity benefits;
- IV. old age pensions and benefits;
- V. family benefits;
- IX. unemployment;
- X. guaranteed minimum resources.

3.1. Is a minimum residence period attached to any of the benefits that are accessible by third country nationals under the seven categories listed above?

Yes/No

If yes, please indicate:

- what the minimum residence period is in respect of each of the benefits (if this minimum residence period varies for each category of migrant identified in Table 2.1 please state that this is the case and identify the minimum residence period for each category in respect of each of the benefits);

- whether the minimum residence period applies to third country nationals only, or also to nationals of your (Member) State (if the minimum residence period applies to nationals of your [Member] State too, please state what the minimum residence period is for nationals in respect of each of the benefits).

Health

Yes. Recent changes that are in the process of being implemented mean that most temporary non-EEA migrants who are in the country for more than six months will be subject to a surcharge for healthcare (see question 2.3 for more detail). All non-EEA nationals with indefinite leave to remain have access to healthcare. To get indefinite leave to remain individuals will usually have been a resident for at least five years. Exceptions for this

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6 These seven ‘branches’ of social security have been selected for in-depth analysis in this section (and in the next section) of the study because they are likely to be of particular relevance to migrants. In-depth analysis of the benefits that fall under the other ‘branches’ may be carried out at a later stage.
are family members of British citizens or someone settled in the UK who was granted permission to stay in the UK on or before 8 July 2012. These individuals will need to be in the UK for two years before applying for settlement. Those who applied on or after the 9 July 2012 will need to be in the UK for five years before they can apply for settlement.

Before the Immigration Act which received royal assent on May the 14th 2014 a non-EEA migrant who was considered an ‘ordinary resident’ (see the definition below) could access free healthcare. This included temporary migrants who were settled in the UK for the time being. Regulations also permitted other migrants such as workers free access.

**Ordinary residence**

The House of Lords has said that ordinary residence means

> “A person’s abode in a particular place or country which he/she has adopted voluntarily and for settled purposes as part of the regular order of his/her life for the time being whether of short or long duration.”

Ordinary residence can begin immediately on arrival to the UK and to be ordinarily resident a migrant does not have to intend to live in the UK permanently. The purpose can be for education, business or employment, but the reason must be a settled one (Fitzpatrick *et al.*, 2011).

Whether someone is ordinarily resident or not is decided on a case-by-case basis. There is no minimum period of residence that confers ordinary residence status. In the past the Department of Health has suggested that someone who has been in the UK for less than six months is less likely to meet the ‘settled’ criterion of the ordinary residence description. However, it is important to note that this is only a guideline. Individuals can lose this status if they go abroad but this depends on why they go, for how long, and what connections they keep with the UK

**Contributory benefits**

No. There is no minimum residence period before claiming contributory benefits. However, national insurance (NI) contributions and employment conditions must be met. See question 3.3 for more detail. This applies to sickness cash benefits, maternity and paternity benefits, old age pension benefit and contributory invalidity and unemployment benefits.

**Non-contributory benefits**

Yes. Non-European Economic Area (EEA) nationals’ entitlement to non-contributory benefits depends on the length of leave to remain granted and whether this leave stipulates that the individual has access to public funds.

If individuals have leave to remain with access to public funds, to be able to claim family benefits they must be ordinarily resident although there is no clear time period that establishes if someone is ordinarily resident. (For more details on what an ‘ordinary resident’ means see the definition above under healthcare).

For income-related Jobseekers Allowance (JSA), there is a requirement that a non-EEA national has been living in the UK or the Common Travel Area for the last three months. However, there are certain claimants who do not have to satisfy this requirement. These are:
• a person who has been given refugee status;
• a person granted leave to remain outside the rules where that leave is:
  ▪ discretionary leave to enter or remain, or
  ▪ as a result of the destitution domestic violence concession, or
  ▪ as a result of the displaced persons provisions;
• a person who has been granted humanitarian protection;
• a person who is not subject to immigration control and has been returned to the UK following their deportation, expulsion or other legal removal from a country other than the UK.

To claim income-based JSA, income-related Employment and Support Allowance (ESA), Pension Credit and Income Support all migrants including British nationals returning from living or working abroad must satisfy the Habitual Residence Test. Details of this test are given in section 4. Again there is not a clear time period that establishes if someone is habitually resident. However, with ordinary residence and habitual residence the longer someone has been in the UK the more likely they are to be able to demonstrate that they are factually habitually resident.

All non-EEA nationals with indefinite leave to remain can access non-contributory benefits. To get indefinite leave to remain individuals will usually have been a resident for at least five years. Exceptions for this are family members of British citizens or someone settled in the UK who was granted permission to stay in the UK on or before 8 July 2012. These individuals will need to be in the UK for two years before applying for settlement. Those who applied on or after the 9 July 2012 will need to be in the UK for five years before they can apply for settlement. Non-EEA national family members of EEA nationals gain an entitlement to income-related benefits through the right of residence status of the EEA national.

For some non-contributory cash sickness/disability benefits there is a requirement for the TCN claimant to be resident for two out of the last three years preceding their claim and to be factually habitually resident – these are:

- Disability Living Allowance/Personal Independence Payment;
- Attendance Allowance; and
- Carer’s Allowance.

3.2. Are any of the benefits that are accessible by third country nationals under the seven categories listed above exportable once the third country national returns to his/her country of origin?

Yes

If yes, please indicate:

• which benefits are exportable once the third country national returns to his/her country of origin (if the ‘exportability’ of the benefit varies for each category of migrant identified in Table 2.1, please state that this is the case and describe which categories of migrant can benefit from this right in respect of each of the benefits);
whether the rules regarding the ‘exportability’ of the benefits are the same for nationals of your (Member) State who move to a third country (if the rules regarding the ‘exportability’ of the benefits vary between third country nationals and nationals of your [Member] State, please specify what the rules are for nationals of your Member State in respect of each of the benefits).

I- Healthcare. N/A

II- Sickness cash benefits. Some are available under bilateral reciprocal agreements, but generally these are not exportable to third countries

III- Maternity/paternity benefits. No, other than by bilateral agreements.

IV- Old age pension. Exportable throughout the world under domestic legislation, but is only index-linked in countries with which there is a bilateral agreement.

V- Family benefits. No, Child Benefit, Guardian’s Allowance, Child Tax Credit and Working Tax Credit are not exportable under national rules, although Child Benefit may be exportable under a bilateral reciprocal agreement with the country in question.

VI- Unemployment. Not exportable.

VII- Guaranteed minimum income. Not exportable.

In all cases TCNs are not treated any differently from UK nationals in what they can and cannot export to a third country.

3.3. Is a minimum employment period/minimum contribution period attached to any of the benefits that are accessible by third country nationals under the seven categories listed above?

Yes/No

If yes, please indicate:

- what the minimum employment period/minimum period of insurance contributions is in respect of each of the benefits (if the minimum employment period/minimum period of insurance varies for each category of migrant identified in Table 2.1, please state that this is the case and identify the minimum employment period/minimum period of insurance contributions for each category in respect of each of the benefits);

- whether the minimum employment period/minimum period of insurance contributions applies to third country nationals only, or also to nationals of your [Member] State.

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7 For some TCNs returning to their own country, their UK contributions will be taken into account there and that country will pay benefit as appropriate.
For all contributory benefits minimum contributions are required for all country nationals and third country nationals. The following criteria apply.

**Statutory Sick Pay** Individuals who are employed and have worked for some of their contract and are earning above the lower earnings limit (LEL) of £109 per week can receive sickness benefit.

**Contribution-based ESA** Is payable to claimants who meet NI-related contribution conditions. Generally individuals need to have worked for two years before they qualify for contribution based ESA. Individuals must have earnings of 25 times the LEL for one of the last two complete tax years before the relevant benefit year (the tax year runs from April to April and the benefit year from January to December). Individuals must also have worked for a minimum of 26 weeks during one of the last two complete tax years. The 26 weeks need not be consecutive but must fall in a single tax year. A person cannot reach the earnings limit by working for less than 26 weeks in one of the tax years to satisfy this condition. In addition, the person claiming must have paid or been credited with Class 1 or 2 NI contributions on earnings of 50 times the LEL in each of the two complete tax years before the start of the relevant benefit year. There are no contributions for persons with earnings below the LEL, currently (2014) £109 per week. There are no contributions for self-employed persons with annual earnings less than £5,885. These individuals will not receive contributory ESA.

**Maternity and paternity benefits** For Statutory Maternity Pay/Adoption Pay and Paternity Pay individuals must be employed by the same employer for 26 weeks into the 15th week before the week the baby is due, and have earnings that average at least £109 a week. For those who are not eligible for Statutory Maternity Pay and receive Maternity Allowance, they must have been employed and/or self-employed in at least 26 weeks in the 66-week period (the test period) before the week the baby is due and earn at least £30 a week on average.

**Pensions – basic State Pension** All employed and self-employed persons who have paid or been credited with sufficient NI contributions for a required period can qualify. Married women who chose before April 1977 to pay reduced-rate NI contributions can claim a pension using their husband’s record rather than their own. Voluntary contributions may be payable by people who have not paid or been credited with sufficient NI contributions in any year.

In the case of those reaching the state pension age on or after 6 April 2010, generally NI contributions need to be paid or credited for at least one qualifying year to receive any basic State Pension. To receive the full basic State Pension NI contributions must have been paid or credited for 30 years.

Those who reached the state pension age on or before 5 April 2010 generally require contributions to have been paid or credited for at least 10 to 11 years to receive any basic State Pension. To receive the full basic State Pension NI contributions must normally have been paid or credited for 44 years for a man and 39 years for a woman. At least one of the years must be from paid contributions.
**Unemployment** For contribution-based JSA the same NI contribution rules as for contribution-based ESA, see above.

**Bereavement** For Bereavement Allowance or Widows Parent’s Allowance, the late husband’s, wife’s or civil partner’s NI contributions record must meet the following conditions.

Condition 1:

- have had one qualifying year since 6 April 1975 that is derived from the actual payment of Class 1, 2, or 3 NI contributions (see Annex 1 for details of types of NI contributions); or
- have paid 50 flat-rate NI contributions at any time before 6 April 1975.

Condition 2:

- for an individual to get 100 per cent (the standard basic rate) of Widowed Parent’s Allowance or Bereavement Allowance, the late husband, wife or civil partner must have had qualifying years for about 90 per cent of the years in their working life;
- if the late husband, wife or civil partner satisfied the first condition, but had fewer qualifying years than the number needed for a standard basic rate allowance or pension, the individual will get a smaller basic rate allowance or pension, provided that the number of their qualifying years was at least one-quarter of the number needed.

### 3.4. Are migration-specific conditions (for example, the requirement to hold a particular residence permit, authorisation of stay or visa, a fixed domicile, requirement to participate in an integration course, etc.) attached to any of the benefits that are accessible by third country nationals under the seven categories listed above?

**Yes**

**If yes, please indicate:**

- what the migration-specific conditions are in respect of each of the benefits (if the migration-specific conditions vary for each category of migrant identified in Table 2.1, please state that this is the case and identify the migration-specific conditions for each category of third country national in respect of each of the benefits).

**Health**

Recent changes which are currently in the process of implementation mean most temporary non-EEA migrants who are in the UK for more than six months will pay a surcharge to access the NHS (see question 2.3). Migrants with indefinite leave to remain or those granted refugee status or humanitarian protection in the UK can access the NHS for free.
Social security benefits

There are no migrant-specific conditions for claiming contributory benefits. Anyone who has met the necessary employment conditions and paid the necessary NI contributions can claim.

Whether a TCN can access non-contributory benefits is dependent on the type of leave to remain granted and whether this is granted with access to public funds. There are a wide range of people granted limited/discretionary leave to remain with access to public funds (see question 2.1).

To claim income-based benefits (income-based JSA income-based ESA, Income Support, State Pension Credit) a migrant must satisfy the Habitual Residence Test, see questions 4.1 and 4.2 for more detail. In addition, migrants must have been living in the UK or the Common Travel area for three months before claiming income-related JSA (see 3.1 above).

To claim family benefits a migrant must be ordinarily resident, i.e. settled in the UK. See question 3.1 for the definition of ‘ordinary residence’.

3.5. Are any other conditions (not already listed above), for example, minimum or maximum age, means tests, etc. attached to any of the benefits that are accessible by third country nationals under the seven categories listed above? In this question, please only identify any other conditions that are applied to third country nationals and not to nationals of your (Member) State.

If yes, please indicate:

- what the additional conditions are in respect of each of the benefits and specify whether the additional conditions vary for each category of migrant identified in Table 2.1.

Other than immigration law requirements, there are no additional entitlement conditions to benefits for third country nationals.
4. Administrative practices affecting third country nationals’ access to social security

4.1. Are discretionary criteria applied within the administrative law/rules when assessing an individual claim for social security in any of the seven branches of social security in your Member State? (for example a Habitual Residence Test)?

Yes

If yes, please indicate:

- the benefits, under each of the seven branches of social security, where discretionary criteria apply;
- the nature of the discretionary criteria (for example, Habitual Residence Test); and
- who the deciding officers are that must apply their discretion.

Health

No. Recent changes that are in the process of being implemented mean that most temporary migrants who are in the UK more than 6 months will pay a surcharge. Certain categories will be exempt from the payment (see section 2.3 for more details).

However previously and until the new rules are fully implemented whether or not a person is properly settled here for the time being (i.e.is an ordinary resident) has some level of discretion. See question 3.1 for definition of ‘ordinary resident’. Overseas Visitors Managers (OVM) (administrators in NHS hospitals) assess if this is so on all the facts at hand. A relevant NHS body will need to consider if they are living lawfully in the United Kingdom voluntarily and for settled purposes as part of the regular order of their life for the time being, whether they have an identifiable purpose for their residence here and whether that purpose has a sufficient degree of continuity to be properly described as “settled”. If the patient is not ordinarily resident in the UK, the OVM will have to consider whether the patient is exempt from paying NHS charges through regulations.

Social security

Yes.

All migrants (including British nationals returning from living or working abroad) must satisfy the Habitual Residence Test to be able to claim income-related Employment and Support Allowance (ESA), income-related Jobseekers Allowance (JSA), Income Support and Pension Credit. The Habitual Residence Test has two elements:
• an assessment of legal right of residence; and
• an objective assessment of factual evidence of habitual residence.

Decision-makers assess a wide variety of factors to determine whether someone is factually habitually resident. These include evidence of intention to remain and attachment to the UK. Each case is treated on its own merits, in the light of the person’s individual circumstances.

The Habitual Residence Test is not applied to Child Benefit, or to Child Tax Credit and Working Tax Credit – these benefits have a test of ordinary residence.

To claim family benefits (Child Benefit, and tax credits) individuals need to be considered ordinarily resident. Whether or not a person is properly settled here for the time being (i.e. is ordinarily resident) has some level of discretion. See question 3.1 for the definition of ‘ordinary residence’.

Disability benefits – Disability Living Allowance/Personal Independence Payment, Carer’s Allowance and Attendance Allowance have a presence test and test of factual habitual residence – a third country national (TCN) must have been present in the UK for two out of the past three years.

4.2. Please identify the factors that a deciding officer must take into account when judging whether an applicant has met the above-listed discretionary criteria (for example, Habitual Residence Test). If these factors differ for individual benefits, please specify.

Social security

The Habitual Residence Test is applied to income-based JSA, income-related ESA, State Pension Credit, Housing Benefit and Income Support. It has two elements:

• an assessment of legal right of residence; and
• an objective assessment of factual habitual residence.

The decision-maker assesses the legal right of residence, i.e. the immigration status of the individual and the rights attached to this status. In assessing factual habitual residence the decision-maker takes into account a wide range of factors – these are tailored to the individual circumstances of the claimant.

Disability benefits – Disability Living Allowance/Personal Independence Payment, Carer’s Allowance and Attendance Allowance have a presence test and test of factual habitual residence – a decision-maker will look at length of residence – the TCN must have been present in the UK for two out of the past three years. In assessing factual habitual residence the decision-maker takes into account a wide range of factors – these are tailored to the individual circumstances of the claimant.

For family benefits Her Majesty’s Revenue and Customs (HMRC) considers whether someone is ordinarily resident to establish if they can claim family benefits. Factors HMRC will consider are:
• why someone came to the UK;
• how long they intend to stay;
• whether the person has family in the UK; and
• whether they have a home rented or owned in the UK.

4.3 Please describe any written circulars or guidelines that deciding officers receive in order to ensure the consistent implementation of the discretionary criteria (for example, ‘Habitual Residence Test’) to individual claimants within your (Member) State. Please also state whether deciding officers receive specific training to support their work.

Social security

There is a decision-making guide for decision-makers to follow.

Decision-makers in the Department for Work and Pensions (DWP) receive extensive training, which includes training on:

• applying social security law;
• analysing evidence; and
• how to make a decision based on the facts of the case.

This provides them with the skills, knowledge and expertise to make a range of decisions and to seek out and assess all available evidence so as to ensure that the customer is given a fair opportunity to present their case. For those decision-makers who make decisions on the Habitual Residence Test, there is further job-specific training relating to the test that focuses on the specific considerations and evidence needed when making such decisions.

Regarding being ordinarily resident HMRC has issued guidance (booklet HMRC6), based on legal decisions, to decide whether or not a person is ordinarily resident in the UK. Please see the link below for the booklet.


4.4 Might claiming social security affect a third country national’s access to a residence permit renewal, application for naturalisation, or for family reunification, where these aspects are dependent on an individual’s ability to be self-supporting?

Yes

If yes, please list those aspects that can be affected by a social security claim and identify the statutory provisions that specify this.
Health

A person subject to immigration control with outstanding debts to the NHS of £1,000 or more will normally be refused a new visa or extension of stay in the UK.

Social security

If an individual has leave to enter or remain with a condition that they do not have recourse to public funds and they receive them, this can affect their immigration status. Claiming public funds illegitimately is a breach of conditions of entry to the UK, and breaching conditions of entry is a criminal offence. Ultimately it may mean that an individual’s leave to remain in the UK is revoked, and an application for further or indefinite leave to remain is refused.

4.5. Please indicate whether translation, interpretation or other forms of support are available to third country nationals wishing to access a social security benefit or programme in your country.

Yes. Hospitals will provide interpreting services and translation services, and guides to benefits are available in a range of languages.
5. External dimension of social security

5.1. Have bilateral agreements on the coordination of social security been reached by your (Member) State with any third countries?

Yes

If yes, please list the third countries with which such bilateral agreements have been reached and provide information on the date of signature and ratification.

Health

The UK has bilateral agreements with a number of countries, listed below. The nature of the agreements can differ between countries as they are (except EU) country specific.


Notes:
The date of signature and ratification is not available.
Countries with an asterisk (*) have agreements based on nationality. These agreements cover their nationals and UK nationals only who are resident in that country. The others cover all residents, irrespective of nationality.
Under the terms of the reciprocal arrangements with those countries highlighted in bold text, for example, Anguilla, the exemption also applies to citizens or nationals who have been referred to the UK specifically for NHS treatment.

Social security

The UK has social security agreements with the following countries.


Notes:
The date of the agreement is in parentheses.
*The Social Security Agreement between the UK and Australia was terminated by Australia and ended on 28 February 2001. People getting benefit under the terms of the Agreement before it ended continue to be helped by it. The termination came at the end of unsuccessful negotiations between Australia and the UK on the issue of the indexation of British pensions paid to British citizens in Australia.
** The agreements between Japan and the Republic of Korea are double contributions conventions (DCCs), which only cover social security contribution liability and do not include benefits. The DCC with Japan – signed on 29/02/2000 – came into effect on 01/02/2001. The DCC with the Republic of Korea – signed on 20/04/1999 – came into effect on 01/08/2000.
5.2. Please provide more information about the bilateral social security agreements that have been concluded by your (Member) State which:

i) allow a worker from a third-country to work in your (Member) State while remaining subject to the social security legislation of the sending state;

Yes/No

Yes

If yes, please summarise the provisions

These agreements vary from country to country. For the DCCs with Korea and Japan, although both agreements are different they contain provisions which allow workers from those countries to work in the UK whilst remaining subject to the social security legislation of the sending state. These provisions cover a range of employment scenarios and occupations. Provisions in each agreement allow a ‘posted worker’ who is sent by their employer to work in the UK temporarily to remain subject to the sending state for a period of up to 5 years provided that the required conditions are met. Provisions also allow for the authorities in each country to reach agreement to extend this period in any particular person or category of person.

ii) guarantee equal treatment in the system of the host state in respect of particular benefits (e.g. reciprocal healthcare arrangements);

Yes/No

If yes, please summarise the provisions

Most of the UK’s bilateral social security agreements guarantee equal treatment in the system of the host state. Where the agreements do not, in practice the application of those agreements is not linked to nationality of those covered, and so equality of treatment is generally provided.

iii) allow social security benefits (e.g. state pensions) to be exported to the territory of the other state;

Yes/No

If yes, please summarise the provisions

UK national legislation provides for the export of state pensions, bereavement benefits and industrial injuries disablement benefit anywhere in the world (without the need for a bilateral social security agreement). Other social security benefits are not generally exportable. However, the UK’s bilateral social security agreements with some third countries provide for aggregation of social security contribution records in order to help satisfy the conditions for title to benefit in the country where the benefit has been claimed.
- contain any other provisions of relevance to the coordination of social security systems with third countries.

Yes/No

If yes, please summarise the provisions

The territorial scope of all of the UK’s bilateral social security agreements extend to the Isle of Man, and most of the agreements also extend to Jersey and Guernsey (the Channel Islands). The Isle of Man, Jersey and Guernsey are UK Crown Dependencies, but each of these territories has its own government, legislature as well a social security system with separate systems of benefits which are different from those in the UK. So, third country nationals working or living in these territories are also covered by the relevant UK bilateral agreements.

5.3. Please provide any information available on the extent to which third-country nationals have invoked their rights under the bi-lateral social security agreements reached between your (Member) State and third-countries.

The application of social security agreements is generally based on the person’s circumstances, not their nationality. Data on nationality is not collected. Therefore we cannot identify how many third country nationals have invoked their rights, as they are not recorded separately from those who are UK nationals or nationals of the country with which the agreement has been reached.

5.4. Please explain how your (Member) State arranges the payment of social security benefits to citizens of your own country that live in a third-country with which your (Member) State has not reached a bi-lateral agreement.

Benefit payments are made by direct bank transfer into their bank accounts. Customer payment information is transferred via a secure file to Citibank where it is then converted into local currency using rates applicable on that day. Citibank transfer this information to specific country partner banks which then transfer the funds into relevant customer bank account.
6. Case studies

In order to understand better the entitlements and access to social security by third country nationals arriving for the first time, for each of the case-studies below, please describe the decision-making procedure, and whether the social security claims made by the third country nationals concerned would ultimately be successful in your (Member) State. It is recognised that, in order to determine eligibility for the specific benefits in accordance with the rules of your (Member) State, additional information about the particular circumstances of each case may be required. European Migration Network (EMN) National Contact Points (NCPs) are asked to identify the circumstances that would make it possible for the individuals concerned to access the benefits.

Case study 1: Tho and Lien, a married couple holding Vietnamese citizenship, aged 28 and 30, moved to your (Member) State 10 years ago. They hold long-term residence permits. Tho has worked in a car manufacturing company for the last eight years, paying obligatory insurance contributions throughout this time. Lien has worked as a chef in the restaurant of a large hotel, also paying obligatory insurance contributions, for the last two years. Tho and Lien are expecting the birth of their first child in six weeks’ time. Last week, the car manufacturing company where Tho works announced that they were making him redundant. Faced with the loss of Tho’s income at a time when Lien would need to take time off work following the birth of their child, Tho decided to apply for unemployment benefits while Lien applied for maternity benefits.

Case study 2: Jasmine is a single parent, aged 29, holding Filipino citizenship, who moved to your (Member) State two-and-a-half years ago. She has a two-year-old child (also holding Filipino citizenship) who lives with her and another child aged five who lives in the Philippines with Jasmine’s mother. Jasmine holds a temporary/salaried worker residence permit that has been renewed once. She has worked as a nurse in a residential day-care unit in your (Member) State for two-and-a-half years. She sends a small amount of money every month to the Philippines to help support her daughter. Last month, Jasmine’s employer announced significant cuts in staff salaries in response to budget reductions. Faced with a significantly reduced income, Jasmine has moved into a hostel as she can no longer afford to rent private accommodation. She has also been forced to halve the amount of money she sends to her family in the Philippines ever month. She has decided to apply for family benefits and guaranteed minimum resources.

Case study 3: Senghor is a high-skilled worker from Senegal. He arrived in your (Member) State six years ago with a temporary residence permit arranged through the IT company that employed him. Senghor is single and does not have children, but has recently succeeded in bringing his elderly mother to the country on the basis of family reunification. Aged 80, his mother is entirely dependent on Senghor’s income. Last week, Senghor suffered an accident at work that left him incapable of carrying out the work for which he was employed for a period of three years. He decided to apply for invalidity benefits, sickness benefits and family benefits.
Case study 1

Assumption made when considering this example: “holding a long-term residence permit” means that they are not subject to immigration control.

If Tho and Lien claim while Tho has fewer than four weeks’ employment remaining or has ceased working and before their first child is born they can claim:

- Working Tax Credit, provided they claim jointly and Lien works at least 30 hours a week;
- if Tho has ceased work he can claim contribution-based Jobseekers Allowance (JSA) as long as he has paid sufficient national insurance (NI) contributions.

If Tho has fewer than four weeks’ employment remaining or has ceased working and Lien is on maternity leave before the birth of their first child then they can claim:

- Working Tax Credit, provided they claim jointly and Lien worked at least 30 hours a week immediately before commencing maternity leave, and she is receiving Statutory Maternity Pay, or Maternity Allowance;
- Statutory Maternity Pay as Lien has paid contributions and been with the same employer for 26 weeks up to the 15th week before the expected week of confinement;
- if Tho has ceased work he can claim contribution-based JSA as long as he has paid sufficient NI contributions.

Once Tho has fewer than four weeks’ employment remaining or has ceased working and Lien has given birth to their first child and is on maternity leave they can claim:

- Working Tax Credit, provided they claim jointly and Lien worked at least 30 hours a week immediately before commencing maternity leave and she is receiving Statutory Maternity Pay, or Maternity Allowance;
- Statutory Maternity Pay as Lien has paid contributions and been with the same employer for 26 weeks up to the 15th week before the expected week of confinement;
- Child Tax Credit, provided they claim jointly;
- Child Benefit;
- as Tho has been making NI contributions for eight years he would be entitled to claim JSA.

Case study 2

If Jasmine is subject to immigration control and has no recourse to public funds, then she would not be entitled to Working Tax Credit, Child Tax Credit or Child Benefit as she would not meet one of the exceptions set out in Table 2.1. She would not be able to claim Income Support if her leave to enter/remain does not allow access to public funds.

Case Study 3

Senghor would be entitled to disablement benefit because his accident took place at work. He would also be entitled to contributory sickness and invalidity benefits, as he had been paying NI contributions for the period for which he was employed. Senghor will not be eligible for any family benefits (Child Benefit and Child Tax Credit) since he is not responsible for a child or qualifying young person.
7. Statistics on social security payments related to migration

7.1. Please present any available data on numbers or persons employed, unemployed and economically inactive by national group. If data on persons employed, unemployed and economically inactive are not disaggregated by national group in your (Member) State but by another level of disaggregation that could serve as a proxy for national group (for example, country of origin) please provide these data.

The labour force population in the UK can be broken down into employed, unemployed and economically inactive individuals.

- Employed persons are defined as people who are aged over 16 who, during the week, perform work for pay, profit or family gain or are temporarily absent due to illness, holidays or training.
- Unemployed persons are those aged over 16 who are without work but are currently available for work and are actively seeking work.
- A person is economically inactive if they are not part of the labour force and are not seeking work. This can include children, students, pensioners and housewives or husbands, provided that they are not working or available/looking for work (Eurostat, 2013).

This section reports on the numbers and proportion of individuals who are employed, unemployed and economically inactive in the UK, by nationality.

Employment rates are usually used in preference to unemployment rates as a more reliable indicator of participation in the labour market, because there will be some degree of offsetting between unemployment and inactivity.

The Annual Population Survey data and European Labour Force Survey data

The Annual Population Survey (APS) is a combined survey of households in Great Britain. Its purpose is to provide information on key social and socioeconomic variables between the ten-yearly censuses. The APS provides weighted estimates of the population. The population included in this analysis is the working age population 16 to 64. To ensure EU comparability, data from the European Labour Force Survey (EU-LFS), which include a working age population of 15 to 64, are also included. Economic activity by national groups from the 2011 Census is included in Annex 3.

Numbers of people employed in the UK, by nationality

The APS analysis shows that a higher proportion of EU country nationals were employed between 2007 and 2012 than UK nationals (see Table 3). The 2012 figures show that 76 per cent of EU nationals were employed compared with 71 per cent of UK nationals. Non-EU migrants have a lower level of employment compared with UK and EU nationals (59% in
This trend is also reflected in the EU-LFS data (see Table 4). This table provides a breakdown by sex and shows that UK, EU, and non-EU national males are more likely to be employed than females. The largest difference in employment rates in males and females is seen in non-EU nationals.

Table 3. Employment rates for working age (16–64) UK nationals, other EU Member State nationals, and non-EU nationals, 2007–12 (Numbers and percentages)

<table>
<thead>
<tr>
<th>National group</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>UK</td>
<td>26,375,000</td>
<td>26,286,000</td>
<td>25,768,000</td>
<td>25,719,000</td>
<td>25,586,000</td>
<td>25,790,000</td>
</tr>
<tr>
<td>%</td>
<td>72.9</td>
<td>72.5</td>
<td>70.9</td>
<td>70.5</td>
<td>70.3</td>
<td>71.0</td>
</tr>
<tr>
<td>EU</td>
<td>940,000</td>
<td>1,039,000</td>
<td>1,068,000</td>
<td>1,141,000</td>
<td>1,317,000</td>
<td>1,360,000</td>
</tr>
<tr>
<td>%</td>
<td>76.3</td>
<td>76.9</td>
<td>75.7</td>
<td>75.1</td>
<td>76.4</td>
<td>76.3</td>
</tr>
<tr>
<td>Non-EU</td>
<td>1,158,000</td>
<td>1,209,000</td>
<td>1,214,000</td>
<td>1,170,000</td>
<td>1,202,000</td>
<td>1,228,000</td>
</tr>
<tr>
<td>%</td>
<td>60.8</td>
<td>61.3</td>
<td>60.2</td>
<td>59.0</td>
<td>58.9</td>
<td>59.4</td>
</tr>
</tbody>
</table>

Source: Annual Population Survey. Weighted estimates, covering all working aged adults (aged 16–64)

Table 4. Employment rates for working age (15–64) UK nationals, other EU Member State nationals and non-EU nationals, by sex, 2008–2012 (Percentages)

<table>
<thead>
<tr>
<th>National group</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>UK nationals – all</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Males</td>
<td>71.8</td>
<td>70.2</td>
<td>69.8</td>
<td>69.7</td>
<td>70.4</td>
</tr>
<tr>
<td>Females</td>
<td>66.5</td>
<td>65.7</td>
<td>65.2</td>
<td>65.1</td>
<td>65.8</td>
</tr>
<tr>
<td>Other EU nationals – all</td>
<td>77.0</td>
<td>75.7</td>
<td>75.0</td>
<td>75.9</td>
<td>75.9</td>
</tr>
<tr>
<td>Males</td>
<td>85.7</td>
<td>83.7</td>
<td>82.0</td>
<td>82.0</td>
<td>83.4</td>
</tr>
<tr>
<td>Females</td>
<td>68.6</td>
<td>68.1</td>
<td>68.3</td>
<td>70.4</td>
<td>69.0</td>
</tr>
<tr>
<td>Non-EU nationals – all</td>
<td>61.8</td>
<td>60.1</td>
<td>60.4</td>
<td>59.9</td>
<td>59.0</td>
</tr>
<tr>
<td>Males</td>
<td>73.2</td>
<td>69.2</td>
<td>70.6</td>
<td>70.3</td>
<td>70.7</td>
</tr>
<tr>
<td>Females</td>
<td>50.8</td>
<td>51.0</td>
<td>50.5</td>
<td>49.2</td>
<td>47.8</td>
</tr>
</tbody>
</table>

Source: Eurostat, Labour Force Survey (lfsa_egan)

Table 5 shows that the largest group of non-EU nationals employed in the UK are consistently from India. In 2012 this group was more than twice the next largest group, which is the USA (193,618 and 84,031 respectively). This is because a high number of Indian nationals have come to the UK on work routes, both temporary work routes and on the
work route leading to settlement. In 2012, 56 per cent of applications for Tier 2 skilled work visas came from Indian nationals, and this proportion is unchanged from the previous three years (see Table 6).

Table 5 shows a high proportion (over 80%) of individuals from Australia, South Africa and the Philippines are employed in the UK, while persons from Bangladesh (51%) Pakistan (47%) and China (36%) show low levels of employment in comparison to UK nationals. This can in part be explained by large numbers of people from China coming to the UK to study. In 2012, 27 per cent of all applications for student visas (excluding student visitors) were Chinese nationals. Visa data also show that high numbers of nationals from Pakistan and Bangladesh come to the UK for family reasons. Due to cultural factors women in these nationalities tend have low levels of economic activity. In 2012 the APS estimates showed that 18 per cent of women from Pakistan and Bangladesh were employed in comparison to 73% per cent of men. This compares with the UK average where 76 per cent of men are employed and 66 per cent of women.

Table 5. Number and proportion of employed working age (16–64) persons, by top 10 nationality groups, 2007–12 (Numbers and percentages)

<table>
<thead>
<tr>
<th>National group</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>INDIA</td>
<td>173,000</td>
<td>168,000</td>
<td>161,000</td>
<td>181,000</td>
<td>189,000</td>
<td>194,000</td>
</tr>
<tr>
<td>%</td>
<td>70.8</td>
<td>72.4</td>
<td>66.2</td>
<td>68.7</td>
<td>70.2</td>
<td>69.3</td>
</tr>
<tr>
<td>UNITED STATES</td>
<td>74,000</td>
<td>70,000</td>
<td>75,0004</td>
<td>74,000</td>
<td>72,000</td>
<td>84,000</td>
</tr>
<tr>
<td>%</td>
<td>74.4</td>
<td>72.6</td>
<td>72.8</td>
<td>66.7</td>
<td>69.6</td>
<td>68.8</td>
</tr>
<tr>
<td>PAKISTAN</td>
<td>48,000</td>
<td>64,000</td>
<td>71,000</td>
<td>52,000</td>
<td>63,000</td>
<td>72,000</td>
</tr>
<tr>
<td>%</td>
<td>42.9</td>
<td>43.0</td>
<td>46.4</td>
<td>40.9</td>
<td>45.1</td>
<td>47.7</td>
</tr>
<tr>
<td>NIGERIA</td>
<td>48,000</td>
<td>48,000</td>
<td>52,000</td>
<td>46,000</td>
<td>54,000</td>
<td>55,000</td>
</tr>
<tr>
<td>%</td>
<td>71.4</td>
<td>66.2</td>
<td>66.9</td>
<td>60.7</td>
<td>61.9</td>
<td>63.8</td>
</tr>
<tr>
<td>AUSTRALIA</td>
<td>76,000</td>
<td>63000</td>
<td>59,000</td>
<td>52,000</td>
<td>47,000</td>
<td>51,000</td>
</tr>
<tr>
<td>%</td>
<td>87.2</td>
<td>87.4</td>
<td>86.1</td>
<td>84.4</td>
<td>79.5</td>
<td>84.1</td>
</tr>
<tr>
<td>SOUTH AFRICA</td>
<td>70,000</td>
<td>73,000</td>
<td>69,000</td>
<td>64,000</td>
<td>58,000</td>
<td>49,000</td>
</tr>
<tr>
<td>%</td>
<td>84.2</td>
<td>87.4</td>
<td>81.1</td>
<td>80.6</td>
<td>83.3</td>
<td>80.2</td>
</tr>
<tr>
<td>PHILIPPINES</td>
<td>46,000</td>
<td>51,000</td>
<td>52,000</td>
<td>48,000</td>
<td>58,000</td>
<td>44,000</td>
</tr>
<tr>
<td>%</td>
<td>87.4</td>
<td>86.7</td>
<td>86.4</td>
<td>85.5</td>
<td>87.3</td>
<td>82.5</td>
</tr>
</tbody>
</table>

8 This is the proportion employed from the total of all categories of economic activity.
Table 6. Tier 2 visa applications for top 5 nationalities, 2010–12 (Numbers and percentages)

<table>
<thead>
<tr>
<th>Nationality</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>Proportion in 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>India</td>
<td>23,286</td>
<td>22,249</td>
<td>23,016</td>
<td>56</td>
</tr>
<tr>
<td>United States</td>
<td>5,510</td>
<td>5,547</td>
<td>5,745</td>
<td>14</td>
</tr>
<tr>
<td>Japan</td>
<td>1,325</td>
<td>1,528</td>
<td>1,597</td>
<td>4</td>
</tr>
<tr>
<td>Australia</td>
<td>1,277</td>
<td>1,254</td>
<td>1,402</td>
<td>3</td>
</tr>
<tr>
<td>China</td>
<td>1,409</td>
<td>1,104</td>
<td>1,116</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>42,433</td>
<td>39,511</td>
<td>40,742</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Immigration Statistics April –June 2013,\(^9\) Table CS 05, (Home Office, 2013b)

Numbers of people unemployed in the UK, by nationality

Table 7 shows that unemployment amongst EU migrants was lower than for UK nationals in the years 2008 to 2012. In 2012, 6.9 per cent of EU nationals were unemployed compared with 7.9 per cent of UK nationals. Unemployment of non-EU migrants was consistently higher than for EU and UK nationals with 11.5 per cent unemployed in 2012. Again this pattern is reflected in the EU-LFS data (see Table 8). The EU-LFS data show that in the UK females are less likely to be unemployed than males. This compares with EU nationals and non-EU nationals, where females are more likely than males to be unemployed.

---

Table 7. Unemployment rates for UK nationals, other EU Member State nationals and third country nationals, 2008–12 (Numbers and percentages)

<table>
<thead>
<tr>
<th>National group</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>UK</td>
<td>1,411,000</td>
<td>1,570,000</td>
<td>2,134,000</td>
<td>2,143,000</td>
<td>2,210,000</td>
<td>2,212,000</td>
</tr>
<tr>
<td>%</td>
<td>5.1</td>
<td>5.6</td>
<td>7.6</td>
<td>7.7</td>
<td>8.0</td>
<td>7.9</td>
</tr>
<tr>
<td>Other EU</td>
<td>56,000</td>
<td>58,000</td>
<td>80,000</td>
<td>82,000</td>
<td>102,000</td>
<td>102,000</td>
</tr>
<tr>
<td>%</td>
<td>5.7</td>
<td>5.3</td>
<td>6.9</td>
<td>6.7</td>
<td>7.2</td>
<td>6.9</td>
</tr>
<tr>
<td>Non-EU</td>
<td>110,000</td>
<td>124,000</td>
<td>151,000</td>
<td>142,000</td>
<td>169,000</td>
<td>160,000</td>
</tr>
<tr>
<td>%</td>
<td>8.7</td>
<td>9.3</td>
<td>11.1</td>
<td>10.8</td>
<td>12.3</td>
<td>11.5</td>
</tr>
</tbody>
</table>

Source: Annual Population Survey. Weighted estimates, covering all working aged adults (aged 16–64)

Table 8. Unemployment rates for UK nationals, other EU Member State nationals and third country nationals aged 15–64, by sex, 2008–12 (%ages)

<table>
<thead>
<tr>
<th></th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>UK nationals – all</td>
<td>5.6</td>
<td>7.6</td>
<td>7.8</td>
<td>8.1</td>
<td>7.9</td>
</tr>
<tr>
<td>Males</td>
<td>6.2</td>
<td>8.7</td>
<td>8.8</td>
<td>8.8</td>
<td>8.5</td>
</tr>
<tr>
<td>Females</td>
<td>4.9</td>
<td>6.2</td>
<td>6.7</td>
<td>7.2</td>
<td>7.2</td>
</tr>
<tr>
<td>Other EU nationals – all</td>
<td>5.0</td>
<td>6.2</td>
<td>6.8</td>
<td>7.0</td>
<td>7.5</td>
</tr>
<tr>
<td>Males</td>
<td>4.3</td>
<td>5.6</td>
<td>6.4</td>
<td>7.0</td>
<td>6.6</td>
</tr>
<tr>
<td>Females</td>
<td>5.8</td>
<td>6.9</td>
<td>7.4</td>
<td>7.0</td>
<td>8.4</td>
</tr>
<tr>
<td>Non-EU nationals – all</td>
<td>8.8</td>
<td>11.2</td>
<td>11.1</td>
<td>12.0</td>
<td>11.3</td>
</tr>
<tr>
<td>Males</td>
<td>8.0</td>
<td>10.9</td>
<td>10.3</td>
<td>11.1</td>
<td>10.1</td>
</tr>
<tr>
<td>Females</td>
<td>9.8</td>
<td>11.6</td>
<td>12.0</td>
<td>13.2</td>
<td>12.8</td>
</tr>
</tbody>
</table>

Source: Eurostat, Labour Force Survey (lfsa_urgan)

For most national groups figures on unemployment have been suppressed due to low numbers. Table 9 shows that in the UK the highest number of non-EU nationals unemployed are from India. This is the same national group as for the
highest numbers employed. The other top countries for number of nationals unemployed are Pakistan and Nigeria. However, a higher proportion from Pakistan and Nigeria are unemployed than from India (16% and 13% respectively, compared with 11% from India in 2012).

Table 9. Number of unemployed and unemployment rate,\textsuperscript{10} working age (16–64) persons, by nationality groups in 2007–12

<table>
<thead>
<tr>
<th>National group</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>INDIA</td>
<td>11,000</td>
<td>13,000</td>
<td>18,000</td>
<td>18,000</td>
<td>19,000</td>
<td>23,000</td>
</tr>
<tr>
<td>%</td>
<td>6.2</td>
<td>7.3</td>
<td>10</td>
<td>9.1</td>
<td>9</td>
<td>10.5</td>
</tr>
<tr>
<td>PAKISTAN</td>
<td>*</td>
<td>*</td>
<td>12,000</td>
<td>12,600</td>
<td>13,000</td>
<td>13,000</td>
</tr>
<tr>
<td>%</td>
<td>*</td>
<td>*</td>
<td>13.9</td>
<td>18.1</td>
<td>17.3</td>
<td>15.7</td>
</tr>
<tr>
<td>NIGERIA</td>
<td>*</td>
<td>*</td>
<td>8,000</td>
<td>9,000</td>
<td>12,000</td>
<td>8,000</td>
</tr>
<tr>
<td>%</td>
<td>*</td>
<td>*</td>
<td>12.7</td>
<td>16.8</td>
<td>17.7</td>
<td>12.6</td>
</tr>
</tbody>
</table>

Source: Annual Population Survey. Weighted estimates, covering all working aged adults (aged 16–64)
Estimates under 6,000 are suppressed, as they are not considered statistically reliable.

Numbers of people economically inactive in the UK, by nationality

Non-EU nationals were more likely to be economically inactive compared with UK nationals and EU migrants. The 2012 APS estimates found that 33 per cent of non-EU nationals were economically inactive compared with 23 per cent of UK nationals and 18 per cent of EU nationals (see Table 10). The EU-LFS again shows the same trend. In each group females are more likely to be economically inactive than males. This is most pronounced in non-EU nationals (see Table 11).

\textsuperscript{10} This is the proportion of unemployed from the total of employed and unemployed (i.e. this is not the total of all categories of economic activity).
Table 10. Economic inactivity rates for UK nationals, other EU Member State nationals and non-EU nationals, working age (16–64), 2007–12 (Numbers and percentages)

<table>
<thead>
<tr>
<th>National group</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>UK %</td>
<td>8,413,000</td>
<td>8,402,000</td>
<td>8,427,000</td>
<td>8,597,000</td>
<td>8,589,000</td>
<td>8,321,000</td>
</tr>
<tr>
<td>Other EU %</td>
<td>236,000</td>
<td>254,000</td>
<td>263,000</td>
<td>296,000</td>
<td>305,000</td>
<td>321,000</td>
</tr>
<tr>
<td>Non-EU %</td>
<td>638,000</td>
<td>638,000</td>
<td>651,000</td>
<td>672,000</td>
<td>668,000</td>
<td>680,000</td>
</tr>
</tbody>
</table>

Source: Annual Population Survey. Weighted estimates, covering all working aged adults (aged 16–64)
Estimates under 6,000 are suppressed, as they are not considered statistically reliable.

Table 11. Inactivity rates for UK nationals, other EU Member State nationals and non-EU nationals, aged 15–64, as a share of the population of the respective group, 2008–12 (Percentages)

<table>
<thead>
<tr>
<th></th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>UK nationals –all</td>
<td>23.9</td>
<td>24.0</td>
<td>24.3</td>
<td>24.2</td>
<td>23.5</td>
</tr>
<tr>
<td>Males</td>
<td>17.7</td>
<td>18.0</td>
<td>18.4</td>
<td>18.4</td>
<td>17.9</td>
</tr>
<tr>
<td>Females</td>
<td>30.1</td>
<td>30.0</td>
<td>30.1</td>
<td>29.9</td>
<td>29.1</td>
</tr>
<tr>
<td>Other EU nationals – all</td>
<td>18.9</td>
<td>19.3</td>
<td>19.5</td>
<td>18.4</td>
<td>18.0</td>
</tr>
<tr>
<td>Males</td>
<td>10.5</td>
<td>11.3</td>
<td>12.5</td>
<td>11.8</td>
<td>10.7</td>
</tr>
<tr>
<td>Females</td>
<td>27.2</td>
<td>26.8</td>
<td>26.3</td>
<td>24.3</td>
<td>24.6</td>
</tr>
<tr>
<td>Non-EU nationals – all</td>
<td>32.2</td>
<td>32.3</td>
<td>32.1</td>
<td>32.0</td>
<td>33.5</td>
</tr>
<tr>
<td>Males</td>
<td>20.4</td>
<td>22.3</td>
<td>21.3</td>
<td>20.9</td>
<td>21.3</td>
</tr>
<tr>
<td>Females</td>
<td>43.7</td>
<td>42.3</td>
<td>42.6</td>
<td>43.3</td>
<td>45.2</td>
</tr>
</tbody>
</table>

Source: Eurostat, Labour Force Survey (lfsa_igan)

A person is economically inactive if they are not part of the labour force and are not seeking work. This includes housewives/husbands, students and the retired. Table 12 shows that the highest number of economically inactive nationals are from Pakistan closely
followed by India. In 2012 the highest overall proportions of economically inactive country nationals were from China (59%), Bangladesh (44%) and Pakistan (43%). Again, for Chinese nationals this can be partly explained by the large numbers of Chinese nationals who come to the UK for study who are classed as economically inactive. And again for nationals from Bangladesh and Pakistan there is a large differentiation in men and women with high numbers of women economically inactive. The APS estimates show that the proportion of males economically inactive in these groups (19%) was very similar to the UK average (17%). Whereas there were much higher proportions of economically inactive women in these groups, 75 per cent compared with the national average of 29 per cent. Nationals from Australia and South Africa had much lower proportions of economically inactive nationals (14% and 13%).

Table 12.11 Economically inactive working age (16–64) persons, by nationality, 2007–12 (Numbers and percentages)

<table>
<thead>
<tr>
<th>National group</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>PAKISTAN</td>
<td>59,000</td>
<td>74,000</td>
<td>71,000</td>
<td>65,000</td>
<td>63,000</td>
<td>65,000</td>
</tr>
<tr>
<td>%</td>
<td>52.4</td>
<td>49.6</td>
<td>46.1</td>
<td>50.1</td>
<td>45.5</td>
<td>43.3</td>
</tr>
<tr>
<td>INDIA</td>
<td>60,000</td>
<td>51,000</td>
<td>64,000</td>
<td>64,000</td>
<td>61,000</td>
<td>63,000</td>
</tr>
<tr>
<td>%</td>
<td>24.6</td>
<td>21.9</td>
<td>26.5</td>
<td>24.4</td>
<td>22.8</td>
<td>22.5</td>
</tr>
<tr>
<td>CHINA</td>
<td>34,000</td>
<td>36,000</td>
<td>39,000</td>
<td>53,000</td>
<td>66,000</td>
<td>46,000</td>
</tr>
<tr>
<td>%</td>
<td>47.9</td>
<td>47.9</td>
<td>49.5</td>
<td>58.6</td>
<td>65.7</td>
<td>59.6</td>
</tr>
<tr>
<td>UNITED STATES</td>
<td>21,000</td>
<td>23,000</td>
<td>24,000</td>
<td>34,000</td>
<td>27,000</td>
<td>34,000</td>
</tr>
<tr>
<td>%</td>
<td>21.3</td>
<td>23.9</td>
<td>22.9</td>
<td>30.3</td>
<td>25.6</td>
<td>28.1</td>
</tr>
<tr>
<td>BANGLADESH</td>
<td>37,000</td>
<td>28,000</td>
<td>30,000</td>
<td>31,000</td>
<td>26,000</td>
<td>32,000</td>
</tr>
<tr>
<td>%</td>
<td>59.6</td>
<td>48.2</td>
<td>44.7</td>
<td>42.9</td>
<td>38.2</td>
<td>44.2</td>
</tr>
<tr>
<td>NIGERIA</td>
<td>14,000</td>
<td>19,000</td>
<td>18,000</td>
<td>20,000</td>
<td>22,000</td>
<td>23,000</td>
</tr>
<tr>
<td>%</td>
<td>21</td>
<td>26.1</td>
<td>23.4</td>
<td>27.1</td>
<td>24.8</td>
<td>27.0</td>
</tr>
<tr>
<td>ZIMBABWE</td>
<td>14,000</td>
<td>12,000</td>
<td>19,000</td>
<td>14,000</td>
<td>13,000</td>
<td>11,000</td>
</tr>
<tr>
<td>%</td>
<td>25.6</td>
<td>21.1</td>
<td>31.1</td>
<td>26.7</td>
<td>28</td>
<td>24.2</td>
</tr>
<tr>
<td>PHILIPPINES</td>
<td>*</td>
<td>*</td>
<td>7,000</td>
<td>1</td>
<td>*</td>
<td>7,000</td>
</tr>
<tr>
<td>%</td>
<td>*</td>
<td>*</td>
<td>10.9</td>
<td>*</td>
<td>10.1</td>
<td>15.5</td>
</tr>
</tbody>
</table>

11 This is the percentage employed from the total of all categories of economic activity
### 7.2. Data/research on the take-up of social security benefits among third country nationals (by type of payment, national group, duration in country, age, sex, for last five years)

The Department for Work and Pensions (DWP) collects data on benefit claims but these do not include nationality. However, it does publish separate national statistics on the number of national insurance numbers (NINos) registered to people who were non-UK nationals when they first entered the UK.\(^\text{12}\) The NINo provides a unique link between the individual, their national insurance (NI) contributions held on Her Majesty’s Revenue and Customs (HMRC) National Insurance and Pay As You Earn Recording System and its shared benefit provision. DWP has matched these data to provide an estimate of the number of people claiming benefit who, when they first registered for a NINo, were non-UK nationals. It should be noted that these statistics do not provide a measure of non-UK nationals claiming benefit based on their current nationality (as migrants may have since gained British citizenship).

The results of a matching exercise were published in 2012 and updated in 2013.\(^\text{13}\) DWP reports that as of February 2013 over 5.5 million people were claiming working age benefits and of these 5,298,000 were UK nationals and 397,000 were estimated to be non-UK nationals when they first registered for a NINo. This compares with 371,000 in February 2011. Overall, in 2013, 6.7 per cent of working age people who were foreign nationals when first registering for a NINo were claiming working age benefits. This includes EU migrants. This is in comparison to 16.4 per cent of UK nationals claiming working age benefits.

Table 13 below outlines the breakdown of non-UK benefit claimants by world area. In all, 31 per cent of those claimants who were non-UK nationals at the time they first registered for a NINo were from within the EU. The DWP (2013) reports that of all the non-UK claimants Asian and Middle Eastern nationalities form the largest proportion (32%) while those from Australasia and Oceania are the least likely to be claiming (1% of all claimants).

It should be noted that because nationality is based on nationality at the time of registering for a NINo this will overestimate migrants as a number of these people will have become British citizens. The 2011 Census shows that 46 per cent of those born abroad held a British

<table>
<thead>
<tr>
<th>AUSTRALIA</th>
<th>8,000</th>
<th>8,000</th>
<th>7,000</th>
<th>9,000</th>
<th>9,000</th>
<th>8,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>%</td>
<td>9.5</td>
<td>11.1</td>
<td>10.9</td>
<td>14.1</td>
<td>15.3</td>
<td>13.5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SOUTH AFRICA</th>
<th>10,000</th>
<th>8,000</th>
<th>13,000</th>
<th>12,000</th>
<th>8,000</th>
<th>8,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>%</td>
<td>12.0</td>
<td>9.5</td>
<td>15.5</td>
<td>15.2</td>
<td>11.9</td>
<td>12.6</td>
</tr>
</tbody>
</table>

Source: Annual Population Survey. Weighted estimates, covering all working aged adults (aged 16–64)

*Estimates under 6,000 are suppressed, as they are not considered statistically reliable.


passport by the 2011 Census. This is particularly true for groups of migrants from Africa and Asia, whereas migrants from USA and Australia are less likely to apply for British citizenship (see, for example, Achato et al., 2011).

Table 13. Uptake of benefits, by non-UK nationalities February 2013 (Numbers and percentages)

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Total (thousands)</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total non-UK nationals</td>
<td>397.2</td>
<td>100</td>
</tr>
<tr>
<td>Asia and Middle East</td>
<td>128.0</td>
<td>32</td>
</tr>
<tr>
<td>Africa</td>
<td>94.7</td>
<td>24</td>
</tr>
<tr>
<td>EU (excluding accession)</td>
<td>62.3</td>
<td>16</td>
</tr>
<tr>
<td>EU (accession)</td>
<td>58.9</td>
<td>15</td>
</tr>
<tr>
<td>Europe (non-EU)</td>
<td>21.3</td>
<td>5</td>
</tr>
<tr>
<td>The Americas</td>
<td>18.7</td>
<td>5</td>
</tr>
<tr>
<td>Australasia and Oceania</td>
<td>2</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: National Insurance Number Allocations to Adult Overseas Nationals Entering the UK – registrations to March 2013, Figure 2.3

The report goes on to look at the proportion of benefits claimed by different nationalities; however, this does not look at uptake by benefit type. To avoid double counting claimants are only shown under one benefit type using a hierarchy outlined in the table below. Therefore, if a person fits into more than one category they will only appear in the topmost one for which they are eligible. For example, a claimant of Disability Living Allowance (DLA) and Jobseekers Allowance (JSA) would appear in ‘Jobseeker’, not in ‘Disabled’. This means that the data do not give a picture of the proportion of claimants in each benefit group who were non-UK nationals at NINo allocation. A picture of multiple-use of benefits or an accurate reflection on the proportion of non-UK claimants per benefit is therefore not available. Table 14 presents uptake in thousands using this hierarchy.

---

### Table 14. Benefit claims, by benefit type and nationality (Thousands)

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Jobseeker</th>
<th>ESA</th>
<th>Lone Parent</th>
<th>Carer</th>
<th>Other income-related</th>
<th>Disabled</th>
<th>Bereaved</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total non-EU</strong></td>
<td>397.2</td>
<td>142.3</td>
<td>139.5</td>
<td>40.2</td>
<td>41.3</td>
<td>9.4</td>
<td>17.4</td>
<td>7.1</td>
</tr>
<tr>
<td>EU (excluding accession)</td>
<td>62.3</td>
<td>25.2</td>
<td>23.7</td>
<td>3.7</td>
<td>4.2</td>
<td>1.3</td>
<td>2.9</td>
<td>1.3</td>
</tr>
<tr>
<td>EU (accession)</td>
<td>59.0</td>
<td>34.9</td>
<td>13.1</td>
<td>3.1</td>
<td>4.1</td>
<td>0.6</td>
<td>2.5</td>
<td>0.6</td>
</tr>
<tr>
<td>Europe (non-EU)</td>
<td>21.3</td>
<td>4.9</td>
<td>10.7</td>
<td>2.3</td>
<td>2.0</td>
<td>0.4</td>
<td>0.8</td>
<td>0.2</td>
</tr>
<tr>
<td>Africa</td>
<td>94.7</td>
<td>34.6</td>
<td>29.6</td>
<td>18.1</td>
<td>6.2</td>
<td>2.1</td>
<td>3.1</td>
<td>1.2</td>
</tr>
<tr>
<td>Asia and Middle East</td>
<td>128.0</td>
<td>33.4</td>
<td>49.8</td>
<td>10.0</td>
<td>22.0</td>
<td>3.6</td>
<td>6.3</td>
<td>3.0</td>
</tr>
<tr>
<td>Americas</td>
<td>18.7</td>
<td>6.5</td>
<td>6.2</td>
<td>2.66</td>
<td>1.5</td>
<td>0.3</td>
<td>0.9</td>
<td>0.6</td>
</tr>
<tr>
<td>Australasia and Oceania</td>
<td>2.00</td>
<td>0.6</td>
<td>0.8</td>
<td>0.1</td>
<td>0.2</td>
<td>0.0</td>
<td>0.2</td>
<td>0.1</td>
</tr>
</tbody>
</table>

Source: National Insurance Number Allocations to Adult Overseas Nationals Entering the UK – registrations to March 2013, Figure 2.3

### 7.3. The costs to each (Member) State of providing social security benefits including healthcare to third country nationals.

#### Expenditure for migrants use of the National Health Service

In 2013 the Department of Health commissioned a quantitative assessment of visitor and migrant use of the NHS in England.\(^{16}\) The costs are for 2012–13. The depth and completeness of the analysis was constrained by the time limitations as well as limitations on the data.


Estimates\(^{17}\) were provided for three different groups:

- the regular visitors and temporary migrants, making normal use of the NHS during their stay;
- the irregular migrants, about whom there is considerable uncertainty; and
- people who are deliberately misusing the NHS or taking advantage of the relatively easy access – for this group as with all irregular activity the estimates are very uncertain.

Care should therefore be used when using the findings especially the results for more detailed breakdowns of figures. Table 15 below shows that the estimated daily equivalent population of visitors and temporary migrants is around 2.5 million and the costs are about £1.8 billion for normal use of the NHS. On top of this, there is a plausible range of between £100 million and £300 million attributable to health tourism. The calculation of the cost of the regular use of the NHS in England by visitors and migrants is £1.76 billion. This is 50 per cent likely to be in the range £1.53 billion to £1.94 billion.

Table 15. Summary of the estimated cost of visitor and migrant use of the National Health Service, 2012–13

<table>
<thead>
<tr>
<th>Visitor/Migrant Group</th>
<th>In scope population (000s)</th>
<th>Gross cost (£ m)</th>
<th>Weighted average cost per head (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total EEA</td>
<td>443</td>
<td>261</td>
<td>588</td>
</tr>
<tr>
<td>Total non-EEA</td>
<td>1,461</td>
<td>1,075</td>
<td>736</td>
</tr>
<tr>
<td>Total regular visitors and migrants</td>
<td>1,969</td>
<td>1,430</td>
<td>726</td>
</tr>
<tr>
<td>Total irregular migrants</td>
<td>580</td>
<td>330</td>
<td>570</td>
</tr>
<tr>
<td>Total ‘normal’ use of NHS</td>
<td>2,549</td>
<td>1,760</td>
<td>690</td>
</tr>
</tbody>
</table>

Note: EEA is the European Economic Area.

\(^{17}\) The costs were for 2012–13. These were the best available data in the public domain at the time of the analysis (July and August 2013). The estimated costs were based on an apportionment of current total expenditure of NHS England in 2012/13, covering primary and secondary care. These costs of the NHS services provided to visitors and migrants include fixed costs and other overheads.
8. Key findings

The UK social security system is the responsibility of a number of different government departments.

- The Department for Work and Pensions (DWP) is responsible for insurance based and means tested cash benefits for unemployment, sickness and invalidity, and old age, as well as for most cash social assistance benefits.

- Family benefits and means tested in-work benefits are the responsibility of Her Majesty’s Revenue and Customs (HMRC).

- The Department for Communities and Local Government is responsible for social housing and housing assistance.

- The Department of Health is responsible for health and social care support.

- The Department for Education also has some responsibilities for funding for social care needs of children.

The social security system and the healthcare system include contributory benefits, non-contributory benefits, disability benefits and the National Health Service (NHS). Contributory benefits are those that people earn entitlement to through paying national insurance (NI) contributions; non-contributory benefits, certain disability benefits and the NHS are tax-financed.

There are no migrant-specific conditions for accessing contributory benefits; to claim these benefits the necessary NI contributions need to be made. All migrants with indefinite leave to remain can also access non-contributory benefits. However, most temporary migrants are generally given leave to enter with no recourse to public funds, and this includes no access to non-contributory benefits.

Previously all migrants could access the National Health Service (NHS) provided they were ‘ordinary residents’ which meant they were living lawfully and settled within the UK for the time being. Regulations also permitted other migrants, including workers, to access the NHS without charge. However the Immigration Act received royal ascent on May 2104 and contained changes to migrants’ access to healthcare. The Act sets out that only migrants who have indefinite leave to remain and those granted refugee status or humanitarian protection in the UK have free access to the NHS. Most temporary non-EEA migrants who are coming to the UK for more than six months will need to pay a health surcharge. These changes are currently in the process of implementation.

To claim certain income-related non-contributory benefits – income related Jobseeker’s Allowance (JSA), income-related Employment and Support Allowance (ESA), State Pension
Credit, and Housing Benefit – migrants must satisfy the Habitual Residence Test. The Habitual Residence Test has two parts:

- an assessment of legal right of residence; and
- whether the individual is factually habitually resident.

Migrants claiming income-based JSA also have to have been living in the UK for three months prior to the claim. Third country national (TCN) migrants claiming disability benefits – Disability Living Allowance (DLA)/Personal Independence Payment (PIP), Carer’s Allowance, and Attendance Allowance) must have been present in the UK for two out of the last three years and be habitually resident in the UK. Migrants accessing family benefits need to be ‘ordinarily resident’ in the UK. This means that they are in the UK voluntarily and for a settled purpose for the time being.

The Annual Population Survey (2012) was used to explore economic activity by nationality in the UK. Overall the data show that EU nationals were more likely to be employed and less likely to be unemployed and economically inactive than UK nationals. Non-EU nationals were less likely to be employed and more likely to be unemployed and economically inactive than UK nationals. However, this varied by nationality. Nationals from Australia, South Africa and the Philippines had high levels of employment and low levels of economic inactivity. Nationals from China, Bangladesh and Pakistan had lower levels of employment and higher levels of economic inactivity. However, in the case of nationals from Bangladesh and Pakistan this is partly due to cultural reasons as women from these nationalities have lower levels of employment. In the case of nationals from China this can partly be explained by the fact that large number of Chinese nationals come to the UK for study rather than for employment.

The DWP has data on the uptake of benefits, but not by nationality. It matched data on nationality held at time of registering for NI numbers (NINos) with the uptake of benefits data. DWP reports that overall non-UK nationals are less likely to claim benefits than UK nationals. Of the non-UK nationals who did claim the highest claimant groups were from Asia and the Middle East while the lowest were from Australasia. However, as the data were on nationality at time of registering for an NINo and not on current nationality, it is likely that a number of the migrants included had subsequently become UK citizens. Migrants from Africa and Asia are more likely than migrants from Australia and the US to settle in the UK. Therefore the figures on the uptake of benefits for these groups are likely to be over estimations.
Annex 1

Types of national insurance contributions

Contributions to the national insurance (NI) scheme are divided into five classes.

1. Employees pay main rate primary Class 1 contributions if their earnings are above the primary threshold. These contributions will be a proportion of their weekly earnings up to the upper earnings limit (UEL) and will be deducted from their pay. If earnings are above the UEL employees also have further contributions deducted from their pay; this is known as the ‘additional rate’. If earnings are below the primary threshold but above the lower earnings limit (LEL), employees are treated as having paid contributions in order to protect their benefit entitlement. The employer pays secondary Class 1 contributions if the employee’s earnings rise above the secondary threshold. Employer’s contributions are not deducted from the employee’s pay but are the liability of the employer.

2. Self-employed people with earnings above the small earnings exception must pay Class 2 contributions. Class 2 contributions are payable at a flat rate. If the self-employed person’s taxable profits or gains are between the level of the income tax personal allowance and the upper profits limit (UPL), they will also be liable for Class 4 contributions. If they have profits above the UPL they will also have contributions deducted from their profits at an additional rate. Class 4 contributions do not count for benefit purposes.

3. Class 3 contributions are voluntary and only count towards basic retirement pension and bereavement benefits. They can be paid if by people who:
   - are not liable for primary Class 1 contributions;
   - have been exempted from paying Class 2 contributions; or
   - have a contribution record that is not sufficient to qualify for the benefits listed above.

Class 3 contributions are payable at a flat rate.

4. Special rules apply to certain people, including mariners and airmen.

5. Employers may also be liable for Class 1A contributions on most benefits in kind provided to employees, for example, cars made available for private use and car fuel.

Credits

In some circumstances, NI contributions may be credited to an individual’s NI record even if they have not actually paid them. This is the case, for example, for periods when individuals are unable to work because of sickness or unemployment. Credits can help them to qualify for some benefits. For most benefits, however, individuals must actually have paid a certain amount of contributions.
Annex 2

Eligibility for support for those with no recourse to public funds

To be eligible for care services from a local authority in the UK, including accommodation and financial support, an individual with 'no recourse to public funds' must be:

- an adult, including adults with responsibility for children;
- ordinarily resident in the local authority area;
- assessed as having community care or mental health needs under the National Assistance Act 1948, or be someone to whom there is a duty to support under the Children Act 1989;
- eligible for support under immigration law; or
- someone who has to be supported to prevent a breach of their human rights, under the European Convention on Human Rights.

Under immigration legislation there are four categories of people who are excluded from support by local authorities. These categories are:

- nationals of the European Economic Area (EEA);
- people with refugee status granted by a country within the EEA;
- people unlawfully present in the UK (including those whose visa has expired);
- refused asylum seekers who have refused to cooperate with removal directions.

However, there may still be a duty on a local authority to provide support where failure to do so would result in a breach of an individual’s or family’s human rights.

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Annex 3

Office for National Statistics census data

In the UK every ten years the Office for National Statistics (ONS) runs a census of the UK population. This provides a detailed snapshot of the population and its characteristics. It is therefore the most comprehensive set of data that the UK has to look at numbers of employed, unemployed and economically inactive persons. The last census of the UK was the 2011 Census. However, data are currently (2014) only available for England and Wales and therefore reference to the UK includes only England and Wales. On 2011 Census day the population of England and Wales was 56,075,912. Table A3.1 shows the breakdown of employed, unemployed and economically inactive persons by passports held. The analysis includes all individuals over 16.

The 2011 Census data show that people holding an EU passport are more likely to be employed and less likely to be economically inactive than UK nationals. Employment rates

are highest and unemployment and economic inactivity rates lowest in people holding a passport from the Antarctica and Oceania, and Australasia. There are higher rates of economic inactivity and lower rates of employment in persons from the Middle East and Asia.

Table A3.1 Economic activity, by passport held, individuals aged over 16, England and Wales, 2011

UK passport category includes respondents to England and Wales Census only

<table>
<thead>
<tr>
<th>Economic activity</th>
<th>All categories: Passports held</th>
<th>Europe: England and Wales</th>
<th>Europe: EU countries: Total</th>
<th>Europe: Rest of Europe</th>
<th>Africa: Total</th>
<th>Middle East and Asia: Total</th>
<th>The Americas and the Caribbean: Total</th>
<th>Antarctica and Oceania (including Australasia)</th>
</tr>
</thead>
<tbody>
<tr>
<td>In employment:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total (excluding full-time students)</td>
<td>26,681,568</td>
<td>22,246,067</td>
<td>1,333,786</td>
<td>53,047</td>
<td>211,328</td>
<td>461,434</td>
<td>157,635</td>
<td>78,613</td>
</tr>
<tr>
<td></td>
<td>58.6%</td>
<td>62.9%</td>
<td>70.8%</td>
<td>56.9%</td>
<td>61.5%</td>
<td>51.8%</td>
<td>64.3%</td>
<td>82.2%</td>
</tr>
<tr>
<td>Unemployed19 (excluding full-time students)</td>
<td>2,136,787</td>
<td>1,475,386</td>
<td>91,033</td>
<td>6,231</td>
<td>37,902</td>
<td>61,075</td>
<td>15,657</td>
<td>2,853</td>
</tr>
<tr>
<td></td>
<td>7.4%</td>
<td>6.2%</td>
<td>6.4%</td>
<td>10.5%</td>
<td>15.2%</td>
<td>11.7%</td>
<td>9%</td>
<td>3.5%</td>
</tr>
<tr>
<td>Economically inactive:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total (including students)</td>
<td>16,478,425</td>
<td>11,631,959</td>
<td>459,209</td>
<td>33,944</td>
<td>94,519</td>
<td>369,134</td>
<td>71,974</td>
<td>14,172</td>
</tr>
<tr>
<td></td>
<td>36.7%</td>
<td>32.9%</td>
<td>24.4%</td>
<td>36.4%</td>
<td>27.5%</td>
<td>41.4%</td>
<td>29.3%</td>
<td>14.8%</td>
</tr>
</tbody>
</table>

Source: ONS Census 2011

19 The proportion of unemployed is taken as a proportion of the economically active group (i.e. the employed and unemployed groups).
References


