



counsel + care 
for older people, their families and carers

guide

Information from Counsel and Care: 5

Moving To and Returning From Abroad: benefits and services

There are many older people receiving benefits who want or need to go abroad for either a short or extended period of time. Many do not know how absences from home affect their benefits and what benefits they can get while they are abroad.

This guide explains how a temporary or permanent absence will affect your welfare benefits, and what action you should take if you are planning to leave the UK for a short time.

Some older people want to return to the UK after living abroad. This guide also gives information on claiming benefits on your return.

Counsel and Care is the national charity working with older people, their families and carers to get the best care and support. If you have found our service helpful, please consider making a donation or leaving a legacy in your Will. You can arrange either by telephoning 020 7241 8555 or using the secure service on our website www.counselandcare.org.uk.



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Your donations, legacies and payroll giving enable Counsel and Care to get the best care and support for older people, their families and carers

Counsel and Care is a national charity; however the creation of the Scottish Parliament, and the Welsh and Northern Ireland Assemblies means there are differences in the ways each region cares for and supports older people. The information in this guide applies essentially to England although there may be similarities with Scotland, Wales and Northern Ireland.

We also produce five separate guides for both Scotland and Wales covering the community care assessment of need process; paying care home fees and making a formal complaint which are the key areas where the policy and legislation differ significantly to England. All of the guides we publish can be downloaded from www.counselandcare.org.uk/helping-you/guides or posted to you by calling our guide orderline on 020 7241 8522.

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1 Introduction

For most people going abroad means going for a holiday or to stay with family or friends. Usually the Department for Work and Pensions (DWP), the Government department responsible for benefits, treats these stays as temporary absences. A temporary absence means that when you go abroad, you intend to return. It is important to decide whether your stay is going to be temporary before you go. If you leave the country on a temporary basis you are entitled to more benefits than if you leave permanently.

Nowadays, more and more people are choosing to move or retire abroad on a permanent basis. This can be for a number of reasons. It might be to be nearer to family and friends, for financial reasons or to be in a warmer climate. It is important to gather as much information about the country you move to before you go.

The effect on your benefits when you go abroad permanently depends on which country you go to, for example, if you are staying within the European Union (EU) there are different arrangements compared with a non-EU country. Benefits can also be affected by your immigration status. If there are immigration restrictions on your stay in the UK you should obtain specialist advice before you go abroad or claim benefits in the UK.

2 What you should do before you go abroad temporarily

If you claim any benefits and are planning to leave the UK for a temporary period (for more than four weeks) you should:

- Inform the Pensions Service office that deals with your benefits.
- Inform the Housing and Council Tax Benefit department of the council if you claim either of these benefits.

Try to do this well in advance of your journey so that you know the effect your absence will have on your benefits. Tell them in writing; if possible, six weeks before you are due to go. Tell them why you are leaving the UK and how long you are likely to be away for, as this may affect your entitlement to some benefits. Keep a copy of all your letters for your own records. (Please note you do not have to inform the Pension Service if you are going on holiday for less than four weeks.)

If you go abroad without telling the Pension Service or other relevant departments and you are overpaid benefit, you will have to pay back the overpaid benefit if your case is investigated. If you do not tell the Housing Benefit department, your benefit may stop, which could put your home at risk.

3 Receiving benefits while abroad

If you go abroad and the benefits you claim in the UK will continue, you have to decide how you want to be paid.

- Benefits are now paid directly into a bank, building society or Post Office account in the UK. The benefit could carry on going into your account or into the account of a nominated person who lives in the UK.
- The benefit can be paid directly into a bank account held abroad. In certain countries you can open an account with a particular bank, but the number of benefits which can be paid in this way is restricted.

4 What happens to your benefit when you go abroad?

Each benefit is bound by different rules about entitlement and the length of time that you can get the benefit while you are abroad. For example, you can continue receiving State Retirement Pension and a War Pension for an unlimited period, but you can only claim Pension Credit for up to 13 weeks.

4.1 State Retirement Pension and Bereavement Benefit

State Retirement Pension and Bereavement Benefit can be paid to you while you are abroad regardless of your length of stay. However, you will only be entitled to the annual increases if you live in an EU country, or in the European Economic Area (EEA), or in any other country with which Britain has an uprating agreement, for example, Guernsey, Jersey, Malta, the USA, Turkey, Mauritius, and the former Yugoslav states. Also, if your spouse or civil partner goes abroad without you, you can contact the Pension Service who will look into your pension or bereavement benefit entitlement.

The following countries are members of the EU:

- Austria
- Belgium
- Bulgaria
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia

- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- UK

The European Economic Area (EEA) consists of the 27 member states of the EU plus Iceland, Liechtenstein and Norway. See section 8.5 of this guide regarding EU social security rules affecting Switzerland and Gibraltar.

4.2 State pension forecast

If you are planning to go abroad and are due to retire soon, you may wish to find out how much State Pension you are likely to receive. You can get a State Pension forecast by post or telephone if you live in the UK and are more than 30 days away from your State Pension age. You will need to fill in form BR19 which you can pick up from your local Job Centre, or from the Pension Service (tel.: 0845 3000 168). The Pension Service can give further information and also help with filling out the form. You can also download a copy of the form from their website: www.thepensionsservice.gov.uk. To get a forecast online you must live in the UK, be more than four months away from State Pension age and you must not be widowed or your civil partner has not died.

Your pension forecast will tell you at today's prices the amount of basic

State Pension you may be entitled to receive at State Pension age. This calculation will be based on your National Insurance contributions to date to estimate what your future contributions may be up to your State Pension age. Your forecast will also tell you if there is anything you can do to improve your basic State Pension.

If you are living outside the UK you will need to contact HM Revenue and Customs (tel.: 0845 915 4811 or + 44 191 203 7010 if calling from abroad) for a State Pension forecast and information about your National Insurance contributions up to four months before you reach UK pension age. Their website is www.hmrc.gov.uk.

Changes to the State Pension age have been implemented from April 2010. The State Pension age for women born on or after 6 April 1950 will increase gradually to 65 between 2010 and 2020. From 6 April 2020, the State Pension age will be 65 for both men and women. In line with these changes, the age at which both men and women can apply for Pension Credit will also increase.

4.3 Pension Credit

If you go abroad you can now receive Pension Credit for up to 13 weeks if you are over the age of 60.

If your partner goes abroad without you, your benefit is reduced after 13 weeks (thirteen weeks also if your partner is taking a child abroad for medical treatment). You will then be paid as if you were a single person. However, your partners' income and capital will affect the amount of benefit

you get, unless you do not intend to live together again, or they are likely to be away for more than 52 weeks. (See guide **2: Pension Credit** for more information, which is available to download free of charge from our website: www.counselandcare.org.uk or through our guide orderline: 020 7241 8522.)

4.4 Attendance Allowance, Disability Living Allowance and Carer's Allowance

In October 2007, the European Court of Justice ruled that certain disability and carers' benefits should be viewed as sickness benefits and may be paid to people who leave the UK to live elsewhere in the European Economic Area (EEA) or Switzerland. The new ruling refers to:

- Disability Living Allowance (care component only)
- Attendance Allowance
- Carer's Allowance

Prior to this ruling, you could only continue to receive Attendance Allowance and Disability Living Allowance for up to 26 weeks if your absence from the UK was temporary. The exception to this was if you went to another EEA country *and* your Attendance Allowance or Disability Living Allowance entitlement began before 1st June 1992 and you met the other conditions of entitlement.

Entitlement to keep these benefits when moving to an EEA country will depend on the following:

- you are eligible for a State Pension, long term Incapacity Benefit or

Bereavement Benefits from the UK

- you have paid enough national insurance contributions to be able to claim a UK contributions based sickness benefit like short term Incapacity Benefit
- you are a family member of someone who is entitled to claim a UK contributions based sickness benefit

You can also become eligible as an insured person if you have been paying your National Insurance contributions in the two tax years before wishing to claim the benefit abroad. You will also qualify if you are the spouse, civil partner or dependent child of a person who has paid enough contributions. However, once you are living abroad, you can no longer pay national insurance contributions and at some point, you may cease to be considered an 'insured person' and your sickness benefit or allowance will stop.

If you are able to get a sickness benefit from another EEA state or Switzerland, or if you are working abroad in one of these countries, this could affect your entitlement to take these benefits with you abroad.

Eligibility to claim these benefits will depend on your individual circumstances, and you can get further advice by writing to the Exportability Co-ordinator, Exportability Team, Room C216, Pension, Disability and Carers Service, Warbreck House, Warbreck Hill Road, FY2 0YE, email: exportability.team@dwp.gsi.gov.uk . It may take several weeks before your query is answered. You may also get further advice from the Benefits Enquiry Line on 0800 88 22 00, or the Disability Benefits helpline on 08457 123 456.

These new rulings apply to people who claim a disability or carers allowance while still residing in the UK, and then wish to move to an EEA country. At present, the UK Government is setting out its eligibility criteria for people wishing to claim from another EEA state and will update www.direct.gov.uk when this is ready. Until this time, claims from abroad will not be processed.

If you go abroad for medical treatment you may also continue to receive Attendance Allowance and Disability Living Allowance. There is no time-limit but you must intend to return to the UK. To continue to receive the benefit you will need to give a written programme of medical treatment to the Department for Work and Pensions.

If you go abroad permanently to a non-EEA country, then Attendance Allowance and Disability Living Allowance will stop.

If your Attendance Allowance or Disability Living Allowance stopped while you were abroad you may experience difficulties with re-qualifying benefit if you have been away for more than 26 weeks. You can get further advice from the disability benefits helpline, telephone 08457 123456. For more information on disability benefits, see guide **3: Disability Benefits: Attendance Allowance and Disability Living Allowance**.

4.5 Housing Benefit and Council Tax Benefit

If you are receiving Housing Benefit and Council Tax Benefit this will continue for up to 13 weeks from the time you went abroad, if you

intend to return to your home within the 13 weeks. You must not sublet your property while you are away.

You can get Housing Benefit for up to 52 weeks during a temporary absence from your home if you have moved into hospital for treatment or are receiving medically approved treatment, convalescence or care abroad.

If the council believes that you have been away for over 13 weeks (or 52 weeks depending on the circumstances), your benefit might be stopped.

If you currently receive Housing Benefit or Council Tax Benefit you will need to tell the council if your income will reduce when you go abroad so they can adjust your benefit. You will have to make a new claim for Pension Credit when you return to the UK if you have been away for more than 13 weeks. For more information, see guide **22: Housing Benefit and Council Tax Benefit**.

4.6 Carer's Allowance

Please see section 4.4 about the European Court of Justice ruling on eligibility to Carer's Allowance for people moving to an EEA country or Switzerland. If you are going abroad with the person who you care for, and continue to provide 35 hours or more of care and supervision, Carer's Allowance will continue whilst they receive Attendance Allowance or Disability Living Allowance. When you return to the UK you will need to re-apply for the benefit if your entitlement has ceased or you have been away for longer than six months (26 weeks) in a non-EEA country.

For more information, see guide **10: Carers: what support is available**.

4.7 War Pensions

The same rules apply for this benefit as with State Retirement Pension, with one exception concerning Polish nationals who fought in the British armed services. When you live abroad you receive the same amount of pension and the same general increases as war pensioners who live in the UK, as long as you live in an EU country.

If you receive a War Pension and intend to live abroad permanently, you should inform the Service Personnel and Veteran's Agency (SPVA) (tel.: 0800 169 22 77).

5 Council Tax

You may still be liable to pay Council Tax even if you go abroad. Your liability will only stop if you can show that your main or sole residence is now abroad.

If one person in your household goes abroad it is important that you tell the Council Tax department at your local council. Although they may not be liable to pay the bill, their absence may reduce your bill. People living alone are entitled to a 25% reduction in their bill.

6 Getting your Winter Fuel Payment in an European Economic Area (EEA) country

In certain circumstances, you may be able to continue to receive your Winter Fuel Payments if you have moved to another country within the European Economic Area (EEA) or Switzerland and Gibraltar. You may also be able to claim for past years. For further information about qualifying periods for eligibility to Winter Fuel Payments abroad, you can contact the Winter Fuel Payment Team at the International Pension Centre (tel.: 0191 218 7777 if calling from the UK or + 44 191 218 7777 if calling from abroad). The line is open Monday to Friday from 8 am to 8 pm. You can also obtain information about claiming Winter Fuel Payments abroad from the government information website www.direct.gov.uk.

For more information about Winter Fuel Payments in the UK, see our guide **4: Grants and loans from the state for people on a low income (the Social Fund)**. Or you can contact the Winter Fuel Payment Centre for more details.

7 The Department for Work and Pensions overseas department

The International Pension Centre, part of the Pensions Service (tel.: 0191 218 7777 in the UK and + 44 191 218 7777 if calling from abroad) will answer any questions that you may have about benefits and your pension if you are moving overseas, and it also advises local Pension Service offices when necessary. Make sure you have your National Insurance number to hand when you call and you will need to specify which country you are thinking of moving to. You can also find out information about social security agreements with individual countries from the Department of Work and Pensions website:

www.dwp.gov.uk/international/social-security-agreements

Decision makers (previously known as Adjudication Officers), who work for the Department of Work and Pensions, deal with matters affecting the payment of benefits while you are abroad, or if you have recently returned from being abroad. If you disagree with any decision they make you can appeal. There are strict time-limits for appealing against a decision.

8 Reciprocal social security agreements outside the European Economic Area (EEA)

You can also contact the International Pension Centre (tel.: 0191 218 7777) for leaflets giving information about social security agreements between the UK and other countries apart from the EEA and Switzerland.

These leaflets refer to Barbados (SA43), Bermuda (SA23), Canada (SA20), Guernsey and Jersey (SA4), Jamaica (SA27), Mauritius (SA38), New Zealand (SA8), Philippines (SA42), Turkey (SA22), USA (SA33) and the Republics of the former Yugoslavia (SA17).

The Foreign and Commonwealth Office (tel.: 020 7008 1500) also produce a leaflet 'Going to live abroad'. Copies can be downloaded from their website: www.fco.gov.uk.

9 Moving to another country in the European Economic Area (EEA)

If you are approaching retirement age, or you are already receiving a state pension, you may be considering a move to another country within the European Union (EU), such as France, Italy, Spain or elsewhere. Retiring to a country within the European Union can seem an attractive option. The European Community (EC) Regulations mean that all people from within the European Economic Area (EEA) are generally treated the same and have their benefit rights protected as long as they are or have been employed, self-employed, or are getting benefits.

It makes good sense for you to be fully informed about your benefit rights and what health services you can expect if you plan to settle in another EU country.

Recent changes to exported benefit allowances have come into effect so please refer to section 4.4 regarding the new European Court of Justice ruling on eligibility to Attendance Allowance, the care component of the Disability Living Allowance and Carer's Allowance for those people moving to an EEA state or Switzerland. You can also contact the International Pension Centre, part of the Pension Service (tel: 0191 218 7777 or +44 191 218 7777 if calling from abroad) for up-to-date information, or go to the website www.direct.gov.uk. You can also write to the Exportability Co-ordinator, Room C216, Pension, Disability and Carers Service, Warbreck House, Warbreck Hill Road, FY2 0YE, email: exportability.team@dwp.gsi.gov.uk.

10 Healthcare in the European Economic Area (EEA)

It is worth finding out about the healthcare system of the country where you plan to settle in the European Economic Area (EEA). In some countries, the healthcare system may not cover all the costs or provide all the services you would normally expect from the National Health Service (NHS) in the UK. It is also important to be aware that you will no longer be automatically entitled to medical treatment under normal NHS rules if you have moved outside of the UK for a period longer than three months. Eligibility to NHS free healthcare is residence based and you may be required to show that you have an intention to settle in the UK. You may be able to use the European Health Insurance Card (EHIC), see paragraph 10.7, issued in the country where you have settled in order to obtain NHS medical treatment if you are in the UK for a holiday or on a temporary basis. You can obtain country by country details on healthcare by logging onto:

www.nhs.uk/nhsengland/Healthcareabroad/pages/Healthcareabroad.aspx.

10.1 Using form E121 and form E106 to access healthcare

If you are moving to a country within the EEA and you are entitled to a UK state retirement pension, you will need form E121 to access the healthcare system. The Department of Work and Pensions should automatically check to see if you are entitled to the E121 form when you inform them that you would like your pension paid to you in another EEA country.

So long as you are eligible for the E121 form, you should be able to receive the same level of free or reduced cost healthcare as other pensioners living in your adopted country. It would be advisable to write or contact the International Pension Centre, part of the Pensions Service (tel.: +44 191 218 7777) to ask for form E121 as soon as possible before you go. You should then hand in the E121 form as soon as possible to the authorities who run the health insurance scheme in the country where you have chosen to live.

If you do not receive a state pension but you are planning to move to another EEA country to live, but not to work, then you should apply to the Pension Service for form E106. The E106 form will entitle you to healthcare in a member country of the EEA for a limited period of time (maximum of two and a half years of state healthcare cover paid for by the UK) dependent on the level of national insurance contributions you have paid over the previous three years before you leave the UK. Once you move abroad, you should register the E106 form with the authorities who run the sickness insurance scheme in your chosen country. Family members who are not eligible for form E106 may get health cover on your own E106 form, although this will depend on the policy of the individual country where you wish to reside.

10.2 Private medical insurance

You may also wish to consider taking out a private medical insurance to pay for any costs not covered by the healthcare system of the country you are moving to. This might include dental treatment, ambulance services, prescription charges or medical repatriation to the UK.

10.3 Exceptions

If you have never worked, or paid your national insurance stamps, the EEA Regulations may not apply to you. However, if, in the past, you have been employed or self-employed and you have paid your national insurance stamps, they may still be applicable to you. You may wish to contact the International Pension Centre, part of the Pensions Service (tel.: +44 191 218 7777) for further clarification.

10.4 Changes in France

Due to recent changes in France on eligibility for healthcare, people who are now planning to retire early to France from another European country, including the UK, and are not working nor yet receiving a state pension (after 23 November 2007) are no longer be covered by the French healthcare system. People who have already settled in France before that date will not be affected by these changes. If you are an E121 holder and already over state pension age, you will still continue to be covered. If you hold a form E106, then you will be eligible for healthcare for a limited period of time, see section 10.1.

If you are not eligible for healthcare due to the changes, it would be advisable to take out private health insurance. If you think these changes will affect you, you may wish to seek further advice. You can contact the CPAM (Caisse Primaire Assurance Maladie) which has a regional office network , the French Health Service (English language service) on +33 8 20 90 42 12, or the Overseas Medical Benefits helpline on +44 (0) 191 218 1999.

French healthcare is generally paid up front prior to treatment or consultation, and the patient is then reimbursed by CPAM for about 70% of the cost. The balance is paid by the patient or by private health insurance.

10.5 Gibraltar and Switzerland

The UK does not treat Gibraltar as another EEA country but it has a special agreement on healthcare with Gibraltar. If you receive a UK state pension and are planning to live in Gibraltar, then any medical treatment will be paid for by the Gibraltar authorities without requiring insurance contributions. However, you will have to pay prescription charges.

The rules which cover the EEA member states on social security benefits are also applicable to Switzerland.

10.6 The Channel Islands and the Isle of Man

The Department of Health terminated the reciprocal health agreement between the UK and the Channel Islands, including Jersey, Guernsey and Alderney in 2009. This means that UK visitors to the Channel Islands now need to take out a private health insurance to cover the cost of medical treatment on the islands. Likewise, Channel Island residents will no longer have a right to free healthcare on the NHS and will need to be covered by private health insurance. The Department of Health has also announced that the reciprocal health agreement with the Isle of Man will terminate from 1st April 2010. Islanders visiting the UK will

need private health insurance to cover the cost of treatment on the NHS and UK visitors to the island will no longer be able to get free healthcare. The Channel Islands and the Isle of Man are not members of the EEA and therefore the regulations covering the EHIC card, E106 or E121 forms do not apply.

10.7 Differences in Spain

If you are planning to settle in Spain, you will be charged for treatment if you do not have the E121 form or the E106 form. You will need to inform the local Spanish sickness office before treatment if you wish to be treated under the EEA rules and if you have applied for the form E121 or E106 form. To get a refund, you will need to make a claim to the Instituto Nacional de Seguridad Social (INSS) once you have your forms.

However, until your form E121 or E106 is registered with the local sickness insurance office, you will not be entitled to free healthcare. The sickness insurance authorities may not register your forms if you have not yet received your residency permit. It would be advisable to give a copy of the residency application form when registering your form E121 or E106.

Temporary healthcare would then be provided until a decision is made on the residency application. However, in the event that the authorities do not backdate the registration, it may be advisable to take out a private medical insurance for this period.

Non-working expatriates who have settled in the Valencia region of

Spain and who had automatic state provided healthcare rights withdrawn due to pressure on local financial resources can now access medical care by paying a monthly insurance premium. People with pre-existing conditions will not be discriminated against. Residents who hold an E121 or an E106, or who are in receipt of a UK state benefit, will continue to have free access to healthcare. The new scheme of 'reasonable' monthly contributions was introduced in October 2009.

10.8 Visiting another EEA country on a temporary basis

If you are on holiday, or temporarily visiting another country in the EEA, you will be entitled to receive any medical treatment that you require during the period of time that you are in that country. This will also include treatment for previously diagnosed or chronic conditions, so long as the purpose of going to that country was not solely to obtain medical treatment for that particular condition. In order to access this eligibility to EEA healthcare, you will need the new **European Health Insurance Card (EHIC)** which has now replaced the former E111 form that was previously available in the UK.

You can obtain the EHIC through the Prescription Pricing Authority (PPA), (tel.: 0845 606 2030; www.ehic.org.uk). If you wish to apply by post, you can pick up an EHIC application pack from the Post Office. You can also include the details of any family members who live with you.

10.9 The right to treatment in the EU

In January 2010, a new Health Act was passed through Parliament

introducing the NHS Constitution which places new legal obligations on providers and commissioners of NHS care in England giving the right to NHS patients to seek treatment in other EU countries in 'certain circumstances'. This follows a ruling by the European Courts of Justice in 2006 that all EU patients have the right to seek treatment in other EU member states if they face an 'undue delay' in obtaining the appropriate treatment or surgical operation in their home country. The House of Lords EU committee has advised that clear rules need to be established for cross-border healthcare and these should be set within a legal framework.

11 Social care services abroad

It would be helpful to research what level of social care services you can expect to receive in your adopted country should you need home help or residential care services in the future. Unlike the reciprocal healthcare agreements made between different countries, there are no similar social care agreements within the EEA or elsewhere. State provision of social care varies greatly from country to country and what provision is available may have to be privately funded. State funded residential care may not exist in many countries especially where families remain the main providers of support, and private care homes, if available, may be expensive. In addition, if you do move into a residential care home in another country, you may find that staff and residents speak little English and that the dominant culture is very different from what you are used to.

12 Seeking independent advice on tax and your finances

If you have made your home outside the UK, then you will be subject to different taxation rules dependant on your adopted country.

You may want to seek independent tax advice and look into the benefits of offshore banking prior to moving or retiring abroad. An offshore bank account may be able to help you reduce your tax liabilities.

Offshore banking facilities may provide you with independent financial advisors who are understanding of your own particular circumstances, and can help you with a variety of independent financial advice and assistance. You can find a local Independent Financial Advisor from IFA Promotions' website (www.unbiased.co.uk).

13 Looking for property abroad

If you intend to live abroad, you will need to start looking for a suitable home. It may be advisable to begin with renting a home and to seek professional legal advice if you intend to buy a property.

Your local British Embassy, High Commission or Consulate will provide you with a list of lawyers who can advise you on the legal process and costs involved and on the specific rules and regulations relevant to property purchase in that country. Choose a lawyer who can speak both the native tongue and is fluent in English. Seek advice from qualified professionals and only use estate agents who are officially registered and hold a licence.

14 Getting to know your adopted country

Before settling into another country, it may be helpful to familiarise yourself with the culture, history and geography of the area where you intend to live. You can carry out this research with books borrowed from your local library. Alternatively, you can find out a lot about a country or a specific region via the internet. You may also wish to get in touch with expatriate organisations in the country where you intend to live.

Before settling into another culture and country, it is always helpful to learn the basics of the language of your adopted country so that you can begin to feel comfortable communicating and relating with the local community.

15 Forward planning for a return home

It is worth bearing in mind that once you have lived abroad for two years or more and if you no longer have a property or address in the UK, it may be difficult when returning to the UK to meet any care, support, or health needs you may have. Accessing services provided by a local council can depend on having a residence in its local area, and on being viewed by the local council as being 'ordinarily resident' in that borough. The term 'ordinarily resident' has not been defined by Parliament, but has in case law been applied to 'someone who has moved into an area with the intention to settle for the time being, whether of short or long duration'.

The issue of whether or not someone is 'ordinarily resident' in an area may lead to disputes with the local council or delays in obtaining access to community care services and accommodation or means tested benefits like housing and council tax benefit. In regard to entitlement to other means-tested benefits such as Income Support, Pension Credit and Disability Benefits, the Department of Work and Pensions may require a person who has recently returned to the UK after a period of absence to undergo a 'habitual residency test' to show that they have a settled intention to remain in the UK (see section 15.1).

If your health deteriorates and you need to return to the UK, then you will probably need to arrange to have an address to return to. Social services do not have any duty to arrange services or accommodation for you until you are living in the area so it is unlikely that you can arrange

care services in advance of arriving back in the UK.

The local council social services department does have a duty to carry out an assessment of needs if you are vulnerable, disabled and elderly but it may dispute its responsibility for providing services if you are not 'ordinarily resident' in that borough. It is therefore very important that you give some thought to this issue and plan carefully for your long-term care needs if you are retiring to live abroad.

15.1 Financial investment for future care

If you are financially able to, you may wish to consider investing in care fees planning and seeking advice about long term care provision before you retire abroad. It is important that you seek a range of advice and suitable options from a financial adviser trained and registered with the Independent Financial Advisers Services and that they have expertise in the financial advice about care fees planning. Whilst Counsel and Care is unable to recommend any specific organisations, some sources you may wish to consider are NHFA (tel.: 0800 99 88 33; www.nhfa.co.uk), Saga Care Funding Advice service (tel.: 0800 056 8153; www.saga.co.uk/money-shop/care-funding/) or Eldercare Solutions (tel. 01707 368 945; www.eldercare-solutions.co.uk).

16 Returning to the UK

16.1 Claiming benefits – habitual residency

If you have just entered or returned to the United Kingdom and wish to claim benefits, it will depend on one or more of the following:

- The National Insurance (NI) contributions you have paid during your working life
- NI contributions you have paid for a particular period of time
- Whether you live in the UK now
- Whether you usually live in the UK
- Why you have come to or returned to live in the UK
- Whether your entry to the UK is subject to limitations or conditions.

If you have been living out of the UK for more than two years, you may be asked to do a Habitual Residency test to establish to the authorities that your return to the UK is intended to be permanent. This applies to all claimants who may wish to claim for:

- Income support
- Income-based Jobseeker's allowance
- Pension Credit
- Housing and Council Tax Benefits.

The term 'habitually resident' is not defined in benefit regulations, but there is substantial case law about the test. There is no absolute definition or list of factors which determines a person's habitual residence and a conclusion on this matter rests with decision makers within the local council or with the Department of Work and Pensions. A person

who is habitually resident in the UK must have a 'settled intention' to reside here, a question of fact which is decided by looking at all the circumstances.

Factors which may be taken into account include:

- Bringing your possessions with you
- Travelling on a one-way ticket
- Selling your property abroad
- Securing accommodation in this country
- Bringing your family with you
- Registering with a doctor, dentist, electoral role, and so on
- Your future plans.

Unless a person is exempt from the test, most people will have to be actually resident in this country for a period of time before becoming habitually resident. There is no set time-limit for this, and can be anything from a few days up to six months, but it does depend on the facts of each case. Government guidance has suggested that UK nationals returning to the country to re-establish their ties here, and who have strong connections with the UK such as family ties, or past work history, should be treated as habitually resident as soon as they return. However, the rules governing the Habitual Residency test are complex and it is important to seek advice if you are in any doubt about the test.

16.2 How to appeal – habitual residency

If you are refused benefits because you have failed to pass the habitual residency test, you can request a revision, supersession or appeal to a

tribunal. You will need to put your request for reconsideration of the benefits in writing to the office that sent you the decision letter within one month of the date on the letter (except in exceptional circumstances). You must also send to the office any evidence to support your case. The department may make a decision based on this evidence or decide to refer your case to the Tribunals Service.

16.3 Claiming Pension Guarantee Credit

If you have paid UK National Insurance contributions while you lived abroad, you will be entitled to a state pension if you satisfy the Habitual Residency test. If your income or pension is lower than what is termed the 'appropriate amount,' which is the minimum amount the Government says a person needs to live on, currently set at £132.60 per week for a single person and £202.40 a week for a couple, then you may be eligible for Pension Guarantee Credit. This is a means-tested benefit based on what you are receiving from your State Retirement Pension, private or occupational pension, an assumed income from savings (£1 for every £500 above £10,000), earnings and certain social security benefits. Pension Guarantee Credit tops up the weekly income to meet the minimum level set by the Government.

16.4 Claiming Housing Benefit and Council Tax Benefit

If you receive Pension Guarantee Credit, you may be entitled to claim other benefits including Housing Benefit and Council Tax Benefit, along with free dental treatment and help with paying for glasses.

If you have lived in the UK for less than five years and you go abroad then

you may have trouble claiming Pension Guarantee Credit and Housing Benefit when you return. This is a very complicated area so it is a good idea to get specialist benefits advice on your situation from the Pension Service. You can call the Benefit Enquiry Line (tel.: 0800 88 22 00).

You have to have been in the UK for six of the last 12 months to claim:

- Attendance Allowance
- Disability Living Allowance, or
- Carer's Allowance.

16.5 Health Services

Free NHS treatment is based on your residency in the UK. People of any nationality coming to the UK are entitled to the same National Health Services as any other citizen; this is as long as they are coming to the UK to make this their permanent home. The Department of Health states that those who come to this country to make it permanent should show evidence of this, for example, registering with a local GP. NHS Hospital Trusts have a duty to check evidence of entitlement to free healthcare and so you should be able to show documentary evidence of exemption and entitlement if required. If you are a UK citizen who has moved abroad for more than three months, or 6 months for pensioners living in another EEA member state, you may lose your entitlement to free NHS treatment until you can show evidence that you intend to re-settle in the UK. However, if you have lived in the UK for ten continuous years at some point but are now living in an EEA member state or another country with which the UK has a bilateral healthcare agreement, then you are entitled to free NHS treatment and care. If you are a UK

pensioner and live part time in an EEA country you are entitled to free hospital treatment during the period that you live in the UK if you stay here for at least six months each year and you are not registered as resident in the other member state. If you are residing in a country within the EEA, but you are visiting the UK, you should show your European Health Insurance Card (EHIC) issued from that country. If your EHIC is lost or stolen you can apply to your overseas domestic healthcare insurance provider for a Provisional Replacement Certificate (PRC) which you should then present to the hospital. If you have returned to the UK from a non-EEA country with which the UK has no bilateral agreement, you will be expected to pay for medical treatment unless another exemption applies to you.

16.6 Accommodation

Accommodation can be provided by councils, housing associations and private landlords. Councils and housing associations are generally unable to give priority accommodation to people returning from abroad due to the heavy demand and shortages of accommodation in many areas. You may have to rent accommodation privately or move in temporarily with either friends or relatives if you no longer have a home in the UK. You can find details of accommodation for older people in a local area through the Elderly Accommodation Counsel (tel.: 020 7820 1343; www.housingcare.org), which holds details of care homes, sheltered housing schemes, and extra care housing schemes across the UK. The Abbeyfield Society is a charity which provides housing with care to older people (tel.: 01727 857536, www.abbeyfield.com).

Local councils do have responsibilities to provide emergency accommodation to certain homeless people, but the legislation excludes some people moving to the UK from abroad having access to council housing. For more information, see our guide **7: Housing decisions and options in later life** and guide **30: Extra Care Housing**.

16.7 Social services and residential care

In order to be able to claim any assistance from your local council social services, such as an individual needs assessment for community care services or eligibility for 24 hour care in a residential or nursing care home, you will also need to be what is normally termed 'ordinarily resident' in a local borough. You will need to show that you intend to live in the area, for example, by signing on with a GP practice as soon as possible.

If you feel that you are in need of services, contact your council and ask for an assessment of your care needs. For more information about assessment, social care services and residential care, see guides **12: Assessment and services from your local council in England**, **14: Help at Home: what may be available in your local area**, and **16: Care Home Fees: paying them in England**.

16.8 Help for Britons living in Zimbabwe

The UK Foreign office announced last year that special assistance will be offered to older and vulnerable British citizens who are living in Zimbabwe, if they wish to resettle in Britain because of the difficult economic and political circumstances affecting that country. The

resettlement scheme will aim to help older and sick Britons over the age of 70 years with savings and capital under a £20,000 threshold and who are no longer able to access or pay for medical care or make their own arrangements to return to the UK. The offer is available to people who fall within this criteria and who arrive in the UK from Zimbabwe before 18 March 2011. People who are eligible for this help may get assistance in funding for flights, finding accommodation and receiving state benefits.

Our advice workers can advise on a wide range of issues affecting older people, their families and carers. Counsel and Care produce a range of guides which can be downloaded from our website www.counselandcare.org.uk, or requested by calling our guide orderline on 020 7241 8522.

This guide is not a full explanation of the law and is aimed at people over 60.

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