

IMMIGRATION: KNOW YOUR RIGHTS



Immigration information for migrant women in Scotland who have experienced or are experiencing gender-based violence

Are you a woman in Scotland who has experienced gender-based violence and immigration issues?

We understand that issues with immigration status in the UK can be a barrier to women in Scotland seeking help and advice where they have experienced gender-based violence. Immigration status issues can come in many forms, for example: not having permission to stay in the UK, overstaying a visa, or being in the UK on a spouse/partner visa.

This leaflet gives a brief overview of immigration advice that you might find useful. Immigration rules can be very complex so it is important to get independent legal advice from a solicitor who can look at your particular circumstances and advise you on what is best for your circumstances.

If you are a victim of human trafficking or exploitation, this can be relevant for your immigration status. You can find more information on JustRight Scotland's website: https://www.justrightscotland.org.uk/topic/anti-trafficking-exploitation/?post_type=jr-factsheet

LEGAL ADVICE

If you have an issue regarding your immigration status in the UK, it is very important that you get legal advice.

A solicitor specialising in immigration advice will be able to look at your particular circumstances and give you advice on your immigration options in the UK. The information you share with your solicitor is confidential and this confidentiality can only be breached in limited circumstances.

Solicitors are not under any duty to inform the Home Office of your immigration status.

You can find an immigration solicitor to help you through the Law Society of Scotland website: www.lawscot.org.uk/find-a-solicitor

It is important that you stay in touch with your solicitor. If you are questioned by the police they may contact Home Office UK Visas & Immigration to check your immigration status. You should keep your solicitor's details with you so that you can contact them if you need to.

The Scottish Women's Rights Centre (SWRC) can also provide free advocacy and legal support on immigration issues. You can find more information on the SWRC website: <https://www.scottishwomensrightscentre.org.uk/i-need-help/>

Legal Aid

If you cannot pay for a solicitor to help you, you may be eligible for legal aid. The Scottish Legal Aid Board (SLAB) administers legal aid in Scotland. You do not need to apply for legal aid; the solicitor representing you will make the application. You can check if you might be eligible for legal aid by visiting SLAB website at: www.slab.org.uk/new-to-legal-aid/eligibility-estimators/

VICTIMS OF DOMESTIC VIOLENCE AND ABUSE

You may have a visa to stay in the UK as the spouse/partner of someone who is a British citizen or has settled in the UK (including as a refugee). If you are experiencing domestic violence and abuse from them, you may be worried that if you leave the relationship, you will automatically lose your permission to stay in the UK. Domestic violence and abuse can be emotional, psychological, physical, sexual, or financial. It includes threatening or controlling behaviour to try to harm, isolate or frighten you.

If your relationship has broken down because of domestic abuse, you may be able to apply to the Home Office for indefinite leave to remain in the UK ('settlement') through an immigration application process specifically for victims of domestic abuse whose leave to remain in the UK is linked to a spouse or partner who is a British citizen or has settled in the UK (including as a refugee).

You should apply as soon as possible after the relationship breaks down. You do not have to wait until your current visa expires.

If you do not have any way of supporting yourself, you may be able to apply for temporary access (up to three months) to public funds (benefits) through the 'Destitution Domestic Violence (DDV) Concession' while you apply for and wait for a decision on your application for settlement in the UK as a victim of domestic abuse.

These applications can be complex. Therefore it is very important that you get specialist legal advice.

ASYLUM

If you believe you will be at risk of serious harm if you return to your home country and your country's government cannot or will not protect you, you may need international protection. You can seek international protection in the UK by making a claim for asylum. By making a claim for asylum, you will be asking for permission to stay in the UK for your own safety as a Refugee or by being granted Humanitarian Protection.

Claiming asylum is a complicated process and you have the right to legal advice. It is very important that you have a solicitor to advise and help you with your asylum claim. It is very important that you get legal advice as soon as possible.

No Recourse to Public Funds – 'NRPF'

NRPF is a condition that may be attached to your immigration status in the UK. The NRPF condition can limit your access to some benefits and social housing in the UK.

The NRPF condition only applies to specific listed public funds. These include (but are not limited to):

- Child benefit
- Council tax benefit
- Disability living allowance
- Income Support
- Universal Credit
- Housing & homeless assistance

The NRPF condition does not include:

- Scottish Legal Aid
- Free school lunches
- Early learning childcare support
- Access to some health services
- Local authority/social work assistance for vulnerable adults and children

The NRPF condition may be linked to your immigration status from before you came to the UK (when you applied for a visa to enter and stay in the UK) or after you arrived in the UK. **Examples include (but are not limited to):**

- Spouse visa
- Student visa
- Work visa
- Asylum seekers
- Migrants without permission to be in the UK
- Visa overstayers

The NRPF condition may be preventing you from leaving an abusive relationship because you believe you will be homeless and destitute if you leave. It may also put you at risk of being exploited or prevent you from seeking the help you need.

Your options will depend on the type of immigration status you have. There are situations where you can apply to the Home Office to remove the NRPF condition, for example if your circumstances have changed. You may also be eligible for a different type of immigration status that does not have an NRPF condition.

You can find more information about the NRPF condition on the SWRC's blog: <https://www.scottishwomensrightscentre.org.uk/news/covid-19coronavirus-info/no-recourse-to-public-funds-and-migrant-women-living-with-abuse/>

Immigration law is very complex and therefore it is very important that you get specialist legal advice as soon as possible.

EUROPEAN UNION SETTLEMENT SCHEME

If you are:

- a citizen of an EU country (including Norway, Iceland, Liechtenstein and Switzerland), or
- married, in a civil union or in a long-term relationship with a citizen of an EU country (including Norway, Iceland, Liechtenstein and Switzerland)

and you started living in the UK before 31 December 2020, you should have applied to the EU Settlement Scheme before the deadline of 30 June 2021.

If you didn't submit an application or have questions about your immigration status, benefits or your experience of abuse, the following organisations can advise you:

- **Citizens Advice Scotland:** 0800 916 9847 (Monday to Friday, 9am – 5pm)
They offer information and support to apply to the EU Settlement Scheme.
www.citizensadvice.org.uk/scotland/immigration
- **Citizens' Rights Project:** This organisation offers support to apply to the EU Settlement Scheme.
www.citizensrightsproject.org/1-2-1-support/

GENERAL HEALTH SERVICES

You have the right to free, confidential healthcare from a GP (called 'primary care'). You can register by visiting your local GP surgery.

You can also access accident and emergency services at NHS hospitals, for example those provided by an Accident & Emergency department, walk-in

centre, minor injuries unit, or urgent care centre, for free. Depending on the type of permission you have to stay in the UK, if you are admitted to hospital, you may have to pay for treatment.

Depending on the type of permission you have to stay in the UK, you may have to pay for other types of healthcare. This can include dental or eye care.

You can find information about health services available in your area as well as other useful health information at:

- NHS Inform: www.nhsinform.scot

MATERNITY AND CHILDREN

If you are pregnant you can access maternity care. Depending on your immigration status and the type of permission you have to stay in the UK, maternity care may be free. The Scottish Government policy is that maternity services are 'immediate and necessary treatment'. This means you should never be denied maternity services or have maternity services delayed because of your inability to pay for these services.

You can find the contact information for the maternity service in your local area online, where you will be able to book an appointment with a midwife.

Your GP surgery can also refer you to a maternity service where you can meet a midwife who will help you with your pregnancy. You can access antenatal classes to learn about giving birth and get help and advice on how to look after your baby when they are born.

FURTHER SUPPORT

If you need more information on anything in this guide, or if you are experiencing or have experienced gender-based violence and/or immigration issues, the SWRC can help with advocacy, legal advice and putting you in touch with other services. Find out how we can help on our website: <https://www.scottishwomensrightscentre.org.uk/i-need-help/>