


Key obstacles to social security benefits for EU nationals

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Levels of obstacles

- **Legislation** - *complex & increasingly restrictive*
 - **Interpretation through courts** - *some (not all) increasingly restrictive*
 - **Decision making on claims & mandatory reconsiderations** - *poor & slow; guidance incorrect &/or not followed*
 - **Access to making claim / challenging decision** - *limited points of access; language barriers; poor frontline advice on entitlement; diminishing independent advice*
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Obstacles within legislation

- **Within social security legislation** - *the entitlement conditions relating to residence and presence that you need to satisfy for each benefit*
- **Within EU legislation & domestic immigration legislation** - *who / what circumstances can satisfy the conditions*


UK Government have made both domestic social security & immigration legislation more restrictive for EU nationals

Requirements in social security legislation causing most problems for EU nationals


Delayed entitlement due to:

- habitual residence test
- requirement to have been living here for past 3m before date of claim
- 2 year past presence test


Exclusion from benefit due to:

- requirement to have a qualifying right to reside
 - requirement that UK be the 'competent state' to pay sickness benefits for those covered by the EU co-ordination rules
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2 year past presence test

- for Disability and Carers Benefits
 - limited exceptions provided in the legislation
 - including some specifically for those covered by the EU co-ordination rules (cover many EU nationals)
but these are being interpreted increasingly narrowly
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Right to reside

- **Significant restrictions introduced 2014** - esp affecting EU jobseekers
 - **Social security legislation** - in particular excluding EU jobseekers from HB, but also requirement to be living here past 3m
 - **Immigration legislation** - in particular requiring jobseekers evidence to be 'compelling' to continue to have a right to reside >3m
('Genuine Prospects of Work' ('GPoW') Test)
 - **2015** - EU jobseekers excluded from UC - unless have another R2R
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Implementation - examples

Housing Benefit - many Local Authorities failed to amend procedures in response to change in law - no investigation of R2R = huge numbers of incorrect refusals of EU JSA claimants

GPoW - v restrictive guidance & decision making

DWP's research: in 2015/16 number of EEA nationals whose JSA remained in payment following GPoW = **8%**

Combined impact of restrictions on EU jobseekers

- 3m delay before can get benefits
 - no access to help with housing costs
 - extra hurdles after claiming for 3m
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EU jobseeker arrives in UK with child

Advice = be careful where you live


Under legacy benefits -

- nothing for 3m
- then can claim ib-JSA, CTC & CB
(approx £157pw)
- after claiming for 3m will be subject to GPoW

In UC Full Service Area -

- nothing for 3m
- then can claim CB
(approx £20pw)
- after claiming for 3m will be subject to GPoW

Looking forward...

- Brexit (whatever that might mean for EU nationals in UK) - taking effect (probably) 2019
 - UC - transfer of claimants from legacy benefits currently scheduled to begin in 2019
 - Combined impact of these changes.....??!!
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Thank you for listening

***Any contributions
or
questions?***

