

Spotlight on: assurance process for returning UK citizens and habitual residency

Background

United Kingdom (UK) citizens returning to the UK from the European Union (EU) and claiming DWP benefits are still required to undertake the Habitual Residence Test (HRT). There is no change to this process. A new referral process is required in cases where a claimant is a British national returning from the EU.

The referral only applies where the decision maker is considering making a negative decision on habitual residency. Any other decision must be made using the current process.

However, in cases where there is any doubt that the claimant may not pass the tests, there is a mandatory assurance process to support decision makers to make the correct decisions.

Claimants who are returning to the UK after a prolonged absence may not be familiar with the process for claiming benefits. The process of gathering Habitual Residency Test evidence must be handled sensitively.

Who the assurance process applies to

In all cases involving persons returning from EU member states, and following full consideration of guidance and evidence - where the claimant may **not** satisfy the residence test (factual habitual residence), cases must be referred via a SIL to the Decision Making and Appeals(DMA) Leeds Team for further advice using the templates below. This must be done before a decision is made.

How to refer

Step 1:

Local decision maker to draft the appropriate referral template to DMA Leeds. Check it is completed correctly, read the notes and sign and date it. Pass to a SIL to raise a JIRA ticket:

DMA Leeds HRT guidance template – returning UK nationals only

The referral must show that referral to DMA Leeds is needed. It must not contain the claimant's name, National Insurance number or personal details (the claimant can be identified by the information on JIRA).

Step 2:

SIL to complete the template for the JIRA ticket. Raise the JIRA question ticket in the usual way and attach the template. The **summary (title)** for all cases must be 'Returning British national HRT referral required'. The description must include brief details that the decision maker has considered the evidence and is considering making a negative decision. The referral template must be checked to ensure there are no claimant details included and then uploaded to JIRA

Step 3:

Universal Credit third line support to triage the ticket. Apply a label and liaise with policy and DMA Leeds.

Step 4:

DMA Leeds, Policy and Legal to review the negative decision and will either agree it or advise of the positive decision that must be made. They will keep a list of all negative decisions.

Step 5:

SILs will monitor and action the JIRA response and inform the local decision maker

Step 6:

Local decision maker will make the outcome decision and notify the claimant.

Note: A positive outcome decision can be made at any stage in the process.