



KNOW YOUR RIGHTS



English

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Law changes, seek advice where needed

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Employment: Know your Rights

Do I have the right to work?

Not everyone has the right to work in the UK.

You can work if:

- You're British, Irish, or a European Economic Area (EEA) national;
- You have leave to remain (permission to stay) explicitly allowing you to work;
- You're a recognised refugee, or have humanitarian protection in the UK;
- You have a visa issued by the British embassy abroad that allows you to work, such as a spouse visa or a student dependant visa.

Work visas often restrict the work you can do. If you're a student, your right to work will depend on your visa, and there are some specific restrictions.

Remember! Your biometric residence permit (BRP) will usually say whether you can work and if there are any restrictions.

After 2021 newly arrived EEA nationals may no longer automatically have the right to work as the UK is leaving the EU. For more on this, see our immigration briefing.

You are generally not allowed to work if:

- You have leave to remain in the UK for six months or less (this includes visitors, people on a marriage/fiancée visa and short-term students);
- You have no leave to remain in the UK at all;
- You're an asylum seeker.

Asylum seekers who have been waiting more than a year for a decision can request the right to work, but it's tricky. If granted, you'll be limited to jobs on the 'shortage occupation list' – an official list of occupations that don't have enough resident workers to fill vacancies. In practice, finding work this way is often hard.

In most cases, if you're allowed to work, you're also allowed to be self-employed (work for yourself). This isn't the case if you're a student, or if you're a work-permit holder, in which case you can only work for your sponsor.

Know your Rights: Employment

How do I prove I have the right to work?

Any employer needs to know their employees have the right to work in the UK. Businesses can be heavily fined if they're caught employing illegal workers – sometimes these fines can be so big they can force the business to close. This means employers usually want to see very straightforward paperwork from you, and can be reluctant to accept anything else. If you get the job, your employer could tell you to stop working when your leave to remain is about to expire – even if you've applied for further leave to the Home Office in good time.

If this does happen, it's important to know you have the right to stay. As long as you have the right to work and you apply for further leave before your leave to remain expires, you're entitled to keep working as you did before. This is called '3C leave' (after the relevant section of the Immigration Act 1971). Many larger employers are familiar with 3C leave, but they often get it wrong.

Ask your employer to go to the on the Home Office website and use the employer checking service. The Home Office will issue a Positive Verification Notice confirming your right to work.

Remember! It's not lawful for an employer to fire you just because they think your leave to remain has expired and they've not checked whether you are still allowed to work.

Working for an agency

Many people in the UK find work through agencies. An agency will place you with a business, but you are not an employee of that business. You are also not usually an employee of the agency. So what exactly is an agency worker?

An agency supplies workers to companies. As an agency worker, you'll have a contract with an agency, and you'll be paid directly by that agency for work you do.

You are protected as an agency worker through the Agency Workers Regulations 2010. This means that after 12 weeks of continuous work for the same company, you have a right to some of the same basic rights as permanent employees such as pay, working hours, night work, rest periods, and annual leave (prior to this you would only be entitled to statutory minimum rights). There are some exceptions, such as occupational sick pay, redundancy pay, pension contributions and maternity leave.

Know your Rights Employment

Many businesses offer zero-hour contracts. This means you get a job, but your hours aren't fixed or guaranteed. You may work regular hours, but you may not, and so it can be difficult to earn a living wage. In the past, employers sometimes told workers on zero-hour contracts that they had to be available for work at all times, even if they weren't given any work to do. This is called an 'exclusivity clause', and it's no longer legal.

Remember! You can, if you wish, juggle several zero-hour jobs, taking work where you can. If your employer fires you because you take on another contract, it could be deemed unfair dismissal. This means you may be able to take action through an employment tribunal.

Can my employer make deductions from my wages?

Your employer needs to deduct tax and national insurance from your wages and make sure this money's paid to the UK tax office (HMRC). Any other deductions can only be made with your permission. Check any contract you're asked to sign for any mention of further deductions. Your employer cannot unilaterally make deductions otherwise.

What about tips?

If you work in the hospitality industry (such as hotels and cafes) you may receive gratuities, or tips. Employers have different policies on tips. Some let you keep what you get, and some take and redistribute tips to include 'invisible' members of service staff, such as kitchen porters and chefs

Remember! Your employer must pay you the minimum wage – any tips you receive are separate to this. They cannot use your tips to make up part of your minimum wage. Use the Tips at Work guide to figure out how tips could affect how much tax you must pay.

What should I do if I have problems with my employer?

- Firstly, keep a record of all events – particularly any possible acts of discrimination. (You may be eligible for legal aid for your case if your complaint involves discrimination.)
- Raise the matter informally or through grievance or appeal processes if you can.
- Get advice on your particular circumstances as soon as you can. Remember, many claims need to be raised within three months less one day of the date of the problem.
- The first step in the legal process is raising matters through Acas Early Conciliation. This is to avoid court action when possible.
- If this does not resolve matters, the next step is to raise a complaint at an employment tribunal.
- Your claim can be settled or resolved out of court – usually through an Acas settlement agreement.
- If the matter is still not resolved, it will usually proceed to a court hearing.

Know your Rights Employment

Where can I go for more help?

Central England Law Centre - Coventry office

(www.centralenglandlc.org.uk)

02476 223 053

If you live in Coventry, you can get advice here by visiting the office or phoning. Their advisers can help with representation and advocacy at employment tribunals and employment appeal tribunals, and they have interpreters available too. They can take on cases.

Advisory, Conciliation and Arbitration Service (ACAS)

(www.acas.org.uk)

0300 123 1100

Acas provides free and impartial information and advice to employers and employees on all aspects of workplace relations and employment law.

Equality Advisory Support Service (EASS)

(www.equalityadvisoryservice.com)

0808 800 0082

EASS provides free guidance on the Equality Act 2010 and on informal steps to take if you feel you have been discriminated against in the workplace. They do not take on cases.

Civil Legal Advice (CLA)

(www.gov.uk/civil-legal-advice)

0345 345 4 345

You might be able to get free and confidential advice here as part of legal aid if you are raising a discrimination complaint.

Employment Tribunal Customer Contact Centre

(www.gov.uk/employment-tribunals/make-a-claim)

0300 123 1024 (England and Wales)

The tribunal's customer contact centre can help you if you have any questions about completing the claims form. They cannot give you legal advice.

Employer checking Service

(www.gov.uk/employee-immigration-employment-status)

Tips at work guide

(www.gov.uk/tips-at-work/tips-and-tax)

Welfare benefits: Know your Rights

What is Universal Credit?

Universal Credit (UC) is the new benefits system that's replacing most other benefits in the UK. Here are some important points that can cause difficulties for people starting to claim UC:

- All benefits that are part of UC will be paid together on a monthly basis, and payment will be in arrears. This can cause budgeting problems.
- There's more pressure on you to find work. Even if you do work, there's often more pressure for you to find more or better paid work.
- It's easier to get sanctioned (punished for not doing everything you have been told to do) than before, and sanctions will be harsher. You can be sanctioned even if you're working.
- You need to do everything online, including talking to DWP (benefits office) staff.
- People are experiencing long delays before their first payments. You can get a loan, but this will need to be paid back as soon as your benefits start.
- The benefit cap - a limit on the total amount of benefit that most people aged 16 to 64 can get - also applies to UC, as does the two-child rule (see below).
- Council tax benefits are not included. They must be claimed separately from your local council.

Most of the Midlands is now a full service area for UC. 'Full service' means that almost anyone who makes a new claim for benefits, or who has a change in their circumstances, will move to UC. (This doesn't include pensioners.) If you have more than three children, you'll move onto UC later. Everyone on benefits will eventually be moved to UC at a later date.

What is the benefit cap?

The benefit cap is a limit on the total amount in benefits most people aged 16 to 64 can get. It applies to you if you receive benefits, but it doesn't apply if you receive disability-related benefits (such as DLA, PIP or carers allowance). If you have children, you can't receive more than £384.62 per week. If all the benefits you receive add up to more than this, the excess will be taken from your housing allowance. This means you might not get enough money to pay your rent and meet your other needs. There are other factors that might mean you're exempt from the cap. For more information, and to check your eligibility, go to the Turn2Us website.

Know your Rights Welfare Benefits

Remember! Even if your housing allowance has been cut, you still need to pay your full rent. If you do not pay your rent you will end up being evicted from your home. If you fall behind on your rent you must get urgent advice from a Law Centre or Citizens Advice. Check our housing briefing too.

Illness and disability

If you have a chronic illness or a disability, or your child does, it's important you check whether you're eligible for Personal Independence Payment (PIP) or Disability Living Allowance (DLA). Many people who are entitled to these benefits are not claiming them. These benefits will not only give you some more money, but they exempt you from the benefit cap and entitle you to extra money under UC. This means PIP and DLA can make a big difference to your income.

Self-employment

Self-employment means working for yourself or starting your own business. Starting a new business is very hard work and it can take a while to earn good money from it. You can apply for UC to top up your income, much as tax credits did in the past. You need to make sure you keep a good record of everything you do, such as proof of National Insurance (NI) payments and invoices. Watch out though – after 12 months you'll be expected to be self-employed for 35 hours per week. You'll be treated as if you're earning what National Minimum Wage would pay for 35 hours every week – even if you're earning less. This is called the 'minimum income floor' (MIF). If your business isn't doing well, you might have to look for another job, and this can make it hard to spend enough time on your business to make it grow.

Your income will be looked at on a month-to-month basis. For example, based on the minimum wage for the 21- to 24-year-old age group, your MIF would be £1,119.30 per month. You do not get extra money if you only earn, say, £500 in a month. But you will get less in benefits if you earn more in a month.

More than ever this means it's important to really think through any business plan and get good advice. Do market research, and be realistic about start-up costs and how long it will take for your business to be viable. Can you stay in your job while you start your business? Can you work part-time for someone else?

Know your Rights Welfare Benefits

Remember! Make sure you tell the DWP exactly how much you earn at all times to avoid being overpaid. The DWP will want to recover (take back) any overpayment, and this can leave you with even less money.

The two-child rule

Under both the current child tax credit rules and under UC you only get money for two children. This applies if you already had responsibility for two or more children and became responsible for another child on or after 6 April 2017. It applies both for new babies and if another child joins your family after this date.

Remember! The rules for the two-child limit and the benefit cap both operate independently of each other. The exemptions for each set of rules are different, so a family may gain exemption from one of these policies but not from the other. In many cases both will apply. It can be complicated to understand, so make sure you understand your situation properly and seek further advice if you don't.

There are exceptions to the rule. If you give birth to multiples (twins/triplets or more) when you already have a child you will get benefits for all children. You will also get money for any children you adopt and any children you care for as a kinship carer (raising a child for a family member).

You can also claim for more children if your third child was conceived as a result of rape, either by a stranger or within an abusive relationship. To get help to apply for this exemption, contact your local specialist support service (link in contacts below). There's a form that needs to be filled in, and part of it needs to be completed by a professional, such as a doctor, social worker or women's worker.

To get benefits for your third child born on or after 6 April 2017 you must no longer live with the person who assaulted you. If you need help getting out you can call CDVASS in Coventry on 0800 035 5309 or Birmingham and Solihull Women's Aid on 0808 800 0028 and Black Country Women's Aid covering Sandwell, Dudley, Walsall, Wolverhampton and Birmingham on 0121 553 0090.

Know your Rights Welfare Benefits

Where can I get more help/information about UC?

Citizens Advice has an online benefits calculator which you can use to help work out what benefits you're entitled to.

Turn2Us is a great resource to find out about UC in more detail.

If you're already claiming benefits and you're worried about changes in your entitlement, keep an eye on the Benefits Aware website which explains any changes and gives advice on what you need to do.

Contacts

- Benefits Aware (<http://benefitsaware.centralenglandlc.org.uk>)
- Turn2Us (www.turn2us.org.uk/Benefit-guides/Benefit-Cap/Am-I-affected-by-the-Benefit-Cap#guide-content)
- Law Centres Network (www.lawcentres.org.uk/i-am-looking-for-advice)
- Citizens Advice (www.citizensadvice.org.uk/benefits/universal-credit)
- Finding your local specialist support service:
(www.gov.uk/government/publications/support-for-a-child-conceived-without-your-consent/approved-third-party-professionals-who-can-complete-these-forms)
- CDVASS: www.safetotalk.org.uk/
- Birmingham and Solihull Women's Aid (<https://bswaid.org>)
- Black Country Women's Aid (<https://blackcountrywomensaid.co.uk>)
- CAB Benefits calculator (www.citizensadvice.org.uk/benefits/universal-credit)
- Turn2Us (www.turn2us.org.uk)

Housing: Know your rights

Whatever our circumstances, one thing affects us all – we all need a roof over our head. Not having a home causes incredible stress. Here we'll look at some of the most serious problems you can face when it comes to housing. If you receive benefits to help with housing you might want to look at our benefits briefing too.

Contracts and rent

Your tenancy agreement is a contract between you and your landlord. It means you can live in their property in exchange for regular rent payments. They will give you privacy and the right to enjoy the property, while you agree to look after it. It's important to know you're liable for paying rent as long as you live in the property. You have no right to stop paying it if you're unhappy with the landlord's behaviour or lack of repairs. If you have problems with your landlord, you may need to take action another way.

You also need to keep paying rent even if your benefits are stopped or reduced, because your contract with the landlord is separate from any benefit payments – even if your landlord is the local authority that also pays your benefits. If you're struggling to pay your rent, get help from the Law Centre or Citizens Advice quickly.

Remember! If you don't pay your rent, you risk being evicted from your home.

You may be able to apply to your local council for a Discretionary Housing Payment. This is either a lump sum of money or instalments of money paid directly to your landlord. This can be money to help with your tenancy deposit, the first month's rent (which is usually payable in advance), or to go towards other rent payments.

Know your Rights Housing

What are my landlord's duties?

At the start of the tenancy, your landlord must provide:

- A gas safety certificate;
- An Energy Performance Certificate;
- A 'How to rent' guide;
- Their contact information (full name and address);
- A tenancy deposit certificate (to prove your deposit is protected).

Your landlord must comply with gas, electrical and fire safety standards. They should carry out repair works that you have reported in a reasonable amount of time. They should give you appropriate notice (at least 24 hours, unless it's an emergency) if access is required to inspect the property or carry out repairs. Your landlord must not harass you.

What happens if my landlord wants to evict me?

Your landlord can ask you to leave your home – this is called 'seeking possession' – but they have to follow strict rules. There are two main routes they can take to do this.

Seeking possession under Section 21

Your landlord can use a Section 21 notice to ask you to leave without giving a specific reason, but they have to give you two months' notice. They cannot seek possession of the property this way in the first six months of a tenancy, and in a few other circumstances too – mostly when your landlord's in breach of their duties (see above) or when the council has told them that they need to fix or improve the property. If you're not sure if the landlord has the right to ask you to leave, stay in your home and get advice from the Law Centre or Citizens Advice.

Remember! You do not have to leave your home until your landlord has a court order to get you out.

Seeking possession under Section 8

Your landlord can use Section 8 if you're behind with your rent, or if you've behaved antisocially or damaged the property. It's more complicated for your landlord to seek possession under Section 8 because they'll need to prove that you're behaving inappropriately or not paying rent, and you'll be able to defend yourself in court.

Know your Rights Housing

Remember! Get legal advice as soon as you receive a notice of possession because it may be possible to delay or prevent you losing your home.

What if I'm homeless?

You're considered homeless if you do not have a secure place to live. You can be homeless if you are:

- On the street;
- Sleeping on a friend's sofa;
- In a hostel;
- Staying with a violent partner because you have nowhere else to go;
- Living in a very unsuitable property – for example if you are disabled and you cannot reach the bathroom.

If you have recourse to public funds (access to benefits) you can make a homelessness application to your local authority. The council cannot help everyone immediately, but they should help if you're in priority need. Shelter explains it on their website.

If your homelessness application is successful and you're in priority need, the local authority will offer you somewhere to live.

Remember! It's extremely important you accept the property offered, even if it's not what you really want – even if it's entirely unsuitable. This is because they only have a duty to offer you one property, and if you refuse it they don't have to give you any further help. If the property's unsuitable for you, talk to the Law Centre or Citizens Advice to see if you can get help challenging the offer and asking for something more suitable. **But you must accept the property first.** If you don't, it's almost impossible for anyone to help you.

Know your Rights Housing

What if I don't have recourse to public funds?

If you don't have recourse to public funds you can't make a homelessness application – even if you have a British child. If you have nowhere else to go, the council may need to help you under Section 17 of the Children Act 1989. This law makes sure that children are not homeless or destitute (with no money for food). This most commonly takes the shape of some accommodation (usually a B&B) and some money for food and clothes for the children. The local authority has no duty to do anything for you, but you'll get accommodation because your children need you to look after them. In general, local authorities prefer to give short-term practical support. If you struggle to get the help you need, the community care teams at Birmingham Community Law Centre or Coventry Law Centre can help.

You can't get housing benefit (or help with housing under Universal Credit) if you're a homeowner. It's possible to get a loan from the government to cover the interest payments on your mortgage, but you'll need to pay this back when you sell your house. It doesn't cover the capital payments – sometimes it may not cover the full interest either. Plus, if you're not on guaranteed pension credit you'll need to wait 39 weeks before you can get help. It's best to speak to your mortgage provider as soon as possible if you're struggling with mortgage payments. It might be a good idea to get debt advice to see if you can free up more money to pay the interest, or reach an agreement with your mortgage provider. You can get debt advice from a Law Centre or Citizens Advice.

Contacts:

- Law Centres: (www.lawcentres.org.uk/i-am-looking-for-advice)
- Citizens Advice (www.citizensadvice.org.uk)
- Shelter (https://england.shelter.org.uk/housing_advice/homelessness/rules/priority_need)
- Birmingham Community Law Centre and Coventry Law Centre (www.centralenglandlc.org.uk)

Immigration: Know your rights

Important!

If you're afraid to return to your home country because you think you may be hurt, killed or otherwise persecuted, you may need to claim asylum. Asylum is covered by legal aid, and you may be able to get free legal advice from a Law Centre or a law firm who does legal aid work in immigration.

If you've been brought to the UK against your will, or you thought you came here to work but now you're being forced to do things you don't want to do, you may have been trafficked. Again you may be able to get free advice from a legal aid solicitor who works on immigration. You can also call the modern slavery helpline on 08000 121 700.

Remember! Getting personal one-on-one advice from a solicitor is important, as every case is different. Check below for organisations that can help you find the right advice.

If you meet a child who is alone, seems afraid and speaks no English, contact your local police. They'll know what to do.

Children and immigration law: what are the rules?

Many people have heard about the 'seven-year rule' but aren't sure what it means. The law says that when children have been in the UK for seven years, either from birth or from the moment they arrived in the UK, consideration should be given to letting them and their family stay. In practice, it's not so simple.

Know your Rights Immigration

The Home Office is entitled to take into account the immigration history of the parents when making its decision. If the child's parents are in the UK without leave (permission to stay), especially if they've been without leave for a long time, the child's application could be refused – even if the child has strong ties with the UK. Section 55 of the Borders, Citizenship and Immigration Act 2009 says that the Home Office must put the interests of the child first – whatever decision they make. But the Home Office holds the view that it's generally in the best interests of the child to return to their country of origin with their parent/s. You may be able to appeal if your application is refused, but there's no ordinary legal aid available for this kind of appeal. If your child's case is particularly strong, maybe because of serious illness or family circumstances, a legal aid solicitor may be able to get exceptional legal aid for you.

Remember! These difficulties do not mean you shouldn't take action. This is the time for the 'shoe-box approach' – take an old shoe box or similar and collect important documents about your child. Start with the long birth certificate (the one that has your names on it) and red book, add nursery records, school reports and certificates, medical letters, court orders, anything that proves your child's been living here. Keep adding to it when you receive new things.

Then get some advice (see below) about whether to apply to the Home Office at this stage or not. In general we do not advise making a poorly evidenced application, so make sure you're well prepared before any application.

Fact: Anyone born in the UK after 1983 who still lived here on their 10th birthday is entitled to become a British citizen – even if they're now an adult. It's not automatic: there's a form to complete and a fee to pay. But as long as the person applying is of good character and has not been away from the UK for long periods of time, the application will be granted. You'll need to provide evidence of 10 years of residence, including the original long birth certificate and something official to confirm each of the first 10 years of the child's life (see the 'shoe-box approach' above).

Remember! Anyone over the age of 10 needs to prove they're of good character. The Home Office is quite strict about this, even for children. Something as little as a simple caution for a fight or shoplifting can be a problem. If anything like this has happened, DO NOT apply before getting legal advice, as you risk losing your application fee if it's refused. If you're applying for a child who has only just turned 10 and who has not had long absences from the UK it's usually fine to apply by yourself. Free help is available from the Kids In Need of Defense project.

Know your Rights Immigration

What if I have no recourse to public funds?

Many people with no leave or limited leave to be in the UK do not have recourse to public funds. This means they aren't allowed to claim welfare benefits. People without leave aren't allowed to work either (check our employment and benefits briefings for more information). People with limited leave are usually allowed to work - in fact they're expected to look after themselves by working. Single parents tend to be the hardest hit. Even if you do have a job, childcare is often not possible without benefits. If this affects you and you're not coping, visit a Law Centre to see if the conditions of your leave to remain can be changed, or if you can get some help from social services under Section 17 of the Children Act 1989.

Domestic violence

If you have leave to remain as a spouse and you suffer domestic violence or abuse, you can get help to leave your partner. You can get a special short-term biometric residence permit (BRP) allowing you to claim benefits and access a refuge. You can then apply for indefinite leave to remain (ILR) as a victim of domestic violence. To be granted ILR, you need to be able to prove you've suffered domestic violence by showing you've spoken to at least two professionals, such as a doctor, social worker, police officer or refuge worker.

Remember! Try to speak up and get the help you need and deserve. There is help out there. Free advice is available under legal aid at the Law Centre and other immigration legal aid solicitors. If you're thinking about leaving but don't know what to do, call CDVASS in Coventry on 0800 035 5309 or Birmingham and Solihull Women's Aid on 0808 800 0028 and Black Country Women's Aid covering Sandwell, Dudley, Walsall, Wolverhampton and Birmingham on 0121 553 0090.

What will happen to EEA residents after Brexit?

The short answer is no one knows. The UK Government has reached an agreement with the EU about the rights of EU citizens, and the Prime Minister's made some promises too, but there's still the risk of a no-deal Brexit, and this could change everything. It's very unlikely EU citizens would be asked to leave the UK, but we just don't know yet. At present the plan is that all EU citizens already in the UK will either be granted 'settled status' (if they've been here five years or more) or 'pre-settled status' (if they've been here less than five years). Registration will open later this year and run until June 2021.

Know your Rights Immigration

Settled status will be based on residence, not on being a 'qualified person' as under EU law. There's no need to prove you've been employed or self-employed, or that you held comprehensive sickness insurance. The Home Office will check your tax and national insurance records when you apply. If you don't have much by way of tax and national insurance records (for example because you're a stay-at-home parent or a child in care) start collecting other evidence of your life here. Collect together bank statements, education certificates, doctors' letters, council tax statements – anything official that shows you've been living here (see the shoe-box approach, above). This way, you can provide evidence easily if the Home Office asks further questions.

How do I get advice?

In 2012 many areas of immigration law were taken out of the legal aid scheme, meaning that free advice and representation is no longer available for this – even if you're on a low income. Legal aid is available for asylum, trafficking, domestic violence and detention cases. In some other special cases legal aid lawyers can apply for exceptional funding. This is usually where the person or family applying is very vulnerable, for example through illness or mental health, or if their case is considered complex.

In all other cases, you'll need to pay a private solicitor to help you.

Remember! Ask your solicitor exactly what they'll do for the money they're charging you and what your chances are. There is a good video made by Praxis that tells you what to look for.

It's possible to get some free advice from us and our partners. Contact your chosen venue and ask for details. We may not be able to take on your case, and some partners might charge a fee, but we'll always point you in the right direction.

Coventry: Coventry Law Centre 024 76223053

Wolverhampton: Refugee and Migrant Centre 01902 311 554

Birmingham: Refugee and Migrant Centre 0121 374 0140

Birmingham: Birmingham Community Law Centre 0121 227 6540

Coventry: Refugee and Migrant Centre 024 7622 7254

Know your Rights Immigration

Contacts:

- Law Centres (www.lawcentres.org.uk/i-am-looking-for-advice)
- Form T for child citizenship: (www.gov.uk/government/publications/application-to-register-as-british-citizen-form-t)
- Kids In Need of Defence UK (www.kidsinneedofdefense.org.uk)
- CDVASS (www.safetotalk.org.uk)
- Birmingham and Solihull Women's Aid (<https://bswaid.org>)
- Black Country Women's Aid (<https://blackcountrywomensaid.co.uk>)



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