

Factsheet 25

Returning from abroad

December 2016

About this factsheet

You will find this factsheet useful if you are a British citizen over State Pension age who moved abroad and who is now considering moving back to live permanently in the UK.

It gives information about things to consider regarding your finances and housing and looks at your eligibility for health and social care services.

This factsheet does not give information about immigration status or the position of asylum seekers. See Useful organisations section for organisations that may be able to give specialist advice in these areas.

The information in this factsheet is applicable to England and Wales. Please contact Age Scotland or Age NI for information applicable to those nations. Contact details can be found at the back.

Details of any organisation mentioned in this factsheet can be found in the Useful organisations section.

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1 Is a return to the UK right for you?

Before returning to the UK, it is important to be clear about why you want to return and try to find out whether your expectations will be met. If you have been absent for some time, there may have been changes to life in the UK that you are not aware of or prepared for.

If you can, consider spending some time living here before committing to a permanent move back. You need to plan and prepare for your return just as thoroughly as you planned your move away.

2 Habitual Residence Test and ordinary residence

The terms '*Habitual Residence Test*' and '*ordinary residence*' are used throughout this factsheet. They are not synonymous and they can mean different things in different circumstances.

Habitual residence is usually used to determine your eligibility for certain social security benefits or housing assistance from a local authority.

You may be asked to provide evidence you are '*ordinarily resident*' in the United Kingdom when you seek non-emergency NHS hospital treatment or local authority community care services.

2.1 Habitual Residence Test

The Habitual Residence Test (HRT) is a test to decide if you normally live in the United Kingdom, the Channel Islands, the Republic of Ireland or the Isle of Man. You can be subject to the HRT if you have been absent from the UK and are applying for housing assistance from a local authority or for benefits such as Pension Credit, Housing Benefit, or Council Tax Support (Council Tax Reduction Scheme in Wales).

There is no legal definition of what habitual residence actually is, nor how long you need to have been in the UK to establish habitual residence. There is case law indicating the factors that should be taken into account, including:

- what you have done to establish a home in the UK, before and after arrival
- where you expect to live in future
- your reasons for coming to the UK
- the length of time you spent abroad
- family ties in the UK and in the country you have come from.

The HRT is applied to the person making a claim for benefit or housing, so if you are one of a couple, try to decide which one of you is most likely to pass the test.

If you do not satisfy the HRT you cannot usually access housing and means-tested benefits. It can take a period of a few days up to six months to satisfy the HRT. A decision maker looks at how strong your 'settled intention' to remain here is and assesses whether an 'appreciable period' of time has passed in making a decision about the HRT.

If you have been abroad for a temporary period, or you are re-establishing ties in the UK, you can be treated as habitually resident from the first day of your return to the UK. The decision maker should consider factors such as your intentions when you left the country originally, whether you intended to return at some stage, the ties and contacts with the UK you established and maintained while abroad, and the strength of your intention to resettle in the UK.

If you are likely to need benefits and housing as soon as you arrive in the UK, think about how you can cope if you do not satisfy the HRT promptly.

If you apply for benefits and are refused because you are not habitually resident, seek advice from an independent advice service about challenging the decision and what to do next. In general, in this situation, it is a good idea to continue to make benefit claims, as you may subsequently be found to be habitually resident at a later stage.

Note

Some categories of people are exempt from the HRT including certain European Economic Area workers (although entitlement to working-age benefits may be limited), refugees, people with humanitarian protection, and those with exceptional leave to enter or remain or discretionary leave.

2.2 Ordinary residence

There is no legal definition of 'ordinary residence'. It refers to the place you normally live for the time being, as long as there is a degree of continuity about your stay.

The main test is set down in a case called *Shah* where the meaning of the words 'ordinarily resident' was considered. The ruling found that:

An individual who is living lawfully in the United Kingdom voluntarily and for settled purposes as part of the regular order of their life for the time being, whether of long or short duration, with an identifiable purpose for their residence here which has a sufficient degree of continuity to be properly described as settled.

Government guidance advises that 'ordinary residence' should be given its everyday and natural meaning based on the facts of each case and subject to interpretation by the courts.

3 Finance

Before deciding to return permanently to the UK, you should consider:

- Will you get the same income you currently receive on returning?
- Will you be entitled to benefits?
- How do prices and costs compare between countries?
- Will exchange rates and inflation affect your income?
- Can you transfer income and assets to the UK?
- Will your insurance policies remain valid or will you need new ones?

A visit to the UK can allow you to check prices of fuel, transport, food, housing and other costs such as council tax and utilities.

Returning to the UK can affect your tax liabilities. If you are or will be ordinarily resident and/or resident in the UK for tax purposes, you are liable for tax on UK or overseas income you bring into the UK. You should find out if you will be liable for tax in the country you have left.

You can find more about tax if you return to the UK after living abroad on the Gov.uk website www.gov.uk/tax-return-uk.

3.1 State Pensions and Winter Fuel Payments

UK State Pension is based on your National Insurance contributions. If you paid contributions in more than one country, you may be entitled to separate pensions from these countries.

Contributions made in a European Union (EU) country or a country which the UK has a reciprocal agreement with may help you get a UK pension. The UK State Pension is payable anywhere in the world. You only receive annual pension increases if you live in the European Economic Area (EEA), Switzerland or a country which the UK has a reciprocal social security agreement with.

If you have not been getting the annual increases, your pension is increased to the current rate if you return to live in the UK.

Contact the International Pension Centre to let them know you will want to receive your state pension in the UK and for further information.

People over Pension Credit age may be entitled to a Winter Fuel Payment. This is not normally payable if you live abroad unless you live in certain EEA countries or Switzerland and have a genuine link to the UK. It is payable if you return to the UK. Contact the Winter Fuel Payment Centre for more information.

For more information, see factsheet 19, *State Pension* and factsheet 1, *Help with heating costs*. In Wales, see Age Cymru factsheet 1W, *Help with heating costs in Wales*.

3.2 Means-tested benefits

You may qualify for benefits such as Pension Credit, Housing Benefit and Council Tax Support once you return to the UK. These are means-tested benefits, so your income and capital (for example, savings) are taken into account when working out your entitlement.

Pension Credit is for older people with a low income. Housing Benefit helps with rent payments. Council Tax Support reduces Council Tax liability. Pension Credit can be claimed when you reach women's State Pension age, whether you are a man or a woman. The age is steadily rising and in November 2016 is 63 years and 6 months. By November 2017 it will be 64 years and 3 months.

You may have to satisfy the HRT to claim these benefits. For Pension Credit you must be in Great Britain when you claim. Contact The Pension Service to apply for Pension Credit. Contact your local authority to apply for Housing Benefit and Council Tax Support.

For more information see factsheet 48, *Pension Credit*, factsheet 17, *Housing Benefit* and factsheet 21, *Council Tax*. In Wales see Age Cymru factsheet 21W, *Council Tax in Wales*.

3.3 Disability benefits and Carer's Allowance

If you are 65 or over and have difficulty with personal care because of disability or illness, you may be able to claim Attendance Allowance (AA). If you are under 65 years but over 16, you can claim Personal Independence Payment (PIP) instead. Carer's Allowance is paid if you care for someone getting AA, PIP or Disability Living Allowance.

To claim these benefits, you must be present and '*ordinarily resident*' in Great Britain (GB). You must have been present for not less than 104 of the last 156 weeks, although not if you are terminally ill.

If you are covered by EU rules, periods of residence in another EEA country can count as residence in GB. Reciprocal agreements with some non-EEA countries contain similar rules. You may be able to rely on this to satisfy the 104-week presence test. Seek advice if this might apply to you.

For more information, see factsheet 34, *Attendance Allowance*, factsheet 87, *Personal Independence Payment and Disability Living Allowance* and factsheet 55, *Carer's Allowance*.

3.4 Tax credits and Child Benefit

You may be able to claim Working Tax Credit if you work and have a low income. You may be able to claim Child Tax Credit and Child Benefit if you have dependent children. You must be present and '*ordinarily resident*' in the UK. Child Benefit can be paid for a child living in another EEA country, provided you are responsible for that child. Tax Credits and Child Benefit are dealt with by HM Revenue and Customs.

4 Housing

Your choice of accommodation may depend on your financial situation, personal preferences and what is available in the area you want to live in. Finding a suitable, permanent home may take time and you may need to stay somewhere temporarily, for example with family or friends or a short-term private let.

If thinking about buying a property, you can choose from suitable mainstream housing or specialist retirement housing. To find out about prices and what is available in the area, contact local estate agents or look on property websites. You need to calculate all expenses involved in moving such as legal fees, Stamp Duty and survey costs.

Rented housing can be provided by local authorities (councils), housing associations or private landlords. Housing provided by local authorities and housing associations is known as social housing. Social landlords and some private landlords offer specialist rented housing for older people known as sheltered accommodation.

For more information see factsheet 2, *Buying retirement housing* and factsheet 64, *Specialist housing for older people*.

4.1 Social housing

Homelessness

If you have recently returned from abroad and want to be housed by a local authority under homelessness legislation, you must satisfy the HRT. If they decide you are not habitually resident, you have a right to request a review of the decision. You must do this within 21 days of notification.

Local authorities have discretion to provide accommodation while they carry out a review – check what your local authority's policies say.

You have to meet other criteria as well as the HRT. The local authority must be satisfied you are homeless. If you have property abroad, speak to Shelter, Citizens Advice or Age UK.

You are not considered homeless if you have accommodation you can still occupy in the UK or elsewhere. It must be reasonable for you to continue to live there.

If you apply to a local authority but have no connection to the area, the authority can refer you to another area where you have connections. They cannot do this just because your connection to the other area is stronger. You have the right to request a review of this decision.

Waiting lists

You can approach a local authority for an allocation of social housing. This means applying to join a waiting list of people wanting to be rehoused in a council or housing association home. Waiting lists are very long in most parts of the UK, so think about other options if you are staying with friends or family on a short term basis or urgently need a place to stay.

You have to satisfy the HRT before you can join a local authority waiting list and some authorities say you must have lived in the area for a number of years before you qualify to join (a '*residency requirement*'). Some say you are unable to qualify if your income or savings are too high, which can cause problems if you have money from the sale of a property abroad.

You have a right of review if the local authority decides you are not habitually resident or have not lived in the area long enough to qualify.

Check the local authority 'allocation scheme' to see if they have a set residency requirement but do not be put off if they do. It can potentially be unlawful if the local authority does not let you join when you have a clear need to be rehoused or they will not consider making an exception.

If you are unable to join the local authority waiting list, there may be housing associations in the area accepting direct applications. They may have different eligibility criteria, so check whether you are eligible and how long you would have to wait to be re-housed.

For more information see factsheet 8, *Council and housing association housing* and factsheet 89, *Homelessness*.

4.2 Private rented accommodation

The availability, standard and price of private rented accommodation varies. You can find rented housing using a letting agency, websites or local press. Most private rented tenancies are let on an assured shorthold basis. This means the landlord has the right to bring the tenancy to an end after six months or a fixed term.

If the tenancy does not have a fixed term, they can end it after six months. You are likely to be required to pay a deposit up-front (usually 1 or 2 months' rent). Some private providers of sheltered accommodation offer assured tenancies that provide more security. You may be able to get help with housing costs such as rent and Council Tax.

For more information, see factsheet 63, *Finding private rented accommodation*.

5 Doctors, dentists and hospital treatment

The UK has a residency based healthcare system. This means provision of NHS treatment is based on being '*ordinarily resident*' in the UK, not on your nationality, payment of UK taxes or national insurance contributions, owning a property, being registered with a GP or having an NHS number.

A British citizen who resumes settled residence in the UK is immediately entitled to free NHS care. If a British citizen resides only overseas and is visiting the UK, they may be charged.

It is helpful if you bring a copy of your current medical records (translated as necessary) with you. If that is not possible, your doctor abroad may be willing to prepare a summary that includes key facts about your medical history, e.g. fitting of a pacemaker, significant surgery, current medical conditions and medication and any allergies or adverse reactions to medicines.

If you take regular prescription medication, bring sufficient supplies to last until you can register with a GP.

If you have registered an S1 in another EEA country, you need to contact the local authorities in that country and inform them of your move back to the UK. You need to inform the DWP Overseas Healthcare Team so they can stop their payments for the S1.

The S1 is a Healthcare Certificate issued to UK nationals who are posted workers who pay contributions in the UK, or people in receipt of UK exportable benefits (e.g. State Pension).

This certificate is issued by HMRC or the International Pension Centre depending on your circumstances. For information about accessing services when visiting or moving to England see NHS Choices website at www.nhs.uk/NHSEngland/AboutNHSservices/uk-visitors/Pages/access-services-in-England.aspx

5.1 Registering with a GP practice

On returning to the UK, it is important to register with a local GP practice as soon as possible. GPs look after the health of local people and act as the gateway to community-based NHS services. They can refer you to a hospital-based consultant for further tests and treatment.

In England, the NHS Choices website has details of local GP practices. It explains how the NHS in England is organised and allows you to search by postcode to find hospitals, dentists and NHS services. You can call NHS England for advice on finding a local GP. In Wales, you can obtain this information from NHS Direct Wales from their website or by phone.

If you stay temporarily with family or friends while looking for permanent accommodation, you can register as a temporary patient with a local GP practice. This is appropriate for stays of more than 24 hours but less than 3 months.

Each GP practice has a designated area agreed with NHS England, or in Wales with the Local Health Board. In England, GPs can register patients from outside the agreed area on the basis they have no obligation to provide home visits. GPs have discretion in light of your health about whether to register you on this basis. NHS England arranges access to care if you need medical care while at home.

If you ask to be taken on as a patient, the practice ask you to complete a registration form, which includes a question asking whether you were previously resident in the UK and if so, when you left the UK. They may ask if you have an NHS number. If you do not but have kept your medical card, this may be helpful. Otherwise the GP practice can explain how to get an NHS number.

Practices in England must register each patient with a named GP. This GP has overall responsibility for their care. If you are aged 75 and over, this GP must ensure your NHS care and where appropriate joint packages of NHS and social care are well co-ordinated.

In England and Wales you can book appointments with a GP and order repeat prescriptions online. In many areas of England you can view your GP records online. Ask the practice receptionist for details on how to register for online services.

For more information, see factsheet 44, *NHS services* or Age Cymru factsheet 44w, *NHS services in Wales*.

5.2 Finding a dentist

You do not need to see your GP to make an appointment to see a dentist offering NHS treatment. You can approach a dentist yourself. The NHS Choices website lets you to search by postcode to find a dentist offering NHS treatment. You can call NHS England or NHS Direct Wales.

Many dentists offer both private and NHS treatment. Before agreeing to a course of treatment, check the basis on which a dentist is willing to treat you. You can have a mixture of private and NHS treatment but the dentist should make it clear in your treatment plan which is which. Not all treatments are available under the NHS scheme. As an NHS patient in England, you have to pay one of three standard fees according to the type of treatment needed.

If you do not have a regular dentist and need emergency treatment, in England contact freephone NHS 111; in Wales contact NHS Direct Wales. These services can advise on your best course of action or give details of the nearest dentist offering emergency or out-of-hours care.

For more information see factsheet 5, *Dental care – NHS and private treatment*; in Wales see Age Cymru factsheet 5w, *Dental care: NHS and private treatment in Wales*.

5.3 Help with health costs

Most NHS services are free to everyone but there may be charges for NHS prescriptions, dental care, sight tests, glasses or contact lenses.

England - NHS prescriptions and sight tests are free if you are aged 60 or over but you may be asked to pay for dental care, glasses or contact lenses.

Wales - NHS prescriptions are free for people of all ages, regardless of income or savings. There are free dental check-ups if you are aged 60 or over (this does not include treatment identified as a result of a check-up). Depending on your circumstances, you may be asked to pay for dental treatment. Sight tests are free if you are aged 60 or over, but you may be asked to pay for contact lenses or glasses.

England and Wales - if you receive Pension Credit Guarantee Credit, you do not have to pay for dental care and are entitled to a voucher towards the cost of glasses or contact lenses. If you have a low income but are not entitled to Guarantee Credit, you may be entitled to full or partial help through the NHS Low Income Scheme.

For more information, see factsheet 61, *Help with health costs* or Age Cymru factsheet 61w, *Help with NHS health costs in Wales*.

6 Care and support at home and in care home accommodation

As a British citizen returning to live in the UK after living abroad, you are entitled to a local authority assessment as soon as you return, if it appears you have needs for care and support.

Ordinary residence

'*Ordinary residence*' is the usual basis for potential rights to social care services. You may choose to settle where you have family or may have no particular reason to locate in an area. As long as you can demonstrate an intention to stay where you are living for settled purposes, you can acquire ordinary residence immediately.

A local authority must provide care and support if you have eligible needs if you are of no settled residence and are present in the local area. They can choose to provide care and support if you have urgent needs, regardless of whether you are ordinarily resident in the area.

A British citizen resuming permanent residence in England after a period abroad is covered in annex H6 of statutory guidance to the *Care Act 2014*. It says sometimes people returning from abroad, who have no permanent home here, can be defined as people of '*no settled residence*' and each case must be decided on an individual basis.

In Wales, the *Social Services and Well-being (Wales) Act 2014* provides similar rights as above.

Assessment

If you return to the UK in immediate need of care and support, it is important to know the local authority only has a duty to assess you once you are there in person.

Following the assessment, the authority may not have a duty to provide long term care and support. They must decide what your needs are and whether they meet national eligibility criteria. They must then make recommendations and tell you how much it costs to meet eligible needs.

You may find their recommendations do not correspond with your views on the care and support you need. If you would like help from social services, you are unlikely to be able to arrange it before you return. This could be a particular problem if you believe you need residential care.

Meeting needs

Given the potential uncertainties of establishing your rights to long-term care before you return to the UK, it is vital to plan ahead. You can return to the UK and privately arrange and fund a temporary placement in a care home to establish your ordinary residence. You can then request an assessment from the local authority covering that area.

Once a local authority decides you have eligible needs, they carry out a means test. If this means that the authority has to make a financial contribution to the cost of your care, they must assist in meeting your needs for care at home (non-residential care) or residential care.

If you are a 'self-funder' because your assets put you above the threshold for funding support, they may not have a legal duty to arrange your care. If you have non-residential care needs as a self-funder, you can request support and assistance for this, and the authority must assist you, although in England, it can charge a fee.

If you require residential care as a self-funder and have support from family or friends, the local authority expect them to arrange a place in a care home and only assist with information and advice. The right to request support for a fee does not apply in residential care.

For more information, see factsheet 41, *How to get care and support*. For Wales, see Age Cymru factsheet 41w, *Local authority assessment for community care services in Wales*.

6.1 Need for support from both NHS and social care

If your assessment shows that a nurse or other NHS staff must be involved in providing some of your care, the NHS arranges for appropriate support to be provided in your own home or in a residential care home. Residential care homes do not employ nurses.

If you need care in a nursing home, funded by yourself or a local authority, the NHS pay a standard amount to the nursing home as a contribution towards the nursing support you need (*'funded nursing care contribution'*).

Care in a nursing home is provided by nurses employed by the home. Nursing homes must have registered nurses on duty at all times.

If an assessment shows you have a high level of need that is primarily health related, the NHS has a duty to fund the entire cost of your care.

For more information, see factsheet 20, *NHS continuing healthcare and NHS-funded nursing care*; or in Wales, Age Cymru Factsheet 20w, *NHS continuing healthcare and NHS-funded nursing care in Wales*.

Useful organisations

Aire Centre

www.airecentre.org/

Telephone 020 7831 4276 advice line 10.30am to 6pm

Charity providing free specialist legal advice and other legal services including benefits applications, applications to the UK Border Agency, or the European Court of Human Rights on European law issues.

Care Quality Commission (CQC)

www.cqc.org.uk

Telephone 03000 616 161

Independent regulator of adult health and social care services in England, whether provided by the NHS, local authorities, private companies or voluntary organisations. Their website has a wide range of useful information including registered care home inspection reports.

Care and Social Services Inspectorate Wales (CSSIW)

www.cssiw.org.uk

Telephone 0300 7900 126

Oversees the inspection and regulation of care and social services in Wales.

Carers UK

www.carersuk.org

Telephone 0808 808 7777 (free call)

National charity working on behalf of carers offering range of information on carers' rights and sources of help.

Carers Direct

www.nhs.uk/carersdirect

Telephone 0300 123 1053

Online information for carers and offers helpline support.

Citizens Advice

England or Wales www.citizensadvice.org.uk

Northern Ireland www.citizensadvice.co.uk

Scotland www.cas.org.uk

In England telephone 0344 411 1444

In Wales telephone 0344 477 2020

In Scotland telephone 0808 800 9060

National network of advice centres offering free, confidential, independent advice, face to face or by telephone.

Elderly Accommodation Counsel (EAC)

www.eac.org.uk

Telephone 0800 377 7070

Free advice on housing options for people in later life.

Department for Work and Pensions

www.gov.uk/government/organisations/department-for-work-pensions

Government department responsible for administering social security.

Gov.uk

www.gov.uk

The official government website providing information on services such as benefits, jobs, pensions, health services and links to government departments.

Healthcare Inspectorate Wales (HIW)

www.hiw.org.uk

Telephone 0300 062 8163

Independent inspector and regulator of NHS healthcare and independent healthcare organisations in Wales.

HM Revenue and Customs (HMRC)

www.gov.uk/government/organisations/hm-revenue-customs

Telephone 0300 200 3300 for UK callers only and +44 135 535 9022 for callers outside the UK

Deals with tax matters and National Insurance Contributions.

HMRC (Tax Credits)

www.gov.uk/topic/benefits-credits/tax-credits

Telephone 0345 300 3900

Administer Child Benefit, Child Tax Credit and Working Tax Credit.

Independent Age

www.independentage.org

Telephone helpline 0800 319 6789 Mon-Fri 8am- 8pm, Sat-Sun 9am-5pm

A charity providing free impartial advice on benefits, home care, care homes and NHS services for older people, their families and professionals.

International Pension Centre (IPC)

www.gov.uk/international-pension-centre

Telephone 0191 218 7777 or +44 191 218 7777 if dialling from abroad

Part of the DWP, deals with enquiries about payment of State Pension and other benefits if you live abroad; also enquiries if you live in the UK and have lived or worked abroad.

Joint Council for the Welfare of Immigrants (JCWI)

www.jcwi.org.uk

Telephone 020 7251 8708

Independent charity that campaigns for justice in immigration, nationality and refugee law and policy.

NHS Choices

www.nhs.uk

Comprehensive information service to help you to find and use NHS services in England and to learn more about the prevention, treatment and management of conditions.

NHS 111

Telephone 111

You can call NHS 111 in England 24 hours a day, 365 days a year if you believe you need medical advice or help urgently but it is not a life-threatening emergency. Calls are free from landlines and mobiles.

NHS Direct Wales

www.nhsdirect.wales.nhs.uk

Telephone 0845 46 47

Provides details of your Local Health Board and local services such as GP practices, dentists, pharmacists and support groups in Wales, information on health and advice about looking after your health, managing long-term conditions and the prevention and treatment of conditions.

NHS England

Telephone 0300 311 22 33

Call NHS England if you cannot use the NHS Choices website to search for a local GP practice or dentist.

Office of the Immigration Service commissioner (OISC)

home.oisc.gov.uk/how_to_find_a_regulated_immigration_adviser/adviser_finder/finder.aspx

Contains a register of all approved immigration advisers in the UK, split between 'not for profit' and for profit advisers.

Overseas Healthcare Team

Telephone 0191 218 7777

For information about obtaining an S1 form when moving to an EEA country or to report that you are returning to live in the UK.

Pension Service (The)

www.gov.uk/state-pension

Telephone 0800 731 7898

For information about the State Pension, including forecasts and how to claim your pension.

Pension Service (Pension Credit)

www.gov.uk/pension-credit

Telephone 0800 99 1234

To find out if you might be eligible and how to make an application.

Welsh Government

www.wales.gov.uk

Telephone 0300 060 3300 or 0300 060 4400 (Welsh)

Devolved government for Wales.

Winter Fuel Payment Centre

www.gov.uk/winter-fuel-payment/how-to-claim

Telephone 03459 15 15 15

For information about claiming the Winter Fuel Payment.

Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

Age UK Advice

www.ageuk.org.uk

0800 169 65 65

Lines are open seven days a week from 8.00am to 7.00pm

In Wales contact

Age Cymru

www.agecymru.org.uk

0800 022 3444

In Northern Ireland, contact

Age NI

www.ageni.org

0808 808 7575

In Scotland, contact

Age Scotland

www.agescotland.org.uk

0800 124 4222

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To see the evidence sources used in this document please contact resources@ageuk.org.uk

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