

UK RESIDENCY STATUS FOR UNIVERSITY TUITION FEES AND STUDENT LOANS

Steve Bryant July 2023 revision
Global Connections Member Care and TCK Forum



The government regulations for the constituent parts of the UK on residency and eligibility for classification as a UK student with access to student loans and grants are laid out on the following websites:

England

<https://www.gov.uk/student-finance/who-qualifies?step-by-step-nav=18045f76-ac04-41b7-b147-5687d8fbb64a>

[Eligibility for home fee status and student support in England \(parliament.uk\)](#)

<https://www.gov.uk/government/publications/student-finance-eligibility-2021-to-2022-academic-year/eligibility-rules-for-home-fee-status-and-student-finance-from-the-2022-to-2023-academic-year-onwards#uk-nationals-living-in-the-eea-switzerland-and-eu-overseas-territories>

Generally, individuals must be resident and 'settled' in the UK on 'the first day of the first academic year' of their course to be eligible for home student status. With some exceptions, they must also have been 'ordinarily resident' in the UK for the three years before that date. The three-year residency rule applies to UK nationals who have been living abroad, except for UK nationals living in Europe.

Being 'ordinarily resident'

A person is ordinarily resident if they normally and lawfully live in an area from choice. Temporary absences, including for work, are permitted.

In reaching a judgement about whether a student fulfils the ordinarily resident criteria, assessors rely on [case law from UK courts and tribunals](#). It is possible for higher education providers and Student Finance England to reach different conclusions.

The regulations in other parts of the UK are the same with the 3-year residency and exceptions for temporary absences for overseas assignments. The relevant websites, with quotations for Scotland, are included below.

Scotland

<https://www.saas.gov.uk/guides/residence-conditions-for-uk-nationals>

[If you are] temporarily absent from the relevant area

If you normally live in the relevant area that applies to you but are currently resident outside that area, and this is for temporary employment or to attend a course of study, including postgraduate research, we can treat you as if you were resident in the relevant area during this period of temporary absence.

We will ask you and your parent(s), husband, wife or civil partner to give us more information about your and their absence from the relevant area, so we can decide if it meets our temporary absence conditions. Examples of the information we need includes:

- how long you have been absent from the relevant area
- the type of employment contract you or your parent(s), husband, wife or civil partner have outside the relevant area
- whether you or your parent(s), husband, wife or civil partner were posted outside your relevant area by a company located in your relevant area

- whether your parent(s), husband, wife or civil partner pay income tax in the relevant area
- if your parent(s), husband, wife or civil partner maintain a home in the relevant area, when it was purchased and by whom, and if it is rented it out when you are not living in it
- when you and your parents, husband, wife or civil partner intend to return to the relevant area
- if you or your parent(s), husband, wife or civil partner is studying outside the relevant area, what course you, or they are doing and whether this is full or part-time

If your absence from the relevant area is not for temporary employment or study, you may not be eligible for support.

This last statement explains why some students applying from overseas are initially classed as international. Different universities and sometimes different staff within Student Finance may make a different assessment.

Northern Ireland

<https://www.nidirect.gov.uk/articles/nationality-and-residency-requirements-ema>
<https://www.nidirect.gov.uk/sites/default/files/2023-06/Ema-ni-nationality-and-residency-evidence-guide-23-24-e-o-pdf.pdf>

Wales

[Eligibility for home fee status and student support in Wales \(parliament.uk\)](#)

The case for eligibility for student finance and classification as a UK student is based on the place where that student is “ordinarily resident”. Understanding what this means is crucial for families and mission agencies alike.

Ordinary Residence

To qualify for student finance as a student from England, you will need to meet all of the residence requirements. Generally, on the first day of the academic year in which your course starts, you must:

- be a UK national or have 'settled status' in the UK (under the terms of the Immigration Act 1971)
- be 'ordinarily resident' in England
- have been 'ordinarily resident' in the UK, the Channel Islands or the Isle of Man for the three years immediately before starting the course - and not wholly or mainly for the purpose of receiving full-time education

Students who are settled in the UK may also be eligible if they have exercised a right of residence in the EEA or Switzerland before returning to the UK to study.

You're 'ordinarily resident' somewhere if it's where you normally live. It doesn't matter if you're out of the country temporarily from time to time. 'Settled status' means that there are no immigration restrictions on how long you can stay in the UK. But this doesn't cover all circumstances - even if you don't meet these criteria, you may still qualify for student finance.

On first reading it may appear that these regulations mean that families working overseas have to return to the UK at least 3 years before beginning a higher education course, but this is not the case. Normally, for the purposes of application to higher education, UK mission and other voluntary agency workers are classed as ordinarily resident in the UK as that is where they normally live. The regulations state that it does not matter if a child is temporarily out of the country – this is the case for children in our mission agencies. Their parents are temporarily out of the country at the request of the mission agency, but the normal place of residence during home leave/assignment is in the UK.

The residency status issue is one that exercises the minds of many parents and mission agencies, and unfortunately there is considerable misunderstanding in some parts resulting in the curtailment of overseas service where parents fear that their children will be classified as overseas students. It doesn't have to be the case that potential students need to take extended gap years, or that their parents need to end their overseas work and return as a whole family 3 years before the children apply for higher education.

Further sources of information

<https://www.gov.uk/student-finance/who-qualifies> - download the entire guide on eligibility and [this guidance](#) from the government on the eligibility rules for home fee status and student finance from the 2022 to 2023 academic year and beyond:

http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2014/employment_learning/4114.pdf - The title is for application to Scottish universities, but the information it is more widely applicable.

Similar information is available on the UKCISA (UK Council for International Student Affairs), although this site is primarily geared to international students as the organisation name indicates, at <https://www.ukcisa.org.uk/student-advice/finances/funding-your-studies/>

Another site with useful information is that of Student Finance England at http://practitioners.studentfinanceengland.co.uk/portal/page?_pageid=133,4210407&_dad=portal&_schema=PORTAL#5

The Application Process

On any forms from universities and the student loan companies or grant awarding bodies always tick the boxes that indicate ordinary residence in the UK in line with the statements given on the Gov.uk and SAAS websites.

A significant issue though is that universities have different forms and the layout changes frequently sometimes making it difficult to fill in correctly. Take time and care before completing the form and check it over with others who understand the residency rules if needed before submitting it. In most cases where there hasn't been unbroken residence over the previous 3 years universities and finance awarding bodies will ask for further evidence that the overseas residence is/was temporary. Most of the bigger mission agencies have standardised format letters to prove that the family and student concerned are members of their mission and would be happy to circulate sample copies to smaller agencies and individual families sent out by churches if necessary. If the university authorities request further evidence of ordinary residence, it is good to keep an accurate record of all home leave visits to the UK, proof of home ownership, UK bank account details, and have a National Insurance

number set up for the student. Some universities may even ask for more information and there is little choice but to provide it where possible.

Universities reaching Different Conclusions on Residency Classification

In recent years it has been noted that some universities have become more likely to classify children from mission families as international students when they apply. It is also true that others have taken a more generous view meaning that the same student presenting the same application to different universities has been given home and international classification based on admission departments interpretations. A small number of universities more likely to classify our students as internationals and who are more difficult to deal with on appeal is emerging. Ask members of the Global Connections MC and TCK Forum to advise which ones currently seem to fit this category and which ones are more open, although the situation changes over time and with different admissions staff.

If a student is wrongly classed as international, immediately appeal against that decision. If a student is classed as international by one or more universities and UK resident by others, we recommend accepting the UK-resident offer rather than going through potentially stressful appeal procedures.

Generally, students applying after one or two years living in this country from a fixed UK address are encountering fewer problems. This means returning to do a gap year for one year, or for 6th Form study after leaving the host country at 16. If the student leaves at 16 and studies at a UK boarding school, this would be deemed to be "mainly for the purpose of receiving full-time education" – a university and Student Finance defined category of exclusion for residence purposes. In such a case the student would still have to prove that he or she is ordinarily resident here and the parents are on a temporary overseas assignment. If the whole family leave when the student is 16, or the student returns to a permanent UK address to live with the extended family, then he or she can apply from that fixed UK address.

Dual Nationality Students

The situation for dual nationality students is more complex – e.g. from bicultural marriage or Commonwealth country citizens who have retained a UK passport. It really depends on what the family normally class as home, and evidence is needed that the UK has been the place of ordinary residence for at least the past 3 years.

E.g.

A family with Australian and UK passports that has consistently returned to Australia for leave from service in South Asia

A student of American and British parents who have consistently maintained the USA as their sending and home country

In both of these situations the case for ordinary residence and home student classification is very weak. The only realistic options for UK higher education study are to live in the UK for 3 years after leaving school overseas, and then apply as a mature student, or plan to change the country of ordinary residence at least 3 years in advance of any application – probably by moving here when the student is 15 or younger.

These are cases that need long-term planning and consideration when the children are still small to avoid disappointment when it comes to higher education application time.