

ESRC Postgraduate Funding Guide

Annex I: Residential guidelines

Established UK residency

The legal basis for defining residence eligibility for postgraduate training awards is set down in the *Education (Fees and Awards) Regulations 1997*¹. Candidates for awards must have a relevant connection with the United Kingdom. A relevant connection may be established if:

¹ *The education (Fees and Award) regulations 2007*. Statutory Instrument 2007 No. 779.

- The candidate has been ordinarily resident in the UK for three years prior to the start of the studentship grant
- Has not been resident in the UK, during any part of that three-year period wholly or mainly for the purposes of full time education, **and**
- Has settled status in the UK within the meaning of the Immigration Act 1971 (ie is not subject to any restriction on the period for which he/she may stay).

For purposes of residence requirements the UK includes the United Kingdom and Islands (ie the Channel Islands and the Isle of Man).

A relevant connection may be established for an **EU student** if the student has been ordinarily resident in the UK throughout the three-year period preceding the start of the course (including for full-time education).

British citizens are not subject to immigration control but only those other nationals who have been granted written permission to stay in the UK permanently are considered to have settled status. It is important to note that residential eligibility is based on a physical presence in the UK. British citizenship in itself does not satisfy the residential eligibility requirement.

Temporary absence

A UK citizen may have spent an extended period living outside the UK, either for study or employment. Most candidates in these circumstances will be able to show that they have maintained a relevant connection with their home country and therefore claim that the absence was temporary. 'Temporary' does not depend solely on the length of absence.

For the purposes of eligibility, a period of ordinary residence will not be treated as being interrupted by an absence which is caused by:

- the temporary absence abroad, for reasons of training or employment, of the candidate, the candidate's spouse or parents
- the temporary full-time education abroad of the candidate or spouse.

The applicant may be asked to provide copies of temporary contracts of employment and/or other documentary evidence to prove temporary absence.

An expatriate, or the child of an expatriate, who may have been born in the UK or abroad, and appears to have returned to the UK for full-time education, is required to establish temporary absence. In order to be eligible, it must be shown that:

- the absence abroad was involuntary, and attempts were made to remedy the breach with the UK at the earliest opportunity
- there was no individual intention to sever links with the UK
- links have been maintained through visits and vacation work.

It should be noted that anyone who is resident in a country is normally subject to the residence and tax conditions of that country. A resident may or may not acquire other rights by virtue of living there, but birth or long-term residence does not automatically confer rights similar to those of the citizens of that country. If a candidate has opted for full citizenship of a country other than the UK, then the candidate will be ineligible.

Refugees and asylum seekers

A candidate who has been granted full refugee status by the Home Office, or is the child or spouse of a refugee, has settled status and is eligible on residence grounds, provided that he/she has not ceased to be resident since being granted asylum or refugee status. Such candidates must provide documentary evidence of their status, usually in the form of a letter from the Immigration and Nationality Department of the Home Office.

Candidates who are asylum seekers are required to demonstrate settled status to be eligible.

Indefinite leave to remain

Candidates who have been granted Indefinite Leave to Remain (ILTR) by the Home Office have been given the right to reside in the UK, and thus have settled status. ILTR is usually given to those who have already spent a period in the UK, and are looking to take up British citizenship. A candidate who holds ILTR must, nevertheless, establish a relevant connection as set out in the Introduction above. Documentary evidence will be required.

Exceptional leave to remain or exceptional leave to enter

Candidates who have not been recognised by the Home Office as meeting the terms of the 1951 United Nations Convention on Refugees may be granted Exceptional Leave to Remain (ELR) or Exceptional Leave to Enter (ELE). The granting of ELR recognises that the current situation in the candidate's country of origin makes it impossible for him/her to return home. Thus, the holder of ELR may be allowed to settle in the UK if their home situation does not improve. Also, he/she is entitled to work in the UK and claim unemployment benefit and, after a certain period in residence, may be able to apply for ILTR, and subsequently British citizenship.

Candidates who have been granted ELR/ELE do not have the same entitlements as refugees. They will however, be eligible on residence grounds if they have spent the previous three years in the UK, not wholly or mainly for the purpose of receiving full-time education.

Visas, work permits, etc

Candidates who are resident in the UK on a student visa, work permit or dependant visa, or who have restrictions on the time they may stay in the UK and cannot demonstrate a relevant connection or settled status, will not be eligible on residence grounds.

Tuition-fees-only studentships for EU nationals to study in Great Britain

Candidates from EU countries other than the UK are generally eligible (subject to their eligibility on grounds of academic qualifications) for awards restricted to the payment of tuition fees only; no maintenance award will be payable. In order to be eligible for a fees-only award, a candidate must be

ordinarily resident in a member state of the EU, in the same way as UK candidates must be ordinarily resident in the UK.

Currently, the member states of the European Union (EU) are as follows:

Austria, Belgium, Croatia, Bulgaria, Denmark², Finland, France³, Germany⁴, Greece, Ireland, Italy, Luxembourg, The Netherlands⁵, Portugal⁶, Romania, Spain⁷, Sweden, Cyprus, The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, The Slovak Republic and Slovenia.

² Greenland and the Faroe Islands are not part of the EU

³ The French Overseas Departments (DOMs) of Guadeloupe, Martinique, French Guyana, and Reunion are part of Metropolitan France, and the treaties apply. However, French Overseas Territories (TOMs) eg French Polynesia, are not part of the EU.

⁴ Heligoland, although a tax free port, is part of the EU.

⁵ The Netherlands Antilles are not part of the EU.

⁶ Madeira and The Azores are part of the EU under special terms. Macao is not part of the EU.

⁷ The Balearic Islands, the Canary Islands, Ceuta and Melilla are all part of the EU.

Gibraltar is part of the EU, and students from Gibraltar are to be treated as other EU nationals.

The UK Dependent Territories are not part of the EU. The independent states of Andorra, Monaco, San Marino and The Vatican are also not part of the European Union.

The implementation of the Switzerland Agreement means that permanent residence in Switzerland is no longer a bar to EU nationals being classed as 'EU Students'. Swiss nationals do not qualify to be considered as EU students.

Migrant workers (EU nationals)

Articles 7 (2) and 12 of Council Regulations (EEC) No. 1612/68 allow for candidates who have established a relevant connection with the EU to be eligible for a full award (including maintenance) as 'migrant workers'. A migrant worker can be defined as an EU citizen who is employed in a member state of the EU who should be treated as a national of that member state. Similarly, a child or spouse of a migrant worker is also eligible to be treated in the same way. However, the following conditions must be met:

- The employment should be full-time and of significant duration. Therefore, a candidate engaged in part-time or short-term casual employment, or who has been effectively unemployed, cannot be considered to hold migrant-worker status. Additionally, the employment would be expected to be relevant to the candidate's previous or future course of study, although employment of a 'professional' nature will be considered on its merits.
- The employment should not be ancillary, ie taken up with a view towards engaging in subsequent studies, or subject to the candidate being accepted for the training for which he/she is to be nominated. An example of this would be a candidate who has been employed as a Research Assistant in an RO department where a future award is to be held.
- With regard to the children of migrant workers, it must be shown that the candidate's residence is as a consequence of the parent's past or present employment. A child who has not been resident in the UK during their parent's employment, or who departed with their parent at the cessation of that employment, will not be eligible to claim migrant-worker status.

Candidates from European Economic Area (EEA) member states

The arrangements for migrant workers are also extended to candidates who are nationals of the EEA member states of Iceland, Liechtenstein and Norway. Where such candidates meet the migrant worker requirements they will be eligible for full awards. However, as these countries are not member states of the EU, candidates will be ineligible for fees-only awards.

Residents of Northern Ireland

If the applicant is usually resident in Northern Ireland and can meet the eligibility requirements in the same way as described for residence in Great Britain, they can be considered for a studentship if they intend to study in an accredited Doctoral Training Centre and on an accredited pathway.

If the applicant is usually resident in Northern Ireland or Great Britain and wishes to study in Northern Ireland, the Department for Employment and Learning, Northern Ireland is responsible for awarding postgraduate studentships. The address is:

Department for Employment & Learning

Adelaide House

39/49 Adelaide Street

Belfast

BT2 8FD

Telephone: 028 9025 7777

Website: www.delni.gov.uk

Opening up international eligibility

The Research Councils have agreed a number of underlying principles in relation to the recruitment of non-UK-domiciled candidates to Research-Council-funded studentships. In light of this, ESRC has agreed to relax the rules around international eligibility in strategic areas, allowing fees and stipends to be paid for students from outside the UK. DTCs will be able to recruit overseas and EU students for full awards in Economics or Advanced Quantitative Methods without adhering to the current residential eligibility rules. Institutions will be required to waive the higher international fee rate for these students (ie fees can only be paid at the same rate as home students).