

## **Annex B**

### **Residential Eligibility Guidelines for UKRI Funded Studentships**

Please note this guidance includes those Students who have been, or will be, recruited to start in the 2019/20 and 2020/21 academic years.

#### **Established UK residency**

The legal basis for defining residence eligibility for postgraduate training awards is set down in the Education (Fees and Awards) Regulations 2007. Candidates for awards must have a relevant connection with the United Kingdom. A relevant connection may be established if:

- The candidate has been ordinarily resident in the UK, meaning there are no restrictions on how long they can stay, **and**;
- has been 'ordinarily resident' in the UK for at least three years prior to the start of the Studentship grant, **and**;
- has not been residing in the UK wholly or mainly for the purpose of full-time education. (This does not apply to UK nationals and EU nationals who were ordinarily resident in the EU immediately before the period of full-time education).

For purposes of residence requirements the UK includes the United Kingdom and Islands (i.e. 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 Studentship (including for full-time education).

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 candidate 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, is eligible 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 they are ordinarily resident in the United Kingdom in the first day of the first academic year of the course.

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 ordinary residence. 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.

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.

From 1 April 2003, the Home Office replaced the granting of ELE/ELR with Humanitarian Protection (HP) or Discretionary Leave (DL).

Candidates who have been granted ELR/ELE, HP or DL 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 dependent visa, or who have restrictions on the time they may stay in the UK and cannot demonstrate a relevant connection or that they are ordinarily resident in the UK, will not be eligible on residence grounds.

### **Tuition fees only Studentships for EU nationals to study in the United Kingdom**

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, Bulgaria, Croatia, Cyprus, The Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, The Slovak Republic, Slovenia, Spain and Sweden.

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, i.e. 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.

### **Opening up international eligibility**

Please refer to the individual Council's postgraduate guidance for further information on areas where international eligibility may have been relaxed.

### **Institutional role in checking of residential eligibility**

UKRI places full reliance on residential eligibility approval checks undertaken by the Research Organisation. Decisions made on this are fundamental to the validity of Our funding. In the event that any funded Student was subsequently found to be ineligible, under Treasury rules this would require cancellation of the grant and recovery of sums paid, for which the UKRI would hold the Research Organisation liable. UKRI reserves the right to undertake sample checks.

Potential candidates must discuss their eligibility with the Research Organisation in the first instance and not contact the Council directly. If the circumstances around establishing eligibility are complex, the postgraduate admissions office (or equivalent) should be contacted for further advice. In exceptional circumstances a referral can be made to the relevant Council for advice.

When submitting Student details to Je-S Student Details, ROs are confirming that they have checked the eligibility of the Student. The relevant Council reserves the right to stop payments

for nominated Students whom it considers to be ineligible but would expect the Research Organisation to continue to support the Student.

### Frequently Asked Questions

***I am a UK national who has lived all my life in the UK (this includes the Channel Islands and Isle of Man) - am I eligible for a full award?***

Yes, you are eligible for a full award, to include both fees and stipend.

***I am a UK national who has been abroad for 2 years - am I eligible for a full award?***

Yes, although you have had a temporary absence from the UK, for example for a short term employment contract or for education purposes, you would be eligible for a full award, to include both fees and stipend, if you maintained a connection with the UK during your temporary absence.

***I am a national of an EU state (not the UK) and have lived all of my life in that EU state – what am I eligible for?***

You would usually be eligible for the fees element of an award (not the stipend). Some Councils have opened up the International eligibility (see individual websites for information).

***I am a national of a non-EU EEA state and have lived in the UK for three years, before which, I was resident in an EEA State, what am I eligible for?***

As you have been resident in the UK for three years, you would be eligible for a full award.

***I am a national of a non-EU EEA state and have lived in the UK for three years, for full-time education, before which, I was resident in an EEA State, what am I eligible for?***

As you have been resident in the UK solely for the purposes of education, you would not be eligible for a full award.

***I am a national from a state outside of the EU, who has been granted full refugee status by the home office and therefore have residency – would I be eligible for funding?***

Yes, as long as you have not ceased to be resident since being granted asylum or refugee status.

***I am an EEA migrant worker, what would I be entitled to?***

You would be eligible for a full award, as long as you are able to satisfy the same criteria as required by EU nationals.