

Learner Residency Criteria Guidance 2008/09

This is a shortened version of the guidance issued by the LSC and the criteria outlined below will cover the residency circumstances of most adults applying to join Train to Gain.

People whose residency circumstances do not fit this criteria should be asked to provide as much evidence as possible relating to their nationality, settled status, right to live/work in the UK etc and the company manager or director will make the final decision as to their eligibility for Train to Gain.

NB Documentation of all foreign nationals and asylum seekers must be checked by the director before confirming the offer of a place on TtG

1 Determination of Learner Eligibility

In order for a person to be eligible for an LSC-funded programme, they must have the legal right to be resident in the UK at the start of their programme. There must also be a reasonable likelihood that the learner will be able to complete their programme of study.

2 Definition of 'ordinarily resident'

- A person who on the date of joining TtG is 'settled' in the UK and has been ordinarily resident in the UK for the three years preceding the date of joining and whose main purpose for such residence was not to receive full-time education during any part of the three-year period.

3 Definition of 'settled'

- 'Settled' means having:
 - either indefinite leave to enter or remain in the UK
 - or the right of abode in the UK

4 No recourse to public funds

People with 'no recourse to public funds' included in their passport stamp are eligible for LSC-funding provided they meet the normal eligibility residency criteria.

5 Right of abode in the UK

- The following people have the right of abode in the UK:
 - British citizens**
 - those with **European community - UK and Northern Ireland passports**
 - British Overseas Territory citizens**
 - those whose **passports have been endorsed to show they have the right of abode in the UK**
 - those who have a **certificate of naturalisation or registration as a British citizen**
 - a national of any EU country** or the spouse, civil partner or child of a EU national who has been normally resident in the EEA for three years preceding joining TtG
 - an EEA migrant worker** or the spouse, civil partner or child of an EEA migrant worker who has been normally resident in the EEA for three years preceding joining TtG
 - anyone who is **recognised as a refugee** by the UK Government who has remained ordinarily resident in the UK since being recognised or the spouse, civil partner or child of such a refugee
 - anyone **refused refugee status** but has been **granted leave to stay** by the Secretary of State, **granted humanitarian protection or discretionary leave or exceptional leave to enter or remain** by the UK Government and who has remained ordinarily resident since being so recognised or the spouse, civil partner or child of such a person
 - learners studying under reciprocal agreements

6 Member States of the European Union

- For funding purposes the EEA is defined as:
 - all members of the EU (see below)
 - plus Iceland, Liechtenstein, Switzerland and Norway

Member States of the European Union (August 2008)

- | | | | | | | |
|-----------------------------------|-----------------------------------|------------------------------------|--|---|--------------------------------------|----------------------------------|
| <input type="checkbox"/> Austria | <input type="checkbox"/> Belgium | <input type="checkbox"/> Bulgaria* | <input type="checkbox"/> Cyprus | <input type="checkbox"/> Czech Republic | <input type="checkbox"/> Denmark | |
| <input type="checkbox"/> Estonia | <input type="checkbox"/> Finland | <input type="checkbox"/> France | <input type="checkbox"/> Germany | <input type="checkbox"/> Greece | <input type="checkbox"/> Hungary | <input type="checkbox"/> Ireland |
| <input type="checkbox"/> Italy | <input type="checkbox"/> Latvia | <input type="checkbox"/> Lithuania | <input type="checkbox"/> Luxembourg | <input type="checkbox"/> Malta | <input type="checkbox"/> Netherlands | <input type="checkbox"/> Poland |
| <input type="checkbox"/> Portugal | <input type="checkbox"/> Romania* | <input type="checkbox"/> Slovenia | <input type="checkbox"/> Slovak Republic | <input type="checkbox"/> Spain | <input type="checkbox"/> Sweden | <input type="checkbox"/> UK |

* People who are nationals of Bulgaria and Romania will be eligible for funding at the 'home' rate from 1 January 2007, subject to the learner meeting the normal three year residency requirements.

7 Other Groups

In addition to the groups outlined above the LSC will also consider the following groups of learners to be eligible for LSC funding:

- people who have been living in England for the three years immediately preceding the start of the programme
- people with humanitarian protection or discretionary leave or exceptional leave to enter or remain, their spouses, civil partners or children
- people with recently settled status (this means they have been granted indefinite leave to enter or remain, right of abode or British citizenship within the three years immediately preceding the start of the programme)
- the spouse or civil partner with settled status, who has been both married and resident in the UK for one year for longer than six months
- asylum seekers ** who have legally been in the UK pending consideration of their claim by the Home Office
- asylum seekers ** refused asylum but eligible and granted support under Section 4 of the Immigration and Asylum Act 1999

*** the eligibility of these learners must be reassessed at the start of each programme*

8 Evidence requirements

- The LSC does not require or expect passports to be photocopied although passport number and references should be recorded as necessary. However, where doubt exists concerning eligibility, any passport stamp clarifying eligibility should be photocopied to allow the director to carry out checks against LSC detailed guidance
- Documents to prove eligibility should be recorded as seen by the provider
- Foreign nationals will have Home Office documentation that outlines their status
- Asylum seekers will have an application registration card (ARC)