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Short Guide for Advisers on Access to Further Education

This information paper is for advisers and outlines which learners should be considered as a home student for fee purposes¹ and eligible for fee remission². A learner must first be eligible for Learning and Skills Council (LSC)³ funding (i.e. home student fee status) in order to be considered for fee remission.

Eligible for LSC Funding

- asylum seekers aged 16-18
- asylum seekers who after six months are still waiting for a decision on their claim or appeal
- people who have been refused asylum, are unable to return because of circumstances beyond their control and are receiving Section 4 support
- asylum seekers granted refugee status, discretionary leave to remain, humanitarian protection or exceptional leave to remain, their spouses and dependents
- learners who have been legally resident in the UK for 3 years⁴ before the start of the course
- learners granted indefinite leave to remain in the UK or British citizenship within the 3 years before the start of the course⁵
- learners who were granted Exceptional Leave to Remain, Discretionary leave to remain or Humanitarian Protection and have applied for further leave to remain in time should be considered as having continuing leave to remain.⁶
- learners who were granted exceptional leave to remain and have continued to be ordinarily resident⁷

¹ Some courses in FE may require permission to work. See the Refugee Council's briefing on access to vocational training at <http://www.refugeecouncil.org.uk/policy/briefings/2007/righttowork.htm>, last searched 19 August 2009

² Fee remission means that some or all of the course fees will be funded by the LSC

³ The Skills Funding Agency (SFA) will replace the LSC in 2010

⁴ Sec 17a *LSC Learner Eligibility Guidance 2008-09*. See also Sec 5 *LSC Learner Eligibility Guidance 2008-09*, which outlines that "any person subject to a Home Office deportation order will ordinarily be ineligible for funding until their situation has been resolved to the satisfaction of the Home Office." Therefore, any asylum seeker who has not been issued a deportation order is legally resident in the United Kingdom.

⁵ Sec 17c *LSC Learner Eligibility Guidance 2008-09*

⁶ The former Department for Innovation, Universities and Skills, now the Department of Business, Innovation and Skills, has stated that 'If a person applies for a further period of discretionary leave before the first period of discretionary leave has expired, then the applicant's discretionary leave may be extended by section 3C of the Immigration Act 1971...provided the application has not been withdrawn, the period of discretionary leave would be extended for the period it takes the Home Office to make a decision on the application.' See <http://www.refugeecouncil.org.uk/news/news/2007/august/20070829.htm>, last searched 10 July 2009

⁷ Sec 14e *LSC Learner Eligibility Guidance 2008-09*

Eligible for Fee Remission⁸

- asylum seekers aged 16-18 (asylum seekers who turn 19 while on a course will remain eligible for funding until the end of that course)
- supported asylum seekers who after six months are still waiting for a decision on their claim or appeal⁹
- people who are receiving Section 4 support¹⁰
- learners studying their first full level 2 qualification (equivalent to 5 GCSEs A*-C) who are ordinarily resident in the UK
- learners aged between 19-25 and taking their first full level 3 qualification (equivalent to 2 or more A levels) who are ordinarily resident in the UK
- refugee learners in receipt of income-based benefits or unemployed
- learners taking a basic skills qualification, other than English for Speakers of Other Languages (ESOL)

Note on Ordinarily Resident

Ordinarily Resident for funding purposes is 'in a given country or region any person who habitually, normally and lawfully resides from choice and for a settled purpose in that country. Temporary absences from the relevant area should be ignored. Someone who has not been ordinarily resident because he or she or the person's parent or spouse or civil partner was working temporarily abroad will be treated as though the person had been ordinarily resident in the relevant area.'¹¹

⁸ The full list of learners eligible for fee remission, see Sec 94 *LSC Learner Eligibility Guidance 2008-09*

⁹ Appendix B *Learner Eligibility Guidance 2008-09* "Asylum seekers will be able to produce an application registration card (ARC) which is issued on or close to the date of their asylum claim. The date of issue will be recorded on the ARC. To demonstrate that they are currently supported under the Immigration and Asylum Act 1999 and thus eligible for LSC funding, a recent (that is, less than one month old) copy of a person's post office receipt of Asylum Support (AS) assistance, which is received by using the ARC, will be required... it should not usually be necessary to see post office receipts for each month since the ARC was issued, merely a post office receipt issued for the same month as the learner enrolment. It is likely that the post office receipt will identify the AS support as Section 95 support."

¹⁰ Appendix B *Learner Eligibility Guidance 2008-09* "To demonstrate that they are currently supported under Section 4 of the Immigration and Asylum Act 1999 and thus eligible for LSC funding, learners will need to produce confirmation from the Home Office of Section 4 support within three months of the issue date. Section 4 support is often given to asylum seekers who have been refused asylum but who cannot return home. As a result, individuals may no longer have an ARC."

¹¹ Sec 13 *LSC Learner Eligibility Guidance 2008-09*. This includes the length of time claiming asylum and further representations.