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Short Guide on Access to Further Education: asylum seekers and refugees

This information paper is for advisers on learner eligibility for Skills Funding Agency (SFA) funded courses and fee remission in the 2011/12 academic year: 1 August 2011 to 31 July 2012. It does not affect learners whose course is continuing from the previous academic year (e.g. who are on a two year course).

It outlines which learners should be considered as a home student for fee purposes (**Eligible for SFA funding**). It then outlines which types of home students are eligible for fee remission¹ for level 3 qualifications and below. A learner must first be eligible for SFA funding (i.e. home student fee status) in order to be considered for fee remission.

The guide has separate sections on eligibility for English for Speakers of Other Languages (ESOL) funded provision, vocational training, apprenticeships and 16-18 year old learners.

This guide is not comprehensive but covers the main criteria relevant to asylum seekers and refugee learners. It is based on the Skills Funding Agency's (SFA) [Learner Eligibility and Contribution Rules 2011/12](#)

Eligible for SFA Funding

Learners aged 19 years or older and who meet one or more of the following criteria are considered as home students for fee purposes (i.e. not classed as overseas/international students)

- asylum seekers who after six months are still waiting for a decision on their claim or appeal
- people who are receiving Section 4 support²
- asylum seekers granted refugee status, discretionary leave to remain, humanitarian protection or exceptional leave to remain, their spouses and dependents
- learners granted indefinite leave to remain (settled) and who have been ordinarily resident in the UK for 3 years³ before the start of the course
- learners who were granted Exceptional Leave to Remain, Discretionary leave to remain, refugee status with 5 years 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.⁴

¹ Fee remission means that some or all of the course fees will be funded by the Skills Funding Agency (SFA)

² Section 2, para 33 notes that the eligibility of people receiving Section 4 support is under review. Please check the SFA website for any changes.

³ 3 years residence includes the period claiming asylum. 'In order for a learner to be eligible for Agency funding for their learning programme, the learner must have the legal right to be resident in the United Kingdom at the start of their programme. Any person subject to a Home Office deportation order will be ineligible for funding.' (Section 2, para 15)

⁴ 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

Eligible for Full Fee Remission

Learners who are considered home students for fee purposes by meeting one or more of the criteria above can get their fees paid for by the SFA if they meet one or more of the following:

- all learners in receipt of Jobseekers Allowance (JSA) or Employment and Support Allowance, work-related activity group (ESA)
- all learners taking Adult Basic Skills or Functional Skills in literacy and numeracy, other than English for Speakers of Other Languages (ESOL)
- all learners studying their first full level 2 qualification (equivalent to 5 GCSEs A*-C)
- learners aged between 19-24 and taking their first full level 3 qualification (equivalent to 2 or more A levels)
- all learners 'jumping' to Level 3 (i.e. who have not taken a Level 2 qualification)

Eligible for co-funding

Co-funding is where the SFA funding covers part of the fees, usually half. The learner, or employer, is responsible for the rest. However, colleges can decide to waive or reduce the learner's contribution. Learners in receipt of the following benefits are eligible for co-funding:

- Council Tax Benefit
- Housing Benefit
- Income Support
- Working Tax Credit
- Pension Credit
- Contribution based Employment and Support Allowance

In addition, the following learners will also be eligible for co-funding:

- 19-24 year old learners taking a full Level 3 qualification (classroom based) and who already hold a Level 3 or above qualification
- learners aged 25 years or above taking their first full Level 3 qualification (classroom based) and who already hold a Level 2 or above qualification.

English for Speakers of Other Languages (ESOL)

Full fee remission for ESOL is restricted to learners on Jobseekers Allowance or Employment and Support Allowance, work related activity group. These are often referred to as 'active benefits': you have to be actively seeking work in order to qualify.

All other learners in receipt of the benefits outlined above (**Eligible for co-funding**) will be required to contribute towards the fees (probably 50%). However, the government expects ESOL providers to be 'innovative, responsive and accountable and provide learning that specifically meets the needs of learners within their local communities'.⁵ This includes partnership working with local agencies and could also cover measures such as reducing or waiving the learner's contribution.⁶ It was also announced in

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/archive/news/2007/august/20070829>, last searched 19 July 2011

5 Department for Business, Innovation and Skills *English for Speakers of Other Languages (ESOL) Equality Impact Assessment* (July 2011). The EIA is at <http://www.bis.gov.uk/equality-impact-assessments>, last searched 19 July 2011

6 See also Department for Business, Innovation and Skills *Skills for Sustainable Growth* (November 2010)

July 2011 that BIS will also work in partnership with DCLG on developing new forms of support for those who need informal, community-based learning of English.

Vocational training

Some SFA funded provision requires permission to work (i.e. when the training is part of paid employment), but this does not apply to all vocational training.

Refugees: full employment and training entitlements.

Asylum seekers/people receiving Section 4 support: unless they have permission to work, restricted to vocational training that does not involve paid or unpaid employment. The UK Border Agency (UKBA) has stated that asylum seekers can do vocational training where it is part of a college course. It cannot be work-based where the training is part of a job. Any work placement that is part of a college course must be unpaid. If it carries a training allowance, the person may need to have the conditions attached to their temporary admissions amended.

Apprenticeships

Refugees, people granted Discretionary Leave to Remain or Humanitarian Protection are eligible for all SFA funded apprenticeship training (including Level 4). They do not need to satisfy the 3 year ordinarily resident requirement. The main groups for funding are:

- 16-18 year old trainees: fully funded
- 19-24 year old trainees: co-funded (50%)

However, an apprenticeship training provider is free to direct their resources as they think fit.⁷ This includes co-funding 25 year old plus trainees.

The SFA will also consider the following learners eligible for funding for an Apprenticeship:

- All 16-18 year old asylum seekers
- All 16-18 year old learner (including unaccompanied asylum seekers) who are placed in the care of social services

Note on 16-18 year old learners

16-18 year old asylum seekers and refugees are eligible for funding through a different organisation, the Young Peoples Learning Agency (YPLA)⁸ and this continues throughout the duration of the course. The YPLA has confirmed that it 'would expect local authorities to try to find the learner a place at a funded provider. [The YPLA] would also expect our providers not to attempt to charge exam fees for 16-18 year old refugees.'⁹

⁷ Email confirmation from the SFA on 15 July 2011

⁸ The Young Persons' Learning Agency will become the Education Funding Agency from April 2012

⁹ Email correspondence 14 July 2010