

UKCOSA GUIDANCE NOTE FOR STUDENTS

Note for EEA nationals

The countries which compose the European Economic Area (EEA) are:

Austria, Belgium, Bulgaria, Czech Republic, Republic of Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom. Nationals of these countries should also see our Guidance Note, 'EEA Students', which can be downloaded from www.ukcosa.org.uk/pages/guidenote.htm.

What are welfare benefits?

Welfare benefits are payments given by the United Kingdom (UK) government to certain people on low incomes, or to meet specific needs.

Can I claim welfare benefits?

If you have UK immigration permission in the category of Student (or in any other category in which you have the condition, 'No recourse to public funds' stamped in your passport) you will not be able to claim most of the main benefits.

Furthermore, the UK Immigration Rules for Students state that you must be able to meet the costs of your course and accommodation and maintain yourself and any family members in the UK without having recourse to public funds.

However, there is some limited provision if there is a temporary disruption to funds you receive from overseas (see section below, 'What if I have temporarily run out of money?').

What are 'Public funds'?

'Public funds' refers to a specific list in the Immigration Rules of benefits and other payments (see below). If you have the immigration condition, 'No recourse to public funds' stamped in your passport, it is unlikely that you will be able to receive any of these benefits, except where there is a 'temporary disruption of funds' (see below).

The Immigration Rules list 'Public funds' as:

- Help with housing from the local authority
- Attendance allowance
- Carers allowance (previously invalid care allowance)
- Child benefit
- Council tax benefit
- Disability living allowance
- Housing benefit
- Income support

- Income-based jobseeker's allowance
- Severe disablement allowance
- Social fund payments
- Child tax credit
- Working tax credit
- Pension credit

Note that the benefits and services listed as 'Public funds' above do not include access to the National Health Service; education; or any education funding (for example, being assessed as a 'home' fee-payer or being eligible for student support). If you are entitled to these, you would not be in breach of your immigration conditions if you claimed them.

What if I have temporarily run out of money?

If you are on limited leave with a 'no recourse to public funds' condition, and are experiencing a temporary disruption of funds, you can claim short-term benefits (urgent cases payments of income support) for up to six weeks from the local benefits office, but only in an emergency. These urgent cases payments are made under Income Support Regulation 70(2A). You can also claim housing benefit and council tax benefit under the same qualifying conditions (see **Box B** at the end of this Guidance Note). This is an exception to the normal rules and you are allowed to claim these three benefits, even while studying full-time. You may also be able to claim working and child tax credits during the period of disruption.

If you satisfy the qualifying conditions in **Box B**, you will not be subject to the 'habitual residence test' (most other claimants have to show that they are habitually resident in the UK or Channel Islands or Isle of Man or Ireland).

If you receive benefits because of a temporary disruption of funds, this should not affect your immigration status.

What if I do receive 'public funds'?

Apart from the 'temporary disruption of funds' exception described above, if you were to receive 'public funds' you may be in breach of your immigration conditions. Breaching an immigration condition is a criminal offence and could lead to serious immigration problems, including removal from the UK and difficulties with getting an extension of leave.

Important note

Some international students are encouraged to apply for benefits by agencies who are not aware that they are in the UK with Student immigration permission, and that it would be a breach of their immigration conditions to claim this benefit. An example of when this may arise is if a student or their partner has a child whilst in the UK: their midwife or hospital/social work staff may encourage them to apply for Child Tax Credit (for example) by providing the application forms, but the student is not permitted to claim this benefit. The same would also apply to anyone else with the 'No recourse to public funds' condition stamped in their passport.

For more information on Tax Credits (Working Tax Credit and Child Tax Credit) see the Her Majesty's Revenue and Customs (HMRC) website at <www.hmrc.gov.uk/students/how_to_claim_tc_2_1.htm> (section, 'Students: How to claim Tax Credits').

What about benefits who are not on the list of 'Public funds'?

All other benefits and services are not classified as public funds for immigration purposes and may be claimed by international students who meet the eligibility requirements for the individual benefit without jeopardising their immigration status. However, these are mainly benefits for which you would not qualify anyway: for example, some benefits are based on National Insurance contributions (for example, maternity allowance, contributory incapacity benefit and contributory jobseeker's allowance); and some are not available to people subject to UK immigration control.

What if I am a national of the European Economic Area (EEA) or Switzerland?

If you are a national of the EEA or Switzerland, your entitlement to benefits will not be restricted by your immigration status but will be similar to that of UK students. You may not be able to qualify for benefits if

you are a full-time student because of restrictions that affect students generally. If you are a national of one of the member states which joined on 1 May 2004, your eligibility for benefits may be restricted under the requirements of the Workers Registration Scheme.

Further information for EEA/Swiss nationals can be found in our Guidance Note, 'EEA students' at <www.ukcosa.org.uk/pages/guidenote.htm> and in 'Social security agreements between the United Kingdom (UK) and other countries' on the Department of Work and Pensions (DWP) website at <www.dwp.gov.uk/lifeevent/benefits/social_security_agreements.asp>.

I think I may be eligible for benefits. How do I claim?

Broadly speaking, international students are rarely eligible for welfare benefits. However, there are exceptions, including under the 'temporary disruption' provision (see above) and for EEA/Swiss nationals. In some circumstances, if a student's partner is eligible for benefits, he or she can claim benefits for the couple or family.

In order to receive any benefit to which you are entitled, you need to make a claim through your local job centre or social security office. For example, Income Support is dealt with by Jobcentre Plus (<www.jobcentreplus.gov.uk>); and tax credits are administered by Her Majesty's Revenue and Customs (HMRC) (<www.hmrc.gov.uk>).

Claiming procedures can be quite complicated and it is usually best to seek advice on what to do and what documentation you need to provide, as well as on the implications of claiming benefits. You can seek advice from your university/college, Students' Union Advice Service, from a Citizens Advice Bureau or from a Law Centre. (See list of websites at the end of this Guidance Note).

What if I am a Refugee?

If you have Refugee status or Exceptional Leave or Humanitarian Protection or Discretionary Leave in the UK you can claim all welfare benefits, subject to the 'ordinary' rules, and you cannot be refused any benefit on the basis of your immigration status. However, if you are studying full-time, as is the case for UK students, you will not be entitled to any of the main income-related benefits listed unless you are in a 'vulnerable group' (for example, if you are a lone parent).

If you have Refugee status, you can claim income support, housing benefit and council tax benefit for up to nine months without being required to be available for work if:

- you are studying English at least 15 hours a week and
- the course started or starts within one year of your arrival in the United Kingdom.

As staff in many benefit offices may be unfamiliar with this provision, you may need to seek advice from your institution or Students' Union or Citizens Advice Bureau or Law Centre.

The above provision is contained within the Income Support regulations. Your adviser may find it helpful to know that it is based on Income Support regulation 4ZA and paragraph 18 of Schedule 1B of the Income Support regulations.

If you are already in receipt of income-based jobseeker's allowance and are about to start an English course (that is at least 15 hours a week and starts within 12 months of your arrival in the UK), you will need to withdraw your claim for jobseeker's allowance at the same time as making a claim for income support.

When your course finishes or after nine months, whichever of these is the earliest, you will need to claim jobseeker's allowance (unless you come within one of the 'vulnerable groups').

When switching from jobseeker's allowance to income support or the other way around, as above, try to get precise advice on how you should go about doing this so that:

- there are no gaps between the periods of entitlement, and your housing benefit and council tax benefit, if you are receiving these, are not stopped.

If you have just been granted refugee status you may be entitled to some backdated welfare benefits if you claim quickly. If this may apply to you, seek advice – see below. The system of backdated benefits is due to be replaced by loans to refugees at some point in 2006.

You can seek advice on all the above from your institution, Students' Union, Citizens Advice Bureau or Law Centre. The adviser can check with the local benefits office as procedures may vary in different parts of the UK.

What if I am an asylum seeker?

If you are an asylum seeker, you are very unlikely to be entitled to benefits, but may receive support from the National Asylum Support Service (NASS). For more information, see the UKCOSA Guidance Note, *Asylum and Studying*, at <www.ukcosa.org.uk/pages/guidenote.htm>.

Where can I get more information on benefits?

If you need more information or advice on your entitlement to benefits, the Students' Union Student Advice Service or your institution may help.

You can also get free advice from any Citizens Advice Bureau, and some Law Centres will also offer free advice if you live locally (see list of websites at the end of this Guidance Note).

For information on health benefits, please see the UKCOSA Guidance Note, 'Keeping Healthy', at www.ukcosa.org.uk/pages/guidenote.htm

BOX A

BENEFITS THAT CANNOT NORMALLY BE CLAIMED IF YOU HAVE STUDENT IMMIGRATION LEAVE:

- Help with housing from the local authority
- Attendance allowance
- Carer's allowance
- Child benefit
- Council tax benefit
- Disability living allowance
- Housing benefit
- Incapacity benefit for incapacity in youth
- Income-based jobseeker's allowance
- Income support
- Pension credit
- Severe disablement allowance
- Social fund payments
- Working tax credit
- Child tax credit

BOX B**TEMPORARY DISRUPTION OF FUNDS**

You can make a claim for income support if:

- you are on limited leave with no recourse to public funds
- your funds usually come from abroad
- there is a temporary disruption of your funds from abroad
- it is reasonable to expect your supply of funds to resume
- you have been financially self-supporting during your stay up until now (other than similar urgent cases claims - but you can only claim for a maximum of 42 days altogether)

If your claim is successful, for a maximum of 42 days (six weeks) you will get:

- 90% of the income support adult personal allowance for you and your partner
- children's personal allowances (in full)
- any premiums (in full) - these are extra amounts for those who have dependant children living with them and/or other extra needs (eg disability-related)
- housing benefit- if you pay rent, unless you live in halls of residence
- council tax benefit - if you are liable for council tax payments

During a period of temporary disruption you may be able to claim child and/or working tax credits.

Her Majesty's Revenue and Customs (HMRC)
www.hmrc.gov.uk

Tax Credits (Working Tax Credit and Child Tax Credit)
These benefits are dealt with by Her Majesty's Revenue and Customs (HMRC)

Tax Credits Homepage (including, 'Do I qualify?', which includes useful information for those subject to UK immigration control)
<www.taxcredits.inlandrevenue.gov.uk/HomeNew.aspx>

Information for students
<www.hmrc.gov.uk/students/how_to_claim_tc_2_1.htm>

Income Support (dealt with by Jobcentre Plus)
IS20 - A guide to Income Support: Who can get Income Support? Section: People from abroad (including returning UK nationals)
<www.jobcentreplus.gov.uk/jcp/partners/allowancesandbenefits/dev_010072.xml.html>

To find your nearest Jobcentre

<www.jobcentreplus.gov.uk/jcp/Aboutus/Ouroffices/LocalOfficeSearch.aspx>

Other benefits:

Department of Work and Pensions (DWP)
www.dwp.gov.uk

EEA nationals: Social security agreements between the United Kingdom (UK) and other countries
<www.dwp.gov.uk/lifeevent/benefits/social_security_agreements.asp>

Information for same-sex couples or civil partners claiming benefit:
<www.dwp.gov.uk/lifeevent/workage/civilpartnerships.asp>

SOURCES OF INFORMATION AND ADVICE

UKCOSA Guidance Notes:
www.ukcosa.org.uk/pages/guidenote.htm

The London Advice Services Alliance (LASA)
www.lasa.org.uk

Welfare benefits information and advice
www.lasa.org.uk/benefits/index.shtml

Citizens Advice Bureau
www.citizensadvice.org.uk

Community Legal Service Direct
www.clsdirect.org.uk

The Law Centres Federation
www.lawcentres.org.uk

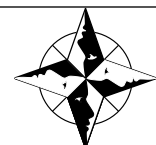
The Immigration Law Practitioners' Association
www.ilpa.org.uk



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9-17 St Albans Place
London N1 0NX, UK

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