

Welfare benefits

January 2010

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 as a 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 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.'

If there is a temporary disruption to your funds from abroad, there is some limited provision available but only for certain benefits. See the section [What if I have temporarily run out of funds?](#) If you have worked in the UK, you might be able to claim a benefit based on national insurance contributions or if you are pregnant or have recently given birth you might be able to claim a maternity benefit such as maternity allowance or statutory maternity pay.

What are 'Public funds'?

'Public funds' refers to a specific list in the Immigration Rules of benefits and other payments as listed 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 [Note 2](#) 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

Income Related Employment & Support Allowance (ESA) and the Health in Pregnancy Grant are not included in the immigration rules, however Chapter 1 section 7 of the Immigration Directorate Instructions (IDIs) does include them both in the definition of public funds. Therefore you should also regard these benefits as public funds.

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. At the time of writing income-based employment and support allowance is not listed as 'public funds' but this may change.

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 certain benefits such as income support for a short period, up to six weeks. Prior to 25 January 2010 these payments were urgent cases payments which were paid at a reduced rate of benefit however this has now been abolished and therefore if you qualify under the temporary disruption of funds rule you will be paid the full rate of benefit.

You can also claim housing benefit if you are liable to pay rent, unless you live in Halls of Residence, and council tax benefits under the same qualifying conditions (see **Note 2** below). This is an exception to the normal rules and you are allowed to claim these 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 outlined below in **Note 2**, you will not be subject to the 'habitual residence test' or 'right to reside test'. Most other claimants have to show that they are habitually resident and have a right to reside 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 or being allowed to come back to the UK for a specified period of time.

Important note

Some international students are encouraged to apply for benefits by agencies which are not aware that they are in the UK with immigration permission as a student, 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, the midwife or hospital/social work staff may encourage them to apply for Child Benefit, Child Tax Credit or a Health in Pregnancy grant by providing the application forms, but the student is not usually permitted to claim these benefits.

The same would also apply to anyone else with the 'No recourse to public funds' condition stamped in their passport.

More information on Tax Credits (Working Tax Credit and Child Tax Credit) can be obtained from Her Majesty's Revenue and Customs (HMRC) at www.hmrc.gov.uk/taxcredits/introduction.htm but it is usually best to get independent advice from your local Citizens Advice Bureau or Law Centre.

What about benefits which 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, contributory employment and support allowance and contributory jobseeker's allowance); some are dependent on the person having worked, such as maternity benefits and industrial injury benefit, 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 and an EEA or Swiss national cannot be subject to a 'public funds' restriction.

EEA nationals must satisfy the right to reside test and the habitual residence test in order to be entitled to certain benefits. Generally an EEA/Swiss national has a right to reside whilst in the UK as a student. Nationals from the new EU states which joined in May 2004 and January 2007 (often referred to as A8 and A2 states) also have a right to reside in the UK as a student. A8 and A2 nationals have to comply with certain registration rules with the Home Office in order to work and have a right to reside in the UK but this does not apply where an A8 or A2 national is a student in the UK.

However, the right to reside test is extremely complicated and you should get advice if you are refused benefit under these rules. You cannot be asked to leave the UK as an EEA/Swiss national simply for claiming benefits. The UK rules exclude students from access to many benefits irrespective of nationality and you may find that if you are a full-time student you are excluded from entitlement simply because of restrictions that affect students generally rather than anything to do with your immigration status.

Further information for EEA/Swiss nationals can be found on our website EEA students at www.ukcisa.org.uk/student/eea.php and 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 benefits 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 at www.jobcentreplus.gov.uk/JCP/index.html and tax credits are administered by Her Majesty's Revenue and Customs (HMRC), go to www.hmrc.gov.uk/taxcredits/introduction.htm.

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 [sources of information and advice](#) (below).

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 a refugee integration loan. In addition, as a refugee you may also be entitled to child benefit or child tax credit backdated to the date when you claimed asylum.

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 UK Border Agency Asylum Support or from social services. For more information, see the UKCISA Information Sheet, [Asylum and Studying](#)

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 Information Sheet). For information on health benefits, please see the UKCISA Information Sheet, [Keeping Healthy](#).

Note 1

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
- Employment and support allowance for youths
- Health in Pregnancy grant
- Housing benefit
- Incapacity benefit for incapacity in youth
- Income related employment and support allowance (ESA)
- Income-based jobseeker's allowance (JSA)
- Income support
- Pension credit
- Social fund payments
- Working tax credit
- Child tax credit

Note 2

Temporary disruption of funds

You can make a claim for income support, income related ESA or income based JSA 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 but you can only claim for a maximum of 42 days

Although the rule applies to all three benefits, a student in this situation should claim income support as it is the easiest route to claim benefit.

During a period of temporary disruption you may also be able to claim:

- child and/or working tax credits
- housing benefit - if you pay rent (but not if you live in a halls of residence)
- council tax benefit - if you are liable for council tax payments

Prior to 25 January 2010, if you claimed income support or income based JSA under the temporary disruption of funds rule, the rate of benefit that you received was at a reduced rate known as the urgent cases rate of benefit. The urgent cases rates have now been abolished and from 25 January 2010, any benefit paid under these rules will be at the usual full rate.

Sources of information and advice

UKCISA Information Sheets:

www.ukcisa.org.uk/student/information_sheets

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 Advice

www.clsdirect.org.uk

The Law Centres Federation

www.lawcentres.org.uk

The Immigration Law Practitioners' Association

www.ilpa.org.uk <

Her Majesty's Revenue and Customs (HMRC)

www.hmrc.gov.uk

Information for students from Her Majesty's Revenue and Customs (HMRC)

<http://www.hmrc.gov.uk/students>

The Tax Credits homepage: includes useful information about Working Tax Credit and Child Tax Credit (benefits dealt with by HMRC), and for those people who are subject to UK immigration control.

www.hmrc.gov.uk/taxcredits/introduction.htm

Income Support (dealt with by Jobcentre Plus)

"Income Support. Help if you're on a low income"

www.jobcentreplus.gov.uk/JCP/Customers/Leaflets_and_Guides/011720.xml.html

To find your nearest Jobcentre:

www.jobcentreplus.gov.uk/JCP/Aboutus/Ouroffices/Search/Localofficesearch.aspx?type=I&name=Local%20office

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.direct.gov.uk/en/Governmentcitizensandrights/Yourrightsandresponsibilities/DG_10026937

Telephone numbers

If you are calling from outside the UK, do not dial the (0) in the telephone numbers above. For example, if you want to call UKCISA from outside the UK, dial +44 20 7107 9922. If you are in the UK, do not dial +44, but do start the number with 0. For example, if you call UKCISA from within the UK, dial 020 7107 9922.

Textphone numbers are only for those who use a textphone (minicom) because of difficulties with speech or hearing.

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