

Family member of a settled person, course starts on or after 1 August 2022

If you will start your course before 1 August 2022, look at the category for the 'Family member of a UK national, course starts before 1 August 2022'. It shows you the stricter requirements that apply if your course starts before 1 August 2022.

In order to qualify for 'home' fees under this category, all of the following criteria (a) to (e) must be met:

(a) the settled person must be 'settled' in the UK on the *first day of the first academic year of the course*

To be 'settled', the person must be both ordinarily resident in the UK and without any immigration restriction on the length of their stay in the UK. The regulations take this definition of 'settled' from immigration law (section 33(2A) of the Immigration Act 1971).

A person has no immigration restriction on the length of their stay in the UK if they fall into one of the following groups (A or B or C or D or E):

A. British Citizen

If a person's passport describes them as a 'British Citizen', they have no immigration restriction on the length of their stay in the UK.

A special note for British Overseas Territories Citizens (BOTCs)

Many British Overseas Territories Citizens (BOTCs) are also British Citizens. The easiest way for a person to show they are a British Citizen is to have a passport that lists their nationality as 'British Citizen'. If they do not have one, England's Department for Education indicates in its Assessing Eligibility Guidance 2024/25 (paragraph 3.1) that any of the following will be acceptable instead:

- a British Overseas Territories Citizen passport issued before 21 May 2002; or
- a British Dependent Territories Citizen passport issued before 21 May 2002; or
- a British Overseas Territories Citizen passport issued on or after 21 May 2002, but only if the person also provides evidence that either:
 - they or their parent was born in a British overseas territory (check the list of 'qualifying territories' at www.gov.uk/types-of-british-nationality/british-overseas-territories-citizen); or
 - they or their parent was registered or naturalised as a citizen (for example, as a British Subject, a Citizen of the UK and Colonies, a British Citizen, a British Dependent Territories Citizen, or a British Overseas Territories Citizen) before 21 May 2002.

If the person is a British Overseas Territories Citizen who is also a British Citizen, another category to consider is the one headed 'Residence in British overseas territories, course starts on or after 1 August 2022', where the residence area is bigger.

B. 'Indefinite Leave to Remain' or 'Indefinite Leave to Enter' ('ILR'/'ILE')

If a person has Indefinite Leave to Enter (ILE) or Indefinite Leave to Remain (ILR) in the UK, they have no immigration restriction on the length of their stay in the UK.

A person who has been given 'settled status' under the EU Settlement Scheme has ILE or ILR.

If a person has ILE or ILR in Jersey, Guernsey, or the Isle of Man, then this is considered to be ILE or ILR in the UK whenever they are in the UK.

C. Right of Abode

If a person has a Certificate of Entitlement to the Right of Abode in the UK in their passport, they have no immigration restriction on the length of their stay in the UK.

D. Republic of Ireland citizen

If a person is a citizen of the Republic of Ireland, they have no immigration restriction on the length of their stay in the UK. They are also an EU national and an EEA national.

E. Non-British Citizen serving in the British armed forces

If a person is not a British Citizen but is serving in the British armed forces, they are treated as having no immigration restriction on the length of their stay in the UK, while they serve in the British armed forces. This is because of section 8(5) of the Immigration Act 1971.

Examples of where status is not 'settled'

A person is not 'settled' if they:

- have a time limit on the length of their stay in the UK, as shown by their current immigration permission (they have 'limited leave'); or
- are exempt from immigration control (unless they fit box E). For example, they are living in the UK as a diplomat or a member of their household/family; or
- have a type of British passport that does not give them British Citizenship (for example a British National (Overseas) passport), and they do not have Indefinite Leave

(b) you must be the family member of that settled person on the *first day of the academic year* you are paying fees for

For this category, 'family member' means:

- *spouse* or *civil partner* of the settled person
- *direct descendant* of the settled person, or of the settled person's spouse or civil partner, who is:
 - under 21 years old; or
 - 21 or over and a *dependant* of the settled person, or of the settled person's spouse or civil partner

(c) you must have been *ordinarily resident* in the *UK and Islands* for the full three-year period before the *first day of the first academic year of the course*. For example, if your course begins in October 2024 you must have been ordinarily resident in the UK and Islands from 1 September 2021 to 31 August 2024

Note: A person who makes a late application to the EU Settlement Scheme (EUSS) will have any period of residence in the UK and Islands between missing the deadline for the EUSS and making their EUSS application treated as lawful residence, even if it was unlawful. This means the residence can count as 'ordinary residence'.

(d) the main purpose for your residence in the UK and Islands must not have been to receive full-time education during any part of that three-year period

Tip: if you were in full-time education at some point during the three years, then ask yourself: If I had not been in education, where would I have been? If the answer is that you would have been somewhere in the UK and Islands anyway, then you meet criterion (d).

(e) you must undertake the course in the UK