

Residency Criteria and Evidence Requirements Guide

This guide explains how providers (meaning those delivering the Apprenticeship Programme using funding provided by Medr) should assess whether a person (also referred to as the “learner”) meets the residency related eligibility requirements for Medr funded apprenticeship provision in Wales.

To be eligible for Medr funded apprenticeship programme, the person (referred to as a participant or learner throughout the grant document suite) must meet the residency eligibility criteria for funding under the Education (Fees and Awards) (Wales) Regulations 2007 (the “**2007 Regulations**”), be a resident of and eligible to work in the UK and, where applicable, must hold the required visas.

Regulation 8 of the 2007 Regulations provides that it is lawful for Medr to adopt rules of eligibility for awards **which limit eligibility for Apprenticeship funding, to those mentioned in the Schedule to the 2007 Regulations.**

Guide to the assessment of eligibility

Requirements for different residency categories as listed in the 2007 Regulations

This guide is intended to provide examples of where participants may meet the different categories of residency as set out in the 2007 Regulations and it is not an exhaustive list.

If you are unsure whether someone falls into a certain category or you cannot see a category that fits a particular person, you are encouraged to seek your own independent advice.

This guidance is not legal advice and should not be relied on as such. It is also subject to change in line with changes to the 2007 Regulations from time to time.

While efforts have been made to ensure this guide is accurate and up to date, we accept no liability for its contents and providers should always satisfy themselves that participants meet the criteria set out in the 2007 Regulations.

If there are any differences between this guide and the 2007 Regulations, the 2007 Regulations must be applied.

If a category says ‘yes’, it means that the category of learner is eligible for the Apprenticeship Programme in that particular circumstance (i.e. persons settled in the UK on the first day of the first academic year of the course, (Column A of the table) are eligible for the Programme, but will not be eligible if they have been settled in the EEA, Switzerland or the overseas territories for 3 years preceding (column C of the table).

Schedule Paragraph	Eligible Categories of Residency	Eligible family members	Participants must be * Ordinarily Resident on the first day of the first academic year of the course AND/OR for the 3 years preceding the first day of the first academic year of the course				Residence in the UK, the EEA, Switzerland, the overseas territories and the Islands has not been wholly or mainly for the purpose of receiving full-time education	Note
			<u>Column A</u> in the UK on the first day of the first academic year of the course	<u>Column B</u> in the UK and the Islands for 3 years preceding	<u>Column C</u> in the UK, the EEA, Switzerland or the overseas territories for 3 years preceding	<u>Column D</u> in the UK, the Islands and the specified British overseas territories for 3 years preceding		
2,2A,3	Persons who are settled** in the UK		yes (see note)	yes (see note)			Yes (see notes)	For paragraphs 2 and 2A the participant must be ordinarily resident on the day on which the first term of the first academic year actually begins, and the 3 years ordinary residence can include the Republic of Ireland. For paragraph 3, the participant must be ordinarily resident on the first day of the first academic year of the course. If this was for the purpose of receiving full-time education, they must have been ordinarily resident in UK/EEA, Switzerland and overseas territories immediately before that.
9D	Family members of a person settled** in the UK	Family member usually includes those, who are a spouse or civil partner and direct descendants who are either under 21 or		yes			yes	

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		dependants.						
4	Refugees and their family members	Family member is limited to a spouse or civil partner and their children who were under the age of 18 on the leave application date.	yes					A refugee is someone who has been granted permission to stay in the UK on humanitarian grounds after first seeking asylum because they feared persecution in their home country, and has remained resident since they were recognised as a refugee. A refugee is different from an asylum seeker.
4A	Protected persons and their family members	Protected Spouse / Protected Civil Partner / Protected children under 18 (on the leave date application)	yes					Protected persons include people who have been granted permission to enter or stay in the UK either because they qualify for humanitarian protection, because they are a “stateless person” (i.e. they are not recognised as a national of any country) or

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								because they are an unaccompanied refugee child or a 'Calais' child.
4B	Persons granted leave to remain as a protected partner and their children	It also applies to their children under the age of 18 (on the date they applied for leave to remain).	yes					This includes people who have been granted permission to stay in the UK either as a victim of domestic violence or abuse or as bereaved partners.
4C	Protected Ukrainian nationals, who has been ordinarily resident in the UK and has not ceased to be resident, and their family members	Family member is limited to a spouse or civil partner and their children under the age of 18 (on the leave application date).	yes					A protected Ukrainian national includes a person granted permission to enter or stay in the UK under the Ukraine Family Scheme, Homes for Ukraine Sponsorship Scheme, Ukraine Extension Scheme, or Ukraine Permission Extension Scheme.
4D	Persons with leave to enter or remain as a relevant Afghan citizen	Family member is limited to a spouse or civil partner and their children under the age of 18 (on date on which they applied for	yes					A relevant Afghan citizen includes a person granted permission to enter or stay in the UK under the Afghan Relocations and Assistance Policy or the Afghan Citizens Resettlement Scheme, or a person who has indefinite leave

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		leave to enter or remain).						to enter the UK under the Afghanistan Response Route .
5	Persons with leave to enter or remain and their family members	Family member is limited to a spouse or civil partner and their children under the age of 18 (on the date on which they applied for leave to enter or remain).	yes					A person with leave to enter or remain includes people who have been granted permission to stay on the basis of family or private life (including discretionary cases that would not usually qualify), those who did not qualify for refugee status but who are granted permission to enter or stay on a discretionary basis or on the grounds of humanitarian protection.
6A	Persons with protected rights who are EEA migrant workers, frontier workers, self-employed persons, frontier self-employed persons and their family members OR Swiss employed	Family member usually includes those, who are a spouse or civil partner and direct descendants who are either under 21 or dependants.	yes		yes			An EEA migrant worker is an EEA national who is a worker in the UK. A frontier worker is someone who works in the UK but lives in the EEA or Switzerland and returns home daily or at least once a week. A frontier self-employed person is self-employed in the UK but lives

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	persons, self-employed persons, frontier employed persons, frontier self-employed persons and their family members	The types of family member who are eligible will vary depending on the nationality of the relevant person.						in the EEA or Switzerland and returns home daily or at least once a week. A Swiss employed person is a Swiss national who is employed. Self-employed persons is given its usual meaning. The EEA means the EU countries plus Iceland, Liechtenstein and Norway.
7A	A person with protected rights (relating to the EU Settlement Scheme)		yes		yes			This means someone who has settled or has pre-settled status under the EU Settlement Scheme, those who have applied under the Scheme and are waiting for a decision (including appeals and applications for administrative review) and Irish nationals
8A	Persons who are settled** in the UK and have exercised a right of residence in the European Economic		yes		yes			For example, this could include someone who left the UK to live (and be ordinarily resident) in an EU country before Brexit but has since returned to the UK

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	Area, Switzerland and the overseas territories							
9A (and 10A – see notes)	EU Nationals with protected rights and their family members	Spouse / Civil Partner / Direct Descendants under 21/ Dependants who are direct descendants or in limited cases, direct relatives in the ascending line			Yes (but does not apply to family members provided the EU national with protected rights themselves has met the residence requirement)		This category does not include ordinary residence wholly or mainly for the purpose of receiving full time education.	EU Nationals will have protected rights if they have settled or pre-settled status under the EU Settlement Scheme, they have applied under the Scheme and are waiting for a decision (including appeals and applications for administrative review) and if they are an Irish national. Participants may also meet some/all of the criteria in paragraph 10A. However for the purpose of this table, there is little difference between paragraph 9A and paragraph 10A and therefore the differences have not been specifically set out in this table.

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9A	Family members of a relevant person of Northern Ireland	Spouse / Civil Partner / Children / Direct descendants under 21 or dependants					This category does not include ordinary residence wholly or mainly for the purpose of receiving full time education.	This means family members of people who: are British, Irish or dual British and Irish citizens, AND who were born in Northern Ireland and at the time of their birth had at least one parent who was British, Irish, dual British and Irish or entitled to live in Northern Ireland without restriction.
9B	UK Nationals and their family who were ordinarily resident in the UK or EEA/Switzerland, and EU overseas territories before 11pm on 31/12/2020	Family member is limited to a spouse or civil partner or a direct descendant who is under 21 or a dependant.	Yes		yes (does not apply to family members provided the UK national has met the ordinary residence requirement)		This category does not include ordinary residence wholly or mainly for the purpose of receiving full-time education.	EU overseas territories means Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; the Caribbean part of the Kingdom of the Netherlands (Aruba, Bonaire, Curaçao, Saba, Sint Eustatius and Sint Maarten); St Barthélemy; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; and Wallis and Futuna.

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9BA	Irish citizens who were ordinarily resident in the UK or EEA/Switzerland, and EU overseas territories before 11pm on 31/12/2020	Spouse / Civil Partner / Children / Direct descendants under 21 or dependants	Yes		Yes (but does not apply to family members provided the UK national has met the ordinary residence requirement)		This category does not include ordinary residence wholly or mainly for the purpose of receiving full-time education.	
9C	UK Nationals	Spouse / Civil Partner / Children / Direct descendants under 21 or dependants	yes (see note)			yes	This category does not include ordinary residence wholly or mainly for the purpose of receiving full-time education.	The requirement is for them to be a person who is settled in the UK on the first day of the first academic year of the course. This includes where ordinary residence has been in specified British Overseas territories for at least part of the last 3 years. The British Overseas territories are Anguilla, Bermuda, British Antarctic Territory, British Indian

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								Ocean Territory, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, South Georgia and the South Sandwich Islands, St Helena, Ascension and Tristan da Cunha, Turks and Caicos Islands and Virgin Islands. This requirement also includes British Citizens born in British Indian Overseas Territories before 8 November 1965, or direct descendants of such persons. These people are treated as being ordinarily resident in the specified British overseas territories in any period before the first day of the first academic year of the course in which they are not ordinarily resident in the United Kingdom or the Islands.
9E	UK/EU Nationals and their family members	Family member is limited to a spouse or			Yes (does not apply to family		This category	

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	with resident status/right of residence in Gibraltar	civil partner or a direct descendant who is under 21 or a dependant.			members provided the main candidate has met the residence requirement)		does not include ordinary residence wholly or mainly for the purpose of receiving full time education.	
11A	Persons who have protected rights who are children of Swiss Nationals		yes		yes			This means children of Swiss nationals (where the Swiss national is entitled to support under the Swiss Agreement to come to the UK for education, apprenticeships and vocational training courses).
12A	Children of Turkish workers where the child was ordinarily resident in the UK before 11pm on 31/12/2020		yes		yes			Turkish workers are Turkish nationals who are ordinarily resident and lawfully employed in the UK.

Further guidance on immigration status

- The individual's immigration permission in the UK may have a **'no recourse to public funds'** condition. This does not include education or education funding, so this does not affect an individual's eligibility, which must be decided under the normal eligibility conditions.
- Any individual, or relevant family member, **who has applied for an extension or variation of their current immigration permission** in the UK is still treated as if they have that leave. Keeping this permission applies if the application was made before their current permission expired. Their leave continues until the Home Office decide on their immigration application, but additional right to work checks may need to be conducted.
- An individual, or relevant family member, **is considered to still have the immigration permission that they held when they made their application for an extension** and their eligibility would be based upon this status.

Evidence requirements

Immigration status under the above categories can be verified in the same way as for employment right to work checks and by following the Home Office guide to right to work checks - [Right to work checks: an employer's guide](#).

Providers will need to confirm the verification of the evidence by signing the Apprenticeship Learning Agreement, however, they will not need to retain a copy of the evidence.

Glossary of terms

* **Ordinarily resident** – means the place where a person resides in the ordinary course of their day-to-day life whether they reside there for the long- or short-term. This can be evidenced by an authenticated and dated self-declaration from the participant stating their current address and (where there is a three-year requirement) their addresses over the last three years. Residence must be lawful and this means that the person must have immigration permission to be in that country and must not be in prison. Temporary absences (such as gap years) can be ignored, and a person can be ordinarily resident in more than one country at a time.

** **Settled in the UK** – for the purposes of the 2007 Regulations means a person who is ordinarily resident in the UK without being subject under the immigration laws to any restriction on the period for which they may remain. In practice this includes British or Irish Citizens, those with a right of abode in the UK and those who have been granted "indefinite leave to enter or remain", settlement or settled status or is within the personal scope of the citizens' rights provision.

"Leave Application Date" means the date on which the person with leave to enter or remain made the application that led to that person being granted leave to enter or

remain in the United Kingdom.

“Settled Status” means indefinite leave to enter or remain under the EU Settlement Scheme. The person will usually have lived in the UK for a continuous five-year period and not have left the UK for more than five years in a row since then. A person with settled status can stay in the UK indefinitely.

“Pre-settled Status” means limited leave to enter or remain under the EU Settlement Scheme. Pre-settled status is initially given for five years but will be extended unless the person no longer meets the requirements for it.

“UK” means the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man.

“EU” means the European Union.

“EEA” means the area comprised by the EU, the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein. An area which was previously not part of the EU or the EEA but at any time before the relevant date became or becomes part of one or other or both of these areas is to be considered for the purpose of eligibility to have always been a part of the EEA.

“Relevant date” means the first day of an all-age Apprenticeship programme of learning.

“EU Nationals” are nationals of Member States of the European Union.

“Islands” means the Channel Islands and the Isle of Man