



ACCESS TO EDUCATION

Your Right to Study in Scotland

This factsheet provides a brief summary of your right to study in Scotland for people with different immigration statuses. This factsheet covers: access to pre-school, primary and secondary school; and access to further and higher education.

STUDY vs FUNDING

Everyone has the right to access school, further and higher education in Scotland. However, not everyone has access to educational funding. Some types of immigration status do not qualify for funding. Without funding, education is often not accessible!

Pre-School, Primary & Secondary School

In Scotland **every child has the right to a free place at primary and secondary school education until the age of 18**, irrespective of their immigration status.

Children subject to immigration control (i.e. undocumented or limited leave to remain), are also entitled to the same support accorded to all families who are in receipt of income-based benefits regardless of whether they have no recourse to public funds (NRPF):

- Free school lunches
- Milk, breakfast and fruit if the local authority or school provides this scheme
- School meals during the holidays
- Clothing grants if local authority provides this scheme

Pre-School

Early education and childcare is funded by the Scottish Government and is accessible for free by the following children:

- All 3 and 4-year-olds (up to 30 hours per week)
- 2-year-olds who are 'looked after' by a local authority or where the parent is receiving certain benefits (including support for Asylum seekers).

Local authorities may choose to provide access to free early learning and childcare to any other child, as they see fit. This varies between each local authority area.

Both Primary and Secondary School remain free for their duration. It is a legal requirement for children to attend school until they are aged 16.

Primary & Secondary School

In Scotland children start primary school aged either 4 or 5. Children start in Primary 1 (P1) and progress each academic year until they reach Primary 7 (P7). Children then progress to secondary school aged 11 or 12. Children start in first year (S1) and progress each academic year until they reach sixth year (S6).

Schools are run by educational authorities which are part of the local authority. They are required to provide school places for children of school age (4-16 year olds). Children are normally provided with a place at a local school where they live.

You can enrol your child in a primary or secondary school by making an application to your local council. You must prove your child's identity and your residence in the local area. More information can be found here:

<https://www.mygov.scot/register-your-child-for-a-school>

Additional Support

All children enrolled in school, regardless of their immigration status, are entitled to additional support for learning provided by their local educational authority. Requests for additional support are made to individual schools and/or educational authorities.

This support can include internal support within school using school resources, for example to assist with language (English as Additional Language). It can also include external support such as assistance from social workers or psychotherapists.

Further Education

Further education includes any study after secondary school that is not part of higher education (i.e. university). In Scotland this includes English for Speakers of Other Languages (ESOL) courses; National Certificate (NC) courses; and Scottish Credit and Qualifications Authority (SCQF) level 6 courses.

Asylum seekers and their dependants can access some further education courses while waiting for a decision from the Home Office (either an initial decision or fresh claim decision). Someone in this situation is entitled to tuition fee support and help with travel and study costs for full-time or part-time ESOL courses and/or for part-time 'advanced' or 'non-advanced' courses.

'Non-Advanced' courses are subjects that a student would study as part of their secondary school education but they have decided to study them at college. These are usually SCQF level 4,5 or 6.

'Advanced' courses are those that are in subject areas that are considered more challenging or practical to prepare you for university degrees, such as engineering or nursing.

These are at SCQF level 7 or 8. 'Advanced' courses have more demanding entry requirements than 'Non-Advanced'.

Further Education Following Asylum Decision

If you receive a refusal of **all forms of leave to remain** from the Home Office, and become Appeal Rights Exhausted ("ARE"), then you lose your educational funding. That is at least until you make a fresh claim for asylum.

If you receive a decision from the Home Office that refuses asylum but grants **limited leave to remain** for another reason (e.g. family or private life reasons), then you can apply for student finance support, including living expenses.

If you receive a grant of **asylum** (Refugee Status, Temporary Protection Status or Humanitarian Protection), you can apply for student finance support, including living expenses.

Higher Education

Higher Education generally refers to degree level courses, i.e. those studied at university.

Eligibility and Funding

People Seeking Asylum

If you are an adult asylum seeker (you were over 18 when you claimed), regardless of whether you are waiting on a decision or are “Appeal Rights Exhausted” (“ARE”), you are not currently eligible for educational funding from Student Awards Agency Scotland (SAAS). You may be treated as an international student and will be required to pay international student fees at the discretion of the university. However, this is being looked into by the Scottish Government and the rules on this may change. If they do, this factsheet will be updated to reflect any changes.

Whilst the current rules are in place, there are a number of institutions that offer ‘Sanctuary Scholarships’ for those claiming asylum or those who are dependent upon someone claiming asylum. These allow a person to access university education at both undergraduate and postgraduate level. Eligibility criteria is set out by the university offering the scholarship.

<https://www.refugee-study.co.uk/Refugee-university-scholarships-directory-S-Z.php>

Free Higher Education for Unaccompanied Asylum Seeking Children and Children of Asylum Seekers

From 1 August 2023, unaccompanied asylum seeking children and children of asylum seekers can access student support from SAAS for tuition fees, regardless of how long they have lived in Scotland.

People with other types of immigration status

University education is free for people who are 'ordinarily resident' in Scotland and completing their first degree. For higher education, student funding is provided by SAAS which is governed by specific regulations in [The Student Support \(Scotland\) Regulations 2022](#).

Parts of these regulations have recently been found to be unlawful¹ and as such have been updated. This factsheet sets out the current criteria for student funding in place from 1 August 2023 and will continue to be updated if further changes happen

1. The regulations were found to be unlawful in *Jasim v Scottish Ministers* as per Article 14 (the right not to be discriminated against) and Article 2 of Protocol 1 (the right to education) of the European Convention on Human Rights.

If you have **Indefinite Leave to Remain (ILR)** in the UK, are ordinarily resident in Scotland and have lived in the UK for 3 years up to the start date of your course, then you are eligible for student funding (tuition and living support) from SAAS.

The 'relevant date' refers to the first day of the first year of your academic course, which is the 1st of August for courses starting in the Autumn.

Student funding is now available for individuals with a range of immigration statuses such as Limited Leave to Remain (LLR), Discretionary Leave to Remain (DL), leave granted 'outside the immigration rules' and other forms of Leave to Remain (Parent/ Partner routes etc.) if they meet the other eligibility criteria. To meet the standard residency eligibility criteria, you must be ordinarily resident in Scotland on the relevant date and have been living in the United Kingdom for the past three years. This is not the case for those who are on a student visa, who remain ineligible for student funding.

Funding for higher education has also been extended to unaccompanied asylum seeking children and children of asylum seekers, meaning that they will now be considered home students and have access to tuition fee support only.

This applies to you even if you are now over 18, so long as you were under 18 when you claimed asylum.

Jasim v Scottish Ministers

The legal case of *Jasim v Scottish Ministers* found the previous eligibility criteria to be in violation of the European Convention on Human Rights. SAAS have set up an interim scheme to support students for academic years 2021/22 and 2022/23, who have been refused funding or who did not apply because they thought they would be refused under the old eligibility criteria. If you were refused funding or would have been eligible for funding in those years, please contact SAAS.

If you are not sure whether you will qualify for student funding or not, we recommend that you contact SAAS:

- 0300 555 0505
- <https://www.saas.gov.uk/contact-us>

The following categories of people are not affected by any law changes:

If you are an **EU national** or their family member with pre-settled status and were living in the UK throughout the previous 3 years before your course starts and live in Scotland on the start date of your course, you are entitled to free higher education funding.

If you are someone with **Refugee status**, or are their spouse, civil partner or child, and have remained living in the UK at all times since you received this status; and live in Scotland on the start date of your course, you are entitled to free higher education funding.

If you are someone who has been **refused asylum but granted Limited Leave to Remain (LLR) as a result of this refusal**, and have lived in the UK at all times since you were granted LLR, and live in Scotland on the start date of your course, then you are entitled to access free higher education funding.

If you are someone who has been granted **Discretionary Leave to Remain** as a **victim of trafficking/modern slavery**, have lived in the UK at all times since this was granted and live in Scotland at the start date of the course, then you are entitled to access higher education funding.

The regulations also make provision for a number of other individuals who have arrived in the UK based on a unique pathway. These individuals are entitled to access free higher education funding. This includes:

- **Syrians** resettled through the Syrian Vulnerable Persons Relocation Scheme
- **Afghans** resettled through the Afghan Citizens Resettlement Scheme (ACRS) or the Afghan Relocations and Assistance Policy Scheme (ARAP)
- **Ukrainians** with leave to remain obtained in connection with the Russian invasion – e.g. the Ukraine Family Scheme; Ukraine Sponsorship Scheme; Ukraine Extension Scheme; and leave outside the Immigration Rules
- **Stateless persons** with leave to remain
- Persons granted Indefinite Leave to Remain as a victim of **domestic abuse/violence** under the Immigration Rules

Where can I get more help or advice?

If you have questions about your right to study in Scotland, your eligibility for student loans, or if you think you have been discriminated against in accessing education, you can seek help and advice here:

Primary and Secondary Education:

Parentzone Scotland Choosing a School:

<https://education.gov.scot/parentzone/my-school/choosing-a-school/local-state-school/>

Scottish Government Register your Child for a School:

<https://www.mygov.scot/register-your-child-for-a-school/>

Citizens Advice Scotland:

<https://www.citizensadvice.org.uk/scotland/family/education/school-and-pre-school-education-s/education-choices-from-5-to-16-s/>

Your Local Authority:

<https://www.mygov.scot/find-your-local-council>

Further and Higher Education

We recommend contacting the college or university you wish to study at.

UKCISA Scotland:

<https://www.ukcisa.org.uk/information--advice/fees-and-money/scotland-fee-status>

Student Awards Agency for Scotland Guidance on General Residence:

<https://www.saas.gov.uk/need-to-know/brexit>

