

# EMA Residency 2006/07 – Supporting Information

## Summary

This document contains additional residency information to support providers who are involved in administering the Education Maintenance Allowance (EMA) scheme. It should be read in conjunction with the *2006/07 EMA Guidance for Providers* and the *2006/07 EMA Guidance for Providers of LSC-funded Entry to Employment and Programme Led Pathways*.

This document is of interest to post-16 learning providers, local LSCs, Connexions staff and other institutions involved in 16–19 FE provision.

Issued by Greg Burke, Head of the EMA Unit

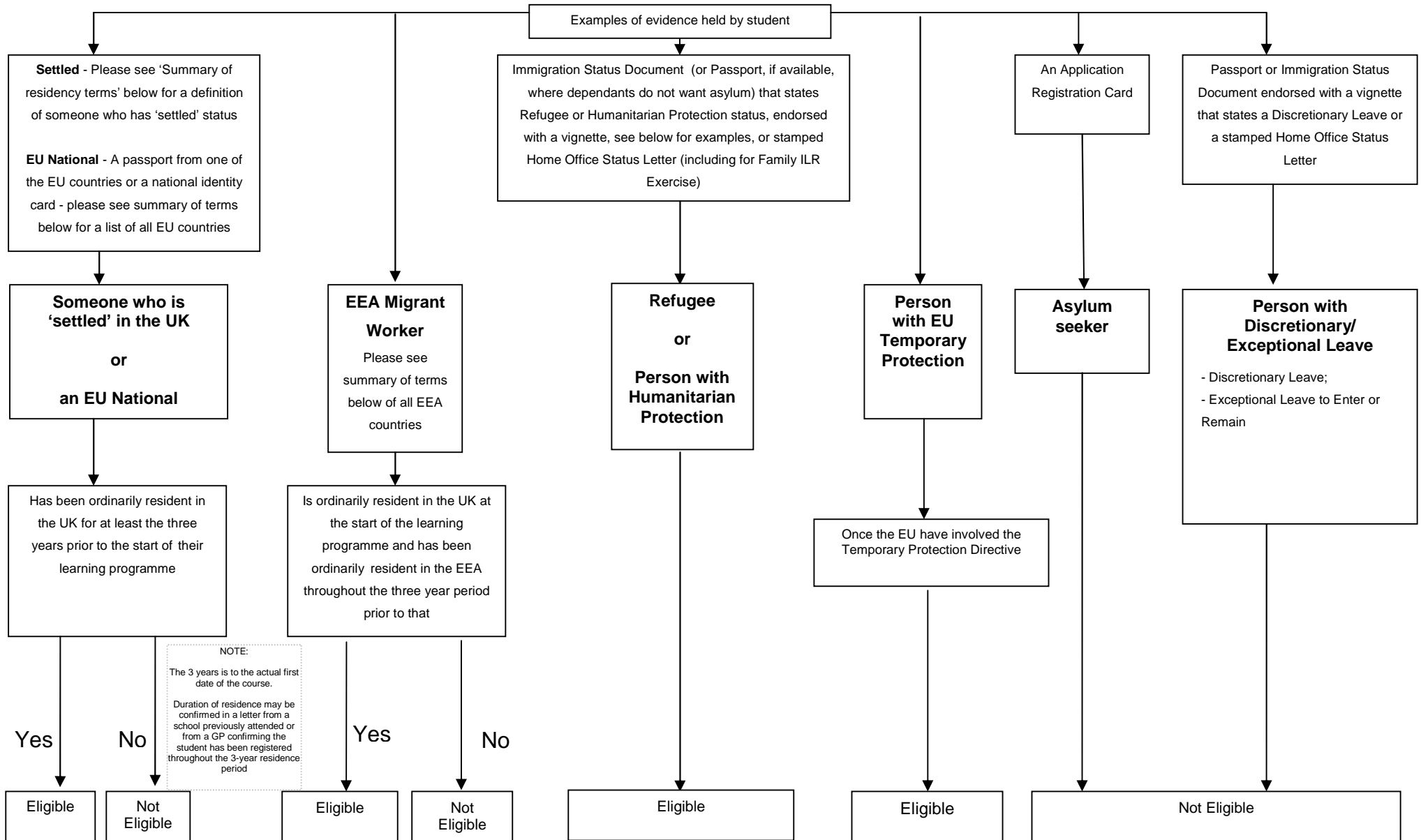
**June 2006**



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## Residency guidance for EMA



For general queries regarding the status a piece of documentation confers call the Immigration and Nationality Enquiry Bureau on **0870 606 7766**. However please note that they will **not** be able to assess eligibility for EMA

## **Summary of residency terms**

### **EEA**

European Economic Area, consisting of the states of the EU (see below) plus Iceland, Liechtenstein, Switzerland and Norway

Please note: Some EEA Countries issue Alien Passports. These do not confer citizenship of that country. Therefore someone with one of these passports will also need to have Indefinite Leave to Remain to be eligible for EMA.

### **EU**

European Union, the member states of which are Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, Portugal, Spain, Sweden, the United Kingdom and Luxembourg. On 1 May 2004, 10 new countries joined the EU: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

### **Settled status**

‘Settled’ means having either indefinite leave to enter or remain (ILE/R) or having the right of abode in the UK. British citizens and certain other people have the right of abode in the UK:

- i those with the European Community – United Kingdom of Great Britain and Northern Ireland Passports
- ii British Dependent Territory Citizens (now known as British Overseas Territory Citizens)
- iii those whose passports have been endorsed to show they have Right of Abode in the UK
- iv those who have a certificate of naturalisation or registration as a British Citizen.

### **Ordinarily resident**

The LSC regards as ordinarily resident in a given country or region any person who habitually, normally and lawfully resides from choice and for a settled purpose in that country. Temporary absences from the relevant area should be ignored. Someone who has not been ordinarily resident because he or she or the person’s parent, spouse or civil

partner was working temporarily abroad will be treated as though the person had been ordinarily resident in the relevant area.

### **Humanitarian Protection**

Humanitarian Protection (HP) is granted to individuals who do not qualify for asylum but who if removed from the UK would be at real risk of

- the death penalty
- unlawful killing or
- torture or inhuman or degrading treatment or punishment arising from the deliberate infliction of ill treatment.

People with HP will be sent an immigration status document endorsed with a United Kingdom Residence Permit (UKRP), also known as a vignette, from the Home Office, which specifies they have been granted this status.

### **Refugees**

A refugee is defined as someone who is outside their country of nationality and who is unable or unwilling to return there because of a well founded fear of returning there because they may be persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.

Due to a recent change in Government policies on Refugee Leave and Humanitarian Protection, which came into effect on 30 August 2005, refugees are now given an initial grant of five years' limited leave (where previously they were immediately granted indefinite leave to remain or enter), all people with refugee status are eligible to claim EMA, subject to other eligibility criteria being met, for example age and household income. People granted Humanitarian Protection are also granted five years' limited leave (three years were granted before 30 August).

### **EU Temporary Protection**

In the event of a mass displacement of EU Citizens, for example, due to a natural disaster, the Council of the European Union may invoke the European Union Temporary Protection Directive, and therefore those displaced Citizens will have a right to move to the UK and other EU states and access their public services. In this instance we will email super-users

to inform them that the directive has been invoked.

### **EEA Migrant Workers**

A national of a member state of the EEA who has taken up an activity as an employed person in the United Kingdom

### **Exceptional leave to enter or remain (ELE/ELR)**

ELE/ELR is not asylum and does not constitute recognition as a refugee within the meaning of the United Nations Convention. ELE/ELR status does **not** confer eligibility to EMA, and is **not** the same as indefinite leave to remain or enter. ELR was abolished on 1 April 2003, so that no one was granted it after that date. It was normally granted to a set calendar date (four years from the date of the application) although in some circumstances it may have been granted for a shorter period. The applicant should have been sent a letter by the Home Office stating that, whilst they are not recognised as a refugee, they have been granted exceptional leave to remain. After completing four years exceptional leave to enter or remain it is open to the person to apply for settlement at which point indefinite leave to remain may be granted.

**Examples of evidence to confirm residency status**  
**(as mentioned in the flow chart)**

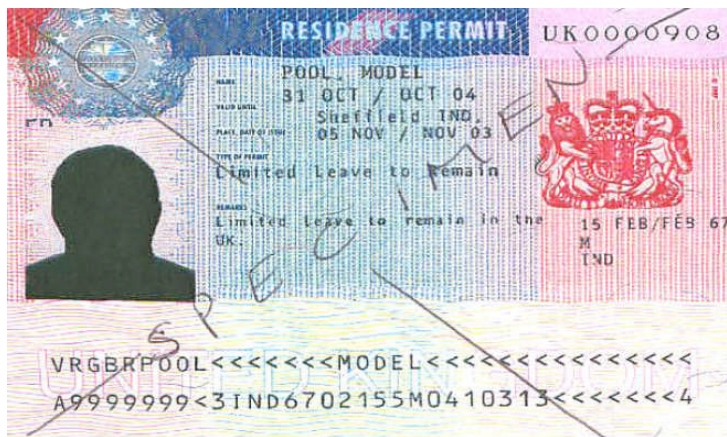
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# Immigration Status Document

(The example below is for someone granted Refugee status, but these can also be issued for those with Humanitarian Protection.)

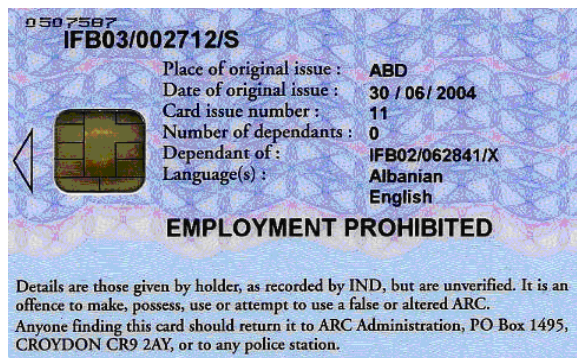
## United Kingdom Residency Permit (UKRP), also referred to as a Vignette

(The example below is for someone who has been granted Limited Leave to Remain)



## Asylum Seeker - Application Registration Card

(Issued to an asylum seeker to confirm they have made an application for asylum)



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Publication reference: LSC-P-NAT-060282