

## Your family's immigration

3 December 2010

Note: If you are a European Economic Area (EEA) or Swiss national, or if you are in the UK as the family member of such a person, this Information Sheet does not apply to you. Please see instead [EEA and Swiss Students](#).

**The information in this Information Sheet is based on the “Points Based System – Dependants Policy Guidance” as at 1 October 2010 (on the website of the UK Border Agency). Please ensure that you are referring to the latest version of the “Points Based System – Dependants Policy Guidance”**

### Can my family be with me in the UK while I study?

Certain members of your family can apply to be in the UK as your ‘dependants’. The rules are different, depending on whether you were granted your student immigration permission:

- under ‘Tier 4’ of the Points Based System (which came into existence on 31 March 2009) and you applied for your immigration permission on or after 3 March 2010; or
- under ‘Tier 4’ of the Points Based System and you applied for your immigration permission before 3 March 2010; or
- under the ‘old’ immigration system that was changed, for students, on 31 March 2009

#### **If you applied for your student immigration permission under Tier 4 (General) of the Points Based System on or after 3 March 2010:**

- Your dependants (as defined [below](#)) will not be able to apply for immigration permission as your dependant if your immigration permission was granted for a course of study that is six months or less.
- Your dependants will be prohibited from working if you were granted immigration permission for less than 12 months. If you are currently in the UK and need to extend your immigration permission which will result in you obtaining immigration permission for less than 12 months leave, you should expect that your dependants will lose their permission to work.
- Your dependants will be prohibited from working if your course of study is below degree level (except for a Foundation Degree course). The UKBA have defined a Foundation Degree as a "programme of study which leads to a qualification awarded by an English higher education institution with degree awarding powers which is at a minimum of level 5 on the revised National Qualifications Framework, or awarded on a directly equivalent basis in the devolved administrations".

#### **If you applied for your student immigration permission under Tier 4 (General) of the Points Based System before 3 March 2010:**

- Your dependants (as defined [below](#)) will be prohibited from working if you were granted immigration permission for less than 12 months. If you are currently in the UK and need to extend your immigration permission which will result in you obtaining immigration permission for less than 12 months leave, you should expect that your dependants will lose their permission to work.

Please note, if your dependants are currently inside the UK with immigration permission as your dependants **and** meet the criteria for Tier 1 or Tier 2 of the Points Based System, they will be able to apply for immigration permission for this from inside the UK.

## General points for dependants of all Tier 4 (General) students:

### Who qualifies as a Tier 4 dependant?

The only family members who can make applications as your 'dependants' are:

- your husband or wife (you must both be at least 18 years old when your husband or wife receives their extension; or when they arrive in the UK, if they have not yet come to the UK)
- your civil partner (civil partners are same-sex couples who have registered their partnership, to gain formal legal recognition of their relationship; for information about partnerships, in countries outside the UK, that are treated as civil partnerships, see the UK Lesbian and Gay Immigration Group website <http://www.uklgig.org.uk/partnership.htm>). You must both be at least 18 years old when your civil partner receives their extension; or when they arrive in the UK, if they have not yet come to the UK)
- your unmarried or same-sex partner (to be unmarried or same-sex partners, you will need to have been living together in a relationship similar to marriage or civil partnership for a period of at least two years; you will be expected to provide evidence of this). You must both be at least 18 years old when your unmarried or same-sex partner receives their extension; or when they arrive in the UK, if they have not yet come to the UK)

Husbands, wives, civil partners, unmarried and same-sex partners are described collectively as 'partners', in the information that the UK immigration authorities provide about the Points Based System (and in this Information Sheet)

Your child or children (children must be less than 18 years old; or 18 years old or more, but already in the UK with immigration permission as your child, or as the child of a Tier 4, Tier 1, Tier 2 or Tier 5 (Temporary Worker) Migrant).

### If they are currently outside the UK

- they need to apply for 'entry clearance' from the British authorities in their home country before they travel to the UK.
- To apply for entry clearance, they need to complete application form VAF10 (available on the UK Border Agency's Visa Services website [www.ukvisas.gov.uk/en/howtoapply/vafs/](http://www.ukvisas.gov.uk/en/howtoapply/vafs/); they should also refer to the 'PBS Dependant Guidance Notes' that are available on the same web page, when completing the form, and the 'Points Based System - Dependants Policy Guidance' ([www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/dependants](http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/dependants)).
- A separate form is needed for each dependant, and each dependant must pay a fee which is the equivalent of £220, in local currency. For an explanation of the application process, choose the country they are living in on the list on the UK Border Agency's Visa Services website [www.ukvisas.gov.uk/en/howtoapply/wheretosapply/](http://www.ukvisas.gov.uk/en/howtoapply/wheretosapply/), and look at the information displayed there.

### If they are already here in the UK

- they will only be allowed to make an application to be here as your dependant if:
  - in the case of a partner, they have (or have last been granted) immigration permission to be in the UK as your partner, or as the partner of a Tier 4, Tier 1, Tier 2 or Tier 5 (Temporary Worker) Migrant
  - in the case of a child, they have (or have last been granted) immigration permission to be in the UK as your child, or as the child of a Tier 4, Tier 1, Tier 2 or Tier 5 (Temporary Worker) Migrant.
  - If they fall into one of the groups listed above, they can apply for more time in the UK, as a dependant to remain with you. If they do not fall into any of the groups listed above, they cannot make their application from here in the UK (they will have to return to their home country to apply for entry clearance as a dependant from there instead).
- If your dependant falls into one of the groups listed above, they should make their application to the UK Border Agency, before their current immigration permission expires, on form PBS (Dependant) (which you can download from the UK Border Agency website [www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/dependants](http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/dependants)).

- They will also need to read the '[Points Based System Dependants – Policy Guidance](#)', which they can download from the same web page. Each dependant needs to fill in a separate form. Note that when the form asks for the 'main applicant's' details, you (the student) are the main applicant.
- The fee is different, depending on whether your dependants are applying at the same time as you, or at a different time.
  - If your dependants (except for dependant children over 18) apply at the same time as you make a Tier 4 application, they will each have to pay £100 (if they apply by post) or £107 (if they apply in person).
  - If your dependants apply at a time when you are not making an application (or are dependant children over 18 whether or not they apply at the same time as you), they will each have to pay £475 (if they apply by post), or £730 (if they apply in person).
  - If they are applying by post you should note that the safest way to make sure that payment of the fee is accepted is to pay using postal orders (payments using cards and cheques often fail, with the result that the application is treated as though it has never been made).

**The requirements they will have to meet to succeed with their application for entry clearance, or an extension in the UK, are:**

- you already have Tier 4 student immigration permission; or you are applying for Tier 4 student immigration permission in the same country where they are making their application, at the same time as them
- you intend to live together (and in the case of children, they are not married or in a civil partnership and have not formed an independent family unit or started leading an independent life; see paragraphs 105 – 108 of the '[Points Based System Dependants – Policy Guidance](#)' for the extra evidence about this that children who are over 16 have to provide)
- they do not intend to stay in the UK longer than the period you are given
- in the case of children, both parents will be lawfully living in the UK, rather than abroad (the only exceptions are when the other parent is dead, or you have had sole responsibility for the child's upbringing, or there are other serious or compelling considerations that mean the child should be with you in the UK and you have made suitable arrangements for the child's care)
- there are not 'general grounds' for refusing them, such as the fact that they have previously broken UK immigration laws (if they think they might have previously broken UK immigration laws, by for example staying longer than the time limit in their passport, or working when they were not allowed to, you should ask the international student adviser at your college or university for advice about whether or not they should apply)
- they meet strict financial requirements (there is more information about this below).

**The financial requirements that they must meet:**

- The general principle is that each dependant who applies at the same time has to show a certain amount of money, held in a bank or building society account, or an account with an officially regulated financial institution.
- The money can be held by the dependant, or you, or (if the dependant is your child) the child's other parent (but only if the other parent will come to the UK too).
- There is an exception to this requirement if a government, the British Council, an international organisation, a company or a university is giving you money to cover your course fees or living costs. In that case, ask if they are prepared to give you a letter stating that they will cover the full maintenance costs of your dependants. If they will, then that letter on its own will mean that your dependants have met the financial requirements (there will be no requirement for them to show that they have any money at all in a bank or building society account, or in an account with an officially regulated financial institution). There are precise instructions about the format the letter must take in paragraphs 95 – 99 of the '[Points Based System Dependants – Policy Guidance](#)'. Make sure the letter complies with every one of those instructions. If they are not prepared to say in their letter that they

will cover the full maintenance costs of your dependants, but are prepared to promise them a certain amount, they should say in their letter how much they will provide for your dependants. That amount will then be deducted from the total amount of money that your dependants are expected to show in bank or building society accounts (or accounts with officially regulated financial institutions).

The amount of money that **each** dependant has to show is as follows:

- If you will study in inner London, £533 for each month that the dependant will be allowed to stay in the UK (to work out how many months they will be allowed to stay for, just look at how much time you have or will be given; they will be given exactly the same amount of time). If this figure is more than £4,797, they will only have to show £4,797, as this has been set as a maximum figure.
- If you will study somewhere other than inner London, £400 for each month that the dependant will be allowed to stay in the UK (to work out how many months they will be allowed to stay for, just look at how much time you have or will be given; they will be given exactly the same amount of time). If this figure is more than £3,600, they will only have to show £3,600, as this has been set as a maximum figure.
- These (above) are the figures that apply in most cases. However, if you have taken a course of study in the UK in the last four months (or are currently studying), and that course was six months or more in length, and you had immigration permission in a student-related category at the time, the amount of money that each dependant has to show is reduced, to:
  - If you will study in inner London, £1,066.
  - If you will study somewhere other than inner London, £800.

As the Policy Guidance is worded unclearly in respect of this, dependant(s) should be applying for their immigration permission at the same time as you in order to benefit from being able to show a reduced amount of maintenance funds.

#### **Evidence of funds**

- The maintenance requirements for your dependant will have to have been in the account for a minimum period of 28 days (and that 28-day period must not have ended more than a month before they apply).
- If your dependant applied for leave as the dependant of a Tier 4 migrant prior to 23 July 2010, and was refused because they did not have the funds for the required period, but they had the required funds as the closing balance in documents which met the required format, they may be able to apply to the UKBA for a reconsideration under Policy Instructions they have published. These instructions explain how the UKBA will deal with applications incorrectly refused before the Immigration Rules were amended to stipulate the duration that the applicant needed to have held the requisite funds. Prior to this, the requirement that the funds had to be available to a Tier 4 applicant and their dependants for 28 days appeared only in the guidance and not in the Rules. It was held in the case of Pankina that these requirements were, therefore unlawful. This meant (prior to the changes to the Rules on 23 July 2010) that if a Tier 4 student and/ or their dependants could show that they had the requisite amount at the time of application, they would have satisfied the Rules. The Policy Instructions are of limited use. They can only be used where the sole reason for the refusal is that the applicant did not have the required funds for the period as unlawfully stated in the previous policy guidance. In addition:
  - for entry clearance applications, the applicant must have applied for entry clearance between 23 June and 22 July 2010 inclusive and this application:
    - is pending; or
    - has been refused and had Administrative Review dismissed
  - for leave to remain applications, the applicant must have applied for leave to remain before 23 July 2010 and this application
    - is pending or;

- has been refused without the right of appeal or appeal has been dismissed; or
- has been refused and applicant has an outstanding appeal or judicial review.

The UKBA has said in these instructions that it will also exceptionally reconsider those applications that were refused on these grounds, where the application was made when the applicant was lawfully in the UK and remains lawfully in the UK at the time of requesting the re-consideration.

Only 'Tier 4 (General) Students' are entitled to have 'dependants' with them in the UK, not 'Tier 4 (Child) Students'.

**If you have student immigration permission granted under the 'old' immigration system that existed before 31 March 2009:**

- The only family members who can make applications as your 'dependants' are:
  - your husband or wife
  - your civil partner (civil partners are same-sex couples who have registered their partnership, to gain formal legal recognition of their relationship; for a list of partnerships in countries outside the UK that are treated as civil partnerships, see the UK Border Agency Visa Services website [www.ukvisas.gov.uk/resources/en/docs/ecgdocs/recognisedcivilpartnerships](http://www.ukvisas.gov.uk/resources/en/docs/ecgdocs/recognisedcivilpartnerships))
  - your child or children (children must be less than 18 years old; or 18 years old or more, but already have permission to be in the UK as the child of a student).
- If they are currently outside the UK, they will need to apply for 'entry clearance' from the British authorities in their home country before they travel to the UK, if they wish to come to the UK as your dependent and don't currently have permission in this capacity. Entry Clearance is compulsory for anyone who wants to come for more than six months, whatever their nationality\*. It is also compulsory for anyone who is a 'visa national', even if they are coming for six months or less (look at the list on the UK Border Agency Visa Services website [www.ukvisas.gov.uk/en/doineedvisa/visadatvnationals](http://www.ukvisas.gov.uk/en/doineedvisa/visadatvnationals) to see if your family members are 'visa nationals'. For anyone else it is optional, but it is sensible to apply for entry clearance, to avoid difficulties at the UK border. To apply for entry clearance, they need to complete application form VAF3B (available on the UK Border Agency's Visa Services website [www.ukvisas.gov.uk/en/howtoapply/vafs/](http://www.ukvisas.gov.uk/en/howtoapply/vafs/)); they should also refer to the VAF Guidance Notes that are available on the same web page, when completing the form, and visa application guidance leaflet INF5 [www.ukvisas.gov.uk/en/howtoapply/infs/inf5students](http://www.ukvisas.gov.uk/en/howtoapply/infs/inf5students)).

A separate form is needed for each dependant, and each dependant must pay a fee which is the equivalent of £220, in local currency. For an explanation of the application process, choose the country they are living in on the list on the UK Border Agency's Visa Services website [www.ukvisas.gov.uk/en/howtoapply/wheretosapply/](http://www.ukvisas.gov.uk/en/howtoapply/wheretosapply/), and look at the information displayed there.

\*except for British Nationals (Overseas), British overseas territories citizens, British protected persons and British subjects. However, even people of these nationalities will probably want to apply for entry clearance, as the maximum period an immigration officer at the border can give them is six months, and they will have to pay a high fee for an extension inside the UK if they want to stay longer. Having entry clearance will also ensure they avoid difficulties at the UK border.

- If they are already here in the UK, they will need to make an application to the UK Border Agency before their current immigration permission expires. They can apply for permission even if their current immigration permission is not as a dependant of a student as the Immigration Rules do not prevent them 'switching' category to become the dependant of an 'old system' student. However, in considering a request for further immigration permission, the UKBA can refer to any undertakings or statements made at the time of the request for the original permission. This is particularly problematic if your dependant has recently arrived here with permission as a visitor, when they would have had to have given an undertaking that they had an intention of leaving the UK at the end of their visit.

If their application is successful, dependants will be given the same amount of time as you have (as a student under the 'old system').

The application form they will use will depend on where and when you made your application. If you applied for your immigration permission from either:

- outside the UK at any time up to and including 30 March 2009 or
- inside the UK before 25 November 2008

Your dependant will make their application on form FLR(O), which you can download from the UK Border Agency website [www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/flr/flro1](http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/flr/flro1)

The Guide FLR(O) which you can download from the same web page tells you how to make the application. Each dependant needs to fill in a separate form (this is because your children need to apply as dependants of you, the student, and not as dependants of your husband, wife or civil partner, who does not have student immigration permission in the UK). There is a fee of £500 for each form, if the application is made by post.

If the application is made in person, there is a fee of £800 for each form.

If you made your application from inside the UK on or after 25 November 2008 (but before 31 March 2009) and you were granted your permission on an Identity card for Foreign Nationals, your dependant will need to apply on form FLR (BID), which you can download from the UK Border Agency website. <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/flr/flrbid>

This is because your application included an application for an Identity card for Foreign Nationals, and your dependants (in completing this form) will also be applying for this.

The Guidance Notes which you can download from the same page tells you how to make the application. Each dependant needs to fill in a separate form (this is because your children need to apply as dependants of you, the student, and not as dependants of your husband, wife or civil partner, who does not have student immigration permission in the UK).

There is a fee of £500 for each form, if the application is made by post. If the application is made in person, there is a fee of £800 for each form.

- If they are applying by post you should note that the safest way to make sure that payment of the fee is accepted is to pay using postal orders (payments using cards and cheques often fail, with the result that the application is treated as though it has never been made). When asked on the form “which category?”, they should tick “other purposes or reasons not covered by other application forms” and then explain that they are applying as the husband, wife, civil partner or child of you (giving your name), and that you have immigration permission to be in the UK as a student, which was granted to you before Tier 4 of the Points Based immigration system was introduced, and expires on (give the date). As well as enclosing all the documents listed on the form, they should enclose:
  - your passport (or your Identity Card for Foreign Nationals) showing your immigration permission as a student (if more than one dependant is applying, and the applications are being made by post, the dependants who do not enclose the original should enclose a photocopy, and a letter explaining that the original is enclosed with a different application submitted on the same day - giving the name, date of birth, and nationality of the dependant whose application the original is enclosed with, and the recorded delivery number for the parcel)
  - an up-to-date letter from your college or university confirming that you are still on your course, progressing well, and when you will finish
  - evidence that they are your husband, wife, civil partner or child (for example, marriage or birth certificates)
  - evidence of your accommodation.
- The requirements they will have to meet to succeed with their application for entry clearance, or an extension in the UK, are:
  - they intend to live with you (and, in the case of children, are unmarried and haven't formed an independent family unit or started leading an independent life)
  - there will be adequate accommodation for you all without needing to have recourse to 'public funds'

(only particular welfare benefits and social housing count as 'public funds' – you can see the full list in this UK Border Agency leaflet [www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/cross-cut/public-funds/funds.pdf](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/cross-cut/public-funds/funds.pdf))

- you have adequate funds to maintain yourselves without needing to have recourse to public funds
  - in the case of husbands, wives and civil partners, they don't intend to work unless the immigration authorities give them passport conditions that allow them to work (these will only be given if your most recent student immigration permission was given to you for a period of 12 months or more)
  - they intend to leave at the end of any period of immigration permission that is given (or, in the case of children, they won't stay beyond any period of immigration permission you are given)
  - in the case of children, both parents will be lawfully living in the UK, rather than abroad (the only exceptions are when the other parent is dead, or you have had sole responsibility for the child's upbringing, or there are other serious or compelling considerations that mean the child should be with you in the UK and you have made suitable arrangements for the child's care).
- Your dependants should be given the same amount of time as you.

## **My baby has just been born here in the UK. Do I need to make an immigration application for the baby?**

Birth in the UK does not make a baby a British citizen (the baby needs to have a parent with British citizenship or settled status in the UK in order to be born British).

If your baby is not a British citizen, it is quite legal for him or her to remain in the UK without having to make an immigration application. However, if you think it is likely that at some point you will want your baby to travel out of the UK and then re-enter the UK, you need to be aware that he or she will be subject to the same rules as any other person trying to enter the UK as the child of a student (which usually means having to apply for entry clearance while they are abroad – see all the earlier parts of this Information Sheet).

If you would prefer for your baby not to have to wait for an entry clearance application to be processed abroad, you can make an application to the UK Border Agency here in the UK now, or at the same time that you next make an application for yourself. See the section headed '[If you have student immigration permission granted under the 'old' immigration system that existed before 31 March 2009](#)', or the section headed '[If you applied \(or are now applying\) for your student immigration permission under Tier 4 \(General\) of the Points Based System](#)' (whichever of those two is appropriate to you) for information about how to do that.

The UK Border Agency has said in one of its email FAQs that for babies born in the UK, it does not matter that the baby does not currently have any immigration permission to be in the UK (they will ignore that fact when they decide whether or not the application should succeed). Make sure that your passport (or your Identity Card for Foreign Nationals) showing your immigration permission as a student is submitted to the UK Border Agency along with the applications.

## **Further information and contacts**

### **UK Border Agency**

Website: [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk)

Information about the immigration system of the UK. Forms for applications being made in the UK are available on the website or from the Application Forms Unit on 0870 241 0645.

### **UK Border Agency Visa Services**

Website: [www.ukvisas.gov.uk](http://www.ukvisas.gov.uk)

Information about applying for entry clearance, and application forms.

### **UK Council for International Student Affairs**

Website: [www.ukcisa.org.uk](http://www.ukcisa.org.uk)

Telephone advice line: Mon-Fri 1300-1600 hours (UK time)

Tel (from within the UK): 020 7107 9922

Tel (from outside the UK): +44 20 7107 9922

We regret that we cannot advise personal callers at our offices. Please use the telephone advice line or write to us at: UKCISA, 9-17 St Albans Place, London N1 0NX, UK.

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