

Extract from SAAS guidance

Temporary Absence from the Relevant Area and Scotland

If a student is resident in a country outside their relevant area and therefore does not meet the normal residence requirement of being resident in the relevant area for the required period, we may still be able to offer funding, if they can satisfy us that their absence from the relevant area is/was temporary.

If they are normally resident in Scotland, they can be temporary absent from Scotland on the relevant date if they are living elsewhere in the UK. This most commonly applies to those in the armed forces.

To consider temporary absence, they don't have to:

- be born in the relevant area; or
- spend the greater part of their life in the relevant area; or
- be living in the relevant area for a specific length of time prior to leaving or when they come back; or
- be ordinarily resident in Scotland on the relevant date (if this applies)

Generally we will only regard a period of absence as temporary if it is for employment/self-employment, attending a course of study or doing postgraduate research. However, we can exceptionally consider other reasons, for example, health and compassionate grounds. Also in certain circumstances, the normal temporary absence rules don't apply, see the 'exceptions' section below for details.

To gather the information, to determine if we can offer temporary absence from the relevant area, you should ask the student and the parents (if this applies) to fill in the appropriate residence form. On receipt of this/these, you should consider each case individually, taking into account all known factors and the evidence presented. See the 'residence forms' section for more details.

Reason for absence from the relevant area and type of contract

The employer does not have to post you abroad; you can choose to take up employment or self-employment abroad. In addition, the type of contract does not have to be temporary.

You can be on a permanent contract and still be temporary absent if the absence is under 10 years. In Dubai and other similar countries, you will always have a temporary contract but if the length of absence is over 10 years, we will most likely not allow temporary absence unless there are exceptional circumstances for the lengthy absence.

You can regard a concession of fixed-term temporary or permanent contracts that total less than ten years as temporary absence.

Paying UK/EU/EEA or Swiss taxes does not allow a person to be temporary absent from the relevant area.

Immigration status outside the relevant area

Being a national of a country will give you permanent residence in that country, but that does not mean it is your place of ordinary residence.

If a person is initially on a works visa and changes this to permanent residence, (settled status, indefinite leave to remain, applies for a green card in America), that country will become their place of ordinary residence, which means we should refuse funding.

A non-national of Dubai and other similar countries, can never become a permanent resident, they will always have a work/resident visa. This in itself does not mean we can offer them temporary absence, to consider such, their absence must be under 10 years.

Length of absence from the relevant area

Generally, an absence of more than 10 years is too long to be temporary. If the absence is longer than 10 years, you should take into account all the circumstances of the case before refusing funding.

If the student returns to the relevant area for an ordinary purpose (not just for the summer holidays or a month or so in between contracts) and then left again to live outside the relevant area, you should ignore the previous periods outside the relevant area. In other words, base your decision on their absence when they last left the relevant area. They don't have to be back living in the relevant area for three years to regard their residence as ordinary.

If they did not maintain a home in the relevant area or they rented their home, they can be ordinarily resident in the relevant area if they live with a family member.

Maintaining a home in the relevant area

This does not allow a person to be temporary absent from the relevant area, even if they keep it solely for their own use and return to this during every summer and other school holidays.

However, if a member of their immediate family remains living here while the student is abroad, you should consider that the home may still be the student's place of ordinary residence. For example, father has stayed in the relevant area while mother and student have lived outside the relevant area