

Residence and Presence – TF03

Owner: ILF Scotland

Subject: Residence and Presence

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1. Policy

Applications for the ILF Transition Fund will be tested against the residence and presence requirements at the initial point of application. If an applicant's circumstances change at any point during the application process, ILF Scotland should be notified of this immediately. Recipient of the grant must remain eligible throughout the period during which the ILF Transition Fund grant runs. If a recipient's circumstances change at any point during this period, ILF Scotland should be notified of this immediately.

All applicants and recipients must satisfy the following residence and presence tests:

- a. Be lawfully resident in Scotland, or have been granted refugee or humanitarian protection status with the right to remain in Scotland, for the period during which the ILF Transition Fund grant runs;
- b. Not be a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999;
- c. Be present in Scotland at the time of application and for the period during which the ILF Transition Fund grant runs, unless it can be demonstrated that they are not present only on a temporary basis (that their absence will not last for a continuous period exceeding 26 weeks).

ILF Scotland has discretion to dispense with requirement (c) if, in the reasonable opinion of ILF Scotland it is established that a person's absence from Scotland, whilst over 26 weeks is/was not permanent in nature and is/was for the specific purpose of being treated for a disabling condition which commenced before they left Scotland.

2. Procedure

Where the residence and presence question is answered negatively, ILF Scotland will determine whether or not an applicant or grant recipient is/remains eligible on the basis of the discretion available, as described in section 1. Such a case should be referred to the ILF Scotland Head of Policy for consideration.

Where a grant recipient becomes absent from Scotland for a continuous period lasting more than 26 weeks, ILF Scotland must be informed. Except where the discretion described in section 1 allows a recipient to remain eligible, the recipient would no longer satisfy the residence and presence test, and, therefore, would no longer be eligible for a grant, and their grant will be suspended. A recipient should be informed that if they do not regain eligibility within 3 months of the date of a suspension, the grant will normally be closed unless they can demonstrate that within a further 3 months eligibility will be restored, in which case the grant will remain suspended for this further 3 month period. If after this 6 month period the recipient still has not regained eligibility, the grant would normally be closed. (See policy TF02 – section 10.0 'Suspension and Closure of grants').