



Department
for Business
Innovation & Skills

HIGHER EDUCATION

Government response to the
consultation on extending the
eligibility criteria for access to
Higher Education student living
cost support for EU nationals

MARCH 2016

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Introduction

A consultation on a Government proposal to increase the residency requirement from three years to five years for EU nationals to be able to claim living cost support was launched on 1 September 2014 and closed on 10 November 2014.

The consultation document was published via the Gov.uk website. 14 responses were received, via e-mail, from HE representative bodies, higher education institutions and individuals although not all responded to every question. A list of respondents is given at page 15. Late responses were accepted up to a week after the closing date.

We are grateful for the number of people and organisations who have taken the time to respond to this consultation. This has helped us understand and carefully consider the implications of our proposals.

We considered whether to re-open the Consultation in view of the time that had elapsed since the consultation closed in November 2014. The main change has been the introduction of a revised living cost support package, where new students will no longer qualify for grants but will instead qualify for an increased loan for living costs. This will result in EU students being able to access increased loans from the academic year 2016/17. We do not believe there has been any other material change in the circumstances relating to this policy and we have therefore decided not to re-open the Consultation.

Executive Summary

In September 2014 BIS launched a consultation that asked for views on increasing the residency requirement from three years to five years for EU nationals before they could claim living cost support for Higher Education. EEA migrant workers and their family members were not included in this proposal.

There is evidence that England student support eligibility criteria are more generous than in other European countries. Many countries, for example, Austria, Belgium, Denmark, Finland, France, Germany, Netherlands and Sweden have a five year residency requirement for EU students but not for home students. The increasing numbers of EU students who are accessing full student support alongside the difficulty of recovering loans if they return to their home country after graduation is adding further pressure to the Higher Education budget.

The issues covered in the consultation, views of respondents and the Government Response are summarised below under the individual questions.

We have carefully considered the responses received and have decided to implement through new regulations the five year residency requirement for EU nationals who will be offered living cost support for Higher Education for courses that begin in the academic year 2016/17.

Responses

Question 1: Do you agree that access to the living cost support should be based on whether EU nationals have lived in the UK for 5 years?

Can you supply any additional information in support or against this extension?

Of the thirteen responses to this question, eight respondents did not agree with the proposal to extend the residency requirement to five years, while three responses agreed and two were not sure.

Summary of responses

A number of responses were concerned about the limited evidence available on the impact of the policy change. Information on the length of residency of existing EU students claiming living cost support was highlighted as being particularly important. Currently Student Finance England require students to demonstrate at least three years residency in the UK, but the students are not asked to state exactly how long they have been resident in the UK as this goes beyond what is needed for the purposes of the relevant Regulations. The number who have been here for between three and five years is therefore unknown. A couple of respondents believed that students who could not satisfy the five year requirement would simply find employment and would then be eligible for full student support under the EEA migrant worker eligibility category.

A couple of responses wanted to understand how the growth in EU students compared with the number of applications from UK students.

The current three year residency rule was described by some as sufficient and rational, and compliant with EU law, specifically Directive 2004/38. One respondent felt that as a matter of principle EU students should not be treated differently to UK nationals and that the three years residency criterion already demonstrates a strong connection to the UK. One respondent believed the current policy was discriminatory citing the above Directive.

One response considered that EU students who had been resident in this country for three years will have already contributed to the UK through taxes and should therefore be entitled to support.

Other responses suggested that the changes represent a barrier to recruiting EU students that would harm HEIs ability to recruit the best graduates from the widest pool.

Some respondents suggested alternative approaches to easing the pressure on the Higher Education budget. Better repayment strategies to increase collection rates were identified by a few respondents. One respondent argued that the pressure was due to the expansion of unregulated alternative provision, with poor quality and retention issues, and not a general increase in EU students in mainstream provision. Another response suggested cost savings reached through implementation of this proposal would be lost when the student number control is removed and the projected benefits will be reduced.

Other respondents noted that the UK is more generous on its residency criteria than other EU states and that the proposed change would bring the rules in England in line with practice in other net international student importer EU Member States. They recognised that Universities and the country need a sustainable long term funding system as well as to be open to talented and motivated students from the UK, the EU and elsewhere. A couple of respondents felt that if the change outlined in the proposals was implemented correctly then the cost savings identified in the consultation could be achieved without a serious impact on HE institutions recruitment of EU students.

A couple of responses said it was important that EU students, despite this policy change, continue to view the UK as a welcoming destination for higher education opportunities. And that the internationalisation of UK HE is essential for the success of UK Universities and the UK economy.

A response noted that the policy proposal would also align with an EU national's right of permanent residence in another EU country if they have lived there for at least five years.

One response proposed that the increased residency requirement should also be applied to EEA migrant workers.

A specific concern was raised in connection with medical and dental students about whether transitional protection would apply for those students who were already studying as they could be placed in financial hardship as result of this change as they had limited opportunity to work alongside their demanding and intensive courses.

No substantive analytical data was supplied by respondents.

Government response

The financial rationale for considering this change is the increasing numbers of EU national students accessing student support so as to be able to study in England.

The trend is for an increasing number of EU domiciled students to receive tuition fee loans. According to the SLC, 8,200 full-time EU domiciled entrants received tuition fee loans for the 2006/07 academic year. This compares with 14,800 full-time EU domiciled entrants receiving tuition fee loans in academic year 2014/15.

This continuing increase in EU domiciled students coming to England to study has led to a total of 37,200 EU domiciled students (entrants and continuing students) receiving tuition fee support in academic year 2014/15 up from 31,700 in 2011/12.

The number of EU nationals claiming living cost support has also increased substantially over a similar period. In academic year 2009/10 there were around 11,600 EU nationals who received living cost support at a cost of £75m. This has risen to around 31,500 awards in academic year 2014/15 amounting to £240m – an increase of 220%.

In 2009/10, 748,900 English domiciled students were awarded Maintenance Loans at a cost of £2.7 billion. In 2014/15, 972,800 English domiciled students were awarded Maintenance Loans at a cost of £3.7 billion. This is an increase of 37%. In the same time

period the amount spent on maintenance grants of English domiciled students increased from £1.2 billion to £1.6 billion, an increase of 33%.

The average maintenance support paid to EU nationals is higher than those paid to UK nationals. In part this is because nearly half of EU nationals accessing support are aged 25 and over and therefore more likely to be assessed as independent and not have parental income taken into account. This compares with around 13% of the overall HE population.

We estimate that for every 1,000 individuals that forgo entry into HE there would be combined tuition and living cost savings of around £15m per year (cash outlay). For every 1,000 individuals who continue in HE but without student support for living costs there would be cash outlay savings of around £7m per year.

It is also generally more difficult to collect loans from EU borrowers as they have a greater tendency than UK nationals to move overseas after graduation. Of the 9,900 EU domiciled tuition fee borrowers who should have started repaying their loans in 2013, 29% had either fully repaid or were over the earnings threshold and had made a repayment towards their loans. This is compared with 50% across all domiciles. EU domiciled borrowers are more likely to have failed to supply details of their income and are more likely to have been placed in arrears than English borrowers. We estimate that less than half of EU tuition loan borrowers remain in the UK after completing their studies and begin repayments through the UK tax system. Collecting debt from ex-students who have moved overseas is more problematic because of the difficulty of tracing students, identifying their income and a reduced ability to take enforcement action to ensure repayments or seize assets. This will become increasingly important due to the increasing value of outstanding loans, and will become more so following the grants to loan switch from academic year 2016/17.

It is not our intention to deny access to higher education in England but we recognise that this will have a deterrent effect as EU nationals may not meet the proposed new residency requirement. These students may decide to still enter higher education but forgo student living cost support, or they may delay their entry to higher education for two years or they may choose to study in another country. Alternatively, they may choose to study part-time whilst also working.

This change will bring us into line with other EU countries' criteria for accessing living cost support, and help ensure that EU nationals come to this country for the quality of the education and are not unduly influenced by the student support available to them. EU nationals who remain in this country to work after completing their studies will bring benefits by contributing to the UK economy.

Some EU students from certain countries may qualify for portable student finance from funding authorities in their own Member State and may not be solely reliant on support from Student Finance England. However, eligibility conditions for Member State financial support vary to a great extent from country to country. Information on the support available is also difficult to interpret as it generally does not differentiate between loans and grants; full and partial portability; degree and credit study; and varies depending upon the size of a country's student population.

It is also possible that visiting EU students may decide to take up employment before they enter Higher Education in the UK and could be assessed as EEA migrant workers; subject to satisfying the criteria. If these students are employed in genuine and effective work here and paying UK taxes their living cost support may at least in part be offset by their financial contribution to the Exchequer.

A response noted that the policy proposal would also align with an EU national's right of permanent residence in another EU country. An EEA national is automatically entitled to live permanently in the UK once they have lived here continuously for a period of 5 years in line with the current or previous EEA laws. However, presence in the UK for five years is not enough to gain permanent residency; the EEA national would also need to prove that they have been a qualified person throughout the 5 years. A qualified person is a worker, self-employed, a student or self-sufficient person.

Some respondents were concerned that the policy change may harm a HE institutions ability to recruit the best EU national students. HE institutions can still recruit from a very large pool of entrants who will continue to qualify for full non-means tested tuition fee loans for higher education study in the UK. International student demand is strong and the numbers of EU students remain positive. This policy change may have an impact on recruiting the best EU national students although this is likely to be marginal as many of our competitors already have a five year requirement.

A couple of respondents thought we should look to improve our repayment strategies for EU nationals. We agree, but consider this needs to be addressed in parallel to this change, rather than as an alternative. Our repayment strategy includes system improvements to make it easier for borrowers to stay in touch and sanctions for avoidance and non-compliance. Collaboration across the EU is underpinned by EC regulations which allow judgments obtained in UK courts to be enforced in other EU countries; the facility to charge penalties if they do not notify the SLC when moving overseas; and data sharing on borrowers moving between EU countries. Over 2014-15 the Department provided some £1.4 million in funding for five Student Loan Company projects to improve a number of aspects of the repayment process, including increasing data analysis to better target recovery activity, increasing contact with borrowers, and more use of debt collection agencies.

One respondent identified that improved regulation of alternative providers would better achieve the policy aim. The Government wishes to widen the range of high quality higher education providers available to prospective students. This will stimulate competition, increase choice for students, and deliver better value for money for both taxpayers and students across the higher education sector. Equally important as promoting good provision, is ensuring a regulatory regime which guards against poor quality provision. The Government has already taken a number of steps to secure improved standards among alternative providers of higher education, but does not consider these changes obviate the need for tightening the residency requirement in addition.

In addition from the 2016/17 academic year the following measures will apply:

- students at alternative providers on courses eligible for student support will be required to have a proficiency of English Language skills assessed at minimum

international level B2 equivalent to 5.5-6.5 on the IELTS scale on starting the course;

- alternative providers will be required to produce Key Information Set data for all courses;
- alternative providers' performance will be linked to a student number control, with a “basic” allocation for providers meeting the required minimum standards and a “performance pool”, which the best performing providers will be eligible to bid for.

These additional measures will help incentivise high quality provision and help the best providers to grow. Further details on how these proposals will be implemented for the 2016/17 academic year will be published in forthcoming guidance.

One respondent believed that any savings achieved by this policy change would be negated by the removal of student number controls from the academic year 2015/16. We accept that this is a valid point. Student number controls have been relaxed progressively from 2012 to recognise that, under the reformed higher education funding arrangements, students were paying higher tuition fees and thus contributing more to the cost of their university courses and so should have a greater choice over where they studied. The removal of student number controls will provide more opportunities for students from disadvantaged backgrounds enabling greater choice from a more diverse range of providers, courses and type of study. Since the lifting of student number controls, we have seen a further change to the way student funding is delivered. However, the Government continues to be responsible for the total costs of higher education and ensuring that it is targeted on those it wishes to benefit.

The Government considers that the case for extending the residency requirement to five years for EU nationals remains reasonable. Article 24 (2) of Directive 2004/38 allows for EU Member States to apply separate residency criteria relating to access to living cost support. This will contribute towards making the higher education budget more sustainable in the longer term.

We will implement this change for new students from the academic year 2016/17 once the new regulations come into force. Current students will not be affected by this change.

To meet our obligations under EU law we will continue to provide EU nationals with access to tuition fee loans at home fee rates. We agree with respondents that supporting information and guidance should make this clear.

We agree with the respondents who felt that the change should be closely monitored. BIS will work with the Students Loans Company to identify how we might improve the collection of relevant management information and we will also consider whether additional specific research should be undertaken.

Question 2: Do you think the policy proposal will have any equality implications and affect groups with protected characteristics?

Of the thirteen responses to this question, five responses either did not answer the question or said they were “not sure” that any particular groups would be affected. The remaining eight responses identified some equality implications.

Summary of responses

Many the responses identified some groups with protected characteristics or other disadvantaged groups that may be affected by the proposals. No response provided substantive evidence.

The responses made the following points:

- The impact on mature EU students was a concern in many responses. For student support purposes “mature” students are those aged 21 and over. One response identified that it may restrict those seeking a “second chance” education.
- There are a greater proportion of mature students from disadvantaged backgrounds among the EU student population than the domestic student population.
- This group of older students was also identified as being more likely to have children. There was also some concern that this may disproportionately affect women.
- Some respondents agreed with the Consultation document which had suggested that Black and Minority Ethnic students may be more negatively affected.
- Several respondents felt that EU students with disabilities may be affected as they are less able to work alongside their studies to supplement their income.
- A response from an alternative provider emphasised that the majority of their intake came from ethnic minority backgrounds and low income households and they were concerned about the potential impact this change would have.
- One response identified that teenagers who had recently moved to the UK with their families could be restricted from entering Higher Education with their peer group.
- One university thought it would impact negatively on their widening access targets.
- A response from an individual thought that recent accession countries were particularly disadvantaged because students from those countries would have less chance of meeting an extended residency period as they will have faced visa and employment restrictions prior to accession.

A few responses identified that the consequences of this policy change should be monitored closely.

Government response

We have fully considered the responses that we received and strengthened the equality analysis where we have been able to do so.

Many responses confirmed our own conclusions in our initial equality analysis although no additional data was supplied in support of the responses.

Our analysis has indicated that students from low income backgrounds, older students, students with Black African ethnicity, and Romanian, Hungarian, Portuguese or French nationality students are over represented in the group of students likely to be affected by the policy change, i.e. EU nationals claiming student support for living costs. This suggests that these characteristic groups would be more likely to lose eligibility for student support for living costs under the proposed policy compared to the overall student support population

Primarily, we think the behavioural response to this policy will be for EU nationals (who do not satisfy the new proposed residency criteria) to delay their HE entry by two years. Some may choose to become an EEA migrant worker and continue to HE in England, others may forgo studying in England but continue to HE in another country, but we do not think that many students will forgo HE altogether. This is based on the evidence showing that factors such as aspirations and future job outcomes are more precedent for applicants than financial concerns, whilst there is still the opportunity for students to continue onto HE without student support or to delay their participation.

Our assessment is that the behaviour response could, however, differ across disadvantaged and protected groups. Our analysis shows that male students, students aged 25 or over, students from Black ethnic backgrounds, students from mixed black/white backgrounds and students from low income backgrounds on average receive larger amounts of student support when compared to the average for the overall student support claimant population. This suggests that students from these groups would lose eligibility to higher amounts of living costs support and could therefore be more likely to delay their participation in HE by two years.

There may be an adverse impact for some younger students who attach significant importance to progressing to HE alongside their educational peer group and who, as a result of this policy change, have to delay their participation. Young people who delay participation could also potentially have to forgo some graduate level income due to the delay, compared to their counterparts not affected by the policy. HE

We have also identified potential negative impacts for students who may decide to continue onto HE whilst forgoing student support for living costs. These impacts include students experiencing lower outcomes than otherwise expected due to either sub-optimal institution / course choice or having to take up large quantities of part-time employment while studying. Again there could be differential impacts. The evidence suggests that BME students, students from disadvantaged backgrounds and older students are more likely to have cost concerns relating to HE and be debt averse. As a result these students would be unlikely to be able to take on commercial debt to finance their living costs and could be more inclined to take on higher levels of part-time employment and perhaps suffer adverse impacts on outcomes as a result.

Additionally, the evidence suggests that some disabled students, particularly those who would have qualified for high levels of DSA support, could be more impacted by the residency change as they would face additional participation costs and would be unable to take up part-time work as readily as other students. As a result they would be less likely to be in a position to self-fund and could therefore be more likely to delay entering HE than other students. If they do choose to take up HE without student support it is possible that they could experience financial hardship while studying.

We agree that the impact of this policy should be monitored.

Access agreements set out how a university or college plan to improve and sustain access for people from lower income and under-represented backgrounds. These are not Government imposed targets but agreed between the individual university and the Office for Fair Access. Only students who are “permanently domiciled” in the UK can count towards this target so EU national students would not be included.

Question 3: Do you think that this extension to a five year residency requirement should also be applied to UK nationals for the purposes of applying for living cost support?

Can you supply any additional information in support of this view?

There were eleven responses to this question. Nine responses did not support this change, one response was “not sure” and one individual response supported the change.

Summary of responses

The majority of respondents were against any change to the residency requirements for UK citizens with little support for change to five years.

The mobile nature of UK citizens, and the strong links they have with Commonwealth and ex Commonwealth countries in particular, was noted by many. Many respondents agreed that many UK citizens already face difficulties in meeting the three year residency requirements when they return to the UK after time spent living overseas and that an extension to a five year residency rule would have a serious and negative impact on these groups of students.

One response identified the potential detrimental impact on the economy as it would reduce the number of high quality students who would be economically competitive.

A few respondents believed the likely consequence of such a change could see a downturn in recruitment for English HEIs as students returning from time spent living overseas may be attracted to HEIs in other parts of the UK where the rules are more favourable than England.

One line put forward in favour of changing the UK residency requirement was that in the interests of fairness it was better to match the proposals to extend residency for EU citizens.

Government response

The three year ordinary lawful residence rule for UK nationals has been in place since 1962. As the consultation made clear the Government has no intention to extend the residency requirement to UK nationals; the responses confirmed that there was little support for such a change.

Question 4: Do you have any other comments on the proposals within this consultation document?

There were seven responses to this question.

Summary of responses

Many of the responses reiterated the key points that they had made in answering earlier questions.

Two responses wanted clarity on the effect of these proposals on post-graduate funding of EU students from the UK Research Councils. Though post-graduate funding is not included in the scope of this consultation, the respondents were keen to stress that Research Councils funding rules currently follow student support rules and a stipend is paid to EU postgraduate students with three years residency in the UK. They did not wish to see this increased to five years as this could have a detrimental effect on the ability of the UK's HEIs to attract and recruit the top postgraduate students from across the EU to the detriment of UK science and research.

Government response

The Education (Fees and Awards) (England) Regulations 2007 govern the awards that Research Councils can make. The policy change is intended to apply only to undergraduates and therefore there is no need to amend these regulations for postgraduates.

List of respondents

Million+

UK CISA

National Union of Students

Universities UK

UK Higher Education International Unit

NHS Student Bursaries

British Dental Association

University of Sheffield

GSM London

University of Leicester

3 individuals



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Contact us if you have any enquiries about this publication, including requests for alternative formats, at:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

Email: enquiries@bis.gsi.gov.uk

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