

Higher Education Sector Report

1. This is a report for the House of Commons Committee on Exiting the European Union following the motion passed at the Opposition Day debate on 1 November, which called on the Government to provide the Committee with impact assessments arising from the sectoral analysis it has conducted with regards to the list of 58 sectors referred to in the answer of 26 June 2017 to Question 239.
2. As the Government has already made clear, it is not the case that 58 sectoral impact assessments exist. The Government's sectoral analysis is a wide mix of qualitative and quantitative analysis contained in a range of documents developed at different times since the referendum. This report brings together information about the sector in a way that is accessible and informative. Some reports aggregate some sectors in order to either avoid repetition of information or because of the strong interlinkages between some of these sectors.
3. This report covers: a description of the sector, the current EU regulatory regime, existing frameworks for how trade is facilitated between countries in this sector, and sector views. It does not contain commercially-, market- or negotiation-sensitive information.
4. This assessment focuses on the impact of EU Exit on the Higher Education sector from a market access perspective only. It does not cover EU programmes such as Horizon 2020 or Erasmus+.

Description of sector

5. In 2015/16, there were over 438,000 international Higher Education (HE) students at UK HE institutions out of a total of 2.3 million, representing over 19 per cent of all students. This comprises 310,600 non-EU students and 127,400 EU-domiciled students.¹
6. The HE sector has different economic characteristics to manufacturing and other services related sectors in the UK economy. Firstly, it is only a partially tradable sector. In the main, the geographical market is essentially the UK, where UK students and government funding account for the majority of Higher Education Institutions' (HEIs) income. International exports in the form of tuition fee income from EU and non-EU students accounts for around 15 per cent of total HEI income on average for the sector as a whole (of which approximately 2.3 per cent² is EU student

¹ [Students in higher education 2015/16 – Table B](#), HESA, January 2017

² [DfE analysis of HESA finance plus 2015/16 – Table 1](#), HESA, March 2017 - We estimate EU tuition fee income to be £796 million. EU tuition fee income is estimated by taking the proportion of EU students of EU and UK students combined in each level and mode of study, and applying this to the publically available figure of 'home and EU tuition fees' for each mode and level of study. For example, if 6% of EU and UK students studying a full-time undergraduate course are EU domicile, we assume that 6% of tuition fees collected for EU and UK students on full-time undergraduate course can be attributed to EU domicile students. Non-EU fee income was £4,454 million in 2015/16

tuition fee income and 13 per cent is non-EU student tuition fee income), although there is considerable variation across institutions.³ HE providers are involved in both teaching and research activities with some institutions focusing on one or the other. Organisation for Economic Cooperation and Development (OECD) figures show that in 2015 around 13,000 UK students were studying tertiary level courses wholly in other EU countries.⁴ In addition, some UK based HE organisations deliver their education services outside of the UK. In 2014, UK HE related transnational education income was an estimated £550 million.⁵

7. Secondly, HE providers do not have supply chains in the same way as other businesses; they do not tend to require specialist goods and services produced elsewhere in the economy in order to provide HE. Students do, however, support the local economy in which they are studying through their spending (for example on food, housing, entertainment, travel and course related equipment). Latest available data on education exports for 2014 estimates total spending by EU and non-EU students at UK HE institutions on fees and living expenses to be in the region of £11.2 billion, of which £2.7 billion comes from EU students.⁶ There are also linkages with industry through collaborative science, research and innovation projects, and provision of services such as training and consultancy.
8. The sector breaks down into three broad types of higher education providers:
 - *Higher Education Institutions (HEIs)*. HEIs are universities receiving direct grant funding, institutions conducted by higher education corporations, and designated institutions. There are 163⁷ HEIs in the UK, serving between around 200 and 100,000 students each.⁸ The majority of their courses are at HE level.⁹ HEIs are the largest of the provider types in terms of student numbers and account for the largest proportion of higher education provision in the UK – in 2015/16 they taught 2.3 million HE students.¹⁰
 - *Further education colleges (FECs) offering HE courses*. An FEC is a body which primarily provides any study after secondary education that is not part of HE (that is, not taken as part of an undergraduate or graduate degree). They may provide both further and higher education. In 2017, there were 241 FECs or sixth form colleges offering HE courses in England¹¹, with 208 of them in receipt of Higher Education Funding Council for England (HEFCE) funding for HE provision.¹²

³ [HESA finance plus 2015/16 – Table 1](#), HESA, March 2017

⁴ [International student mobility – tertiary mobile enrolment](#), OECD, 2015

⁵ [Education-related exports and transnational education activity - Table 2](#), Department for Education, July 2017

⁶ [Education-related exports and transnational education activity - Table 2](#), Department for Education, July 2017

⁷ [Staff in higher education 2015/16 – Table 1](#), HESA, February 2017

⁸ [Students in higher education 2015/16 – Table 1](#), HESA, January 2017

⁹ Defined as being courses which match the academic standards as they are described in the FHEQ at Level 4 or above. This is in addition to the eligibility criteria for registration which state that a provider must offer higher education which is more broadly defined as delivering a course of any description mentioned in Schedule 6 of the Education Reform Act 1988.

¹⁰ [Students in higher education 2015/16 – Table B](#), HESA, January 2017

¹¹ [Higher Education Providers](#), Higher Education Funding Council in England, 2017

¹² [HEFCE-funded further education colleges](#), Higher Education Funding Council in England, 2017

- *Alternative Providers (APs)*. APs are those HE providers which do not receive grant funding from HEFCE or any other kind of recurrent public funding¹³ and are not FECs. Research commissioned by the Department for Business Innovation and Skills identified 732 APs in the UK in 2014.¹⁴ In England, APs are able to apply to have HE courses designated for student support funding with HEFCE reporting 114 APs (including those with Degree-Awarding Powers) having courses designated for academic year 2016/17.¹⁵

Characteristics of the sector

9. HE policy including on student finance is a devolved matter. The HE sector has some of the characteristics of a competitive market in that there are a large number of providers on the supply side and a large student base on the demand-side. Providers may compete with each other on the basis of quantitative and qualitative factors such as price, course content, outcomes and the quality and availability of wider facilities, with each provider's offer slightly differentiated and therefore not perfect substitutes. Previous reforms have served to lay the foundations for a strong, well-functioning and more competitive market in the HE sector. The 2015 Competition and Markets Authority report on HE regulation highlighted that the HE sector in England was already largely characterised by healthy competition.¹⁶ They also noted that whilst competition in the HE sector has developed, "*student choice and competition ... is likely to work best where the playing field, in terms of regulation, funding and information provision, is as level as possible.*"
10. The Higher Education and Research Act 2017 (HERA) received Royal Assent in April 2017. HERA and the new regulatory framework in England, which will be operated by the new Office for Students, aims to enhance competition with a single gateway to enter the sector and a risk-based regulatory system. This seeks to remove barriers for high quality providers entering the HE market and create a level playing field for all such providers, regardless of how or when they entered the HE system. The aim of competition is to benefit students, in the form of better value, more innovation and greater choice. Providers wishing to be a part of the registered sector in England will (provided they are able to meet specifically designed criteria) be able to choose from one of three registration categories which are associated with different benefits and conditions of registration: Registered – Basic, Approved, or Approved (fee cap).
11. In the HE sector, the size of a provider is usually based on the size of its student population, as it is considered more relevant than employee numbers. For example, institutions with the same number of employees may have significantly different student populations, meaning institutions vary greatly in size. However, the size of a business is usually defined by the number of employees. 2015/16 HESA data shows

¹³ For example, from a local authority or the Secretary of State for Education

¹⁴ [Understanding the Market of Alternative Higher Education Providers and their Students in 2014](#), BIS, May 2016

¹⁵ [Register of HE providers](#), HEFCE, as of 9 September 2017

¹⁶ [An effective regulatory framework for higher education: a policy paper](#), Competition & Markets Authority, March 2015

that HEIs in the UK have on average 2,958¹⁷ employees. The smallest number of employees at a single HEI was 95.¹⁸ Analysis of the Further Education workforce data for England report shows that the average college in England has 383 Full Time Equivalent staff.¹⁹ According to a Business Innovation and Skills survey of APs in the UK, 75 per cent of all APs employed ten or fewer FTE staff.²⁰

12. The Alternative Provider (AP) sector has grown rapidly in recent years. From 2011/12 to 2015/16, the number of full-time students at APs receiving student support increased from 12,000 to 34,000.²¹ Since the Department imposed student number controls on such providers, student support payments and numbers of students at APs have reduced, dropping from a peak of 51,000 in 2013/14.²² It is difficult to predict what future trends will be as this will depend in great part on how APs respond to the new reform measures and regulatory framework which will be introduced through the HERA.

EU student population

13. In 2015/16, there were over 438,000 international HE students at UK HE institutions out of a total of 2.3 million, representing over 19 per cent of all students. This comprises 310,600 non-EU students and 127,400 EU domiciled students.²³ Countries with the highest number of domiciled students enrolled at UK HE Institutions include Germany (13,400), France (12,500), Italy (12,100), and Ireland (10,200).²⁴ Over the last five years, the number of EU domiciled enrolments at UK HE Institutions has decreased marginally by 2 per cent (from 130,100 to 127,400 in 2010/11 and 2015/16 respectively).²⁵
14. In 2015/16, there were 82,100 undergraduate EU domiciled students at UK HEIs, making up 4.7 per cent of the undergraduate population.²⁶ In the same period, there were 45,300 postgraduate EU domiciled students at UK HEIs,²⁷ accounting for 8.5 per cent of the postgraduate population.²⁸

¹⁷ [Staff in higher education 2015/16 – Table 1](#), HESA, February 2017 – There are a total of 482,145 staff in UK HEIs

¹⁸ [Staff in higher education 2015/16 – Table 1](#), HESA, February 2017

¹⁹ [Further Education workforce data for England: An analysis of the 2012-13 staff individualised record data](#) (table 13), Frontier Economics, September 2014

²⁰ [Understanding the Market of Alternative Higher Education Providers and their Students in 2014](#), BIS, May 2016

²¹ [Follow-up on alternative higher education providers](#), National Audit Office, October 2017 (Page 19)

²² [Follow-up on alternative higher education providers](#), National Audit Office, October 2017 (Page 19)

²³ [Students in higher education 2015/16 – Table B](#), HESA, January 2017

²⁴ [Students in higher education 2015/16 – Table 5a and 5b](#), HESA, January 2017

²⁵ [Students in higher education 2015/16 – Table B](#), HESA, January 2017; [Students in higher education 2010/11 – Table 1](#), HESA, February 2012

²⁶ [Students in higher education 2015/16 – Table A](#), HESA, January 2017 - There were a total of 1,747,855 students were studying on undergraduate courses in the academic year 2015/16 - Students in higher education 2015/16

²⁷ [Students in higher education 2015/16 – Table A](#), HESA, January 2017 - There were a total of 1,563,900 students were studying on postgraduate courses in the academic year 2015/16 - Students in higher education 2015/16

²⁸ [Students in higher education 2015/16 – Tables C and D](#), HESA, January 2017

15. There is more limited data available on APs and FECs delivering HE. Data is available for undergraduate students on designated courses at 97 APs in England. In 2015/16, there were 2,700 EU domiciled students enrolled on HE courses designated for student support at APs.²⁹ In the same period, EU domiciled students represented approximately 5 per cent³⁰ of undergraduate students on designated courses at these Aps.³¹ Higher Education Statistics Agency data for 2015/16 shows that 11 out of 97 APs had over 20 per cent of EU students on designated undergraduate courses.³² This compares to just one HEI in England in which EU students represent at least 20 per cent of undergraduate students.³³
16. The past few decades have seen growth in international students coming to the UK. There are a number of factors which international and EU students take into account when deciding where to study. These include the cost of study, the cost of living, the reputation and quality of the HE institution and the availability of student financial support.

EU workforce

17. In the academic year 2015/16 there was a total of 33,700 EU national academic staff at UK HEIs, which accounted for 17 per cent of the total academic workforce.³⁴ This is an increase of over 10,000 since 2009/10 when EU nationals made up around 12 per cent of the total academic workforce.³⁵ These staff are highly skilled and many of them are internationally mobile within global academia.
18. Countries with the highest number of academic staff in UK HE Institutions in 2015/16 include Germany (5,500), Italy (5,400), Ireland (4,000) and Greece (3,300). With these top four nations accounting for over 50 per cent of all of EU academic staff at UK HEIs.³⁶
19. In 2015/16, there was a total of 12,500 EU national non-academic staff at UK HEIs representing 6 per cent of the total non-academic workforce.³⁷ The proportion of international and EU staff also varies across institutions.

²⁹ [Higher education undergraduate student enrolments at alternative providers in England 2015/16](#) – Table 3, HESA, February 2017

³⁰ [Higher education undergraduate student enrolments at alternative providers in England 2015/16](#) – Table 1, HESA, February 2017 - In the academic year 2015/16 there were 52,675 undergraduate students on designated course at APs

³¹ [Higher education undergraduate student enrolments at alternative providers in England 2015/16](#) – Table 3, HESA, February 2017

³² [Higher education undergraduate student enrolments at alternative providers in England 2015/16](#) – Table 3, HESA, February 2017

³³ [Students in higher education 2015/16 – Table 1](#), HESA, January 2017

³⁴ [Staff in higher education 2015/16 – Table 14](#), HESA, February 2017 – There were a total of 201,380 academic staff (excluding atypical staff) in UK HEIs in 2015/16

³⁵ [Staff in higher education 2009/10 – Table 14](#), HESA, March 2011 – In the academic year 2009/10 there were 181,595 academic staff in UK HEIs and a total of 21,935 academic staff with an EU nationality

³⁶ [Staff in higher education 2015/16 – Table 14](#), HESA, February 2017

³⁷ [Staff at higher education providers in the United Kingdom 2015/16](#), statistical first release, HESA January 2017 - In the academic year 2015/16 there were a total of 208,750 non-academic staff working in UK HEIs

EU funding sources

20. EU income represents an important funding source for UK HEIs. Financial support currently funds research, collaborations, research facilities and educational exchanges and mobility through Erasmus+. The levels of funding vary significantly by institution. Headline figures covering HEIs at a sector level sector are:

- *Tuition fees*: DfE estimates that EU tuition fee income in 2015/16 made up 2.3 per cent of total UK income for HEIs.³⁸ UK HEIs received around 13 per cent of their income (£4.5 billion) from non-EU student tuition fees in 2015/16.³⁹
- *Research*: UK HEIs received £840 million in funding from EU research grants and contracts in the academic year 2015/16 (including from EU government bodies; EU-based charities; EU industry, commerce and public corporations; and EU other). This made up 2.4% of UK HEIs total income.⁴⁰ Income from all EU sources for research grants and contracts funding as a proportion of research grants and contract income – 14.3% for UK HEIs in 2015/16.⁴¹
- *European Regional Development Fund (ERDF)*: The five European Structural and Investment Funds are governed by EU wide regulations agreed jointly by the Council of Ministers and the EU Parliament which are directly applicable. The funds are then implemented by Member States, often at regional levels, by means of programmes agreed with the European Commission. Implementation in Scotland, Wales and Northern Ireland is the responsibility of the relevant Devolved Administration. UK HE institutions received £45.7 million from ERDF in the academic year 2015/16. ERDF income varies greatly on an institutional level, with one institution receiving £7 million and 82 UK HEIs receiving under £1000.⁴²
- *European Social Fund (ESF)*: UK HE institutions received £7 million from the ESF in the academic year 2015/16. The seven universities receiving the largest amounts of ESF are all located in Wales;⁴³
- *European Investment Bank (EIB)*: Although an EU entity, the EIB is active both inside and outside the EU. The UK government has a 16.1% shareholding in the EIB, the same as France, Germany and Italy⁴⁴. The UK

³⁸ [HESA finance plus 2015/16 – Table 6](#), HESA, March 2017 - We estimate EU tuition fee income to be £796m. EU tuition fee income is estimated by taking the proportion of EU students of EU and UK students combined in each level and mode of study, and applying this to the publically available figure of 'home and EU tuition fees' for each mode and level of study. For example, if 6% of EU and UK students studying a full-time undergraduate course are EU domicile, we assume that 6% of tuition fees collected for EU and UK students on full-time undergraduate course can be attributed to EU domicile students

³⁹ [HESA finance plus 2015/16 – Table 6](#), HESA, March 2017 - Non-EU fee income was £4,454m in 2015/16

⁴⁰ [HESA finance plus 2015/16 – Table 7](#), HESA, March 2017 - Total income for the UK HEI sector was £34bn in 2015/16

⁴¹ [HE business and community interaction survey 2015/16 – Part B, HESA, 2017 – Income from EU research grants and contracts amounted to £841m in 2015/16 and total income from research grants and contracts was £5,886m](#)

⁴² [HE business and community interaction survey 2015/16 – Part B](#), HESA, 2017

⁴³ [HE business and community interaction survey 2015/16 – Part B](#), HESA, 2017

⁴⁴ [European Investment Bank, 2017](#)

HE sector has benefited from lending from the European Investment Bank (EIB). Since 1998, the EIB has lent around €5.8 billion for education projects, with projects we know to be HE-specific totalling just over €3.2 billion.⁴⁵ This includes multiple loans to HEFCE, and 28 loans to universities, many of which were for campus development and infrastructure; and

- *Erasmus+*: Under the Erasmus+ programme HE providers receive funding for student mobility grants and for collaborative projects. In 2016, the HE sector received €4.5m in grants for developing strategic partnerships under Erasmus+.⁴⁶ In 2015/16, there were around 15,800 outgoing UK HE Erasmus+ students, with 61 per cent going abroad for study and the remaining 39 per cent going abroad for work placements. In the same period over 2,600 HE staff went abroad for training and teaching. The UK received over 27,000 incoming HE students and 3,600 incoming HE staff.⁴⁷

21. The latest HEFCE analysis finds that the financial results for the HE sector in 2015-16 show a financially sound position overall.⁴⁸ However, they note there is an increasing variation in the financial performance of institutions with a widening gap between the lowest and highest performing institutions. HEFCE find that sector surpluses are expected to fall from 5.2% in 2015-16 to 3.1% in 2016-17 and then 1.3 per cent in 2017-18 before recovering.⁴⁹

Devolved Administrations (DAs)

22. HE institutions are spread across the UK. There are 132 HEIs in England, 18 in Scotland, nine in Wales and four in Northern Ireland.

23. Scotland has a relatively high proportion of EU students compared to the rest of the UK. Of the 127,400 EU students studying at UK HEIs in 2015/16, around 98,500 (77 per cent) were enrolled at an English HE Institution with the remaining 29,000 (23 per cent) at HEIs in Scotland (20,900), Wales (5,500) and Northern Ireland (2,600).⁵⁰

Geographical Variation

24. London has a particularly high concentration of EU students, with 26 per cent of the UK's EU students studying at HEIs.⁵¹ Table 1 below has further information on the geographical variation for students.

25. FECs also play an important role in delivering HE. In certain areas FECs may be the largest local HE provider.

⁴⁵ [European Investment Bank, 2017](#)

⁴⁶ [Erasmus+ statistics, British Council, 2017](#)

⁴⁷ [Erasmus+ country factsheets 2014, United Kingdom – European commission, 2014](#)

⁴⁸ [Financial health of the higher education sector](#), HEFCE, 2017

⁴⁹ HEFCE, 2017, <http://www.hefce.ac.uk/pubs/year/2017/201728/>

⁵⁰ [Students in higher education 2015/16 – Table 1](#), HESA, January 2017

⁵¹ [Students in higher education 2015/16 – Table 1](#), HESA, January 2017

Table 1: Geographical breakdown of HESA students in higher education, 2015/16⁵²

	Number of institutions ⁵³	Number of institutions as % of total UK	Total EU Domicile students	Total Students	EU domiciled students as % of total students in region
East	10	6%	8,600	121,400	7%
West Midlands	12	7%	9,100	194,100	5%
South West	13	8%	7,100	157,800	5%
London	38	23%	33,500	361,900	9%
East Midlands	9	6%	5,600	160,700	4%
North West	15	9%	8,100	229,500	4%
Yorkshire and the Humber	11	7%	6,400	192,100	3%
South East	19	12%	16,300	343,500	5%
North East	5	3%	3,700	100,300	4%
Wales	9	6%	5,500	128,700	4%
Scotland	18	11%	20,900	235,600	9%
Northern Ireland	4	2%	2,600	55,200	5%
UK	163	100%	127,400	2,280,800	6%

Sector contribution to the UK economy and UK trade

26. Recent analysis by Oxford Economics found that in 2014/15, universities' expenditure, and that of their international students and their visitors stimulated £95 billion of gross output.⁵⁴ The analysis suggests that:

- 'Universities generated a £52.9 billion gross value added contribution to UK GDP in 2014-15. This accounts for 2.9 percent of all the economic activity generated in the nation that year.'

27. The same report provided additional analysis on international students:

⁵² [Students in higher education 2015/16 – Table 1](#), HESA, January 2017

⁵³ [Staff in higher education 2015/16 – Table 1](#), HESA, February 2017 – This count of HE providers only counts the Open University in England, where it is based, not in the individual DAs

⁵⁴ [The economic impact of universities in 2014/15](#), Oxford Economics, 2017

- 'Taking their university payments, off campus spending, and the spending of their visitors together, international students generated £25.8 billion in gross output in the UK in 2014/15. This contributed £13.8 billion gross value added to GDP and supported 250,000 jobs, and £3.3 billion of tax receipts in 2014/15'; and
 - 'Students from outside of the EU were responsible for 80 percent of this impact. Through all their spending, and that of their visitors, they generated £20.6 billion of gross output, £11 billion in gross value added, almost 200,000 jobs (almost 170,000 full-time equivalent jobs), and £2.7 billion of tax receipts.'⁵⁵
28. Latest figures on education exports (2014), show that EU HE students contribute £2.6 billion per year to the UK economy, non-EU students contribute £8.5 billion and other HE exports such as research contracts and IP income contribute a further £1.4 billion. In total, HE education exports contributed £12.4 billion to the UK economy. This is an increase of around 30 per cent compared to 2010 in current prices.⁵⁶
29. The UK is highly successful compared to other countries in attracting international students largely because of its strong reputation for quality. Our HE system is world renowned; 16 UK HE institutions feature in the top 100 of the QS World University Rankings 2018, with four in the top ten.⁵⁷ This is reflected in its 13 per cent share of the tertiary international student market in 2015, second only to the US.⁵⁸
30. Many mobile EU students who choose to study in Europe opt to do so in the UK. In 2015, 25 per cent of internationally mobile EU students studying tertiary level courses in Europe chose to study in the UK, representing the greatest proportion to any EU country.⁵⁹

The current EU regulatory regime

31. The EU has very limited competence in the area of education policy; in particular, the provision and regulation of the HE sector (including access to student finance) is a matter for Member States.
32. Higher education policy, including on student finance, is a devolved matter and so the systems and eligibility criteria vary across the DAs. For example, each DA has responsibility for setting tuition fee levels, and eligibility for maintenance support may differ according to the length of time an EU national living in the UK and Islands has resided here prior to study. However, responsibility for EU and international foreign policy, Research Councils, and immigration is reserved. As such, they remain the

⁵⁵ [The economic impact of universities in 2014/15](#), Oxford Economics, 2017

⁵⁶ [Department for Education](#), Education-related exports and transnational education activity, 2017

⁵⁷ [World University Rankings 2018](#), QS, 2017

⁵⁸ [International student mobility – tertiary mobile enrolment](#), OECD, 2015

⁵⁹ [International student mobility – tertiary mobile enrolment](#), OECD, 2015

responsibility of the UK Parliament alone. UK administrations collaborate on policy development and delivery to ensure that students from all UK domiciles are supported with their studies wherever they choose to study in the UK.

Students - ability to study in the UK

33. The primary source of EU law governing the free movement of EU students is Article 21 of the Treaty on the Functioning of the European Union (the TFEU) and, more specifically, Article 7(1)(c) of the Free Movement Directive (Directive 2004/38/EC). Article 7(1)(c) which grants EU students a right to reside in another Member State for more than three months if they have comprehensive sickness insurance and sufficient resources. In addition, such students benefit from the prohibition against discrimination on the grounds of nationality in Article 18 of the TFEU, which is mirrored in Article 24(1) of the Free Movement Directive. However, Article 24(2) of the Free Movement Directive is a specific derogation from the principle of equal treatment for maintenance support (it does not apply to migrant workers and self-employed persons and their family members).

Students – ability to access financial support

34. Eligible EU nationals resident in the European Economic Area (EEA) or Switzerland and wishing to study at an English university may qualify for tuition fee loans from Student Finance England when undertaking HE, if they meet specific residency requirements. They may also be entitled to “home fee status” which means HEIs cannot charge these students tuition fees higher than those they charge UK students. UK nationals studying in the EU are treated in the same way as the home nationals of the member state they are studying in with regard to home fee status and access to any support for fees. EU nationals ordinarily resident in England on the first day of their course and who have been resident in the UK for at least five years qualify for maintenance loans from Student Finance England. The Government has confirmed funding and home fee status in England for eligible EU students starting courses in academic year 2018/19 will remain in place. All the DAs have provided similar assurances for eligible EU students starting courses in academic year 2018/19.

35. The regulations governing student finance eligibility cover different groups. The Education (Student Support) Regulations 2011 set out categories of eligible persons for student support in England. Generally, student support is provided to persons who are either settled in the UK or to whom there is a legal duty to provide support. Persons in the latter category include:

- EU nationals (and their family members) who are undertaking an eligible course in England and who meet the residency test (ordinary residence in the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course);
- EEA and Swiss migrant workers (and family of EEA migrant workers / children of Swiss workers) (pursuant to Article 18 and 45 of the TFEU; Directive 2004/38/EC and the Swiss Agreement (2006/245/EC)). To be

eligible for support such persons have to be ordinarily resident in England on the first day of the first academic year of the course and be ordinarily resident in the EEA / Switzerland for the preceding three years; and

- Children of Turkish workers (pursuant to the European Community Association Agreement with Turkey). To be eligible under this category, eligible persons have to be resident in England on the first day of the first academic year of the course and be ordinarily resident in the EEA / Switzerland and Turkey throughout the preceding three years.

36. Gibraltarians and other British Overseas Territories' citizens (BOT) are currently eligible for home fee status and tuition fee caps for Higher Education courses in England as set out in the Education (Fees and Awards) (England) Regulations 2007 and the Student Fees (Qualifying Courses and Persons) (England) Regulations 2007. To qualify, students must be EU citizens and must have been living in the Overseas Territories, European Economic Area or Switzerland for the three years prior to the first academic year of the course.

HE workforce

37. The free movement of EU nationals and workers principally flows from Article 21 and 45 of the Treaty on the Functioning of the European Union (the TFEU), the Free Movement Directive 2004/38/EC and Regulation 492/2011 which provide rights to move and reside freely within the territory of the Member States.

Data Protection

38. HE providers share personal data across EU borders and outside the EU in accordance with EU data protection law. Transferring personal data across the EU is critical for developing research between institutions. The UK's Data Protection Act 1998 is derived from the 1995 EU Data Protection Directive. This is currently being repealed and replaced by the Data Protection Bill, reflecting the EU's General Data Protection Regulation, which comes into effect in May 2018. It puts in place EU-wide rules about the sharing of personal data and makes special provision for the transfer of personal data to countries outside the EEA.

Existing frameworks for how trade is facilitated between countries in this sector

39. The arrangements described in this section are examples of existing arrangements between countries. They should not be taken to represent the options being considered by the Government for the future economic relationship between the UK and the EU. The Government has been clear that it is seeking pragmatic and innovative solutions to issues related to the future deep and special partnership that we want with the European Union.

40. A range of preferential trade agreements and bilateral economic and trade arrangements exist between global trading partners.
41. The international baseline for trade in services is the World Trade Organisation's (WTO) General Agreement on Trade in Services (GATS). All WTO Members are parties to GATS which sets out general rules, principles and obligations as a framework for trade in services, plus a schedule of commitments which set out how open and non-discriminatory parties commit to be across the service sectors covered.⁶⁰
42. GATS also sets out 'how' parties will allow services to be traded and this is split into four principal 'modes': 1) where a product rather than a service supplier/consumer crosses a border; 2) where the consumer of the service crosses a border (for example an inbound tourist); 3) where the company crosses a border (for example a retail chain opening a new establishment in another country); and 4) where the service provider moves (for example a lawyer spends nine months working in her firm's office in another country). Commitments taken by parties vary and parties can unilaterally choose to improve their GATS offers at any point (subject to a certification procedure) or lower the level of their commitments, but in order to do so they will be expected to offer compensatory concessions.
43. With regards to the HE sector, the UK has taken a number of commitments relating to the privately-funded education sector under this framework:
- *Mode 1*: the UK does not limit the cross-border supply of HE services and agrees to treat all WTO members in the same way as domestic service providers, meaning students can access courses online and companies can sell online courses without facing any discrimination (they would still have to comply with all domestic law, which cannot discriminate against a firm based on its country of origin);
 - *Mode 2*: the UK does not limit the movement of UK students to study or receive higher educational services abroad;
 - *Mode 3*: the UK does not limit commercial presence, meaning companies from WTO countries can set up education institutions in the UK (as long as they comply with domestic legislation) and they will not be discriminated against based on their country of origin; and
 - *Mode 4*: the UK takes commitments on temporary movement of service professionals in HE in specifically defined categories: Intra-Corporate Transfers and Business Visitors.

⁶⁰ The UK is a member of the WTO in its own right, but its current commitments are listed in wider EU schedules. The Department for International Trade is leading a process to create UK-only schedules – reflecting our current level of openness.

44. All of the EU's existing EU trade deals, and those currently under development, look to build on the GATS baseline by expanding the commitments of EU Member States to open up their services markets to each other. The most ambitious of these is the EU-Canada Comprehensive Economic and Trade Agreement (CETA). Other plurilateral agreements also look to further liberalise the GATS baseline for trade in services. Although negotiations are currently on hold, the most comprehensive attempt so far is the proposed Trade in Services Agreement (TiSA) between 23 different parties.

Sector views

[This information was provided by the Government to the Committee, but the Committee has decided not to publish this section]

HOUSE OF COMMONS EXITING THE EUROPEAN UNION COMMITTEE